

IN THE MATTER of the Gambling Act 2003
AND of an application by
**SKYCITY CASINO
MANAGEMENT LIMITED**
for approvals relating to
EFTPOS terminals

BEFORE THE GAMBLING COMMISSION

Members: P Chin (Chief Gambling Commissioner)
K M Ford
M M Lythe
P Stanley
G Reeves

Date of Application: 20 April 2005

Date of Decision: 17 June 2005

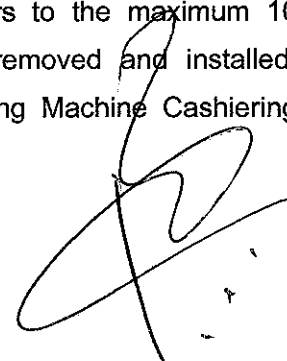
Date of Notification of Decision: *29 JUNE* 2005

DECISION

**ON AN APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED
FOR APPROVALS RELATING TO EFTPOS TERMINALS**

Application

1. SKYCITY Casino Management Limited ("**SCML**") applied to the Gambling Commission (the "**Commission**") for approval under condition 4.1 of its operator's licence to:
 - (a) install four new cash-dispensing EFTPOS terminals on the gambling floor as follows:
 - (i) two in a modified cashiering facility on Level 3; and
 - (ii) two on the Main Gaming Floor ("**MGF**"), one in the "Southern Cage" and one in the "Main Cage". SCML submitted that the extra terminal in the Main Cage was necessary to "restore" numbers to the maximum 10 terminals (one of the terminals having been removed and installed, without Commission approval, in the VIP Gaming Machine Cashiering area on the MGF);



- (b) install three non cash-dispensing EFTPOS terminals as follows:
 - (i) two in Bar 3; and
 - (ii) one in the VIP Gaming Machine area on the MGF;
 - (c) ratify the installation of four non cash-dispensing EFTPOS terminals outside the gambling area already installed by SCML;
 - (d) reduce the non-cash dispensing EFTPOS terminals in the Platinum Bar from two to one; and
 - (e) allow non-gaming EFTPOS terminals to dispense cash of up to \$50 in conjunction with a purchase, with this sum being reviewed upwards over time. SCML submitted that this was "common practice adopted at most retail and entertainment outlets".
2. Beyond the matters noted above, SCML's application did not include reasons for the proposed changes or assess the proposal in terms of the harm prevention and minimisation purposes of the Gambling Act 2003 (the "Act").

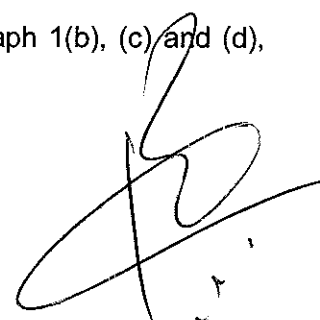
Licence Condition

3. Condition 4.1 of SCML's operator's licence provides as follows:

The licence holder shall ensure that no automatic teller machine, EFTPOS facility or device of a similar nature is installed within the casino premises unless approved by the Authority (prior to 1 July 2004) or the Commission. Approval shall be revocable at the discretion of the Commission and shall be subject to such conditions as the Authority may have imposed or which may be imposed by the Commission from time to time.

Submissions by the Secretary

4. The Commission was not required to consult with the Secretary under section 140 of the Act (this being an application for approval under a licence condition), but did so given his operational interest. The Secretary made submissions on the application, and in reply to SCML's further submissions, summarised below.
5. The Secretary did not oppose SCML's application for approval of the three non cash-dispensing EFTPOS terminals, the ratification of the four existing non cash-dispensing EFTPOS terminals or the reduction of one non-cash dispensing EFTPOS terminal in the Platinum Bar (the elements of the application described in paragraph 1(b), (c) and (d), above).



6. The Secretary submitted that the Commission should defer a decision on the four cash-dispensing EFTPOS terminals until it completed the general review of casino licence conditions, currently underway. However, in the event that the Commission decided to determine this aspect of the application, the Secretary submitted as follows:

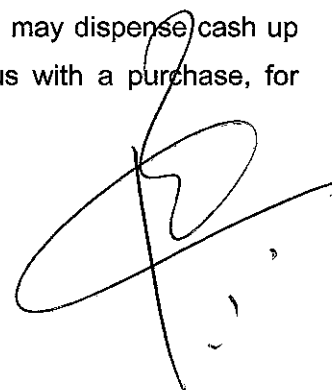
- (a) only one of the proposed four cash-dispensing terminals should be approved - at the modified cashiering facility on Level 3. It was accepted by the Secretary that at least one terminal was required to resume operation;
- (b) the introduction of additional terminals in the gambling area would be counter to the intent of Regulation 5 of the Gambling (Harm Prevention and Minimisation) Regulations 2004 (the "**Regulations**"). A principal intent of prohibiting ATMs from the gambling area was to interrupt play by problem gamblers. It was stated by the Secretary that "A visible increase in the gambling area of the availability of cash may mitigate against the Regulation's intention";
- (c) the addition of cash dispensing EFTPOS terminals should only be considered where practical need outweighs or obviates harm prevention and minimisation concerns. SCML had not demonstrated such a need.

