

Overview Report: Past Reports and Recommendations Related to the Gaming Sector in British Columbia

A. Scope of Overview Report

1. This overview report identifies and attaches past reports relevant to the organization and regulation of the gaming in British Columbia.

B. Appendices

- a. Appendix A:

BC Gaming Commission, *Report on the Status of Gaming in British Columbia*, January 1, 1988.

- b. Appendix B:

Frank A Rhodes et al, *Report on Gaming Legislation and Regulation in British Columbia*, January 1999.

- c. Appendix C:

J. Peter Meekison, *Relocation of and Changes to Existing Gaming Facilities in British Columbia: Review and Recommendations*, January 31, 2000.

- d. Appendix D:

Office of the Auditor General of British Columbia, *Keeping the Decks Clean: Managing Gaming Integrity Risks in Casinos*, July 2005.

- e. Appendix E:

Province of British Columbia, *Summary Review: Anti-Money Laundering Measures at BC Gaming Facilities*, February 2011.

- f. Appendix F:

Deloitte & Touche LLP, *Independent Review: Anti-Money Laundering and Anti-Terrorist Financing Program: British Columbia Lottery Corporation*, March 4, 2011.

g. Appendix G:

Gaming Policy and Enforcement Branch, *Anti-Money Laundering in BC Gaming: Measuring Performance Progress*, May 29, 2013.

h. Appendix H:

Malysh Associates Consulting Inc., *GPEB – AML Working Group: Client Due Diligence in BC Casinos*, September 15, 2014.

i. Appendix I:

Internal Audit and Advisory Services, *Review of: British Columbia Lottery Corporation*, December 4, 2014.

j. Appendix J:

MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report*, July 26, 2016.

Appendix A

BC Gaming Commission, *Report on the Status of Gaming in British Columbia*, January 1, 1988.

BC GAMING COMMISSION

Report on the Status of Gaming in British Columbia

January 1, 1988



Province of British Columbia

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**REPORT TO THE ATTORNEY GENERAL
BY THE GAMING COMMISSION
ON THE STATUS OF GAMING
IN BRITISH COLUMBIA**

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January 1, 1988

**COMPLIMENTS OF
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FOREWORD

With this report on the status of gaming in British Columbia the Commission has completed the request of April 1, 1987 by the Attorney General. During this period the Commission has had an opportunity to consult with various individuals and organizations throughout the Province as well as in other jurisdictions. This initial report will serve as the foundation for future Commission activities and policy decisions. The report would never have been possible within the allotted time, even with the one month extension, were it not for the assistance provided by so many committed and knowledgeable individuals. It is my pleasure to take this opportunity personally to thank them for all they have done, and I know I speak for every member of the Commission.

Richard M. Macmillan
Chairman

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EXECUTIVE SUMMARY

This report was prepared in response to a request by the Attorney General of British Columbia to provide a comprehensive overview of gaming in the Province. This request was included in a news release dated April 1, 1987. This news release is included as Appendix "A" of this report. The report was originally to be completed by November 30, 1987 but due to the complexity and enormity of the report a one month extension was granted.

A variety of topics have been considered in this report as outlined in the preceding "Table of Contents". To obtain a comprehensive overview of the current state of gaming in British Columbia and of some of the changes the Commission is implementing and considering, the report needs to be read in its entirety including the appendices. Acknowledging that this is not possible for everyone a brief summary of the chapters in the report is included.

In the nine months that the Commission has been in operation a great deal has been accomplished. Some of these accomplishments have been achieved by the mere fact of the establishment of a Commission to oversee the gaming activities in the Province. Many of the policies addressed in this report will have already been implemented by the time it is released. There is still a great deal to be done and the Commission willingly accepts that undertaking.

Chapter I — ROLE AND RESPONSIBILITIES OF THE B.C. GAMING COMMISSION AND THE PUBLIC GAMING BRANCH

The role and responsibilities of the B.C. Gaming Commission and the Public Gaming Branch are outlined with a number of recommendations which include the following:

- the licensing authority with respect to charities should be removed from the Commission and returned to the Branch;
- a new organizational structure and reporting relationship should be considered for the Commission and the Branch;
- a new provincial statute covering all aspects of gaming should be considered for the future;
- the Lotteries Advisory Committee contemplated under section 3 of the *Lottery Act* should be implemented;
- money collected by the Commission or the Branch through licences, fees or fines should accrue to the Ministry of Attorney General.

Chapter II — PHILOSOPHY AND SOCIAL CONSIDERATIONS OF GAMING

A number of philosophical issues are raised which have been taken into consideration by the Commission members throughout the completion of this report. Recognition is given to some of the negative aspects of gaming which are inherent to society.

Chapter III — HISTORY OF GAMING IN British Columbia

A historical review of the evolution of gaming in British Columbia over the past two decades is provided. Introduction of section 190 of the *Criminal Code of Canada* in 1969 began the process of bringing charitable gaming to the Province. The role of the charities and participants in the gaming industry is highlighted up to the present time.

Chapter IV — GAMING EXPERIENCES IN OTHER JURISDICTIONS

Gaming in other jurisdictions is explored with the most information being provided on the charitable casino models in Alberta and Manitoba. In British Columbia the Commission has taken components of both of these models and as well has learned a great deal from visits to Nevada and Washington State. Other types of gaming have been reviewed but the focus is on casinos since there are so many different models and configurations world wide.

Chapter V — CASINO GAMING

Casino gaming in British Columbia including a phased in model to deal with some of the problems which have been identified is discussed in great depth. All casino management companies operating in the province will have to be licensed by the Commission. The important features of the phased in model are as follows:

- no immediate growth in casino locations;
- no increase in betting limits or hours of operation at this time;
- equal access by ALL qualified charities to SOME casino gaming fund raising opportunities;
- new eligibility requirements for charity applicants which will include necessity to provide a proposed budget;
- new improved audit procedures by the Branch to ensure that funds raised by casino gaming were spent as proposed in the budget;
- revocation or suspension of licences as a penalty for impropriety;
- stabilization of the casino industry allowing appropriate corporate planning, consistent employment and fair wages to casino management company personnel;
- elimination of the Greater Vancouver Region (GVR) charity gaming licence draw;
- allotment of casino gaming opportunities in GVR from an initially randomly generated list of licenced charities;
- increased charity access to casino gaming revenue;
- charity casino gaming ONLY i.e., no private sector casino experimentation in any major urban area, for some time during which we can:
 - (a) assess the effects of our recommended changes and;
 - (b) ensure the development of adequate inspection and regulatory standards including additional personnel.

Chapter VI — DESTINATION RESORT GAMING

Casino gaming at destination resorts has been an issue which has created a great deal of discussion and concern. The Commission believes it is possible to have tourist destination resorts which are honestly run and do enhance the quality of the resort itself. The Commission has benefited from experiences in other jurisdictions and we are of the view that we should be authorized to facilitate and monitor one or more experimental resorts. We are recommending a professionally conducted economic demographic survey of rural locations in B.C. which we believe are suitable for test purposes. The following features would be taken into consideration:

- large number of tourists either seasonally or year round;
- local support and enthusiasm;
- existing infrastructure such as buildings, parking, sewage and water facilities;
- adequate fire, security and safety provisions as well as reasonable proximity to police services;
- access to a variety of transportation facilities;
- minimal existing charity gaming.

Chapter VII — BINGO

Bingo is projected to be a \$180,000,000 industry in the 1987/88 fiscal year raising money for various charities in the Province. The Terms and Conditions presently in force stipulate that the charities must benefit by 25% of revenues, a maximum of \$7,500 per event can be paid out in prizes and this can amount to no more than 60% of the gross taken in. Out of the remaining 40% must come the 25% charity payout. Conditions particularly with prize payouts and percentages to charities are being violated daily. The following points concerning bingo are highlighted:

- an increase in the Branch staff is required if the bingo industry is going to be controlled;
- all bingo hall operators will be licensed;
- equitable access will be provided to all charities for an opportunity to participate in bingo events;
- the Commission will limit the growth of commercial bingo halls;
- the creation of Charitable Community Associations is encouraged to strengthen the charities role in the industry;
- both advertising and bingo card prices will be regulated by the Commission;
- registered bingo charity advisors will be an option for charities neither beholden to the hall owners nor the charities except in guaranteeing the charitable revenue;
- hall owners will be obliged to charge a reasonable rent;
- improved financial control measures will be introduced.

Chapter VIII — TICKET LOTTERIES

Ticket lotteries or raffles raised a total of \$9,300,000 for charitable purposes in the 1986-87 fiscal year. Ticket lotteries of smaller value normally have a much smaller percentage of expenses such as promotion and marketing and therefore pay out more in prizes and to charity. The Commission is committed to ensuring compliance to the Terms and Conditions, particularly in the large ticket lottery operations. The Commission will also require audits to ensure that stated charity objectives are addressed by charities and non-profit societies.

Chapter IX — FAIRS AND EXHIBITIONS

As a result of significant uncertainties and ambiguities fairs and exhibitions remain one of the more undefined responsibilities of the Commission. Considerable amounts of money are gambled at fairs and exhibitions and profits to operators can be exorbitant with opportunities for skimming and other forms of theft being numerous. The Commission will be addressing the following concerns in the future:

- inadequate accounting procedures;
- lack of licensing, terms and conditions for operation, inspection and regulatory control.

The Commission believes the law should be rewritten in language which makes it clear what gaming can and cannot go on at fairs and exhibitions and under exactly what conditions of licensing.

Chapter X — SOCIAL CLUBS

The licensing authority for bona fide social clubs was given to the Gaming Commission in August, 1987. These responsibilities are new and much examination of the situation has yet to be done. In the interim, the Commission has adopted the policies and licensing forms previously in place. As a result of studying a report by the Co-ordinated Law Enforcement Unit we have identified our major areas of concern:

- licensing and the necessary attendant investigation;
- proprietorship i.e., individuals purchasing, selling, owning the clubs for profit;
- the range of games played and the manipulation of these in order to skim profits;
- advertising and competition for patrons;
- membership;
- police interests and involvement of organized criminals;
- municipal bylaw impact and hours of operation;
- liquor consumption and sales;
- financial controls.

Chapter XI — LICENSING, REGISTERING AND BONDING

Licensing and registering of people involved in the gaming industry is seen by the Commission as an essential means of ensuring integrity and more orderly growth of this industry. The following information will become conditions of licensing including renewal of current licences:

- proof of eligibility;
- a signed financial statement and budget identifying objectives, current assets and other sources of revenue;
- status of any trust account;
- number of bingo, casino events and ticket lotteries requested and anticipated gaming revenue required to meet objectives;
- rent structure and copy of agreement;
- a clear definition of the charitable objectives.

A number of concerns with regard to licensing have been identified and require more consultation and policy development. These concerns are as follows:

- the problem of exorbitant or unreasonable rent must be addressed;
- licensing approval for casino management companies and bingo hall operators should be subject to regional zoning, municipal and health regulations;
- registering, bonding and training of the key workers will improve the quality and integrity of gaming activity;
- registration of supply and service companies;
- the use of fines to deter wrongdoing.

Chapter XII — FINANCIAL CONTROL AND ACCOUNTABILITY

There is a critical need for financial control and accountability in all forms of gaming. This simple fact was reinforced in every jurisdiction visited by the Commission. One of the best measures in bingo and casino events is the charities continued responsibility for handling the money and paperwork. To ensure financial control a number of elements should be taken into consideration, including:

- supervision of cash flow should be undertaken by two separate parties i.e. a charity representative and a management company or bingo operator representative;
- separation of responsibilities i.e., the games area, banking area and count room area remain separate;
- surveillance and security;
- clear concise financial reporting forms, universally used;
- charity accountability;
- an increase in Branch audit staff to ensure co-operation and accuracy in reporting procedures;
- proof of financial responsibility and compliance with these controls as a condition of licensing.

Chapter XIII — TRAINING

The Commission believes that training of all individuals associated with the gaming industry is essential to ensure competent, honest, well-run gaming events in the Province. Orientation will also be provided to new members of the B.C. Gaming Commission. The following individuals will be included in this training and the training will be undertaken in various ways as outlined in the chapter:

- charity advisors;
- games dealers;
- management company managers;
- charitable organizations and their members.

- security guards;
- government regulators;
- police.

Chapter XIV — EQUITABLE ACCESS TO CHARITY GAMING

The Commission intends to introduce a process of licensing that will permit all recognized charities and non-profit societies access to funding. The degree of access will depend upon need in relation to available fund raising activity. The process will require budget submissions, follow up audits, an outline of other sources of revenue, objectives of the funding as well as the number and type of people who will benefit from the funding. An increase in the staff complement of the Branch will be required to ensure this process occurs in a fair and orderly manner.

Chapter XV — ADVERTISING AND PROMOTION

Many abuses to advertising and promotions have been brought to the attention of the Commission. Terms and Conditions will be implemented with more aggressive and consistent enforcement to ensure all gaming events are being promoted in an equal fashion. As advertising costs increase, the share to the charity licensees begins to decrease. Practices such as guaranteed prizes above the 60% pay cut level, enticements and Nevada style ads will not be permitted. The only information which is essential in advertising is notice of where and when the event is to be held and the name and licence number of the sponsoring charity.

Chapter XVI — B.C. STEAMSHIP SLOT MACHINES

The experiment of installing slot machines on the two B.C. Steamships has been successful in that this is the first time in four years the Corporation is showing an increase in the number of fares. This relates to increased revenues from the fares and the slot machines. If any expansion occurs in the casino gaming, then the operations should be overseen by the Commission and the events should be subject to the Terms and Conditions just as all other gaming activities are in the Province.

The following recommendations are made to the B.C. Steamship Company for their consideration:

- That the slot machine experiment be confirmed as a success and be given permanent status with the B.C. Steamships;
- The current conditions for control, accounting and security be maintained;
- Better utilization be considered. Currently the slot machines are being operated for five of twenty-four hours, and for only five months of the year;
- Increase the capacity of the *Princess Marguerite* to hold more than fifty-seven slot machines;
- To increase flexibility, reconfigure the *Vancouver Island Princess* (VIP) to provide accommodation on board for the crew. This would allow the ship to remain overnight in Seattle, or other ports as may be required;
- The gaming activities of the B.C. Steamship Company should be subject to the regulations of the B.C. Gaming Commission and the Public Gaming Branch.

Chapter XVII — THE POLICE POSITION ON GAMING IN B.C.

A report received from the B.C. Association of Chiefs of Police included a number of overall recommendations relevant to gaming and include the following:

- The B.C. Gaming Commission (B.C.G.C.) oversee all forms of public gaming authorized and licensed under Part V of the Criminal Code;
- The B.C. Lotteries Corporation should remain a Crown Corporation directly responsible to the B.C.G.C.;

- The Public Gaming Branch (PGB), under direct control of the B.C.G.C. should be responsible for licensing, auditing and enforcement in relation to:
 - Charity casinos,
 - Bingo games,
 - Fairs and exhibitions,
 - Social clubs, and,
 - Charity lotteries;
- The C.L.E.U. Operational Compliance Unit, if a special unit is required, should be an integral part of the P.G.B.;
- All functions of a regulatory nature should remain the responsibility of the P.G.B.
- All monitoring of criminal activities and enforcement should remain the responsibility of the police;
- In conclusion, the B.C. Gaming Commission should provide an appropriate number of personnel committed to performing all the regulatory functions inherent with approved forms of gaming in B.C.

CHAPTER I

ROLE AND RESPONSIBILITIES OF THE B.C. GAMING COMMISSION AND THE PUBLIC GAMING BRANCH

1. B.C. GAMING COMMISSION

The B.C. Gaming Commission was established on April 1, 1987 to develop policy for gaming within the Province and to set the terms and conditions of licences to be issued to charities who use bingo, ticket lotteries, or casino events to raise funds. The Commission is also the licensing authority for these charitable events.

The Commission also has the responsibility of regulating and licensing the various types of gaming which takes place at fairs and exhibitions throughout the Province. On August 5, 1987 the Attorney General specified that the Commission would be the authority in the Province to issue licences to incorporate bona fide social clubs or branches thereof and to prescribe the terms and conditions of those licences in accordance with the requirements of the *Criminal Code of Canada*.

(i) Membership

Seven individuals have been appointed by an Order of THE LIEUTENANT GOVERNOR IN COUNCIL. These are: Richard M. MacIntosh, (Chairman), North Saanich; Thomas S. Venner, (Vice Chairman), Vancouver; Bernard M. Smith, Burnaby; Marianne C. Crockett, Trail; Vicki Kuhl, Victoria; Derrick Humphreys, West Vancouver; and C. Ellison Framst, Fort St. John.

(ii) Responsibilities

The Commission is developing policy which will ensure that charitable organizations earn the maximum revenue for their worthwhile endeavours, while acknowledging the fundamental principle of government not to encourage unregulated growth or expansion in gaming activities.

Commission members normally meet every two weeks to conduct the business of the Commission. This business includes the examination of reports prepared by the Branch on the management and operation of gaming activities, as well as preparing responses to written inquiries and recommendations on gaming activity. The Commission also reviews licence applications by bingo hall operators and casino management companies, hears briefs from interested parties, conducts licence appeals and tours gaming sites.

Members of the Commission have been reviewing the current terms and conditions respecting licensing of gaming events in B.C. These terms and Conditions are included in this report as Appendix "B". This involves consultation with charities, service organizations and members of the Branch, which is the inspection and enforcement agency of the government with respect to all licensed lottery events.

In addition, the Commission is developing policies which are implemented and enforced by the Branch and providing information to the public concerning licensing, conduct, management and operation of gaming activities. This provision of information is a Commission priority and is presently being addressed.

(iii) Community Consultation

In the preparation of this report the Commission has reviewed and participated in all relevant activities in an attempt to understand charity gaming in British Columbia and neighbouring jurisdictions. In the past nine months we have received briefs from well over 500 groups and individuals and listened to presentations from 60 individuals and organizations, many of whom are involved in gaming activities within the Province. The Commission continues to receive input from interested citizens and this will be encouraged in the future. Additionally, members of the Commission have read and heard briefs on the Australian and British gaming systems as well as many others in less detail.

Commission members have also visited gaming establishments and held discussions with interested parties in Kelowna, Penticton, Kamloops, Prince George, Trail, Whistler, Dawson Creek, Fort St. John, Chetwynd, Nanaimo, Victoria, Nelson, Castlegar, Tumbler Ridge and communities within the Greater

Vancouver Region (GVR). The GVR which is referred to throughout this report includes Greater Vancouver and a map outlining the specific boundaries is included as Appendix "C". Outside the Province, we have visited Alberta, Manitoba, Yukon Territory, Washington State and Nevada State, where we have had full access to gaming authorities and an opportunity to discuss and observe their systems.

Further information was gathered by a research consultant who was hired on contract to provide the Commission with a detailed profile of gaming activities in four B.C. communities (Prince George, Fort St. John, Trail, and Vancouver). A brief summary of this review is provided in Appendix "D".

2. PUBLIC GAMING BRANCH

The Public Gaming Branch screens all applications for gaming licences and then makes recommendations to the B.C. Gaming Commission as to which applicants should receive licences. The Branch is also responsible for monitoring gaming activity through inspections and audits, thereby ensuring compliance with the Terms and Conditions Respecting Licensing. This ultimately ensures the charitable organization the greatest possible monetary benefit from the gaming activity. In the 1986-87 fiscal year, 5,576 licensees shared in the \$35 million-plus raised from licensed gaming activities. The Branch is also responsible for the collection of fees from licensees.

(I) Goals

The Branch provides an ongoing policy advisory capability to the Ministry of Attorney General and the B.C. Gaming Commission in the overall area of public gaming. The goals of the Branch are:

- (a) to ensure that eligible, non profit societies have an opportunity to raise funds for legitimate charitable purposes through licensed public gaming;
- (b) to ensure the integrity of a gaming industry that, for the past two years, has generated an annual dollar volume in excess of \$150 million; and,
- (c) to protect the interests of the participating charities, the public and the private entrepreneurs.

(II) Structure

The Branch currently consists of 31 positions. Twelve full time equivalent positions and eleven contract positions were transferred from the Cultural and Heritage division of the Ministry of Provincial Secretary and Government Services to the Support and Regulatory Services section of the Ministry of Attorney General on November 6, 1986. The other eight contract positions were created after the transfer. The Branch has been restructured into four sections:

- (a) licensing;
- (b) inspections;
- (c) policy development, evaluation and research;
- (d) administration and audit.

To carry out their inspection and compliance responsibility throughout the Province, the Branch has field inspectors in Victoria, Vancouver, Prince George, Kamloops, Kimberley and the Okanagan.

3. ORGANIZATIONAL STRUCTURE

Both the Commission and the Branch have concerns with the present organizational structure: the apparent overlapping of responsibilities, the channels of communication and the impact/perception of all this within the charity gaming community in the Province. The Commission believes some changes are necessary.

(I) Charity Licensing

Prior to April 1, 1987 when the Commission was established, all inspection, compliance, regulatory and licensing requirements were carried out by the Branch in furtherance of their Terms and Conditions. The Branch, subject to government direction, was all powerful, not just the first line of interface with charities.

and the service companies/hall owners. Licensees knew that the same group who inspected gaming events looking for compliance with Terms and Conditions was also responsible for licensing decisions that could deprive a charity of all fund raising opportunities from bingos, casinos, and ticket lotteries. There was an incentive to comply with any directions emanating from the Branch and this carried over into the attitudes of service companies and bingo hall owners, who, although not at that time subject to licensing, were dependant upon charities approved by the Branch for their business. It did not take long for the less scrupulous within the charity gaming community to sense the subtle impact and opportunities of the change in licensing authority to the Commission. The Commission became the focus of their concern; interest in the Branch became secondary. This has had a predictably negative effect with regard to compliance, and, such adjectives as "toothless" and "ineffective" have been used to describe the Branch by its detractors.

To rectify this situation we propose that licensing authority with respect to the charities themselves be removed from the Commission and be returned to the Branch by Order-In-Council. They would, thereafter, be responsible for monitoring the compliance of all licensees with the Terms and Conditions of the Commission. The Branch could also approve, refuse, revoke and suspend licences, having knowledge, and background information of the character and bona fides of all concerned.

The Commission, in addition to setting policy, creating and amending Terms and Conditions, would become a separate entity as appeal body. They would then adjudicate disputes between the Branch, charity licence holders, and other unsuccessful licence applicants. The Commission would retain its newly developed and implemented licensing powers over casino management companies, commercial bingo hall owners/operators and other special categories. This proposal would allow the Branch to serve as our investigative arm, providing the Commission with background information and recommendations.

(ii) Reporting Structure

As a second organizational change the Commission recommends an adjustment to the reporting structure currently in place. We believe we can minimize the considerable confusion which exists in the minds of the public at present as to the responsibilities of the Commission in relationship to those of the Branch. This could be accomplished by having the Branch accountable to the Commission, with the Chairman of the Commission reporting directly to the Attorney General or his Deputy. In this new organizational structure the Director of the Branch would take his instructions from the Chairman and/or Vice Chairman of the Commission. Both would be working closely together to ensure development of mutually supportable policies while avoiding the current problem of the Branch trying to satisfy two masters. Such a change would bring unity to the gaming structure. Policy would be developed and implemented by one organizational structure. We recommend the organizational model as it is set out in figure 1.1 at the end of this chapter.

(iii) Future Legislation

A third more evolutionary and long range development would be to lay a foundation for all the activities of both the Commission and the Branch with the creation of a new provincial statute i.e., *Public Gaming Act* and regulations. While working towards this it will be essential to have in place the Lotteries Advisory Committee contemplated in section 3 of the *Lottery Act*. It is important to ensure that both the Chairman of the B.C. Gaming Commission and the Chairman of the B.C. Racing Commission are members of this Committee along with the Chairman of the B.C. Lottery Foundation Board. We advocate the creation of this committee at the earliest possible time in the interests of a co-ordinated gaming, lottery and wagering future for B.C.

(iv) Commission and Branch Generated Revenue

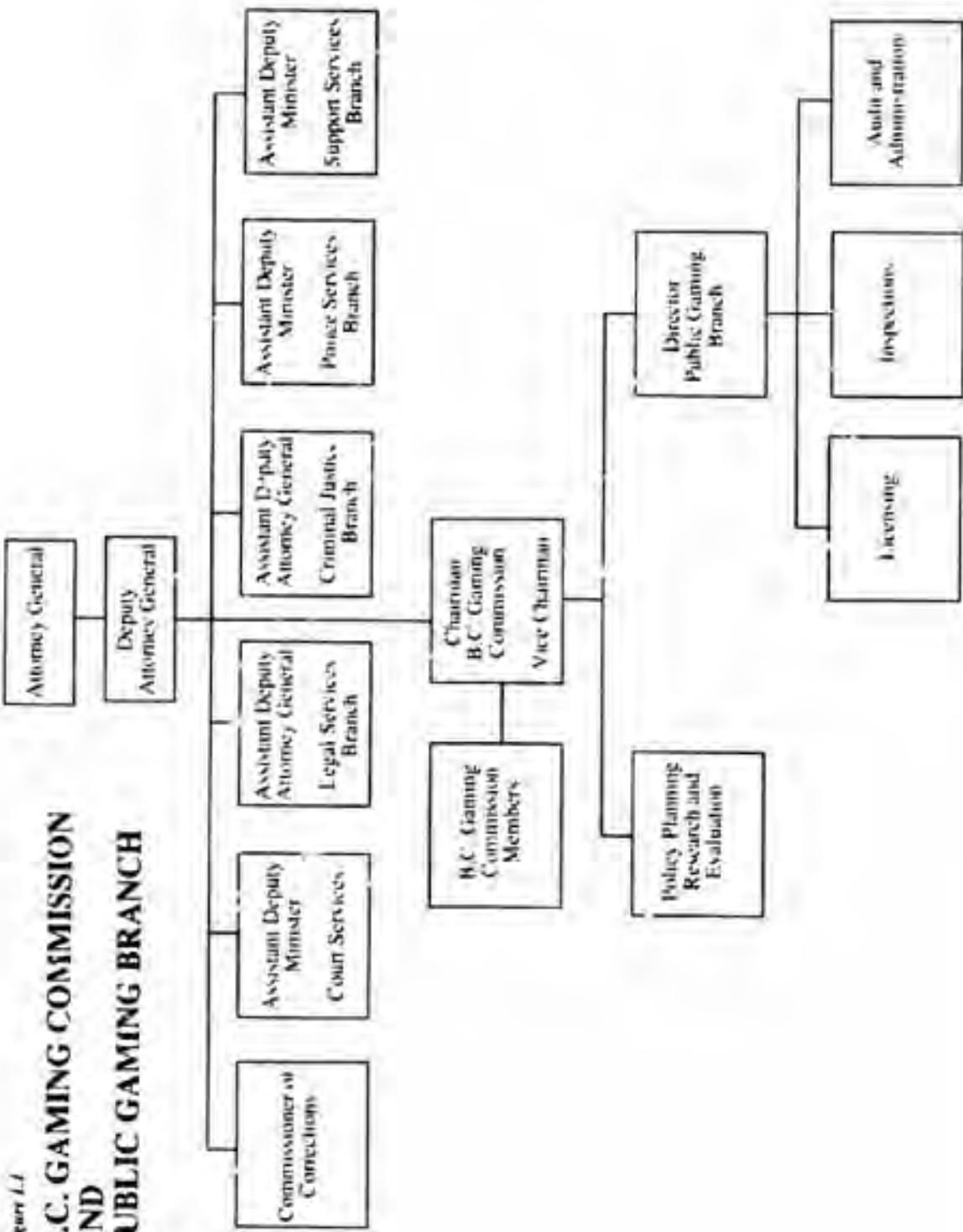
Money which is collected by the Commission and/or the Branch through licensing, fees, fines and any other sources should accrue to the Ministry of Attorney General rather than to the Lottery Branch of the Ministry of Provincial Secretary and Government Services. This would give a more accurate figure of the amount of money generated by gaming activities and provide a fund which the Commission, with the approval of Treasury Board, could utilize to ensure a stabilized growth of the gaming industry in the Province.

4. CONCLUSION

It is essential that the B.C. Gaming Commission and the Public Gaming Branch not only have a close working relationship but are perceived to have this relationship by the gaming community. With this in mind it is recommended that the charity licensing function be returned to the Branch and the aforementioned organizational structure be implemented.

Figure 1.1

B.C. GAMING COMMISSION AND PUBLIC GAMING BRANCH



CHAPTER II

PHILOSOPHY AND SOCIAL CONSIDERATIONS OF GAMING

1. INTRODUCTION

For those individuals who do not want any form of gaming allowed in the Province, the simple reality is "GAMING IS HERE". Bingos, lotteries, horse races, casinos, social clubs, exhibitions and slot machines are all forms of gaming that are available in British Columbia today. No matter what is said and done by those who advocate or oppose gaming in all its various forms, it is an activity that is practised, or tacitly endorsed, by a substantial number of Canadians.

That is the simple, accepted, overriding premise behind all the work of the B.C. Gaming Commission. The Commission has sought to determine the most productive and equitable treatment of this complex social phenomenon. Each Province now has the legal authority to determine the role of gaming within its jurisdiction with private ventures of any kind being restricted to charitable and religious organizations, exhibitions and agricultural fairs.

Gambling is occurring every day in various locations throughout the Province. The Public Gaming Branch estimates that as many as 20,000 individuals play bingo daily with another 15,000 people that frequent casinos. The majority of these people have chosen this recreation over other social activities as a result of the camaraderie and entertainment they derive from gaming. Although some people condemn all types of gaming, others get a great deal of satisfaction from it.

