

IN THE MATTER of the Gambling Act 2003
AND on an application by **DUNEDIN CASINOS MANAGEMENT LIMITED** for approval of a new Credit Policy

BEFORE THE GAMBLING COMMISSION

Members: P Chin (Chief Gambling Commissioner)
M M Lythe
P J Stanley
G L Reeves

Date of Decisions: 19 July 2009, 16 October 2009, 4 December 2009 and
19 February 2010

Date of Notification of Decision: || March 2010

**DECISION
ON AN APPLICATION BY DUNEDIN CASINOS MANAGEMENT LIMITED
FOR APPROVAL OF A NEW CREDIT POLICY**

Introduction

1. Dunedin Casinos Management Limited ("**DCML**") applied for approval of a new credit policy, under section 15(4) of the Gambling Act 2003 (the "**Act**").
2. The Commission sought submissions on the proposal from the Secretary for Internal Affairs (the "**Secretary**"), Ministry of Health ("**MoH**"), Problem Gambling Foundation ("**PGF**"), Gambling Helpline ("**GH**"), Salvation Army ("**SA**"), SKYCITY Casino Management Limited ("**SCML**"), Christchurch Casinos Limited ("**CCL**") and Otago Casinos Limited ("**OCL**").
3. Following the release of a decision in draft for comment, the receipt of submissions on the draft, a new proposal by the Commission, the receipt of submissions on the new proposal, and the receipt of submissions on the term "patron's departure", the Commission now issues its decision on the approval of circumstances in which casino operators may offer or provide credit to customers.

Relevant Law

4. Section 15 of the Act 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 summary 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

5. The predecessor provision, section 66 of the Casino Control Act 1990, provided as follows:

66. Casino operator shall not accept credit wagers

No holder of a casino operator's licence, or an agent or employee of a holder of a casino licence, shall, in connection with gaming, –

- (a) Accept a credit wager from any person; or
- (b) Make a loan to any person; or
- (c) Advance anything of value to any person; or
- (d) Provide cash or chips to any person in consideration for a cheque or in respect of a credit card transaction; or
- (e) Extend credit in any form to any person; or
- (f) Release or discharge in whole or in part a debt owing by any person, –

other than in accordance with regulations made under this Act, or in the absence of any such regulations, with the approval of the Authority.

Initial submissions by DCML

6. DCML submitted, in summary, as follows:

- It is reviewing its internal documents and submitted a revised Credit Policy for Commission approval as part of this process.
- The existing Policy has been in place since the casino first commenced its operations in 1999. It is unnecessarily long and much of its content adds little.
- The new Policy is concise and easy to read, without detracting from the document as a whole.
- DCML does not offer a line of credit, but it offers facilities that enable people to access established lines of credit.

Initial submissions by PGF

7. PGF submitted, in summary, as follows:

- The following sentences, which were removed from the introduction of DCML's existing Policy, should be reinserted:

- This Policy is to be followed at all times in the determination of internal control systems and operating procedures. If at any time this Policy in the internal control and operating procedures are in conflict then this Policy shall prevail.
 - All legislation and regulations designed to control the operation of casinos in New Zealand must be adhered to in applying this Policy document.
- Paragraph "(c)" of the "Patron Identification" section should require one form of photographic identification.
 - Credit cards should only be used for payment of goods, and not for gambling.
 - The current limit of \$200 per day per credit card should be retained.
 - There should be a minimum value with EFTPOS purchases to ensure that EFTPOS is not used to withdraw cash for gambling purposes.
 - The current limit of \$200 per day for the purchase of chip gift vouchers should be retained.

Initial submissions by SCML and CCL

8. CCL and SCML raised no concerns with, nor objections to, DCML's proposal.

Initial submissions by the Secretary

9. The Secretary submitted, in summary, as follows:

- The Credit Policy should focus on DCML's acceptance of cheques.
- Acceptance of cheques in a New Zealand context can be seen as credit because their use enables patrons to gamble without using their own money in the first instance. That is, the cheque is held for a specific period as security for any eventual losses, during which time the patron is able to gamble without having actually spent any money.
- Casinos in other countries offer credit in forms such as "markers", which are similar to cheques. Players who have been approved for casino credit write a marker to the casino and are issued with cash or chips for gambling. The player is expected to settle the amount of the marker when finished gambling, otherwise the casino will deposit the marker as it would a cheque.