7. In response to SCML's further submissions, the Secretary eased his position on the modified cashiering facility on Level 3 as follows:

....., the Secretary is more sympathetic to the argument that only one EFTPOS facility in the Platinum Room to cater for VIP guests is more likely to cause "undue inconvenience" to that type of clientele in respect of the level of service they would expect.

8. In respect of the application to allow non cash-dispensing EFTPOS terminals to dispense cash up to \$50, the Secretary submitted as follows:

- (a) the Commission should continue to regulate all EFTPOS terminals in the gambling area;
- (b) non-cash dispensing terminals within the gambling area should not be allowed to dispense cash. To do so would increase the availability of cash, compromising the spirit and intent of Regulation 5; and
- (c) non-cash dispensing terminals outside the gambling area may dispense cash up to \$50, provided such withdrawals are contemporaneous with a purchase, for example, of food or beverage.

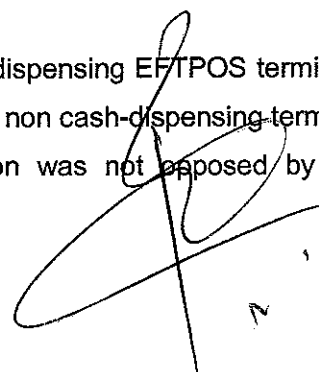


Further Submissions by SCML

9. SCML submitted that:
- (a) the Commission should determine its application for the additional four cash-dispensing EFTPOS facilities now, rather than await completion of the general review;
 - (b) Regulation 5 relates to ATMs, not EFTPOS;
 - (c) there are no restrictions on cash-dispensing EFTPOS devices in hotels and clubs where gaming machines are operated (the Secretary's counter to this being that, unlike casinos, the primary purpose of pubs and clubs is not gambling);
 - (d) while SCML did not agree it was necessary for it to establish need (as the Secretary suggested), SCML submitted that the new terminals were required to provide an appropriate level of service to customers and would not increase the risk of harm. In particular, SCML stated that:
 - (i) the Platinum Room cashiering station is designed for VIP guests, and two cashiering stations with two EFTPOS terminals are required to provide VIP patrons with the level of service they expect. There will be a greater level of supervision of patrons in Platinum Room resulting in no additional risk of harm;
 - (ii) a fifth cashiering station is needed for the southern cashiering facility (on the MGF) to avoid customer confusion and to provide better service. Customer confusion arises because presently only four of five stations are available for customer use;
 - (iii) 10 cashiering stations are needed for the main cage, to enable operation at maximum capacity when required;
 - (iv) allowing non-gaming EFTPOS terminals to dispense cash is consistent with the Casino Control Authority's cash-dispensing policy, and is common practice. Failure to provide this service causes patrons unnecessary inconvenience.

Analysis

10. The Commission approved the seven additional non cash-dispensing EFTPOS terminals (four of which are already in place) and the reduction of one non cash-dispensing terminal in the Platinum Bar. This aspect of SCML's application was not opposed by the

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Secretary, and did not raise any issues in terms of the purposes of the Act and section 139(2) criteria.

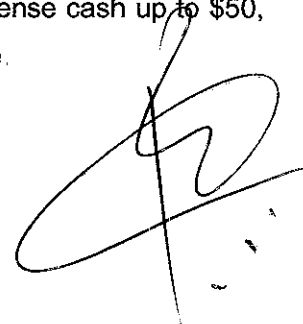
11. The Commission decided not to defer a decision on the installation of the four cash-dispensing EFTPOS terminals in the gambling area. The Commission consulted extensively on cash access issues, including EFTPOS, in the context of its decision GC07/05, and considered it had adequate information before it to decide the application.
12. The Commission's powers to regulate the installation of EFTPOS terminals arises under condition 4.1 of SCML's operator's licence, these powers being supplementary to the requirements set out in Regulations. As set out in decision GC07/05, in regulating cash access, the Commission seeks to strike a balance which enables the operator to meet the customer service expectations of its patrons, while discharging its obligations under the Act to promote responsible gambling, and protect potentially at-risk gambling patrons. In this regard, the Commission noted earlier submissions it received, in the context of decision GC07/05, that EFTPOS terminals were potentially less harmful than ATMs because of the requirement for interaction with casino staff when cash withdrawals were made.
13. The Commission noted that the two additional EFTPOS terminals for Level 3 were being installed in an existing cashiering location which previously had one terminal. It accepted SCML's submission that its objective in providing two terminals, in an enlarged cashiering facility, was to provide VIP patrons with a superior level of customer service. It also noted that VIP patrons would be subject to a greater level of oversight because of higher staffing levels.
14. The Commission noted that the two EFTPOS terminals proposed for the MGF would be in existing cashiering facilities and that, as a consequence of granting approval, there would be no increase in the number of locations where cash could be accessed. The Commission also noted that the terminals would not be operational at all times, but would be used during busy periods to provide better service.
15. The Commission considered that permitting non cash-dispensing EFTPOS terminals in the gambling area to dispense cash would increase the risk of harm by enlarging the cash access opportunities available to patrons. Presently there are 13 non-cash dispensing terminals in the gambling area, so even if it were possible to withdraw only nominal amounts, the effect would potentially be significant. The Secretary also raised concerns about the potential for "the proliferation of pseudo cashiering stations throughout the gambling area". The Commission noted that Regulation 5 does not specifically refer to EFTPOS terminals, but concurred with the Secretary's submission that "the spirit and

