GC03/17

IN THE MATTER of the Gambling Act 2003

AND on a proposal by the Secretary for Internal Affairs to amend the 2010 approval for the provision of credit by casino operators

BEFORE THE GAMBLING COMMISSION

Members:	G L Reeves (Chief Gambling Commissioner) L M Hansen D C Matahaere-Atariki W N Harvey
Date of Proposal:	1 April 2015
Date of Decision:	17 March 2017
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DECISION ON A PROPOSAL TO AMEND THE 2010 APPROVAL FOR THE PROVISION OF CREDIT BY CASINO OPERATORS

Introduction

1. By this decision, the Commission revokes the approval under section 15 of the Gambling Act 2003 (the "**2003 Act**"), sometimes referred to as the "casino credit policy", which it issued in decision GC04/10 and replaces it with a new approval. The Commission's own proposal has had a lengthy background history, which it sets out below in order to place in context the Commission's proposal and the submissions received on it.

Background

2. The proposal derives from a power given to the Commission by section 15 of the 2003 Act, which provides as follows:

> **15 Providing credit for gambling prohibited**
>
> (1) A person conducting gambling must not offer or provide credit if the person knows or ought to know that the credit is intended to be used for gambling.
>
> (2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.
>
> (3) Subsection (1) does not apply to credit offered or provided by the holder of a casino operator's licence to a person in circumstances that have been approved by—

> (a) the Authority under section 66 of the Casino Control Act 1990; or
> (b) the Gambling Commission under subsection (4).
>
> (4) The Gambling Commission may approve circumstances in which an offer or provision of credit may be made by the holder of a casino operator's licence to a person.

The section constitutes a general prohibition on gambling operators providing credit for gambling but makes provision for the Commission to "approve circumstances" in which credit may lawfully be provided for gambling.

Current 2010 approval

3. The Commission's first consideration of such an approval was decision GC04/10, which arose from an application by a casino operator to approve an amendment to the credit policy for that casino. In addressing the application, the Commission discovered that:

   (a) its predecessor, the Casino Control Authority (the "**CCA**") had granted approvals to casinos under the equivalent section of the predecessor legislation, the Casino Control Act 1990 (the "**1990 Act**") in the form of approving individual casino credit policies;

   (b) the prior provision, section 66 of the 1990 Act, prohibited a broader range of activities, including providing cash or chips in exchange for a cheque or credit card transaction but neither of those activities was prohibited by section 15 of the 2003 Act; and

   (c) as a result, the matters addressed in the individual credit policy previously approved by CCA were no longer subject to any statutory prohibition and no longer required approval.

4. The Commission initially proposed to revoke all prior approvals by CCA on the basis that they no longer appeared to be necessary as the previously approved activities did not require approval under section 15 of the 2003 Act. The operators of several casinos opposed the revocation, advising that they operated cheque retention facilities with customers in reliance on existing CCA approvals of their credit policies that permitted that activity. While the Commission had made clear its view that the receipt of cheques as payment for something was not provision of credit by an operator, its reasoning did not extend to the practice of agreed cheque retention. Under such an arrangement, the casino would accept cheques on the express term or understanding that they would not be presented until after the customer had finished gambling: only at that point would the retained cheque, or a substitute cheque in a smaller amount (if the customer had not lost the full value of the original cheque) be presented. Such an arrangement would

constitute provision of credit to gamble. Under the individual casino credit policies approved by CCA, cheques could be held unbanked after a customer's departure for two working days, in the case of NZ bank account cheques, or 30 days, in the case of overseas bank account cheques. Cheque retention arrangements were said to be a critical service which overseas customers expected to be offered.

5. After the Commission advanced a new proposal limited to holding cheques drawn on foreign banks for 20 working days from receipt, the focus of further submissions shifted to the detail of the appropriate parameters for continued approval – whether local as well as foreign customers, the number of days for different cheque types, the definition of "departure date" as the starting point for time to run and other restrictions. The casinos argued that cheque retention, as a form of credit, should be seen solely as an unregulated casino business decision and that casinos had no commercial incentive to permit cheques to remain unbanked after departure.

6. In decision GC04/10, the Commission recognised that the above described cheque retention arrangements would likely breach the prohibition under section 15 of the 2008 Act and that, if the practice were to continue, it would need approval. Although casinos had referred to international customers having expectations of having credit extended, the sole means of doing so, for which approval had been sought, was the retention of cheques for limited periods. The Commission accepted assurances that such facilities would only be offered to experienced and financially secure gamblers, after thorough investigation of their financial means, and that casinos would be so motivated to minimise the period of retention that there was no need for Commission to impose limits on retention to ensure that cheques were presented promptly after departure of the patron.

7. Rather than focusing on retention period (and the associated need to define a workable "departure date" starting point), the Commission considered that it should focus on harm minimisation by restricting the range of acceptable cheques and requiring active monitoring of the activities of all cheque retention customers for potential harm. In issuing a new casino credit approval permitting credit in the form of retention of certain types of cheque, without limits on the period of retention but requiring monitoring of credit customers in decision GC04/10, the Commission recorded its expectation that suitable provisions for such monitoring would be included in the next review of each casino's responsible gambling programme. In the meantime, the Commission said:

> No customer to whom such facilities are provided should be regarded as someone whose activities do not warrant attention. The expectation is that there will be a host responsibility file for each such customer.

2014 proposal by SCML to allow credit by markers

8. In 2014, SKYCITY Casino Management Limited ("**SCML**") applied for amendment of the 2010 approval by extending it to permit the extension of credit to customers by "markers", without the need for a negotiable cheque to be retained. In decision GC07/14, the Commission declined the proposed amendment.

9. In doing so, the Commission rejected SCML's suggestion that the proposal did not involve any material extension to the current approval. It also recorded its surprise at SCML's reference to its current "debt recovery strategies" when the only currently approved exception to the prohibition on providing credit was "the limited credit element present in delay in lodging a negotiable payment instrument". Reference was made, in both SCML's submissions and in the Commission's decision, to the Host Responsibility Programme ("**HRP**") requirement that the activities of all customers whose cheques were being retained be monitored and recorded. In making its decision, the Commission noted that SCML had failed to provide any information about the results of its current monitoring activities for consideration in relation to its proposal to extend the circumstances in which it could provide credit.

DIA investigation and proposal to tighten 2010 approval

10. The present proposal is derived from a proposal received in 2015 from the Secretary ("**DIA**") to amend the 2010 approval in order to tighten its terms considerably. The genesis of the DIA's proposal was an investigation by DIA staff, initially into the use of the cheque retention facility by a particular patron ("**Patron 1**") but later extended to its use by other patrons.

11. The DIA investigation produced the following chronology of activities, relating to Patron 1, from September 2010 until the end of the investigation in April 2014:

    (a) Patron 1 was first provided with a Cheque Cashing Facility ("**CCF**") for $2 million in September 2010. He signed a counter cheque for $2 million on departure and redeemed it with a TT payment in October 2010.

