

17. GAMING REFORM IN NEW ZEALAND

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Corporate Plan Output: Policy Advice	

The purpose of this report is to inform the Committee of the current Review of Gaming and to recommend that the Council make a submission on Review (as attached).

The report has been divided in to three sections:

- Report and recommendations
- Appendix 1: Background Information on Gaming in New Zealand (attached)
- Appendix 2: Draft Submission (attached)

INTRODUCTION

In June 2000 the Government announced that a comprehensive review of gaming was to be undertaken by the Department of Internal Affairs. The Review covers the full range of gaming activities including race and sports betting, lotteries, casinos, community gaming (e.g. housie), non-casino gaming machines, internet and cross-border gaming.

Currently there are inconsistencies in the way different parts of the gaming sector are regulated and administered. The discussion document, Gaming Reform in New Zealand, identifies that different gaming types have different objectives, a different focus, make different contributions to the community, and are treated differently for tax purposes. The Government has a strong ownership interest in some gaming types, and limited involvement in others. Decisions about the distribution of gaming proceeds are made by a range of organisations, and the costs of gaming are not shared equally across the gaming sector. Decisions about one gaming type are often made in isolation from decisions about another.

The draft submission was considered by the Legislation Subcommittee on 9 April 2001. The changes made by the Subcommittee have been included in the draft.

Submissions on the review document close on Monday 30 April 2001.

WHY DOES GAMING NEED TO BE REGULATED?

Over the last decade there has been rapid growth in the turnover of the gaming sector, the number of people who engage in gaming, the range of gaming products, new and increased access to electronic and cross-border gaming. In 1999/2000 the total turnover was \$8.4 billion and prize money \$7 billion. Net spending on gambling has increased from \$315 million a year in 1989 to over \$1,297,000 million in 2000. Most of the increase stems from (non casino) poker machines. More money is turned over in the gambling industry than is spent on the entire public health system.¹ In 2001, television gambling advertisements in New Zealand will reportedly exceed \$60 million, making gambling the biggest leisure advertising spender (NZ Coalition for Gambling Reform 2001).

There are over 17,700 "pokie" machines and five operating casinos in New Zealand and an estimated 700-800 internet gaming sites operate world-wide. Our laws do not explicitly provide for New Zealand-based internet gambling. New Zealanders can, however, gamble at overseas-based internet sites from their home computers, can participate in overseas lotteries, and can gamble by phone or internet through accounts established with overseas betting agencies (Department of Internal Affairs 2001).

There is a perception that these trends have led to increased levels of problem gambling and could be exploited for the purposes of money laundering, fraud and organised crime. For example, the proportion of the adult population that believes there is a problem with people being heavily involved in gambling has risen (from 66% in 1985 to 87% in 2000), as has the percentage who believe there should be special help and support available for people who want to give up gambling (from 86% in 1985 to 98% in 2000).

This report recommends that the Council request a limit on the number of licences for non casino gaming machine (pokies), casinos and other forms of gaming, including internet and interactive television gambling.

¹ Vote Health 1999/2000 - Personal Health \$44,621 million, Disability Support Services \$6,637 million and Public Health Services \$121 million

APPROACH TO GAMING

Gaming is a reality in our society. However, it is important to achieve a balance in which the social returns of gaming are maximised while the harmful effects on individuals and local communities are minimised.

This reports recommends that the Council support a community health approach to gaming. This approach argues that while gaming may have elements of community fund-raising, private enjoyment, or rural and economic development, the primary emphasis of gaming policy should be on the overall health of communities. In the interests of overall community health, this may involve imposing some restrictions on the availability of certain types of gaming and some restrictions on individuals' access to gaming opportunities. It may also involve more effective ways of measuring social costs and benefits and enhanced methods of distributing benefits to communities (Department of Internal Affairs 2001).

REGULATORY SYSTEM

The gaming sector currently operates under a disparate regulatory structure. There is little consistency between the different statutes which regulate the different sectors of gaming, and a variety of different bodies exercise regulatory functions, each with a different focus and different objectives. Different sectors of the industry are treated differently for tax purposes and make different contributions to the community (Department of Internal Affairs 1990, 1996, 2001) .

There is a legitimate basis for Government intervention in gaming to:

- (i) prevent crime
- (ii) ensure fairness to participants including protection against fraud
- (iii) mitigate the social costs of gaming including problem gambling
- (iv) ensure operators meet any requirements for the distribution of profits to community
- (v) ensure operators abide by any specific requirements e.g. age of players, times location, prize levels, level of advertising
- (vi) regulate entry (to ensure integrity of operators)
- (vii) monitor social and economic impact

This report argues that due to the amount of money involved in gaming, the number of stake-holders, and the social and economic risks associated with gaming it is important that there is a single comprehensive policy and regulatory framework for all forms of gaming.

The report recommends that the Council endorse a policy and regulatory framework that accommodates all the varying forms of gaming and ensures comparability of treatment of varying forms of gaming.