This does not mean that gaming is a simple problem with simple solutions. In fact, gaming is an issue so fraught with ingrained moral and philosophical dichotomies and unresolved social questions, that no disposition of the subject can ever come close to being universally accepted. Attitudes toward gaming encompass the most sincere and high-minded ethical beliefs as well as the basest kinds of acquisitive instincts and exploitation.

If gaming is inevitable, then what forms will we allow and how should these various forms be regulated? That is the subject of this report. Although the Commission is sensitive to the invidious and emotional aspects of gaming it has not addressed the social ramifications of gaming policy directly because they are largely unsuceptible to objective analysis. The Commission has encouraged interested groups and individuals to submit letters or briefs expressing their views on gaming in the province. The responses to this request are dealt with in various chapters of this report.

Communities and regions need to be made aware of issues involving the social consequences of gaming. They should discuss and examine gaming policies as to how they will affect their specific jurisdictions.

2. MORAL AND ETHICAL CONSIDERATIONS

A significant number of individuals believe that gaming of any form is absolutely wrong, on both religious and secular moral grounds. By sanctioning gaming, the Province may be intruding into areas of sincerely held theological and ethical convictions. It may be that legalization or decriminalization makes allegiance to government extremely difficult for people with deep moral convictions, who are forced more and more to dissent from the actions of their government. It must be asked if the gain for the majority is worth the price of the alienation of the minority.

3. GAMING AND THE WORK ETHIC

There is no reliable way to calculate the effect on the work ethic of legalizing or decriminalizing gaming which was once prohibited. If, through legal gaming, citizens are allowed or encouraged to make a profit or gain through chance and skill rather than through work, the government may be undermining a basic social tenet of our culture. Others argue that playing the stock market, which many consider to be work, is truly a gamble.

4. GOVERNMENT AS GAMING ENTREPRENEUR

When a large segment of the population finds an activity objectionable, a Province must decide whether it should allow and, in effect, promote that activity. Also, many people believe fervently that it is improper for government — especially a democratic government in a capitalistic society — to compete in the marketplace with private enterprise and that Province-sponsored gaming could be seen to violate that principle.

A report was prepared by the Legislative Research Council for the State of Massachusetts, U.S.A. in 1983. The Legislative Research Council was commissioned to help the government decide for or against legalized casino gaming. Their report forcefully outlines why government should not be involved in the gaming industry. The state subsequently rejected involvement in legalized casino gaming, and a brief excerpt from this report is included in Appendix 'E'.

5. OVERESTIMATION OF NEW TAX REVENUE

Profit and revenue potential is often overestimated by those involved in and supporting the gaming industry. Several factors must be considered:

- (a) Novelty — When legalized gaming debuts it enjoys more support initially than on a long term basis, reflecting profits higher than average;
- (b) Monopoly vs. Competition — If one area introduces gaming first, it will enjoy a wide, profitable market due to its exclusivity. However, this will lessen if increased competition from other areas occurs;
- (c) Revenue Switching — Gaming revenue is often mistaken for newly injected disposable income. However, normally the consumer has switched some or all of his gaming expenditure from another consumption area. Although there is a net increase in tax revenue from gaming, a loss will be reflected in tax revenue in other areas. However, this has not been proven to be of a comparable amount. In a report commissioned by the Victoria State Government of Australia entitled "The Impact of the Introduction of Lotteries on Pre-existing Forms of Gaming", it was indicated that the introduction of new forms of gaming such as lotteries have no decreasing effect on the revenues being produced from other forms of gaming such as horse racing and casinos.

6. LAW ENFORCEMENT COSTS

It remains to be seen whether casino and bingo gaming in B.C. will bring about any increase in law enforcement costs, apart from an enlarged regulatory apparatus. There has been no evidence so far to indicate any connection between increased crime and the presence of casinos or commercial bingo halls in any British Columbia community. Inevitably, someone, someday may steal funds from a gaming undertaking. However, theft occurs in the local department stores as well. At the current betting limits it is quite certain that no one is leaving gaming establishments with inordinate amounts of cash. With this in mind, they would not be ideal targets for pick pockets and muggers, etc., and would therefore not bring any increased responsibilities to local police forces.

7. CREATION OF NEW GAMBLERS

Research has shown that the availability of legal gaming creates new gamblers. A government that wishes merely to legitimize existing illegal wagering must recognize the clear danger that legalization may lead to unexpected increases in the size of the gaming clientele.

8 COMPULSIVE GAMBLING

There are few studies correlating legalized gaming and compulsive gambling. However, it is generally accepted there is an association between the two. The more accessible gaming is, the more possibility there is of it becoming a compulsive habit for some individuals. The Terms and Conditions presently in place in B.C. reflect some protective measures to discourage compulsive gambling, such as hours of operation and restrictions on the extension of credit.

9. CONCLUSION

In conclusion, it is recognized that the list of social consequences of gaming is by no means exhaustive. Gaming policy involves ramifications that are not yet known and that cannot be resolved until various forms of legal gaming are attempted. The issues enumerated above, however, must be weighed carefully by any jurisdiction that endeavors to formulate a gaming policy that best satisfies the needs and wishes of its citizens. Indeed, they might well serve as criteria against which jurisdictions can measure and perhaps formulate their own goals and desires regarding the regulation and control of gaming. These issues also represent the first step in a complex social analysis that will continue throughout the life span of this Commission.

CHAPTER III

HISTORY OF GAMING IN B.C.

1. INTRODUCTION

The history of gaming in British Columbia barely spans two decades. Only in the last five years has gaming activity entrenched itself into the social fabric of the Province. As one of four western provinces, British Columbia was slower than Alberta and Manitoba in moving into the lottery industry. However, being leaders in the industry, both Alberta and Manitoba experienced problems from which British Columbia has been able to glean benefits. Recently, British Columbia has initiated significant strides to keep pace with the exponential growth which has occurred since 1982.

The evolution of gaming in British Columbia was an arduous process with responsibility for the administration and enforcement being divided and passed between ministries and control agencies within these ministries. During the most recent period of rapid growth (1982 to present), jurisdictional gaming parameters were established and the responsibility for their administration divided between lotteries and gaming for charitable or religious purposes.

2. FEDERAL LEGISLATION

In 1969, the Minister of Justice, John Turner, introduced section 190 of the *Criminal Code*. Prior to the enactment of this legislation, gambling in Canada had been unlawful. Section 190 allowed:

- (a) for the government of the Province directly to run approved lottery schemes, including casinos;
- (b) for the government of the Province directly to licence, or through another person or agency, charitable or religious organizations to conduct gaming where proceeds are directed to bona fide purposes; and,
- (c) for the government of the Province only to conduct gambling through video or slot machines.

Section 190 became an exemption clause which gave provincial governments the authority to licence gaming within the respective provincial jurisdictions, provided that the financial gains derived from the gaming activities were distributed to bona fide charities. The legal framework did not allow for the development of private sector, entrepreneurial gambling, except in support of approved activity conducted by charitable and religious organizations.

3. BRITISH COLUMBIA — 1970 to 1979

In April 1970, an Order-In-Council passed pursuant to the *Criminal Code* of Canada, permitting the Province to conduct public gaming within its boundaries. A small Licensing Branch was created within the Ministry of Attorney General which began issuing licences to charitable and religious organizations, and agricultural fairs and exhibitions to conduct lottery schemes. Between 1970 and 1974, the Branch began to develop regulations for licensing and financial accountability of charities.

In 1974, the Province of British Columbia became a partner with the other three western provinces in the creation of the Western Canada Lottery Foundation. Each province was responsible for its respective marketing. Within B.C. the responsibility for the conduct of provincial lotteries and the licensing fell to the newly created B.C. Lottery Branch with the passage of the B.C. Lottery Act. This Branch was placed under the Ministry of the Provincial Secretary and Government Services.

The Act called for the Minister to be responsible for:

- (1) the administration of the Branch;
- (2) the conduct of Province run lotteries;
- (3) the regulation and licensing of other gaming activities; and,
- (4) the establishment of a committee to advise and assist the Minister.

The B.C. Lottery Act also created a Lottery Fund from which costs of administering the Act were to be paid, including those costs of the Lottery Grants Branch which would administer the Act. Initially, profits from lotteries in B.C. remained relatively modest and had been designated for "... cultural or recreational purposes or for preserving the cultural heritage of the Province . . ." In 1976 the Act was amended to include "other purposes" and in 1979, the Lottery Grants Branch was created to administer the fund which was growing from increased lottery activity. Licensed public gaming, mainly raffles and bingos, was of less concern relative to lottery activity.

Lotteries continued to be administered by the Western Canada Lottery Foundation until April 1, 1985, when the B.C. Lottery Corporation was established under the B.C. Lottery Corporation Act.

4. BRITISH COLUMBIA 1979 to PRESENT

(I) *Public Gaming Branch*

As early as 1974, the Licensing Branch, which had been created under the Attorney General, was transferred to the Ministry of the Provincial Secretary and became part of the B.C. Lottery Branch. The first two Field Inspectors joined the Branch (one in Vancouver and one in Victoria) and initiated the enforcement of the regulations. In 1981, on the recommendations of Treasury Board, the Branch was expanded to include six Field Inspectors and one Chief Inspector.

The focus of priorities changed in 1982. The Branch became a licensing body, with an inspection staff of seven people. The provincial lotteries became the sole responsibility of the Western Canada Lottery Foundation, separate from the Branch, and moved to its current location in Richmond, B.C. Jurisdictional authority for gaming under the *Criminal Code* of Canada was divided as follows:

- (1) Section 190 (1) (a) was the responsibility of the Western Canada Lottery Foundation;
- (2) Sections 190 (1) (b) and 190 (1) (c) remained the responsibility of the Branch.

The development of bingo, casino, and ticket raffle activity was slow to evolve relative to lottery activity in British Columbia. However, in 1984, this was to change. An entrepreneur, displaced when the Manitoba government took over direct operation and control of gaming in that province, moved to British Columbia and opened a bingo "Palace" in Cloverdale.

This commercial operation was to be the vanguard; within the year there were in excess of fifty such commercial halls in operation. Contrary to the regulations, owners and managers of the commercial halls became directly involved in the conduct of bingo games to protect their investments.

Regulations were developed and implemented in November of 1984 in an attempt to separate the duties and responsibilities of the landlord of the commercial hall from the charity licensee. Commensurate with these regulations, a moratorium was placed on the issuing of new bingo licences in an effort to control the proliferation of bingo activity.

Less than two months later, as part of the government restraint measures, the Branch was reduced in staff from fifteen people to six, with no field inspectors. This virtually eliminated the operational efficiency and effectiveness of the Branch. There was little opportunity to monitor the degree of compliance with the new regulations and there was no opportunity for enforcement.

Despite the fact there was no staff to administer the process, the moratorium was lifted within a few months. At the same time, the requirement for increased administrative staff and field inspectors was realized. Additional personnel were hired, enforcement was initiated, and, in the fall of 1985, a major review of bingo regulations was undertaken.

On November 6, 1986, the Branch was transferred back to the Ministry of Attorney General. Its mandate continued as the agency which would:

- (1) license charitable and religious organizations pursuant to section 190 (1) (b) of the *Criminal Code*;
- (2) monitor licensed gaming activity commensurate with the Regulations; and,
- (3) advise the Minister on all gaming matters and changes in regulations.

(II) *B.C. Gaming Commission*

On April 1, 1987, the B.C. Gaming Commission was established by Order-In-Council. Its purpose was to set policy for gaming within the Province and to set the Terms and Conditions of licences to be issued to

charities who use bingo, ticket lotteries and casino events to raise funds. The Commission was also the licensing authority for such charitable events.

Unlike other jurisdictions which had experienced a gradual growth in gaming activity, British Columbia was inundated with unprecedented expansion in casino and bingo activity within a twelve month period spanning 1985/1986. There was great concern that casino activity in particular was developing in such a manner that it could lead to difficulties for the charities involved and for the casino management companies alike.

As a result, one of the major undertakings of the Commission was to review the status of gaming within the Province and to report to government by November 30, 1987. While the Commission was undertaking its study, the Cabinet decided to impose a "freeze" on casino activity in such a manner that would:

- (1) only issue licences to charities which had been utilizing casino events for fund raising in 1986 and 1987;
- (2) approve licences only for locations which were currently in use; and,
- (3) restrict licensing to casino management companies which were currently active.

As a fundamental principle, it was not the intention of government to encourage unregulated growth or expansion in gaming activity in British Columbia but to provide a policy framework within which selective options could be pursued.

In August 1987, the responsibility for licensing and establishing the Terms and Conditions for Social Clubs, pursuant to section 179 of the *Criminal Code*, was transferred to the Commission from Police Services Branch. The administration and enforcement remained within the Compliance Unit of C.L.E.U. until November 1987 when one contract position was transferred to the Branch to work in this area.

5. BINGO

Prior to November of 1974, British Columbia had only two commercial bingo halls, one in Nanaimo and the second in Kamloops. Both of these operations had the support of the community and were sensitive to the needs of the charities involved.

Commercial hall operations had expanded by June of 1986 as a result of an influx of entrepreneurs from the prairies who were attracted by the \$100 million per year industry. They had replaced most of the small traditional bingo hall operations. Most licensees were novices and quickly became intimidated by the "professional" hall owners whose motivations were inconsistent with those of the charities.

On June 9, 1986, regulations were introduced to address this proliferation and profit seeking motivation. In addition, on October 1, 1986, the production of bingo paper was taken out of the hands of the private sector and given to the B.C. Lottery Corporation. This latter initiative allowed the Branch to impose strict inventory and revenue controls on the licencees. In the spring of 1987 all regulations and policy directives were replaced by Terms and Conditions. Currently there are approximately 63 commercial bingo halls in operation throughout the Province and approximately 2,200 bingo licences issued to charities.

6. CASINO

(i) 1970 to 1985

From early 1970 to December of 1984 casino gaming was conducted as an adjunct to bona fide social functions. They were restricted to a \$2.00 bet limit, 6 blackjack tables, and an unlimited number of roulette wheels and wheels of fortune. Thirty five per cent of the gross proceeds from the games had to be returned to the licensed charities.

For the most part these events were one or two day "fun night" affairs conducted in local halls and operated solely by volunteers from the licensed charity. The equipment was usually of a poor quality and either self-owned or rented. Gross proceeds rarely exceeded \$1,000 per event.

In 1982, Great Canadian Casino Supply Company was incorporated. The company offered professional equipment and services to licensed charities for a percentage of the gross proceeds. They operated approximately five times per month at marginal profit levels. For the balance of the year the company was sustained by profits received from the three week operation at the P.N.E. where the bet limit was \$5.00 and the dealers could be paid.

By 1983, Great Canadian operated with hired and trained staff paid as "honoraria" from the proceeds. Policy prohibited permanent sites which required the company to set up and dismantle the equipment each night. Great Canadian guaranteed the licensee 35%, which was the minimum requirement under the regulations. Great Canadian received 35%, the government 2%, and a promoter who booked the room and arranged for the advertising and entertainment received 28%, plus the door admission.

(ii) 1985 to June 1986

In the fall of 1985, Great Canadian was joined by other casino management companies who realized the potential for profit, especially with the increase in the bet limit from \$2.00 to \$5.00 and the increase in the number of blackjack tables from six to ten.

By May of 1986 there were 32 companies operating in the Province, and on any weekend in the Vancouver region there would be up to twenty casino events. With the competition, the private promoters disappeared, average attendance dropped, and the gross revenue per event declined.

Eligible charities were actively solicited by the casino management companies to apply for licences resulting in the Branch being inundated with applications. The casino management companies ceased to move from location to location each night and instead established themselves in permanent locations. Casino events which had initially only operated on weekend evenings, began to operate 7 days per week and began to open at noon.

Major problems erupted, most of which were associated with financial discrepancies. Few companies had experienced personnel. In most cases the "win" became a guess since appropriate accounting forms and audit trails were absent. Gross revenue (win) occasionally exceeded \$25,000 and the cash flow (the drop) could exceed \$100,000. Little or no supervision was provided and only in rare cases were security personnel present. Participation by the charities decreased and on occasion members of the charities were not present at the casino to handle the cash as required by the regulations.

(iii) June 1986 to April 1987

On June 9, 1986, new regulations were introduced in an effort to bring an untenable situation under control. The bet limit was reduced to \$2.00, and the percentage of the gross which charities must receive was increased to 50%. In addition, the number of licences which could be issued to charities in the Greater Vancouver Regional District was limited to 12 per week. Other changes included the restriction of the number of hours of operation to 6 during the evening only, the exclusion of casinos on Tuesday, a limit of 5 roulette wheels, the elimination of the wheels of fortune, an increase in the licence fee to 5%, and a requirement that the licensees have greater control over the operation, particularly the cash.

These changes had a dramatic effect on bringing casino gaming under control. However, they severely affected the net revenue to licensed charities. By August there were only 12 casino management companies operating. Those casinos with good roulette play fared the best since the \$2.00 bet did not appreciably affect the amount won. The restriction on the 12 licences drawn per week in the G.V.R. did not initially become a factor since fewer than twelve applications were received per week.

The casino management companies immediately replaced their 35% guarantee with a no loss guarantee. The charities were expected to pay the 35% fee of the companies as well as all other expenses, shifting the risk from the management companies to the charities. The charities were formerly "first in line"; now they were last. Charities rarely made their 50% as required by the regulations. It soon became apparent to the casino management companies that they would not face bankruptcy as long as there were enough charities available. Some casino management companies only started to make money with these new regulations. By the spring of 1987, major problems again began to surface.

(iv) April 1987 to present

On April 1, 1987, Cabinet imposed a "freeze" on casino activity which limited casino gaming to those casino management companies and those charities which had operated in the past. The freeze would remain in effect until the newly formed B.C. Gaming Commission submitted its report to government on the status on gaming in the Province.

Between April and December of 1987 the number of active casino management companies decreased from thirty-two to fifteen. During this same period, the percentage to charities increased with all

receiving the required 50%. To date, there have been approximately 1,300 casino licences issued to charities.

The ultimate success of some casino management companies and the demise of others was a direct result of the draw which had been imposed a year earlier on June 9, 1986, limiting 12 charities to run casinos per week in the G.V.R. Initially this was not a factor because less than 12 charities applied. However, it became a major issue when virtually all charities applied and all casino management companies became dependant on this "limited" resource. In the true entrepreneurial spirit, it became a matter of the survival of the fittest — organizational Darwinism.

7. TICKET LOTTERIES

Ticket lotteries, which for many years had been the most popular fund-raising activity for charities, started losing their appeal as other more lucrative options became available. Licensed raffles hit a peak in the fiscal year 1984/85 when 2,099 licences were issued. In 1985/86, they dropped to 1,795 and in 1986/87 they continued to drop to 1,475. As of November 19, 1987 there had been 936 licences issued.

The popular decline of raffles was partly caused by the increase in other forms of gambling, in particular government lotteries. Bi-weekly and weekly draws for larger cash prizes became more attractive than a chance to win a car which would be awarded three or four months hence.

8. SOCIAL CLUBS

British Columbia is the only Province to license gaming in social clubs. The fact that other jurisdictions in Canada do not license social clubs does not mean that this sort of gambling is nonexistent elsewhere. In other jurisdictions they simply become illegal common gaming houses, subject to police action.

The licensing of Social Clubs under section 179 of the *Criminal Code* by the Attorney General shifted administratively to the Provincial Secretary with all lotteries in 1974. It then returned to the Ministry of Attorney General in 1986.

Initially there were no inspectors in either ministry. When inspectors were hired by the Provincial Secretary, legal advice stopped them from visiting and examining the operation of the clubs. Almost all of the clubs were suspected of being proprietorships — not social clubs — but businesses owned and operated for personal profit and not for the benefit of the members.

It was not until the early 1980's that regulations were proposed which would assure compliance. In 1986, when the Attorney General reassumed responsibility for the licensing, the Police Services Branch was asked to deal with the matter. In August of 1987, the administration and licensing of social clubs was handed over to the B.C. Gaming Commission. To date, there are approximately 45 licensed Social Clubs operating in the Province.

9. CONCLUSION

The role of the Public Gaming Branch and the B.C. Gaming Commission is, by its nature, dynamic. The future of gaming in British Columbia will probably reflect its history with changes evolving from policy. Although its brief history has been fraught with continual movement, the industry has continued to grow.

Rapid growth in the gaming industry has caused policy makers to become cautious and prudent in their perspectives. Continued change is inevitable in an environment driven by an entrepreneurial spirit on the one hand, and a political climate on the other. In the centre is gaming activity for charitable and religious organizations with bona fide purposes.

The motivator for all participants is money. Without the lucrative profits there would be no entrepreneurs of the industry, no loyal supporters of the games, and, consequently, no bureaucratic administrators. Charities would be active in other avenues, seeking financial support for their worthwhile endeavors.

Suffice to say that history will probably repeat itself. Gaming in British Columbia has not reached maturity. As such, its arduous destiny will continue to be a function of the determination of the political process, the decisions of the policy makers, and the will of the people who are impacted by the gaming activity.

CHAPTER IV

GAMING EXPERIENCES IN OTHER JURISDICTIONS

1. INTRODUCTION

Canada was one of the last Western nations to liberalize its gaming laws. The very first legal lottery in Canadian history was originally designed to help pay for EXPO 67, the World's fair in Montreal, and was introduced by the city's mayor, Jean Drapeau, who coined the phrase "voluntary tax" when describing the lottery.

The use of lotteries as a means of creating new tax revenue was common in Europe. It appears that lotteries were considered in Canada for a correlative purpose. It was a means of replacing the direct tax dollar, which had been extracted to exhaustion, with a less painful method to help finance large-scale projects such as the 1976 Olympics.

Lottery proceeds replace and enhance what may have been direct government financing. Although the provincial and federal governments are like charitable and religious organizations in that they have to use their lottery proceeds for "good" causes, what was once delivered directly from government coffers for various projects can now be offset or eliminated by the proceeds from lotteries. The funds are used as grants for programs, sometimes replacing or subsidizing a former direct government grant.

2. BACKGROUND — CANADIAN JURISDICTIONS

Shortly after the 1969 amendments to the *Criminal Code*, the Province of Quebec established a corporation for the licensing of lotteries and races. Within a year, Ontario had established a municipal licensing policy. British Columbia, New Brunswick and Saskatchewan decided not to consider a provincial lottery scheme of any kind. Alberta was conferring with Nevada while Prince Edward Island had decided not to alter its laws. Manitoba initiated a policy whereby the municipalities could license lottery schemes under a certain prize limit with a provincial board handling the remainder.

Within two years, with Quebec in the lead, other provincial jurisdictions became cognizant of the potential advantages of provincially run and controlled lottery schemes. Between 1970 and 1979, the following major lotteries were introduced in addition to other smaller lotteries:

- 1970 — Manitoba Centennial Sweepstakes (provincial);
- 1973 — Olympic Lottery which later became Lotto-Canada (federal);
- 1974 — Western Canada Lottery Foundation (interprovincial);
- 1975 — Wintario (provincial);
- 1976 — Provincial (interprovincial);
- 1977 — Cash for Life (Ontario Mental Health Association);
- 1977 — Atlantic Lottery (N.B., N.S., P.E.I.);
- 1978 — Lottario (Provincial).

By 1973, all four western provinces had become involved with lotteries on their own. A planned partnership of these jurisdictions evolved the following year as the Western Canada Lottery Foundation. This interprovincial organization, directed by a board of eight members, was given the responsibility to manage and conduct lotteries on their collective behalf. In the spring of 1986, its name was changed to the Western Canada Lottery Corporation.

In the autumn of 1976, the Ontario Legislature passed a provincial act which in turn created the Inter-Provincial Lottery Corporation. Shortly thereafter, the corporation was federally incorporated with British Columbia, Alberta, Saskatchewan and Manitoba. Quebec joined the Corporation in 1978; the Atlantic provinces followed a year later. It was this Corporation which managed and conducted nation-wide lotteries on behalf of all ten provinces.

The federal government retired from the lottery field in 1979. The Inter-Provincial Lottery Corporation agreed to make an annual payment of \$24 million to the federal government, and in return, the Corporation assumed the Lotto Canada game and subsequently renamed it Super Lotto. During this period, a second

agreement was signed between the provinces and the federal government whereby the provinces agreed to pay one hundred million dollars over three years in return for the federal government amending the Criminal Code to remove itself as a participant in lottery and gaming activities.

3. B.C. NEIGHBOURING JURISDICTIONS

(i) ALBERTA

Between 1970 and 1973, senior police personnel were given authority to issue bingo and raffle licences pursuant to section 190 of the *Criminal Code* which came into force on January 1, 1970. The police were not required to review the background of organizations to determine if their objectives were in fact charitable or religious and there was no requirement for financial reporting.

From 1973 to 1976, two Licensing Officers took over all the licensing functions from the police and introduced a system of financial returns which each organization had to complete after each lottery event was held. This small lotteries section did not have the resources to audit any gaming operations nor could they initiate any investigations into suspected violations.

In 1976, the Gaming Control Branch of the Attorney General's Department was formed and three Units were created within the Branch — Licensing, Auditing, and Investigations. The objective of the Branch was to establish control over all aspects of licensed gaming in Alberta, including bingo, ticket raffles, pull tabs, and casino. Alberta was the first province to clearly move into government related casino gaming for charity fund raising purposes.

As of January 1, 1981, the authority for licensing was transferred to the Alberta Gaming Commission, which is composed of one full-time Chairman and six part-time members all appointed through Order-In-Council. The Gaming Control Licensing Officers became licence reviewers and have continued to perform the review function of all applications as before. However, instead of authorizing or denying an application, they recommend to the Commission that a licence application be approved or refused. Organizations which have had their applications turned down have the opportunity to present their application at a public hearing before the Gaming Commission.

Types of Gaming Activities

Four types of gaming activity are licensed in Alberta. They are bingo, casinos, ticket raffles, and pull-tickets. Each of the four types has specified Terms and Conditions governing the conduct and management of the game.

Bingo — Bingo events must be held within the organization's own municipal or community boundaries. Bingo licences may be issued for a single event or for a continuous series of events to a maximum of twelve months per licence. Only individual licences will be issued; there are no "umbrella" licences issued to parent organizations. Distribution of gross proceeds shall approximate 65% for prizes, 10% for expenses and 25% for profits to the charity. In reviewing any bingo licence or any amendment to an existing licence, the Gaming Commission will only approve licences with a prize payout of less than \$15,000 per event.

If the primary use of a facility is to hold bingo events, the Gaming Commission will require that the licensees operating in the facility form an association. The purpose of the association is to assist its members in co-ordinating bingo-related activities, including arrangements for the facilities, supplies and staffing. Callers and cashiers may be hired staff. In addition, the associations may hire an individual to provide co-ordinating services. All other bingo workers must be volunteers: members of the licensed charity and shall not receive remuneration.

Casino — There are two types of casino applications. One is for applicants intending to operate nine games or less; the second is for those who will operate more than nine games. Only one public casino will be licensed in any city or town at one time, except in Calgary and Edmonton where two organizations will be licensed for Friday and Saturdays. Public casinos are permitted from Monday to Saturday and will be limited to two days (except agricultural fairs and exhibition boards).

There are five permanent casinos located in Calgary and Edmonton exclusively. Charities negotiate for casino services with private equipment rental companies on an average fee of \$17,500 for a two night event. Equipment rental company employees take no part in the handling, counting, or disbursement of the

funds generated, nor do they have access to the banking facilities on the premises. Only charity volunteers and other paid charity workers take part in the financial matters. Misappropriation has occurred and charity workers prosecuted. However, casino gaming is relatively honest.

A charity or religious organization is eligible for only one public or private casino licence at a time and may hold only one casino of a two day duration in a year. Where an organization has branches or auxiliaries, or similar related affiliations, only one of either the principle organization or the related group may be eligible at any one time for a casino licence.

The organization must supply sufficient personnel to staff the administrative and financial control positions for the duration of the casino. With the exception of advisors, these individuals must be volunteers of the organization. These positions do not include dealers and pit bosses who are normally hired by the licensee and registered by the Gaming Commission.

Eligible organizations in Calgary and Edmonton are placed on a rotating list and assigned casino dates by public draw which is held every two months in each city. It is possible to wait as long as eighteen (18) months depending on the demand. However, sooner or later all approved licences are drawn. Private casino events are normally held for only one day's duration and are limited to members and guests. They may be scheduled as preferred by the applicant. In all cases, a licence fee is required by all organizations.

The unattractive features of this model have to do with a lack of competition. Casinos are a monopoly at present with their numbers being controlled by the Gaming Commission. Modest growth beyond the current profile is unlikely. Demand for casino events by charities is greater than the supply available by the casino supply companies. Hence, there exists no incentive to improve the premises or create a more pleasant environment commensurate with a higher class gaming ambiance. The buildings are not luxurious and the equipment is less than first class.

Patrons line up for entry at noon each day and the casino generally remains full until 2:00 a.m. when the doors are closed. To the players, the casino is not considered to be a place of entertainment. Very few patrons are aware of the charity, or non-profit organization which is licensed to operate the casino. They are not aware of charitable objects which are being supported by the proceeds, nor do they care.

Raffles — Raffles are not a major gaming activity. The retail value of prizes awarded must be at least 20% of the total ticket value. Where individual ticket prices are \$50 or more or where the total ticket value is over \$25,000, no revenue from ticket sales may be used on raffle expenses or approved objects until sufficient funds are available to guarantee awarding of prizes. Tickets cannot be advertised or sold outside Alberta.