intent” of the Regulation would be compromised if cash access opportunities were enlarged as proposed. This would be inconsistent with one of the specific purposes of the Act “to prevent and minimise the harm caused by gambling, including problem gambling”.

16. The Commission did not consider that the same risks arose in respect of EFTPOS terminals outside the gambling area, and accepted that it was common commercial practice to provide for the withdrawal of modest amounts of cash when purchases were made. It decided to permit EFTPOS terminals outside the gambling area to dispense up to \$50, provided that the withdrawal takes place contemporaneously with a purchase. The Commission considered \$50 to be an appropriate upper limit, noting that if greater amounts could be withdrawn, it would potentially undermine existing controls on cash access on the gambling floor. This is particularly the case given the large number of EFTPOS terminals within the casino venue but outside the gambling area.

Decision

17. The Commission resolved unanimously to:
- (a) approve the installation of four new cash-dispensing EFTPOS terminals on the gambling floor as follows:
 - (i) two in the modified cashiering facility in the Platinum Room on Level 3; and
 - (ii) two on the MGF, one in the Southern Cage and one in the Main Cage;
 - (b) approve the installation of three EFTPOS terminals as follows:
 - (i) two in Bar 3; and
 - (ii) one in the VIP Gaming Machine area on the MGF;
 - (c) ratify the installation of four existing EFTPOS terminals outside the gambling area;
 - (d) approve the removal of one EFTPOS terminal in the Platinum Bar;
 - (e) prohibit non-gaming EFTPOS terminals within the gambling area from dispensing cash; and
 - (f) permit EFTPOS terminals outside the gambling area to dispense cash up to \$50, provided the withdrawal is contemporaneous with a purchase.



18. Attached to this decision is a schedule setting out the approved bank teller terminals, ATMs and EFTPOS devices in the SKYCITY Auckland casino venue.


GAMBLING
Peter Chin **COMMISSION**
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

29 JUNE 2005

**Schedule of ATMs, EFTPOS devices and bank teller terminals at
SKYCITY Casino Auckland**

| Device | Location | Current Numbers |
|---------------------------------|---------------------------------------------|------------------------|
| ATMs | Ground Floor | 3 |
| | Level 2 (corridor to northern entrance MGF) | 5 |
| | Level 3 (corridor leading to PLAY/ALTO) | 2 |
| Total | | 10 |
| EFTPOS terminals (gaming)* | Main Cage Level 2 | 10 |
| | Southern Cage Level 2 | 5 |
| | VIP Gaming Machine Cashiering Level 2 | 1 |
| | Cashiering Platinum Room Level 3 | 2 |
| | Cashiering PLAY Level 3 | 3 |
| | Cashiering VIP Level 3 | 1 |
| Total | | 22 |
| EFTPOS terminals (Non-gaming)** | Hotel Reception | 5 |
| | Ticketek Ground Floor | 1 |
| | Atrium Ground Floor | 1 |
| | Rebo Café Ground Floor | 2 |
| | Staff Cafeteria | 1 |
| | Canoe Bar Level 2 | 4 |
| | Deli Level 2 | 3 |
| | NCB Bar Level 2 | 2 |
| | Atrium Bar Level 2 | 2 |
| | Fortuna Restaurant Level 2 | 2 |
| | Ming Court Restaurant Level 2 | 2 |
| | Sky Jump Level 2 | 1 |
| | F&B VIP Gaming Machine Area Level 2 | 1 |
| | Theatre Level 3 | 2 |
| | Ticketec Level 3 | 1 |
| | Dispense Bar Level 3 | 1 |
| | Bar 3 Level 3 | 5 |
| | Blend Café Level 3 | 1 |
| | Platinum Bar (formerly known as Alto Bar) | 1 |
| Total | | 38 |
| Bank teller terminals | BNZ SKYCITY Branch Ground Floor | 2 |
| Total | | 2 |

* Gaming cash-dispensing devices are subject to bank imposed limits on cash outs.

** Non-gaming EFTPOS devices outside gaming area are subject to a cash out limit of \$50 in conjunction with a purchase. No cash can be dispensed from non-gaming EFTPOS terminals within the gambling area.