DCML's proposal relating to the use of cheques appears standard, but the Policy could reference DCML's harm prevention and minimisation responsibilities and

include a reference to DCML's Host Responsibility Programme and Problem Gambler Identification Policy.

- DCML could include a record-keeping requirement to refer to section 177 of the Act.
- The Policy should focus on any credit provided directly by DCML, and remove unnecessary information, such as DCML's debt collection policies. By providing credit card, ATM and EFTPOS facilities, DCML is acting as a conduit between patrons and external credit providers with whom the patrons may have agreements, rather than providing credit.

Submissions in reply from DCML

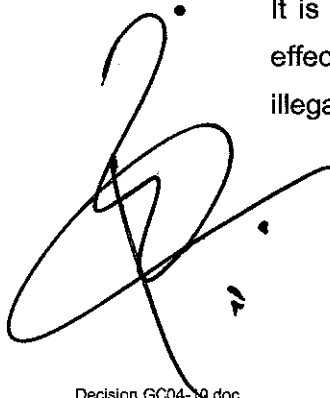
10. DCML submitted, in reply that:

- It accepts a number of the submissions, and amended its Policy to include:
 - PGF's recommendation about what prevails when the casino's operating procedures are in conflict with the Policy.
 - The Secretary's recommendation to refer to its Host Responsibility Programme and Problem Gambler Identification Policy.
 - The Secretary's recommendation regarding appropriate recording under section 177 of the Act.
- It has not amended the Policy to remove reference to EFTPOS, ATM, credit cards and debt recovery, as these provisions provide guidance on important matters in the Policy.
- It is not necessary to include any of the other suggestions.

Submissions by SCML on Commission's proposal to revoke existing Credit Policies

11. SCML submitted, in summary, as follows:

- It is strongly opposed to the proposal to revoke the existing credit policies, the effect of which would be render its current approved cheque retention practices illegal.

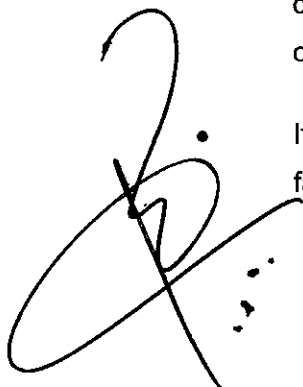


- Under its current policy, approved by the Casino Control Authority (“CCA”), it can hold cheques for a maximum period of time past the patron’s departure as follows:
 - two working days for cheques drawn on any New Zealand bank; and
 - 30 working days for cheques drawn on overseas or foreign banks.
- Should the Commission revoke the CCA approval, it would be unable to continue with its present cheque holding arrangements unless the Commission was to grant a new approval, under section 15(4) of the Act.
- The cheque retention arrangements, particularly those involving cheques drawn on overseas banks, are a critical service component of its business, the revocation of which would place it at a competitive disadvantage in the international arena and impact negatively on its ability to attract premium players from overseas.
- Each Australian State permits credit arrangements, and the retention of cheques for an agreed period following a patron’s departure is common industry practice.
- Parliament’s intention in relation to credit gambling was to preserve the arrangements approved by the CCA, and to create a mechanism which would allow the Commission to consider the introduction of new credit arrangements, in the event that existing approvals were too restrictive.
- There is no express provision in section 15 for the Commission to revoke the approvals granted by the CCA, or any suggestion that these approvals were only to continue as a sunset arrangement pending a determination by the Commission under section 15(4).

Submissions by CCL on Commission’s proposal to revoke existing Credit Policies

12. CCL submitted, in summary, as follows:

- It is opposed to the Commission’s proposal.
- Lawmakers saw value in maintaining an ability for casinos to offer or provide credit. This intent is demonstrated in Select Committee papers and in the drafting of section 15(4).
- It has no difficulty with a national approval provided the effect is no less favourable than the existing credit policies approved by the CCA.



