Supervision charge on gaming venue operators

Draft Regulatory Impact Statement

June 2013



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# Summary

In Victoria, gaming machines are principally regulated under the *Gambling Regulation Act 2003* (GRA). These regulations primarily aim to reduce problem gambling, prevent criminal influence/exploitation and maintain the integrity of gaming machines so that they are fair to players.

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) administers the regulatory requirements under the GRA. The VCGLR monitors compliance with the State’s gaming machine laws to ensure the integrity of the gaming machine industry in Victoria.

The VCGLR incurs costs as it deploys resources to fulfil its regulatory responsibilities. Venue operators who own gaming entitlements and operate gaming machines are required to pay a supervision charge every year to recover such costs.

The VCGLR’s total net gaming related regulatory costs for 2012-13 are estimated to be $5.3 million – this is likely to form the basis of the total amount to be collected from the supervision charge in 2012-13. This amount is relatively small compared to total Victorian gaming machine revenue of almost $2.7 billion and gaming machine tax revenue of over $1.1 billion in 2012-13 respectively. The estimate covers 10.5 months of 2012-13 because it only includes regulatory costs incurred since venue operator licences commenced from 16 August 2012.

In real terms, the VCGLR’s gaming related regulatory costs have declined by an annual average rate of 3.5 per cent over the last 13 years; from $331 per machine in 2000-01 to $216 per gaming entitlement in 2012‑13 (2013 Prices).

Over the coming months, the Treasurer will determine the supervision charge for the 2012‑13 year. Venue operators will be paying the supervision charge for the first time.

This Regulatory Impact Statement (RIS) formally assesses the options available for recovering the VCGLR’s 2012-13 costs through the supervision charge.

There is a strong case for using the supervision charge to fully recover the reasonable regulatory costs from venue operators holding gaming machine entitlements.

* This is based on the view that the regulatory cost should be internalised by the industry that gives rise to the regulation in the first place.
* Venue operators benefit from the regulations administered by the VCGLR. The integrity and value of the entitlements would likely be undermined if the VCGLR were not undertaking the regulatory activities necessary to ensure venue operators comply with legislative requirements.

Five options in the design and structure of the 2012-13 supervision charge have been identified and assessed including:

* 1. Base case – no supervision charge.
	2. Option A – two tiered charge based on the number of gaming entitlements owned and gaming machines operated by a venue operator.
	3. Option B – single tiered charge based on entitlements owned by a venue operator.
	4. Option C – charge based on annual gaming machine revenue earned by a venue operator.
	5. Option D – fixed fee per entitlement owned by a venue operator.

Multi-criteria analysis (MCA) was applied to rank each option and assess the relative costs and benefits relating to efficiency, equity, cost effectiveness and transparency. The results of the MCA, outlined in the table below, apply the highest score and ranking to Option A.

##### Table E.1: Summary of MCA results

|  |  |  |
| --- | --- | --- |
|  | **Total weighted score** | **Rank** |
| **Base case** | 0 | 5 |
| **Option A** | +6.9 | 1 |
| **Option B** | +5.1 | 2 |
| **Option C** | +4.0 | 4 |
| **Option D** | +4.9 | 3 |

On the basis of the MCA results, it is proposed that the 2012-13 supervision charge be set as per Option A.

The table below shows the estimated dollar amount of the unit charge for 2012-13. These are estimates of the VCGLR costs and provide an indication of what the total supervision charge for venue operators in 2012-13 may be. **The final costs and applicable charge will be calculated based on actual costs, and invoiced after the end of the 2012‑13 financial year.**

##### Table E.2: Proposed 2012-13 supervision charge – Estimated per unit charges\*\*

|  |  |
| --- | --- |
| **Supervision unit charges** | **2012-13** |
| Per operating gaming machine charge\* | $191.67 |
| Per entitlement charge\* | $16.36 |

*\*The number of entitlements held and gaming machines operated will be a function of and calculated by taking each venue’s monthly average over the 2012-13 financial year (from 16 August 2012 to 30 June 2013).*

*\*\* This is the first time the supervision charge on venue operators (under Section 3.6.5A of the GRA) is being determined.*

**Box E.1 – Proposed 2012-13 supervision charge worked example**

Consider a venue operator that owns a total of 50 gaming machine entitlements. The venue is currently using 40 entitlements by attaching and operating a gaming machine, leaving 10 unused entitlements.

The supervision charge payable by this venue for 2012-13 is $8 485 and is calculated as follows:

*Supervision charge = ($16.36 X 50 entitlements) + ($191.67 X 40 gaming machines)*

*= $818 + $7 667*

*= $8 485*

Separately accounting for the costs of gaming entitlements and gaming machines is considered appropriate in a year where Victoria has transitioned to a new gaming regulatory model. The proposed charge recognises the different costs associated with administering the entitlement system compared to regulating operating gaming machines. Further, it accounts for the proportion of entitlements that were not in use in 2012-13 for factors out of the control of some venue operators (e.g. building a new venue).

The Department of Treasury and Finance (DTF), in conjunction with the VCGLR will review the implementation of the proposed supervision charge once it is implemented.

Views from the public are welcome on any part of this RIS and the gaming supervision charge arrangements in general. The closing date for submissions is 5pm on 5 July 2013. Listed below are questions that DTF is particularly interested in receiving views on:

* What other costs or impacts for stakeholders not already discussed are likely if the proposed supervision charge is implemented?
* Are any alternative options that meet the objectives of the supervision charge available, or are any of the options identified preferred and if so why?
* What additional measures could assist in the successful implementation of the proposed supervision charge?

Submissions can be sent by:

*Post*

Gambling Policy and Litigation Group

Department of Treasury and Finance

1 Treasury Place

East Melbourne

VIC 3002

*Email*

supervisionchargeris@dtf.vic.gov.au

Acronyms and abbreviations

DOJ Department of Justice

DTF Department of Treasury and Finance

FOI Freedom of Information

GRA *Gambling Regulation Act 2003*

MCA Multi-Criteria Analysis

NCP National Competition Policy

NCPA National Competition Policy Agreements

RIS Regulatory Impact Statement

SLA *Subordinate Legislation Act 1994*

TCS Time Costing System

VCGLR Victorian Commission for Gambling and Liquor Regulation

# Introduction and background

In Victoria, gaming machines are principally regulated under the *Gambling Regulation Act 2003* (GRA). The industry is subject to a high degree of regulation in order to foster responsible gambling and ensure measures are in place to assist and protect gamblers.

The gaming industry recently underwent a significant transformation. On 10 April 2008, the Government announced a new regulatory and licensing regime to commence from 16 August 2012. The main change included transitioning from the gaming operator duopoly to a devolved venue operator system.

Today, certain conditions must be met in order to lawfully operate a gaming machine in Victoria:

* a venue operator (e.g. a pub or club) must hold a venue operator’s licence, which authorises it to operate a gaming venue and purchase gaming machine entitlements; and
* the venue operator must hold a gaming machine entitlement for each gaming machine in operation.

Each entitlement authorises venue operators to operate a gaming machine for a period of 10 years from 16 August 2012.

The Victorian Commission for Gambling and Liquor Regulation (VCGLR), an independent statutory authority, administers the regulatory requirements under the GRA. The VCGLR monitors compliance with the State’s gaming machine laws to ensure the integrity of the gaming machine industry in Victoria.

Venue Operators who operate gaming machines are required to pay regulatory and activity based licence fees to the VCGLR to recover the VCGLR’s costs of regulating gaming. One of these includes a broad based cost recovery instrument: the supervision charge on venue operators.[[1]](#footnote-1)

Over the coming months, the supervision charge relating to gaming will be determined for the 2012-13 year. Venue operators will be paying the supervision charge for the first time.

Under the GRA, the Treasurer determines the supervision charge in consultation with the Minister for Liquor and Gaming Regulation. The supervision charge is intended to reflect the reasonable costs and expenses incurred by the VCGLR in carrying out its functions and powers with respect to monitoring and ensuring compliance with obligations under the GRA. The GRA’s requirements mean the charge can be imposed on each venue operator holding entitlements regardless of whether the venue operator is undertaking gaming under the entitlement during the relevant period.

The supervision charge is also a condition of the property right venue operators hold and benefit from (i.e. gaming machine entitlements). By purchasing gaming machine entitlements in Victoria, venue operators agreed under an ‘entitlement related agreement’ to comply with the GRA, which includes the payment of a supervision charge to the State.

In 2009 the Government advised venue operators that a supervision charge, with an indicative estimate of $550 per machine per annum, would be payable based on all costs associated with regulating the gaming industry.[[2]](#footnote-2)

**Text Box 1 - Excerpt from theGRA**

3.6.5A. Venue operators to pay supervision charge

(1) This section applies to a venue operator that holds a gaming machine entitlement.

(2) On and after a gaming machine entitlement declared day that applies to the gaming machine entitlement held by the venue operator, the venue operator must pay to the Commission for payment into the Consolidated Fund a supervision charge in such instalments in respect of such periods in each financial year as the Treasurer determines from time to time.

(3) The supervision charge is such amount in respect of each financial year as the Treasurer, after consultation with the Minister, determines having regard to the reasonable costs and expenses in respect of the financial year incurred by the Commission in carrying out its functions and powers under this Act in respect of gaming.

(4) The supervision charge is a tax.

## Purpose of this Regulatory Impact Statement

The purpose of this Regulatory Impact Statement (RIS) is to formally assess the options for recovering the VCGLR’s reasonable regulatory costs through the supervision charge.

In accordance with the Victorian Guide to Regulation, the Government seeks to ensure that regulations and legislative instruments are well targeted, effective, appropriate and that they impose the lowest possible burden on Victorian businesses and the community more broadly.

There are particular aspects of the supervision charge that further support the need to prepare a RIS:

* the supervision charge on venue operators holding gaming machine entitlements will be determined for the first time;
* total revenues raised from the supervision charge are likely to be significantly greater than the indicative ‘disproportionate impacts’ threshold of $500,000 per annum outlined in the Victorian Guide to Regulation; and
* the charge will be paid by over 400 venue operators that operate over 500 hotels and clubs across Victoria.

## Assessment framework adopted

This RIS has been prepared in accordance with the requirements set out in the *SLA*, the *Victorian Guide to Regulation* and the *DTF* *Cost Recovery Guidelines*.

This RIS will include:

* discussion of the nature and extent of the issue the supervision charge is addressing;
* an outline of the objectives of the supervision charge;
* description of the regulatory costs recovered by the VCGLR;
* identification of the most viable cost recovery options;
* analysis and assessment of the options; and
* an assessment in accordance with the National Competition Policy requirements.

## Public submissions

A key part of the RIS process involves seeking public comment on the proposed legislative instruments before they are finalised. In the context of the supervision charge, such public input can provide valuable information and insight which will ensure that the best possible design of the supervision charge is adopted.

Questions inviting public comment are listed in Chapter 9: Consultation. In addition to commenting on the body of the RIS, the public is also invited to review and comment on a copy of the proposed supervision charge notice (**Appendix 1**).

Submissions will be treated as public documents and will be made available on the DTF website, unless the author requests their submission be treated confidentially. Please note that the Department will endeavour to keep such submissions confidential unless disclosure is required by law.

To facilitate publication and accessibility, DTF requests that, where possible, submissions be submitted electronically in Word format.

DTF in its discretion does not publish submissions where it considers it not in the public interest to do so. For example, where submissions contain irrelevant, offensive, vilifying, defamatory or otherwise unlawful content or content considered to be an abuse of the consultation process.

Before publication, DTF will use best endeavours to remove sensitive personal information.

All submissions, whether published or not, will be treated as public records in accordance with the *Public Records Act 1973* (Vic) and will be subject to disclosure requirements under the *Freedom of Information Act 1982* (Vic).

The closing date for submissions is 5pm on 5 July 2013. Submissions can be sent:

*By Post:*

Gambling Policy and Litigation Group

Department of Treasury and Finance

1 Treasury Place

East Melbourne

VIC 3002

*By Email:*

supervisionchargeris@dtf.vic.gov.au

Following the consideration of public submissions, it is expected that the RIS will be finalised and published on the DTF website by early August 2013.

