

IN THE MATTER of the Gambling Act 2003

AND

on an application by **SKYCITY CASINO MANAGEMENT LIMITED** for approval to deploy mobile EFTPOS terminals in the Gambling Areas of the Auckland, Hamilton, Queenstown and Wharf casinos; and for a temporary approval to deploy two mobile EFTPOS terminals in the Gambling Area of the Auckland casino for the purchase of gaming machine tickets and chips

BEFORE THE GAMBLING COMMISSION

Members: L M Hansen (Chief Gambling Commissioner)
D C Matahaere-Atariki
W N Harvey
S C L Pearson

Date of Application: 8 May 2020

Date of Decision: 11 May 2020

Date of Notification
of Decision: 25 May 2020

DECISION ON AN APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED FOR APPROVAL TO DEPLOY MOBILE EFTPOS TERMINALS IN THE GAMBLING AREAS OF THE AUCKLAND, HAMILTON, QUEENSTOWN AND WHARF CASINOS; AND FOR A TEMPORARY APPROVAL TO DEPLOY TWO MOBILE EFTPOS TERMINALS IN THE GAMBLING AREA OF THE AUCKLAND CASINO FOR THE PURCHASE OF GAMING MACHINE TICKETS AND CHIPS

Introduction

1. SKYCITY Casino Management Limited ("**SCML**") applied to the Commission:
 - (a) under condition 14 of SCML's operator's licences for the Auckland and Wharf casinos, and condition 15 of SCML's operator's licences for the Hamilton and Queenstown casinos, for approval to deploy mobile EFTPOS terminals in the Gambling Areas at the Auckland, Hamilton, Queenstown and Wharf casinos; and
 - (b) under condition 14 of SCML's operator's licence for the Auckland casino, for a temporary approval to deploy two mobile EFTPOS terminals in the Auckland casino's Gambling Area for the purchase of gaming machine tickets and chips.

Licence conditions

2. The relevant licence condition, which is condition 14 for the Auckland and Wharf casinos, and condition 15 for the Hamilton and Queenstown casinos, is as follows:

SCML's operator's licence

The Licence Holder is prohibited from using mobile EFTPOS terminals (cash or non-cash dispensing) or like devices in the Gambling Area unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.

SCML's submissions

3. SCML submitted, in summary, as follows:

Mobile EFTPOS – purchase of food and beverages

- (a) The resumption of casino operations under Alert Level 2 will be subject to a range of rules. There will be no walk-up bar service in hospitality areas so the fixed EFTPOS terminals installed in these locations will be largely redundant. As a consequence, it seeks the Commission's approval to use non-cash dispensing mobile EFTPOS terminals in the Gambling Area at each of its four casinos. If approval is granted, it would be subject to a condition that the terminals are to be used only to pay for the purchase of food and beverages.
- (b) The Commission has granted conditional approvals to use mobile EFTPOS terminals in past decisions; see GC23/15, 22/17, 03/18, 09/19 and 08/20.
- (c) In decision GC02/20, the Commission granted Christchurch Casinos Limited ("CCL") approval, under condition 15 of CCL's operator's licence, to deploy mobile devices in the Gambling Area at the Christchurch casino. That approval was granted on the condition that the terminals would only be used to pay for the purchase of food and beverages.
- (d) While the catalyst for this application relates to the COVID-19 measures, in light of the general trend towards electronic payment systems (recognised in decision GC02/20), it seeks approval to use non-cash dispensing mobile EFTPOS terminals in the Gambling Areas at its four casinos in a post-COVID-19 environment as well.

Decision GC08/20 – Two temporary mobile EFTPOS terminals at the Auckland casino

- (e) There is now greater clarity on what the operating environment of the casino will look like when it operates under Alert Level 2.
- (f) In terms of those requirements, it will need to segment the casino into smaller areas, which was the basis for the application which the Commission approved in decision GC08/20. That approval expired on 20 April 2020. It now requests the Commission to give further consideration to this issue, with a view to approving the deployment of the two mobile EFTPOS terminals (approved in decision GC09/19) in the Gambling Area to pay for gaming machine tickets and chips while it operates under Alert Level 2.

The Secretary's submissions

- 4. The Secretary advised that he had no regulatory concerns with the proposal, and noted that contactless electronic payments should be approved in the current COVID-19 environment.

Analysis

- 5. SCML applied to the Commission for two approvals in anticipation of its casinos re-opening at Alert level 2.
- 6. As with some recent decisions, the Commission has been asked to consider applications with some urgency and outside of its usual monthly meeting cycle owing to the extraordinary circumstances that exist with COVID-19. Because of these extraordinary circumstances, the Commission was prepared to do so.
- 7. The Commission also took the unusual step of notifying SCAL of its decision by email and in advance of issuing a fully reasoned, written decision. The Commission did so because the value of determining the applications quickly would have been undermined if the outcome of the applications had not been relayed until a written decision was available.
- 8. However, as it also noted in the similar recent decisions, the Commission emphasises that the foregoing steps were taken solely in the light of the extraordinary circumstances that currently exist. The Commission's usual practice does not involve considering applications on an expedited basis outside of its usual monthly meeting cycle, nor advising applicants of the outcome of an application in advance of issuing a written decision. Its decision to do so in this and similar recent cases should not be taken as signaling a change in practice.
- 9. SCML's first application was for approval to deploy mobile EFTPOS terminals in the Gambling Areas of the Auckland, Hamilton, Queenstown and Wharf casinos for the

purchase of food and beverages only. The Commission recently considered a similar application in relation to the Christchurch casino in decision GC02/20. In that decision, the Commission set out the history of the cash-access licence conditions at New Zealand's six casinos, their function, and how they have been utilised in practice since their implementation in 2005/6.