    (b) In November 2010, he was provided with a $3 million CCF. TT payment was used to clear the value of personal cheques (timing unclear).

    (c) In April 2011, the CCF was extended in time and a new personal cheque was taken in the place of a cheque that was due to be banked in May 2011.

(d) In June 2011, the same CCF was carried over again. TT payment of $2 million was received and the balance redeemed with winnings. This was the last time that Patron 1 did not owe anything to SCML.

(e) In August 2011, a new CCF of $3 million was approved. It was supported by a $3 million personal cheque that was replaced by a $1.8 million personal cheque for the balance (after a $1.2 million TT payment).

(f) In October 2011, the CCF was increased to $5 million and Patron 1 left the casino owing $4 million.

(g) In January 2012, after a TT payment of $2 million, Patron 1 left the casino still owing $5 million.

(h) Various payments followed but so did a June 2012 trip, which took the debt back to $5 million.

(i) Various payments and trips followed. By April 2014, the debt stood at $3 million and had never been less than $2 million since October 2011.

12. Details were also provided for four other patrons who were provided with CCFs that had resulted in debts that had not been cleared promptly. One had been bankrupted and another had had to re-mortgage property to clear the debt.

13. As a result of its investigation, DIA lodged an application proposing amendments to the 2010 approval to exclude from its terms the use of blank, undated or otherwise incomplete cheques and the imposition of maximum cheque retention periods on the basis that the Commission was unlikely to have intended the 2010 approval to operate in the manner disclosed by its investigation.

14. The Commission sought submissions from interested parties. Gambling Helpline, the Ministry of Health ("**MOH**") and Christchurch Casino Ltd ("**CCL**") broadly supported the DIA proposal. Gambling Helpline said that its principal concern about the provision of credit was that it enabled a gambler to chase losses, an activity which is known to cause harm regardless of income. CCL sought slightly longer retention periods than proposed (5 days rather than 2 days and calculated from a defined departure date).

15. SCML opposed the proposal for the following reasons:

(a) It saw no mischief in retaining its current practice of using signed blank cheques. However, the DIA's proposal for imposing maximum timeframes was "not unreasonable" and "generally consistent with existing practice".

(b) It had informed the Commission of its use of counter cheques in its submissions of 20 November 2009. However it acknowledged that, in doing so, it had mis-described its actual practice by telling the Commission that personal cheques were used on settlement when, in fact, the original counter cheque was replaced by another counter cheque on a patron's departure.

(c) Counter cheques had been accepted in Australasia but SCML was reluctant to use them more widely. As a result, non-Australasian customers were required to sign a blank personal cheque, which was used as security for the counter cheque and which could be banked if need be. However, accounts are usually settled by means of TT. The original signed blank cheque would be held as a form of security for each new CCF.

(d) Its practice is to bank cheques only if customers cannot be contacted after departure. If a customer advised that the account had insufficient funds, its focus turned to debt recovery (implicitly by means other than presenting the cheque).

(e) A requirement to present a cheque in such cases would lead to it being dishonoured, damaging the customer relationship and compromising the prospect of recovery (which it had avoided doing with Patron 1) so it would prefer to retain flexibility about whether it presented cheques and how it managed the recovery of debts which arose from credit that it extended to patrons.

(f) SCML also opposed the proposed prohibition on extension of extended or additional CCF facilities while a cheque remains "on hold" or on the use of new deposited funds for gambling while a cheque remains "on hold". Such a prohibition would prevent recurrence of what occurred in the case of Patron 1.

(g) While harm can result from providing credit to chase losses, the prospect is insufficient to justify prohibiting the provision of credit. In common with its unsuccessful submission in decision GC07/14, this proposition assumes that it is the restriction that must be justified, not the exception to the statutory prohibition.

(h) CCF customers are subject to scrutiny for problem gambling behaviours. SCML did not open a Gambler of Interest file ("**GOI**") for Patron 1 because gambling without clearing a current debt is not a sign of problem gambling. Casinos can be trusted to manage such circumstances.

The Commission's alternative proposal

16. The Commission considered the DIA proposal and all submissions received.

17. The DIA proposal had sought to address a number of matters of concern uncovered by its investigation:

(a) The Commission's earlier confidence in an assurance that commercial self-interest would ensure that cheques would always be presented promptly at the end of a visit so that imposition of maximum retention periods was unnecessary had proved to be misplaced. SCML's activities with Patron 1 confirmed the real prospect of extensive delays in presentation of cheques to allow continuation of gambling in the course of future visits to the casino, and eventual recovery of the debt. SCML appeared to have balanced the ongoing and mounting credit risk against the prospect of benefitting from future losses by Patron 1 and the increased likelihood of payment as a result of his desire to keep visiting the casino.

(b) The Commission's 2010 approval had contemplated the receipt of a negotiable instrument at the outset of a visit, coupled with an agreement to delay its negotiation until the end of a gambling visit. The exclusion of post-dated cheques implied that cheques would be dated on the date of receipt. In any event, incomplete cheques would not be negotiable so their retention would not be the temporary retention of a negotiable instrument as the 2010 approval had contemplated.

(c) The 2010 approval contemplated the possible substitution of the original cheque by one in a smaller amount, representing the final settlement, which would not be retained but immediately presented. However SCML extended the credit arrangement with Patron 1 by retaining cheques issued over time, many in substitution for an earlier cheque, all of which remained unbanked. Replacement cheques, if allowed, would defeat a regime that required dated cheques and imposed maximum retention periods because retention periods could be indefinitely extended by substitution of cheques on an ongoing basis.

(d) It appeared that, rather than holding negotiable instruments unpresented, SCML operated a credit facility using a signed blank cheque as a form of security. The internal documentation was called a "Cheque Cashing Facility" ("**CCF**"), which ostensibly permitted only the cashing of cheques and contained no express retention element. Internal SCML references were always to CCFs, never to cheques; cheques were referred to as being "unbankable", and to being accepted at the end of a trip (i.e. on settlement), rather than at the start (inconsistent with the justification proffered in 2010 for approval of cheque retention facilities).

(e) SCML had extended further credit when the debt represented by an earlier cheque remained unpaid, even when the failure to clear the earlier balance had not been explained.

(f) It appeared that, as cheques were treated simply as a technical requirement for provision of credit and not a means of payment, credit was provided against cheques drawn on bank accounts without apparent regard to whether the accounts contained funds.

18. The DIA investigation also raised some potential harm concerns:

(a) Although the Commission had expressly required host responsibility measures to be put in place to ensure that each customer under a cheque retention facility had a host responsibility file for their activities to be monitored, no GOI file was ever opened for Patron 1. Although SCML claimed that his activities were monitored carefully and raised no reason to suspect problem gambling, in addition to the direction in decision GC04/10 referred to in paragraph 7 above, Section 5 of SCML's 2013 HRP required all formal harm monitoring to be undertaken by means of a GOI file kept by Host Responsibility and clause 2.6.2 of SCML's 2013 HRP[1] contained an express obligation to report all credit arrangements to Host Responsibility and for Host Responsibility to "monitor and record the activities of" all cheque retention customers. The primary harm minimisation step imposed by the Commission in decision GC04/10, and in subsequent HRPs, was not complied with because SCML treated the obligation as applying only to suspected problem gamblers.