# Nature and extent of the issue

Key points

* Victoria’s gaming machine regulations primarily aim to reduce problem gambling, prevent criminal influence/exploitation and maintain the integrity of gaming machines so that they are fair to players.
* The VCGLR incurs costs as it deploys resources to fulfil its regulatory responsibilities.
* There is a strong case for using the supervision charge to fully recover all reasonable costs from the gaming industry.
	1. This is based on the view that the regulatory cost should be internalised by the industry that gives rise to the regulation in the first place.
	2. Venue operators also benefit from the regulations administered by the VCGLR. The integrity and value of the entitlements would be undermined if the VCGLR were not undertaking the regulatory activities necessary to ensure venue operators comply with legislative requirements.
* The design of the supervision charge for venue operators will need to take account of the heterogeneous and unique nature of the gaming machine industry.

## Overview of gaming machine regulation

Beginning in the early 1990s, the Victorian Government liberalised its laws in relation to gaming machines by providing restricted and exclusive rights to operate them. Prior to that, the provision and operation of gaming machines in Victoria was illegal.

Today the government closely controls the gaming machine industry and requires it to comply with significant restrictions under legislation. For example, Victoria prohibits the conduct of gambling unless specifically authorised under the GRA.

The VCGLR plays a key role as the responsible regulator in this context. Under section 3.4.12 of the GRA, hotels, clubs and racing clubs must obtain a venue operator’s licence in order to operate gaming machine venues in Victoria. In addition, the VCGLR must assess and approve a range of matters related to the operation of gaming venues, including new machine types, games and linked jackpot arrangements, the suitability of new premises to be used for gaming, increases in the number of gaming machines to be operated at existing premises and training courses that relate to the responsible provision of gaming. The VCGLR also licences gaming industry employees and approves gaming machine manufacturers, gaming machine testers and component suppliers.

A range of other restrictions and obligations are placed on a venue operator licensee. In general, they stipulate necessary information to be provided to players and set strict rules for venue conduct. For example, gaming machine winnings or accumulated credits in excess of $1,000 must be paid by cheque and not made out to cash.

## The reasons for regulation

By closely regulating the gaming machine industry, the aims of the GRA include:

* minimise harms caused by problem gambling while accommodating those who gamble without harming themselves or others;
* ensure that minors are neither encouraged to gamble nor allowed to do so;
* ensure that gaming on gaming machines is conducted honestly and is fair to consumers;
* prevent the management of gaming and monitoring equipment from criminal influence and exploitation; and
* promote tourism, employment and economic development more generally.

The State aims to achieve these objectives because the market alone would otherwise likely fail to produce socially optimal outcomes. To an extent, this is guided by the general assumption that businesses operating gaming machines in a fully unregulated market are likely to maximise profits while not bearing the costs borne by others (such as problem gamblers). Although it is important to note that some individual businesses could choose to bear some costs if it was in their commercial interests to do so (e.g. provide a level of information to players to signal the benefits (or returns) of playing a machine in their venue over others).

## VCGLR’s regulatory output

The VCGLR exercises its regulatory responsibilities in relation to gaming and aims to achieve the Government’s objectives (including the GRA’s objectives listed above) through the following core functions and processes:

* auditing gaming machine financial data and assessing premises and equipment upon application;
* conducting investigations and field inspections to ensure compliance; and
* approving and monitoring the licensing of venue operators and their associates.

The VCGLR’s functions, as required under the GRA, are listed in **Appendix 2**. Chapter 4 outlines the gaming regulatory related output activities of the VCGLR in more detail.

## Recovering VCGLR’s costs – Who pays?

Inevitably, the VCGLR incurs costs as it deploys resources to fulfil its regulatory responsibilities.

In practical terms, the VCGLR is funded through grants from the Department of Justice (DOJ). The VCGLR’s activities form part of the DOJ Industry Regulation and Support output. Gambling regulation activities undertaken to deliver this output aim to promote responsible industry behaviour and an informed community through effective regulation, education, monitoring and enforcement[[3]](#footnote-3). Performance targets include quantity, quality and timeliness measures.

The question arises as to who could and should be charged to recover the costs of VCGLR’s regulatory activities. In generic terms, the possible options vary from:

* charging direct user fees for particular services;
* levying regulatory charges on those whose actions place government/societal objectives at risk; and/or
* raising the revenue from general taxation.

The government’s general policy, through the DTF Cost Recovery Guidelines, is for costs to be recovered directly and fully where justified and practically feasible. Taxation is only relied upon as a funding source when more direct charging options are not possible.

### Historical collection of VCGLR’s costs

Since 1995-96, the Government has recovered the VCGLR’s costs of regulating some areas of gambling through levying a supervision charge on various gambling licensees in those areas including those operating gaming machines, wagering, lottery and keno.

In practice, the supervision charge has been calculated on the basis of fully recovering the VCGLR’s regulatory costs of all the activities listed in Chapter 4. To avoid double charging, the supervision charge amounts have netted off the revenues collected from other activity based licence fees levied on the licensee. These other fees are detailed further below. Licence premium payments paid for gaming machine entitlements purchased at auction are not included.

The total amount of revenue raised from all supervision charge revenues has varied between $6.65 million and $9.22 million between 1999-00 and 2011-12. The majority of the VCGLR’s reasonable regulatory costs recovered through supervision charges have historically related to and therefore been recovered from gaming related licensees. For example, gaming accounted for 75 per cent of supervision charge revenues collected in 2011-12.

##### Chart 2.1: Total supervision charge revenues (nominal) (1995-96 to 2011-12)\*



*Source: DTF*

*\*Includes supervision charges on gaming, wagering, lottery and keno licensees.*

As referred to earlier, the VCGLR also levies a range of gaming related activity based licence fees for specific regulatory activities. These fees are typically paid by venue operator licensees and their employees.

These activity based fees only partially recover the VCGLR’s costs. This is partly due to the nature of these fees – they relate to specific regulatory applications and the fees are levied as an upfront access charge, which is payable before the VCGLR commences its assessment of the application. In most cases, the VCGLR’s level of effort and resources dedicated to assessing each application, and associated costs, are greater than the level of the fee allows for. For example, the ongoing monitoring of licensed venue operators, including assessment and approval of their new associates (entities or individuals), is not covered by the fees charged for an application for a licence. This is explored further in Chapter 4.

##### Table 2.2: Gaming related activity based licence fees for 2012-13

| Fee name | Amount |
| --- | --- |
| **Venue operators** |  |
| Approval of premises | $5,300.20 |
| New venue operator’s licence | $2,011.10 |
| Renewal of venue operator’s licence | $1,929.60 |
| Amendment to add premises | $388.30 |
| Amendment to increase the number of electronic gaming machines | $6,427.90 |
| Amendment to decrease the number of electronic gaming machines | $263.10 |
| Amendment to vary the gaming machine areas | $369.60 |
| Amendment to vary the day or dates on which 24 hour gaming is permitted | $4,091.00 |
| Amendment to add a condition specifying days or dates on which 24 hour gaming is permitted when none currently takes place | $4,091.00 |
| Fee payable for transfers or sale of gaming machines entitlements | $263.10\* |
| **Employees** |  |
| New gaming industry employee’s licence | $150.40 |
| New gaming industry employee’s licence where the applicant holds a special employee licence | $50.10 |
| Renewal of gaming industry employee’s licence | $62.70 |
| Replacement of gaming industry employee’s licence | $25.10 |
| **Other** |  |
| Evaluation of gaming machine type or game | $375.90 |
| Listing on the roll of manufacturers, suppliers and testers | $4,893.00 |

*Source: VCGLR.*

*\* $12.50 must be added to the base fee for each gaming machine entitlement that forms part of the transfer or, where being forfeited, the sale of gaming machine entitlements.*

### The case for full cost recovery from the gaming industry

There is a strong case for setting the supervision charge to fully recover all reasonable regulatory costs from the gaming industry.

This is primarily based on the argument that the regulatory cost should be fully internalised by the industry that gives rise to the need for the regulation in the first place. Without regulation, it is more likely that problem gambling, criminal influence and player fairness issues would arise, placing the government’s outcomes at risk. It is important that the cost structures of an industry reflect all of the costs to society that must be expended for that industry to continue. In this way, appropriate price signals to both consumers and producers are made about the costs of the resources involved in providing gaming machines.

Fully internalising reasonable costs within gaming venues is supported as venue operators benefit from the regulations administered by the VCGLR. By capping the number of gaming machine entitlements at 27,500, the regulatory environment creates substantial profits that would be otherwise unavailable in a competitive market. These regulatory arrangements ensure that the venue operators – as the main beneficiaries of the regulation – meet the costs of providing those benefits. If the VCGLR did not undertake the regulatory activities necessary, it is highly likely that the integrity of the gaming entitlement system and value of the entitlements themselves would be undermined.

The industry also directly benefits from specific VCGLR regulatory activities. For example, the VCGLR’s advice and education to venue operators helps them operate more effectively. As a result, it could be argued that a full cost recovery charge is warranted on the basis of the user pays principle – the VCGLR is providing specific services that venue operators, when accessed, directly and specifically benefit from.

In addition, a supervision charge that fully recovers reasonable costs also has the added benefits of:

* Fully recovering the costs of specific gaming licence activities that activity based licence fees (at their current levels) do not fully recover from venue operators.
* Providing a transparent and demonstrable basis of comparison to review the VCGLR’s regulatory costs ensuring ongoing efficiency of the VCGLR’s regulation activities.
* Those parties that do not benefit or take part in gaming related regulatory activity do not have to bear the associated costs.
* Ensuring funding for an effective VCGLR - with its regulatory role maintaining the integrity of and therefore public confidence in the industry.

The principle of fully internalising the costs of regulation is supported by the *DTF Cost Recovery Guidelines* as outlined below. In addition, the Commonwealth Government’s *Australia’s Future Tax System Review* also concluded that “regulatory costs should be recovered from those who are best able to reduce the social costs the regulation is targeting. This will often, but not always, be those who impose on others the costs that lead to the need for regulation”[[4]](#footnote-4).

**Text Box 2.1 - Excerpt from the *DTF Cost Recovery Guidelines***

From the point of view of economic efficiency, it is important that the cost structures of an industry reflect all of the costs to society that must be expended for that industry to continue. If industry participants do not face the full costs associated with the efficient regulation of that industry, prices will tend to be too low and output too high than the best outcome for society as a whole. To address this, the costs incurred by government in administering regulation should be internalised as part of the cost of production of the good or service in question.

### Accounting for other benefits

Gaming machine players also benefit from a well-functioning regulatory system. In an ideal policy environment, the regulatory costs would be shared between venues and the players. This occurs by charging the regulated business, which then passes on some portion of costs through the prices it charges its customers.

However in this context it is unclear how the state would be able to practically impose the charge on players. Venues are restricted from directly passing on the charge to players (within the gaming machine) because the GRA already fixes the price players face in playing gaming machines (by setting maximum player loss limits).

Venues have the ability to pass on the cost through the price they charge for other goods and services they supply, e.g. meals and beverages. However it is highly uncertain the extent to which players as opposed to other non-playing visitors would bear the costs of the supervision charge.

As a result, imposing a charge that fully recovers reasonable costs from venue operators is the most efficient and cost effective approach available. The only other viable alternatives, i) relying fully or partially on general taxation revenue or ii) imposing costs on various gaming service delivery intermediaries (e.g. manufacturers), would inappropriately shift the costs of regulation onto a number of other individuals and businesses. In addition, by increasing the level of general taxation needed to finance gaming related regulated activities, the State unnecessarily incurs additional costs of tax administration and compliance, and the ‘deadweight loss’ of tax-related distortions to the economy more broadly.

### Practice in other jurisdictions

Other jurisdictions in Australia and internationally also apply cost recovery charges on their gaming machine industries. In general, these charges apply to their relevant gaming machine licensees, venues or other service delivery intermediaries (e.g. venue employees, machine repairers, machine manufacturers etc).

Victoria is the only state in Australia that levies a supervision charge. Other states apply specific activity based cost recovery fees on their respective gaming industries. Victoria’s supervision charge approach is balanced by levying fewer specific activity based fees than every other State. As established earlier, Victoria’s specific activity based fees under‑recover the costs associated with that specific regulatory activity.