10. The Commission went on to determine that EFTPOS terminals can be deployed within the Gambling Areas of the Christchurch casino for the purchase of food and beverages. In approving the application, the Commission noted the following:

35. As it considered CCL's application, the Commission concluded that there can be sound reasons for allowing mobile EFTPOS devices to be deployed in the Gambling Area of the Christchurch casino in a controlled manner. There is no doubt that society has changed dramatically since the cash access licence conditions were developed in 2005/06; cash is used much less frequently these days, and customers have an increased expectation of being able to pay for products or services with a minimum of difficulty. As time goes on, these trends will almost certainly continue, with an increasing reliance on electronic payment systems and a decreasing reliance on cash.
36. The Commission also accepted CCL's submission in relation to its HRP and other developments; New Zealand casinos (and the Christchurch casino in this case) unquestionably offer safer environments in 2020 than they did in 2005/06 because host responsibility experiences continue to develop and associated systems are continually improving.
37. The Commission also noted an inconsistency in that casino patrons can purchase food and beverages from their gaming location provided that they pay with cash or chips, but they cannot make the same purchase using mobile EFTPOS terminals. Although permitting payment by mobile EFTPOS terminals may result in fewer breaks from gambling, the Commission considered the inconsistency to be illogical, particularly as payment for food or beverages by EFTPOS would generally take greater time to process than payment by cash or chips.

11. These observations are as applicable to the four SKYCITY casinos as they were to the Christchurch casino. In 2020, patrons at almost any commercial outlet use cash much less frequently than they once did and conversely, they use electronic forms of payment much more readily.

12. Similarly, the Auckland, Hamilton, Queenstown and Wharf casinos offer safer environments today than they did when the cash-access licence conditions were first developed in 2005/6.

13. The Commission therefore considers it appropriate for patrons to be able to access EFTPOS terminals within the Gambling Areas of the abovementioned four casinos with appropriate limits which control their deployment. In this instance, the terminals are not to be cash-dispensing and are to be used only for the purchase of food and beverages, as SCML proposed.

14. With its second application, SCML sought to replicate an approval granted by the Commission in decision GC08/20. In that decision, the Commission approved SCML deploying, on a temporary basis, two mobile EFTPOS terminals in the Auckland casino's Gambling Area for the purchase of gaming machine tickets and chips. The approval was for one month only, and the decision noted that if SCML wanted to extend the approval beyond that time, it was required to apply to do so before the approval expired. SCML did not do so, but now seeks a further approval for the same purpose, albeit for longer than one month.
15. SCML previously sought the approval as it had divided the Auckland casino into a number of separate zones and it wanted each zone to be able to offer sufficient facilities and services in order to discourage patrons from moving between zones and thereby increasing the possible spread of the COVID-19 virus. Deploying the two mobile EFTPOS terminals in the manner proposed was part of SCML's strategy to achieve this. In paragraph 11 of GC08/20, the Commission determined as follows:
- SCML's proposal was aimed partly at preventing the spread of the COVID-19 virus, a matter the Commission considered to be highly relevant to this particular application.
16. The Commission considers that the same health considerations apply to the current application and it approves SCML's application accordingly. The Commission's approval is temporary only, and will apply until New Zealand leaves Alert Level 2.
17. In reaching the above decisions, the Commission noted that the Secretary had no regulatory concerns with SCML's proposals, and supported the increased use of contactless electronic payments.

Decision

18. The Commission approved:
- (a) under condition 14 of SCML's operator's licences for the Auckland and Wharf casinos and condition 15 of SCML's operator's licences for the Hamilton and Queenstown casinos, an approval to deploy mobile EFTPOS terminals in the Gambling Areas at these four casinos. The approval is granted upon the condition that the mobile terminals are to be used only to pay for the purchase of food and beverage, and are not to be used to dispense cash; and
 - (b) under condition 14 of SCML's operator's licence for the Auckland casino, to approve, temporarily, the deployment of the two mobile EFTPOS terminals in the Gambling Area (approved in decisions GC09/19 and GC08/20) to pay for gaming machine tickets and chips. The approval is granted upon the conditions that the mobile terminals are not to be used to dispense cash, and that the gaming

machine tickets or chips are not to be paid for by a patron while that patron is sitting at a gaming machine or a gaming table. The approval will expire when New Zealand leaves Alert Level 2.

Right of appeal

19. Pursuant to section 235 of the Act, a person affected by this decision may appeal that decision to the High Court. An appeal must be made within 15 working days of the date of notice of the Commission's decision, or any longer period that the High Court may allow.

Lisa Hansen

Lisa Hansen
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

25

May 2020