Pull-Tickets — Licences are issued on an annual basis only. Organizations will be licensed to sell pull-tickets only on their own premises (owned or rented) and in the specific area of the premise identified in the application as approved. In addition, sales must only be conducted during events or activities operated by the licensee. The premise must be the facility from which the organization regularly conducts its charitable religious activities or delivers its services to the community, rather than a facility used for licensed gaming events.

A maximum of 10% of gross proceeds, less the cost of prizes and units, may be used for costs associated with the conduct and management of pull-ticket sales. However, not all groups use this 10% administrative fee. The primary user are the legions which sell 55% of all pull-tickets through approximately one half of their 230 legion branches.

The licence fee for pull-tickets is 1% of gross sales. Payout distribution is based on the following scale:

- 74% Prize payout;
- 6% Expenses;
- 20% Net Profit to charity.

The Alberta Gaming Commission licences charities to sell pull-tickets. The charities purchase their pull-tickets from one of over 20 distributors throughout the province which in turn acquire the pull-tickets from several manufacturers located in United States, Alberta, Manitoba, and Eastern Canada. At this time, the Alberta Gaming Commission is not contemplating being the sole distributor but is merely establishing minimum standards for the manufacture, distribution and sale of pull-tickets.

(ii) MANITOBA

During the fiscal year 1979/80, lotteries in Manitoba were conducted through the co-operative efforts of the Manitoba Lotteries Commission and the Western Canada Lottery Foundation (WCLF). The WCLF was the manufacturer of lottery products while the Commission served as the provincial marketing organization. Meanwhile, the Western Lottery-Manitoba Distributor Inc. acted as wholesaler and a variety of local community organizations, sports clubs, associations, grocery stores, hotels, and other outlets retailed the lottery tickets to the general public.

In October 1980, The *Lotteries and Gaming Control Act* was passed creating both the Manitoba Lotteries Gaming Control Commission and the Manitoba Lotteries and Gaming Control Board. This brought all provincial lotteries under one roof with a staff that supported both the Commission and the Board, although the two organizations were separate entities.

In June 1982, the *Manitoba Lotteries Foundation Act* was passed. As a Crown agency, the Manitoba Lotteries Foundation (MLF) was initially conceived as a body responsible for the conduct and management of lottery events for the provincial government, and the licensing of charitable and religious organizations to conduct lotteries in Manitoba. It replaced the Manitoba Lotteries and Gaming Control Commission and the Gaming Licensing Board. The affairs of the Foundation were to be administered by a Board of Directors comprised of ten members.

In 1984, the operation of casinos in the Province came under the control of the MLF. This included all rural locations in addition to Winnipeg events. A new state-of-the-art television surveillance system was installed at the downtown casino at the Winnipeg Convention Centre. In June of that year, the MLF assumed control of the three large bingo enterprises in Winnipeg. Also in June, the MLF began to distribute "breakopen" tickets to licensed groups as well as officially becoming the sole legal distributor of "break-open" tickets in the Province.

On January 1, 1987, the Manitoba Lotteries Foundation (MLF) negotiated with the newly developed "umbrella" groups which had been identified to facilitate the equitable distribution of gaming revenues accruing to the foundation. The term "umbrella" group specifically referred to a single, large representative body made up of a number of smaller, community organizations that share common or similar objectives. The groups with a common interest in providing various services for the benefit of their respective communities would stand under the "umbrella" and would share in the gaming/lottery profits of its respective group. Once gaming/lottery revenues are turned over to an "umbrella" group, each would be responsible for determining how the funds would be disbursed by their related groups throughout the Province.

All umbrella organizations must have their criteria for funding approved by the Board of the Manitoba Lotteries Foundation. The present structures are:

- (1) Manitoba Sports Federation;
- (2) Manitoba Arts Council;
- (3) Manitoba Community Services Council;
- (4) Manitoba Intercultural Council;
- (5) Manitoba Community Education Association;
- (6) Manitoba Heritage Federation;
- (7) Department of Health, Sports Directorate;
- (8) Department of Culture, Heritage & Recreation;
- (9) Red River Association Exhibition Association;
- (10) Le Festival du Voyageur;
- (11) Folklorama (Folk Arts Council of Winnipeg);
- (12) Winnipeg Blue Bomber Football Club.

Types of Gaming Activities

The Manitoba Lottery Foundation markets and distributes everything from Lotto 6/49 to "breakopens", casinos, bingos, raffles, Western Express, and instant scratch games. The MLF works in conjunction with the Western Canada Lottery Corporation which designs the lottery games, prints the lottery tickets, administers the lottery games, and pays the prize money.

Bingo—The MLF operates full-time, year-round bingo facilities located within the City of Winnipeg on behalf of community organizations throughout the Province. The facilities offer players matinee, regular and late games as well as the opportunity to purchase a variety of "breakopen" tickets (also known as pull-tickets). Proceeds from these activities go to the various charitable and religious groups supplying volunteers to assist in the operation of the bingo events. Quarterly financial reports are mandatory and must be submitted by the licensee within 30 days following the end of each quarter.

New Terms and Conditions for the operation of bingo events were established to ensure that there was no proliferation of large bingo operations by groups banding together and hiring private entrepreneurs. In addition, Terms and Conditions were established to reduce the opportunity of collusion between operators at bingo events.

Casino—Prior to 1987, the MLF operated "CASINO AT THE CENTRE" for 90 days of the year. This is a permanent, downtown casino located on the second floor of Winnipeg's popular convention centre, adjacent to the Holiday Inn. It is staffed and managed by the gaming professionals of the MLF who are provincial employees. A high standard of dress and deportment is required. However, a test has been conducted this year to greatly extend the number of days of operation.

The profit margins are impressive and considering the limited operation, it reflects positively on the future of casino gaming in the Province. The concept is well accepted and few complaints are heard. Proceeds from the casino support a variety of community activities throughout the Province as distributed through the "umbrella" groups. The gaming roster includes 40 tables including Roulette, Big Six or Wheel of Fortune, Baccarat, Blackjack, and the increasingly popular South-East Asian game of Sic Bo.

It is anticipated that the Province will gross eight million dollars in 1987 (6.75 million from the Winnipeg location and 1.25 from the rural casino events). On average, the per diem take has been \$74,300 from the CASINO AT THE CENTRE. Virtually all patrons who frequent the Winnipeg casino comprise 3/4 or 1% of the City's population. It is anticipated that if the CASINO AT THE CENTRE were to operate all year round it would gross approximately 30 million dollars.

The security system at CASINO AT THE CENTRE is recognized as being on a par with Nevada in terms of its sophistication. The accounting room and bank are located in a separate room and are equally as secure. Betting limits vary from game to game:

Blackjack	— \$ 2.00 to \$200.00
Roulette	— \$.50 to \$100.00
Baccarat	— \$10.00 to \$200.00
Wheels of Fortune	— \$.50 to \$ 10.00
Sic Bo	— \$ 1.00 to \$ 10.00

As a policy, tipping is not permitted. Employees are paid a reasonable wage and it is felt that if tipping were allowed it might influence dealers and be construed by other players as a demonstration of unfair advantage.

Rural communities may operate one casino, once per calendar year, for a five day maximum duration (Brandon excluded from the five day maximum). However, they are discouraged as much as possible, particularly in communities with a population less than thirty-five thousand (Brandon is the only community which qualifies under this criteria). The MLF is of the opinion that a casino operation in a smaller community may not be cost effective and poses a security risk in regards to the control of proceeds. If a charity in a smaller community wishes to establish a casino, the MLF will conduct a cost benefit analysis and will require the charity to underwrite the event if the profitability is questionable. The MLF will provide the staff and the equipment.

A separate casino account must be established by the organization(s) into which funds received from the MLF are deposited and from which all disbursements are made to approved charitable or religious objects. Funds must be disbursed within sixty days of receipt from the MLF, and thereafter an audited financial statement must be submitted to the MLF.

"Breakopens"—The production and distribution of "breakopen" tickets is managed by the MLF. Profits from these tickets go to the licensed organizations who sell them, and to the charitable objects which they support. Currently "breakopens" are sold in denominations of twenty-five cents, fifty-cents, and one dollar; a new two dollar ticket will be released early in 1988. In 1987, approximately 100 million "breakopens" were sold.

"Breakopens" are only sold in bingo halls or hotel bars. Payout for "breakopens" varies depending on the seller. If a bona fide charity sells them the profit is 25%. If a hotel bar sells them the profit is 7.5%. The Manitoba Gaming Fund receives 6% of the gross. The balance is paid out in prizes. The selling price is based on cost plus 12%. Of all "breakopens" sold, 80% pass through bingo halls where they can be promoted by floor walkers. These floor walkers are not permitted in hotel bars. If a hotel patron wants a ticket, a request must be made of the bartender.

(iii) YUKON TERRITORY

The Yukon gambling scenario is unique as it falls under the *Criminal Code* of Canada and because of the operation of a permanent summer casino. Diamond Tooth Gerties Gambling Hall in Dawson City is the only permanent gambling facility in Canada operated on a continuous basis by one organization, the Klondike Visitors Association (KVA). It is also the only casino in Canada to provide a floor show and alcoholic beverages on the gambling floor. Generally, gambling in the Yukon is associated most closely with Diamond Tooth Gerties. However, it constitutes a small portion of total gambling expenditures in the Yukon (this includes all lotteries, e.g., Lotto 6/49).

All lotteries are administered under the *Lottery Licensing Act* which was proclaimed in September 1987. All groups interested in conducting a lottery scheme must apply to the Yukon Lottery Licensing Board. The thrust of the Yukon is to keep entrepreneurs out primarily because of the limited economic/population base (total population is 25,000 of which 18,000 reside in Whitehorse).

Types of Gaming Activity

Yukon licenses four gaming activities — casino, bingo, raffle, and sports pools, in addition to Diamond Tooth Gerties.

Diamond Tooth Gerties — In the interest of promoting Dawson City as a tourist area and re-enacting the heyday of the gold rush, Diamond Tooth Gerties was revived in 1972 as the legendary gambling hall which had been prominent during the gold rush. Its licence to operate was issued by the Yukon government under section 190 (1) (d) of the *Criminal Code*. In order to recreate authenticity, the entertainment and general ambiance reminiscent of the era was re-enacted. Diamond Tooth Gerties is somewhat of an institution in Yukon and is strongly associated with the entire Yukon Territory.

Diamond Tooth Gerties has been called the "sacred cow" of the Yukon because of the unproven assertion that it plays a vital role in tourism and employment in Dawson City. The relationship between Diamond Tooth Gerties and the Yukon is more obscure, in reality. Although it is considered a vital component of the tourist industry, its role is one of an ancillary attraction rather than a primary one. It complements Dawson City tourism rather than being the determinant of tourism.

It is unofficially estimated that most of the gambling revenue of Diamond Tooth Gerties is derived from the local residents and placer miners working in the region. The balance is from tourists in the area and perhaps other Yukon residents. It appears that tourists will visit the casino and enjoy the atmosphere but not gamble heavily. Although the operation does show a profit each year, the KVA often loses money overall. Although they have received some assistance from the Yukon government in the form of grants, Diamond Tooth Gerties has remained self-supporting.

Bingo — No organization can be licensed to run a bingo for more than 52 days in a year. The responsibility for the control of bingo events remains with the licensee regardless of what arrangements the licensee makes with the people who run the event. Liquor may not be sold or consumed while games are being played. Proceeds from bingo must be kept in a separate bank account and expended only on the purposes as set out in the licence. All financial transactions are audited and the licensee must submit financial statements.

Casino — Casinos are of a limited nature and excluding Diamond Tooth Gerties, are only run in Whitehorse. In the fiscal year 1986/87, casino players wagered 1,026 million dollars at Diamond Tooth Gerties. Approximately \$400,000 was paid out and \$626,000 held. This accounted for 95% of all casino gaming activity.

All casino events must be licensed and the rules of the games displayed. Responsibility for the event remains with the licensee and not with other people who may run the event. The "Bank" must be located in a separate room and the proceeds deposited to a separate bank account which is subject to audit by the Licensing Board. A financial report must be submitted to the Licensing Board within 30 days of the event.

Raffles — Raffle tickets must not be advertised nor sold outside of the Yukon; tickets may be sold to tourists visiting the region. The number of tickets sold must be recorded and their sale accounted for in financial statements submitted to the Licensing Board. Sports raffle pools must be licensed and must list scores and times, the number of squares printed, and the price per square, in addition to other information normally found on all raffle tickets.

4. OTHER JURISDICTIONS

A few examples of foreign casino gaming are discussed below. Casino gaming is carried on to one degree or another in well over 75 other jurisdictions world wide.

(I) Washington State

Geographically, Washington is the closest of any State to British Columbia. It is also the closest in what it allows or rejects in public gaming. The growth of public gaming, however, has been more gradual and has not demonstrated the exponential increases in bingo, casino and ticket lottery events which British Columbia has had to contend with.

The Washington State Gambling Commission was established in 1973. It consists of five members, appointed by the Governor and confirmed by the State Senate, for six year terms, staggered to provide an overlap. The Commission has a staff of 86 of which 34 are investigators, all with police backgrounds. Eleven are auditors, and the balance is comprised of management and clerical support staff. The purpose of the Commission is threefold:

- (1) To prevent organized crime from becoming involved in legalized gambling;
- (2) To prevent fraud and skimming for personal benefit; and,
- (3) To act as an administrative judicial body to license, to enforce the law, to train local police, and to counsel licensees.

Essentially, there are three types of gaming licences available:

- (1) Charitable or non-profit organizations can be licensed to raise funds through amusement games (eg: videos), bingo, social card rooms, Reno/casino nights, Punchboard pull-tab ("breakopen" tickets), sales & raffles;
- (2) Commercial business establishments can be licensed for public card games, the manufacturing and distribution of gambling equipment and supplies, Punchboard pull-tab retail sales, and special location amusement games; and,
- (3) Individuals are licensed as bingo managers, public card room employees, and distributors' and manufacturers' representatives.

Officials state that the most effective way to deter organized crime has been to make a licence unattractive and unprofitable to the professional gambler. The Commission starts, therefore, with a very careful screening process of all applicants, owners, managers, employees, and ancillary personnel. In addition, application and report forms, rules of play, and procedural manuals supplied by the Commission must be used.

Types of Gaming Activity

Casinos — Only charitable and non-profit organizations are licensed to conduct casinos and all staff must be volunteers. No tips, honoraria or benefits of any kind are permitted, except to security staff who can be paid. The single bet limit is \$10.00. Neither pull-tabs nor slot machines are permitted.

Organizations can have up to two casino licences each year. However, gross revenue cannot exceed \$10,000 in a year (this produces a net of \$8,000). Should the dollar limit exceed this amount, the balance must be given away, usually as prizes in a draw.

Three tourist areas in the State have been attempting to get legislation passed which would permit destination resort gaming. This lobby group feels that if British Columbia is successful, the State as a whole will suffer financial losses as residents travel north across the border to spend their gaming dollars.

Bingo — Prior to the formation of the Commission in 1973, entrepreneurs ran bingo halls for profit. While bingo is now played for charity, some of these entrepreneurs are still involved as licensed bingo managers. The primary concern of the Commission is now the competition for the bingo dollars caused by the expansion of unlicensed, unregulated games held on Indian Reserves.

Licensed charities can hold up to three bingo sessions per week on an annual licence. The limitation is the ceiling of 3.5 million dollars in gross receipts in the licensed year. Pull-tabs cannot be sold in bingo halls.

The Commission credits inspection procedures with keeping the game honest. All audits commence after the bingo session gets underway with an unannounced visit of the inspectors. Play is stopped while cash register tapes are checked against the cards being played. Play can then resume while the inspectors review the books and records.

Washington State has some interesting definitions for eligibility of organizations and members. As an example, an organization must have at least fifteen (15) bona fide active members and have made significant progress towards the accomplishment of its purpose during the twelve months prior to the application. A bona fide member must have belonged to the organization for at least one year, and must have NOT joined primarily "... to become or continue to be, a participant in, or an operator or manager of, any gambling activity or activities . . .".

Pull-tabs and Punchboards — Pull-tabs are sold throughout Washington by both non-profit organizations and commercial outlets. Called "Breakopens" in British Columbia, they are "Pickle Cards" in Nebraska, and "Ripoffs" in Michigan. Punchboards are also distributed throughout the State and with pull-tabs, outdistance other forms of public gaming.

(II) Other U.S. Jurisdictions

The United States has a free enterprise system of casino gaming which is only sanctioned in two states and one protectorate. We have acquired some knowledge of what casino gambling is in the U.S.A. with respect to the organized crime, social disaster, compulsive gambler, potential embezzler-picture. Casino gaming in Nevada has greatly improved in recent years, largely as a result of the Nevada State Gaming Control Board regulations.

Over 50% of the State of Nevada budget is raised through fees and taxes on the gaming industry. This includes sports books, bingo (a minor activity), horse racing, pari-mutuels etc. Seventy per cent of the employed population of Nevada work in support of the gaming industry. The Nevada State Gaming Commission, the Nevada State Gaming Control Board and every spokesman we have met from the industry itself during our visit to Nevada state that casinos are no longer "mob" controlled, and that "organized crime" no longer owns, directs, buys, sells or "skims" casinos.

New Jersey and the much maligned Atlantic City experience is a little more difficult to assess. Nevada has been in business for about fifty years, New Jersey for about ten. Casinos in New Jersey are allowed only in Atlantic City itself, whereas they exist in every corner of Nevada. Atlantic City, which was once a proud resort, was a decayed, dying, socially disastrous small city when casino gaming was approved by referendum in 1978.

It is still a dying, socially disastrous small city, no more a proud tourist resort now than it was ten years ago. But 40,000 people are employed full time in the casino gaming and support industries. This is more than the population of Atlantic City itself, which has shrunk from a 48,000 pre-casino population to a current 38,000 full time residents.

The employment benefits have been to residential areas adjacent to Atlantic City. Almost nothing constructive has been done with the \$500 million dollars in property taxes, luxury taxes and re-investment obligations contributed by the casinos since 1978. There are political, ideological and social problems affecting the Atlantic City experience which tend to obscure any examination of their history as a base for deciding on a wise course for any other jurisdiction.

(III) Australia

Australia has embraced casino gaming as a state regulated and heavily taxed endeavour, tied closely to their national tourism efforts. They have e., 11 large casinos around the country now with at least three more being constructed. Australia has declared slot machines illegal (i.e., old "real" type pull handle machines), yet they are tolerated, depending on the state whim, in social clubs and even in some casinos.

Their legal definition of "slot machine", however, failed to include the new generation of video slot and poker devices, which, consequently, now proliferate. This is the most popular, fastest growing gambling apparatus world-wide and accounts for the majority of "slot machine" revenue, primarily in the 25 cent category.

Casino gaming in Australia, where gambling is an accepted fact of life, is expanding, and the state, federal or "provincial" role is completely acceptable. Australians, we are told, want gambling services extended to them and want this done through government intervention and supervision. Taxes range from 15% to 30% of profits and only an occasional subdued protest is heard from the private sector entrepreneurs concerning these taxation rates.

However, Australia has allowed a rather curious influx of foreign interests to dominate. As of mid 1986, casino operations in Australia were managed by a variety of companies from various countries. They included Genting Berhad (Malaysia) at the Perth and Adelaide casinos, Federal Pacific (Australia) at the Hobart and Launceston casinos, Sheraton (USA) at the Surfers' Paradise casino and Aspinall (UK) and Sands (USA) at the Darwin and Alice Springs casinos.

Harrah's (USA) was initially selected in June of 1986 to manage the Sydney casino, but the government withdrew their selection two months later and re-opened the search for an operator. Most casinos are owned by private sector consortiums involving some Australian corporations. However, there is a growing dissatisfaction with foreign ownership, with many wanting more operational control in the hands of their countrymen.

(iv) Great Britain

In Great Britain there is a contrast. Casinos are allowed but as "private" gaming clubs; private in the sense that you must be a member to participate but there are no membership restrictions. There are 120 of these clubs with approximately 25 in London. Anyone can belong although in some London clubs there is a fee charged and this can discriminate. You must wait 48 hours after applying to join, a time frame contemplated to discourage the impulsive gambler. Table games predominate and current rules allow only 2 slot machines on each premise, the bet maximized at 20 pence, and the top prize set at 150 pounds. Current lobbying may bring about permission for 6 slot machines at each club, possibly even 12 at some larger London establishments.

The British establishment seems to consider casino gaming to be an unfortunate and unsavory predilection, doomed to "American style, organized crime" infiltration, to be tolerated but not encouraged. Clubs nonetheless are well patronized, growing and pressing hard for social acceptance as well as relaxed rules. They are up against a very powerful, autocratic Public Gaming Board with sweeping regulatory entitlements as well as equally influential local licensing authorities. No credit is allowed, although limited cheque cashing is permitted. Tips and advertising are prohibited, and hours of operation are from 6 p.m. to 4 a.m.

(v) Belgium

Belgium is also an interesting contrast. Casinos are there in some numbers, quite well furnished and run, adequately patronized and completely illegal. The Ministry of Finance has personnel stationed at each casino who physically collect state taxes from each winning pot/bet and ensure revenues to the house.

The Ministry of Justice, on the other hand, does not acknowledge the existence of these illegal casinos, and, we are told, will not correspond about or react to any initiatives. Hence, there are no slot machines, permission for which has been sought but ignored. Tipping of employees is not only expected, but demanded.

(vi) Germany and Austria

Germany and Austria have been in the game off and on, depending upon political regimes, for many years. Control is decentralized to the states. Local resident gambling is largely prohibited which results in patrons driving to the next jurisdiction. They are socially conscious and casinos will honour a spousal request to refuse admittance, even a self imposed pre-gambling request to limit betting. Most casinos are luxurious and are first class in terms of service, ambiance, dress code, etc.

Slot machines are only permitted in separate rooms, sometimes completely separate buildings, i.e., slot parlours. There is no credit and gaming debts are non-enforceable in law but considered a matter of honour. Casinos have long term employees with little turnover and seniority benefits. Full tipping is encouraged as a primary source of employee income. Casinos are expected and even directed to contribute to good causes within their communities.

(vii) Holland

In Holland, slot machines are a major part of casino operations. There are 80 000 to 90,000 machines distributed throughout an area about the size of Nevada. They are meticulously inspected mechanically prior to installation and as required following installation by a nationally funded institute as well as visually by seven field inspectors. Other casino games are available but slot machines appear to be most popular and are enthusiastically patronized in restaurants, bars, shopping malls as well as gaming establishments.

(viii) France

In France, casino gaming has languished notwithstanding some wealthy resort establishment popularity. We are told that a renaissance is under way and that widespread casino gaming that is totally regulated and heavily taxed by central government is emerging.

(ix) Monaco

Monaco, of course, is world famous for its luxurious and expensive gaming establishments catering to the super rich and specializing in no limit table games such as Roulette, Baccarat and Chemin de Fer.

5. CONCLUSION

When comparing British Columbia to other international jurisdictions, it is important to be cognizant of the intervening variables operating in each of the respective gaming environments. The specific gaming events may be examined on their own merits; however, comparisons may only be attempted when the extraneous variables are controlled. In some jurisdictions, this is not a viable exercise because they are so different.

When comparing British Columbia with other Canadian jurisdictions, the analysis can be achieved with greater validity and reliability due to the commonality of the controlling statute — the *Criminal Code*. Although the Alberta model is being closely examined, there are divergent attributes of Manitoba, Yukon, and other gaming jurisdictions which offer equally salient options. No one model is more suited than the other; they are products of their own environments.

The British Columbia gaming jurisdiction will mirror some models in their entirety, copy characteristics of other models, and develop new models commensurate with the demands of this Province. The heterogeneity of the neighbouring gaming jurisdictions will complement the gaming industry by accommodating the equally divergent demand on the one hand, and maintaining a continuity of the process on the other.

CHAPTER V

CASINO GAMING

1. INTRODUCTION

Casino gaming means different things to different people. There are about as many casino models around the world as there are gambling games to be played. There are four major casino models in four jurisdictions in Canada. Each of these are operated and regulated in their own unique fashion. Some of the differences are highlighted in this chapter.

The Commission has only had a limited opportunity to visit and observe casinos. However, there is a surprising amount of literature available about this form of gaming and an abundance of knowledgeable people with whom we were able to have discussions. Many people have an insatiable interest in casino gaming. As well, there is a predictable polarization of opinion within the Province. Presumably, with such apparent interest and prevailing strong opinions it would be a simple matter to draw some useful conclusions and viable options. This is not so. One of the main reasons for this is that there is a variety of perceptions as to what casino gaming is, and what a casino is.

2. CASINO GAMING AND SLOT MACHINES

For the majority of those British Columbians interested in gaming, a casino means two things: first and foremost slot machines, with the game of twenty-one or blackjack and roulette second. This is primarily because of our proximity to the gambling centres of Nevada. It is also due to a lack of familiarity with other types of casino gaming, particularly that which takes place in European countries including Great Britain.

Within B.C., the practice of misleading advertising contributes to the perception of "Nevada-style" casino gaming. This advertising uses terminology such as "Reno" and "Las Vegas" style gambling to attract prospective players, and leaves many people with the false impression that casinos in B.C. are equipped with slot machines and table games just as those found in Nevada are.

The *Criminal Code of Canada* requires that there be no slot machines allowed anywhere in Canada within charity gaming locations. Government steamships and ferries on each coast fall outside charity parameters. The preliminary view of the Commission is that this is the way it should be at present and that whatever else our charity casinos may evolve into in the future, they should be slot-machine free. One only has to observe a large Nevada casino, occupied by hundreds of patrons mindlessly playing slot machines, to come to negative conclusions about this type of casino in British Columbia. Apart from the B.C. Steamship experiment aimed at patronage by U.S. visitors, this type of casino does not exist in B.C. The Commission is of the opinion that this should remain as it stands at present.

The experiment of slot machines by the B.C. Steamship Company is discussed in Chapter XVI of this report. The Commission is supportive of this slot machine trial and sees no reason why it should not be continued, even expanded, but in a time limited environment. Patrons are aboard for a scheduled period of time beyond which they have no opportunity to continue slot machine play. On land, especially in premises open for long periods of time (in the U.S.A., 24 hours per day) the addictive nature of the practice becomes we believe, a problem for some patrons and one we should accept a responsibility to do something about.

If the absence of slot machines in charity casinos continues to be the course of the future, certain realities must go with it. First of all, citizens who like slot machine gaming will not be accommodated in B.C., and those who attend casino events because of table games will. It is debatable as to which type of game is more or less desirable than the other. As well, significant gaming revenues, whether they be for charity or government funding purposes, will be lost and a taxation opportunity disappears. In Nevada \$29 million per year are remitted to the state as a result of taxes paid on profits from slot machines. With a population of less than one million this constitutes vital revenue.

In a study recently published by *Gaming and Wagering Business* magazine, a respected trade journal, it was revealed that in casinos across the United States (i.e. Nevada, New Jersey and the protectorate of Puerto Rico) operators retained after pay outs \$5.74 billion in 1986. Of this revenue, \$2.59 billion came from table games while the remaining \$3.15 billion came from slot machines.

Any discussion about charity casino gaming in B.C. must take into consideration that comparisons with other jurisdictions are subject to this major difference, and that input by the public both for and against casinos must be cautiously examined, as a high percentage of this input is from individuals that perceive casino gambling to include the operation of slot machines.

With the above considerations in mind, and after examining other jurisdictions around the world in the previous chapter entitled "Gaming Experiences in Other Jurisdictions," we believe it would be useful to report on the current situation in B.C.

3. EVOLUTION OF CASINO GAMING IN B.C.

Prior to the establishment of the B.C. Gaming Commission, casino gaming for charity fund raising purposes in this Province grew rapidly in an unorganized, inadequately controlled fashion. Such aspects as hours of operation, betting limits, numbers and locations of casinos, operator bona-fides, etc., were continually changing and were the subject of disputes, concerns and capricious regulatory decisions along the way.

The various phases of growth in the gaming industry in B.C. are discussed chronologically in Chapter III entitled "History of Gaming in B.C." During this unsettled period a number of unfortunate attitudes and activities evolved. Some charities came to regard casino gaming as the new, glamourous and preferred way to raise funds over the slightly more traditional methods of bingo and ticket lotteries. Consequently they sought casino gaming licences in ever-increasing numbers.

At the same time, casino management companies, some of them legitimate, profit oriented private enterprises as well as others that were "fly by night" and opportunistic, sprang up with inflated expectations about the future of casino gaming in B.C. In some locations casinos were established where they clearly could not prosper due to lack of patrons.

These companies began recruiting and in some circumstances even creating charities as licensee curators in order that their casino premises could be kept open the full allowable six days per week; (Tuesday formerly being, for reasons having to do with maximum patron availability, the one day of rest). Competition for charities became intense and the larger the company was, the more likelihood there was of signing on the charity as a customer.

For the most part casino facilities were sub-standard. They were often operated by amateur, sometimes unethical opportunists. A few of these were emigrants from Alberta and Manitoba where highly regulated systems were in place. These operators, as well as most of their clientele, did not care about the charity involved in the gaming event.

