Facial Recognition Technology (FRT)

ALLIANCE FOR GAMBLING REFORM

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Executive summary

Facial Recognition Technology (FRT) is defined as a system which scans people's faces by identifying and measuring facial features which then matches a digital image or video frame against a database of faces. In terms of its possible uses for the gambling industry, the primary use is to alert staff of a person entering a venue or gambling area who may be registered as an excluded person. An excluded person may be excluded on their own terms due to harm associated with gambling, or a venue has excluded them for a variety of reasons including potential harms being experienced or poor behaviour in a venue.

FRT is already widely used in the hospitality industry, as well as across numerous other industries such as retail. It is being discussed in several jurisdictions as a possible gambling harm reduction/prevention measure to assist in identifying people who have been excluded from venues. Industry trade papers, however, freely discuss the use of FRT for enhancing customer experiences. There is international evidence that shows that FRT can be used to increase customer losses and time spent using poker machines which is a great cause of concern.

Although the primary purpose of this technology appears to be justified, it is the secondary purposes and capabilities of the technology that need to be regulated and until then, halted. Many of these concerns relate to the capture and use of detailed personal information and data that could be used to increase gambling and result in gambling harm. It is important to note that the Alliance for Gambling Reform advocates for a mandated identity linked, cashless gambling card with mandatory and default limits. If this system was in place, there would be no need for FRT as each card is linked to one's identity and the exclusion register.

Recommendations

1. Facial recognition technology is banned in all hotels, clubs and casinos with poker machines until detailed legislation regulating the use is formulated with the input of harm reduction experts and those with lived experience of gambling harm.
2. Legislation must include:
   a. Cameras are not allowed to be placed on individual electronic gambling machines (EGMs)
   b. Venues must not collect any data on any individual
   c. Cameras must only be used to identify those who have been excluded
3. Implement a cashless, identity linked gambling card which will mitigate the need for facial recognition technology to detect patrons who have been excluded.

Introduction

The Alliance for Gambling Reform has been advocating for a moratorium on FRT use in gambling (and alcohol) venues across Australia due to alarming warnings from human rights experts that such technology violates privacy laws. The Australian Human Rights Commission has also called for all jurisdictions to introduce legislation that regulates the use of FRT and other biometric technology (recommendation 19) and until such legislation is developed, there needs to be a moratorium on the use of such technology (recommendation 20).

The Alliance firmly believes that there are more advanced technologies available that can both prevent gambling harm and also identify people who are excluded from gambling. FRT on the other hand, has the possibility of only achieving the latter. Further, there have been a number of reports highlighting that FRT can be misused to 'tailor customer service to individual players such as understanding if customers like low or high levels of attention.

The current regulations for the requirements when using FRT are limited and venues using the technology must only abide by federal and state laws that regulate privacy requirements and use of CCTV footage (other than South Australia, there is more information on this below).

There is an immediate need for regulations around FRT to halt further increasing gambling harms in Australia.

Background

Facial recognition technology is currently being used in Australia and around the world. Nationally, FRT is being used ad hoc and with little to no regulation except in South Australia.

South Australia introduced a gambling reform package in 2019 which made it a requirement for all gambling rooms with over 30 poker machines in order to operate cash accepted machines as opposed to coins only. The intention of the technology was to capture people who had been excluded from gambling in a venue and ensure they do not gamble.

Data collected by a facial recognition system in SA must not be used for, or in connection with, the following:

- Encouraging or providing incentives to a person to gamble
- Customer loyalty or reward programs
- A lottery
- Identifying a barred person in respect of premises other than the licensed premises in relation to which the system is operating
- Any other purpose other than what is approved in accordance with these guidelines unless specified approval has been given to the licensee by the Commissioner.

People must also notify each person who is about to enter a gambling area that a record of their facial image will be made by the approved FRT system.

Otherwise, the regulations around how the system operates in other jurisdictions is not clear. For example in New South Wales, close to 100 clubs are already using FRT, as well as Star Sydney Casino and Crown Perth and Melbourne also use the technology. Regulation and enforcement around the technology is lacking.