- The current approved credit policies are consistent with international practices and the expectations of its players.
- The existing approval creates greater transparency from an anti money-laundering perspective.
- The ability to hold a patron's cheque is regarded as necessary customer service and the discretion to do so should remain a business decision with appropriate parameters.
- There has been no abuse of the existing provisions – they have been effective in regulating this aspect of casino operations for many years.

Submissions by DCML on Commission's proposal to revoke existing Credit Policies

13. DCML submitted, in summary, as follows:

- While it does not have the volume of cheque related activity that the larger casinos may experience, it has been accepting cheques for other types of transactions (eg purchasing foreign currency from patrons).
- The acceptance of cheques needs to be addressed somewhere so that casino operators can conduct their business with confidence.

Submissions by OCL on Commission's new proposal

14. OCL submitted that it does not oppose the proposal, and that it may be beneficial to its future operations.

Submissions by PGF on Commission's new proposal

15. PGF submitted, in summary, as follows:

- Most, if not all, of DCML's originally proposed Credit Policy should remain, as it is necessary to protect legitimate interests of gamblers, to protect the reputation of New Zealand casinos, and to achieve the second purpose of the Act; namely to prevent and minimise harm caused by gambling.

The minimalist approach now proposed by the Commission is contrary to the spirit and intent of the Act.

Submissions by CCL on Commission's new proposal

16. CCL submitted, in summary, as follows:

- It does not support the new proposal because its previously stated concerns would still not be adequately addressed.
- Its use of cheque cashing facilities is increasing, particularly for overseas customers. It is therefore important that it is able to retain the existing flexibility and would favour the SCML approval as the national standard.
- The period that cheques may be retained must commence from the end of the customer visit. If not, the visit may be over before the cheque is required to be banked and this would render the retention approval nonsensical.
- Casinos have a vested interest to obtain outstanding money owed as soon as possible.

Submissions by SCML on Commission's new proposal

17. SCML submitted, in summary, as follows:

- The effect of the proposal would be to remove its existing rights and replace them with a more restrictive approval.
- The Commission has not advanced any reasons for the change.
- From a risk management perspective, it is in its own interest to see that any outstanding debts from the credit facility are settled as soon as possible.
- Settlement times vary depending on the personal circumstances of the visitor. Many international visitors frequent casinos around the world and visit New Zealand casinos as part of their wider casino tour. These extended visits, and the time away from their own country of residence, can sometimes have a bearing on when they settle their accounts.
- The extension of credit to casino customers is a reality of the global casino landscape, and any increase to the restrictions applicable to this area has the potential to undermine its efforts to compete in the international arena.
- There are very few cheque cashing facilities applicable to local residents – only two active, but well utilised, facilities in Auckland.

- There is no express power under the Act for the Commission to revoke or vary an approval given by the CCA under section 66 of the 1990 Act. This absence can be contrasted with other sections of the Act in which an express power is provided. The existence of these express powers negates any implied power for the Commission to revoke or vary a CCA approval.
- Even if the Commission has an implied power, any power of revocation or variation may only be exercised in accordance with strict public law constraints. It cannot be exercised arbitrarily or simply because the Commission disagrees with the CCA's decision. There must be a demonstrated material change in circumstances that must be relevant to the scheme and purpose of the Act so that any public interest in revoking the approval clearly outweighs its legitimate commercial interests in preserving the current approval.
- It is the existence of the approval that is important, rather than the frequency of its utilisation. The cheque retention arrangements are a critical service component of its business and any restriction on those arrangements has the potential to not only reduce its ability to attract premium overseas players, but may also result in loss of significant local business. Premium players expect such arrangements to be in place and it needs them to remain internationally competitive.

Submissions by the Secretary on Commission's new proposal

18. The Commission asked him to comment on whether the retention of cheques assists in the prevention of money laundering as submitted by one casino operator. While he understands the rationale behind the submission, it is not relevant from a practical perspective.

Submissions by DCML on Commission's new proposal

19. DCML submitted, in summary, as follows:

- Section 15 of the Act does not provide the Commission with any authority to revoke and/or vary approvals granted by the CCA.
- Casinos have an inherent desire to see all debt settled as soon as possible and many debts of this nature are settled well before the patron's cheque has been banked.