This situation needed to be stabilized. The Branch found it necessary to establish a draw within the Greater Vancouver Region (GVR) once a week to ensure that no more than 12 charity casino licences were granted for that period of time. Since each licence was only in effect for up to 3 days at a time, casino management companies, on behalf of their charity clients, would routinely seek to have as many one day licence applications as possible in the weekly draw. If successful, they would then arbitrarily designate which licensee would play at what location. At the same time they would apply to have the one day licence increased to three (provided for in policy), in an effort to ensure that all of their locations stayed open for as many nights of the week as could possibly be arranged. The hours of operation were 6 p.m. to 2 a.m.

In an attempt to provide a period of stability within which the newly created Commission could study and report, it was decided to couple the notice of the Commission's appointment with some regulatory announcements. (See News Release Appendix 'A'). These were the return of the betting limit to \$5.00, the "freeze" on any "new" charity involvement and the "freeze" on any "new" casino location. Some of this has since been revised by the Commission and will be discussed later in this chapter.

Historically the betting limit has seen a great deal of fluctuation over the years originally being set at \$2.00 and then raised to \$5.00 in the Fall of 1964. In June of 1986 they were again reduced to \$2.00 in an effort to slow down the growth in the gaming industry. As mentioned in the previous paragraph the betting limit was raised to \$5.00 in May of '87 where it currently remains.

Since April 1, 1987 this period of relative stability has provided us with the climate for a thoughtful review of casino gaming in the Province. It has also had a number of other effects, most of which have been positive. For instance, we believe that charities and other non-profit organizations have been forced to slow

down in their rush towards casino gaming as the long awaited fund raising panacea. Certainly those "frozen out" have had to look elsewhere and even those "frozen in" are now aware of the uncertainties of casino gaming and its future.

Another positive effect has been the consolidation that has taken place within the industry itself. Along with this, some re-organization and a noticeable effort toward upgrading facilities and improving the competence of casino personnel has been observed. There are fewer management companies in business, with a further reduction anticipated. Employees are now being trained as professionals, albeit with a speculative eye to an enlarged future for casino gaming in B.C. In short, the casino industry seems now to be:

- (a) responding positively to increased, consistent, fair direction;
- (b) determined to improve its image and gain acceptance as a legitimate private sector business;
- (c) moving toward self regulation, even self discipline, as proof of good corporate citizenship.

There is a long way to go but the Commission has found reason to believe that the future will be positive for casino gaming.

4. THE FUTURE OF CASINO GAMING IN B.C.

(i) Alternative Models

The Commission sees a definite need for changes in the operation and concept of casinos in this Province. We would first invite the government to consider the Manitoba experience as a possible future approach — not necessarily with full government ownership. It might be equally viable to contract operations out to the private sector. We have a legal opinion that this is not precluded under the right circumstances, with careful attention paid to the specifics of any arrangement that would see a casino management company acting as an agent for the government, or providing this government "service" for a fee.

We have no reason to believe that the general public here would be any less receptive to a large centrally located casino than they seem to be in Manitoba. We also believe that they would not react negatively to complete government ownership and or control. We have heard arguments about leaving a buffer, some distance, between government and the actual operation of casino gaming in order to protect and insulate against those who might describe such participation as "wicked" and "unworthy". We believe these arguments are somewhat shallow considering the legitimate role of the government in its other lottery activities. Furthermore, concern tends to emerge and flourish briefly at the commencement of any such undertaking, then quickly die. The B.C. Steamship slot machine experiment is a good example of this.

(ii) Government Relations

Strong government regulation and control can and does keep reasonably sized casino gaming honest and will preclude criminal influence. Government ownership will do even more while allowing for complete autonomy in policy formulation, the setting of terms and conditions of operation, the tailoring of casino gaming activities to mesh with, enhance and support other government initiatives such as economic diversity, employment opportunities, regional disparity concerns and the like. In our view, the Manitoba model has been far more positive than negative, and we can see nothing wrong with this as a worthwhile "future" alternative. We use the word "future" advisedly since we believe a slower, more prudent, deliberate course is the preferable choice.

The Commission has studied the situation prevailing here very carefully, bringing to bear our now considerable knowledge of casino gaming in other jurisdictions world wide. We have already taken some steps in the area of licensing, hours of operation and standards of premises.

Casino management companies have hitherto been completely free of any but the most basic municipal licensing requirements. All such companies must now apply for an operating licence. At this point we examine thoroughly all aspects of their operation with the support of the Branch. These procedures are discussed in more detail in Chapter XI entitled "Licensing, Registering and Bonding." We will arbitrarily cancel and/or refuse licences where a demographic or economic analysis indicates that a casino will fail, or that casino numbers should be limited. Other important bona fides will be scrutinized. Criminal records,

history of operation, commitment to competence, fairness, patron friendliness and ambiance will all be considered.

(iii) Charity Access and the "Freeze"

We believe all charities and non profit groups should be closely examined as to their eligibility and their budget requirements. This is a major undertaking which will also involve ticket lotteries and bingo. Chapter XIV of this report entitled "Equitable Access to Charity Gaming" discusses this process in more depth. Upon completion of this process all remaining charities and non profit organizations will have equal opportunity to obtain their appropriate share of casino gaming revenue.

As necessary as it was, the April 1, 1987 "freeze", acts unfairly against those who were not active in 1986 or the first three months of 1987. The "freeze" will be lifted as we are satisfied that adequate inspection, enforcement and audit procedures are in place. The Public Gaming Branch has assured us that adequate staffing will be available to carry out these functions as soon as the Treasury Board submission requesting additional personnel has been approved.

On the other hand, the "freeze" on casino locations has been quite beneficial and has resulted in consolidation as well as the upgrading of premises. For instance, we have seen one company close down two second-rate facilities and with our authority move those operations to one first class site. We intend to continue the pressures that have brought this about. We are certain that these pressures, along with our new licensing requirements, will have a positive effect on the calibre, quality and general atmosphere surrounding casino gaming throughout B.C.

(iv) Hours of Operation and Betting Levels

We believe that those who have invested in the industry and their employees deserve status, reasonable investment returns, career opportunities and wages sufficient to permit a decent standard of living. It may well mean that increased hours of operation will be required to allow for all of this to occur, and that betting levels will at some future date need to be raised. Straight 6 p.m. to 2 a.m. hours mitigate against shift workers and others whose lives are less regulated.

As we have seen no evidence indicating the need for 24 hour service, we have no future plans for this. However, we do see flexibility as being appropriate. The current \$5.00 betting limit is seen as realistic and acceptable. However, roulette is played at almost every casino event. In this game it is possible and popular for players to make numerous \$5.00 bets — twenty or more is not uncommon — on every turn of the wheel. Consequently the minimum betting limit in roulette has little or no effect.

In Manitoba the current betting limit is \$200. Most other jurisdictions also have higher limits and do not consider them to be a problem. Studies show that regardless of where the limit is set most players bet at the lower end of the scale and only the high roller or steady occupational gambler moves to the top. We have recognized the existence of the compulsive gambler and although this negative element cannot be eliminated, it can be deterred by restricting the betting level, limiting the hours of operation and denying the extension of credit. The unavailability of alcohol will also act as a deterrent for some.

Higher limits increase the amount of money in circulation, which in turn increases the need for security and control. Sophisticated organized criminals who find today's modest casino cash flow unattractive could become interested if limits are moved up. However, as control measures are available, experiences in other jurisdictions have indicated to us that such higher betting limits should not present us with insurmountable problems.

While concluding that those private sector casino management companies who have substantially invested deserve to get a fair return, the Commission has also developed an interest into how fair is fair. We routinely examine monthly reports showing cash disbursement and are contemplating means by which we can maximize charity benefits without unduly interfering in the free enterprise activities of those who service the charity fund raisers. It may be that a pool for clearly excess profits should be created with the benefits going to the most deserving and underfunded organizations.

(v) Liquor

Liquor is not served in B.C. casinos at present, although several casinos are located in hotels next door to bars and lounges. Neither operators nor patrons seem to be very concerned about the current

arrangement and most we spoke with seemed either indifferent to or in favour of no liquor sales. We are inclined to leave this area alone as it constitutes no problem at this time.

(vi) Gratuities

Employee tipping is allowed with the proceeds pooled and shared among the dealers and floor workers at the end of shifts. In Manitoba and Great Britain tipping is strictly prohibited. At the moment, in B.C., casino employees are not well paid as their employment assignments can be irregular since there are many "dark nights" i.e., no casino licences for certain periods of time. However, this is usually more of a problem in rural as opposed to urban areas. Employee tipping helps to bridge the gaps in these instances.

Some people view tipping as unwise since it might enable dealers to find ways to reward those patrons who are generous. It is also considered by many to be a subsidization allowing the employer to justify minimum wages. A professional dealer should receive a professional wage and will feel better about his or her vocation as a consequence. There is also the view that no tipping results in a larger drop and therefore a greater win and increased revenue to the charity, the operator and the government. However, tipping is a fact of life in almost all hospitality and entertainment industries and is difficult to regulate against. We will continue to monitor this area and move to correct any discovered abuse.

(vii) Advertising

Advertising has received our attention as well as all other types of pre-event promotion. Chapter XV of this report deals with this subject in more depth. With particular reference to casinos the Commission believes some changes may be necessary and that we should place some advertising directives in our Terms and Conditions. Since casino gaming is done only in the name of charity, we believe that this fact should be stressed in newspaper advertising and that these advertisements should very clearly identify both the name and objectives of the charity or non-profit organization.

We have received requests, mostly from marginal operators, to allow advertising and promotional costs to be deducted from the casino gross prior to the 50-40-10 split. This is to arrange for the sharing of pre-event costs between the charity, the operator and the government, on the grounds that all three will benefit from larger turnouts and larger "drops" (total sum of monies bet). We have resisted these suggestions to date since most have come from casinos which will never be economically viable regardless of the split as they simply do not have the customer base to succeed. We will keep abreast of this and may make changes in due course.

(viii) Charity Involvement

The question of participation by charity volunteers in the operation of casino events is a subject which has occupied much of our time. As long as there is a requirement for charity personnel to be present, then we must explore what their role, responsibility and authority should be. In our existing system we believe this requirement to be mandatory.

The fundamental question is, should we expect charities to be constructively involved in casino fund raising in a "hands on" manner, or should we leave that to the professional operators and just ensure that the proper revenue split takes place? We face this dilemma with respect to bingo and ticket lottery licences as well.

In addressing this matter we recognized that fairly elaborate accounting is necessary concerning any licenced gambling event. Very few charity workers have an appreciation for these requirements and are unlikely to learn these procedures in the course of volunteer assignments once or twice a year. However, the many forms and papers which need to be completed exist for a very good purpose.

The operator of one casino feels that our requirements are much too stringent, as the introduction of these accounting documents resulted in the reporting of about 90% more revenue than was previously recorded.

In reviewing our options we considered the following:

1. full charity involvement up to and including ownership/operation;
2. government operation/ownership;
3. commercial ownership/operation with on site government supervision;
4. commercial operation with charity supervision.

The Commission has decided that for the present we should adopt option number 4 bearing in mind that this includes government regulation and inspection by the Branch.

We believe that the commercial casino management companies now in business can service the needs of the charities. To ensure the Commission that the charities are protected, aside from enforcement of the Terms and Conditions by the Branch, independent, qualified representation at every casino event is required.

We intend to register a cadre of certified charity advisors who will act on behalf of the charities at a casino event. They will be free-lance, well paid professional experts in such matters as chips and cash flow control, banking procedures and "end of the event" accounting, etc. These advisors will also report to the charity licensee, NOT the casino management company. This evolution is underway and a little overdue. The training and certification of charity advisors is outlined in this report in the chapter entitled "Training".

(ix) Extension of Credit

The extension of credit and the provision of cheque cashing facilities at casino events in B.C. has been considered. At the moment neither practice is officially sanctioned but we are aware that both occur. Elsewhere the situation varies. In the U.S.A., major casinos could not operate without credit and cheque cashing services and they find very little wrong with either. These are high limit establishments who suggested that we need not move in the same direction unless our own casino models approach theirs in terms of limit and size.

In Nevada players wishing credit must submit their name, financial status and other background information for a routine credit check. They are then allowed a "draw" from the house, if necessary during the course of play, by signing markers (cheques). They may redeem these during play or at the end of a session. These markers can be held for weeks or months. Very few ever renege since they would be forever black-listed within the tightly knit gambling community and banned from all future action.

In New Jersey the same credit granting facilities operate but markers signed during the course of play are not redeemable and must be fully processed, usually within days. This system is patterned after that of the British where cheques are accepted in casinos on the understanding they will be presented at the banks for payment in 48 hours. They may not be redeemed.

The Commission believes that credit or cheque cashing privileges at casino gaming events is unnecessary in our current charity gaming structure. With 24 hour banking machines and credit card cash dispensers increasingly available, another source of cash seems irrelevant. It must be pointed out that when a bad debt or "bounced" cheque is written off in commercial casinos, it constitutes a business expense and can be actuarially taken account of. Within B.C., however, it is primarily a loss to the charity as the largest recipient of profits, and we consider this distinction to be important.

(x) Gaming Industry Integrity

We have given some thought to what might be termed the social, community and corporate citizenship responsibilities of casino management company personnel as well as those of the charity advisors. We do not accept the premise that the source of money wagered in casinos is irrelevant and "nobody's business" other than that of the patron. Outside of Canada there have been notable incidents of indifference by casinos to the heavy gambling losses of patrons, who, lacking legitimate access to large sums, were probably taking advantage of positions of financial trust. We believe it irresponsible to turn a blind eye to this and do nothing about it.

Another concern deserving attention is the obvious laundering of money through casino gaming. One example of how this takes place is by the purchasing of large quantities of chips with numerous small bills and then exchanging them for "clean" larger bills under suspicious conditions. As a result, this process imposes certain responsibilities on casino operators.

Presently in the U.S. casinos must make available to the Internal Revenue Service the names, addresses and social security numbers of their "high rollers", players who bet a total of over \$10,000 cash or \$2,500 on credit during a 24 hour period. (Nevada Public Affairs Review, Volume #2, 1986). This does not occur solely for the purpose of facilitating taxation, it also acts as a mechanism for oversight by enforcement officials into possible criminal activity.

Given the size of our casinos and our betting limits for the near future, we believe that we do not need to be overly concerned in this area. However, we do feel that now, while casino gaming remains relatively new

and small, is a good time to instill certain principles of corporate citizenship into the minds of casino operators. The Commission believes that they should embrace this responsibility if they truly do seek recognition of casino gaming as a respectable, legitimate, accountable industry.

5. CONCLUSION

The Commission has long range plans with respect to improving policy and regulations in casino gaming. However, we are still in the process of studying experiences elsewhere and options available for the future. More work remains to be done before useful policy and regulations can be proposed.

In the meantime we believe that several changes are both desirable and necessary. We are therefore planning to implement a phased-in model, the details of which are found immediately following this conclusion under the heading, "The Model". The important features of this model are listed below.

PROVINCE-WIDE APPLICATION

- No immediate growth in casino locations.
- No increase in betting limits or hours of operation at this time.
- Equal access by ALL qualified charities to SOME casino gaming fund raising opportunities.
- New eligibility requirements for charity applicants which will include the necessity to provide a proposed budget.
- New improved audit procedures by the Branch to ensure that funds raised by casino gaming are spent as proposed in the budget.
- Revocation or suspension of licences as a penalty for impropriety.
- Stabilization of the casino industry allowing appropriate corporate planning, consistent employment and fair wages to casino management company personnel.
- Increased charity access to casino gaming revenue.
- Charity casino gaming ONLY, i.e., no private sector or government casino experimentation in any major urban area, for some time during which we can:
 - (a) assess the effects of our recommended changes and;
 - (b) ensure the development of adequate inspection and regulatory standards including additional personnel.

GREATER VANCOUVER REGION — ONLY

- Elimination of the GVR charity gaming licence draw.
- Allotment of casino gaming opportunities in the GVR from an initially randomly generated list of licensed charities.
- Distribution of GVR casino gaming events in such a way as to ensure fair survival prospects to the currently approved casino premises run by the six currently operating management companies.

THE MODEL

The important features of the casino model as outlined have some critical dates associated with them. This model is complex in its implementation but it is crucial to alleviate the problems which exist in the GVR and potentially in other communities in the Province.

Phase 1

On January 1, 1988 the following conditions will apply to the charitable casino gaming industry and the licensees:

- (a) There will be no increase in the number of casino locations apart from the upgrading and consolidation exceptions previously referred to, i.e., NO GROWTH for a period of time during which the Commission can further study the need, the market and the public mood.

- (b) Applications will now be accepted for NEW charitable gaming opportunities for those charities who were affected by the 'case';
- (c) Notification will be given to ALL NEW CHARITY GAMING APPLICANTS that they will be required to provide a detailed budget outlining the amount of money they need, the purpose of their request, and other sources of revenue they receive;
- (d) Notification will also be provided to ALL charities and the casino gaming industry that by approximately April of 1988 the Commission intends to oversee a Branch audit process which will ensure that the budget supplied at the time of the application for licensing has been adhered to. The cancellation of future fund raising privileges will be a possible penalty for mismanagement of these charitable monies.

Phase 2

On February 1, 1988 additional conditions will apply, they are as follows:

- (a) Notification will be given to all CURRENTLY licensed charities that they will be required to provide a budget outlining the amount of money they require, the purposes of their request, and other sources of revenue they receive;
- (b) All applicants for casino gaming licences will continue to specify which management company they intend to deal with and the location. IN THE CASE OF THE GVR ONLY, where there are more charity applicants than locations, they must list a second, third and fourth choice. This is necessary since the majority will quite naturally have selected as their preferred choice the largest and most efficient company at the time. This company cannot possibly service all charitable gaming events in an acceptable manner from their currently authorized premises;
- (c) When ALL qualified, previously unlicensed GVR charities (whose applications were received prior to March 1, 1988) have had at least one opportunity for casino gaming fund raising, then, (in the GVR), we will go to one randomly generated list of all licensed charities, OLD and NEW. From that day forward licence holders will be awarded their casino gaming events in consecutive order. As soon as the charity has expended that particular licence, their name goes to the bottom of the list. New charity applicants, after March 1, 1988, will also come in at the bottom of the list;
- (d) For areas outside the GVR, the charities who qualify under current Terms and Conditions PLUS the January 1, 1988 budget requirements will be licensed. This is to ensure consistent and fair fund raising opportunity. Depending upon growth, consecutive allocation of casino events within any given community outside the GVR may be necessary in the future;
- (e) Notification will be given to charities and the gaming industry that the Commission will establish a system within which we will be able to assess all licence applicants as to their
 - charity bona-fides;
 - organizational integrity and reputation;
 - community acceptance;
 - true need;
 - comparative worth as opposed to competitors for charity dollars.

Explanation for Stabilization of the Industry

There are, at the moment, six (6) companies operating in the GVR from only seven (7), possibly eight (8) feasible locations, one company having three good sites. Consecutively taking applicants from the top of the list, placing them with their preferred service companies until those premises are full, then moving to the 2nd, 3rd and 4th choices, we would make it theoretically possible to fill all eight (8) sites with enough 8 hour events to keep each open seven (7) days a week. The week would be divided into 3 segments: Monday, Tuesday and Wednesday being one licence period, Thursday and Friday the second, and Saturday and Sunday the third. Revenues may or may not prove to be even but at least the periods would have been allotted as a consequence of random generation in the first place and should be viewed as fair and equitable. The bet limit will remain at \$5.00 for the time being.

During the period, January 1, 1988 to January 1, 1989, these service companies would have ample time to demonstrate whether or not they intend to offer a first rate product in terms of location, service, competence, integrity etc. If they do not meet the requirements, we would see them being denied a licence. Some of these companies may wind up being bought out by the larger, more prosperous few, who are in business to stay and are capable of providing service, to Commission standards, in the future.

During this same year, the Commission will have had a chance to determine how big the market is, or should be, in the GVR and, if our studies reveal for instance, that twelve (12) good locations are reasonable, more could be offered out to those prepared for licensing examination. The converse of course is also possible and it may well be that reduction of companies and/or locations would result.

The arrangements set out above, we believe, are fairer than is the system in present use, but we could see an increase in casino gaming from 36 (formerly 12 - 3 day licences but currently 18 licences times 2 days per licence) at GVR locations to a maximum of 56 (8 locations times 7 days per week). The system will, we believe, control industry growth while increasing charity access substantially and equitably. It should provide a regularized income pattern for casino employees and a structure within which appropriate corporate planning can take place. We are assured by the Branch that by January 1, 1988 they will be able to inspect and regulate these events, if their increased staffing request is addressed positively.

Outside the GVR there are communities where casinos have been established which cannot hope to survive. There are also communities with more casino space than is required, all of this related to supply and demand; there are simply not enough customers. We do not, as a Commission, intend to take any extraordinary measures aimed at regulating these situations and feel that the market will sort itself out. The removal of the freeze on charities will stabilize and in some cases be the salvation of the rural casino industry ensuring its continuation and creation of local employment. Service companies may fold, consolidate, merge, and that is a natural process with which we would only interfere if it were in the interests of charities to do so.

Charity casino fund raising is here to stay in B.C. and it will take time to address the many issues which have been raised in this chapter. The Commission is committed to working with the industry and all interested charities to ensure that changes come about with a minimum of disruption and a maximum of fairness.

CHAPTER VI

DESTINATION RESORT GAMING

1. INTRODUCTION

Casino gaming has a certain allure about it which will not go away. In many jurisdictions throughout the world, it has been encouraged into existence as a government fund raising device. In others it has been tolerated only in recognition of the fact that unregulated, untaxed and dishonest gaming would take place anyway in an underground fashion. Elsewhere, gaming is energetically promoted as a major tourist attraction where luxury resorts exist for that purpose only. There are pros and cons with all of these which need to be discussed and understood.

2. BACKGROUND

This area of the report is difficult to deal with for a number of reasons. First of all, the question of casino gaming at destination resorts is volatile and there is an evident polarization of opinion. Numerous individuals shared their concerns and views with the Commission concerning destination resort gaming and very few of these were neutral.

Secondly, there is a great deal of misinformation about the casino gaming industry, in this case with particular reference to destination resorts. Many people do not know the law or understand what can or cannot be done under those laws as they exist today. One common misconception is that private sector entrepreneurs, given some form of government encouragement, can simply build a hotel/casino complex at resorts of their choosing and open the doors for business. This is a popularly accepted view of what is in store for B.C. and where the current examination of gaming is proceeding.

Finally, a mistrust of long range government intentions and of the role of the Commission itself in the carrying out of these intentions exists. It is apparent that a body of citizens feel that a secret decision to allow destination resort casino gaming has already been made by government. Further, it is felt that the Commission, which came into being at about the time the debate commenced, (and, consistent with the placing of slot machines on two B.C. Government passenger ships), is the instrument which will be used to ensure the proliferation of casino gaming, the spread of slot machines and the overall encouragement of more gambling activity by the citizens of B.C. for government, private sector or charity fund raising purposes.

Ideally, the issue of destination resort gaming needs to be discussed within a certain framework of knowledge about what is and is not possible, as well as what controls and regulatory mechanisms can be deployed. The Commission wishes to concentrate on this area in the months ahead and recognizes a need for experimentation and public input on such an important issue.

The Commission did not adopt a proactive approach to the destination resort gaming question at this time due to other more pressing priorities. However, we did not discourage those who wished to make submissions. Some of these were useful, some were inappropriate and most reflected a lack of knowledge about gaming laws. Along with this, our own travels and observations have provided us with some opinions which are discussed in this chapter.

Support for destination resort gaming seems to be highest in those areas of the Province where tourism is a major feature of the local economy. However, even at some of these locations there were those who are opposed to this concept. There is active lobbying both for and against destination resort gaming, leading us to conclude that some direction should come from government as soon as possible to allow for a stable planning environment for all concerned.

3. FACTS AND FINDINGS

(i) *Government Involvement*

Tourist destination resort gaming, primarily in the form of casinos, can exist in B.C. in an honestly run, resort-enhancing manner that does not attract undesirable entrepreneurs. With a firm belief in this, the

Commission has examined the activities of other jurisdictions. The Nevada experience is to be avoided at all costs, and it will. No jurisdiction (i.e., Province, State, City or resort) should ever come to depend on gaming revenues for its existence as Nevada and, to some extent, Atlantic City, New Jersey have done. In Nevada, organized criminals and syndicates entered into casino gaming on the ground floor, established and controlled the industry. The State of Nevada has been trying to eradicate this image ever since. At Atlantic City, the safeguards which were put into place to prevent this from happening, left it possible for these same undesirable elements to "enter by the back door" and come to dominate not the gaming casinos themselves but the necessary support services.

British Columbia can learn from both of these experiences. The Commission has done so by reading the many books, reports and findings of other Commissions, and by visiting some of these areas for discussions with officials concerned. It is clear that government control, regulation, inspection, even ownership are the keys to minimizing negative social and economic consequences. Private ownership of destination resort gaming casinos would be ill advised and dangerous.

Regardless of whether or not monies raised by casino gaming go to charities or into government revenue, firm government control and even ownership can eliminate undesirable practices in the industry. These practices include the extension of credit other than cheque cashing, (which should only be made available in destination resort gaming), exorbitant betting limits, 24 hour "round the clock" operations, complimentary travel, accommodation and meals, etc. All of these are of primary importance to high stakes players interested only in gambling.

(ii) Canadian Experiences

The Commission has examined what might be called Canada's only licensed destination resort casino, located at Dawson City, Y.T., and found this examination informative. Equally helpful were visits to Alberta and Manitoba, where casinos are operated not at destination resorts, necessarily, but in the major cities of Edmonton, Calgary and Winnipeg. The Winnipeg casino, very "state of the art" in terms of security, good management practices and competent personnel, is a success from a financial perspective and seems to be well accepted within the community. Much can be learned from these other jurisdictions, which are described in more detail in Chapter IV of this report entitled "Gaming Experiences in other Jurisdictions".

In the Canadian casinos which the Commission has examined there are no slot machines. It is certain that a very different picture would emerge if we could study the Canadian patron's reaction to a full gambling menu as the popularity of such machines is unquestioned.

In briefings with the manager and staff of Diamond Tooth Gerties Casino, Dawson City, it was noted that tourists, particularly those travelling with families, are not very interested in gaming as an extra holiday undertaking. In Dawson City, (which in many respects is not a "destination" since most visitors are only passing through enroute to or from Alaska), the casino is more a place one visits to be entertained, not to gamble. It was indicated that those who go usually spend some money on gaming, but their expenditures are often minimal and take the form of a "fling" at the wheels (Crown and Anchor, etc.) rather than playing blackjack or roulette. Poker is played there as well, not against the house, but against fellow players who are for the most part local citizens. In a discussion paper prepared by the Government of Yukon, it was noted that annual revenue from the casino (approximately \$626,000), raised for the sponsoring "charity" (Klondike Visitors Association) by gaming, is minimal.

(iii) Australian Experience

We have also researched tourist destination casinos in other countries, although we have only visited those in the U.S.A. where our interests were more general than specific. More is said elsewhere in this report on these undertakings but it is relevant to set out here some of what we have learned about the Australian model. We have reviewed lengthy reports and Commission of Inquiry findings for a quick surface outline. One set of articles from Australian Newsweek Magazine is attached as Appendix "F". This may not be the most exhaustive writing on the subject but in comparison with the aforementioned annual reports and Commission findings, we are reasonably satisfied with the accuracy and objectivity. A briefing from the Australian Trade Commissioner and discussions with individuals associated with gaming in Australia also provided reassurance as to most of what is in Appendix "F". The most important points, are highlighted:

1. The Australians moved into legalized casino gaming with strict government control and high taxation as an alternative to profligate illegal gambling.
2. Casinos, although privately financed and managed, are government controlled. At the Wrest Point Casino in Hobart, Tasmania (a tourist destination resort complex, Australia's first) only government agents count the "take". This is now the rule at all casinos, and there are currently eight (8) with more being built;
3. There are up to five government inspectors and usually one government casino controller permanently located in each establishment. There has not been one violation of legislative requirements resulting in penalties to the companies since inception in 1973. This assurance comes to us in a letter from Mr. Paul E. S. Horne, Commissioner for Gaming, Tasmanian Gaming Commission, dated July 15, 1987;
4. Casino gaming is an integral and extremely important component of the Australian tourism promotion effort. Their newest and biggest hotel/casino/golf course complex under construction is large, opulent and expensive. It will succeed only if it becomes a successful tourist draw.

It may be that Australia has taken the best features of private sector casino ownership, filtered out the worst, blended in strict government regulation and on-site control and inspection, and come up with the most attractive model yet for tourist destination resort casino gaming. Although their approach needs further study, it adds some support to the indication that destination resort casino gaming can be run profitably, without attendant problems of corruption and organized crime, providing it is carried out in first class surroundings in an area which has either a large local population base or the ability to draw large numbers of tourists. The key is government control.

(iv) Destination Resort Gaming Sites

We believe that there must be a large, interested body of prosperous, somewhat sophisticated, potential customers, whether they be tourists or local citizens, before significant gaming revenues can develop. A destination resort casino in a rural community with a minimal population base surrounding it is unlikely to be a financial success. It probably could only be justified on the basis of providing another recreational pursuit for the benefit of those tourists who might otherwise not find enough to do. We base this assumption partially on the experience in charity casino gaming, where casinos have failed because they were located in areas that did not provide an adequate "draw". In short, the population base simply could not support a casino. On the other hand, a well run, first class casino that is advertised as a tourist asset, would, we believe, be successful in a major population center. However, this does not take into account the question of local municipal approval or what quantity of gaming should be allowed. These issues are dealt with elsewhere in this report. We should point out that the Commission specifically discourages any experiment along these lines in major urban areas for some time, for reasons outlined in the chapter entitled "Casino Gaming". The Commission takes this position despite the fact that we have received several interesting proposals for major urban casino development, two of these on the Expo 86 site in downtown Vancouver, and a third at the Pacific National Exhibition grounds. These will require careful evaluation, taking into consideration the impact this might have on charity gaming and fund raising as well as any legal implications.

