

**IN THE MATTER** of the Gambling Act 2003


**AND** on a proposal by the Gambling Commission to vary condition 10 of the operator's licences for the Auckland, Hamilton, Christchurch, Dunedin and two Queenstown casinos

**BEFORE THE GAMBLING COMMISSION**

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

Date of Proposal: 29 May 2013

Date of Decision: 12 July 2013

Date of Notification  
of Decision:  August 2013

**DECISION ON A PROPOSAL BY THE GAMBLING COMMISSION  
TO VARY CONDITION 10 OF THE OPERATOR'S LICENCES FOR THE AUCKLAND,  
HAMILTON, CHRISTCHURCH, DUNEDIN AND TWO QUEENSTOWN CASINOS**

**Introduction**

1. In decision GC10/13, the Commission approved an application by Christchurch Casinos Limited ("CCL") for approval to deploy automatic shufflers on the Midi Baccarat tables at the Christchurch casino. In approving this application, the Commission stated that:
  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.

2. By letter dated 29 May 2013, the Commission proposed to vary condition 10 of the operator's licences for the Auckland, Hamilton, Christchurch, Dunedin and two Queenstown casinos pursuant to section 139(1)(e) of the Gambling Act 2003 (the "Act"). The proposed licence conditions, with variations shown in mark-up, are as follows:

Condition 10 of SCML's operator's licence for the Auckland casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

Condition 10 of SCML's operator's licence for the Hamilton casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

Condition 10 of SCML's operator's licence for the Queenstown casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

Condition 10 of CCL's operator's licence for the Christchurch casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

Condition 10 of DCML's operator's licence for the Dunedin casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

Condition 10 of OCL's operator's licence for the Wharf casino

10. The approval of the Commission is required prior to the ~~introduction into the Gambling Area~~ use by the operator 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.

3. The proposal for the Auckland casino contained two additional minor variations to provide consistency with the other casinos.

4. Section 140 of the Act requires the Commission to notify the Licence Holder, the Secretary for Internal Affairs (the “**Secretary**”) and other potentially affected persons of the proposed changes. No potentially affected parties were identified so the Commission notified only the Licence Holders and the Secretary. The Commission received submissions from SCML, CCL, OCL and the Secretary.

#### **The Secretary’s submissions**

5. The Secretary submitted, in summary, as follows:
- (a) He understands the rationale for the Commission’s proposal and has no objection to its implementation. The proposal would only have an effect on the practice of using pre-shuffled cards as he cannot envisage any other technology or enhancement used outside the Gambling Area that may affect the speed of casino table games. However, the condition would provide future protection for such initiatives.
  - (b) He notes that the ability to pre-shuffle cards is contained in game rules for specified games; namely Black Jack, Baccarat, Casino War and Racing Card Derby.

#### **SCML’S submissions**

6. SCML submitted, in summary, as follows:
- (a) Section 11 of the Act specifies that a person must not increase the opportunities for casino gambling. The effect of condition 10 is to identify circumstances where the actions of an operator may be relevant to the section 11 prohibition and requiring casino operators to seek prior approval for such matters. This enables the Commission to decide whether the proposed initiative would be contrary to the statutory prohibition set out in section 11.
  - (b) In effect the condition represents a safeguard to ensure casino operators do not inadvertently introduce measures which might have the effect of increasing the opportunities for casino gambling. If the Commission is of the view that the condition needs to be widened in the manner proposed as a further safeguard, then it has no particular objections to it.
  - (c) That said, there must be some question as to whether practices which take place away from tables could in fact increase casino gambling opportunities. It does not matter whether pre-shuffling procedures are conducted manually or using electronic aids away from a table. The effect is the same. When the cards are

introduced to the table as pre-shuffled cards they are subject to the same processes before being introduced into the game. In other words the actions taken prior to their introduction to the game have no bearing on the game's rate of play. Efficiencies generated away from the Gambling Area can, in this sense, be distinguished from efficiencies created at the table(s).

- (d) It has previously conducted trials on the rate at which different games may be played and provided the Commission with those figures. The theoretical rate of play associated with those games does not factor in card shuffling or related variables. In effect the data represents the raw speed at which the games are played. Irrespective of the efficiencies associated with the shuffle processes, these speeds do not change.
- (e) While generally receptive to any safeguards to ensure no breaches to section 11, it would not want to be put in a position where it needs to apply for prior approval to use aids or enhancements that cannot increase casino gambling opportunities. It believes that would appear to be the case with the current proposal.