(b) As a consequence, the activities of Patron 1 were not visible in documented form either to the DIA (in policing compliance with the HRP) or to the Commission (in the compulsory reports on SCML's harm monitoring activities).

(c) Some of the developments with the cheque retention customers were of concern. Patron 1 did not clear his debts but increased them substantially in the course of subsequent gambling and then reduced them only slowly over time. Another customer had to re-mortgage to obtain funds to clear a debt and another was bankrupted. Because no GOI files were opened, none of the gambling activities associated with these events were entered into the formal process for assessments for harm minimisation purposes.

[1] The same requirement was repeated, and extended to any credit outside of cheque retention, in clause 3.6.2 of the 2015 HRP. Schedule 5 was not materially changed in 2015.

(d) As matters progressed (a growing debt with no immediate prospect of payment), SCML would have found itself in a position in which treating debtor patrons as problem gamblers would be likely to have been seen as commercially unfeasible. Restricting Patron 1's gambling would likely have led to a large, irrecoverable loss. Maintaining the prospects of eventual repayment realistically required gambling facilities to continue to be offered.

19. The reasons advanced by the DIA for the proposed changes to the 2010 approval focused on the DIA's assumptions about the Commission's thinking that had resulted in the 2010 approval and remained focused on retention of cheques as the sole means of providing credit. However, the 2010 approval was derived from earlier, and now apparently out-dated and historical, arrangements. Cheques were almost never used to effect payment of credit provided and were not, in practice, a functional aspect of the approved credit arrangements. In the light of the practical irrelevance of cheques as a means of payment, the Commission doubted that cheque retention was necessarily an appropriate mechanism on which to continue to focus Commission approvals to control provision of credit.

20. The Commission considered that the primary purpose of the section 15 prohibition was harm minimisation and that exceptions to that prohibition, in the form of approved circumstances, should be harm focused in the sense of approving only circumstances in which the risk of harm was appropriately minimised. By letter of 21 September 2015, it sought broad submissions from interested parties on the nature of appropriate approved circumstances, without being limited to the terms of past approvals, with a view to considering whether it should propose completely new approved credit circumstances in place of the amendments to the 2010 approval proposed by DIA. The Commission received submissions from the DIA, MOH, Problem Gambling Foundation ("**PGF**"), CCL and SCML.

21. DIA submitted that the purpose of section 15 was harm prevention (and that harm was not limited to inability to pay a debt) and that the mechanism by which credit was extended was not as important as the circumstances of its provision and use. The patrons currently receiving credit, mostly international VIPs, are not a significant harm concern. Credit for international patrons should be temporary and for local players should involve regular harm assessment. It raised concerns about credit provision to junket organisers and did not recommend limiting credit only to overseas resident patrons. It summarised the differing regulatory positions in Australian states.

22. While MOH simply referred to its earlier submission, PGF opposed the approval of any circumstances in which credit could be offered. Alternatively and more specifically, it opposed allowing any mechanism other than cheque retention on the restricted terms earlier proposed by the DIA and submitted that any credit should be limited to overseas patrons only.

23. CCL supported extension of credit to markers (emphasising that assessment of the patron was more important than the mechanism for providing credit). It submitted that a casino's HRP was the appropriate mechanism for harm monitoring, that credit is now expected by many patrons, especially international patrons, and that casino credit is safer than loan shark credit.

24. SCML's submission set out a legislative history, explained the use of counter-cheques (submitting that arguably they were not provision of credit), and revealed (for the first time) the number of CCFs annually since 2010 and the debt performance of each one. It advised that it monitored all CCF customers for harm and that none had ever been excluded for harm. It argued that the means of extending credit were immaterial and that casino credit checks were adequate to screen for harm. It suggested that credit should generally only be available to overseas patrons (but that a single exception should be made for a longstanding local customer) and that the charging of interest should be prohibited but that no restrictions should be placed on the amount of credit offered or on the period of credit extended.

25. Having considered the submissions received, the Commission decided to formulate and consult on a new approval for the provision of credit by casino operators which set out the circumstances in which all casino operators would be permitted to offer credit to patrons and which took into account what had been learned from the DIA investigation and the submissions. The proposed policy would allow the use of credit markers in addition to cheque retention arrangements, but would have retained the GOI requirement and added more comprehensive conditions than the 2010 policy, including prohibiting credit to intermediaries, restricting extensions of credit and imposing a maximum period of credit.

26. By letter of 26 April 2016, the Commission sought submissions from interested parties on the proposed policy. The letter set out the Commission's thinking behind the proposed policy as follows:

    (a) The Commission's primary focus should be on harm and on approving only circumstances for credit which carry a minimal risk of harm. Extension of credit to gamble is a more important harm consideration than the means of recording or

repaying the debt because it is the extension of credit that creates an additional risk of harm, not the means of recording or discharging it.

(b) Approval of circumstances for the provision of credit should not, therefore, focus primarily on particular instruments of credit, but rather on the decision to extend credit and on the monitoring of customers who receive credit. On that basis, the use of credit markers rather than retained cheques should not be a concern so long as proper attention is paid to the customers receiving credit.

(c) In that regard, casino operators should thoroughly investigate and assess a patron for harm risk before offering or providing credit. Paragraph (1) of the proposed Policy set out the matters that the Commission considered that an operator should investigate before any credit were provided; they included matters such as financial security, gambling experience and signs of problem gambling. The Commission expected all recipients of credit to be assessed as "low risk" prior to credit being extended.

(d) Once credit had been extended to a patron (and the patron is therefore exposed to potential harm arising from the risks of gambling on credit), the casino operator should regularly monitor and assess the patron. In terms of the current HRPs, that would mean maintaining a GOI file in accordance with the requirements of the operator's HRP. This form of monitoring should be automatic and an element of the approved circumstances for extension of credit, irrespective of the operator's original "low risk" assessment of the patron.

(e) As the assessment of the patron and the subsequent monitoring is personal to that patron, so should be the extension of credit. That is, credit should not be extended to intermediaries who subsequently provide it to unidentified patrons.

(f) Once a credit facility has been extended to a patron, it should not be extended or increased. That means no patron should have more than one credit facility at a time. The amount and period of credit should be assessed at the outset of the arrangement, and the resulting debt should be cleared in full before any new credit is provided (when a new assessment must be made). It follows that a patron with an outstanding gambling debt should not qualify to be assessed as meeting the approved circumstances for new credit.

(g) A patron's failure to pay the resulting debt in time should mean, not only that no further credit should be extended, but also that the patron should not be allowed to gamble at any casinos operated by the casino operator until the debt has been

satisfied in full. This and the preceding condition are intended to reduce the risk of patrons chasing their losses.