While we did not formally request submissions, the Commission has received some written and oral proposals from a variety of locations advocating destination resort casino experimental test sites. After an initial review, some of these submissions were found to be lacking in substance as a result of overstatement, misrepresentation, over-optimism, and a lack of knowledge about casino operations. It is now recognized that there is a need for a professionally conducted economic survey in any area where destination resort gaming is to be seriously considered.

Some proposals, however, showed potential. The concept behind these was to have a destination resort in an area where potential customers would be attracted by an activity unrelated to the casino itself. With a portion of their day free, these potential customers would become, in a sense, captives of the resort with time on their hands. Until such time as the Commission is authorized to facilitate and monitor one or more experimental resort casinos, we will not be able to act or advise definitively on this issue. Therefore, we raise the following for consideration.

A professionally conducted economic and demographic survey of locations in B.C. which we believe are suitable for test purposes should be undertaken. The Commission has received presentations from representatives of potential areas that indicated their desire to be considered as casino test sites. We are also aware of professionals from the U.S.A., who have experience in conducting the necessary surveys.

Through this process we would want to determine which rural sites have a combination of desirable features which would warrant an experimental casino model. The following features would be taken into consideration:

- (a) large numbers of tourists, either seasonally or year round;
- (b) local support and enthusiasm;
- (c) existing infrastructure such as buildings, parking, sewage and water facilities;
- (d) adequate fire, security and safety provisions as well as reasonable proximity to police services;
- (e) access to a variety of transportation facilities;
- (f) minimal existing charity gaming.

Of course, many details need to be worked out and a lot of our progress in this regard need not be included here. The Commission is prepared to oversee the commencement of planning, and advocates an early start.

The effect a move to destination resort gaming or a large casino operation might have on the tourist image of the Province has been discussed. The Commission is aware that tourism is the Province's second largest industry, and that it provides three billion dollars of direct economic activity to the Province annually. We are also aware that in 1986, fifty million dollars were spent to advertise the "clean, green and safe" image of B.C. The Commission intends to do a more thorough, long term analysis of the destination resort gaming concept in co-operation with the Ministry of Tourism, Recreation and Culture in conjunction with any experiments that might be undertaken.

4. CONCLUSION

The Commission believes that it is possible to have tourist destination resort gaming which, if honestly run, will enhance a resort and not attract undesirable entrepreneurs. The Commission should, subject to the results of the necessary economic and demographic surveys mentioned previously, facilitate and monitor two destination resort casino experiments of different characteristics, reporting appropriately thereafter.

CHAPTER VII

BINGO

1. INTRODUCTION

Bingo! The "untidy tiger" as one of our Commissioners has labelled it. An apt description! To most of us, bingo was regarded as a relatively sedate, low profile, recreational, church basement game, certainly not the gambling phenomenon and multi-million dollar industry it has become. This has not only occurred in B.C. but in Alberta, Saskatchewan, Manitoba, Ontario and to some extent, further East as well. It is also a major gaming industry in places such as Washington State, U.S.A. If you ask about bingo and its impact in Nevada, the reaction is apathetic to say the least. There bingo is a "nothing" enterprise, overshadowed by casino games of blackjack, roulette, craps, slot machines, sports books and curiously enough, the game of "Keno", a hybrid game somewhere between bingo and "Lotto Pick". (Native Indian bingo, however, as discussed later in this chapter, has captured the attention of Nevada regulators for reasons we will come to).

But, "Bingo" is very big in British Columbia and requires a serious examination by the Commission, the Branch and, we believe, by many others. During the fiscal year ending March 31, 1987, a total of \$23,705,242 was raised for various charities in the Province from bingo gaming alone.

2. BINGO IN BRITISH COLUMBIA

Over the past years both the profile of the typical bingo player and the bingo establishments themselves have changed. The "church basement" game being played for stuffed animals has long since disappeared with grandiose halls and big payoffs taking over. It is a known fact that the runaway best night in bingo parlours across B.C. is the day that welfare cheques arrive. No one is coerced into playing bingo but other B.C. operators speak of their reliance on patron's UIC income for bingo revenue. This situation is not unique just to B.C., as Nevada officials in an analogous vein, indicated to the Commission how important old age pensioners and their social assistance cheques were to the success of casinos. In fact, some Nevada entrepreneurs actually send out buses to collect these senior citizen gamblers.

In B.C. bingo players spend, on an average, about \$20 to \$25 per session. Some of them win modest sums of money. However, too many of them sit for long periods of time, ensconced in bingo parlours not really designed for healthy recreational activity. A few operators have invested the time and money to create better surroundings with air conditioning and no smoking areas. A bingo operator himself told us he is very concerned about a number of his patrons who are clearly addicted and who are spending money they can not afford.

But, although there are social concerns there are also employment implications with respect to the simple old game of bingo, formerly played with corn kernels on cardboard cards. Members of the Commission attended the official opening of a manufacturing plant in Richmond which does nothing but print the paper used by bingo parlours across B.C. There were 45 full time jobs created by this prospering, efficient, "state of the art" enterprise. Additional employment is generated by the manufacture, distribution and sale of bingo supplies as well as by the advertising and housing of bingo operations.

Under the Terms and Conditions presently in force, charities must benefit by 25% of revenues from bingo, and a maximum of \$7,500 per event can be paid out in prizes which can amount to no more than 60% of the gross taken in. Out of the remaining 40% must come the 25% charity payout and the government fee of 1%, plus in the case of commercial bingo halls, their expenses, overhead, wages, etc. For licensees conducting their bingo events in self owned premises being utilized for charitable or religious purposes, some of these restrictions and percentages can be relaxed, a feature which the commercial hall owners object to for obvious reasons.

Some conditions are being violated daily and we as a Commission are not satisfied with this situation. These violations can only be detected and acted upon when energetic, consistent enforcement activity by the Branch becomes the order of the day. The Branch is a dedicated, over worked, experienced group of inspectors, but they can only be deployed within limits. Those limits have been reached long ago and we are encouraged with recent indications of a staff increase for the Branch. They need this increase and we

are quick to realize that without an improvement in this area, gaming in B.C. "bingo wise" and "otherwise" will not be controllable.

The Commission has decided that it is necessary to license all bingo hall operators. We believe they should have to prove their ability to run an honest, secure, fair business whether it be done commercially for profit or as a non-profit charity enterprise. Applicants will be examined by inspectors of the Branch with regard to their character, their financing, their expertise, their associates and anything else considered relevant including their facilities. They will pay a licensing fee. Hopefully only those who would bring respectability to the industry will gain approval so we can reach a high level of assurance that charities and patrons are being efficiently and honestly served.

An equally important feature of this exercise will be the opportunity it presents to the Commission for limiting growth in the commercial bingo business. There are too many premises operating at present and while it might be argued that this competition is good, forcing hall owners to give better deals to their charity clients, we have found the opposite to be true. Comers are being cut, rules bent and broken, terms and conditions ignored, and, this is occurring at a point in time when the Branch does not have sufficient inspection staff to address the problem. Some commercial hall owners have acted very arbitrarily; dictating terms and financial arrangements to the licensees, controlling and juggling access, evicting on short notice, etc. We now have a good idea who the worst offenders are, and they will be dealt with. Some have already. Others may not survive the licensing process.

The first losers, however, are the charities who wind up getting less than their 25% share. In many respects some bingo licensees are their own worst enemies, putting up with this on the questionable assumption that something is better than nothing. We have acted to prevent this abuse by seeing charity licences surrendered and allowing some halls to fold, but more remains to be done. There is a question of fairness for the legitimate operators, since there has been a significant investment undertaken by some and large debts incurred during a period when there has been a lack of scrutiny and control over a burgeoning new industry. We are working at the bottom end of the scale and putting pressure on those whose operations are failing and who pay the least to their clients hoping that as some of these places close down, the patrons will move to other establishments causing revenues there to climb and the full charity percentage to become payable. There is a limited number of bingo dollars available in any given community, and we accept the responsibility of ensuring that no more than the appropriate number of bingo halls exist. This will occur through our licensing process and with the support of rigorous compliance efforts on the part of the Branch. This will not be accomplished without some energetic opposition and noise from those wounded in the process. However it must be done and is being done now before the problem grows larger.

3. CHARITABLE COMMUNITY ASSOCIATIONS

The Terms and Conditions provide for the creation of "Charitable Community Associations" (CCA) which will in turn permit association officials to manage and conduct all bingo occasions licensed to be played in any hall, and, optionally, to incorporate a pooling of receipts, expenses and charitable contributions. The rules governing all of this are clear and need not be set out here but we believe that these arrangements will go a long way towards insuring that individual charities are not victimized by hall owners and that a proper distribution of profits occurs. We are doing all we can to encourage the creation of these Associations and to ensure that the ones already formed are not being manipulated. We would find it unwise for hall owners to take a leadership role in the forming of an Association but to our surprise have found this happening. We hope to correct this.

4. AUTOMATED BINGO AND BREAK OPEN TICKETS

Automated bingo is the new wave. It has arrived in England, in the U.S.A., in other Canadian provinces and now in British Columbia. Patrons may be able to enter a bingo parlour, provide their coded "identifier" number, play the game for whatever period of time suits their purpose, punch out and settle their account - winnings credited, card costs debited. The British have found it necessary to restrict the "automatic pilot" feature of their automated bingo in order that customers have to at least push the buttons and participate. In

the view of the Gaming Board for Great Britain, the game was developing a "rapid nature" losing all interpersonal relationship value and consequently a new paragraph in their Code of Conduct reads:

5. In all games of mechanized cash bingo it shall be the responsibility of the player to mark off or cover or otherwise physically monitor the numbers called and the onus shall be on the winning player to stop the game by calling loudly or pushing the stop buttons." (British Gaming Control Board Annual Report, 1986)

In B.C. this Commission has full responsibility for determining what types of bingo apparatus will be used at licensed charity events and therefore will be paying close attention to the evaluation of automated bingo and regulating accordingly.

We have already examined two bingo systems with electronic features both of which would add new and interesting dimensions to the playing of the game for charity fundraising purposes if introduced in B.C. One is the computerized console "cards" being developed by B.C. Lottery Corporation for, if marketing expectations prove out, international distribution. We are communicating with the Corporation regarding the testing of their product in selected commercial halls to determine the reaction of bingo patrons and to examine its technical merits in terms of durability, integrity, costs, etc. In this version the player is seated in front of a console which flashes images of bingo cards. The numbers are generated randomly by computer and the player either touches the appropriate section of the screen to record the "hit" or if additional features are eventually included the console can record this automatically without touching the screen. An additional feature has recently been made available by the B.C. Lottery Corporation which allows for activated numbered balls as described in the system below.

The other system we have had demonstrated to us is already in use in the U.S.A. and Saskatchewan and has proven to be quite successful. It consists of a lap top device which the player acquires as he or she enters the hall. At the same time the player selects and pays for a programme. Theoretically, this could range from a single card to as many as forty cards which are electronically "loaded" into the lap top device making it completely portable and independent from that point on. The bingo game is then conducted as usual with numbers being determined by activated balls and called out over a microphone system in the hall. The player key enters the "called" number into the lap top device, which automatically searches and credits all "hits" on all "cards". As a potentially winning "card" or "cards" approach completion, the device brings those "cards" forward allowing the player to visually observe progress. There are impressive accounting features built into this system which simplify auditing and control, add increased integrity to the game and make inspection and regulation by the Branch much simpler and effective.

The prohibition in section 190 (4) (c) of the *Criminal Code* concerning computerized lottery gaming has been overcome in Saskatchewan by the ruling that the computerization aspect of this latter technology does not change the nature of the game itself, therefore, licensing for charitable purposes is permissible. We will want to explore whether or not that same rationale can be adopted here, and, whether or not it can be applied with equal effect to the system being developed by the B.C. Lottery Corporation. If it cannot, as a consequence of section 19C of the *Criminal Code*, then it could only be operated by the government and not licensed out for charity fundraising, just the same as slot machines.

Aside from the above and leading to other interesting developments, it is now technically possible with the acquisition of available equipment to purchase a number of "cards", sit back and let the machine in your lap or at your console do the work for you. This, needless to say, opens up a time vacuum in which the bingo player can do other things. He or she can drink if permitted in that jurisdiction. (In B.C. bingo cannot be played in premises where alcoholic beverages are sold.) They can socialize, smoke, even read a magazine, or, and this is our next concern, engage in other forms of gambling such as "break open tickets".

These are those "instant win" or "instant lose" exercises where one buys a ticket or tickets, breaks it open and learns from symbols and messages one's prize fate. Twenty-five cents invested might make you a \$50.00 winner. These ticket sales are popular elsewhere in Canada but the Commission has taken a reserved approach to their introduction here in B.C. in charity gaming outlets. The break open ticket regulations administered through the *Lottery Corporation Act* limit approved break open retailers to, among others, charitable organizations who have a licence for a bingo or casino and wish to sell break open tickets concurrent with those activities (above emphasis added). In other words the choice is theirs and there ought to be no coercion to do so.

Break open tickets are marketed by the B.C. Lottery Corporation, one of the most successful organizations of its kind anywhere in the world. Communities, charities and non-profit societies of all kinds

benefit from B.C. Lottery grants daily. That is why it exists. However, break open ticket sales on premises where other charity gaming activity is taking place can be counter-productive. Organizations which market "break open" tickets on behalf of the B.C. Lotteries Corporation retain 7-1/2% of sales, (which is not a bad commission in that business). Remember though, out of every dollar spent on bingo at a commercial bingo hall, the licensed charity gets or should get twenty-five cents. We are concerned about protecting charity revenues should the sale of break open tickets at bingo halls result in any significant drop in monies spent on bingo and we will be monitoring current test marketing closely.

5. ELECTRONICALLY CONNECTED BINGO PREMISES

The Commission is concerned about another aspect of bingo gaming (unique to the Greater Vancouver area) and this has to do with electronically "hooked up" premises. The Terms and Conditions state in section 3.03 that "all players at a bingo occasion will be seated in the same building or controlled outdoor area with the bingo caller, except as specifically authorized in the licence." There are good reasons for this condition and the exceptions should be rare. Unfortunately they are not.

The playing of bingo in one building facilitates a number of things including effective inspection and regulation by Branch personnel. One inspector can enter a bingo hall, go to the court room, where paper is distributed, monies collected, prizes paid out and records kept. There, in the presence of the games manager and assistants, all important regulatory controls can be overseen. Further, all players have an opportunity to watch a "called" bingo being confirmed by card sellers and neutral patrons, etc., using propriety. Actual payment of monies to prize winners is also witnessed by all of those present. The perception of an honest bingo can be verified by patrons, charity representatives and Branch personnel in a more satisfactory way when all activities occur in the same location.

A few years ago events took place which eroded the framework of this important and desirable control mechanism. One large bingo licensee was given authority to conduct extra weekly bingos with up to ten occasions per week. Their prize awards were allowed to exceed 60% and the proceeds to charity permitted at a level of approximately 18%. This situation was rationalized at the time on the basis of extraordinary need on the part of the licensee in the funding of numerous very worthwhile community and charitable commitments. Their bingo became and still is a very profitable and popular enterprise, primarily because of frequency and large prize awards.

Nearby competing bingos began to suffer as their patrons attended where the prizes were the highest, spending their bingo time and money at the electronically connected bingo premises.

To counter this unfair advantage, these neighboring bingos requested and received authorization to run bingos concurrently, out of electronically connected premises some distance apart. The game is "called" in one building and the "overflow" patrons are seated in another, completely separate premises. The "call" is then re-broadcast after being received over an electronic telephone connection. The verification of winning cards are heard but not seen by patrons who are seated in the separate buildings. To regulate this situation the Branch requires as many inspectors as there are premises.

This concept spread quickly, being adopted by others in Vancouver and at one time there were ten multi-premises electronically "hooked up" bingo arrangements in operation. After it became apparent that the situation was getting out of control, pressure from the Branch brought the number down to the seven that exist today.

The Commission intends to require increased regulation of these remaining "hook ups" and failing this we would insist that they cease operation. We are exploring possible ways to eliminate some of these problems such as ensuring that each hall has a closed circuit television, monitoring the card verification process on large screens. We are also familiar with the technology required to allow for the numbers to be flashed on screens in each hall as they are called, ensuring that patrons are not obliged to accept and rely upon information transmitted orally (as opposed to visually) over telephone lines.

We believe strict adherence to our Terms and Conditions is the only appropriate process with the understanding that exceptions can be allowed for unusual and specific reasons. This will take care of situations where the licensee must operate out of a building insufficient in size to accommodate all the patrons. The overflow might well be located next door in available premises and in these exceptional circumstances we believe this can be acceptable with the aforementioned electronic improvements. Among the other reasons we find this tolerable is the fact that such separation will facilitate the creation of true smoking and non-smoking environments which is an increasing necessity.

The Commission is working towards eliminating all electronically connected bingo premises and do not intend to license any additional premises in the future. We will proceed with sensitivity in rectifying the current problems, fully aware of the many worthwhile activities being completely supported by bingo revenue from these electronically connected establishments, but also cognizant of the unfair advantage they have over smaller halls.

6. GAMING ON INDIAN RESERVATIONS

An issue which must be addressed is that of gaming on Indian Reservations, gaming, that is, in the broad sense which includes casinos, lotteries, bookmaking, etc. In the U.S.A. and Canada, it seems to be surfacing first as a bingo concern and it is probably in that area where we will have to make some difficult decisions. The Commission is content with the "status quo" and in fact issues licences to native Indian bands/groups for charity fund raising purposes. Some of these are considered to be the most worthy of all. But the playing field, in our judgment, has to be level.

In B.C. we have limits on prize boards. We have percentages we seek to ensure. We have Terms and Conditions that must be adhered to by every charity organization and any other entity involved with bingo. It would be inappropriate to subject those groups other than natives to licensing and profit sharing protocols that do not apply equally to native Indians. This principle has been tested with the suggestion from some bands that provincial licensing constraints as well as federal *Criminal Code* restrictions really do not apply to their gaming scenarios. In the U.S.A., Nevada in particular, native Indian activities are subject to even greater federal government intervention than is the case here. Consequently, federal authorities only permit whatever gaming undertakings are sought by natives on the written understanding that state regulatory obligations will be adhered to. Courts throughout North America expect to see Indian gaming controversies on the lists in the years ahead.

7. CHARITY ADVISORS

Bingo gaming in B.C. needs attention in many respects. As with casinos, we cannot see how volunteers from local charities can be the front line of defence against potential corruption, theft, mismanagement and incompetence. We advocate and will soon begin registering bingo charity advisors just as we have outlined for casinos.

We would envision these individuals as private sector entrepreneurs in business for themselves, beholden to neither hall owners nor charities except in guaranteeing the charitable revenue. They will be expert in all facets of bingo gaming and working to ensure everything is done according to the Terms and Conditions. They could and should receive an attractive compensation package and be responsible for training all the charity personnel who are essential to the running of a successful bingo event. They should also provide information and advice to the Branch as required in the interests of honest, efficient, charity fund raising. These functionaries exist in other jurisdictions and are here in B.C. in a sub rosa capacity, paid "honoraria" by charity licensees or as "special event managers" by promoters. We are satisfied that some, although paid by the charities are actually there in the interests of the hall owner. We believe that this should be brought out of the shadows. The position of the charity advisor should be legitimized and recognized as an essential, necessary activity. Bingo is a business and it is here to stay. Therefore, practitioners other than players should be professionals and professionally trained.

8. ADVERTISING

The Commission intends to regulate advertising and bingo card prices. Inspectors of the Branch, charity representatives, hall owners and patrons have pointed to the abuses brought to the game by unregulated advertising and discounted bingo card prices. Large commercial halls can ensure more than their share of attendance at the expense of smaller competing halls by high pressure sales tactics that promise prizes which, in some cases, they are unable to deliver. They are limited to a \$7,500 pay out over a 30 game session but they emphasize \$1,000 game prizes, knowing full well that at some events the attendance will not support this and the prizes will be less. Some use deceptive advertising such as

strategically placed small print in ads to protect themselves and we find this unacceptable. In most localities all that is required is notice of where and when the bingo will take place and for what charity purpose. Anything else is superfluous, unfair to the smaller operators, and expensive. These expenses often are the reason why the 25% charity payout is not attained. Some hall owners dictate to the charities what this advertising will be, including the misleading and unacceptable guaranteed prizes. This advertising takes place in spite of the fact that the Terms and Conditions specify that bingo advertising is exclusively the prerogative of the licensee. They accomplish this by threatening expulsion, secure in the knowledge that other desperate charities are out there waiting for any kind of fund raising opportunity and more than anxious to come into the vacant slot. This will be stopped.

We intend to ensure that all bingo premises sell their cards for the same prices throughout B.C. Discounting only creates confusion and, as with advertising, works to the disadvantage of smaller operators.

9. CHARITABLE FUNDS RAISED

A few statistics will help understand the dimensions of this "untidy tiger" and point to some of the problems.

For the Fiscal Year Ending March 31, 1985:

Gross Bingo Revenues	\$ 95,565,642	
Prize Payouts	61,639,839	(64.5%)
Charity Funds Raised	22,126,886	(24.2%)
Administrative Costs	10,798,917	(11.3%)

By the Spring of 1986 the statistics had changed:

For the Fiscal Year Ending March 31, 1986:

Gross Bingo Revenues	\$ 91,985,171	
Prize Payouts	63,562,130	(69.1%)
Charity Funds Raised	13,613,780	(14.8%)
Administrative Costs	14,809,261	(16.1%)

Note that the net receipts to charity fell by 9½ million dollars, almost 10% of the year's proceeds. Small bingo operations in traditional locations were forced to close resulting in less bingo activity, yet prize payouts and expenses (mainly rents) increased noticeably.

For the Fiscal Year Ending March 31, 1987:

Gross Bingo Revenues	\$112,347,121	
Prize Payouts	67,970,008	(60.5%)
Charity Funds Raised	23,705,242	(21.1%)
Administrative Costs	20,671,871	(18.4%)

The trends here of course are:

- a significant increase in the gross arising from more and bigger halls;
- a further escalation in administration costs, resulting from but not corresponding to the overall growth;
- a fairly healthy increase in the gross and percentage going to charities.

For the Month of October, 1987:

Gross Bingo Revenues	\$ 11,152,208	
Prize Payouts	6,514,925	(58.42%)
Charity Funds Raised	2,870,923	(25.74%)
Administrative Costs	1,766,360	(15.84%)

The most recent statistics reflect the closest that the bingo split has come to the 50-25-15 formula with the charity receiving the desired amount. We are very pleased with this trend and will be working closely with the Branch to ensure that it continues.

10. PUBLIC INPUT

The Commission took out advertisements in all B.C. daily and weekly newspapers seeking input from the general public about the facets of gambling which fall within our mandate. A copy of the advertisement is included in Appendix "G". The response was almost overwhelming — so much so that the reading and correlating of opinions, the sifting of the ideas received in such a way as to ensure a balanced reflection of these within this report became a significant task.

A large percentage of what we obtained concerned itself specifically with bingo, again demonstrating just how big and how popular this activity is here in British Columbia. (And more so elsewhere: \$112,000,000 spent here in the fiscal year 86/87, over 5300,000,000 in Ontario.)

These bingo representations ranged from the short one line, pro or con individual citizen responses, all the way to elaborate organizational briefs setting out philosophical and practical positions and alternatives. Some were of exceptional quality and will receive more than a passing examination leading to discussions with authors and perhaps even their involvement in the formulation of future strategies. Some were quite obviously self-serving but even these were welcome as the strongly held opinions of individual citizens who at least cared enough to get involved. Apart from written submissions we have received oral briefs from numerous interested individuals and organizations. We have also had research consultants active in the field on a contract basis, collecting empirical information as support for our conclusions. In addition we have travelled extensively holding hearings wherever we thought these would be productive, and in the process have received many useful suggestions and criticisms of the current arrangements.

We could not begin to include here all the proposals and ideas received but it is possible to record some themes, or trends, and, general as opposed to specific, concerns which surfaced from the wealth of material amassed.

First, a deep uneasiness was documented about non profit recreational and cultural organizations having the same access to bingo raised funds as do the genuine helping charities involved in the field of health and social services. The former are seen as having too much access and the latter not enough.

A second recurring theme was the difficulty faced by charities who must involve their volunteer workers, or in some cases their paid staff, in fund raising as opposed to the program delivery which was in most instances the reason for participation with the charity in the first place. Again the problem is more acute in bingo since there is usually a weekly as opposed to a nine times yearly requirement in casino gaming. We have received strong thoughtful briefs advocating full charity involvement even to the exclusions of any activity by private sector people such as bingo hall owners. Some charity groups own their own premises and rent out space to others; the entire operation run by charity volunteers who are paid only honoraria, if they are paid at all. The exact opposite was also advocated by many submissions, i.e., complete private sector management by paid professionals with no charity presence and the distribution of funds looked after by government appointed officials.

Somewhere in between at the moment is the "status quo" and we as a Commission must develop from this mix the ideal bingo model, which may or may not be different for casinos. We are hard at work on this but have a distance to go. Our previously mentioned decisions to train and register professional charity advisors is one early step, and our newly established licensing program is another.

A third problem identified in many submissions was the need for consistency in our regulating and compliance exercises and some stability in terms of the long range future of bingo gaming. We were urged to develop a firm strategy which takes these needs into account, to publish this strategy widely and to offer some guarantees that things will not change two years down the road. This concern does not come just from the entrepreneurs who deserve to know what the future is likely to hold before making substantial property investments, incurring debts etc., but from the charities and non-profit organizations as well. They need a firm funding support base with few surprises in order to proceed in meaningful ways. We hope this report will be seen as a large step towards a stable, consistent gaming environment for B.C., one we can build upon and enhance as required and which will be useful in social policy planning.

Perhaps a fourth, general concern we have isolated is really a lament. Many people told us that they are sorry that the old fashioned church basement, Legion hall bingo is almost gone, replaced by an increasingly sophisticated, technologically dependent, less personal version of the game. This somewhat nostalgic view is tempered by realism and I think we all agree that things will not completely revert

11. CONCLUSION

In British Columbia the Commission believes bingo can and should be properly provided as a commercial enterprise by private sector entrepreneurs in their own halls, where they will be obliged to charge a reasonable rent, profiting from food services and other concessions. This would be similar to the Alberta model outlined in Chapter IV, entitled "Gaming Experiences in other Jurisdictions". These commercial halls will be strictly regulated and appropriately audited by the Branch. The interests of the charity licensees will be protected by their hired, trained, professionals' charity advisors with charity volunteers assisting as much as possible.

The Commission will not see excluded, in fact we will encourage, the small community bingo, run by volunteers for modest church or community fund raising purposes. There is still room for this type of bingo event and the Commission is intent on protecting their interests.

CHAPTER VIII

TICKET LOTTERIES

1. INTRODUCTION

Ticket lotteries or raffles which raised a total of 9.3 million dollars for charitable purposes in the fiscal year 1986/87, have declined slightly in popularity in the Province since hitting a peak of 2,099 licences in 1984/85. The reason for this decline is attributable to increases in bingo and casino activity and the tremendous growth in government lotteries. Ticket lotteries are somewhat unique in the present charity fund raising scene for the following reasons:

- (a) They involve a considerable portion of the membership in the sale of the tickets;
- (b) The charity and its objectives are normally a part of the selling process. Bingo and casinos on the other hand can be run by relatively few members of the charity and the name of the charity and its objectives have little to do with the success of the event;
- (c) While ticket lotteries require a minimum payout percentage to charity, there are no limits set on prize payouts or expenses. In some raffles the prize payout is so low that the purchasers are in fact making a donation to charity.

2. TERMS AND CONDITIONS

The present Terms and Conditions allow two classes of ticket lottery licences:
"A" licences where the total prize exceeds \$500; and
"B" licences where the total prize is less than \$500.

The Terms and Conditions request licensees to conduct their ticket lotteries in such a manner as to assure participants that a draw will be held on a specified date for a known prize(s). In the event that the cash value of the prize exceeds \$5,000, then the proof of charity ownership must be established prior to the commencement of the lottery. Notification to the Branch and the public of the name of the winner is currently not a requirement.

3. TYPES OF TICKET LOTTERIES

Charities are limited to a total of three ticket lotteries annually. The exception to this rule are "Meal Draws" which are in-house draws or raffles normally conducted weekly by veterans organizations and Service Clubs. Funds raised are contributed to charity.

There are up to five large charitable or non-profit societies in the Province that conduct up to three ticket lotteries annually. The prizes range between \$100,000 and \$250,000. Included in this group are the Seniors Lottery, the Kinsmen Rehabilitation and the Lions International Foundation. These lotteries are conducted mainly through the mail. The presentation is professional and expensive to market. As a result, expenses are high. The breakdown of revenue and expenses for a typical large ticket lottery is:

Revenue:	\$600,000	100%
Expenditures:		
Prize Money	130,000	21%
Promotion and Marketing	233,000	39%
Administrative	36,000	7%
Profit to Charity	197,000	33%

In this example the percentage to charity, while impressive as a dollar figure, is less than the 35% required by the Terms and Conditions. Smaller value ticket lotteries normally have a much smaller percentage of expenses and thus pay out more both in prizes and to charity.

