

IN THE MATTER of the Gambling Act 2003

AND on an application by
CHRISTCHURCH CASINOS LIMITED for approval to deploy automatic shufflers on the Midi Baccarat tables at the Christchurch casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
P J Stanley
L M Hansen
R D Bell
A K Foote

Date of Application: 27 February 2013

Date of Decision: 12 April 2013

Date of Notification
of Decision:  May 2013

**DECISION ON AN APPLICATION BY CHRISTCHURCH CASINOS LIMITED
FOR APPROVAL TO DEPLOY AUTOMATIC SHUFFLERS ON THE MIDI BACCARAT
TABLES AT THE CHRISTCHURCH CASINO**

Introduction

1. Christchurch Casinos Limited ("CCL") applied to the Commission for approval, under condition 10 of CCL's operator's licence, to deploy automatic shufflers on the Midi Baccarat tables at the Christchurch casino.

Licence condition

2. The relevant licence condition is as follows:

CCL's operator's licence

- 10 The approval of the Commission is required prior to the introduction into the Gambling Area of any electronic version of the game types specified in condition 9 above or electronic aids or enhancements or changes to table game rules which create new wagering opportunities.

Submissions by CCL

3. CCL submitted, in summary, that:
 - (a) It seeks Commission approval to deploy automatic shufflers (MD3 card shuffling and checking machines) on its Midi Baccarat tables.



- (b) Currently the cards used on the Midi Baccarat tables are checked, verified and shuffled prior to being brought out to the table in sealed bags. The deployment of these shufflers on its Midi Baccarat tables will provide efficiencies as the abovementioned checking, verification and shuffling will be completed at the tables. The shufflers will have no effect on the speed of Midi Baccarat and, therefore, will not impact on gambling opportunities.
- (c) The Commission has previously considered the impact of shufflers and approved their use at the Auckland casino in decision GC11/07. In that decision, the Commission stated at paragraph 13 "that no increase would arise in respect of electronic aids and enhancements deployed as part of the game mix prior to 19 September 2003, or which the Applicant was entitled, under game rules, to deploy at that time." The Commission went on to state (at paragraph 14) that it saw no reason to reduce the gambling opportunities available at 19 September 2003, and accordingly approved their use.
- (d) The use of shufflers also adds to the integrity of Midi Baccarat by automating the manual checking, verification and shuffling.
- (e) Its benchmark game mix shows that it had three Midi Baccarat tables and one Mini Baccarat table as at 19 September 2003. However, as there is no impact on the speed of the play, it seeks approval to deploy automatic shufflers across all its Midi Baccarat tables.

The Secretary's submissions

4. The Secretary submitted, in summary, that:

- (a) The MD3 machine shuffles up to eight decks of cards in a batch while reading and verifying every card.
- (b) He has considered CCL's application and raises one issue for the Commission to consider. CCL referred to paragraph 13 of Commission decision GC11/07, which provides that:

13. ... no increase would arise in respect of electronic aids and enhancements deployed as part of the game mix prior to 19 September 2003, or which the Applicant was entitled, under game rules to deploy at that time.

- (c) Paragraph 13 in isolation may not provide the full context of decision GC11/07. The Commission also stated, at paragraph 12, that it:

12. ... did not accept the argument that because game rules provide for automatic shufflers, the Applicant was entitled to fully deploy them. This is because game mix is controlled at a level below game rules,



with the Commission having the ability to approve deployment of automatic shufflers up to, but not beyond, what game rules specify.

- (d) The deployment of automatic shufflers on the Midi Baccarat tables will not result in any significant increase in opportunities for casino gambling because CCL already utilises pre-shuffled cards in its games.
- (e) The Commission has discretion to approve the deployment of automatic shufflers up to, but not beyond, what is specified in the game rules.

CCL's submissions in reply

- 5. In reply, CCL submitted that the Secretary's submission further contextualises decision GC11/07 in relation to automatic shufflers. Anything that helps clarify matters for the Commission can only be positive, but it had already attempted to put into context the passage cited from GC11/07.