It is difficult to further analyse the differences between states due to different regulatory structures, licensing arrangements and a lack of available information on the relative size and efficiency of the relevant gambling regulator. Nevertheless, it is possible that other states are recovering the remaining regulatory costs of their regulator (i.e. costs other than those not recovered through specific activity based fees) through their gaming tax revenue (as highlighted in Queensland) or general tax revenues more broadly.

## Issues to consider in applying the charge

The supervision charge will be paid by venue operators who have held gaming entitlements within the financial year. In practice, the supervision charge determination will net off amounts already collected from activity based licence fees listed in the table above.

The gaming machine industry is heterogeneous and has some unique characteristics, which will need to be considered in the design and application of the supervision charge for venue operators:

* **The supervision charge will apply to a relatively large number of gaming machine venue operators** (i.e. between 400 and 500) compared to its application to Victoria’s other gambling licences (where the taxpayer is effectively one or two entities). This can potentially increase administration costs and compliance activities surrounding the levying of the charge. The transferability of gaming machine entitlements at any time within a financial year also complicates the levying process further.
* **The nature of venue operators differs markedly across Victoria.** At a simplistic level, venues differ by whether they are a hotel or club. Hotels are largely run as a business, while clubs run for not-for-profit/community benefit purposes. Some venues operate a larger number of gaming machines than others, and some are collectively owned by the same entity. The estimated risk or observed prevalence of problem gambling is higher in some venues over others. These differences can lead to cross subsidisation between venue operators if a flat charge per venue (or equivalent) was determined.
* **The amount of effort VCGLR applies in undertaking its regulatory activities can potentially vary by venue operator**. Some venue operators comply with regulations relatively easily. Others, such as new venue operators, require the VCGLR’s attention more frequently or to a greater degree of intensity as they set up their gaming venue. Cross subsidisation between venue operators will occur unless the charge has a means of differentiating regulatory effort per venue.
* **The use of gaming machine entitlements can vary between and within venues operators.** Some venue operators use all their entitlements (by attaching them to their, or one or more of their, approved venues to operate the equivalent number of gaming machines) at any point in time, while others do not use a portion of their entitlements. The non-use of entitlements can be complicated further by GRA provisions that apply a ‘use it or lose it’ requirement. Under the ‘use it or lose it’ requirement, entitlements must be used within six months or they will revert to the State unless entitlement holders apply for an extension. These issues complicate the administrative process of determining and issuing the charge.

# Objectives of the supervision charge

Pursuant to sections 10(1)(a) and 12H(1)(a) of the SLA a RIS must include a statement outlining the objectives of the supervision charge. The objectives of cost recovery charges are generally shaped by the nature of the issue, existing government policy and other specific considerations unique to the charge.

In the context of this RIS, the objective of the supervision charge is to fully recover the reasonable costs incurred by the VCGLR from venue operators in performing its gaming related regulatory activities. The charge will net off amounts already collected from specific gaming related licence fees paid by venue operators to avoid double charging.

The design of the charge will also meet the following principles:

1. **Efficiency** – This is generally enhanced if regulatory costs are recovered from the regulated industry (particularly where the link between costs and benefits is direct). This reflects a view that the cost of regulation can appropriately be considered a part of the cost of producing the industry's outputs. It also ensures that the gaming industry’s production decisions are not distorted by effective subsidies and cross subsidies.
2. **Equity** - Thisrefers to treating people in similar situations in similar ways. In the case of cost recovery, equity refers to those who benefit from government activities, or those that contribute to the need for government regulation (i.e. venue operators and players), having to pay the associated costs.
3. **Cost effectiveness** - The cost of administering cost recovery arrangements should be less than the value of the costs recovered. Potential levels of evasion should not be unacceptably high.
4. **Transparent -** This means that the underlying purpose and principles behind the design of the charge are clearly identified. It should be clear what is being charged, who is liable, and how their liability is calculated.

# VCGLR’s 2012-13 gaming related regulatory costs

Key points

* The VCGLR’s total net gaming related regulatory costs for 2012-13 are expected to be $5.3 million. The estimates cover 10.5 months of 2012-13 because they only include regulatory costs incurred since Venue Operator licences commenced on 16 August 2012.
* Historically, fluctuations in gaming related regulatory costs are due to certain regulatory activities being more cyclical in nature, while some costs are driven by the actual demand for VCGLR’s regulatory functions.
* In real terms, the VCGLR’s gaming related regulatory costs have declined by an annual average rate of 3.5 per cent over the last 13 years; from $331 per machine in 2000-01 to $216 per gaming entitlement in 2012‑13 (2013 prices).
* The reduction in the VCGLR’s real costs has occurred while the scope for VCGLR gaming regulatory functions has increased due to the Government introducing new regulatory requirements since 2000.

## Overview of the VCGLR’s costing framework

The VCGLR’s costing framework was established in 1994. It was independently reviewed by Coopers & Lybrand in 1997, which included confirming a set of overarching principles for recovering VCGLR’s gambling related regulatory costs through the supervision charge.

The VCGLR follows the ‘fully distributed cost method’ in calculating the costs it incurs through regulating the gaming industry. The method is the most comprehensive costing approach outlined in the DTF Cost Recovery Guidelines. It allocates all costs (including direct, indirect and capital cost components) to the output. This method is generally recommended where the cost recovered activities account for a large proportion of the agency’s activities.

The VCGLR uses a Time Costing System (TCS) to calculate its costs of regulating the gambling industry. The TCS is used by VCGLR staff whose workload includes a significant proportion of time on one or more of the respective gambling licence/activity (i.e. more than 40 per cent).

Staff enter data into the TCS on a weekly basis, which is approved by their team leader or manager to ensure an accurate and robust dataset. The cost of staff time involved in non-gaming related supervision activities is excluded from the TCS for the purposes of estimating the VCGLR’s financial cost base of regulating gaming (e.g. such as time spent on other licenced gambling activities such as wagering, lotteries, casino and keno).

The data collected in the TCS is used in conjunction with other data in allocating the VCGLR’s costs of regulating gaming into three categories:

* **Primary costs** – This measures VCGLR labour related costs and is calculated by taking the total staff hours entered into the TCS only with respect to gaming related regulation, which is then used to calculate the equivalent salaries and related costs and other general expenses.
* **Specific costs** – This measures VCGLR non-staff related costs directly incurred in regulating gaming such as travel and subsistence, professional services, vehicle rental and other operating costs.
* **Secondary costs** – This measures VCGLR’s total indirect costs incurred in gambling regulation. It is calculated by estimating a “gaming equivalent indirect cost amount” by using the ratio of staff related gaming regulation costs compared to staff related total gambling regulatory costs. Indirect costs include corporate and support units, finance, human resources, information and communication technology, legal services, corporate information management services, Office of the Chief Executive Officer, information and publications, and the Commission Secretariat and Registry.

Capital costs are applied each year and are reflected in the depreciation amount for that year. This amount is included in the cost pool and is allocated across the regulatory activities.

In determining VCGLR’s total cost base for regulating gaming, the following costs are excluded as they are considered non-supervisory in nature and/or unrelated to gaming:

* special projects or activities undertaken in the VCGLR. In previous years this has included the Gambling Licences Review Project, the Gambling Licences Transition Project, the relocation of the VCGLR to its current North Richmond office, transition and integration of liquor regulation within the organisation;
* minor gaming, which includes activities (such as raffles, bingo, lucky envelopes etc) run by declared community and charitable organisations;
* freedom of information (FOI) as activities in response to FOIs are undertaken under the *Freedom of Information Act 1982*;
* liquor regulation activities; and
* costs partially recovered from gaming related activity based licence fees to avoid double charging (as explained further in Chapter 2).

## Estimating VCGLR’s costs in 2012-13

The table below lists the output activities for which the VCGLR incurs costs in relation to venue operator licensees holding gaming machine entitlements and the gaming machine entitlement system more broadly[[5]](#footnote-5).

##### Table 4.1: List of VCGLR output activities relating to the gaming machine industry

| Output Activity |
| --- |
| **Venue operator licensees – Operating gaming machines** |
| *Financial and general audits / assessment of systems and rules* |
| * Financial analysis, taxation and data reporting
 |
| * Approval and testing of gaming machine games, software, hardware and jackpots
 |
| * Application for linked jackpot arrangements
 |
| * Provide authority to possess gaming equipment by manufacturers and suppliers
 |
| * Approval of Codes of Conduct
 |
| * Approval of Self Exclusion Programs
 |
| * Approval of Responsible Service of Gaming training courses
 |
| * Advice and education to venue operators
 |
| * Legislation advice and development, and operational policy and legal advice
 |
| *Investigations & compliance* |
| * Compliance audits of venues
 |
| * Complaints investigation
 |
| * Probity investigations- including for licensing and for disciplinary actions
 |
| * Advice and education to venue operators
 |
| * Legislation advice and development, and operational policy and legal advice
 |
| *Licensing & associates monitoring* |
| * Applications for new or renewal of venue operator licence
 |
| * Applications, to include or remove approved premises
 |
| * Applications to vary number of gaming machines at a venue, which in the case of a proposed increase in gaming machines includes submission of an economic & social impact assessment
 |
| * Assessment/approval of new associates (including nominee) of a venue operator licence- individuals and entities
 |
| * New premises approvals, premises modifications or removals
 |
| * Licence applications for gaming industry employees
 |
| * Disciplinary actions of venue operators licensees and gaming industry employees
 |
| * Technical investigation and compliance monitoring of gaming and other venue equipment
 |
| * Conduct of public hearings; e.g. for venue operator licence applications or increase in gaming machines
 |
| * Advice and education to venue operators
 |
| * Legislation advice and development, and operational policy and legal advice
 |
| **Gaming machine entitlements system** |
| * Establishment and maintenance of the entitlements register and transfer market on VCGLR website
 |
| * Managing deferred entitlement premium payment arrangements
 |
| * Transfer of entitlement ownership and other instances where entitlements are attached or detached
 |
| * Amendments to gaming machine entitlement conditions
 |
| * Application of legislative requirements such as the 35 per cent ownership rule and the 6 month use it or lose it provision
 |
| * Advice and education to venue operators
 |
| * Legislation advice and development, and operational policy and legal advice
 |

*Source: VCGLR.*

Table 4.2 summarises the estimated cost to VCGLR of its gaming related regulatory activities at an aggregate level for 2012-13. It is important to note that these are estimates of the VCGLR costs and provide an indication of what the total supervision charge for venue operators in 2012-13 may be. The final costs and applicable charge will be calculated and invoiced after the end of the 2012‑13 financial year.

##### Table 4.2 – Estimated VCGLR Gaming Related Regulatory Costs in 2012-13\*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **2012-13 ($'000s)** | **Primary Costs** | **Specific Costs** | **Secondary Costs** | **Total Costs** |
| **Regulating operating gaming machines** |  |  |  |  |
| Financial and general audits / Assessment of premises, systems & rules | 243.0 | 0.0 | 112.3 | 355.3 |
| Investigation and compliance | 695.8 | 48.2 | 409.2 | 1 153.2 |
| Approving and monitoring the licensing of venue operators and associates  | 2 602.0 | 8.2 | 1 394.5 | 4 004.7 |
| **Sub Total - Operating gaming machine component** | **3 540.8** | **56.4** | **1 916.1** | **5 513.3** |
| **Administering the gaming entitlement system** | 316.9 | 0.0 | 128.2 | 445.1 |
| **Total gross estimated regulatory costs** | **3 857.7** | **56.4** | **2 044.3** | **5 958.4** |
| Less costs recovered through VCGLR activity based licence fees\*\* | (632.7) | 0.0 | 0.0 | (632.7) |
| **Total net estimated regulatory costs**  | **3 225.0** | **56.4** | **2 044.3** | **5 325.7** |

*Source: VCGLR*

*\* 2012-13 denotes costs incurred since venue operator licences commenced on 16 August 2012 and estimated up to 30 June 2013.*

*\*\* These fees only relate to the regulation of operating gaming machines.*

VCGLR’s total net gaming related regulatory costs for 2012-13 are expected to be $5.3 million. The estimates in the table above show that a large proportion of the VCGLR costs (64 per cent) arise from labour related costs (i.e. primary cost category). The majority of the remainder of costs arise from secondary/indirect costs incurred.