LEVY ON GAMING PROFIT

The net profit of the Lotteries Commission and non-casino gaming machines is distributed to community groups. The net profit of race and sports betting is distributed to racing clubs. The net profit of casinos is paid to the owners and operators, including shareholders.²

Gaming generates up to \$300 million a year for community organisations. Approximately \$130 million of these funds come from the Lotteries Commission, perhaps a further \$150 million come from non-casino gaming machine profits, and a much smaller sum is raised by community groups themselves from other forms of gaming (such as raffles and housie).

Many community organisations are now heavily dependent on gaming profits for their survival, as have the three statutory bodies that receive a significant proportion of Lotteries Commission profits:

Creative New Zealand,
Film Commission and
Hillary Commission.

² The Casino Control Authority currently requires the casinos, such as the Christchurch casino, establish a charitable trust to distribute funds to the communities in which they are located. Christchurch casino Charitable Trust receives \$190-\$200,000 each year from the casino.

Local and central government would face considerable pressure from the community to replace this source of funding if it were to be reduced in any way.

Attitudinal studies indicate a strong public support for gaming profits funding charitable purposes. It would appear that the moderation of attitudes to gaming (from the view that it is a socially undesirable activity) is strongly associated with the positive contributions to the community which gaming is perceived to have made through lottery and other gaming profits.

This report recommends that the Council support a community levy on all parts of the gaming industry to fund community purposes. This community levy should be fixed as a percentage of profits, turnover of some similar item in order to ensure that this funding keeps pace with the growth of gaming.

The report recommends that all gaming operators pay the levy. This would include community organisations which run their own gaming operations (such as 'pokies') and are currently able to keep all their profits for their own purposes. This 'across the board' levy, is recommended because if exemptions were to be granted for community organisations this would:

- (i) require high level of monitoring and enforcement to ensure that only genuine charities received exemptions
- (ii) create a strong incentive for commercial operations to create bogus charities to evade the levy
- (iii) create expectations that community organisation running gaming would be excluded from applying for funding from the community levy monies

SEPARATION OF GAMING OPERATORS FROM DISTRIBUTION OF FUNDS

There is growing concern about the corrupt practices among the distributors of gaming machine profits (see Appendix 1). For example, in the year to June 2000, 181 societies (one fifth) were audited and 154 gaming sites were reportedly checked. It was reported that four out of five societies and seven out of ten sites had "high priority failings" (Social Perspectives 2000). Audits also uncovered instance where expenses claimed were not actual, reasonable or necessary.

This report recommends that the Council support the separation of gaming operators from distribution of funds.

DISTRIBUTION OF GAMING PROFITS

This report argues that there should be better mechanism for distributing profits to community benefits. The new system should ensure:

- (i) fairness across sectors and communities
- (i) efficiency
- (i) transparency (in terms of operator and distributor – as above)

Fairness across sectors – monies should be distributed to the widest possible spectrum of community needs, consistent with community objectives and not just one or two sectors. Currently, those involved in sport benefit to a greater extent from non-casino gaming machine profits, while others (for example, welfare organisations, or arts and culture organisations) do not. For example New Zealand Community Trust, one of the three major gaming machine operators, allocated 80% of this total grant money to organisations which promote and administer amateur sport. At the same time the welfare and social services allocation from lottery profits have dropped from \$28.1 million in 1996/97 to \$22.6 million this year. At the same time pressure on social services continues to increase.

Fairness across communities – there should be an appropriate balance between major national or regional projects such as the Te Papa and local initiatives. There is a need for a national committee to consider applications from national organisations or offices of large organisations, for example Water Safety Council or projects of regional and national significance, such as Te Papa. However, there is also a need for more decision-making closer to the community through local committees (based with local authorities).

Efficiency - The establishment of new distribution bodies would add to the existing proliferation of funding and contracting bodies³ and could further increase the compliance costs of the voluntary sector. A single funding body with local distribution through local authorities would minimise this proliferation.

³ Including Government bodies such as CYF, MOH, CEGs, DIA, the Energy Trusts, the Community Trusts, the Hillary Commission, Creative New Zealand, the major gaming machine trusts, private philanthropic schemes etc.

This report recommends that the distribution of all gaming levies be handled by a single national body with devolved funding to local authorities. There should be appropriate balance between national and local community needs (i.e. some for national purposes e.g. research, national programmes etc). A proportion of levies should be allocated to local governments for redistribution.

Local governments should be resourced for funding administration in a similar manner that the Department of Internal Affairs are funded.

FUNDING OF GOVERNMENT PURPOSES FROM GAMING PROFITS

Currently there are tensions between Government expectation that lottery funding should be made available to a wide range of Government initiatives and the definition of charitable purpose under the Act. In recent years, some of the purposes which Government has wished to use lottery funding are incompatible with the Act.

Gaming profits should not be seen as a means to fund Government functions. This report recommends that the Council advocate against the growing reliance on gambling as a tax source and a source of funding for the voluntary sector.