Analysis

- 6. CCL sought Commission approval to deploy automatic shufflers on its Midi Baccarat tables. It was not clear from the application whether CCL sought approval for shufflers on its operational game mixes only, or whether it also sought approval for shufflers on its benchmark game mix. Clarification was sought from CCL; CCL stated that it sought approval to deploy shufflers on the Midi Baccarat tables in all of its game mixes, including the benchmark game mix.
- 7. Both CCL and the Secretary referred to decision GC11/07, in which the Commission considered an application by SCML for approval to deploy automatic shufflers on the Baccarat tables (amongst other things) at the Auckland casino. It is worth setting out the relevant paragraphs from that decision, given the submissions by parties in relation to their effect. Paragraphs 10-15 are as follows:
 - 10. The Applicant sought approval for automatic shufflers on CSP and Baccarat on the basis that it had them on these tables in game mix A as at 19 September 2003, or was entitled to have them under game rules, and as such, the question of increase in opportunities does not arise.
 - 11. The Commission did not accept the argument that because game rules provide for automatic shufflers, the Applicant is entitled to fully deploy them. This is because game mix is controlled at a level below game rules, with the Commission having the ability to approve deployment of automatic shufflers up to, but not beyond, what game rules specify.
 - 12. In considering an application for approval of electronic aids and enhancements, the Commission is required to consider whether the Applicant's proposal will give rise to any increase in opportunities for casino gambling, prohibited with effect from 19 September 2003. In this instance, the Commission considered that no increase would arise in respect of electronic aids and enhancements deployed as part of the game mix prior to 19 September 2003, or which the Applicant was entitled, under game rules, to deploy at that time.

13. The Commission considered that it generally would not reduce the level of opportunity available at 19 September 2003 without a reason to do so, and no reason had been made here. Accordingly, the Commission approved automatic shufflers on the 10 CSP and 24 Baccarat tables existing as at 19 September 2003.
 14. It follows that the Applicant is permitted to operate automatic shufflers on 10 CSP and 24 Baccarat tables, specified in other approved game mixes.
 15. When considering any application to approve the deployment of electronic aids and enhancements after 19 September 2003, the Commission must ensure that the deployment does not give rise to an increase in opportunity which is not otherwise offset. ...
8. When it made this decision, the Commission accepted that SCML's benchmark game mix included automatic shufflers on its Baccarat tables if they were deployed prior to 19 September 2003 or were entitled to be deployed under game rules prior to that time. Since this decision, however, the Commission has refined its approach; reconsidering the relationship between what was done and what could have been done on 19 September 2003 in decisions such as GC39/12 (an application by SCML to introduce Keno to the Auckland casino) and GC02/13 (an application by SCML for approval of new game mixes for the Hamilton casino).
9. In decision GC39/12, the Commission summarised its current approach; it starts with what was actually deployed on 19 September 2003. It will next consider whether to include any opportunities which were not deployed at the time but which the casino would have been permitted to deploy on that date. In doing so, it is likely to include controlled opportunities (ie, where specific limits applied) which were not fully utilised within the limits imposed. It is unlikely to include unutilised opportunities which were not then the subject of specific controls and limits which controlled opportunity. In the case of any change which was not subject to specific and adequate control of opportunity on 19 September 2003, or which would result in the relaxation of any CCA control (such as express limits on the deployment of shufflers), the Commission must determine whether the change in deployment would increase opportunities for casino gambling.
10. At paragraphs 21-23 of decision GC39/12, the Commission stated as follows:
21. Although SCML's argument [that it was permitted to deploy Keno as at 19 September 2003] is a logical application of the theoretical opportunity principle in a technical sense, its application in the absence of prior specific limits on opportunity would lead to a result which would be absurd and which cannot be sustained in light of the clear statutory prohibition on increases in gambling opportunities.
 22. In the Commission's view, the approach taken in relation to CCL demonstrates the appropriate answer for such situations. Whereas theoretical, rather than actual, opportunities, are relevant in determining the benchmark for gambling activities that were controlled as at 19 September 2003, the determining factor for uncontrolled forms of gambling such as Keno (and for insufficiently detailed floor plans which did not adequately limit opportunity), must be whether the gambling actually occurred at that time, and to what degree. In the CCL case, it was possible to determine the number of Keno and Racing Game terminals which CCL offered and to approximate broadly the opportunities represented by them in terms of

equivalent table games for the purposes of setting the new regulatory benchmark.