(h) The proposal provides that credit may be provided either by markers or retained cheques. In the light of past experience, if cheque retention is used, the casino operator should receive a real cheque and present it at the end of the credit arrangement unless the debt is already paid in full. Equivalent conditions should be imposed on credit markers.

(i) As the concerns underlying the proposed approved circumstances relate to both domestic and international patrons (although, in practice, the Commission understands that credit facilities are usually provided only to international patrons), the proposal did not include different requirements based upon the concept of residence. The exception was a shorter retention period for cheques drawn on New Zealand banks but the difference is a result of the practicalities of negotiating foreign cheques, not residence.

(j) Rather than attempting to limit the number of visits by a patron who gambles on credit provided by a casino operator, the Commission had a preference for the inclusion of parameters surrounding the extension of credit to the patron; such as operators offering one facility at a time, fixing the sum extended, not allowing extensions, and so on.

27. The Commission received submissions on its proposal from the DIA, MOH, CCL, PGF and SCML.

Submissions on Commission proposal

DIA

(a) The DIA fully supported the Commission's proposal in its initial submission.

(b) In a subsequent reply submission, it withdrew its earlier concerns about the risks of money laundering arising from the provision of credit to junket operators (which it had raised in its October 2015 submissions). On further reflection, it considered that money laundering risks were better dealt with under AML legislation than by casino credit policies.

(c) Its prior objection to credit provision to junket operators had been based on money laundering concerns primarily, not harm minimisation, and it agreed with SCML that whether junket operators received credit or were required to deposit cash would not affect the likelihood of harm occurring. While the DIA supported

the general requirement for credit to be provided to individuals for their own use only, it did not oppose a specific exception for junket operators.

(d) The DIA's primary concern was that credit facilities not be used to chase losses or to accumulate large amounts of debts over multiple visits. Those concerns had resulted in its earlier proposal.

MOH

28. The MOH was generally supportive of the proposed policy but its support was subject to several reservations:

(a) The provision of credit can undermine informal "pre-commitment" strategies, in which customers aim to limit their gambling losses to the funds which they bring to the casino.

(b) The DIA "mystery shopper" exercises at the casino have indicated that harm detection by casino staff observation yields poor results.

(c) It agreed that the amount of credit should be fixed in advance but it was troubled that the policy set no prescribed limits on the amount of credit when studies have shown that gambling harm occurs above $500 in losses.

(d) It has some concerns about how financial security and gambling history would be assessed, especially for overseas customers.

CCL

29. CCL said that the proposed policy would have little effect on its business (as few individual customers receive credit) but that excluding credit to junket operators would create issues for its future plans. It was concerned that, although it routinely carries out the proposed checks already, having a prescribed list of factors might preclude them from offering credit to someone with whom they would be very comfortable. Therefore, CCL proposed that the paragraph 1 assessment conditions be limited to a "safe harbour" arrangement, with operators being able to offer credit outside the assessment condition with notice to the DIA.

30. It also queried the need to open a GOI file for every credit customer because a GOI file inherently suggests that the subject is "at risk of problem gambling behaviours", which should exclude them from receiving credit. CCL would not offer credit to a customer for whom it needed to open a GOI file.

PGF

31. PGF opposed the approval of any circumstances for provision of credit on the basis that gambling on credit can cause harm and that a precautionary policy is advisable, especially when it comes to new forms of credit, such as markers, which carry new and unfamiliar risks and which would be the subject of fewer controls. It suggested that the use of markers would increase the risk of money laundering, fraud and other criminal activities and that the views of the Police, the Financial Markets Authority and the Serious Fraud Office should be sought. It also argued that, as SCML had stretched and breached the existing rules, neither their continuation nor their liberalisation was appropriate.

32. However, if the Commission were minded to proceed with its proposal, it suggested the following further changes to the proposed policy, in addition to the improvements to the current policy which the proposed policy would effect:

(a) Credit should be limited to "approved international players" only (but with no indication of how players would be approved), with no credit being made available to New Zealand residents.

(b) Paragraph 1(a) should be amended to include a reference to "substantial regular income".

(c) Paragraph 1(e) should extend to debts to other casino operators.

(d) Reference in paragraph 2 to "formal harm monitoring activity" should be proceeded by the words "significant additional" (although the additional monitoring activity implied was not described).

(e) Paragraph 5 should be extended to include a requirement to notify other New Zealand casino operators, who should be similarly prohibited from permitting the customer to gamble until the original debt was repaid.

(f) The periods in paragraphs 7(d)(ii) and 8 should be reduced from the proposed 30 days to 14 days.

(g) Paragraph 7(e) should contain an additional prohibition on the extension of further credit.

33. In its reply submissions, PGF submitted as follows:

(a) It agreed with the MOH that credit undermined informal "pre-commitment" strategies by customers and that the issues raised by the "mystery shopper" exercise results undermined the value of behavioural observation as a harm minimisation tool. It supported a $500 limit for credit.

(b) It supported a prohibition on provision of credit to intermediaries, although it is not opposed to junket operations. Its concern is that intermediaries reduce detection of harm and other behaviours of concern. It considers the inconvenience of individual credit provision to be worth the reduction in risk of harm.

(c) It supported limiting credit to overseas customers only and agreed with SCML that the reason that section 15 provided for Commission approval was to enable casinos to compete for international business.

(d) It discounted the reasons advanced by SCML for not requiring casinos to make inquiries about overseas customers before providing credit.

(e) It disagreed with SCML that credit customers do not warrant monitoring by GOI file but would not object to the monitoring to be done on separately named files.

(f) It supported the proposal that credit not be extended and for only one credit arrangement at a time. Preventing customers from following their impulses to gamble more than they planned when rational is precisely the harm which the policy seeks to avoid.

(g) It preferred the proposed conditions but the CCL "safe harbour" proposal would be an acceptable alternative.

SCML

34. SCML indicated that is principal issue was with paragraph 3 of the proposed policy, which permitted credit only for personal use and not for intermediaries, such as junket operators.

35. SCML referred to its earlier submission on the legislative history, pointing out that the Responsible Gambling Bill had initially contained a complete prohibition on the provision of credit. After receiving submissions about the adverse effect on New Zealand casinos of a complete prohibition on the international premium player market (which is characterised by short visits and high daily expenditure), the Select Committee recommended amendments to preserve the effect of a previous CCA approvals and to

allow for the Commission to control the approval of circumstances for providing credit in the future.

36. SCML submitted that the purpose of providing for Commission approval was to enable New Zealand casinos to compete for overseas premium players and that its competitiveness would be harmed if approvals were limited to provision of credit for one's own gambling only, thus excluding credit to junket operators. Requests by junket operators for credit are virtually invariable and refusing it would materially damage its international business which accounts for 40% of its earnings.

37. SCML argued, contrary to earlier suggestions by the DIA, that the provision of credit were provided to junket operators, or not, had no material effect on money-laundering risk.