The concern amongst the casino industry is the retention timeframe proposed by the Commission, and restriction to accept cheques from foreign banks only. It

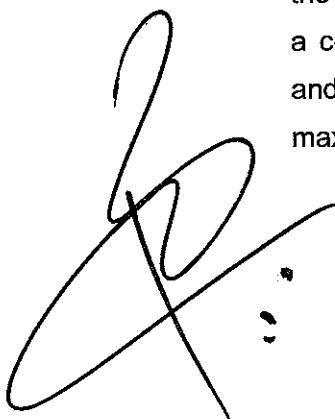
would seem logical that the approval already granted to SCML become the national standard.

- It does not support any proposal that dilutes existing approvals, and believes that any proposal must accommodate what is already being practised by the larger casinos.

Submissions by SCML on “Departure Date”

20. SCML submitted, in summary, as follows:

- “Departure Date” is a term more commonly applied to international visitors and is the date on which the customer settles their account with the casino.
- Customers may settle their programme at any time and any commission and associated benefit is then calculated and factored into the patron’s overall win/loss position. It is this settlement process which determines how much, if anything, the patron owes the casino and is recognised as the patron’s departure date for the purposes of determining how long the outstanding cheque may be held.
- Regardless of whether an international visitor is participating on a commission programme, it may still undergo a settlement process following the conclusion of their visit to determine how much, if anything, is owed to the casino. The casino maintains close contact with such customers throughout the course of the visit, and more often than not, is involved in arranging their accommodation and airport transfers.
- The position with respect to local players is slightly different in that cheque retention is subject to prior arrangement with the casino and the standard approach is for cheques to be banked the day after their presentation, irrespective of the number of consecutive days that the patron attends gaming at the casino.
- The application of a Departure Date for locals is difficult to manage because of the challenges in assessing consecutive days of attendance in a large casino. As a consequence, it has adopted a conservative practice of treating presentation and departure dates as being one in the same for the purpose of determining the maximum time that the cheques may be held.



Submissions by CCL on "Departure Date"

21. CCL submitted, in summary, as follows:

- Cheques from local players are usually banked the very next business day.
- Cheques from overseas players are kept for the period of the stay. It is usually aware of their plans and has usually arranged and/or booked flights and accommodation, or agreed to pay for them.
- The definition of "Patron's Departure Date" has to be fluid as it needs to reflect that it is customer driven. Casinos have a very strong vested interest in getting the cheques banked and cleared as soon as possible to ensure that all revenue is received without delay. Balanced against this is recognition that a cheque cashing facility is a service it offers as it is seen as valuable by its clients. It therefore offers the following definition:

"Patron's Departure Date" means the day that the customer signals they are leaving with no clear plan to return in the immediate future. Final settlement for their visit is then arranged.

Submissions by DCML on "Departure Date"

22. DCML submitted, in summary, as follows:

- Cheques from local patrons are banked promptly, usually within a couple of business days. Given the frequency of visitation by local players, presentation and departure dates are largely treated as one in the same.
- Cheques accepted from overseas or out of town patrons will usually be kept for the duration of their stay. Visits from such patrons are usually arranged and pre-booked so it is quite aware of their specific travel plans.
- DCML offers the following definition:

"Patron's Departure Date" means the date a patron indicates they are departing on with no intention to return in the near future.

Analysis

DCML's initial proposal

23. DCML applied for approval of a new Credit Policy, pursuant to section 15(4) of the Act on the basis that, by approving the policy, the Commission will have approved "circumstances in which an offer or provision of credit may be made by [DCML] to

[customers].” That is the only statutory basis for the Commission to consider the policy. It does not otherwise have a function of approving credit policies.