Activity based licence fee revenue collected in 2012-13, and deducted from gaming related regulatory costs in table 4.1, relates mostly to approving and monitoring the licensing of venue operators and their associates. As mentioned in Chapter 2, activity based licence fees are levied on application for licences and approvals of venue operators (including associates and nominees), gaming industry employee licences and other relevant key industry participants such as manufacturers, suppliers and testers. These fees are expected to collect around 10 per cent of gross estimated gaming related regulatory costs for 2012-13.

* 1. Trends in VCGLR’s costs

In the last two years, fewer VCGLR resources have been required on activities related to supervision charge related costs, which is partly due to:

* + the decline in demand for a number of gaming regulatory activities as the former gaming operator’s licences approached expiry and they reduced their activity ;
	+ the lead up to the new gaming arrangements; and
	+ the integration of gambling and liquor regulation in the VCGLR

Chart 4.2 below shows that the VCGLR’s gaming related regulatory costs have declined by an average annual rate of 3.5 per cent in real terms over the last 13 years[[6]](#footnote-6), from $331 per machine in 2000-01 to $216 per gaming entitlement in 2012‑13. A lack of comparable publicly available data makes it difficult to reliably benchmark the VCGLR’s regulatory costs with other comparable regulators in Australia and internationally. In addition, there are significant differences in the level, scope and nature of gaming regulation across jurisdictions that make such comparisons problematic and more complex.

##### Chart 4.2 – Real gaming related regulatory costs per machine/entitlement from 2000-01 to 2012-13\* (2013 prices)



*Source: DTF. ABS Cat No 6345.0 - Wage Price Index, Australia, Mar 2013.*

*Notes: Growth rate cited in the chart is a compounded annual growth rate.*

*\* VCGR/VCGLR nominal gaming related regulatory costs were converted into real costs using the Victorian Public Sector Wage Price Index. Real costs were then divided by the maximum number of: gaming machines (pre 16 August 2012) and gaming entitlements (for 2012-13 only, post 16 August 2012). From 2000-01 to 2011-13, the maximum number of gaming machines was 27,500. In 2012-13, a total of 27,207 gaming entitlements were held by venue operators as of 9 May 2013.*

The reduction in the VCGLR’s real costs over the last 13 years has occurred while the scope of the VCGLR’s gaming regulatory functions has been increasing. The VCGLR has adopted other efficiencies in its operations such as shared arrangements with the DOJ for some corporate services.

Fluctuations in gaming-related regulatory costs are primarily driven by the actual demand for VCGLR’s regulatory functions (e.g., premises approvals, new gaming products and rules changes, monitoring and investigations required, and employee licensing volumes). The table below expands on the various cost drivers that influence VCGLR’s costs of administering gaming regulation.

##### Table 4.3 – Cost drivers of VCGLR gaming related regulatory activities

| **Activity** | **Cost Driver** | **additional factors** |
| --- | --- | --- |
| **Processing licence and permit applications** | Number and complexity of applications for licences or permits | * Complexity of applicant/s, including number and types of associates, entities, and other related issues involved.
 |
| **Conducting investigations** | Number of investigations | * Number of complaints or issues raised.
* Corporate activity of the licensed or approved entities; e.g. mergers, takeovers, new joint ventures, and any significant litigation.
* Volume of work involving industry employees, including complaints, disciplinary actions, and prosecutions.
* Probity investigations regarding licence/approval applications and arising from monitoring of gaming industry participants.
 |
| **Conducting technical and premises inspections, and assessments and investigations** | Number of installations of gaming equipment, modifications to gaming premises, new premises, number of issues with conduct of gaming and gaming machine operations. |
| **Undertaking analysis of gambling financial data** | Number of audit reports.* Financial analysis and audit includes analysing venue operator gaming machine financial data to assess any variations and anomalies, and ensuring venues apply correct return to player and government tax revenue ratios.
 |
| **Testing and evaluating gaming machine equipment** | Number of applications for approval | * Volume of new games, updated games and products applications, new rules, companies implementing requirements arising from new legislation or legislative change.
 |
| **Supervising venue operator licensees** | Number and location of field inspectionsVolume of educative activitiesVolume of monitoring activities required | * Volume of corporate activity such as mergers, takeovers, new joint ventures, changes to corporate structure, thereby creating new associates or associated entities to be evaluated.
* Monitoring progress and outcomes of significant litigation, other jurisdiction activity of the licensee.
* Volume of complaints, issues, disciplinary actions and prosecutions. Location of licensees (venues).
* Educative activities – regular provision of information – meetings, website, correspondence.
* Information sessions.
 |

*Source: VCGLR*

# Identification of cost recovery options

Key points

* Five options are identified in this chapter, and will be assessed in the following Chapter 6 including:
	1. Base case – No supervision charge;
	2. Option A – Two tiered charge based on entitlements and operating gaming machines;
	3. Option B – Single tiered charge based on entitlements;
	4. Option C – Charge on gaming machine revenue; and
	5. Option D – Fixed fee per entitlement.
* An additional six options were investigated, but not considered sufficiently practicable for further assessment in this RIS.

## Regulatory and non-regulatory options

Under Section 12H of the *SLA*, other practicable means of achieving the objectives of the regulation, including regulatory and non-regulatory options, must be considered as part of a RIS.

The GRA provides substantial flexibility in how the supervision charge is to be determined and levied by the Treasurer. This flexibility allows for a wide variety of potential supervision charge designs to be considered. Examples of types of supervision charge include a charge levied on gaming machines, entitlements, or on gaming machine revenue, a charge on regulatory activities, or through other means. Five options have been identified as sufficiently practicable to assess:

1. Base case – No supervision charge (VCGLR’s regulatory costs are recovered through general revenue);
2. Option A – Two tiered charge based on entitlements and gaming machines;
3. Option B – Single tiered charge based on entitlements;
4. Option C – Charge on gaming machine revenue; and
5. Option D – Fixed fee per entitlement.

An assessment of the costs and benefits of each of these options is contained in Chapter 6. As the charge is levied in arrears, all financial estimates are indicative only.

A number of other options were identified, but not considered sufficiently practicable for more detailed analysis. However, they are included in this chapter for completeness.

All options (except for the Base Case) are designed to raise a total of $5.3 million in 2012-13 (i.e. the preliminary working estimate of the VCGLR’s gaming related regulatory costs). The table below splits the VCGLR’s net total gaming related regulatory costs as they relate to the administration of the entitlement system overall and the operation of gaming machines.

##### Table 5.1 –Estimated 2012-13 VCGLR gaming related regulatory costs by regulatory activity type\*

|  |  |
| --- | --- |
| **Estimated cost per gaming regulatory activity category** | **2012-13****($'000s)** |
| Regulating operating gaming machines | 4 880.6 |
| Administering the gaming machine entitlements system | 445.1 |
| **Total net estimated regulatory costs**  | **5 325.7** |

*Source: VCGLR*

*\* 2012-13 denotes costs incurred since venue operator licences commenced on 16 August 2012 and estimated up to 30 June 2013. Each gaming regulatory activity was explored in further detail in table 4.1 of Chapter 4. Costs are net of revenues collected from activity based licence fees.*

These options will be assessed for application in the 2012-13 year only. This recognises that 2012-13 is a year of transition in Victoria’s gaming machine industry - i.e. it is the first year in which the new devolved venue operator system replaces the duopolistic gaming operator licence system. As a result there is uncertainty about a range of factors affecting the cost structure of VCGLR’s regulatory costs. The approach ultimately adopted for 2012-13 will be reviewed in 2013-14.

## Options to be assessed

### Base case – No supervision charge

The base case is that no supervision charge is imposed. VCGLR would still undertake its regulatory activities in the same manner; however the costs would be borne through general taxation, either through increased taxation, reductions in other service expenses, or through borrowing.

The absence of a supervision charge on gaming would not directly affect the VCGLR’s finances in the short term because the revenues collected from the charge are not hypothecated. That is, they are not directly linked and paid back to the VCGLR. Rather, the VCGLR is funded through appropriations from the State Budget. As a result, additional revenue or savings in the order of $5.3 million in 2012-13 would need to be transferred from another area of the state’s finances to meet the costs of the VCGLR in supervising gaming.

### Option A – Two tiered charge on entitlements and gaming machines

Option A apportions the VCGLR’s regulatory costs to gaming venue operators directly based on the regulation of the gaming entitlements system overall (for example, managing the transfer of entitlements) and the regulation/supervision of operating gaming machines (i.e. gaming entitlements which are being actively used by the venue operator).

This two tiered system to the charge incorporates two elements:

* A per entitlement charge multiplied by the average number of entitlements held by the venue operator; and
* A per operating gaming machine charge multiplied by the average number of operating gaming machines held by the venue operator.

These two elements are then summed to form the supervision charge, which is levied on venue operators annually in arrears.

The two tiered system separately accounts for regulatory costs for entitlements irrespective of whether the entitlement is attached to a machine – this reflects the fact that there are different costs in administering the entitlement system and not all entitlements are attached to a machine. In practice, relatively few entitlements are not in use by venue operators (1,743 in May 2013).

The VCGLR’s costs to administer the gaming machine entitlements system are small compared to their costs associated with regulating operating gaming machines. This reflects the fact that entitlements on their own are an authority to operate gaming machines and that regulating operating gaming machines places the largest burden on VCGLR. The effect of this two tiered system is that entitlement holders not operating gaming machines face a lower supervision charge than those operating gaming machines.

The entitlement component of the charge (calculated on a per annum basis) would be expressed as:

$$per entitlement charge=\frac{ VCGLR entitlement administration costs}{total number of entitlements in Victoria}$$

**A preliminary estimate of the per entitlement charge is $16.36 per annum for 2012‑13.**

The operating gaming machine component of the charge (calculated on a per annum basis) would be expressed as:

$$per operating gaming machine charge= \frac{VCGLR^{'}s operating gaming machine related regulatory costs}{total number of operating gaming machines in Victoria}$$

**A preliminary estimate of the per operating gaming machine charge is $191.67 per annum for 2012-13.**

The total supervision charge for a given venue operator would be expressed as:

$$supervision charge on venue operator=(per entitlement charge × number of entitlements held per annum) +(per operating EGM charge× number of operating EGMs per annum) $$

**Box 5.1 – Two tiered charge worked example**

Consider a venue operator that owns a total of 50 gaming machine entitlements. The venue is currently using 40 entitlements by attaching and operating a gaming machine, leaving 10 unused entitlements.

The supervision charge payable by this venue for 2012-13 is $8 485 and is calculated as follows:

*Supervision charge = ($16.36 X 50 entitlements) + ($191.67 X 40 gaming machines)*

*= $818 + $7,667*

*= $8 485*

Table 5.2 below sets out the indicative supervision charge for venues in 2012-13. The table needs to be read in a matrix format. The columns represent the total number of operating gaming machines owned by a venue and the rows represent the total number of entitlements owned by a venue. For example, a venue owning 40 entitlements and operating 20 gaming machines would pay a supervision charge of $4,488 in 2012-13.

##### Table 5.2: Estimated total supervision charge – Option A ($, 2012-13)

|  |  |
| --- | --- |
|  | *No. of operating gaming machines* |
|  |  | *0* | *20* | *40* | *60* | *80* | *100* |
| *No. of entitlements held* | *0* | 0 | n/a\* | n/a\* | n/a\* | n/a\* | n/a\* |
| *20* | 327 | 4 161  | n/a\* | n/a\* | n/a\* | n/a\* |
| *40* | 654 | 4 488  | 8 321  | n/a\* | n/a\* | n/a\* |
| *60* | 982 | 4 815  | 8 648  | 12 482  | n/a\* | n/a\* |
| *80* | 1 309 | 5 142  | 8 976  | 12 809  | 16 642 | n/a\* |
| *100* | 1 636 | 5 469  | 9 303  | 13 136  | 16 970 | 20 803 |

*\* Not applicable because venue operators cannot operate more gaming machines than entitlements held.*

### Option B – Single tiered charge on entitlements

Option B proposes a single tiered charge levied on entitlements. This option would function in a similar manner to Option A, but the charge would not distinguish between the costs of administering the entitlements system overall as opposed to entitlements that have operating gaming machines attached.