38. Turning to the apparent harm minimisation focus of the proposed policy, SCML expressed surprise that the proposed policy did not restrict approved circumstances to overseas customers only as it had previously suggested but it rejected the suggestion that provision of credit to an intermediary obscures detection of harm and individual consequences. SCML advised that junket participants are identified in advance and their activities closely monitored, including their access to intermediary credit.

39. While acknowledging that credit creates an additional risk of harm, SCML submitted that harm only occurs when credit has the effect of exceeding a customer's discretionary spend level which is a problem whether the credit is provided by the casino or by other sources. SCML said that it has no way of knowing each customer's discretionary spend level so it is reliant on behavioural observations and disclosures. It considers that knowledge that the customer is gambling on credit is not meaningful information for identifying potential harm.

40. While acknowledging that applications to increase credit during a visit and late payment are matters of interest from a harm perspective, SCML argued that they are not determinative. SCML's experience is that credit customers are no more vulnerable to harm than others and no credit customers have ever been excluded under its HRP.

41. SCML said that, while it undertakes credit risk assessment, it would have difficulty making the inquiries required by paragraph 1 of the proposed policy, in particular because overseas casinos do not undertake harm monitoring as New Zealand casinos do.

42. So far as the specific provisions of the proposed policy were concerned, SCML made the following submissions:

(a) It was not practical to assess a customer's financial position beyond ascertaining whether he or she has an outstanding casino debt.

(b) While casinos should generally only provide credit to experienced gamblers, there should not be a strict rule to that effect, pointing to the recent visit of a Formula One celebrity driver with no known prior gambling experience who was given credit.

(c) Problem gambling behaviour inquiries should be limited to the casino (and related properties) only, because any wider inquiries would be subjective and unverifiable.

(d) Indicators of harmful gambling should be limited to those described as "strong indicators" in its HRP (and should not include general indicators). Harm assessment should be left to host responsibility executives without prescription of any methodology.

(e) SCML monitored credit customers without opening a GOI file (unless there are special indicators of concern). It considered that GOI files should be reserved only for customers likely to be subject to intervention and assessed as being at elevated risk. There would be no value in opening GOI files for all credit customers and doing so may adversely impact how it manages harm risk more generally.

(f) It opposed limiting approval of credit to the end user only, for the reasons outlined above.

(g) There should be no prohibition on multiple credit facilities nor on increases in credit provided. Since applications to increase credit are subject to the same assessments as the original grant, the Commission's approval should permit increases so that customers who have depleted their initial credit can get more. Nor should credit not be available to customers with an uncleared debt on subsequent casino visits.

(h) While there might be grounds for prohibiting a customer with an outstanding debt from gambling further, this should be a matter for the casino's judgment as it may require flexibility to maximise the chances of recovery of the debt. It considered

that the prohibition on credit extensions would be a sufficient protection from harm (although it opposed that prohibition as well).

(i) It supported the use of credit markers and agrees that cheques are increasingly irrelevant as a form of payment.

(j) It was not clear to SCML why dated cheques drawn on bank accounts should now be required, meaning that it could no longer use counter-cheques. If the original cheque is replaced at the end of a visit, the retention period should start from that point.

(k) The restriction on company cheques should not extend to signing over cheques obtained from another casino. SCML pointed out that depositing such a cheque is a transfer of funds and not an extension of credit but did not make clear, in that case, why it would hold such a cheque unbanked (which is what the Commission's approval would be required for).

(l) It was unclear to SCML why retention periods were now proposed. Prescribing retention periods does not minimise harm. Casinos should not be obliged to present a cheque if they are advised there were insufficient funds as doing so may harm the customer relationship.

43. In reply, SCML did not wish to change any of its submissions in the light of the submissions of the other parties. In particular, it:

(a) did not support CCL's proposal to treat paragraph 1 as a safe harbour provision as paragraph 1 is largely impractical;

(b) opposed MOH's proposal to limit credit amounts; and

(c) did not support PGF's detailed submissions.

44. In the latter regard, it considered that it was impractical to attempt to assess a customer's financial position (other than as a credit risk), outstanding debts at other casinos should not be determinative, the current HRP provisions are adequate, CCL and DCL do not have similar international customers to SCML, there should be no prescribed retention period at all and a credit policy was not the appropriate place to prescribe the consequences of its breach.

Further clarification

45. After receipt of initial and reply submissions, the Commission sought clarification from SCML and from the DIA Inspectorate on a number of matters which arose from SCML's

submissions and which related to its current practices. The questions included updated details on the historical performance of credit facilities (with separate identification of local, foreign, individual and intermediary credit recipients), how play by junket participants was tracked and how monitoring and assessment without GOI files was done.

46. The information received disclosed the following:

(a) SCML had treated the absence of any reference to provision of credit for the use of third parties as an implied approval of the practice. Although the legislation provided for approvals as an exemption from a prohibition, the approach assumed that anything not expressly prohibited was approved. This same thinking may have led to an assumption that undated cheques were approved, when post-dated cheques were expressly excluded.

(b) SCML provided updated details of credit facilities given from 2010 to July 2016 as follows:

(i) 2010: 44 facilities granted, totalling $29,875 million, all settled by due date, all to overseas patrons, 38 to individuals and 6 to groups.

(ii) 2011: 72 facilities granted totalling $50.61 million, all settled (with only 1 settled late), all to overseas patrons, 65 to individuals and 7 to groups

(iii) 2012: 185 facilities granted totalling $115.58 million, 162 settled by due date, 6 settled late and 17 progressed to debt collection, 4 to local patrons, 163 to individuals and 18 to groups.

(iv) 2013: 155 facilities granted totalling $45 million, 149 settled by due date, 2 settled late and 4 progressed to debt collection, 3 to local patrons, 137 to individuals and 15 to groups.

(v) 2014: 192 facilities granted totalling $111.77 million, all settled with only 4 being late, 5 to local patrons, 171 to individuals and 16 to groups.

(vi) 2015: 207 facilities granted totalling $179.48 million, 202 settled by due date, 4 (to Oct) settled late and 1 progressed to debt collection, 7 to local patrons and 164 to individuals and 36 to groups.

(vii) 2016: 122 facilities granted totalling $240.47 million, 109 settled by due date, 1 (Nov-July) progressed to debt collection and 12 either settled

later or under payment plan or negotiation, 5 to local patrons and 94 to individuals and 23 to groups.

(a) In total, 26 facilities had been granted to New Zealand residents. In 24 cases (included in the figures above), the grants were to 3 individuals who live half their time in China and half their time in New Zealand and were made on a trip by trip basis on visits to New Zealand. The other two New Zealand resident facilities (not included in the figures above) each extended over several years. One held a facility from 2007 to 2013 when she was excluded from the casino for undesirable associations, and the other has held and regularly used a facility since 1999.

Neither patron had ever defaulted in payment.

