

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

**AND** on a proposal by the Gambling Commission to vary condition 6 of the venue licences held by SKYCITY Auckland Limited, SKYCITY Hamilton Limited, Queenstown Casinos Limited, Christchurch Casinos Limited, Dunedin Casinos Limited and Otago Casinos Limited

**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 Proposal: 31 July 2012

Date of Decision: 14 September 2012

Date of Notification  
of Decision:  September 2012

**DECISION ON A PROPOSAL BY THE GAMBLING COMMISSION  
TO VARY CONDITION 6 OF THE VENUE LICENCES FOR: SKYCITY AUCKLAND LIMITED  
("SCAL"), SKYCITY HAMILTON LIMITED ("SHL"), QUEENSTOWN CASINOS LIMITED  
("QCL"), CHRISTCHURCH CASINOS LIMITED ("CCL"), DUNEDIN CASINOS LIMITED  
("DCL") AND OTAGO CASINOS LIMITED ("OCL")**

**Introduction**

1. Following decision GC17/12, the Commission proposed, by a letter dated 31 July 2012, to vary, under section 139(1)(e) of the Gambling Act 2003 (the "**Act**"), licence condition 6 of the conditions attached to the venue licences for the Auckland, Hamilton, Christchurch, Dunedin and two Queenstown casinos.
2. 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. The Commission notified the Licence Holders, the Secretary and the Problem Gambling Foundation ("**PGF**") and invited them to file submissions. Submissions were received from the SKYCITY, PGF, OCL and the Secretary.

**Licence conditions**

3. The licence conditions, with the proposed variations shown in mark-up, are as follows:



*Condition 6 of SCAL's venue licence for the Auckland casino*

6. The Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the casino venue any building or structure within the block of land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, including the Casino Venue, Sky Tower, car park bus terminal and walkway between the Sky Tower and the casino.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of buildings or structures within the casino block (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of SHL's venue licence for the Hamilton casino*

6. The Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 1 of the Casino Venue (6(a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) ~~and (c)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of QCL's venue licence for the SKYCITY Queenstown casino*

6. The Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 2 of the Casino Venue (6(a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) ~~and (c)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of CCL's venue licence for the Christchurch casino*

6. Subject to the provisions of condition 7, the Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 3 and 4 and the rooftop area of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) ~~and (e)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of DCL's venue licence for the Dunedin casino*

6. The Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 1 of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) ~~and (e)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of OCL's venue licence for the Lasseters Wharf casino*

6. The Licence Holder must obtain the approval of the Commission prior to:

...

- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to the Casino Venue (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) ~~and (e)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

**PGF's submissions**

4. PGF submitted, in summary, as follows:

- (a) It supports the proposed extension of the approval requirements for the Auckland casino (to include the Sky Tower, car park, etc), but noted that a comma is missing from between the words "car park" and "bus terminal".

- (b) The extension is necessary because the Casino Building extends well beyond the Casino Venue, but most of it is under the same management and control, particularly for signage and branding purposes.
- (c) Approval should also be required for the erection of signage on the walkway between the casino and the existing convention centre, and any future Convention Centre. The existing SkyCity Convention Centre and the proposed new International Convention Centre pose the same risks because they share the same management and potential branding.
- (d) Condition 6(c) should be extended as follows:
- (c) the addition or alteration of signage relating to the casino business on any building or structure within the block of land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, including the Casino Venue, Sky Tower, car park, bus terminal and the walkways between the Sky Tower and a Convention Centre and any building or structure in the Central Business District that may d [sic] with SKYCITY Auckland Limited.
- (e) It supports the proposed extension of the requirement for the Commission's prior approval of proposed casino business signage for the other New Zealand casinos to extend beyond the exterior of the casino venue to cover the whole "building within which it is located". For completeness, the conditions should cover associated or attached structures as well as buildings, as is the case for the Auckland casino.
- (f) The delegated approval portion of condition 6 for all casinos be further amended to read:
- ... The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue, ~~or any associated or attached structure of~~ any associated or attached structure of the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes:
- do not refer to gambling-related activities directly or indirectly; and
  - will have no potentially adverse effects, and
  - use no other language than English or Maori.
- (g) It is concerned at potential harm from the use of languages other than New Zealand's official languages, English and Maori, in casino building or structure signage. Subtleties in the use, content or context of other languages, particularly Chinese, require a thorough and full examination by the Commission to ensure they are not directly or indirectly, unfairly or inappropriately, persuading non-English speakers to gamble at the casino.
- (h) PGF's Asian Family Services staff made the following comments:



- (i) SKYCITY and other casinos have to date chosen to use only English signage for events that they sponsor, such as the Rugby World Cup.
  - (ii) Chinese New Year is neither a New Zealand public holiday nor a traditional Kiwi festival, so SKYCITY may be inappropriately targeting Chinese customers when it uses Chinese language signs with no English words. Presumably this is in order to encourage Chinese customers to use SKYCITY facilities including their on-site gambling.
  - (iii) Chinese is not one of New Zealand's official languages, so why use Chinese but not other languages?
  - (iv) SKYCITY does not celebrate other ethnic festivals in their signage or language used, not even the Matariki Festival.
  - (v) Concepts that in English may appear positive or neutral, such as "good fortune", may conjure up images of gambling in Chinese or other languages. Therefore, proposed foreign language signage needs thorough investigation and consideration by the wider resources of the Commission before approval.
- (i) It has no problem with adopting a simpler approval process for English or Maori language signage that refers only to associated businesses such as food, beverages or restaurants. It does, however want it to be spelled out specifically in the licence conditions that a full Commission approval process should apply if the proposed signs, or sign changes, make any direct reference to gambling or gambling-related activities, to ensure absolutely that they will not generate gambling-related harm.

#### **SKYCITY's submissions**

5. SKYCITY submitted, in summary, as follows:

- (a) It has no objection to the extension of the delegated approval process to all casinos as it promotes efficiencies in the approval process.
- (b) It recognises that the generic wording currently used in the conditions may have unintended outcomes at some casinos. In this sense it has no objection to the Commission's proposal to bring about greater consistency if it deems that to be desirable. However there are issues that the Commission should consider before determining its proposal.

- (c) The proposed conditions do not appear to capture free-standing signs around the exterior of the casino venue. If the Commission wants to regulate exterior casino signage then it may wish to revise its wording to ensure that free-standing signs within the defined area of the casino venue are also subject to Commission oversight. This would seem consistent with the general intent of the proposal.
- (d) Alternatively the Commission may want to review the rationale which requires casino operators to seek Commission approval for exterior casino signage, whether affixed or free-standing.
- (e) Casino operators are currently subject to a requirement to ensure that their respective casinos are operated in compliance with an approved host responsibility programme which must include guidelines for responsible marketing and advertising of the casino, including exterior signage, and restriction on jackpot advertising and branding pursuant to regulations 9 and 10 of the Gambling (Harm Prevention and Minimisation) Regulations 2004. Furthermore, the conditions also require the licence holder(s) to comply with the Advertising Standards Authority advertising code of practice for advertising gambling and any relevant regulations in respect of the advertising of the gaming activities at the casino venue. All casino signage and all marketing initiatives are subject to a comprehensive internal assessment to ensure that they comply with these various requirements. In addition, to comply with its own internal requirements, all signage and advertising includes a responsible gambling message.
- (f) Marketing initiatives, including exterior casino signage, are already highly regulated and controlled. The effect of both the current and proposed condition is to require casino operators to seek prior approval for advertising messages displayed in a relatively narrow and specific set of locations, in circumstances where those same messages may be advertised and displayed more widely (albeit in different locations) without approval. In this context, it is difficult to see the rationale for requiring prior approval for exterior signage in and around a casino property.
- (g) The proposed extension of the delegated approval process is likely to facilitate a more efficient process than would otherwise be the case, but for the reasons already identified, a requirement for prior approval does not contribute to the efficient and effective administration of the Act, as required by section 139(2)(c).