A single tiered system would operate in a similar manner to a two tiered system in most respects. The key difference in a single tiered system is that entitlement holders who are not operating gaming machines would pay a higher charge, which includes supervision costs for regulating operating gaming machines. The method for determining VCGLR’s supervision costs is the same as for Option A.

The per entitlement unit charge would be expressed as:

$$per entitlement charge=\frac{VCGLR^{'}s entitlement and operating EGM related regulatory costs}{total number of entitlements in Victoria}$$

**A preliminary estimate of the per entitlement charge is $195.75 for 2012-13.**

The total supervision charge for a venue operator would be expressed as:

$$supervision charge on venue operator=per entitlement unit charge ×entitlements held $$

**Box 5.2 – Single tiered charge worked example**

Consider a venue operator that owns a total of 50 gaming machine entitlements. The venue is currently using 40 entitlements by attaching and operating a gaming machine, leaving 10 unused entitlements. Unlike Option A, Option B does not differentiate between ‘used’ or ‘unused’ entitlements.

The supervision charge payable by this venue for 2012-13 is $9 788 and is calculated as follows:

*Supervision charge = per entitlement unit charge X entitlements held*

 *= $195.75 X 50 entitlements*

*= $9 788*

The table below sets out the indicative supervision charge for venues in 2012-13.

##### Table 5.3: Estimated supervision charge – Option B ($, 2012-13)

|  |
| --- |
| *Number of entitlements held* |
| 10 | 20 | 40 | 60 | 80 | 100 |
| 1 958  | 3 915  | 7 830  | 11 745  | 15 660  | 19 575  |

### Option C –Gaming machine revenue based charge

Option C proposes a charge levied on venue operator gaming machine revenue. VCGLR’s supervision costs would be the same as for Option A, but under this option the charge would be a function of gaming machine revenue rather than the number of operating gaming machines and gaming entitlements held.

Under this system, venues that generate higher revenue would be subject to a higher charge than venues that generate comparatively lower revenue. That is, the amount of the supervision charge would reflect the number of patrons using the gaming machines and the amount gambled. This method involves an assumption that venues with higher net turnover also have higher regulatory costs.

The supervision charge rate would be expressed as:

$$Charge rate=\frac{VCGLR^{'}s entitlement and gaming machine related regulatory costs}{total gaming machine revenue in Victoria}$$

**A preliminary estimate of charge rate for 2012-13 is 0.208 per cent of pre-tax gaming machine revenue (player loss).**

The supervision charge a venue faces would be expressed as:

$$Supervision charge=0.208\% ×per gaming machine net pretax revenue ×no. of operating gaming machines$$

**Box 5.3: Gaming machine revenue based charge worked example**

Consider a venue operator that owns a total of 50 gaming machine entitlements. The venue is currently using 40 entitlements by attaching and operating a gaming machine, leaving 10 unused entitlements. Each of their operating gaming machines generating an average of $100,000 per gaming machine (approximately the state‑wide average player loss per gaming machine).

The supervision charge payable by this venue for 2012-13 is $8 320 for the operating gaming machines and no charge for the unused entitlements as they are generating no revenue. It is calculated as follows:

*Supervision charge = 0.208% X $100 000 X 40*

*= $8 320*

The table below needs to be read in a matrix format. The columns represent the total number of operating gaming machines owned by a venue and the rows represent a venue’s total annual revenue per gaming machine. For example, a venue operating 20 gaming machines and returning annual revenue per gaming machine of $40,000 would pay a supervision charge of $1,664 in 2012-13.

##### Table 5.4: Estimated supervision charge – Option C ($)

|  |  |
| --- | --- |
|  | *No. of operating gaming machines* |
|  |  | *20* | *40* | *60* | *80* | *100* |
| *$ Annual revenue per gaming machine* | 20 000 | 832  | 1 664  | 2 496  | 3 328  | 4 160  |
| 40 000 | 1 664  | 3 328  | 4 992  | 6 656  | 8 320  |
| 60 000 | 2 496  | 4 992  | 7 488  | 9 984  | 12 480  |
| 80 000 | 3 328  | 6 656  | 9 984  | 13 312  | 16 640  |
| 100 000 | 4 160  | 8 320  | 12 480  | 16 640  | 20 800  |
| 120 000 | 4 992  | 9 984  | 14 976  | 19 968  | 24 960  |
| 140 000 | 5 824  | 11 648  | 17 472  | 23 296  | 29 120  |
| 160 000 | 6 656  | 13 312  | 19 968  | 26 624  | 33 280  |
| 180 000 | 7 488  | 14 976  | 22 464  | 29 952  | 37 440  |
| 200 000 | 8 320  | 16 640  | 24 960  | 33 280  | 41 600  |

### Option D – Fixed fee per entitlement

Option D proposes a fixed fee per entitlement denominated in Victorian fee units.

The Government has a policy of automatically indexing certain fees each year for inflation so that their value is maintained. To achieve this objective without the need to amend regulations every year, fees are denominated in certain numbers of fee units. Fee units are indexed annually by an amount set by the Treasurer, with a 2012-13 fee unit set at $12.53.

Option D fixes the real value of the supervision charge in 2012-13, and uses fee units to allow the charge to grow in nominal terms in line with inflation. This would remove the need for VCGLR to calculate its regulatory costs every year.

**In 2012-13, the estimated charge would be set at 15.6225 fee units**. This is calculated by dividing the $195.75 per entitlement charge as per Option B by the value of a 2012-13 fee unit ($12.53). In future years, the supervision charge would be fixed at 15.6225 fee units. As the value of fee units rises, so too would the per-entitlement supervision charge.

The supervision charge for a venue operator would be expressed as:

$$Supervision charge=15.6225 ×fee unit ×no. of entitlements$$

**Box 5.4: Fixed fee charge worked example**

Consider a venue operator that owns a total of 50 gaming machine entitlements. The venue is currently using 40 entitlements by attaching and operating a gaming machine, leaving 10 unused entitlements. Option D accounts for used and unused entitlements in the same way as Option B.

The venue would face a supervision charge of $9 786 for the operating gaming machines and is calculated as follows:

*Supervision charge = (15.6225 fee units X $12.53 per fee unit) X 50 entitlements held*

 *= $195.75 X 50 entitlements*

*= $9 786*

The table below sets out the indicative supervision charge for venues in 2012-13.

##### Table 5.5: Estimated supervision charge – Option D ($)

|  |
| --- |
| *Number of entitlements held* |
| 10 | 20 | 40 | 60 | 80 | 100 |
| 1 958  | 3 915  | 7 830  | 11 745  | 15 660  | 19 575  |

This option would provide a more predictable charge each year, and over time could be reviewed to ensure revenues collected do not diverge from the VCGLR’s long run cost of supervising the gaming industry.

## Financial impact of options

Chart 5.1 compares the financial impacts for venues that predominantly use all or most of the gaming entitlements (i.e. attach and operate a gaming machine). In comparison, Chart 5.2 shows the likely financial impact for venues that do not use most or all of their gaming entitlements.

Options A and C impose a comparatively lower burden on venues that use most or all of their entitlements because a greater proportion of the VCGLR’s costs are borne by venues with a greater number of unused entitlements.

##### Chart 5.1: Indicative impact for venues with operating gaming machines

*Source: DTF*

##### Chart 5.2: Indicative impact for venues with unused entitlements

*Source: DTF*

## Other options considered

A number of other options were canvassed, but were not deemed sufficiently practicable to be assessed in further detail in the following chapter of the RIS. They are, however, listed here for completeness.

***Activity based charge***

Under this option, venues and in some instances their employees would pay individual charges for all activities they are subject to by the VCGLR, and these charges would reflect the VCGLR’s costs of undertaking these activities. Charges would include fees for licence applications, inspections, investigations and enforcement activities. Venues subject to more regulatory activities would pay more than those that were subject to fewer activities.

This option would expand Victoria’s existing activity based licence fee system and ensure that each such fee fully recovered costs for that activity. This would involve a greater number of fees on regulatory activities and processes undertaken by the VCGLR, and a realignment of current fee levels for certain activities.

Victoria, along with every other state and territory, levies activity based licence fees on the sector. In general, these fees apply to their relevant gaming machine licensees, venues or other service delivery intermediaries (e.g. venue employees, machine repairers, machine manufacturers etc). A full list of these fees is provided in Table 2.2 in chapter 2 of this RIS. Currently, these fees only partially cover VCGLR’s costs, with the remainder covered through the supervision charge.

Extending VCGLR’s current fees to all of VCGLR’s regulatory activities has a number of problems, including:

* the assessment of appropriate payments for certain activities, especially when the cost of regulation may be vastly different between venues;
* activity based charges may create a moral hazard for venues, who would have a stronger incentive to avoid interaction with VCGLR; and
* a lack of fairness where a venue would pay an activity based charge as a result of an investigation being undertaken (random or otherwise) which finds no wrongdoing on the part of the venue.

On account of these issues, this option has not been considered further in this RIS.

***Gaming machine tax surcharge***

A gaming machine tax surcharge would place a surcharge on gaming machine tax paid by venue operators. This surcharge would be levied as a percentage rate, collected in addition to general gaming machine taxes.

This option has not been considered in further detail for two reasons:

1. This charge, if levied in arrears, would be functionally similar to Option C, which is being considered in detail in Chapter 6.
2. This would in practice appear similar to gaming machine taxation with a portion hypothecated to the VCGLR.

***Risk based charge***

A risk based charge would apportion the cost of supervision to venues based on their risk profile determined by their compliance with regulatory requirements, including type and number of breaches or disciplinary matters, such as failing to provide required information or allowing a minor into a gaming venue. High risk venues would pay a higher proportion of the supervision charge. Lower risk venues would still contribute to the charge, but to a lesser extent.

It is unclear whether there is a direct relationship between the risk of, for instance problem gambling, and VCGLR’s regulatory costs. As a result, a risk based charge was not considered a viable option for in 2012-13. As more data becomes available in the future, it may be prudent to revisit the relationship between the risk profiles of venue operators and the VCGLR’s regulatory costs.

***Flat fee per venue***

A flat fee per venue would equally divide the supervision charge between venues thus:

$$supervision charge flat fee amount per venue=\frac{VCGLR^{'}s entitlement and EGM related regulatory costs}{total number of venue operators in Victoria}$$

This option has not been considered in further detail as it would create unacceptably large cross subsidies from small venues to large venues.

***Player charges***

There are a number of options for the implementation of a player surcharge. These options can generally be categorised as flag fall charges on player winnings. These options have not been considered in further detail. This is because they are not consistent with the requirement under DTF’s cost recovery guidelines that the industry that gives rise to the need for regulation should pay the associated cost. In addition, player charges may have prohibitively large implementation costs.

***Fees on unrelated goods or services***

A variety of fees could be imposed on unrelated goods and services to recover VCGLR’s regulatory costs. For example, the State could introduce a charge on motor vehicle registrations to cover VCGLR’s costs. These options have not been considered further because they do not meet the standards of DTF’s Cost Recovery Guidelines. This introduces large cross subsidies and may potentially be considered an excise duty under Section 90 of the *Commonwealth of Australia Constitution Act*.

## Implementing the supervision charge

The determination and calculation process of the supervision charge will be driven by government, through the Treasurer, DTF and the VCGLR. The payer of the charge, venue operators holding gaming machine entitlements, will have no obligations during the determination process until they receive an invoice to pay the charge.

The process for determining the 2012-13 supervision charge within government is as follows:

1. The VCGLR will calculate its actual costs incurred as per the process outlined in Chapter 4, which will be subject to review and verification via standard auditing processes, and advise the Minister for Liquor and Gaming Regulation.
2. The Minister for Liquor and Gaming Regulation will advise the Treasurer of the actual costs incurred by the VCGLR in relation to its gaming related regulatory activities.
3. Upon advice from DTF, the Treasurer will determine the unit charge[[7]](#footnote-7) that will apply for the 2012-13 supervision charge year.
4. The VCGLR will apply the unit charge determined by the Treasurer in order to calculate each venue’s total supervision charge payable for 2012-13.
5. Invoices will be created and sent to venue operators by the VCGLR.