47. Wagering by individual junket participants is not tracked, but some involve only one player so that, in those cases, group wagering is in fact that of an individual. Junket wagers are paid out in special commission play chips and exchanged for similar non-negotiable chips, so that the casino can accurately track the group's turnover (as it determines the commissions payable). All junket transactions appear in a single group account so individual players do not have accounts.

48. SCML did not interpret the requirement set out in decision GC04/10 for a host responsibility file for each credit customer as requiring GOI files and does not regard its HRP as requiring GOI files to be opened. SCML considers that GOI files are only required in the case of third party disclosures, on return from problem gambling exclusion and when a customer has otherwise come to Host Responsibility's attention as necessary to monitor. SCML considered that its iTrack system provided a sufficient host responsibility "file". SCML understood that its mode of operation had been clarified to the Commission's satisfaction in the 2015 HRP review.

49. SCML considered that requiring GOI files for all credit customers would "muddy the waters", potentially obscuring monitoring of truly at risk patrons by adding a number of others who had no reason for monitoring attention other than receiving credit.

50. All premium players, including junket participants, are closely monitored by table supervisory staff, all of whom are trained to observe and report harm indicators. Staff monitoring has resulted in only a single GOI file ever being opened for a credit customer because no other credit customer has exhibited harm indicators. For that reason, SCML considers that its credit customers are not particularly vulnerable to harm. No credit customer has ever been subject to an exclusion order for problem gambling.

51. The DIA confirmed that SCML records all junket participants in iTrack, SCML's electronic database which is available to Host Responsibility, and that GOI files are limited in practice to individuals who have shown strong problem gambling indicators.

52. It is apparent from the credit facility details provided, that:

(a) Very few credit facilities are not settled by due date (50 of 975 since 2010, less than half of which required debt recovery, mostly in 2012).

(b) Only two New Zealand residents have received long term credit facilities and only a small number of others have been granted to patrons who reside in both China and New Zealand.

(c) The total credit facilities have risen in value over time.

(d) The proportion extended to groups has also increased over time.

Analysis

53. Analysis of the different submissions received raises a series of issues for consideration in reaching a decision on the appropriate terms of a section 15(4) approval, namely:

(a) whether approval should be limited to overseas patrons;

(b) whether approval should be limited to specific forms of extending and recording credit;

(c) what monitoring and reporting should be required and by what means;

(d) what harm prevention strategies should be imposed by means of the terms of the approval.

Each is addressed in turn in the section below.

Purpose of section 15 and scope of approval

54. There is broad agreement that the section 15 prohibition has a harm minimisation purpose and that, in considering approval of circumstances for provision of credit, the Commission should adopt a harm minimisation perspective.

55. In arguing that section 15(4) had an additional purpose, namely the competitiveness of New Zealand casinos in attracting premium international customers, SCML and PGF pointed to the insertion of what became section 15(4) following submissions that a

complete prohibition would have an adverse effect on that business, in which credit played an established role.

56. The Commission considers that, notwithstanding that course of events, the primary purpose of section 15 is harm minimisation. In that regard, it notes the statutory purposes of the 2003 Act (which, unlike the 1990 Act, include harm minimisation[2] but not promotion of tourism, employment and economic development[3]) and the absence of any reference to international business or the residence of credit recipients in the language of section 15. However, in exercising its powers under section 15, the Commission sees no reason why it should not have regard to the value and requirements of the international customer component of the New Zealand casino business. The two considerations are not necessarily mutually exclusive and no party suggested the latter should be prioritised over harm minimisation.

57. Consideration of the secondary purpose of allowing New Zealand casinos to compete for international premium players, while maintaining a focus on minimising the risk of harm, supports limitation of the approved circumstances to credit provided to foreign customers only (as both SCML and PGF proposed).

58. Only the DIA raised any opposition to such a restriction (and then only in its 15 October 2015 submission and not since). While other parties did not address an overseas customer restriction on credit directly, it is apparent that their principal concern and focus was with local customers. CCL has a primarily local clientele and makes little use of credit – its interest was in the potential for future overseas junket business. MOH's reference to harm occurring from losses as low as $500 indicated that its focus was not on international premium customers.

59. The information before the Commission indicates that local and overseas patrons present different risks of harm. The experience since 2010 is that most credit has been provided to overseas patrons but without apparent detection of harm in that group. Allowing credit to overseas patrons only would thus address both the primary and secondary considerations, without putting them in conflict. The Commission also considers that casinos should be authorised to extend credit to junket operators if all group participants are overseas patrons.

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[2] Section 3 (b), Gambling Act 2003

[3] Casino Control Act 1990 commenced with the words "An Act ... (b) to promote the development of licensed casinos in a manner consistent with the promotion of tourism, employment, and economic development generally...." and the promotion of those matters appeared as the first of three express objects of the 1990 Act (s 5), none of which refer to harm.

60. The terms of the approval will accordingly be limited to credit provided to short-term overseas visitors, defined as those who enter New Zealand on a foreign passport for no more than 28 days, or to organisers of commission programmes, consisting entirely of short-term overseas visitors as defined, for use by members of that group only. The terms of the approval will require casinos to keep auditable records showing compliance with those limitations.

Means of providing credit

61. Most parties supported the view that the focus should be on harm minimisation (and attracting overseas customers) and that the means of providing credit is immaterial to harm. There was general acceptance that cheques are hardly ever used for payment of casino debts, that whether credit is extended by marker, by retained cheque or other means has no bearing on the likelihood of harm and that, as a result, approved credit arrangements should not be limited to, or even provide specifically for, retained cheques. Provided that sufficient attention were paid to the risk of harm, most parties were happy with credit being provided and recorded by marker or other means, dispensing with the need for the use of cheques.

62. The exception was PGF. Its starting position was opposition to approval of any credit circumstances whatsoever. Its alternative position was that approvals should be limited to overseas customers only, coupled with a view that cheque retention should be retained as the sole approved form of providing credit. Its objections to any new method of credit provision were that it would produce new and unfamiliar risks, especially of money-laundering, and be subject to fewer controls.

63. As to the first objection, the DIA (one of the agencies charged with responsibility for anti-money-laundering) withdrew its originally expressed money-laundering concerns. As to the second objection, it failed to recognise that the Commission's proposal would have made credit markers subject to the same controls as retained cheques.

64. In the light of the submissions and additional information received, the Commission now considers that appropriate approved circumstances do not need to provide for specific means of recording or repaying credit.

Monitoring harm

65. Harm monitoring is one of the major areas of contention between SCML and the other parties. The issue, in turn, breaks down into three somewhat overlapping areas:

(a) The extent to which intermediaries obscure detection of harmful behaviour and their consequences, both generally and with regard to provision of credit.

(b) Whether the harm detection principles, standards and methodology set out in the casino HRPs is appropriate for foreign visitors, especially on junkets; and

(c) Whether monitoring of credit customers should be conducted using GOI files and, if so, in what circumstances.