24. DCML previously obtained the approval of the CCA, pursuant to section 66 of the 1990 Act, for its current Credit Policy. The CCA's prior approval continues to have effect pursuant to section 15(3) of the Act. It has been necessary, however, for the Commission to start its analysis by comparing and contrasting the requirements of the current and former legislation.
25. Section 66 and section 15 both prohibit specified types of transactions, and both provide exceptions, in the form of approvals, to the prohibitions. Section 66, however, prohibited a greater number and a wider range of transaction types than does section 15. Specifically, section 66(d) prohibited the provision of cash or chips to any person in consideration for a cheque, or in respect of a credit card transaction, whereas section 15 contains no express prohibition on the provision of cash or chips in consideration for a cheque or in respect of a credit card transaction.
26. In the Commission's view, the general prohibition on the provision of credit in section 15(1) does not extend to credit card or standard cheque transactions. Section 15(1) prohibits persons conducting gambling from offering or providing credit if the person knows, or ought to know, that the credit was intended to be used for gambling. If a casino provides chips for cash in exchange of a cheque or credit card transaction, the casino does not provide credit; rather it facilitates a transaction in which a customer obtains credit from another party (a bank) with whom the customer has a pre-approved credit facility. Such activity is not caught by the prohibition in section 15(1) and does not require the approval of the Commission.
27. The Secretary raised a further consideration, however, pointing out that the acceptance of cheques drawn on a bank account can be similar to the acceptance of “markers” by a casino because both enable patrons to gamble without using their own money. The Commission did not necessarily consider this analogy to be apt, with the critical difference being that a marker is simply a debt instrument recording the extension of credit by a casino, whereas a cheque is a negotiable payment order against a bank, not an extension of credit by the casino.
28. The Commission recognised however that acceptance of a cheque could sometimes amount to the provision of credit, but whether it did so would be a matter of fact and circumstance. For example, if a casino accepted a post-dated cheque, or accepted a cheque on the understanding that it would not be presented immediately, then acceptance would likely constitute prohibited activity under section 15 and, in those

particular circumstances, would resemble the acceptance of "markers". To be lawful such arrangements would need to be the subject of an approval under section 15(4).

29. In the Commission's view, it is noteworthy that:

- (a) section 66 contained both an express prohibition on providing cash or chips in consideration for a cheque or credit card transaction, and other more general prohibitions regarding extending credit in any form, indicating that exchanging chips for a cheque or a credit card transaction was not regarded as a loan or an extension of credit in any form; and
- (b) the specific provision in relation to cheques and credit card transactions was not carried over to section 15 of the Gambling Act, justifying a conclusion that the omission was deliberate and intended to have such an effect.

30. The policy proposed by DCML deals with ATM and EFTPOS facilities, and the simple acceptance of cheques. As none of these transactions are prohibited by section 15, none of them requires approval by the Commission.

31. The proposed policy also includes details of the casino's management of its bad debts. Again, this is not a matter requiring Commission approval.

32. Having reached its view on the scope and applicability of section 15, the Commission declined to approve DCML's proposed credit policy because, on the material submitted, nothing in the policy constituted a matter which it is required to approve pursuant to section 15(4).

33. However, the application has raised other issues regarding section 15(4) which the Commission considers it should deal with in the context of the application and in substitution for declining to approve DCML's credit policy. In considering the application, the Commission noted that the CCA had previously approved individual credit policies for each casino. The Commission suspects that the CCA did this simply because it received a credit policy from each casino as it opened and approved them individually after consideration. The Commission is of the view that there is nothing in section 15 (or in the former section 66) which indicates that approval under section 15(4) should be granted in the form of approval of individual casino credit policies; rather section 15 provides for the approval of circumstances in which casino operators may offer or provide credit. On the face of it, the Commission would expect these circumstances to apply nationally to all casinos (although section 15 would permit differences, if necessary).

34. The Commission can see no good reason for continuing to apply section 15 in accordance with the historical mode of approving individual credit policies. It prefers to approach the provision of credit, and approval of circumstances, on a national basis initially. It therefore decided that, rather than approving DCML's credit policy, it should consider approving circumstances under section 15(4) for the benefit of all casino operators in New Zealand. In the event that a case emerges to approve more specific circumstances (if any) for any reason, this can be done as a matter of amendment to the Commission's otherwise universal approval.
35. Accordingly, the Commission sought submissions from casino operators on its proposal to revoke all existing CCA approvals. The proposal also provided that, although section 15(4) of the Act provides that the 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, there were no circumstances which might require approval which it currently had reason to approve.
36. The responses from the casinos generally expressed the desire to retain the former cheque retention approvals, notwithstanding the subsequent statutory changes, their main concern being that cheque retention arrangements, particularly involving cheques drawn on foreign banks, are a critical service component of its business, and premium overseas players expect such arrangements at casinos. They also challenged the power of the Commission to change what the CCA had earlier approved.