23. In contrast to CCL, it is clear that SCML did not operate Keno at its Auckland casino on 19 September 2003 and that it had not done so for a number of years. If the Commission were to amend its benchmark to include Keno, on the basis of what was theoretically available (which was limitless opportunities for Keno gambling because it was not controlled), in the Commission's view, the result would be contrary to common sense and to the intent of section 11.
11. Applying these principles to the current application, CCL deployed three Midi Baccarat tables on the game mix in place on 19 September 2003. Game rules permitted operators to deploy shufflers on those tables at that time but CCL did not put forward any information to establish that shufflers were in fact used on them prior to or on 19 September 2003 (and the current practice of pre-shuffling suggests otherwise). In the absence of such information, the Commission was not prepared to approve the addition of automatic shufflers to the Midi Baccarat tables on CCL's benchmark game mix.
12. CCL's operational game mixes, B-W, have been approved by the Commission since 19 September 2003 with the most recent decision being GC32/12, in which the Commission approved game mixes Q-W.
13. The Commission considered whether game mixes B-W with automatic shufflers deployed on the Midi Baccarat tables would increase opportunities for casino gambling when compared with CCL's regulatory benchmark, game mix A. The Commission determined, in the round, that they would not and approved their deployment.
14. However, in its deliberations on this matter, the Commission identified an important issue for CCL, and indeed for all casino operators in New Zealand. CCL submitted that adding automatic shufflers to its Midi Baccarat tables would have no effect on speed as its current practice is to check, verify and shuffle all cards used on its Midi Baccarat tables before bringing the cards out to the tables in sealed bags. It appears that automatic shufflers are used in a back of house area to pre-shuffle all cards used in the Gambling Area so that a limitation on the use of automatic shufflers would have no material effect on game speed.
15. Condition 10 of CCL's operator's licence provides that Commission approval is "required prior to the introduction into the Gambling Area of any ... electronic aids or enhancements ...". The intended purpose of the condition is to allow the Commission to consider, in advance, whether the introduction of new systems and technology would increase the speed of the games, and therefore, the opportunities for casino gambling, and, if so, to make the necessary offsetting changes. However, as currently worded, condition 10 applies only to changes in activity within the casino's Gambling Area and does not apply to changes which take place outside of the Gambling Area to similar effect, even if those changes could increase casino gambling opportunities.



16. It appears to the Commission that the practice of using an electronic device like a shuffler in a back of house area for an activity like pre-shuffling so that no manual shuffling takes place in the Gambling Area, although not technically in breach of condition 10, would undermine the purpose of condition 10 and possibly constitute a breach of section 11. The Commission has not been asked to determine whether the introduction of pre-shuffling procedures in the back of house would constitute an increase in opportunities but, in light of the evidence that it has received in the past on the effect of the use of automatic shufflers, a practice which appears to have a similar effect compared to manual shuffling could not be assumed to have no effect on opportunity.
17. It is the Commission's function to ensure increases in opportunities for casino gambling are not permitted. The Commission intends therefore to propose, on its own initiative, a variation to condition 10 so that the introduction of changes (of the type specified in condition 10) within the casino venue (rather than being limited to the Gambling Area) which have the potential to affect game speed requires Commission approval. The Commission will propose this variation for all casino operators and consult with interested parties in the usual manner.

Decision of the Commission

18. The Commission approved, under condition 10 of CCL's operator's licence, CCL's application to deploy automatic shufflers on the Midi Baccarat tables of its operational game mixes (B-W), but not on its benchmark game mix (game mix A). A new game mix annex, Annex A, is **attached**.



Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

13th May 2013



ANNEX A

Pursuant to condition 9 the following game mixes may be operated by the Licence Holder on casino gaming tables subject to the following conditions and requirements:

- A. Roulette – 10 games
 Black Jack – 14 games
 Caribbean Stud Poker – 3 games
 Midi Baccarat – 3 games
 Mini Baccarat – 1 game
 Money Wheel – 1 game
 Poker – 2 games
 Tai Sai – 1 game
 Electronic Roulette – 1 game
- B. Roulette – 8 games
 7-Box Black Jack – 10 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 3 games
 3-Card Poker – 1 game
 Midi Baccarat – 6 games
 Money Wheel – 1 game
 Poker – 3 games
 Tai Sai – 1 game
 Electronic Roulette – 1 game
- C. Roulette – 8 games
 7-Box Black Jack – 9 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 3 games
 3-Card Poker – 1 game
 Midi Baccarat – 6 games
 Money Wheel – 1 game
 Poker – 4 games
 Bb v bv b Tai Sai – 1 game
 Electronic Roulette – 1 game
- D. Roulette – 8 games
 7-Box Black Jack – 9 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 2 games
 3-Card Poker – 1 game
 Midi Baccarat – 6 games
 Money Wheel – 1 game
 Poker – 6 games
 Electronic Roulette – 1 game
- E. Roulette – 8 games
 7-Box Black Jack – 8 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 3 games
 3-Card Poker – 1 game
 Midi Baccarat – 6 games
 Money Wheel – 1 game
 Poker – 6 games
 Electronic Roulette – 1 game
- F. Roulette – 8 games
 7-Box Black Jack – 10 games
 5-Box Black Jack – 2 games



- Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
- G. Roulette – 8 games
7-Box Black Jack – 10 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 5 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game
- H. Roulette – 8 games
7-Box Black Jack – 10 games
5-Box Black Jack – 3 games
Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 5 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
- I. Roulette – 9 games
7-Box Black Jack – 9 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game
- J. Roulette – 9 games
7-Box Black Jack – 9 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 3 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game



- K. Roulette – 9 games
7-Box Black Jack – 10 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 5 games
Money Wheel – 1 game
Poker – 3 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game
- L. Roulette – 9 games
7-Box Black Jack – 8 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 3 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game
- M. Roulette – 9 games
7-Box Black Jack – 8 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 6 games
Electronic Roulette – 1 game
- N. Roulette – 8 games
7-Box Black Jack – 10 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
Tai Sai – Single – 1 game
- O. Roulette – 8 games
7-Box Black Jack – 7 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 8 games
Electronic Roulette – 1 game



- P. Roulette – 8 games
7-Box Black Jack – 8 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 5 games
Money Wheel – 1 game
Poker – 8 games
Electronic Roulette – 1 game
- Q. Roulette – 9 games
7-Box Black Jack – 10 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
- R. Roulette – 9 games
7-Box Black Jack – 10 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 5 games
Money Wheel – 1 game
Poker – 4 games
Electronic Roulette – 1 game
Tai Sai (Single) – 1 game
- S. Roulette – 9 games
7-Box Black Jack – 7 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 6 games
Electronic Roulette – 1 game
Tai Sai (Single) – 1 game
- T. Roulette – 8 games
7-Box Black Jack – 8 games
5-Box Black Jack – 2 games
Caribbean Stud Poker – 2 games
3-Card Poker – 1 game
Midi Baccarat – 6 games
Money Wheel – 1 game
Poker – 6 games
Electronic Roulette – 1 game
Tai Sai (Single) – 1 game



- U. Roulette – 9 games
 7-Box Black Jack – 8 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 2 games
 3-Card Poker – 1 game
 Midi Baccarat – 5 games
 Money Wheel – 1 game
 Poker – 6 games
 Electronic Roulette – 1 game
 Tai Sai (Single) – 1 game
- V. Roulette – 8 games
 7-Box Black Jack – 9 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 2 games
 3-Card Poker – 1 game
 Midi Baccarat – 5 games
 Money Wheel – 1 game
 Poker – 6 games
 Electronic Roulette – 1 game
 Tai Sai (Single) – 1 game
- W. Roulette – 9 games
 7-Box Black Jack – 10 games
 5-Box Black Jack – 2 games
 Caribbean Stud Poker – 2 games
 3-Card Poker – 1 game
 Midi Baccarat – 6 games
 Money Wheel – 1 game
 Poker – 3 games
 Electronic Roulette – 1 game
 Tai Sai (Single) – 1 game

Notes

1. The Licence Holder is permitted to change between the above table game mixes, subject to providing the Inspectorate with weekly advice of the table game mix to be used for the forthcoming week, and five working days notice of any change from one approved game mix to another.
2. The Licence Holder is permitted to operate automatic shufflers on:
 - 50% of open Black Jack tables specified in Game Mix A;
 - all Black Jack, Poker and Midi Baccarat tables specified in Game Mixes B-W.
3. The Electronic Roulette table in game mix A comprises 14 terminals and one manual table. The Electronic Roulette table in game mixes B-W comprises up to 20 terminals and no manual table.
4. Each Tai Sai table is a single table.
5. The Licence Holder is permitted to deploy dealing Style A on a maximum of one Midi Baccarat table per game mix in game mixes B-W.