66. Credit provision to intermediaries for the use of others was expressly excluded from Commission's proposed approved circumstances. The rationale for that exclusion was the potential for the behaviour and circumstances of individual customers to be obscured by group credit being provided and gambling activities being tracked by means of a single intermediary account.

67. DIA did not oppose approval extending to the operators of overseas junkets (but did oppose extension to intermediaries in other cases). The Commission agrees with DIA that the provision of credit to overseas junket operators is likely, on its own, to have neither an independent harm effect (i.e. player harm is unlikely to be affected by whether the junket operator receives credit or not) nor an increase in the risk of money-laundering.

68. While that alone would dispense with harm concerns which might arise solely from the provision of credit, in the light of the further information received since its proposal, the Commission is also now far less concerned that intermediaries are likely to obscure individual activity (and thus frustrate harm monitoring), at least in the context of overseas junkets. Such a concern would have less to do with extension of credit but would be more about junkets and commission play more generally.

69. That view brings the Commission's focus to the second area, namely the very different circumstances pertaining to foreign junket players and to local customers. Junket play is characterised by short, gambling-focused trips in which participants gamble intensively (both in time spent and amounts wagered), usually in private facilities, for a period of only a few days. The differences between that activity and gambling by local patrons indicate to the Commission that monitoring of junket participants (and other overseas premium players) should be undertaken differently from that of local players. The short-term but intensive nature of junket play would also make it less easy to detect the sort of observed behavioural changes over time (on which casino HRPs rely to detect behavioural signs of harm) in junket participants who visit a casino, possibly only once, for a couple of days, for the purpose of intensive gambling.

70. The last area relates to whether harm monitoring, if required, should involve the use of GOI files. Both SCML and CCL oppose the use of GOI files, on the basis of a view that such files should be reserved for customers under consideration for exclusion.

71. The Commission considers that to be an inappropriately restricted view of the role of GOI files. GOI files are intended to be the repositories of information about persons who justify special attention used by Host Responsibility so that all relevant information is accessible in one place by those charged with harm monitoring. They were also intended to create auditable records of what was considered in problem gambling assessments by casinos. Those purposes would be frustrated by undocumented monitoring outside of the formal harm monitoring system. The Commission sees no good reason to create a new and separate category of monitoring records solely for credit recipients.

72. However, new information concerning the number of overseas credit recipients, the apparent lack of harm suffered by them and the unsuitability of the kind of monitoring aimed at regular local customers to the short and intensive visits by foreign premium players, causes the Commission to doubt whether it should continue the current requirement to open a GOI file for every credit recipient. The Commission can see that there is a danger that doing so would create so much system "noise" as to harm the intended purpose of GOI files. For that reason, in the light of its decision to authorise credit only to overseas visitors, the Commission has decided not to re-impose the current requirement for GOI files to be opened for every credit recipient.

73. That does not mean however that it is content to allow the present situation, in which no GOI files are ever opened for credit patrons and the Commission receives no periodic reporting about credit and issues arising from its provision, to continue. It is apparent that the current terms of approval, in practice but not intent, left the Commission with less information than desirable about actual casino credit practice.

74. Credit given to overseas visitors is expected to be temporary and short term in nature. The Commission will address in the next section whether it should impose restrictions in its section 15 approval which, among other things, limit the period of credit. Even if it decides not to do so, it does not follow that the present situation is acceptable.

75. The Commission has concluded that GOI files on credit patrons should be required in certain specified circumstances (broadly, covering provision of additional credit beyond initial arrangements and all instances of credit remaining outstanding after 30 days) and that casinos also should report periodically to the Commission on specified aspects of the credit activity which the Commission's approval permits. The information from these sources is intended to allow the Commission to continue to monitor the ongoing effects of its section 15(4) approvals.

Harm prevention strategies

76. The final area of contention relates to whether to impose, as terms of the approval, proposed restrictions on the operation of credit provision aimed at minimising harm. In general, all parties other than SCML supported such restrictions. The proposed harm minimisation restrictions were as follows:

(a) Prior inquiries about and assessment of credit customers should be required, should not be limited merely to the credit risk to the casino, but should include financial position, gambling experience and history of harm or harmful behaviours.

(b) Credit should be limited to a single fixed sum, which cannot be increased, for a limited period (so a maximum credit period should be specified).

(c) Customers in default (i.e. those who have failed to clear the credit debt, within the maximum time allowed) should not be allowed to gamble with the operator to whom the debt is owed.

77. SCML opposed those restrictions, arguing that it should be free to manage its credit arrangements as it thinks fit and with the flexibility required for maximum prospects of recovery. However, in the Commission's view, if that had been the legislative intent, section 15 would not have been enacted. The Commission considers that the primary aim of the terms of its credit approval should be the minimisation of reasonably avoidable harm, not protection of casino operators' business interests.

78. The other parties argued that the suggested restrictions were a reasonable means of minimising the known risks of harm when gamblers "chase their losses" (continue to gamble in an attempt to recover their position). They suggested that, once customers have lost the amount for which they sought credit, restrictions should prevent them from chasing their losses by extending the amount of credit beyond what they intended before the losses were incurred. They also expressed concern that unpaid debts may cause casinos to prioritise debt recovery over harm minimisation; harm intervention may reduce the chances of debt recovery and debtors returning to gamble may be the best means of increasing the chances of recovering an outstanding debt.

79. The Commission considers that commercial self-interest already incentivises casinos to make enquiries about patrons before deciding to extend credit. If, as the Commission has decided, approved credit should be limited to overseas visitors, the inquiries which casinos make in order to decide whether to extend credit are likely to provide as much information as it is realistic to expect to be available. For short-term overseas patrons,

the Commission doubts that there is much practical value in increasing the required scope of inquiries.

80. The other two suggested restrictions are aimed more directly at prevention of chasing losses. While the Commission appreciates the reason for the concern, it also notes the lack of evidence that harm, especially harm of that nature, has occurred in the limited group to which this new approval will apply and the significant behavioural differences between that group and the casino's regular local clientele.

81. On balance, the Commission has decided that it should impose neither a prohibition on extension of credit, nor a maximum period of credit nor a prohibition on allowing debtor patrons to gamble. It is prepared to allow casinos some flexibility of operation in dealing with their overseas patrons rather than imposing a strict and invariable set of restrictions through the terms of the approval.

82. On the other hand, the Commission had never intended to issue an approval which allowed casinos to make operational decisions regarding their dealings with debtor patrons without some regulatory visibility. While it has decided not to maintain, in the terms of this new approval, a requirement to open a GOI file for every single credit patron, as the 2010 approval did, it will impose a more restricted GOI obligation in the terms of this approval, with the aim of ensuring that every credit patron whose conduct falls outside the proposed restrictions has a GOI file. Under the new approval, a GOI file must be opened and maintained, until payment is received in full, for every patron who:

(a) has not repaid the full amount of any credit extended by the originally agreed date or within 30 days (whichever is the shorter); or

(b) has had the initially agreed credit extended at any time, either in amount or time to repay.