Commission's new proposal

37. Following consideration of the above submissions, the Commission issued a draft approval outlining the circumstances in which casino operators may offer or provide credit to customers, and sought submissions from the parties listed in paragraph 2 above. The draft approval was as follows:

Approval

Pursuant to section 15(4) Gambling Act 2003, the Gambling Commission approves the retention of a patron's cheques for a maximum of 20 working days from the date of receipt of the cheque by the casino, in the following circumstances:

- (a) the patron has arranged with casino management for the cheque to be retained;
and
- (b) the cheque is drawn on a foreign bank.

The Commission's approval does not extend to any cheque dated after the date of acceptance.

The Commission's approval does not extend to company cheques, trust account cheques or partnership cheques



38. Casino operators were broadly opposed to the proposal, preferring that the cheque retention component of SCML's current Credit Policy be applied nationwide. The relevant part of SCML's policy provides as follows:

Cheque retention

Patrons cheques may, by prior arrangement with the casino management, be held for the period of the Patron's consecutive days of attendance to game at the casino, or longer if requested. Each request made by the Patron shall be individually considered. The maximum time cheques would be held past the Patron's departure (the period after the Patron's consecutive days of attendance to game at the casino) is:

- two working days following the Patron's departure for cheques drawn on any New Zealand bank;
- 30 working days following the Patron's departure for cheques drawn on overseas or foreign banks.

No additional cash or cage disbursement cheques shall nominally be issued to Patrons whose cheques are on hold with the main bank. Patrons shall be readily advised of this policy when requesting a cheque be held.

Patron's Departure Date

39. The Commission considered SCML's cheque retention approval at its December 2009 meeting. The Commission sought clarifying submissions from casino operators on the term "Patron's Departure" which is contained in SCML's Credit Policy, including details of how that date was calculated. The responses received were similar.

Commission decision

40. The first issue for the Commission concerned its power to reconsider and amend the circumstances for the extension of credit approved by CCA under the former Act. In substance, several casinos argued that, once given, such approvals had effect in perpetuity and could never be revoked or amended, the Commission's powers being limited to granting new or extended exceptions to the statutory provisions.
41. The issue is how section 15(3) should be interpreted. In the Commission's view, section 15(3) provides for a CCA approval given under the former Act to continue to have effect until amended or revoked by a subsequent decision of the Commission. The intent was that the passage of the 2003 Act should not leave casinos scrambling to obtain new approvals so that the former approvals would continue in effect. However the Commission does not consider that, properly interpreted, section 15(3) was intended to render CCA approvals immutable, leaving the Commission with powers only of further liberalisation of the availability of credit for gambling.

42. For a start, for the reasons given above, there are significant differences between what is prohibited by section 15 and the former section 66. Much of the content of the CCA

approvals no longer has any legal significance or purpose. In addition, many of the purposes of the 1990 and 2003 Acts are very different. It is quite conceivable that the terms of an approval granted under the 1990 Act would no longer be appropriate under the 2003 Act. A very obvious area of potential concern would be harm minimisation. If the Commission concluded that certain terms of an approval granted under the 1990 Act were responsible for avoidable harm, it would be strange to construe the 2003 Act in such a way as to prevent the Commission from acting to avoid the harm. Such a construction would ultimately have a constraining effect on the ability of the Commission to achieve the statutory purposes of harm minimisation and prevention of crime. The Commission is satisfied that sections 15(3) and (4) do not require the maintenance of former approvals which are now either unnecessary or inappropriate. In its view, CCA approvals remain current, subject to the Commission's powers under sections 15(3) and (4), and the exercise of those powers can be either supplementary to, or replacing of the CCA approvals.