4. CONCLUSION

The Commission is determined to examine ticket lotteries, particularly the large operations, to ensure compliance with the Terms and Conditions. Additionally, and in line with the conclusions in Chapter XII on Financial Control and Accountability, we will require audits to ensure that stated charity objectives are addressed by charities and non-profit societies. We will also require that the names of prize winners are notified to the Public Gaming Branch.

CHAPTER IX

FAIRS AND EXHIBITIONS

1. INTRODUCTION

One of the more undefined responsibilities of the Commission is the regulation and licensing of the various types of gaming which take place at fairs and exhibitions across the Province. This does not include pari-mutuel wagering at horse races as it is not in our mandate.

This responsibility is undefined for a variety of reasons, including the following:

- (a) The law respecting fairs and exhibitions, as contained in the *Criminal Code of Canada*, and as interpreted in jurisprudence over the years, is far from clear in terms of its impact, its breadth and its application.
- (b) The itinerant nature of the operations, with concessionaires constantly on the move and stationary for only short periods of time, makes examination of their activities and regulation of their practices very difficult.
- (c) Most members of the public who attend fairs and exhibitions are aware that historically, carnivals and carnival operators have been less than scrupulous in their relationship with patrons. This behavior is tolerated, partly because of the short term nature of these events.

2. REGULATION — WHY AND HOW?

Considerable sums of money are gambled at the gaming concessions of fairs and exhibitions. Profits to operators can be exorbitant and opportunities for skimming and other forms of theft are numerous. The public deserves to be protected and proper accounting procedures should be instilled to ensure appropriate distribution of revenue including tax collection. The general atmosphere should be one within which equitable and honest practices are employed, while compromise and cheating are reduced to a minimum.

To accomplish these desirable ends there must be licensing, terms and conditions for operation, inspection and regulatory control. The Commission intends to promote and ensure this. However, it will of necessity be a fairly slow evolution.

The Commission is indebted to the Co-ordinated Law Enforcement Unit of the Ministry of Attorney General, whose Policy Analysis Division recently concluded a study of carnivals and, in June of 1987, produced a paper entitled "CARNIVALS: Crime and Compliance". We have found portions of this useful, particularly their analysis of the relevant legislation and case law. With the permission of C.L.E.U. we have reproduced a portion of the Canadian Carnival Law section of their paper as Appendix "H". This material shows that there are significant uncertainties and ambiguities having to do with the relevant law and its interpretation. It may even be that licences are not required for any of the concessionaires operating "games" at fairs and exhibitions. If this is so, our Terms and Conditions will require amendment as will our general regulatory approach. In Sec. 6.03 of Part VI, for example, we have specified that "any person with a record of conviction for an offence, directly or indirectly related to any gaming activity, may not participate in the activities related to a licensed event." This section is designed to help ensure honest operation of gaming concessions at fairs and exhibitions, and, to make it possible for Branch inspectors to preclude the employment of undesirables on pain of an annual licence refusal or cancellation.

At the present time, concessionaires and the boards of most fairs and exhibitions here in B.C. are co-operating with regulatory efforts to the extent that they have been asked to. We expect this to continue. In the event that fairs and exhibitions and their concessionaires may not require licences as the law evolves and receives additional interpretations, the Commission will have to be dependent upon good will and community citizenship intentions as a base for inspection and control. The Commission is uncomfortable with this situation and will be focussing on it in a more comprehensive fashion.

3. BINGO

Bingo is one of the games played at fairs and exhibitions and has always been well patronized. With the tremendous growth in the popularity of bingo at commercial halls over the last five to ten years, attendance at games played on the sites of fairs and exhibitions expanded as well. This forced regulators to pay close attention to bingo at fairs and exhibitions and to concern themselves with the prospect of ensuring that charities be the main benefactors of licensed gaming.

For years bingo has been an entertainment or gaming option available at British Columbia's biggest annual fair, the Pacific National Exhibition (P.N.E.). All profits from bingo went to the P.N.E. Some time ago the Branch approached the P.N.E. with a plan to involve charity volunteer workers, branch inspectors, and professional bingo event arrangers in the 1987 fair with a view to maximizing profits from the annual 3 week long bingo. It was to the benefit of both charities and the P.N.E., and, at the same time, provided a training opportunity for volunteers who would thereafter be much better equipped to assist in the running of bingo games for charities in other surroundings. The experiment was a success and over and above the P.N.E.'s share of profits, some \$125,000 were made available to the five participating major charities.

4. OPERATIONAL COMPLIANCE UNIT

There are some good reasons for the Commission to increase its attention to gaming at fairs and exhibitions and to encourage more involvement in that area by the Branch. One of the ways we see this transpiring is by the appropriate tasking of the Co-ordinated Law Enforcement Unit (C.L.E.U.) Operational Compliance group.

This team was made up of personnel from C.L.E.U. and the Consumer Taxation Branch of the Ministry of Finance. Their original mandate was to improve security at Expo 86 by thorough background checking of employees and participants and to maximize revenues for both government and Expo by the imposition of tight financial controls. This venture paid off handsomely, and revenue returns far in excess of what would have been otherwise reported were the result. Selective hiring and employment practices weeded out many undesirables and brought an increased atmosphere of respectability to the concession and concessionaire aspects of the Exposition.

The Commission and the Branch see a continuing role for a similar Operational Compliance Unit in connection with future gaming activities at fairs and exhibitions throughout B.C. Deployment methods and operational policy are being developed at the moment. This unit could become one of the more effective tools at our disposal to control and regulate this area in the future.

5. CONCLUSION

There is an urgent need for clarification of the law in respect to gaming at fairs and exhibitions. Relevant *Criminal Code* sections are confusing and contradictory as are some of the jurisprudence evolving from them. This makes our regulatory process extremely difficult and leaves us vulnerable to the conflicting opinions of lawyers and courts at different levels. The Commission believes the law should be rewritten in language that clarifies which types of gaming can go on at fairs and exhibitions, as well as the conditions of licensing.

CHAPTER X

SOCIAL CLUBS

1. INTRODUCTION

Of specific concern to the Commission is that gaming activity which is being carried on as a consequence of existing, incorporated, bona fide social clubs. These social clubs are licenced pursuant to the *Society Act* and the *Criminal Code* of Canada.

The important, relevant law is found in Part V of the *Criminal Code*, in particular section 179 (1) which states:

"common gaming house" means a place that is

- (a) kept for gain to which persons resort for the purpose of playing games, or
- (b) kept or used for the purpose of playing games
 - (i) in which a bank is kept by one or more but not all of the players
 - (ii) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
 - (iii) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game, or using gaming equipment, or
 - (iv) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game.

"game" is interpreted as meaning a game of chance or mixed chance and skill. The authority to licence social clubs comes from section 179 (2) which states:

A place is not a common gaming house within the meaning of paragraph (a) or subparagraph (b) (ii) or (iii) of the definition *"common gaming house"* in subsection (1) while it is occupied and used by an incorporated bona fide social club or branch thereof, if:

- (a) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and
- (b) no fee is charged to persons for the right or privilege of participating in the games played therein *other than under the authority of and in accordance with the terms of licence issued by the Attorney General of the province in which the place is situated or by such other person or authority in the province as may be specified by the Attorney General thereof.*

On August 5, 1987, the Attorney General specified the British Columbia Gaming Commission as the authority in the Province to issue licences to incorporated bona fide social clubs or branches thereof, and to prescribe the terms of those licences in accordance with the requirements of the *Criminal Code*.

At the same time, it was deemed that the Public Gaming Branch, as of November 1, 1987, would assume the responsibility of inspection and compliance of these clubs in order to regulate their activities. These functions were transferred administratively from the Police Services Branch of the Ministry of Attorney General.

These responsibilities are new to both the Commission and the Branch, and much examination of the situation has yet to be done. In the interim the Commission has adopted the Terms of Licence already in force as well as the Policy Guidelines presently in place. The Commission has also adopted the Application for Social Club Gaming Licence documentation and the licence form itself, which has been revised for use in 1988. Due to other pressing commitments, it will be some time into 1988 before the Commission will be able to make changes to the licensing system in order to better regulate social clubs. The advice and recommendations of the Branch inspectors will have a significant impact on these regulatory changes.

The Commission is fortunate to have been provided with a report completed in May of 1987, entitled *"Social Clubs, Licensed Gambling"*. This is a thorough review of the subject conducted by the Policy Analysis Division of the Co-ordinated Law Enforcement Unit (C.L.E.U.) of Ministry of Attorney General. It has been invaluable to the Commission in helping them to acquire some early appreciation for the problems

concerning social clubs, along with providing some insight into what needs to be done. As a result of studying this report we have identified our major areas of concern which include:

- (1) Licensing and the necessary attendant investigation;
- (2) Proprietorship, i.e., individuals purchasing, selling, owning the clubs for profit;
- (3) The range of games played and the manipulation of these in order to skim profits;
- (4) Advertising and competition for patrons;
- (5) Membership;
- (6) Police interests and involvement of organized criminals;
- (7) Municipal bylaw impact and hours of operation;
- (8) Liquor consumption and sales.

These and other issues are elaborated on in Appendix "I" and present an accurate picture of social club gaming activity as it is today.

2. CONCLUSION

In the months ahead we will be searching for appropriate remedies, in an effort to ensure that these clubs exist and function only within what was intended by the relevant sections of the *Society Act* and the exemption clause provided in the *Criminal Code*. Most have evolved into something other than what was visualized at the start, and this should either be rectified by a process of inspection, regulation and compliance, or the decision to license such establishments at all should be reconsidered. If these clubs were no longer licensed, we are cognizant of the fact that some clubs would simply continue to operate in an unlicensed, illegal and underground fashion. This would add to the gambling enforcement burden already borne by the police, and this is not much of a solution.

There is a fundamental question which has to do with how much, and in what form, government should interfere in the recreational habits of citizens in an effort to control the undesirable side effects of those habits. Obviously some individuals are making money illegally out of social clubs where citizens gather to play poker and other card games, mostly under conditions which result in little or no disruption to the community and very few complaints to the police. Who then is being protected, and what really is the evil we seek to eliminate by strict regulation, control and compliance? If it is just an exercise to ensure that current laws are upheld, then maybe these laws require thoughtful re-examination. If it is to ensure that those profiting illegally are brought to justice, then enforcement priorities must and the activities of these individuals would have to be measured on a scale where much more nefarious activity competes for attention.

CHAPTER XI

LICENSING, REGISTERING AND BONDING

1. INTRODUCTION

British Columbia boasts the highest percentage of gaming revenue to charities in Canada. This demonstrates a healthy industry meeting its primary objective. A good deal of credit for this must go to the dedicated and knowledgeable staff of the Public Gaming Branch.

Businessmen should also be recognized for identifying a lucrative opportunity and setting about to earn money for themselves and charity by providing equipment, space, gaming, business expertise, and encouraging charities to incorporate and apply for gaming licences. These entrepreneurs sparked a quiet but rapid growth industry, effectively enabling charities to survive the transition from depending on government grants to earning their own revenue.

A volunteer component remains a requirement of the Terms and Conditions, but there is a sense of relief amongst many charities that a more abundant source of funding other than car washes and bake sales is available. To establish a sense of stability in obtaining this revenue, and to ensure that entrepreneurs did not flourish at the expense of charitable income, the licensing of charitable organizations and the businessmen involved in gaming was introduced.

2. LICENSING

There are currently two types of charity gaming licences:

- (a) type "A" licence is one which is issued for a series of bingo and casino events and ticket lotteries with prizes valued over \$500;
- (b) type "B" licence is issued to charitable organizations wishing to hold no more than five (5) single event bingos with cash prizes totalling no more than \$2,500 for the five events, or ticket lotteries with prizes worth no more than \$500.

The Commission issues all "A" type licences and can issue type "B" licences. In outlying areas Government Agents are authorized to issue type "B" licences. If these are unavailable, charities can apply for "B" type licences by mail.

Recently the Commission was given the responsibility of the licensing of social clubs, which are discussed in Chapter X of this report. This is an area of gaming for which, until now, financial accountability has not been a prerequisite for licensing. There is a need for regulations and requirements for licensing.

The licensing of fairs and exhibitions is another area that requires an evaluation and examination of financial accountability before licensing. These long standing institutions introduced public gaming in Canada.

(i) Conditions of Licence

The Commission has heard repeatedly that some charities are realizing far more revenue from gaming than their activity requires. These charities, in taking advantage of the full number of ticket lotteries, bingo and casino events allowed under the current Terms and Conditions, cause other charities to be denied access to gaming revenue in some areas. Currently, there is no requirement for either accountability of previous revenue raised through gaming or listing of assets. In an effort to equalize access and prescribe accountability, the following information will become conditions of licensing including renewal of current licences:

- (a) proof of charitable Federal Tax number or a registration in good standing under the provincial Society Act;
- (b) a signed financial statement documenting current assets; all previous years revenue sources for both capital and operating budgets;
- (c) budget for coming year — both capital and operating;

- (d) status of any trust account;
- (e) number and status of all gaming licenses including bingo, casino events and ticket lotteries requested and anticipated gaming revenue required to meet objectives;
- (f) a clear definition of the charitable objectives;
- (g) rent structure and copy of agreement.

(ii) Appeal Process

It is important to note that a licence is a privilege rather than a right and a procedure of natural justice such as a hearing is not required if a licence is refused. However, the Commission has established an appeal process.

The licensing authority given the B.C. Gaming Commission allows the Chairman Vice-Chairman or another designated Commission Member authority to approve licences. Should a licence be refused or suspended, i.e. appeal procedure allows the applicant to appear before a three (3) Member Appeal Board consisting of Commission Members who have not seen or discussed the application.

Since July of 1987 the Commission has heard eight appeals in Victoria and Prince George. In seven cases the appeal was denied and in one instance the appeal was successful and a licence was subsequently issued. At the time of writing, there are two appeals which have yet to be dealt with.

(iii) Areas of Concern

A number of concerns with regard to licensing have been identified and require more consultation and policy development. These concerns are as follows:

- (a) The problem of exorbitant or unreasonable rents needs to be addressed, and the Commission is currently considering a number of options. Co-operation will be sought from the industry and the charities in resolving this problem;
- (b) Licensing approval for casino management companies and bingo hall operators should be subject to municipal zoning and health regulations;
- (c) Access must be equalized through limiting licensing by categories, such as health and social services, cultural, recreation, religious and education;
- (d) Amendments to licences may be made for a change in location, date and time, but take a good deal of time and require research. These additional costs will be covered by a licence amendment fee;
- (e) Registering, bonding and training of the key workers will improve the quality and integrity of gaming activity;
- (f) Registration of supply and service companies will be required.

3. CHARITY GAMING

(i) Bingo

The rapidly escalating bingo industry has grown in the past five years from a gross revenue of \$34,531,411 in 1982 to projected figures of \$180,000,000 in the fiscal year ending March 1988. This is due to the introduction of large commercial halls. With the advent of commercial halls, there was a necessity to revamp licensing requirements. It was felt that since these operators played such a large role in expanding the opportunity for charitable organizations to derive gaming revenue, they should be recognized through licensing. The process currently underway enables control of the proliferation of halls and its attendant destabilization. Bingo hall operators will be required to indicate financial viability and corporate structure. They will also be required to meet safety and security requirements. There is currently a restriction on new locations for commercial halls however, there are 2 or 3 halls within the Province opening within the next few months. These halls were in various stages of planning when the new restrictions were imposed.

Charities using bingo for gaming revenue are encouraged to form Bingo Associations and establish a Board of Directors who can negotiate rent and time slots with the hall owner(s). The Association may choose to "pool" revenue as discussed in Chapter XII on Financial Control and Accountability.

(ii) Casinos

Licences to charities are currently limited to a maximum of three (3) occasions, three (3) times a year. Considerable input has been received regarding the necessity of determining the number, mix and type of games in advance of the event. A good case can be made for allowing some flexibility since it is difficult to predict the wishes of the crowd. The Commission will consider changes in the future when suitable control measures are developed.

For the time being, the betting limit will remain the same. Good arguments were advanced in favour of raising the limit on a gradual basis. Some believe it could assist in allowing the casinos in the outlying, smaller communities to be viable. The \$5.00 limit, while restrictive in allowing casino operators to expand and upgrade as quickly as they would like, will still allow management companies a reasonable rate of growth and provide charities a good return in those areas with an adequate population base. Maintaining the current limit allows for stability and consistency in adherence to the Terms and Conditions.

(iii) Social Occasion Casino

These are one day events run by organizations for their own members and not open to the public. The equipment may be rented from a service company but the event must be operated by volunteers from the sponsoring organization. These are intended to be social events rather than fund raising events. Only three (3) casino licences of any kind are allowed per year.

(iv) Ticket Raffles

A number of concerns need to be addressed by the Commission in its policy review of ticket raffles. These include the following:

- (a) There should be notarized, written proof of any prize valued over \$5.000 from either the bank if it is cash, or from the person donating the prize.
- (b) Written verification should be made to the Branch of the name and address of the prize winner within two (2) weeks of the draw date.
- (c) The application process should include a budget to identify increasing costs of professionally produced advertising and sales promotion.

4. CHARITY PERSONNEL

A large number of hardworking, dedicated and increasingly informed charity volunteers control the acquisition of gaming revenue. These people have made their work at bingo and casino events an avocation. Their services are sometimes free, and often their honoraria are small. Their training is "on the job", and their responsibilities are tremendous. In recognition of their valuable contribution, and as a means of establishing consistency in regulation and control, the Commission intends to allow registration of charity advisors. The role of charity advisors in both bingos and casinos is covered in some depth in those respective chapters of this report.

The problem of ensuring that the charity licensee maintains control over the gambling event in areas such as control of cash flow and, in the case of bingo, rent control, is a difficult one. The move to allow charity advisors is only a partial solution. More work on policy development will be done by the Commission.

(i) Charity Workers

There is a need to register and test for competency those key charity workers who handle specific tasks on a regular basis. It is particularly important that such workers as bingo callers and those who handle cash and operate as cashiers and counters be professional in their work. If it is necessary for these people to be paid in order to bring about this professionalism, the Commission will acknowledge and approve of such activity. This will mainly be necessary in the larger bingo halls and in all casino locations. These requirements are discussed in the chapter on training. The Commission intends to require a competency test as a condition of registration as well as proof of no criminal record. Registration would be required every two years.

5. CASINO MANAGEMENT COMPANIES AND PERSONNEL

An increasingly major role has been assumed by the casino management companies in B.C. During the period when only social event casinos were licensed, a number of companies formed to rent supplies and equipment to the charitable organizations. As an additional service, they sometimes offered the charity volunteers instruction on how to manage and run events. In 1986 permanent casinos were permitted and a new aspect of the gaming industry became firmly entrenched. There is concern that a lack of direct regulation and control over this aspect of the gaming industry could lead to serious problems as the industry continues to grow. The Commission, the Branch and the casino management companies recognize the need for licensing casino management companies and their officers, directors and shareholders, and in registering and bonding their employees. The burden of proof of eligibility for licensing, bonding and registering must clearly fall on the applicant.

Such concerns as business competency, knowledge of gaming, secure and safe facilities, and adequate financing from a suitable source must be conditions of obtaining a licence for a casino management company. These companies offer an important service to the charities who use them. In some cases, however, they have gained such tight control over the business that the charity licensee merely receives its cheque, and does not adequately control the cash and the course of the event as is required under the Terms and Conditions.

6. BINGO HALL OPERATORS AND PERSONNEL

In July of 1987, the Commission, in response to concerns about proliferation of bingo halls from the Branch and some municipalities put "on hold" the number of new bingo hall locations. At the same time the decision to licence bingo hall operators was made.

The operation and control of a large number of charity bingos have, for some time, been in the hands of the commercial bingo hall operator. In some cases charity volunteers are not welcome and have been asked not to assist, since inexperienced volunteer helpers have caused bingo players to move on to play at halls where the staff is experienced and knowledgeable. This is unfortunate and not acceptable. To some extent the system is at fault.

This situation has evolved in a similar manner to that of the casino management companies control of events. In an effort to keep the commercial halls profitable, the owners solicit charities and help them fill out the licence application, taking responsibility for seeing them through the licensing process. The charity, in many cases, is happy to let the bingo hall operator manage the event and just hand them a cheque. Some charities are grateful for this "easy money". No volunteer time and energy is spent raising the money which allows their volunteers to devote their time to "charitable purposes".

This situation clearly violates the Terms and Conditions. It would appear to be an evolution of necessity. If control is to be retained by the charity and the Terms and Conditions are to be met, the solution is to hire a charity advisor.

The bingo hall operators contribution to the growth of the industry has been recognized through the introduction of licensing. The Commission may meet with applicants for licences in the form of a hearing. The recent formations of bingo hall associations are recognized by the Commission. It is hoped that they will become valuable allies in regulating the industry.

7. BONDING

Bonding is a three party agreement by a company or an individual doing business to insure protection to a third party (client) working with a particular company or individual. Bonding is not insurance per se. However it does give certain areas of coverage where losses to the third party may occur. Bonding is provided by bonding companies to their clients with restrictions not necessarily applicable to an insurance policy. For a person to obtain bonding, the prerequisites of the bonding company must be met. A person must be of good character, with no criminal record for a given period of time (usually five years) before the bonding application, and must meet certain other criteria. It would appear that to be bondable would be a more beneficial requirement than to be bonded.

(i) Application to Gaming

When one considers gaming as an "infant" in British Columbia, as well as the vast sums of money generated from gaming within British Columbia, it is easy to see the need for integrity and sincerity. The bondability of certain persons working in the gaming industry becomes necessary.

Bonding should be considered when dealing with all employees of companies who supply a service to charities and who are in this position of trust. Persons who have the opportunity, by the nature of their duties, to "skim" from the charities and/or government, should also be considered. The public or players of the "games of chance", also called "gaming," are not at jeopardy. Cheating a player at a game of chance is covered under the *Criminal Code of Canada*. Bonding is not applicable in situations such as this. The bonding process will allow the government to benefit from the investigative services of the bonding company.

(ii) Who Should be Bondable?

Individuals within the gaming industry who should be bondable include charity advisors, and casino supply company employees who should/would be covered under the bonding umbrella of the company. Any person handling money in large sums would need to be bondable. We may not require they be bonded but that they be *BONDABLE*.

8. LICENSING FEES

The establishment of the Lotteries Branch in 1970 fixed licence fees at a level to cover administrative costs. At that time the staff consisted of a licensing officer and two clerks. There have been various rationale used since that time in restructuring the fee level including connecting the fee schedule to the financial success of the lottery.

The growing gaming industry has caused a significant increase in licensing and enforcement time and the staffing complement now numbers 29 with additional staff required to meet the demands. The fee structure included in Appendix "J" reflects both factors of administrative costs and a commitment by the Commission to support these costs from fee revenue as well as connecting fees to the financial success of the lottery. Licensees will receive successive licences only when the balance of the fees owing have been paid and a financial statement has been submitted. The fee structure will be reviewed at least every two years for fairness and suitability.

9. CONCLUSION

The licensing and registering of people involved in the gaming industry is seen by the Commission as an essential means of ensuring integrity and a more orderly growth of this multimillion dollar activity. Considerable discretion will be necessary on the part of the licensing authority to prevent over-regulating the industry. Clear policy and regulations are needed to allow a more professional and better regulated gaming industry to develop.

CHAPTER XII

FINANCIAL CONTROL AND ACCOUNTABILITY

1. INTRODUCTION

The critical need for strict and enforceable financial control and accountability in gaming activity has been reinforced by visits to other jurisdictions as well as in a review of available literature. A lack of adequate accountability in the industry has primarily been a result of a lack of policy and regulations. This matter is currently being addressed by the Commission and will result in policy changes and amendments to the Terms and Conditions.

There are a number of accounting tools available for financial control and accountability. However the best measure is involvement by the charities in bingo and casino events and their continued responsibility for handling the money and paperwork. The commercial bingo hall owner operator and casino company manager provide a consistent check on the accounting procedures and offer the benefit of their experience in the gaming industry. This is a second form of control which currently is unallowable under the Terms and Conditions, in most instances these people offer stability and continuity to the industry. This has been acknowledged in the current plan to license both commercial bingo hall owners and casino management companies. The move to organize associations of bingo hall owners and casino management companies can also be useful in controlling the industry by adopting a professional approach and encouraging self-regulation.

2. BASIC PRINCIPLES OF FINANCIAL CONTROL

(i) Audit Trail

There are two forms of audit control. One form is the paper audit which follows the flow of money from the player to the charity. Each step must be recorded. The other form is the use of two people, a charity person and an industry representative, to monitor the paper audit.

- (a) Bingo — the audit trail involves the cash register receipt and numbered bingo paper. Each bingo hall currently uses their own paper audit forms. There is a need for these forms and processes to be standardized.
- (b) Casinos — the audit includes the exchange of a controlled number of chips for cash, which is dropped into a locked box. Each exchange of money for chips to and from the casino bank is accompanied by a "credit slip" in triplicate, signed by a charity representative and a management company representative. Improved financial control and reporting forms are currently being developed to allow uniformity.

(ii) Supervision of Cash Flow

Supervision of cash flow is undertaken by two separate parties i.e. a charity representative and a management company or bingo hall operator representative. This control measure is usually adequate and in the majority of situations works well. It needs to be recognized by policy.

This supervision of cash flow is an effective measure when the charity representative has some gaming expertise and understands the significance of the cash flow process. Unfortunately, this is not always the case. Both parties involved must adhere strictly to the financial control process in place in order for it to be effective. In B.C. until recently, the control process varied between casino management companies. There are currently new draft casino regulations and financial control forms being circulated for comment, modelled after the Alberta system of control. These will require consistency in processing both money and chips. Uniform financial controls and reporting systems are needed for bingo as well. These will assist greatly in allowing for a more accurate division of revenue for charity, government and management companies.

(iii) Separation of Responsibilities

Bingo halls should be required to make provision for a secure count room and holding area for cash. With regard to casinos, it is in the best interests of both the charity and the casino management company to ensure that responsibility for the games area, banking area and count room area remain separate. The count room and banking area should also be physically separate and secure.

It is possible for collusion to occur between the accountant responsible for the count room and the games manager if there is agreement that not all cash taken in will be recorded. This same opportunity exists for collusion between the accountant and the cashier. Such situations in B.C. are currently the exception rather than the norm. New audit controls being developed will address this concern in both bingo and casino.

2. CONSEQUENCES OF INADEQUATE FINANCIAL CONTROL

(i) Theft — Skimming

Theft in the form of "skimming" is the practice of under reporting income from the game and pocketing the difference. There is often a suspicion of theft on the part of workers, players, hall operators, management companies and even charities and their workers. The temptation for theft is powerful as large amounts of cash flow through the hands of many people. Registration of people working in the industry and enforcing good principles of financial control are deterrents. It is less likely to occur in bingo, particularly when numbered bingo paper and cash register receipts are used. At the moment, however, some smaller bingos are still using unnumbered hard cards and are therefore less controllable.

The opportunity for theft and the difficulty of detecting and eliminating it are the reasons that many jurisdictions are reluctant to expand their gaming industry. This cash intensive industry offers an endless combination of opportunities. However, enforcement authorities and provincial jurisdictions believe that with careful scrutiny through licensing, the establishment of strict, enforceable control measures and the use of surveillance and security in the early stages of development of the gambling industry, a good opportunity for a healthy, relatively crime free industry exists.

(ii) Player Confidence

It is in the interests of both the management and the charity to ensure that financial controls are in place and enforced. The success of any gaming event rests on the players belief that with luck and skill, he can "beat the house" and "win" a profit.

If lack of control measures or the suspicion that there is collusion or fraud are apparent, the players' confidence and willingness to gamble is jeopardized.

Skilled and trained casino dealers and bingo help are also essential to player confidence. Training programs and competency testing are already being planned by the Commission.

(iii) Loss of Tax Revenue

In B.C. the majority of the gaming industry personnel receive only small honoraria from the charity. As a result, most do not report their income, and government revenue through taxes is lost. The Commission intends to register all participants in the industry as Alberta does. The opportunity exists to provide legitimate jobs and to monitor the payment of personal and corporate income tax.

4. GENERAL CONTROL MEASURES

(i) Use of Credit

The Commission is firm in its position of refusing to allow credit for charity gaming. Money machines will not be allowed in gaming establishments.

(ii) Audit Control Procedures

An area in B.C. requiring additional study is that of auditing procedures. The importance of financial controls in monitoring gaming demonstrates the need for additional Branch staff in the field with specialized auditing and accounting skills. The entire area of audit control procedures must be given immediate attention with revised policy and programs developed and implemented at the earliest possible time.

With the current level of staffing in the Branch and the limited time frame of the Commission, it has not been possible to implement all revised and improved control procedures.

The Ministry of Attorney General and the Ministry of Finance and Corporate Relations currently have an Operational Compliance Unit which in the past has been used to structure, develop and implement procedures at EXPO 86 as well as the carnival industry. Many of the problems inherent in gaming such as skimming, internal control, etc., have previously been dealt with by this Unit. It is not suggested that the Operational Compliance Unit supplant the eventual audit structure for the Branch. However, we would recommend that the mandate of the Operational Compliance Unit be expanded to assist in the development of audit control and enforcement procedures in conjunction with the Branch and in concert with Commission policy.