83. It is the Commission's intention that, while casinos will be permitted to make operational decisions outside the suggested restrictions, they will be required to maintain a GOI file in every such case. Those decisions will be subject to regulatory oversight, audit and associated reporting. In the Commission's view, once patrons have had credit extended or have not paid when due or within 30 days, they warrant the special scrutiny required under GOI protocols, regardless of whether that conduct is classed as a Strong Indicator or a General Indicator in the Problem Gambler Identification Policy in the casino's HRP. The requirement to do so is strict, irrespective of casino operators' views about whether such recorded scrutiny of the patron's activities is justified either generally or in a particular case. A failure to do so will mean that credit has been extended outside the circumstances approved under section 15(4).

New reporting requirements

84. In addition to opening GOI files (and undertaking the associated GOI reporting required by each HRP), the terms of the approval will require casino operators to report periodically on their credit activities. The reported activities must cover all extensions of credit by a casino operator, or any associated entity, for the use of patrons in New Zealand casinos.

85. The terms of the approval will also require casinos to deliver quarterly, to the Commission and to the Secretary, a table format report in which every such credit arrangement has a separate line, like the reports which SCML provided to the Commission in the course of its consideration of this matter. The layout will be as follows:

(a) The first column must contain a unique customer ID. It may use the patron's name (if sufficiently unique) or some other unique identifier from which the patron's personal details can be provided if required.

(b) The second column must indicate the casino site.

(c) The third column must record the amount of credit extended under a single arrangement.

(d) The fourth column must record the date that the credit was extended.

(e) The fifth column must record that date on which the credit was repaid in full.

(f) The sixth column must indicate whether the credit was extended to an individual or to an intermediary for group use.

(g) The seventh column must indicate whether a GIO file was opened.

86. The quarterly reports are intended to allow the Commission to maintain an overview of the activity which its approval has permitted and to provide a means of checking future compliance with the GOI requirement.

87. The terms of this new approval are as far as the Commission is presently prepared to go to provide nationally applicable terms of credit approval. Although there were suggestions earlier that it should also provide for nationally applicable terms of credit for local patrons as well, the Commission does not consider that to be prudent or consistent with what it sees as the aims of section 15. Much of the thinking behind the terms of this approval is applicable only to foreign, short term visitors. This approval, however, does not exhaust the Commission's powers under section 15(4) and it does not preclude the

possibility of future applications being made for other approvals, including those limited to identified individuals.

Decision

88. Pursuant to section 15(4) of the Gambling Act 2003, and with effect from **1 May 2017**, the Gambling Commission revokes the approval of circumstances set out in decision GC04/10 and issues in its place an Approval (**attached** as Appendix), setting out the circumstances in which credit may be offered or provided by the holder of a casino operator's licence to a person with the intention that it be used for gambling.

Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

6th April 2017

GAMBLING COMMISSION

APPENDIX
APPROVAL OF THE COMMISSION UNDER SECTION 15(4) OF THE GAMBLING ACT 2003
MARCH 2017

PURPOSE

This approval covers a limited range of circumstances for the provision of credit by casino operators for use in gambling. The intent of the approval is to allow the extension of credit to high-value, short-term overseas visitors while maintaining sufficient controls and oversight to address the concerns about potential harm from gambling on credit which underpins the conditional statutory prohibition on the provision of credit for casino gambling.

APPROVAL

Pursuant to section 15(4) of the Gambling Act 2003, the Gambling Commission approves the offer and provision by the holder of a casino operator's licence of credit intended to be used for gambling in the following circumstances only:

1. A casino operator may offer or provide credit by any means to:

   (a) any short-term overseas visitor to New Zealand; or

   (b) any person approved by the Department of Internal Affairs to enter into an agreement with that casino operator to conduct a group commission programme ("**Organiser**") where that Organiser represents an identified group of people, every one of whom is a short-term overseas visitor to New Zealand, to enable that person or group to participate in a programme where one or more such people participate in commission play under an agreement between that Organiser and casino operator ("**Overseas Group Commission Programme**").

2. A short-term overseas visitor to New Zealand is defined as someone who has in-bound and out-bound travel arrangements showing a total expected duration of stay in New Zealand of no more than 28 days, and is travelling on a foreign passport.

3. To ensure that credit is provided appropriately, before providing credit the casino operator must sight, take and retain a copy of the foreign passport, and incoming and outgoing travel arrangements:

   (a) for the applicant for the credit, if it is an individual; or

   (b) where the applicant for credit is an Organiser, for each of the people participating in the relevant Overseas Group Commission Programme.

4. Except for credit provided to an Organiser, a credit facility may only be provided to an individual for his or her personal gambling use and no credit facility may be "on-lent" or otherwise made available to facilitate gambling by any other individual. Credit provided to an Organiser may only be made available to the short-term overseas visitors who form part of the identified Overseas Group Commission Programme organised by that Organiser

5. The casino operator must monitor, by opening and maintaining a Gambler of Interest file, the activities of every patron to whom it has extended credit in any of the following circumstances:

   (a) where the patron has not repaid the amount of any credit arrangement within the time originally agreed for repayment;

(b) where the patron remains indebted to the casino operator or to any associated entity in any amount for a period of 30 days or more; or

(c) where the patron's initial credit arrangement is extended at any time, either in amount or by time to repay.

For the avoidance of doubt, the obligation to monitor by use of a Gambler of Interest file in the above circumstances is additional to monitoring otherwise required by the casino operator's own host responsibility programme.

6. With regard to all monitoring required by clause 5:

(a) the monitoring by gambler of interest file must continue until the indebtedness to the casino operator or any associated entity is discharged in full;

(b) the casino operator must comply with all requirements relating to gamblers of interest in its approved host responsibility programme including monitoring, recording of relevant activities and information, ongoing assessment (by the casino operator's host responsibility team), recording of assessments and interventions and reporting to the Commission; and

(c) for the avoidance of doubt, the obligation to open a Gambler of Interest file applies to all such patrons, without any other reason to suspect them of problem gambling and regardless of credit control assessment; and operational monitoring by the casino operator's staff and management is additional to, and is not a substitute for, formal harm monitoring and assessment by the casino operator's host responsibility team.

7. In order to allow the Commission to keep the ongoing suitability of the terms of this policy under consideration, the casino operator must deliver quarterly to the Department of Internal Affairs and to the Gambling Commission, a table format report in which every individual credit arrangement subject to approval under section 15(4) is shown on a separate line with the following information recorded in separate columns:

(a) Column 1: a unique customer ID. This may be the patron's name (if sufficiently unique) or may be some other unique identifier from which the patron's personal details can be provided if required.

(b) Column 2: the casino site.

(c) Column 3: the amount of credit extended under a single credit arrangement.

(d) Column 4: the date on which the credit was extended.

(e) Column 5: the date on which the credit was repaid in full.

(f) Column 6: an indication whether the credit was extended to an individual or to an intermediary for group use.

(g) Column 7: an indication whether a GIO file was opened.