

15 November 2023

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000
By email only: LASC@parliament.qld.gov.au

Dear Secretary

Casino Control and Other Legislation Amendment Bill 2023

The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission to the Legal Affairs and Safety Committee's (the **Committee**) inquiry regarding the Casino Control and Other Legislation Amendment Bill 2023 (the **Bill**).

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. We have a role under each of the *Right to Information Act 2009* and the *Information Privacy Act 2009 (IP Act)* to both facilitate greater and easier access to government held information and assist agencies to safeguard personal information. The statutory functions of the Information Commissioner under the IP Act include commenting on issues relating to the administration of privacy in the Queensland public sector environment and identifying and commenting on legislative and administrative changes that would improve the administration of the IP Act.¹

OIC's submission

OIC notes that the Bill contains various measures which have privacy implications.² We further note that the Parliament is presently dealing with a number of bills, some of which concern information law issues that have required our attention and comment.³

With that in mind, OIC has, in the time available, confined this submission to one issue in particular: provisions in Clause 43 of the Bill⁴ allowing for regulations mandating 'carded play' – ie, requiring individuals to play prescribed games by way of a card linked to their identity – and collection of associated carded play data.

While OIC understands the rationale for these provisions – including to curb illegal activity, and facilitate gambling harm minimisation strategies⁵ – mandating carded play and collecting associated data does, as the Statement of Compatibility notes, have direct privacy impacts.⁶ As our counterpart regulator in Victoria - the Office of the Victorian Information Commissioner (**OVIC**) – noted in a recent submission regarding similar proposals in that state:⁷

¹ Section 135(1)(b)(v) and (vi) of the IP Act. The comments in this submission reflect OIC's expectations of Queensland public sector organisations regulated under the IP Act; we do note that the Commonwealth *Privacy Act 1988* (Cth) will apply to the handling of personal information by private casino operators.

² The *Human Rights Act 2019* (Qld) (**HR Act**) Statement of Compatibility (**SoC**) accompanying the Bill canvasses several proposals identified as limiting the right to privacy prescribed in section 25 of the HR Bill – see the discussion at pages 2-3 of the SoC, accessible at <https://documents.parliament.qld.gov.au/tp/2023/5723T1750-B0F1.pdf> (accessed 15 November 2023).

³ Specifically, the Information Privacy and Other Legislation Amendment Bill 2023 (the subject of inquiry by the Education, Employment and Training Committee), and the Public Records Bill 2023 (the Community Support and Services Committee). OIC has made submissions on each Bill, and appeared at relevant Committee hearings.

⁴ Inserting a new Part 6, Division 2 into the *Casino Control Act 1982* (Qld).

⁵ As discussed, for example, at pages 4-5 of the SoC.

⁶ SoC, pages 3-7.

⁷ OVIC, 'Submission in response to the proposed Casino Control Regulations 2023 and Regulatory Impact Statement', 28 September 2023. Accessible at: <https://ovic.vic.gov.au/wp-content/uploads/2023/10/OVIC-Submission-Proposed-Casino-Control-Regulations-and-Regulatory-Impact-Statement-September-2023.pdf> (accessed 9 November 2023).

A large amount of transactional data will be collected through the player cards. OVIC is concerned that this would effectively create a honeypot of information about individuals in a sensitive setting, linked to the personal information on their player account.

OVIC notes there must be a high level of security over the data in the player account, the player card, and any database sitting behind them.

OIC is particularly concerned to ensure that data collected for the purposes of both issuing player cards, and administering mandatory carded play, is limited to only that personal information necessary to enforce the player card scheme.

Personal information collected for the purposes of issuing a player card should be confined to only that strictly necessary to establish player credentials. It should not be open to entities issuing cards to use that process as an opportunity to collect additional personal information for collateral purposes, such as marketing or promotional activity.

Similarly, personal information collected for and as a result of carded play must be adequately secured, and only used for the purposes for which the relevant provisions are being proposed – i.e., to enable harm minimisation and constrain illicit activity.

Accordingly, the proposed carded play scheme should, in OIC's view, include appropriate restrictions guarding against 'scope creep' – such as using carded play data for unrelated marketing purposes or internal use by a casino operator, and/or administering 'loyalty'-type reward schemes.⁸

To that end, we note and support the proposed restrictions on direct marketing in clause 75 of the Bill.⁹ We also note new section 72E(2)(c), which will allow for regulations governing, relevantly, the collection, use, storage, transfer or disclosure of carded play information.

While we consider that this latter provision establishes an important mechanism that will allow for the development and implementation of privacy safeguards and data controls, OIC's preference is for privacy protections to be the subject of explicit provisions enshrined in primary legislation, rather than subordinate legislative instruments. This helps to entrench privacy protections, by requiring any future proposals to amend those protections to be the subject of an appropriate level of Parliamentary oversight.

Should, however, the Bill progress as drafted, then OIC would welcome the opportunity to consult with the Department of Justice and Attorney-General as to the form of any regulations proposed under new section 72E(2)(c) of the *Casino Control Act 1982* (Qld).

Conclusion

OIC again appreciates the opportunity to make a submission on the Bill.

If the Committee has any queries or requires further information in relation to this submission, please do not hesitate to contact OIC via administration@oic.qld.gov.au, or telephone 3234 7373.

Yours sincerely



Stephanie Winson
Acting Information Commissioner



Paxton Booth
Privacy Commissioner

⁸ This latter issue having also been the subject of OVIC commentary in the submission referred to above – see pages 4-5 of that document.

⁹ Inserting a new section 100F into the *Casino Control Act 1982* (Qld), prohibiting direct marketing in the absence of 'express and informed consent'.