These individuals should review and implement procedures from the application stages through to the final audit control. Emphasis should be placed on developing a "clearly and simply" devised paper audit trail for financial controls in all areas. As well as implementing an improved financial reporting system, the Branch staff should also make unscheduled audit checks on financial control systems and procedures while gaming is underway. Uniform accounting systems and forms should be required. When the spot checks occur, a systematic check list of basic items should be carried out, offering both the charity and hall owner or casino management company assurance of consistency in inspection and control. A written memo of inspectors' concerns would also be useful.

In the U.S., specific accounting procedures and standards are available for auditing gaming operations, while in Canada they are not. Preliminary discussions with the Institute of Chartered Accountants of B.C. and the Certified Public Accountants Association of B.C. have resulted in the Commission's determination to develop such a tool in conjunction with the Branch.

Another possibility is the hiring of a chartered accounting firm knowledgeable about gaming to devise specific control procedures and assist in contract audits while working in conjunction with the public.

(iii) Surveillance and Security

Financial controls are only effective if enforced. Electronic surveillance for observation above games rooms is being used by the larger casinos in Edmonton, Winnipeg and Vancouver. This is expensive equipment and impractical for smaller operations. The video taping of games or the count room when there is a concern about cheating or skimming is useful. It can also be admissible as evidence in court. This is not currently being done in B.C.

Good security requires that the collected cash in casinos remain in locked and numbered boxes with keys counted and controlled by the charity. Only bank room staff should be allowed in the bank room, which should be secure, separate, and not easily accessible. This is not a current requirement in B.C. for casinos but could be considered a condition of licensing casino locations. Bingo halls should be required to have a separate and secure area to count and hold cash. It is also important that the count room for casinos be locked and separate from the bank and also not accessible to any but count room staff. Currently, this is not required. However, it should be included in the proposed licensing procedure. There is some concern about the transportation of cash at the conclusion of the evening's events to a night deposit box. Providing for safe storage of cash will be a requirement of licensing for hall operators and casino management companies.

(iv) Split of Revenue

The "split" is the division of gross revenue between the charity, the management company and the government. Initially the Commission was besieged by the casino management companies with requests for a change in the "split" for casino events.

Currently the casino "split" is 50% of the gross proceeds to the charity, 10% to government as a licence fee and 40% for all costs. It is from this 40% that management companies must find a way to be profitable. As a result of the "freeze" imposed on new charities and casino locations, it has become apparent that

casinos require a certain volume of clients in order to survive. A population base of between 75,000-100,000 seems reasonable. There are exceptions who are thriving on a lower population base on an intermittent basis. There appears to be no indication to alter the split for casinos as a result of the findings of this report.

The bingo "split" for proceeds as taken from the current Terms and Conditions are as follows:

"3:20 The following formula will govern the distribution of the proceeds derived from the bingo event(s)

- (a) Where the aggregate value of the prize awards in a licence year exceeds \$60,000.00, a maximum of 60% of gross proceeds may be given back as prize payouts and, a minimum of 25% of gross proceeds will be given to charity;
- (b) Where the aggregate value of the prize awards in a licence year exceeds \$20,000.00 but does not exceed \$60,000.00, a minimum of 20% of gross proceeds will be given to charity;
- (c) Where the aggregate value of the prize awards in a licence year does not exceed \$20,000.00, a minimum of 15% of gross proceeds will be given to charity."

There has been a request from the B.C. Commercial Bingo Hall Association to consider amending the split. In August of 1987 figures indicated that only a few bingo hall operations were unable to offer 25% or more to charities. Of the commercial halls, 75% are achieving better than 25% gross revenue to charities.

Similar percentages are generally used in other provincial jurisdictions although a different formula is employed. B.C. has the highest percentage return for charity in Canada. Problems with regional disparity are recognized and require further study. In B.C. prize limits for bingo in each occasion are \$7,500. This provides a limit on the size of bingos and ensures the continued stability of the industry. There has been much discussion and debate from bingo hall owners on this issue but the industry continues to thrive despite this limitation.

(v) Charity Accountability

The lack of accountability for revenue that charities receive from gaming has become a glaring problem. This has been brought to light in part by those charities who have been denied access to casino gaming revenue due to the current "freeze", as well as those unable to secure a place in a bingo hall or a popular evening spot.

It is evident that there are some charities who realize far more money from gaming than they require. In some cases the excess funds are passed on to other charities but most often the organization expands in an effort to use the funds themselves. Charity licensees must be discouraged from repeatedly using all allowable licence opportunities to raise funds in excess of their need. Some control of this problem will evolve when the Commission establishes stricter guidelines for charitable objects and purposes. An outline of the financial requirements of the charitable organization and the amount of revenue anticipated to meet that requirement will become a condition of licensing. A detailed budget for the coming year and a financial statement of revenue and expenditures for the previous year will increase charity accountability and enable the Commission to limit the number of licence events to what is required. The Commission believes that annual charity gaming revenue should be public information.

5. SPECIFIC CONTROL MEASURES

There is an ongoing process of improved financial control and enforcement in B.C. However, there are still other areas of concern which need to be addressed by the Commission in setting policy.

The advantage of the B.C. system is the ease with which improved and stricter financial controls can be implemented when necessary, while still maintaining some sensitivity to the need for sound management companies and commercial hall operators. Continued co-operation and consultation is required in this area.

Some of the areas of concern are as follows:

(i) Bingo

Financial control in commercial bingo halls has, by default, often fallen to the hall operator. He has an interest in maintaining his investment and in many cases is the one driving force that encourages, supports

and sometimes controls the bingo activity of charity licensees. There are many styles of management which makes inspection and regulation a challenge.

There are a number of areas requiring policy development and regulation. They include:

- (a) clear concise financial reporting forms, universally used;
- (b) an approved in-house recording of cash flow;
- (c) an option of using trained charity advisor;
- (d) a secure and safe environment for receiving and counting cash — safe transportation of cash or secure overnight storage;
- (e) "pooling" — it is possible for a charitable community association (CCA) to operate by pooling all gaming revenue from all charity members. Allocation of funds is determined by a board of directors of the CCA. This is a preferred method of financial control. However, there are good arguments against making this mandatory and these include there being less incentive on the part of the charity to promote their event.

(ii) Casino

Staff must be reliable, honest and trained. Staff are, in themselves, important control features. A pyramided system of people watching people makes theft difficult. Licensing and registering of staff and companies is an added control measure. Specific concerns in financial control of casinos are being addressed in a draft set of regulations currently being tested in a number of locations.

(iii) Social Clubs

A validated financial reporting form should be developed as a requirement of licensing. This area will be examined further in the coming year.

(iv) Ticket Lotteries

A report on the prize awarded including the date and the name of the winner is currently not a requirement. This should be addressed.

(v) Fairs and Exhibitions

This will be considered further in the coming year. Financial control systems require careful examination and implementation.

6. CONCLUSION

The Commission believes it is essential that policy and regulations be developed and enforced as soon as possible taking into consideration timing and staffing levels. The expanding cash based gaming industry demands strict financial controls. Proof of financial responsibility and compliance with these controls will be a condition of licensing.

CHAPTER XIII

TRAINING

1. INTRODUCTION

Currently in British Columbia there are no regulations or guidelines developed to achieve the level of competence required for the various occupations in the gaming industry. It is possible to suggest that the industry has thus far been self-regulating in this regard. However, we believe that if the industry is to be perceived with integrity, prescribed levels of competence are necessary. Any multimillion dollar industry requires a qualified and competent workforce to operate effectively. In addition there must be a cadre of capable people responsible for ensuring compliance with the regulations.

The Commission acknowledges a close regulatory relationship between ensuring the competence of individuals, through training and testing, and the integrity of individuals, through licensing procedures. The presence of competent personnel inspires confidence in those who receive the product of that business. This outcome of good training, is one which is desired in gaming within the Province of British Columbia. For this reason we must anticipate what these levels of competency should be and recommend the best means to achieving them.

2. CHARITY ADVISORS

The Commission recognizes the need for a charity advisor who would enable the members of the charitable organization to capably conduct a gaming event. Qualified charity advisors are required to train volunteers in all procedures relating to the Terms and Conditions. They will provide on-site supervision of the volunteers during the running of events.

To satisfy the training and supervision requirements of the charity advisor the following items are recommended to define its functions:

- (a) The charity advisor is responsible for assisting the charity in obtaining a licence to ensure that the charity understands its duties and responsibilities and the nature of the gaming event;
- (b) The charity advisor is responsible for training volunteer workers assigned to the gaming event in their duties;
- (c) The charity advisor is responsible for ensuring that procedures prescribed by the Terms and Conditions and the Gaming Branch are met and that all paperwork is properly completed.

As soon as changes are made to the Terms and Conditions outlining the role of the charity advisor, the Branch will assist in developing a certification course through the Justice Institute of B.C. Upon successful completion of this certification course the charity advisors will be registered by the Commission. A criminal records check will also be required. The Commission believes that the charity advisor should be contracted by the licensed charity on a fixed sum basis rather than by a percentage of winnings.

3. GAMES DEALERS

The term, "game dealers" refers to those positions in a casino events that deal the table games, as well as the position of the pit boss. These games, such as blackjack and roulette, require a measurable level of skill and knowledge on the part of the operators who deserve to be paid accordingly. With the advent of professional casino operations this will occur. However, there are no positions in bingo that require skill and knowledge equivalent to that required in casinos with the possible exception of the caller. For this reason only casino dealers are considered here.

The most likely instructors to conduct training will be those that have had experience as casino dealers. The Commission will leave it to the employment marketplace to set the best criteria for a satisfactory level of competence, i.e., skill and knowledge. Any private or public training institution recognized by the Ministry of Advanced Education and Job Training, should be permitted to offer this training with the employment marketplace again determining which institutions are successful.

Those who wish to work at casino events as table dealers must first have successfully completed a training program at a recognized training institution for which they have been certified. As an alternative, individuals may present themselves to prospective employers and apply to take a competency test. Successful completion of this test would enable individuals to become registered by the Commission and employed by the industry.

4. MANAGEMENT COMPANY MANAGERS

Managers of supply companies include pit boss supervisors, games managers, general managers, operators and owners. Personnel in these positions are all employees of the casino management company. The competency of these personnel will be the responsibility of the casino management company. Their training will be to the satisfaction of the owners of the casino management company, the charitable organizations contracting their services and the Public Gaming Branch inspecting their operations.

Although in bingo there are no equivalent positions to consider, it is recognized that some charitable organizations currently make use of "professional managers" to assist in the conducting of their bingo games. The charity advisor will assume that position.

5. CHARITABLE ORGANIZATIONS AND EVENT VOLUNTEERS

The charitable purpose of gaming in British Columbia places a considerable amount of responsibility and accountability on charitable organizations and their members. For most members their involvement with the charitable organization is entirely voluntary and is motivated by reasons more closely related to the purpose of the charity rather than by fund-raising through gaming. Therefore it is important that the charity be given support and trained on its functions during casino events. With this in mind comes the creation by the Commission of the charity advisor position referred to throughout this report. We believe that both the officers of the charitable organization (or other appointed persons) and the volunteers assigned to the gaming events should receive guidance from the charity advisor.

6. SECURITY GUARDS

Presently the Terms and Conditions require that all casino events must have adequate security provided by the casino management company. Persons employed in this capacity must have received training in their security roles. The Commission believes that individuals employed as security guards at bingo or casino events should be licensed by the Security Programs Division of the Ministry of Attorney General. They should also have successfully completed a training program in private security at an accredited training institution.

There are several private security training courses available. For example, the Police Academy conducts a basic course (one week) and the Vancouver Vocational Institute conducts a certificate program. Trainees cover the costs of courses as they are taken prior to employment. In some cases, a casino management company might elect to cover the costs of the training.

7. GOVERNMENT REGULATORS

Training for members of the Public Gaming Branch responsible for licensing, inspecting and auditing will be provided. Professional employees of the Branch are hired on the basis of their qualifications and experience and trained in their new responsibilities.

An orientation program suitable to the position and the new incumbent is required. Training can be administered in-house to the satisfaction of the Director of the Branch. The cost of training, including continuing education opportunities such as seminars and conferences, should be built into the Branch budget. The initial orientation and/or training will be "on-the-job" experience in co-operation with current employees.

The Branch is currently working closely with the Justice Institute of B.C. to develop training standards and information which will be available to orientate new staff members within the Branch. In addition, it is also recognized that new members of the B.C. Gaming Commission require orientation to enable them to carry out their responsibilities.

8. POLICE

The Police Academy of the Justice Institute of B.C., in conjunction with "E" Division of the R.C.M.P. and the Branch, should assess on an ongoing basis the training requirements of municipal police forces in all legal and illegal aspects of gaming in B.C. From this assessment, training courses will be developed and conducted to uphold the gaming laws in the Province.

9. CONCLUSION

In conclusion, the Commission believes that training is one of the most important areas of implementation in order to ensure competent, honest, well-run gaming events in the province. In our travels to various jurisdictions we have seen different levels of efficiency but training has always been alluded to as a key factor to success.

All of the vocations within the gaming industry have been examined and standards for levels of competency have been explored. The charity advisor will assume direct on-site responsibility for ensuring compliance to the Terms and Conditions governing the operation of gaming events.

The costs of training with the exception of that which is involved in the regulation of gaming, should be covered by recipients. Training involving regulation will be financed by the government through its regulatory and enforcement agencies, such as the Public Gaming Branch and local police departments.

CHAPTER XIV

EQUITABLE ACCESS TO CHARITY GAMING

1. INTRODUCTION

The Commission agrees that their major concern arising from their review of charity gaming activity in the Province is that of equitable access by licensed charities and non-profit groups to gaming activities. This concern has existed since our first meeting and has been reinforced after subsequent visits to bingo and casino events. During our review we discovered that our concern was shared by charities, non-profit groups, hall operators, casino management personnel, public officials and the general public, some of whom participate as patrons at the gaming events. The present system of access was criticized by all.

2. CURRENT STATUS OF ACCESS

What is meant by "access" and how is the present system unfair? The Commission interprets "access" to mean the availability of funding to any licensed charity or non-profit society. At the present time a charity or non-profit society applies for and receives a licence for a bingo (maximum 52 sessions in a year), a casino (maximum of three — 3 night events annually), a ticket lottery event (maximum of 3 per annum), or any combination of the foregoing. The application must contain proof of charitable intent (registration as a non-profit society under the Society Act), proof of charitable activity for the previous 12 month period, a statement of the objectives of the organization and a simple description of how funds raised will be utilized. A licence fee of \$25.00 also accompanies the application.

Applications are reviewed by the Branch for accuracy and are then forwarded to the Commission, who has the final decision-making authority, with a recommendation for approval or rejection. At the present time, excluding the "freeze" on new casino activity, applications are considered on a first come, first served basis. Bingo and casino applicants must indicate an available hall or casino location, date, and time slot. Thus, hall operators and casino management companies are involved from the beginning in the access process.

For a number of reasons, but mainly due to timing and good management, a number of organizations obtain the best time slots. This occurs particularly in bingo, and these organizations produce a surprising amount of money for their charitable activities. To highlight this point, it is a regrettable but true fact that we are aware of a number of charities and non-profit groups who, through early application and good management or luck, have access to excessive funding (\$100,000) annually. Conversely, other worthy charities who have subsequently obtained a licence have much reduced access and consequently less funding.

3. LICENSING ELIGIBILITY

Prior to discussing equalization of access we will look at the question of licence eligibility. The present Terms and Conditions define a "charitable object or purpose" as

an object or purpose which comes within one of the following classifications of charity:

- (i) relief of poverty;
- (ii) advancement of education; and
- (iii) the advancement of religion; and
- (iv) for other purposes beneficial to the community (this includes a purpose where the benefits derived are available to a significant portion of the community and, without limiting the generality of the foregoing, may include the provision and support of public recreation, picnic areas, playgrounds, cultural activities, athletic facilities and amateur sport)

This definition is the "measure" used to determine charitable eligibility in B.C. In Alberta, Manitoba and the Yukon, a key component of eligibility is that the organization be run without charge by volunteers.

Manitoba also requires the charity to qualify for a Federal Charitable tax number. The Income Tax Act does not recognize fraternal or service clubs as "charitable" because only a portion of their resources is devoted to charitable activities. In B.C. these groups may receive gaming licences. In Alberta and British Columbia there is a growing concern that the very broad interpretation of the definitions in place has allowed the licensing of some organizations whose charitable objectives and purpose are questionable.

Given the foregoing information as well as circumstances surrounding past charitable gaming revenue, the signing authority has the responsibility to decide the degree of access to be granted to the applicant. The term "degree" is used to designate the type of licence granted if more than one is sought, and also within either casino or bingo, the number of events for which the licence is granted. As an example, a hockey club with a proven need for charity funding during the winter months would receive a 26 event bingo licence and be replaced for the remaining 26 events by a softball association. Alternatively, another charitable group which could prove a year round need based on objectives and budget would receive a 52 event bingo licence.

4. EQUALIZATION OF ACCESS

The Commission takes the position that there is a definite need for a licensing system that will provide a degree of access for all eligible charities or non-profit societies. Such a process will consider the type of charity or non-profit society, i.e., poverty, religious, educational or community based activity, the number and type of persons to benefit from the funding, the objectives of the funding, and the present operating budget of the organization indicating all other sources of revenue. Financial accountability by the charities or non-profit societies is also required in this process.

In order to make this process credible and effective, the Commission must be satisfied that the money raised for an intended and approved purpose is spent on that purpose. In Chapter XII of this report entitled "Financial Control and Accountability", there is a description of the audit system that will account for funds raised through charity gaming. Failure to impose such a system will allow an indiscriminate and possibly inappropriate expenditure of charity funds.

A further basic premise of this licensing process, in order to provide equitable access to charities and non-profit societies, is a considerable degree of discretion which must be given to the Commission when approving licences. No process is perfect and the Commission realizes that discretion must be used to accommodate different requests. Consideration must be given to differences based on regional location and available fund raising means and access. It is conceivable that an application for a licence in one area would be accepted due to availability of access (a new bingo hall in a heretofore unserviced area) while in another area a similar request would get more restricted access due to pressure of access by other licensees.

The Commission is aware that the implementation of such a licensing procedure will both please and anger charitable and non-profit societies depending on their present access to funding. We do not see any initial drastic changes, but rather a phased in program that will allow affected organizations to revise their estimates of charity gaming revenue. The Commission will disseminate information to all potential and existing charity and non-profit societies, alerting them of the impending changes in access to charitable fund raising. This will enable those who have been denied access in the past to submit their requests and to advise those who currently have access that it may be adjusted over a period of time.

5. MULTIPLICITY OF LICENCES

A subject related to access to charity funding is that of multiplicity of licences. In this case, similar or closely related charity or non-profit societies raise funds for the same charitable objective. An example would be that of a men's religious group raising funds for a church building and the women's auxiliary doing likewise. The Commission was concerned that multiple licensing had created problems in certain areas throughout the Province. In September, the Terms and Conditions were amended to ensure that this practice would be stopped.

6. CONCLUSION

In conclusion, the Commission intends to introduce a system of licensing that will permit all recognized charities and non-profit societies access to funding. The degree of access will depend upon need in relation to available fund raising activity. This system will require budget submissions and follow up audit. An increase in the staff complement of the Branch will be required to ensure that this process occurs in a fair and orderly manner.

CHAPTER XV

ADVERTISING AND PROMOTION

1. INTRODUCTION

Weak advertising policies and general confusion regarding its limits have led to advertising abuses in the Province. These abuses have been reported from all areas of gaming, including the Public Gaming Branch, charity representatives, hall operators and patrons. All parties interested in settling advertising concerns are urging firmer guidelines and consequences, while the offending parties are enjoying uncertainty in the environment. Charities are continually pointing out infractions of other charities throughout the Province. Gaming publications are increasing efforts to attract advertisers and are creating pressured sales conditions and advertising wars particularly with bingo. This is also occurring with casinos.

In response to advertising pressures, some commercial hall charities are pooling advertising percentages to promote the popularity of their hall and to assure its survival. Advertising appears to be one of the few defences in an urban environment where uncertainty exists as to whether the gaming market is growing or if patrons are merely shifting their gaming location. In either case, gaming operators and charities feel obliged to embark on bigger and bigger advertising campaigns. In bingo, the smaller operations with inadequate funds for advertising are lost in the upwards spiral as patrons are attracted by larger crowds and promises of larger payouts. Many of these payouts are impossible without contravening the Terms and Conditions, and result in improper prize payouts.

In an effort to rationalize the advertising climate for gaming, the Commission has considered a variety of issues. These have emerged as a result of our requests for public input, our travels, and discussions in various locations in the Province.

2. STANDARDIZATION OF ADVERTISING

The Commission received many comments concerning the establishment of total cost ceilings for gaming operations and consequently limiting advertising ceilings. A sliding scale according to dollar volume or number of patrons was suggested to standardize these expenses. Smaller communities with smaller operations would have to be content with lower levels of advertising than urban communities.

The need for advertising standards will increase as competition intensifies and as patrons change locations to obtain the biggest prizes and best discounts on cards. Guidelines established by the Branch regarding advertising and promotion continue to be abused. This may lead to a breach of the Terms and Conditions.

The only information required in advertising is notice of where and when the event is to be held, and the name and licence number of the sponsoring charity. This functional approach is often held by the general public and policy makers. Alternatively, the gaming charities, hall operators and management companies feel that they have a right to promotional material over and above time and place statements. They also believe that creativity and good business are necessary in order to maintain and create patron interest in gaming, and to avoid making it a sterile environment for those working and those playing the games. It is between these two poles that advertising standards must be addressed.

As advertising costs increase, the share to the charity licensee begins to decrease. Thus, the Commission will be encouraging more aggressive and consistent enforcement to ensure that all gaming events are being promoted in equal fashion. Examples of acceptable advertising material will be provided to charities in an information package.

3. ENTICEMENTS

Enticements can be seen in gaming publications everywhere. They lure the consumer with big game choices and prizes in an aggressive "hard sell" fashion. These enticements take a number of forms. In casino advertising, persuasive Reno Las Vegas type ads with scantily clad women promise entertainment and Nevada style gambling. In the bingo industry, splashy two page advertisements in bingo publications

offer free snacks, discount cards, guaranteed prizes, chartered buses, and door prize give-aways. These are designed to attract new players as well as those already attending other halls.

The Commission does not agree with advertising that includes "promises" or "guarantees" of prizes that have yet to be determined. Advertised guaranteed prize payouts are deceptive unless they state that the prizes are dependent upon the number in attendance. Free coffee, raffle tickets, door prizes and other attractive possibilities may be grossly unfair to those charities and hall owners who do not supply any.

Such enticements have already led to excessive competition, false advertising and extreme advertising price wars, particularly in bingo. The escalation of these enticements is seen to have long term negative effects on the gaming industry as it creates a distorted picture of the true nature and benefits of charitable gaming.

Those charities and operating companies who continue to use aggressive and deceptive promotional campaigns will be the subject of increased scrutiny by the Branch. They may also face possible licence revocation by the Commission.

4. CHARITY REPRESENTATION

The name of the charity should be highlighted in advertising and well represented at gaming events. This does not always occur. In fact, some gaming operators are actively trying to remove the charitable presence under the pretense that it is more effective and efficient without them. The public must be made aware that it is only through the charity that the licence may be obtained, and that it is only on behalf of the charity that gaming can take place in this Province.

More information and education is needed to ensure that the management of gaming events is not removed from the control of charities.

5. OPERATING COMPANIES AND ADVERTISING

The Terms and Conditions clearly assign the advertising responsibility to the charity for bingo and the casino owner for casino operations. In bingo this places the charity in a "forced" contribution and expenditure position if advertising is to occur. In theory, however, this allows the charity to control the advertising content. The bingo hall enjoys "free advertising" and benefits from this arrangement, particularly when the owner has too much influence and dictates exactly what will appear in the promotion.

The Commission has reached a consensus that charities should decide the size, cost and content of advertising with little intervention from the operator. The operator may advertise location, parking and facility amenities, without mention of prizes. Given that bingo advertising is obtained from the charity's portion of gross receipts, their causes should be first and foremost in advertisement. However, an examination of numerous bingo advertisements indicates that this is not the case. The hall is featured in the largest print, followed by facility amenities and jackpots. Finally, in very small print, is the name of the charity. In some cases only the initials of the charity and its licence number in minuscule lettering are shown.

Commercial bingo halls who have charity advisors must assure the Commission that advisors are representing the interests of the charities rather than the hall operators in all advertising decisions. As the gaming industry is best judged by the integrity and quality of those who operate within it, the inclusion of more factual information in gaming advertising should be encouraged.

6. CONCLUSION

It is important that patrons realize the purpose of their activities. The focus of advertising, promotions and operations must be as much on the charitable organization and its cause as on the gaming itself. False and unfair advertising, both in costs and content, should be actively discouraged.

Currently, there are controversial Branch guidelines for advertising (see Appendix "J") which the Commission has reviewed. These will be strengthened, refined, and included in the Terms and Conditions.

CHAPTER XVI

B.C. STEAMSHIP SLOT MACHINES

1. INTRODUCTION

In 1975, the B.C. Steamship Company was incorporated at which time the *Princess Marguerite* and the terminal were purchased from the Canadian Pacific Railway. Funding for this expenditure was a decision of Treasury Board as was the subsequent purchase of the *Vancouver Island Princess* (VIP).

Operationally, revenues generated from fares defray expenses. During the peak months of July and August the approximate one thousand (1,000) passengers brought to Victoria daily increase revenues to secondary and tertiary tourist industries in the community, in addition to B.C. Steamships.

However, for the years 1984, 1985, and 1986 there was an annual decrease of 12% per year in fares, for a total of 36%. In addition, the problem of escalating annual refit and start-up costs had to be addressed.

The Corporation needed to provide an attraction to increase fares. Two solutions were identified. One was to operate a second ship with a carrying capacity for overheight vehicles. The second was the installation of slot machines on the *Princess Marguerite* and the *Vancouver Island Princess*.

2. AUTHORITY

Two types of casino operation are permitted under section 190 of the *Criminal Code of Canada* — those conducted and managed by the government of a province, and those conducted and managed by a charitable or religious organization pursuant to a licence issued by the province. The operation of slot machines aboard the B.C. Steamships *Princess Marguerite* and the *Vancouver Island Princess* fall solely to government.

3. ORGANIZATION

The B.C. Steamships is a Crown Corporation. The Chief Executive Officer reports to the Board of Directors which is chaired by the Attorney General.

4. INITIAL PUBLIC OPINION

Initially, the service and tourist industry in Victoria was reserved. They felt that the patrons on board ship would spend monies on the ships which should be spent in Victoria. This concern was reduced when it was learned that patrons on board ship only spent four dollars (\$4.00) on average. The average expenditure on the slot machines was thirty-five dollars (\$35.00), although not all patrons played the slots.

5. OPERATIONS

Both the *Princess Marguerite* and the *Vancouver Island Princess* (VIP) operated from 9 May 1987 to 4 October 1987 on their regular schedules between Victoria and Seattle.

Passenger volumes have shown approximately 27% increase over the same period last year. This increase is due to:

- (1) Second ship on the line — VIP,
- (2) Inclusion of slot machines,
- (3) Capacity to carry overheight vehicles — VIP.

Vehicle and passenger traffic on the *Princess Marguerite* has remained constant in 1987; this traffic constitutes 75% of the total fares. Each trip has operated at approximately 75% capacity.

The VIP started off the season slower, carrying approximately 40% capacity. However, over the period of June to August, the fares have increased by 25%—30% each month. The VIP accounts for 25% of the total fares.

6. SLOT MACHINES

All the slot machines employed on the B.C. Steamships are leased from International Gaming Technology Incorporated, (I.G.T.I.) Reno, Nevada. They constitute both poker machines and the conventional machines for both twenty-five cents (\$0.25) and one dollar (\$1.00). They operate by electronic and electro-mechanical mechanisms.

There are two full time mechanics servicing the slots, cash registers and computer programmes both of whom are employees of B.C. Steamships. The senior mechanic received his training in the military as well as in the private sector. He also attended International Gaming Technology Incorporated in Nevada. The second mechanic gained experience in the private sector servicing video games, cash registers, and other electronic equipment, and from on-job-training with I.G.T.I. In addition, representatives from I.G.T.I. came to Victoria to work with both mechanics training them on site.

The slot machines are only operated while the ships are in Canadian jurisdiction. This amounts to 2 of every 4½ hours of the trip. For the balance of the trip, the ships sail through waters controlled by Washington State.

The *Washington State Gambling Act* prohibits all slot machines and permits casino gaming only by licensed charitable or non-profit organizations. It also provides the authority for any county to prohibit any type of legal gaming in its area or to inspect and tax any gaming it does allow. The ferries sail through waters within the boundaries of King, Island, Clallam and Snohomish counties. In practice however, cruise ships are known to continue their activities well into Washington State waters. B.C. Steamship Company has a letter of agreement from the Washington State Gaming Commission which allows the Company to operate casinos within three miles of Washington State shoreline.

It has been suggested that the same sort of courtesy extended to cruise ships visiting Washington might be granted to B.C. Steamships. However, the Director of the State Gaming Commission has stated that there is no special exemption for cruise ships; all cruise ships must close and secure their casino operations as soon as they enter Washington State waters.

Boarding passengers in Victoria can play the slot machines for one hour before the ship leaves port. Boarding passengers from Seattle must wait for the ships to enter non-restricted waters before being permitted to enter the gaming room.