In applying the unit charge to derive each venue’s supervision charge payable (step 4 above), the VCGLR will need to calculate the ‘chargeable variable’ – i.e. depending on the option adopted this means either the number of gaming entitlements held and/or the number of gaming machines operated, or the sum of gaming machine pre-tax gaming machine revenue.

The number of entitlements held and/or gaming machines operated will be a function of and calculated by taking each venue’s monthly average over the 2012-13 financial year.[[8]](#footnote-8) This approach will allow the VCGLR to account for any changes in the number of gaming entitlements owned and/or the number of gaming machines operated during 2012-13. It is also consistent with the approach taken to calculating gaming machine taxation.

The supervision charge will be applied on a pro-rata basis where there are changes to venue operator licences within the financial year (e.g. a venue operator licence ceases). This is illustrated further in **Appendix 3**.

While the administrative costs of calculating and invoicing the supervision charge would depend on which option is selected, they are generally expected to be minimal across all options. As outlined in Chapter 4, the data to calculate VCGLR’s total costs is derived from already established processes implemented by the VCGLR for other existing supervision charges and its general corporate and financial planning requirements. The data to calculate the number of gaming entitlements, and/or operating gaming machines and/or pre-tax gaming machine revenue is derived from data already collected by the VCGLR under other gaming related regulatory requirements (i.e. financial analysis and auditing of venue operators). It is estimated that the labour costs would generally equate to approximately 10 days for one FTE for each supervision charge year (around $5 741 in 2012-13).

Any venues that default on supervision charge payments would add to the administrative costs. More information on the enforcement of the supervision charge can be found in Chapter 8.

# Comparative analysis and assessment of options

Key points

* The RIS must consider the benefits and costs of the various practicable means of achieving the objectives of the supervision charge.
* The assessment criteria used in this RIS to assess the options are efficiency, equity, cost-effectiveness and transparency.
* Venue operators are directly affected by all options considered except for the base case. From an indirect impact perspective, venues may be constrained from passing on the cost of the charge, although there are some limited circumstances where they could do so.
* In this instance, cost benefit analysis was not a practicable decision tool because the costs and benefits of the options are not readily or reliably quantifiable. Multi-criteria analysis was employed instead.
* Option A, i.e. a two-tiered charge on entitlements and gaming machines, received the highest score, scoring +6.9 out of a possible score of 10.

## Methodology

### Multi-criteria analysis

The *Victorian Guide to Regulation* requires that a decision tool be used to determine whether the benefits of a regulatory option outweigh its costs, and to rank different options.[[9]](#footnote-9)

Cost–benefit analysis (CBA) is usually applied as the default decision tool for a RIS. A CBA has not been applied in this RIS due to the difficulty in meaningfully and accurately quantifying the costs and benefit of the identified options.

In the absence of undertaking a CBA, this RIS applies multi-criteria analysis (MCA) to qualitatively assess the main costs and benefits of each option. MCA involves:

* specifying a number of assessment criteria;
* assigning a weighting to each criterion;
* assigning scores for each option in relation to each criterion; and
* calculating a weighted score for each option.

A decision is made based on the weighted scores.

### Assessment criteria

Criteria are based on *DTF’s Cost Recovery Guidelines* - efficiency, equity, cost effectiveness and transparency. These were set out in Chapter 3. These criteria are weighted at 30 per cent each for efficiency and equity, and 20 per cent each for cost-effectiveness and transparency. Efficiency and equity are weighted more heavily because avoiding distortions in venue operator behaviour (i.e. changing business decisions in response to the charge that wouldn’t have occurred in the absence of the charge) and minimising cross subsidies between different gaming venues are considered primary considerations.

##### Table 6.1: Criteria and weightings for assessment

|  |  |  |
| --- | --- | --- |
| **Criterion** | **Description**  | **Per cent weighting** |
| **Efficiency** | The gaming industry’s business decisions, as well as player decisions, should not be distorted by the design and implementation of the charge. | 30 |
| **Equity** | Those who benefit from government activities, or contribute to the need for government regulation (i.e. venue operators and players), should pay the associated costs. Cross subsidies should be minimised. | 30 |
| **Cost-effectiveness** | The cost to the VCGLR administering and venues complying with cost recovery arrangements should be as low as possible for a given level of revenue collected.  | 20 |
| **Transparency** | The underlying purpose and principles behind the design of the charge are clearly identified. It should be clear what is being charged, who is liable, and how their liability is calculated. The charge should be predictable over time, and venues should be able to develop reasonable expectations on the level of the charge in future years. | 20 |

The scoring system adheres to VCEC’s MCA guidelines. Each criterion is assigned a score from -10 to +10, with -10 being the lowest score, and +10 being the highest. The final score is determined by applying the weightings to individual scores to create a score ranging from -10 to +10. The relative scores assigned are consistent with the relative effects for each criterion, i.e. a score of 10 would indicate that the option has twice the impact of a score of five. As all scores are awarded relative to the base case, the base case has a score of zero. The scoring system is set out below.

##### Table 6.2: Total score

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| -10 | -5 | 0 | +5 | +10 |
| Very negative | Mildly negative | Neutral | Mildly positive | Very positive |

A consequence of using MCA is that the scores assigned are often based on information that is difficult to quantify. This necessitates a certain level of judgement, which has been based on economic analysis by DTF, as well as consultation with the VCGLR, DOJ, DPC and VCEC.

## Groups affected

The *Victorian Guide to Regulation* recommends that a RIS identifies the groups of society that are likely to be affected by the viable options, so that the impact (both costs and benefits) on these groups can be highlighted.[[10]](#footnote-10) Given the nature of the supervision charge, only economic and financial impacts are explored in this RIS.[[11]](#footnote-11)

Cost recovery charges usually have direct and indirect impacts on a range of groups. A direct impact involves a particular group being liable for paying the charge. An indirect impact occurs where the groups directly impacted by a cost recovery charge (i.e. legally liable for paying the charge) usually attempt to recover or pass on the cost of the charge on to others. For example, businesses sometimes recover the cost of a charge they pay by increasing the price they charge to their customers or reducing the amount they are willing to pay to suppliers. It is important to note that this RIS has assumed that the business has the market power to do so – i.e. there are no negating competitive pressures.

In every option considered in this chapter (other than the base case), venue operators currently holding gaming entitlements are the only group directly impacted by paying the supervision charge. In the base case, the groups that directly pay for the costs of the VCGLR’s gaming related regulatory arrangements are unclear because it depends on whether the Government selects to fund the VCGLR’s gaming regulatory costs through general taxation or via expense reductions in another area of government service provision.

From an indirect impact perspective, venues may have already recouped the cost of the supervision charge by pricing in the cost of the supervision charge (i.e. reduced the amount they were prepared to bid) when bidding and purchasing gaming machine entitlements at auction. Venues were informed prior to auction that the charge would be payable every year and was likely to be $550 per gaming machine. In addition, the supervision charge long predates the new gaming entitlement system, having been paid by the previous gaming operator licensees from 1994-95.

If venues did not price in the cost of the supervision charge through the price they paid for entitlements at auction, they are largely constrained from fully passing on the cost going forward for reasons listed below.

* Players are unlikely to bear the cost through gaming machines because the GRA effectively fixes the price of playing gaming machines by prescribing minimum player returns of 87 per cent. It is possible for players to be affected if a venue, which previously paid out returns in excess of 87 per cent, revised the returns to players downward so that the figure is closer to the minimum return prescribed in law. Although many games software has variations that can dictate the return to player, venues would need to liaise with the gaming monitoring licensee, Intralot Gaming Services, to have the variation implemented. Given the relatively small magnitude of the charge and the relatively small variance available between the return to player already set and the minimum in legislation, it is questionable whether the incentive for venues is sufficient.
* A competitive hospitality industry could diminish the incentive for venues to recoup the cost of the charge through other products they sell (such as meals and beverages) to players and non-playing visitors to venues. To a degree, this effect depends on the geographical location of a venue. For example, a Melbourne CBD venue is more likely to face greater competitive pressures compared to a remote part of regional Victoria. Further, the level of direct competition a venue faces from non-gaming establishments could vary and be low if there are few competitors offering the types and quality of meals and beverages provided by gaming venues.
* Venues could theoretically recoup the charge by reducing the price they are willing to pay to input suppliers (e.g. Tabcorp Gaming Solutions); however existing contractual arrangements may inhibit this from occurring in the short term. The relative bargaining power of venues and input suppliers would influence the extent to which this could occur. For example, a relative lack of gaming machine testers could reduce venues capacity to renegotiate a reduction in prices.

The likely total amount of the 2012-13 supervision charge, i.e. $5.3 million, is relatively small compared to total Victorian gaming machine revenue of almost $2.7 billion and gaming machine tax revenue of $1.1 billion in 2012-13 respectively[[12]](#footnote-12). As a result, a supervision charge raising revenue of this magnitude is not expected, on its own, to cause venues to exit the gaming machine market. However, this chapter considers changes venues may make at the margin between the options. For example, reducing the number of entitlements they hold or refraining from increasing the number of entitlements they operate.

Government is neither directly nor indirectly affected under each option save for the base case where it must cover the costs of the supervision charge and Option D where there is a risk of over or under recovery of regulatory costs.

The table below summarises the likely impact of the various options considered in this RIS.

##### Table 6.3: Summary of groups affected

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Consumers** | **Business** | **Government** |
|  | Gaming venues | Other |
| Base case | Possible | Possible | Possible | Yes |
| Option A | Possible | Yes | Unlikely | No |
| Option B | Possible | Yes | Unlikely | No |
| Option C | Possible | Yes | Unlikely | No |
| Option D | Possible | Yes | Unlikely | Possible |

## Assessment of options

### Base case – No supervision charge

The base case is that no supervision charge is imposed. VCGLR would still undertake its regulatory activities in the same manner; however the costs would be borne through general taxation.

##### Table 6.4: Multi-criteria analysis of Base Case Option

| **Criteria and comments** | **Score** | **Weighted score** |
| --- | --- | --- |
| **Efficiency**VCGLR’s regulatory costs would need to be funded from other government revenue sources or spending cuts, which may have a negative impact on economic activity in Victoria more broadly. Increasing the level of general taxation needed would impose ‘deadweight losses’ to the economy – i.e. reduce the quantity of income generating economic production. | 0 | 0 |
| **Equity**Venue operators, who contribute to the need for government regulation, do not directly pay for the cost of the government regulation under this option. Instead, they are significantly cross‑subsidised by Victorian taxpayers more generally. | 0 | 0 |
| **Cost effectiveness**As there is no supervision charge to collect revenue under this option, specific administration costs cannot be assessed. If the State increased general State tax rates, it would incur additional costs of tax administration and compliance. | 0 | 0 |
| **Transparency**It is not clear to those who specifically pay the charge (i.e. taxpayers), what is being charged, who is specifically liable and how this liability has been calculated. | 0 | 0 |
| **Total** |  | **0** |

### Option A – Two tiered charge on entitlements and gaming machines

Option A apportions VCGLR’s regulatory costs to gaming venue operators directly based on the regulation of the gaming entitlements system. It is a two-tiered charge that accounts for the differing costs of administering the gaming entitlements system overall (for example, managing the transfer of entitlements, collection of entitlement payments and managing the ‘use it or lose it’ provisions) and the regulation/supervision of operating gaming machines (i.e. gaming entitlements which are being actively used by the venue operator). **Preliminary working estimates of the cost of the charge per entitlement held is $16.36 and per operating gaming machine is $191.67 for 2012-13.**

##### Table 6.5: Multi-criteria analysis of Option A (two-tiered charge on entitlements and gaming machines)

| **Criteria and comments** | **Score** | **Weighted score** |
| --- | --- | --- |
| **Efficiency**Option A is unlikely to influence the business decisions of venue operators (compared to had the charge not been levied).It is theoretically possible that a venue could choose to reduce its number of operating gaming machines in order to reduce their supervision charge amount. However, there is unlikely to be an incentive to do so because the benefit would be more than offset by substantially larger revenues forgone from not operating the gaming machines. As entitlements are an asset, it would be against a venue’s interest to incur costs holding an asset but not seek to generate returns from it. In addition, the six-month ‘use it or lose it’ provisions in the GRA (applying to unused gaming entitlements) negate the incentive further.  | +8 | +2.4 |
| **Equity**This option minimises cross-subsidies in two ways. 1. This option is levied on a unit basis; i.e. per entitlement and per operating gaming machine. Venues with more gaming machines pay more than smaller venues with fewer gaming machines.
2. The costs of regulating the entitlement system overall are separated from the costs of regulating operating gaming machines. The cost of regulating the entitlement system is relatively low, with entitlement related costs consisting of around eight per cent of VCGLR’s total annual regulatory costs, reflecting the comparatively lower costs and substantially different cost structure for regulating entitlements, venues holding more entitlements than operational gaming machines pay a relatively lower supervision charge under this option.