- (h) It would be preferable to amend condition 6 for all casinos in a manner which removes the requirement to seek prior approval for the addition or alteration of signage relating to the casino business.

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

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

#### **The Secretary's submissions**

7. The Secretary submitted, in summary, as follows:
- (a) He considers that the proposed amendments are an appropriate use of the Executive Director's discretion.
- (b) It is desirable that the Commission maintains an oversight over all signage erected on and around casinos without the necessity for uncontroversial signs to be approved by the Commission at monthly meetings.
8. In relation to the proposed amendments for the Auckland casino, he is of the view that the proposed changes are consistent with previous Commission decisions concerning signage. However to oversee signage that is not attached to a building or structure in the area described, but has the same effect (eg a sandwich board), the words "or road" should be added after the word "structure" (with "road" having the definition provided by the Land Transport Act 1998).

#### **Analysis**

9. The Commission proposed, on its own initiative, to amend condition 6 for all casinos in New Zealand. The proposal arose out of an application by SHL for approval under condition 6(c) of its venue licence to erect a sign at the Victoria Street entrance to the Hamilton casino (dealt with in decision GC17/12). SHL noted, as part of its application, that the Victoria Street exterior was not the exterior of the casino itself, but of the complex in which the casino is housed. SHL made the application on the basis that it was unsure if Commission approval was required; if it was required, it sought the approval.
10. The Commission considered that Commission approval was required and granted the approval. The Commission noted that condition 6(c) of the venue licences for each of the Christchurch, Dunedin and two Queenstown casinos had the same wording. It was possible, therefore, that the same issue would arise in relation to other casinos. Conversely, SKYCITY Auckland contains buildings or structures which are not part of the Casino Venue but which are part of the overall complex, which might give rise to similar

issues. Accordingly, the Commission proposed to amend condition 6 for all casinos to clarify its application.

11. The Commission considered the rationale for exercising control over advertising on the exterior of casinos. In its view, the rationale is consistent with the regulatory focus on the minimisation of harm. The requirement for consent is a means by which the Commission can maintain external oversight of a casino's impact on its surrounding environment, and ensure that a casino is acting responsibly in accordance with its host responsibility programme, in relation to advertising around the casino.
12. The Commission considered SKYCITY's submission that casinos' advertising and exterior signage are subject to control via host responsibility programmes, the Gambling (Harm Prevention and Minimisation) Regulations and the Advertising Standards Authority code of practice, and that it is anomalous that prior approval is required for specific instances of advertising (exterior signage), but not for others. The Commission considered that it was appropriate to maintain its oversight of exterior advertising. In its view, the proximity of such advertising to a casino justified consideration of advertising on a case-by-case basis and the Commission would bring a different focus to its consideration from that of other agencies.
13. A requirement for prior approval did not necessarily render the administration of the Act less efficient. Although prior approval requires an "upfront" regulatory step by a casino, once approval is granted, the casino has the security of the Commission's approval. The alternative to the prior consent process would result in any controversial or non-compliant signs being dealt with after the event, potentially with punitive consequences. This may ultimately result in greater cost to casinos, and would create greater risk for vulnerable customers, than the cost of obtaining the security of a prior approval, particularly given the delegated approval process for non-controversial signs.
14. Having decided that the Commission should maintain oversight of advertising of casino business on casino exteriors, the Commission turned to the extent of the advertising which should be covered. The Commission considered that the prior approval conditions for all casinos other than SKYCITY Auckland should be amended to include the exterior of the buildings in which casinos are housed. The purpose of the condition, to maintain oversight of advertising relating to casino business on casino buildings, would be undermined if it applied only to those sides of the building that were part of the casino proper. Members of the public are likely to perceive, and be affected by, signs on the walls of the complex in the same way as signs on the exterior walls of the casino proper. The condition should apply to all walls of a casino or the complex in which it is housed so that consistency is maintained across the entire exterior of the casino building or complex.