#### **CCL's submissions**

- 7. CCL submitted, in summary, as follows:
  - (a) The change makes no material difference to how it would operate in it would have sought approval under the wording of the existing condition based on intent. So with respect to electronic aids and enhancements that can impact on gambling opportunities, it has no issue with the proposed wording.
  - (b) The only concern is that this change may inadvertently capture some things not necessarily intended as future games or opportunities are developed. To that end, as the intent is to capture those aids and enhancements that may have an impact on gambling opportunities the wording might benefit from being clarified to limit the scope to this aspect. For example, would the Gambling Commission be concerned if a TV screen was put up that informed customers of a Poker Tournament result? This could arguably be considered an electronic aid or enhancement, but is really just a customer service which provides greater transparency and integrity to the game.

#### **OCL's submissions**

- 8. OCL submitted that it has no objections to the proposed variation.

## Analysis

9. The Commission's proposal arose following an application by CCL for approval to deploy automatic shufflers on the Midi Baccarat tables at the Christchurch casino. That application was approved, but during the course of its deliberations, the Commission identified an important issue for CCL, and all casinos operators; namely that the current drafting of condition 10 limited the Commission's ability to consider relevant changes which could increase opportunities for casino gambling. That is, condition 10 presently requires operators to obtain Commission approval "prior to the introduction into the Gambling Area of any electronic version of the game types specified in condition 9 ... or electronic aids or enhancements or changes to table game rules which create new wagering opportunities", but Commission approval is not required for changes which take place outside of the Gambling Area to similar effect, even if those changes could increase casino gambling opportunities. The Commission therefore proposed to amend condition 10 of the operator's licences for all casinos to ensure that Commission approval was required for all relevant changes of the type specified in condition 10.
10. The Commission consulted with the Secretary and the casino operators on the proposal. No party was particularly opposed to the proposal, although they did question whether the amendment was necessary. SCML and CCL also suggested that the amendment may inadvertently capture electronic devices that cannot increase casino gambling opportunities.
11. The Commission noted the submissions but decided, on balance, to amend the licence conditions in the manner proposed. It is the Commission's function to ensure increases in opportunities for casino gambling are not permitted, with the amendment providing it with the ability to consider changes beyond the Gambling Area that could increase opportunities and affect the earlier relativity assessments made by the Commission in approving current game mixes.
12. The submission that the amendment may inadvertently capture more than necessary is dealt with by the provision for approval. If it appears to the Commission that the change will not affect opportunities, it is likely to approve the change. In the Commission's view, the legislative intent is best met by a potentially wide capture and approval than by failing to monitor changes which may affect opportunities.

## Decision

13. The Commission amended condition 10 attached to the operator's licences for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Wharf casinos, pursuant to section 139(1)(e) of the Act. The conditions now read as follows:

Condition 10 of SCML's operator's licence for the Auckland casino

10. The approval of the Commission is required prior to the use by the operator 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.

Condition 10 of SCML's operator's licence for the Hamilton casino

10. The approval of the Commission is required prior to the use by the operator 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.

Condition 10 of SCML's operator's licence for the Queenstown casino

10. The approval of the Commission is required prior to the use by the operator 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.

Condition 10 of CCL's operator's licence for the Christchurch casino

10. The approval of the Commission is required prior to the use by the operator 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.

Condition 10 of DCML's operator's licence for the Dunedin casino

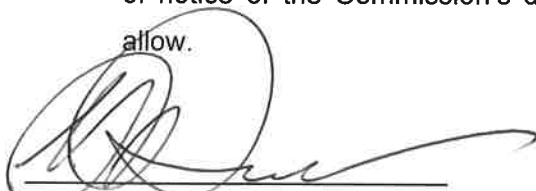
10. The approval of the Commission is required prior to the use by the operator of any electronic version of the game types specified in condition 9 above or electronic aids or enhancements or changes to table game rules which create new wagering opportunities.

Condition 10 of OCL's operator's licence for the Wharf casino

10. The approval of the Commission is required prior to the use by the operator 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.

**Right of appeal**

14. 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.



Graeme Reeves  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

6<sup>th</sup> August 2013