Venues that have not used gaming entitlements in 2012-13 are often doing so due to factors beyond their control. For example, a new venue may purchase entitlements but then spend a number of months waiting for various regulatory and planning approvals. In addition to this, some have spent a period of time building a new venue. Charging such venues in such situations a lower amount because they hold more entitlements compared to operating gaming machines, would be equitable as the venue may not have contributed to the regulation of operating gaming machines.This option operates under a system whereby regulatory costs are assumed to increase in line with the number of EGMs/entitlements held. Most of the costs incurred by VCGLR are in the licensing and associates monitoring area, where costs are largely driven by the activities of the licensees involved. As explained in Chapter 4, the VCGLR’s gaming regulatory costs are primarily driven by the actual demand for VCGLR’s regulatory functions. Basing the charge on the number of entitlements helps align with costs incurred through volume based influences on VCGLR activities (e.g. volume and nature of audits are likely to be greater when more entitlements are held). | +7 | +2.1 |
| **Cost Effectiveness**Compliance costs to venues are minimal relative to the base case because the VCGLR assesses venues’ annual supervision charge liabilities based on information already collected via other regulatory/administrative processes. In essence, venues will simply receive an annual invoice and be required to pay within a certain time frame.The VCGLR’s administrative costs for estimating the costs of regulation rely on information technology, data and processing systems which have already been established and recently enhanced. There could be a marginal increase in VCGLR’s administrative costs as the two-tiered system requires the VCGLR to apply additional oversight and processes to ensure it is implemented correctly. In addition, the potential transferability of gaming entitlements within a financial year could complicate the charge setting process.  | +5 | +1.0 |
| **Transparency**It is clear to venue operators how much is being charged and how their liability is calculated (taking the VCGLR’s total estimated costs as a given). The underlying purpose and principles behind the design of the charge are clearly identified within VCGLR and are based on government guidance materials such as DTF’s Cost Recovery Guidelines. The amount of the supervision charge is expected to fluctuate every year due to this option requiring precise year by year determinations based on the VCGLR’s actual regulatory costs. This could make it difficult for venues to precisely predict their supervision charge liabilities in future years.  | +7 | +1.4 |
| **Total** |  | **+6.9** |

### Option B – Single tiered charge on entitlements

Option B functions in the same manner as Option A, but the charge would not distinguish between the costs of administering the entitlements system overall as opposed to operating gaming machines. It is a single-tiered charge levied on the number of entitlements held. **Preliminary working estimates of the cost per entitlement held is $195.75 for 2012-13.**

##### Table 6.6: Multi-criteria analysis of Option B (Single tiered charge on entitlements)

| **Criteria and comments** | **Score** | **Weighted score** |
| --- | --- | --- |
| **Efficiency**The efficiency impacts are mostly similar to Option A, with the exception of the following:* Those holding entitlements without operating them would pay significantly more - $195.75 per entitlement compared to $16.36 per entitlement under Option A.
* The business decisions of some venue operators could be influenced at the margin by discouraging them from purchasing further entitlements as there can often be long lead times of several months between the purchase of an entitlement and its use. However, the scope of this effect is likely to be limited by the ‘use it or lose it’ provisions, which limit entitlements being unused for no more than six months (unless they have applied and received an extension).
 | +6 | +1.8 |
| **Equity**The equity impacts are broadly similar to Option A.This option is levied on a unit basis i.e. per entitlement held. Venues with more entitlements pay more than venues with fewer entitlements. However, entitlement holders holding more entitlements than operational gaming machines pay more than under Option A. Under Option A, venues pay $16.36 per entitlement held plus $191.67 per operating gaming machine. Under Option B, venues pay $195.75 per entitlement held, irrespective of whether that entitlement is being used. Given that holding entitlements that are not attached to operating gaming machines requires a lower level of regulatory oversight than those that are attached to operating gaming machines, a cross-subsidy would arise under Option B. The score was adjusted downwards accordingly. | +3 | +0.9 |
| **Cost effectiveness**The cost-effectiveness impacts are similar to Option A however the score was adjusted upwards to reflect the relatively simpler administration task for the VCGLR in preparing supervision charge invoices – i.e. there would be no need to differentiate between entitlements and operating gaming machines. | +6 | +1.2 |
| **Transparency**This option has similar transparency impacts to Option A.However it could be more difficult for venues to identify the costs related to administering the entitlement system overall compared to the costs of regulating operating gaming machines. | +6 | +1.2 |
| **Total** |  | **+5.1** |

### Option C – Gaming machine revenue based charge

Option C proposes a charge levied on venue operator gaming machine revenue. VCGLR’s supervision costs would be the same as for Option A, but under this option the charge would be a function of gaming machine revenue. Preliminary working estimates of **the rate at which this option is charged is 0.208 per cent of pre-tax gaming machine revenue for 2012‑13.**

##### Table 6.7: Multi-criteria analysis of Option C (gaming machine revenue based charge)

|  |  |  |
| --- | --- | --- |
| **Criteria and comments** | **Score** | **Weighted score** |
| **Efficiency**It would be highly unlikely that venues would change their business decisions in response to this option. Under this option there is no guarantee that a venue removing operating gaming machines would reduce its amount of gaming machine pre-tax revenue. There is a chance revenues are maintained across a lower number of machines.Similar to Option A and Option B, venues could reduce their operating gaming machines to reduce their supervision charge liabilities; however the potential revenue forgone from doing so would be significant.  | +9 | +2.7 |
| **Equity**Under this option, higher intensity gaming machines are subject to a higher supervision charge than lower intensity gaming machines. This option would be highly equitable if there was a relationship with the VCGLR’s regulatory costs incurred.As explained in Chapter 4, the relationship between the VCGLR’s regulatory costs and gaming machine turnover is minimal. Most cost drivers primarily arise from the actual demand for VCGLR’s regulatory functions. None of these cost drivers necessarily relate to gaming machine revenue. As a result, imposing higher costs on venues with higher intensity gaming machines would create a cross subsidy towards venues with lower intensity gaming machines, with an unclear and potentially tenuous link to VCGLR regulatory functions and costs. | +1 | +0.3 |
| **Cost effectiveness**The cost-effectiveness impacts are similar to Option A. However, due to the complicated formula described in Chapter 5, the VCGLR would face a slightly more complicated process in assessing venues’ supervision charge liabilities.  | +4 | +0.8 |
| **Transparency**The formula for calculating venues’ liabilities under this option is more complex, and therefore more difficult to identify how much is being charged and how the liability is calculated. In addition, revenue is an additional variable in the formula, which makes it harder for venues to estimate their likely liabilities in future years. This option is given a score of +1 because it is slightly more transparent than the base case. | +1 | +0.2 |
| **Total** |  | **+4.0** |

### Option D – Fixed fee on entitlements

Option D proposes a fixed fee per entitlement, determined in the first year and based on the established costs of supervision. This charge would be denominated in Victorian fee units and indexed accordingly with the government’s automatic indexation policy. **In order to recover $195.75 per entitlement in 2012-13, preliminary working estimates of the likely fixed fee is set at 15.6225 fee units.**

##### Table 6.8: Multi-criteria analysis of Option D (Fixed fee on entitlements)

| **Criteria & Comments** | **Score** | **Weighted score** |
| --- | --- | --- |
| **Efficiency**The efficiency impacts are identical to Option B. | +6 | +1.8 |
| **Equity**The equity impacts are broadly similar to Option B. However, there is a risk that if the charge varies from the VCGLR’s actual regulatory costs over time, venues could be either over or under charged. The risk of under or over charging could be greater now because the industry transitioned to a new entitlement system in 2012-13. A fixed fee arrangement would be best undertaken after the new industry structure and the VCGLR’s gaming related regulatory costs have settled in the future.  | +1 | +0.3 |
| **Cost Effectiveness**Compliance costs for venues are identical to Option A and B.However, this option would deliver improvements in the VCGLR’s administrative effort in preparing charge invoices. Although VCGLR would continue to collect the data required to calculate annual regulatory costs for other reasons, there would be no need to collate it each year for the purpose of levying the supervision charge. This would allow for a timelier and streamlined invoicing system that need not be levied in arrears.Furthermore, the fixed nature of the charge makes it relatively easy for venues to predict their supervision charge liabilities in the future. | +9 | +1.8 |
| **Transparency**This option is largely similar to Option A in the calculation of VCGLR’s regulatory costs. However, a fixed charge over future years may over time reduce or at least obscure the link between actual costs and what each venue operator is ultimately required to pay.  | +5 | +1.0 |
| **Total** |  | **+4.9** |

## Summary of results

Option A scores the highest of all options, with a total weighted score of +6.9. All other options have positive total weighted scores, ranging from +5.1 for Option B to +4.0 for Option C.

##### Table 6.4: Summary of results

|  |  |  |
| --- | --- | --- |
|  | **Total weighted score** | **Rank** |
| **Base case** | 0 | 5 |
| **Option A** | +6.9 | 1 |
| **Option B** | +5.1 | 2 |
| **Option C** | +4.0 | 4 |
| **Option D** | +4.9 | 3 |

Given these results, this RIS proposes that the Treasurer determine the 2012-13 supervision charge following the methodology of Option A - Two-tiered charge on entitlements and gaming machines. Separately accounting for the costs of gaming entitlements is considered appropriate in a year where Victoria has transitioned to a new gaming regulatory model. The proposed charge recognises the different costs associated with administering the entitlement system compared to operating gaming machines. Further, it accounts for the proportion of entitlements that were not in use in 2012-13 for factors potentially beyond the control of the venue operator (e.g. building a new venue).

**Appendix 1** includes a draft notice to make a legislative instrument that would give effect to this option.

# Statement of compliance with National Competition Policy

At the Council of Australian Governments meeting in April 1995 (and reaffirmed in April 2007), all Australian governments agreed to implement the National Competition Policy (NCP). The National Competition Policy Agreements (“NCPA”) set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. The Victorian Government applies the principles of the agreements.

Clause 5(1) of the *Competition Principles Agreement* sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation.

**Text Box 7.1 - Excerpt from the Competition Principles Agreement**

Clause 5(1)

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

1. The benefits of the restriction to the community as a whole outweigh the costs; and
2. The objectives of the legislation can only be achieved by restricting competition.

Further to this, there is a specific obligation on parties to the agreement with regard to the newly proposed legislation as required by Clause 5(5).

**Text Box 7.2 - Excerpt from the Competition Principles Agreement**

Clause 5(5)

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).

Under the *SLA*, every RIS must include a section providing evidence that the proposed regulatory instrument is consistent with these NCP obligations.

The Victorian Guide to Regulation (VGR) provides a checklist for identifying any potentially significant negative impact on competition in the context of regulatory impact analysis.

The table below outlines a competition impact assessment of Option A of the supervision charge (i.e. a two tiered charge that differentiates between the total number of entitlements held and the total number of operating gaming machines). According to the VGR, the supervision charge is likely to have an impact on competition if any of the following questions can be answered in the affirmative.