15. The Commission also decided to amend condition 6 for all casinos (other than SKYCITY Auckland, which already contained it) to include delegated approval of uncontroversial signs. The Commission considered that this would promote efficient decision-making as well as desirable consistency across venues.
16. The Commission noted the submissions by PGF, SKYCITY and the Secretary that, if the Commission were to regulate exterior casino signage, then it should capture freestanding signs in the same immediate area as well. The Commission agreed that the rationale for maintaining oversight of signs affixed to the casino exterior applied equally to free-standing signs and decided to make an appropriate further amendment.
17. Similarly, the Commission considered that the rationale for the condition applied to structures that were part of the Auckland casino complex, such as the Sky Tower and the walkway between the Auckland casino and the convention centre on Federal Street. Such structures are part of the casino complex, likely to be identified by members of the public as part of the casino brand, and are under the same management and control as the casino. However, the oversight should be limited to those existing structures. The Commission considered that extending the condition to include the proposed new international convention centre or other premises occupied by the casino owner, as proposed by PGF, was not warranted.
18. The Commission did not adopt PGF's proposal that the delegated approval provision be limited to signs that use no other language than English and Maori and which did not refer to gambling-related activities. The Commission was of the view that the current provision for delegated approval in the SKYCITY Auckland venue licence (and proposed to be included in other venue licences) provided an appropriate means of ensuring non-controversial signs were dealt with efficiently. In practice, less clear signs are referred for full consideration by the Commission and the suggestions to limit the delegated power were not adopted.

### **Decision**

19. The Commission amended licence condition 6 attached to the venue licences for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Lasseters Wharf casinos, pursuant to section 139(1)(e) of the Act. The conditions now read as follows:

#### *Condition 6 of SCAL's venue licence for the Auckland casino*

6. The Licence Holder must obtain the approval of the Commission prior to:
  - (a) construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms and the back of house areas used by staff (unless construction or



design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought);

- (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
- (c) the addition or alteration of signage relating to the casino business on any building, road or structure within the block of land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, including the Casino Venue, Sky Tower, car park, bus terminal and walkways between the casino and the Sky Tower and the convention centre.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on any building, road or structure within the casino block (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of SHL's venue licence for the Hamilton casino*

- 6. The Licence Holder must obtain the approval of the Commission prior to:
  - (a) construction or design changes to Level 1 of the Casino Venue, including the Gambling Area;
  - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
  - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 1 of the Casino Venue (6(a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of QCL's venue licence for the SKYCITY Queenstown casino*

- 6. The Licence Holder must obtain the approval of the Commission prior to:
  - (a) construction or design changes to Level 2 of the Casino Venue, including the Gambling Area;
  - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
  - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 2 of the Casino Venue (6(a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of CCL's venue licence for the Christchurch casino*

6. Subject to the provisions of condition 7, the Licence Holder must obtain the approval of the Commission prior to:
- (a) Any construction or design changes whatsoever in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4) and for any construction or design changes elsewhere in the Casino Venue which may impact on the matters set out in condition 7;
  - (b) the construction or relocation outside the Gambling Area and Additional Gambling Areas and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices; and
  - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 3 and 4 and the rooftop area of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

*Condition 6 of DCL's venue licence for the Dunedin casino*

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Level 1 of the Casino Venue, including the Gambling Area;
  - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
  - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Level 1 of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

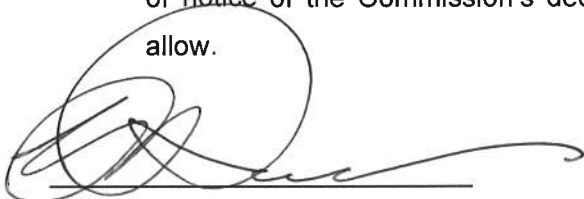
*Condition 6 of OCL's venue licence for the Queenstown Wharf casino*

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to the Casino Venue, but excluding the back of house area used by staff (unless construction or design changes to this excluded area may impact on matters set out in condition 7 in which case prior approval must be sought);
  - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
  - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to the Casino Venue (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

**Right of appeal**

20. 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

28 September 2012