43. The Commission next considered whether it would be appropriate for it to approve the provision by casinos in New Zealand of a facility by which they can retain a patron's cheque unbanked, that being the only form of potential credit in terms of section 15 for which approval was now sought, the remaining approvals no longer being required. The Commission decided that that approval of cheque retention facilities was desirable if the terms made adequate provision for harm minimisation. The Commission's first consideration was whether such a facility would be likely to cause harm to casinos' patrons. The Commission decided that it would not – the facility is already available at New Zealand's casinos and has been for many years. Further, the Commission was of the view that the type of patron likely to make use of the facility is one who is an experienced gambler and financially secure – this is likely to be particularly true for the overseas patrons who use it. The casinos submitted that the credit facility is only offered to a patron after a thorough investigation as to their financial means, and that it is not in their interests to offer the facility unless they are satisfied that the patron is creditworthy.
44. The Commission Secretariat was able to confirm that this type of facility is available in comparable jurisdictions, as SCML submitted, and that some overseas patrons would expect to be able to access it in New Zealand.

45. Having determined that it was desirable for New Zealand's casinos to be able to retain patrons' cheques, the Commission next considered the appropriate terms of the approval and in particular, whether, and what, timeframe should be imposed on operators for them to deposit the patron's cheque.

46. The Commission's proposed draft authority provided that operators could retain patrons' cheques drawn on foreign banks for a maximum of 20 working days from the date of receipt. Operators preferred SCML's current approval, which allows SCML to retain foreign cheques for 30 working days after a patron's departure, and domestic cheques for two working days past the patron's departure. The Commission sought further submissions on the concept of "departure" as a workable parameter in the light of concerns about the practical enforceability of such a requirement but ultimately it has not found it necessary to resolve this difficulty.
47. On further reflection, the Commission considered that it was not necessary to impose a timeframe within which operators must deposit a patron's cheque. In the Commission's view, the primary harm concern was whether such facilities should be offered at all. If they were, the Commission did not consider that the likelihood or severity of any harm would be affected by the period within which the cheque was held unbanked. In addition, as the operators submitted, it is in the casinos' own interests to deposit patrons' cheques as soon as possible because, like any other commercial enterprise, they do not want to retain cheques for any longer than absolutely necessary.
48. The Commission, therefore, saw no point in imposing a date by which cheques had to be banked. It did not regard the period as relevant to likelihood of harm and considered that, in practice, cheques would be banked earlier than it might provide. It therefore did not need to consider the number of days or what they should be counted from.
49. The Commission considered that, from the perspective of harm minimisation, there were more useful terms which it should attach to its approval than a requirement to bank cheques within a set period. The Commission's approval will not extend to the acceptance of post-dated cheques, or to cheques drawn on a company, partnership or trust account.
50. In addition, the Commission agrees with the Secretary's submission that casinos should be required to adopt harm minimisation procedures in the context of accepting cheques which it will hold unbanked by arrangement with the customer. The appropriate place for such procedures is the casino's harm minimisation policy, usually called the Host Responsibility Programme. The Commission therefore expects that all casinos which have cheque retention facilities to propose suitable provisions in the next revision of their Programmes.
51. In the interim, and to ensure that casinos are required now to monitor the activities of customers using such facilities, it will be a condition of the approval that casinos monitor participating customers for potential harm effects. 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.

Decision of the Commission

52. For the abovementioned reasons, the Commission:

- (a) declined to approve DCML's proposed Credit Policy, under section 15(4) of the Act;
- (b) revoked, under section 15(4) of the Act, all prior approvals given by the CCA, with effect from 1 April 2010;
- (c) approved the **attached** approval, under section 15(4) of the Act with effect from 1 April 2010; and
- (d) requires operators to propose appropriate amendments to their Host Responsibility Programmes to be considered by the Commission.



Peter Chin
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

11 March 2010


**APPROVAL OF THE COMMISSION
UNDER SECTION 15(4) OF THE GAMBLING ACT 2003**

Pursuant to section 15(4) Gambling Act 2003, the Gambling Commission approves the retention of a patron's cheque by the holder of a casino operator's licence in circumstances where the patron has arranged with casino management for the cheque to be retained.

The Commission's approval does not extend to any cheque dated after the date of acceptance.

The Commission's approval does not extend to company cheques, trust account cheques or partnership cheques.

The casino is required to monitor the activities of any customer whose cheque it is holding unbanked by arrangement for indications of potential problem gambling harm.

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