STATE MONOPOLY ON LOTTERY

This report argues that the level of overall funding can only be sustained by the Lotteries Commission maintaining its monopoly on the state lottery and for lottery profits continuing to be distributed for the statutory and charitable purposes specified in a revised Gaming and Lotteries Act. (Note: There is currently a separation of the operation of the state lottery and the distribution of funds as the Lottery Commission runs the state lotteries and the Lottery Grants Board distributes funds.)

If the Lotteries Commission lost its monopoly and its profitability declined dramatically, it would be very difficult to replace 'lost' funds solely from a community levy on all gaming. An estimate made using the information available on expenditure indicates that if the current level of gaming profits available for charitable purposes were to be provided solely from a community purposes levy, the levy would need to be set at 20-25% of industry profits. Such a level would probably be unacceptable to the industry (for example, casinos).

As identified earlier, local and central government would face considerable pressure from the community to replace this source of funding if it was to be reduced in any way.

The maintenance of a state monopoly is consistent with the community health model: the social returns of gaming are maximised while the harmful effects on individuals and local communities are minimised.

This report recommends that the Council supports the maintenance of a state monopoly of the lottery.

INTERNET AND INTERACTIVE TELEVISION GAMING

Technology has made gaming more accessible, including gaming that is operated in other countries. It is now possible to bet (with the TAB) via the Internet from a home computer. In the near future, it may be possible to place a bet through your television, using your remote control. There are widely varying estimates of the number of internet sites that accept money for gaming. However, Department of Internal Affairs has estimated 700 to 800 sites.

These changes in technology have increased access to continuous forms of gaming which are most frequently cited by problem gamblers as their preferred forms of gambling. They also ease access for children. It may also be difficult to check whether these games are fair and therefore increase the risk of players exposing themselves to fraud.

It also means that the various types of gaming available within New Zealand face competition from overseas. Many overseas providers are purely commercial, and some are based in countries with very low taxation rates. This means that overseas providers might be able to offer higher prizes for a given stake. This may reduce gaming profits available for distribution within New Zealand and reduce the domestic tax base. It may also potentially transfer any benefits of gaming overseas while leaving any social costs (e.g. problem gambling) in New Zealand.

The Department of Internal Affairs report that technically, it may be possible to monitor and control New Zealanders' access to overseas-based gaming. However, it reports that the methods available may intrude significantly into people's privacy and may not always be entirely successful anyway.

The Australian Government has imposed a one year moratorium on new licences for internet-based gaming in Australia and has commissioned research into the possibility of preventing access to internet-based gaming.

This report recommends that the Council recommend a prohibition on internet and interactive television gambling.

PROBLEM GAMBLING

This report argues that the impacts of problem gamblers on individuals and those around them are serious enough to justify stronger laws even though some of them may affect all gamblers. It also argues that the differing effects of different gaming products justify variations in regulatory treatment (under single regulatory framework). For example, that continuous forms of gambling have much stronger links to problem gambling than do non-continuous forms.

This report recommends that the Council support:

- (i) a comprehensive regulatory system, which in the interests of overall community health, imposes some restrictions on the availability of certain types of gaming and some restrictions on individuals' access to gaming opportunities
- (ii) the full funding of problem gambling services from the community purpose levy on gaming.

GAMING AND RESOURCE MANAGEMENT ACT

It is important that any regulatory framework does not treat the establishment of gaming outlets in the same way as any other "business" for the purposes of the Resource Management Act 1991. Gaming outlets are fundamentally different from other types of businesses and will be perceived by the community as such.

The provisions of the Resource Management Act 1991 will not address potential nuisance caused by the gaming outlets in residential areas and in commercial and industrial areas. The focus of the Resource Management Act is not to regulate or control social or economic effects of activities. These are in fact specifically excluded from the operation of the Resource Management Act. The primary purpose of a district plan under the Resource Management Act is to control the adverse effects of activities on the environment. Whether a gaming activity takes place on a site is of no relevance if it does not change the effects on the environment.

The effects based approach required by the Resource Management Act means that adverse effects are controlled irrespective of what the activity is. For example, a plan will contain a number of controls on the generation of particular adverse effects on the environment of residential areas, which would prevent most non-residential activities occurring in those areas. These include limits on the scale, traffic generation, and hours of operation of non-residential activities.

These controls may prevent gaming outlets operating in residential zones, but this will be because of the effects they generate. For these reasons it is not considered to be appropriate to control gaming operations through the district plan, other than to the extent that they are already be controlled through the adverse effects that they generate on the environment.

It is unrealistic to expect that councils can regulate in this manner through the existing provisions of the Resource Management Act. It is recommended that the Council request that if Parliament is to reform the law in this area, then it must specifically confer power on local authorities to regulate the establishment and operation of gaming operations within a community. This report suggests that the regulatory functions, and the associated resources, (currently held by Department of Internal Affairs) be transferred to local government.

Recommendation: That the Committee endorse the attached the submission on the Gaming Review.

Chairman's

Recommendation: That the above recommendation be adopted.