FRT is not only being used to detect excluded patrons, it can also be used to pick out VIP patrons in a crowd - it can be used for welcoming regular patrons back to a venue and letting them know their favourite beverage is waiting for them at the bar at venues like Star Casino in Sydney. Internationally, it is estimated that at the MGM Resort International in Macau, FRT linked with data around customer behaviour has increased profits by $10-$15 million per annum.

Key Issues

Privacy and data abuse

Venues are known to use FRT in combination with other digital tech for marketing (under the guise of 'enhanced customer experiences') or under the cover of 'security' to monitor customers and staff. Security use is legitimate but the data it generates must be very tightly controlled and have a very short life-span. The gambling industry may then take advantage of inadequate regulations that only address self and third party exclusion, in order to embed FRT in other biometric technologies to develop an "intelligent ambience" to increase gambling activities. This is not in the public interest and must be dealt with through legislation immediately.

Risk of increasing harm

Legislation needs to carefully consider all possible ways information collected and stored utilising FRT is used only to detect excluded patrons and in no way used to 'enhance' experiences of patrons. It is these risks that could lead to FRT actually causing more harm by attracting patrons more often and for longer periods of time to venues rather than simply monitoring excluded patrons.

Inefficiency of FRT technology

Importantly, FRT systems contain biases leading to false positives and false negatives. They have been found to be most accurate with white adult men, and less accurate for people with darker skin and for women.

Need for intervention

It's also important to note that FRT action needs to be taken by staff to intervene if someone who is excluded is picked up by the system. This needs a compassionate response from staff as well as significant training of staff to respond in a constructive manner. There also needs to be debriefing mechanisms in place for staff as these interventions can at times be confrontational. Further, staff are often in a conflicted position as they are hired to assist a business increase its profits which is at odds with preventing gambling harm. This is where the cashless system which the Alliance advocates for would mitigate such potential issues and effectively make FRT technology redundant.

Conclusion

While Facial Recognition Technology provides opportunities to prevent people who have been excluded from gambling venues from entering, there are arguably risks associated with its lack of regulation that could be exploited by the gambling industry and increase gambling harm. Further, there are other technologies being developed (such as the identity linked cashless gambling card linked to the exclusion register) that would render FRT redundant. Such technology would mitigate the risks associated with FRT and indeed do more to prevent harm to people who are experiencing varying levels of gambling harm, rather than the significant harm that people often experience before excluding or being excluded.

The Alliance recommends an immediate ban on FRT in hotels, clubs and casinos with poker machines until detailed legislation is implemented that protects people from unintended consequences of the technology. Most importantly, more progressive technologies would render FRT in gambling venues not required at all with the path various jurisdictions (like Tasmania) are taking towards cashless gambling.

References

Alliance for Gambling Reform, Cashless Gambling Policy paper, 2023, https://www.agr.org.au/_files/ugd/f3b93a_bfcb93c5014a4d849de69db27979fb40.pdf

Australian Human Rights Commission, 'Human Rights and Technology,' 2021, https://tech.humanrights.gov.au/sites/default/files/2021-05/AHRC_RightsTech_2021_Final_Report.pdf

Casino New Daily, March 11, 2019, Sydney Casino Upgrades Surveillance

Consumer and Business Services South Australia, 'Facial Recognition Technology, https://www.cbs.sa.gov.au/sections/LGL/facial-recognition-technology#:~:text=As%20part%20of%20the%20gambling,installed%20in%20their%20gaming%20rooms.

Hill, K. 2020 Wrongfully accused of an algorithm, New York Times 24 June 2020; In 2019, the US National Institute of Standards and Technology tested 189 algorithms from 99 FRT developers. These falsely identified African-American and Asian faces "between 10 and 100 times more than Caucasian ones" NIST

Liu, M.T, Dong, S. Zhu, M. 2021, "The application of digital technology in gambling industry", Asia Pacific Journal of Marketing and Logistics, Vol. 33 No. 7, pp. 1685-1705. https://doi.org/10.1108/APJML-11-2020-0778

Sydney Morning Herald, 'Maximise profits': Facial recognition tool used to target high rollers, November 3, 2022, https://www.smh.com.au/national/nsw/maximise-profits-facial-recognition-tool-used-to-target-high-rollers-20221025-p5bsot.html

The Drop, March 2021 Five Key Ways to Use Facial Recognition in Clubs