##### Table 7.1: Assessment of competition impacts

|  |  |
| --- | --- |
| **VGR test question** | **Assessment** |
| Is the proposed measure likely to affect the market structure of the affected sector(s) – i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms? | No |
| Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure? | No |
| Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part‐time participants in occupations etc.)? | No |
| Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?  | No |
| Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet? | No |
| Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure? | No |

This proposed supervision charge does not act directly in any of the ways outlined above. As a result, it can be concluded that the proposed supervision charge is unlikely to have any significant negative impact on competition and is therefore fully compliant with the requirements of the National Competition Policy.

# Enforcement and evaluation

## Enforcement mechanisms

Under section 3.6.10 of the *GRA*, penalty interest is payable at a rate of 20 per cent per annum for supervision charge amounts that have not been paid within the required time period.

**Text Box 8.1 –Excerpt from the GRA**

Section 3.6.10Interest on late payment

(1) If an amount payable under this Part—

(a) to the Treasurer by the holder of a gaming operator's licence; or

(b) to the Commission by a gaming operator or a venue operator that holds a gaming machine entitlement; or

(c) to the Commission by a licence holder under section 3.6.8(2)—

is not paid within the period within which it is required to be paid, the licence holder, gaming operator or venue operator is liable to pay interest at the rate of 20% per annum on that amount from the date on which the payment was due until the payment is made.

(2) The Treasurer or the Commission may, if the Treasurer or Commission thinks fit, mitigate or remit an amount of interest due under subsection (1).

(3) A function of the Commission under this section may be performed by any commissioner.

**Text Box 7.2 - Excerpt from the Competition Principles Agreement**

Clause 5(5)

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).

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**Text Box 7.2 - Excerpt from the Competition Principles Agreement**

Clause 5(5)

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).

The Standing Directions of the Minister for Finance, which supplement the *Financial Management Act 1994*, requires the VCGLR undertake appropriate collection and follow‑up procedures. In general, the Standing Directions require that procedures should identify:

* the priorities for outstanding debtor follow up (to ensure the cost of follow up does not significantly overweigh the benefit of collecting the debt);
* steps to take for debts that are outstanding for specified periods of time e.g.: verbal follow up and/or letters requesting payment and the point at which the debt should be referred to legal action or to an outsourced debt collection specialist, if appropriate; and
* requirements for documentation of the actions taken.

## Evaluating the 2012-13 supervision charge

DTF, in conjunction with the VCGLR will review the implementation of the preferred option for 2012-13 once venues have been invoiced and the 2012-13 supervision charge has been paid.

The review of the supervision charge post 2012-13 will take into account the former Minister for Liquor and Gaming Regulation’s Statement of Expectations relating to key compliance and administrative activities conducted by the VCGLR.

# Consultation

The proposed supervision charge has been developed following consultations with the following Victorian Government agencies:

* VCGLR;
* DOJ;
* Victorian Competition and Efficiency Commission; and
* Department of Premier and Cabinet.

Public consultation has not been conducted prior to the development of this draft RIS. Hence, the release of this RIS constitutes the main opportunity for consultation with venue operators and others interested in relation to the proposed supervision charge.

Details on how and by when to make a submission are included in Chapter 1. Public comments in response to the RIS and the draft supervision charge determination will be received for 28 days following the release of the draft RIS – from 7 June 2013 to 5 July 2013. This period of consultation reflects the fact that venues are already aware that a supervision charge will be levied and the supervision charge determination needs to be made soon after the end of the 2012‑13 financial year.

Views from the public are welcome on any part of this RIS and the gaming supervision charge arrangements in general. In addition, listed below are questions that DTF is particularly interested in receiving views on:

* What other costs or impacts for stakeholders not already discussed are likely if the proposed supervision charge is implemented?
* Are any alternative options that meet the objectives of the supervision charge available, or are any of the options identified preferred and if so why?
* What additional measures could assist in the successful implementation of the proposed supervision charge?

# Appendix 1: Notice to make a legislative instrument

The following notice will be published in the Government Gazette once the supervision charge has been determined for 2012-13.

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**GAMBLING REGULATION Act 2003**

DRAFT NOTICE UNDER SECTION 3.6.5A, FIXING THE VALUE OF THE SUPERVISION CHARGE

I, Michael O’Brien, Treasurer of the State of Victoria, under section 3.6.5A of the **Gambling Regulation Act 2003**, by notice fix the value of the supervision charge applying to venue operators holding gaming machine entitlements for the 2012-13 financial year commencing 16 August 2012 and ending on 30 June 2013 as follows:

(a) the value of the per entitlement unit charge is $16.36[[13]](#footnote-13) [the actual figure will be determined after the RIS is completed]; and

(b) the value of the per operating electronic gaming machine unit charge is $191.67[[14]](#footnote-14) [the actual figure will be determined after the RIS is completed].

Date to be added here upon publication

HON. MICHAEL O’BRIEN MP

Treasurer

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# Appendix 2: Functions of the VCGLR

Section 10.1.4 (2) of the *Gambling Regulation Act 2003* outlines the functions of the VCGLR as follows:

*(2) The functions of the Commission under this Act include—*

*(a) regulating the use of gaming machines in casinos and approved venues;*

*(ab) to monitor compliance with Part 2A of Chapter 3;*

*(ac) regulating the allocation, transfer and use of gaming machine entitlements;*

*(ad) regulating the monitoring licensee and its activities;*

*(ae) any functions conferred on the Commission under the gaming machine entitlement allocation and transfer rules;*

*(af) making determinations, declarations and decisions and giving approvals under this Act in respect of betting exchanges;*

*(ag) approving simulated racing events;*

*(b) regulating the activities of key operatives in the gaming machine industry, including those who manufacture, supply, repair or own, or provide venues for and operate, gaming machines;*

*(c) ensuring that the conduct of gaming at approved venues is supervised;*

*(d) detecting offences committed in or in relation to approved venues;*

*(e) receiving and investigating complaints from gaming patrons concerning the conduct of gaming in approved venues;*

*(f) regulating the activities of key operatives in the wagering, club keno, interactive gaming, community and charitable gaming, bingo, onboard gaming and public lottery*

*industries;*

*(faa) registering and regulating bookmakers and bookmaker's key employees;*

*(fa) making determinations and performing other functions in relation to sports betting;*

*(fb) ensuring that proposed self-exclusion programs are of a satisfactory standard and*

*comply with—*

*(i) any directions given under section 10.6.1; and*

*(ii) the additional requirements set out in section 10.6.2;*

*(fc) monitoring approved self-exclusion programs to ensure that they remain*

*satisfactory and comply with—*

*(i) any directions given under section 10.6.1; and*

*(ii) the additional requirements set out in section 10.6.2;*

*(fd) ensuring that proposed Responsible Gambling Codes of Conduct are of a*

*satisfactory standard and comply with—*

*(i) any directions given under section 10.6.6; and*

*(ii) the additional requirements set out in section 10.6.7;*

*(fe) monitoring the compliance of relevant persons (within the meaning of*

*section 10.6.5) with their Responsible Gambling Codes of Conduct;*

*(g) advising the Minister on community concerns about the economic and social*

*impact of gambling on the well-being of the community.*

# Appendix 3: Pro-rata of supervision charge payable

Examples are listed below of circumstances where the supervision charge payable will be applied on a pro-rata basis.

**Example 1 – A change in venue operator during the 2012/13 period**

Consider a venue operator A that owns a total of 40 gaming machine entitlements and 40 operating gaming machines, and it ceases to be a licensee on 1 March 2013 and the operation is acquired by venue operator B on the same date to continue operating with the same 40 gaming machine entitlements and 40 operating gaming machines.

The supervision charge payable for 2012-13 by venue operator A is $5 159 and by venue operator B is $3 162.

The above charges are calculated as follows:

*For Venue Operator A*

Total billing days: 198 days (from 16 August 2012 to 1 March 2013)

Billing period ratio: 62% (198/319\*100= 62%)

Supervision charge = ($16.36 X 40 entitlements x 62%) + ($191.67 X 40 operating gaming machines X 62%)

= $406+ $4 753

= $5 159

*For Venue Operator B*

Total billing days: 122 days (from 1 March 2013 to 30 June 2013)

Billing period ratio: 38% (122/319\*100= 38%)

Supervision charge = ($16.36 X 40 entitlements x 38%) + ($191.67 X 40 operating gaming machines X 38%)

= $249+ $2,913

= $3,162

**Example 2 – A venue operator which ceases operation during the period.**

Consider a venue operator X that owns a total of 30 gaming machine entitlements and 30 operating gaming machines, it ceases operation on 15 March 2013, but continues to hold the gaming machine entitlements to the end of the financial year.

The supervision charge payable for 2012-13 by venue operator X is $4,286 and is calculated as follows:

Total billing days for the operating gaming machines: 212 days (from 16 August 2012 to 15 March 2013)

Total billing days for the gaming entitlements: 319 days (from 16 August 2012 to 30 June 2013)

Billing period ratio for the operating gaming machines: 66% (212/319\*100= 66%)

Billing period ratio for the gaming entitlements: 100% (319/319\*100= 100%)

Supervision charge = ($16.36 X 30 entitlements x 100%) + ($191.67 X 30 operating gaming machines X 66%)

= $491+ $3,795

= $4,286

# References

Council of Australian Governments, 11 April 1995, Competition Principles Agreement.

Commonwealth of Australia, December 2009, *Australia's future tax system: Report to the Treasurer.*

Coopers and Lybrand, 1997, *VCGA Activity Based Costing Project 1997 Volume 1 – Report*

*Financial Management Act 1994*

*Gambling Regulation Act 2003* (Vic)

Government of Victoria, May 2013, *2013-14 State Budget*

Government of Victoria, 2013, *Cost Recovery Guidelines*, Department of Treasury and Finance, Melbourne

Government of Victoria, Department of Justice, September 2009, *Gaming Machine Arrangements 2012 Overview of the Victorian Gaming Industry*, 2nd edition

Government of Victoria, 2011, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne

Government of Victoria, 2013, *Standing Directions of the Minister for Finance under the Financial Management Act 1994 (as part of the financial management package)*, Department of Treasury and Finance, Melbourne

*Subordinate Legislation Act 1994* (Vic)

Victorian Competition and Efficiency Commission, Multi-Criteria Analysis Guidance Note



[www.dtf.vic.gov.au](http://www.dtf.vic.gov.au)

1. This does not include entitlement premium payments that were paid at auction. [↑](#footnote-ref-1)
2. Government of Victoria, Department of Justice, September 2009, *Gaming Machine Arrangements 2012 Overview of the Victorian Gaming Industry*, 2nd edition, p.41. [↑](#footnote-ref-2)
3. Government of Victoria, 2013-14 State Budget, Budget Paper Number 3, p.195. [↑](#footnote-ref-3)
4. Commonwealth of Australia, December 2009, *Australia's future tax system: Report to the Treasurer*, p. 325. [↑](#footnote-ref-4)
5. As referred to in Chapter 1, each gaming machine entitlement authorises venue operators to operate a gaming machine for up to 10 years from 16 August 2012. [↑](#footnote-ref-5)
6. Prior to 2012, the Victorian Commission for Gambling Regulation (i.e. VCGR) was responsible for gaming regulation. [↑](#footnote-ref-6)
7. The unit charge will depend on the option that is ultimately adopted. For example, in the case of Option B, the Treasurer would determine the ‘per entitlement charge’. [↑](#footnote-ref-7)
8. It is important to note that the 2012-13 financial year comprises of 10.5 months as venue operator licences only commenced from 16 August 2012. [↑](#footnote-ref-8)
9. VCEC Multi-criteria analysis guidance note, p.1 [↑](#footnote-ref-9)
10. *Victorian Guide to Regulation*, p. 76 [↑](#footnote-ref-10)
11. The *Victorian Guide to Regulation* requires consideration of economic, financial, social and environmental impacts. As the charge is a cost recovery mechanism levied on gaming venues, it is not envisaged its implementation will have any social or environmental impacts. [↑](#footnote-ref-11)
12. Government of Victoria, 2013, 2013-14 State Budget, Budget Paper Number 5, p.172. [↑](#footnote-ref-12)
13. This figure is a preliminary estimate. [↑](#footnote-ref-13)
14. This figure is a preliminary estimate. [↑](#footnote-ref-14)