Revenues on slot machines are a function of the potential of the machines or percent "hold" and the utilization rate. The latter (dependent variable) is a function of the number of times the handle is pulled per minute and the number of tokens inserted multiplied by the number of minutes of permitted operation. The utilization is then multiplied by the theoretical "hold" to determine the house's earnings. The independent variable is the number of patrons.

The potential of the machines or "hold" is fixed at a constant rate. The utilization rate, although influenced by the patron usage can be varied by increasing the time available to play. This is effected by operating the ships at a slower rate of speed in Canadian waters and faster in American waters.

For the first month there were several breakdowns of the slot machine. This was due to two factors. First, the machines had been shipped to Victoria and as a result had suffered "unsettling" effects which required adjustments. Second, the constant vibrations aboard the ships caused failures. As an example, screws from the frame on the machines were vibrated loose.

These initial breakdowns required a mechanic to remain aboard the ships on weekends and be available in port on the weekdays. Since July, the number of breakdowns has dropped. Mechanics are no longer required to travel with the ships. Any repairs are completed while in port. Minor breakdowns such as jams are corrected by the staff.

7. JOBS CREATED

As a result of the slot machines being operated aboard the B.C. Steamship Company vessels, there have been eight (8) on board casino staff positions and seven revenue clerk positions (all seasonal) created. In addition, one full-time and one seasonal mechanic position has been created for a total of seventeen positions.

8. PRINCESS MARGUERITE

The *Princess Marguerite* has a carrying capacity of one thousand eight hundred (1,800). However, only 1400 passengers would be carried at any one time due to operational constraints.

There are fifty-seven (57) slot machines in the Princess Room located in the aft in a room which measures approximately 926 square feet. There is constantly a line up to play these slot machines, often 100 persons long. Some patrons have waited for one hour to play.

9. VANCOUVER ISLAND PRINCESS

The VIP has a carrying capacity of one thousand (1,000) passengers. Ninety-five (95) slot machines are located on the boat deck midship in a room which measures approximately 1,600 square feet. There has never been a line up to access the gaming room, although, once inside some patrons have had to wait for a specific machine.

10. PUBLIC RESPONSE

Two types of surveys have been conducted on board ship by the B.C. Steamship staff. The initial survey asked three basic questions:

- (1) Did you take this trip because of the casino?
- (2) Did you use the casino and would you use it again?
- (3) Any comments you wish to make?

The survey responses were divided into Canadian patrons and American patrons. The results of this survey effective 28 August 1987 are noted in Table 1.

TABLE 1
Casino Survey On Board Ship

	Yes	Canadian Passengers	Other (Most USA)
Did you take this trip because of the casino?	29%	63.4%	36.6%
Did you use the casino and would you use it again?	92%	37%	63%
Adverse Opinion to casino	8%	31%	69%
N = 660			

Source: Ray Young, B.C. Steamship Company.

Most comments have requested poker machines for variety and table games such as blackjack. Specific to the *Princess Marguerite* are suggestions to increase the size of the gaming room and have more slot machines available.

A second survey with greater detail and attention given to characteristics of the trip, the ship, and travelling features has recently been initiated in conjunction with the Ministry of Tourism, Recreation and Culture. The results of the survey are not yet collated.

11. "SPECIAL EVENT" CRUISES

CFAX Radio station in Victoria has chartered more than a dozen private cruises since May. All cruises to date have been sold out with maximum attendance of 400 passengers. The cruises have included dinner and entertainment in addition to the slot machines.

12. SECURITY

There have been no major breaches of security in the operation of the slot machines. Minor incidents include the use of Las Vegas Casino dollar coins in the slots, the use of one brass B.C. Steamship logo token, and the unsuccessful attempt at using a twenty-five cent coin. The latter was rejected by the slot machine.

No criminal activities associated with casino operations in the United States such as purse snatching assaults, or disturbances have occurred.

13. CONCLUSION

The implementation of the slot machines on the B.C. Steamships has achieved the objectives. For the first time in four years the Corporation is showing an increase in the number of fares; this relates to increased revenues from the fares and the slot machines. It also relates to increased tourists to the Victoria community. All other indicators such as user response, public opinion, jobs created, and secondary community benefits are also positive.

14. RECOMMENDATIONS

The following recommendations are made to the B.C. Steamship Company for their consideration:

1. That the slot machine experiment be confirmed as a success and be given permanent status with the B.C. Steamships and that the Corporation consider a full casino operation;
2. The current conditions for control, accounting, and security be maintained;
3. Better utilization be considered. Currently the slot machines are being operated for five (5) of twenty-four (24) hours, and for only five (5) months of the year;
4. Increase the capacity of the *Princess Marguerite* to hold more than fifty-seven (57) slot machines;
5. To increase flexibility, reconfigure the VIP to provide accommodation on board for the crew. This would allow the ship to remain overnight in Seattle, or other ports as may be required;
6. The gaming activities of the B.C. Steamship Company should be subject to the regulations of the B.C. Gaming Commission and the Public Gaming Branch.

CHAPTER XVII

THE POLICE POSITION ON GAMING IN B.C.

1. INTRODUCTION

The Commission has recognized from the outset that input from, and attention to the concerns of British Columbia law enforcement officials in respect of charity gaming, social clubs and fairs and exhibitions was and is essential. We made contact with the British Columbia Association of Chiefs of Police (BCACP), and on other occasions for specific purposes with individual police forces and officers. In addition there is ongoing dialogue between the police and the Branch.

We value this liaison and the advice we receive and we consider it extremely important in helping us structure policies, guidelines, terms and conditions, etc. which will ensure that organized criminals will not infiltrate the charity gaming industry. The Commission is unable to establish any link between the presence of casino or commercial bingo hall operations in the community and community crime at this stage. We cannot, unfortunately say the same with respect to social clubs and fairs and exhibitions although we do not believe the situation there is at all critical or incapable of appropriate regulation. With respect to all four of these areas of gaming activity we are in need of, and intend to cultivate a close supportive relationship with police throughout the Province.

The Commission requested a position paper on gaming from the British Columbia Association of Chiefs of Police as input for this report. They have responded in a very useful fashion and we consider their contribution to be such that it will form a separate chapter of this report.

2. CONCLUSION

The Commission is grateful to the BCACP for their advice and it is noted that we share the majority of their concerns. Much of what they recommend has been addressed elsewhere in this report.



BRITISH COLUMBIA ASSOCIATION OF
CHIEFS OF POLICE

32225 South Fraser Way
Clearbrook, B. C.
V2T 1W6

1987 November 10

Chairman
B. C. Gaming Commission
848 Courtney Street
Victoria, B. C.
V8V 1X4

Dear Sir:

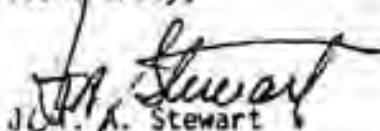
RE: The Position of the British Columbia
Association of Chiefs of Police on
Gaming in British Columbia

Some time ago the Commission called for submissions on the issue of charitable gaming in the Province of British Columbia. Subsequent to that you were kind enough to allow Mr. Venner to address the Association at our meeting in Kelowna. We also received a presentation from the Director of the B. C. Gaming Branch and the Director of Coordinated Law Enforcement Unit.

Following these presentations, the B.C.A.C.P. adopted a motion to examine the issue of public gaming in British Columbia and provide a written submission to you for your consideration.

The submission prepared by a committee representative of the B.C.A.C.P. is attached.

Yours truly,


John A. Stewart
President
B. C. A. C. P.

JTAS:dc
attach.

cc: Supt. G. O. George

VANCOUVER



POLICE DEPARTMENT 312 Main St., Vancouver, British Columbia, Canada V6A 2L7, Tel (604) 685-1535 Telex 01/61322

R. J. Stewart
Chief Constable

87.10.30

Chief J. T. A. Stewart
Matsqui Police Services
32225 South Fraser Way
Clearbrook, B.C.
V2T 1W6

Dear Sir:

Re: The Police Position on Gaming in B.C.

Please find attached a report prepared for Chief Constable R. J. Stewart and Chief Superintendent Kereluk which details the police perspective on the captionally-noted subject.

I am of the understanding that upon receipt of the report you will forward same to the attention of the Gaming Commission.

Yours truly,

R. McHenry,
Acting Deputy Chief Constable
Bureau of Operations

RECEIVED
NOV - 6 1987

MATSQUI POLICE

THE POLICE POSITION ON GAMING IN BRITISH COLUMBIA

INTRODUCTION

Gaming, of necessity, means that substantial amounts of cash will be present at premises where these activities take place. The opportunities for laundering money, internal theft, cheating and collusion are always present. In order to minimize these opportunities, it is essential that gaming is strictly controlled from the outset. It will be easier to prevent these problems by high profile monitoring, auditing and enforcement than to attempt to eliminate the problems should they be allowed to establish themselves in the gaming industry.

Each type of gaming is listed separately together with the problems and recommendations unique to that particular activity.

A. BINGO GAMES

Bingo games are licensed under section 190 (1) (B) of the *Criminal Code*.

Commercial premises are rented by charities holding a licence to operate fifty-two (52) bingo games per year. There are eighty-seven (87) commercial halls in the Province; each operating a minimum of three (3) games per week.

Problems

1. There are no age restrictions covering persons taking part in bingo games.
2. Several bingo halls use telephonic hook-ups to combine games. This increases the number of participants and therefore, decreases the opportunity to win. Telephonic hook-ups prevent effective monitoring, confirmation and verification of winning cards.
3. Bingo hard cards are reusable permanent bingo cards, not serialized which are used in several bingo halls. This type of card allows for fraud and cheating, i.e., counterfeiting, altering, and the inability to audit the number of players, cards and cash flow.

Recommendations

1. The minimum age for a person to enter or be in premises where a commercial bingo game is being held should be 19 years.
2. The Public Gaming Branch (P.G.B.) should control the distribution of government bingo cards.
3. Permanent hard bingo cards be eliminated. Only approved, commercially printed and consecutively numbered disposable cards should be used.
4. All bingo halls and persons owning or operating such halls should be registered and licensed with the P.G.B.
5. Only in-house bingo operations should be permitted. Telephonic hook-ups between bingo halls should be eliminated.
6. The control and operation of bingo games should remain with the charity holding the licence and should not be contracted to a bingo management company.

B. CASINOS

We understand that the B.C. Gaming Commission is responsible for the licensing, inspection and enforcement of all regulations pertaining to casinos.

Presently, there are thirteen (13) casino companies in the Province of which seven (7) are located in the Lower Mainland.

Licences for an event are drawn by lot. There are twelve three-day licences issued per week in the Lower Mainland. It is understood this will be changed to eighteen two-day licences in order to allow more charities to participate. The three-day licences will be continued in other areas of the Province.

A charity is allowed to apply three times in one calendar year.

A "charitable object or purpose" is defined, under the current regulations as:

- (i) relief of poverty;
- (ii) advancement of education;
- (iii) advancement of religion;
- (iv) other purposes beneficial to the community.

Problems

1. Several casinos have inadequate security provisions to protect cash and chip banks against robbery and internal theft.
2. Intelligence indicates that there have been incidences of collusion and cheating by casino personnel. We anticipate this will become an increasing problem as the industry grows.

Recommendations

1. The minimum age for a person to enter or to be in a casino should be 19 years.
2. The Public Gaming Branch (P.G.B.) should investigate and license all casino management companies and such company personnel as the P.G.B. deem necessary.
3. The P.G.B. should investigate all charitable organizations applying for a casino licence.
4. Casino management companies be required to provide a separate area at each casino location to provide security for cash counting and cash dispensing.
5. A better and/or fuller definition of charitable organizations to exclude those which are not qualified, i.e., rugby teams.
6. Rather than issue licences for an event through "draw by lot", establish a fairer way in order that all charitable organizations have an equitable chance of obtaining a licence.

C. DESTINATION CASINOS

We understand that consideration is currently being given to establishing "Destination Casinos" (i.e., permanent casinos in selected locations).

Problems

1. As for other casinos.
2. A possible negative effect on the locality depending upon the sensitivity with which the location is selected and the manner in which the casino is operated.

Recommendations

1. As for other casinos.
2. Permanent casinos be operated directly by the Province.

D. SOCIAL CLUBS

The licensing responsibility rests with the Public Gaming Branch of the Attorney General's Ministry under section 179 (2) of the *Criminal Code*. Presently, British Columbia is the only province in Canada that licenses social club gambling although such activity reportedly occurs in all provinces.

Problems

1. The absence of thorough monitoring, inspections and controls has allowed some social clubs to operate as businesses for the benefit of the proprietor and not totally for the club membership.
2. Police investigations have shown that persons with criminal records are often associated with the clubs.

Recommendations

1. The minimum age for a person to enter or be in a social club should remain at 19 years.
2. The hours of operation of social clubs should be uniform throughout the Province.
3. Social clubs shall be audited with sufficient regularity to eliminate proprietorship.
4. Develop regulations/guidelines of operations to allow greater accessibility by a control agency for the purpose of monitoring and/or auditing. At present, by the time entry is gained, because of warning systems, monitoring becomes a useless exercise.

E. FAIRS AND EXHIBITIONS

Fairs and exhibitions are licensed under section 190 (1) (c) of the *Criminal Code*.

The licence may cover casinos, ticket lotteries, bingos, wheels of fortune and games of chance. Licences are also issued to carnival commissioners to operate these games of chance.

Previous experience has demonstrated that police monitoring and enforcement is essential to maintain the integrity of the Fair.

Problems

1. Widespread skimming, cheating and influencing or adjusting the "edge" (odds) of play.

Recommendations

1. The hours of operations should be restricted to conform with all other gaming.

F. CHARITABLE LOTTERIES

Charitable lotteries are licensed under section 190 (1) (b) of the *Criminal Code*.

We have identified no problems in this area and recommend that the current policies and procedures continue unchanged.

G. PROVINCIAL LOTTERIES

Provincial lotteries are authorized under section 190 (1) (a) of the *Criminal Code*.

The Lotteries Branch is a Crown Corporation and is the sole distributor of bingo papers (cards) and instant lottery tickets (commonly referred to as "Nevada Cards", i.e., cards having three removable strips which are redeemable against prizes for having the winning combination of pictures under the removable strip).

We have identified no problems in this area and recommend that the current policies and procedures continue unchanged.

Recommendations

1. All gaming activities, i.e., 6/49, should come under the B.C. Gaming Commission to avoid division of control/monitoring/organization responsibilities.

OVERALL RECOMMENDATIONS

1. The B.C. Gaming Commission (B.C.G.C.) oversee all forms of public gaming authorized and licensed under Part V of the *Criminal Code*.
2. The B.C. Lotteries Corporation should remain a Crown Corporation directly responsible to the B.C.G.C.
3. The Public Gaming Branch, under direct control of the B.C.G.C. should be responsible for licensing, auditing and enforcement in relation to:
 - Charity casinos;
 - Bingo games;
 - Fairs and exhibitions;
 - Social clubs, and;
 - Charity lotteries.
4. The Compliance Unit, if a special unit is required, should be a integral part of the P.G.B.
5. All functions of a regulatory nature should remain the responsibility of the P.G.B.
6. All monitoring of criminal activities and enforcement should remain the responsibility of the police.
7. In conclusion, the B.C. Gaming Commission should provide an appropriate number of personnel committed to performing all the regulatory functions inherent with approved forms of gaming in British Columbia.

"SIGNED ORIGINAL ON FILE"

For: R. J. Stewart
Chief Constable
Vancouver Police Department

K. T. Kereluk
Chief Superintendent
Contract Policing
"E" Division

APPENDIX A



April 1, 1987

Attorney General Announces Appointments to Gaming Commission and New Gaming Regulations

Attorney General Brian R. D. Smith, Q. C., today announced the appointment of members to the British Columbia Gaming Commission and the introduction of interim rules governing gaming for charitable organizations. The Minister also announced a total review and reconsideration of casinos for charitable purposes.

The appointment of Mr. Richard Macintosh, as Chairman of the British Columbia Gaming Commission, was announced in the recent Throne Speech. Mr. Smith advised of the following additional appointments to the Commission.

"Mr. Tom Venner will serve as Vice-Chairman of the Gaming Commission", said the Attorney General. "Mr. Venner, formerly Deputy Commissioner of the R.C.M.P. and Commanding Officer of British Columbia's "E" Division, has extensive experience in law enforcement and administration and will provide invaluable experience for the Commission", said Mr. Smith. Other members appointed to the Commission include:

Marianne Crockett of Trail
C. Ellison Framst of Fort St. John
Derrick Humphreys of West Vancouver
Vicki Kuhl of Victoria
Bernard M. Smith of Burnaby

"The calibre of individuals who have agreed to serve ensures appropriate licensing and enforcement programs in public gaming in the Province", said the Attorney General.

Mr. Smith also introduced interim terms and conditions for gaming involving charitable organizations in the Province. "These regulations will continue until modified by the Commission and will be effective May 1, 1987.

The rules deal with bingos, casinos and ticket lotteries conducted by charities and gaming at fairs and exhibitions. They incorporate the Commission as the authority for licensing and control.

Bingo regulations encourage the practice of some charities in banding together in the operation of events and distributions of proceeds. There are only minor administrative changes proposed for ticket lotteries or raffles. Regulations also confirm terms and conditions of licensing for gaming events at fairs and exhibitions.

"Government has a major concern with the growth of current casino activity in the Province," said the Attorney General. Accordingly, the changes that are proposed in the rules are not intended to stimulate any growth in the industry but merely to ensure that those charities now involved in casino gaming realize adequate earnings. The Commission has been requested to review the options for casino gaming and report to Government no later than November 30. While this review is underway, no additional licenses will be issued to charities which have not involved themselves with casinos in the past and no licenses will be issued for casino events at locations other than those presently in operation and where they have already taken place.

Interim casino rules establish a minimum percentage (50) of gaming proceeds for charities and limit expenses that may be charged to charities for the conduct of these events. The bet limit at casinos has been reinstated to \$5.00, existent in early 1986.

The Attorney General noted that the proposed bet limit remains significantly lower than in the other Provinces involved in charity casino activity. "The bet limit itself has not been a problem," said the Attorney General, "but it was pointed out

by policing authorities in the Province that the major problem has been a lack of effective enforcement."

The Attorney General announced he will strengthen the Public Gaming Control Branch. A recruitment competition will be held immediately for the position of Director of the Branch and additional resources will be retained in the enforcement, inspection and financial control areas.

"As a fundamental principle" said Mr. Smith. "it is not the intention of this Government to encourage an unregulated growth or expansion in gaming activity in B. C. but to provide a policy framework within which selective options may be pursued."

"The law of Canada does not allow for business owned, profit oriented gambling, such as found in Las Vegas or Reno. Private sector ownership and operation of gambling establishments for profit is not permissible by law, and even if it were, it is not the choice of this Provincial Government" said the Attorney General.

The Attorney General advised that the British Columbia Gaming Commission has been requested to review and consult with the parties involved in gaming for charitable activity. "Our primary objective," said the Attorney General, "will be to

ensure that charitable and non-profit organizations, which benefit enormously from approved gaming activity, earn the maximum revenue for their worthwhile endeavours on behalf of British Columbians." With that basic principle guiding the work of the Commission, the Attorney General requested the Commission undertake a number of specific tasks, including:

1. A comprehensive report, no later than November 30, on the desirability of continuing or modifying casino activity in support of charitable organizations. This comprehensive report will also involve the Ministry of Tourism, Recreation and Culture in a joint assessment of the desirability of policy for destination resort and tourism oriented gaming activities. The report will also assess the impact on tourism of the introduction of casino rooms aboard B. C. Steamship's service between Seattle and Victoria.
2. Proposals for policy for the licensing of service companies utilized in charitable gaming activities;
3. Development of policy for the bonding of personnel associated with supply firms;

4. Review policy to strengthen the financial accountability of companies supplying services for charities;
5. The development of a program for the training and certification of gaming company employees, with assistance from the Justice Institute of British Columbia;
6. Training and information programs for representatives of charities who wish to engage in gaming activities for fund raising;
7. Development of policy to ensure equitability of access for charities to fund raising opportunities through gaming, particularly casinos;
8. The development of appropriate standards for advertising and promotion of charitable gaming activities;

"I am confident that the British Columbia Gaming Commission, and other initiatives planned by the Government, will provide an appropriate regulatory framework for existing gaming activity in the Province. Improved enforcement policy will ensure that charities maximize income. In the last four years, charities have earned in excess of \$115,000,000 from

this type of activity. It is essential, given the importance of this source of fund raising, that Government assist with vigilant enforcement and regulatory policy", said Mr. Smith.

APPENDIX B

APPENDIX B

DEFINITIONS

(Part I)

- 1.01 For the purpose of these Terms and Conditions and unless the context otherwise indicates:
- (a) "association" means an organization comprised of bingo licensees established pursuant to section 3.07;
 - (b) "auditor" for the purposes of these Terms and Conditions, means a person who is
 - (i) a member, or a partnership whose partners are members, in good standing of the Canadian Institute of Chartered Accountants or the Certified General Accountants' Association of British Columbia; and
 - (ii) an "independent" auditor as defined in section 207 of the *Company Act*, R.S.B.C. 1979, chapter 59;
 - (c) "bingo" means the game known as bingo;
 - (d) "casino gaming" means games known as blackjack and roulette and approved forms of wheels of fortune played at a function held by a licensed organization;
 - (e) "casino management company" means a company which provides a casino site, management, equipment and professional personnel for the purpose of conducting a casino gaming event;
 - (f) "Charitable Community Association" means a bingo hall or association run by or in total control of charitable or religious organizations licensed to conduct bingo (see section 3.19);
 - (g) "charitable object or purpose" means an object or purpose which comes within one of the following classifications of charity:
 - (i) relief of poverty;
 - (ii) advancement of education;
 - (iii) the advancement of religion; and
 - (iv) for other purposes beneficial to the community (this includes a purpose where the benefits derived are available to a significant portion of the community and, without limiting the generality of the foregoing, may include the provision and support of public recreation, picnic areas, playgrounds, cultural activities, athletic facilities and amateur sport);
 - (h) "commercial bingo hall" means a hall which is utilized primarily for bingo;
 - (i) "Commission" means the British Columbia Gaming Commission;
 - (j) "fair or exhibition" means an event which has been designated pursuant to section 190 (1) (c) of the *Criminal Code of Canada*;
 - (k) "gross receipts", for all events other than casinos, means all monies derived from the lottery event before any expenses, including prizes, are deducted. In casino events "gross receipts" means all monies produced as a result of the gaming activity, which is known in gaming circles as the "win";
 - (l) "licence year" means
 - (i) in the case of bingo lottery licences, the 12 months following the commencement date of the lottery as set out in the licence. In the event of a licence being issued for a time period encompassing less than a year, this term shall mean the licence period. If several short term licences are granted to an organization, they shall be combined until a period of a year elapses. The latter shall then comprise the licence year for financial statement purposes; or
 - (ii) in the case of ticket and casino lottery licences, the calendar year;
 - (m) "licence" means the licence issued by the Commission;
 - (n) "licensee" means any organization holding a licence;

- (o) "lottery/gaming" means a bingo game, a casino or a ticket lottery (the words lottery and gaming are interchangeable for the purpose of these Terms and Conditions);
- (p) "Minister" means the Attorney General;
- (q) "organization" means an organization with a charitable object or purpose;
- (r) "P.G.B." means the British Columbia Public Gaming Branch of the Ministry of Attorney General;
- (s) "pyramiding" means the carrying over of a prize, or a portion of a prize award, from one lottery occasion and adding the carry-over to the prize award or awards to be offered at the next or subsequent lottery occasion;
- (t) "ticket lottery" means the gaming activity also known as a raffle;
- (u) "TV, newspaper or radio bingo" means a bingo game which extends over a period of several days or weeks, and where one or more numbers are called, printed or exposed on a regular basis until such time as a bingo is completed (see section 2.03)

GENERAL

(Part II)

2.01 Organization will only be issued a licence if they

- (a) have been registered for a minimum of 12 months preceding the application and are in good standing at the time of application under the Society Act, chapter 390, R.S.B.C. (this subsection does not apply to a B licence, see section 2.02 (b)); or
 - can substantiate with supportive documentation, to the satisfaction of the Commission, a contribution or service rendered to the community for a minimum of 12 months prior to the application; and
- (b) demonstrate a need to raise funds for a charitable object or purpose.

2.02 (a) Applications for an A licence for bingo or ticket lottery events where total prizes exceed \$500.00 and for all casino events, will be submitted to the Commission;
(b) Applications for a B licence for a single-event bingo or ticket lottery where total prizes do not exceed \$500.00 may be submitted either to the P.G.B., or to the Government Agent of authority in the area where the applicant functions.

Organizations may be granted up to five bingo B licences or three ticket lottery B licences in a calendar year. Total prizes from all B licensed gaming will not exceed \$2,500.00 in a calendar year. The total gross receipts from a ticket lottery may not exceed \$2,000.00.

2.03 Television, radio and newspaper bingos will be licensed as a ticket lottery and not as a bingo lottery held in a hall, except, however, a live T.V. telecast or radio bingo(s), conducted until a winner is determined, will be licensed as a bingo event.

2.04 Each application for a licence will be submitted on an application form approved by the Commission and accompanied by the required licence fee.

2.05 Licensed activity will be confined in location to the community or geographic area in which the licensee is located and/or where the community can be expected to benefit from the funds raised. The Commission may, in certain circumstances, allow casino events to be held outside of the organization's community or geographic area under the following conditions:

- (a) Uniqueness of location;
- (b) The licensee must be an organization which can demonstrate province-wide application of proceeds.

2.06 The licensee will make available all books of account pertaining to the conduct of any lottery upon request for inspection by such persons as the Minister may designate or a peace officer. Such persons will, at all reasonable times, have access to inquire into the conduct, management, operation

of, or participation in the proceeding for which the licence has been issued, either prior to, during, or after the conclusion of such proceedings.

In instances where the Commission or the P.G.B. requires further clarification of accounting manners, the Branch will request access to the general or any other such accounts or records of the licensee. Refusal to produce the required data or information will result in the immediate suspension of the licence to which the books relate, or any other licences issued to the same organization and any licence applications pending.

The licensee will produce the licence upon request of the P.G.B. or by a peace officer.

- 2.07 The licensee will disburse the charitable funds raised through the operation of the lottery directly to the charitable object(s) set out in the application.
- 2.08 All lottery generated funds will be disbursed within the Province of British Columbia. The Commission may, at the time of the application for the licence, decide that in certain circumstances the public interest would be served by waiving this requirement.
- 2.09 Minimum charitable contribution requirements will be met for each licensed activity. Funds from other sources will not be used to enable charitable contributions to reach percentage levels required by these Terms and Conditions.
- 2.10 Except as otherwise provided for in these Terms and Conditions, a licensee will not pay wages, salary, or other monetary consideration, either directly or indirectly, to any person for managing, conducting, or assisting at any licensed lottery event.
- 2.11 No licence will be transferred or assigned.
- 2.12 A licensee who operates a lottery in breach of any of the Terms and Conditions of its licence may be subject to an immediate suspension of the licence by the Commission or the P.G.B. to which the breach relates, any other licence issued and any licence application pending.
- 2.13 The organization managing or conducting a licensed lottery will retain all unsold tickets, counterfoils, cards, game forms, and financial documents for a period of 24 months from the expiry date of the licence unless specifically exempted by the P.G.B.
- 2.14 The licensee will submit a financial statement to the P.G.B. on a prescribed form within 30 days of the expiration of a licence. Yearly bingo licence holders will submit quarterly interim financial statements as well as the year-end financial statement. The interim statements will be submitted within 14 days of the end of each quarter of the licence year.
- 2.15 Each licensee will:
 - (a) keep a separate record of all monies taken in and all monies paid out (including prize payouts) in respect to each licensed lottery for two years beyond the expiration of the lottery event;
 - (b) operate a separate "trust bank account", specified at the time of application for a licence, for each lottery activity;
 - (c) deposit all proceeds in the appropriate account, with the exception of a bingo, in which case prizes may first be paid from the proceeds. The remainder of the proceeds will then be deposited immediately after the event;
 - (d) make all disbursements, including all expenses (with the exception of bingo prizes), by cheque from the appropriate trust account;
 - (e) deposit only the funds raised through the particular lottery activity into the specified trust account. No disbursements, including expenses (with the exception of bingo prizes), associated with the particular lottery activity will be made except by cheque from the specified trust account; and
 - (f) not accumulated funds for special projects without the prior approval of the P.G.B.
- 2.16 Where the gross receipts in a licence period exceed \$150,000.00, the licensee will submit an audit prepared by an independent auditor, complete with the audited statement, opinion letter and any management letter pertaining to the audit, directly to the Commission.
- 2.17 The Commission or P.G.B. may require a licensee to provide an independent audit of any licensed lottery activity.

- 2.18 An organization wishing to cancel a licence will do so before the starting date of the lottery or, in the case of a ticket lottery, before the effective starting date as noted in the licence. Failure to comply with the foregoing will result in the forfeiture of the licence fee. To obtain a refund of the licence fee the P.G.B. will be advised of the cancellation in writing and the original licence returned to the Branch.
- 2.19 The name of the licensee, and the licence number, will be included in all advertising material relating to the lottery event.
- 2.20 The Commission may amend a licence. A licensee will submit a written request and obtain permission in writing from the Commission before an amendment may be made to an existing licence. Such written requests must be delivered to the Commission at least 21 days before the scheduled amendment.
- 2.21 A licence will be subject to such additional Terms and Conditions as the Commission may specify.
- 2.22 The Commission may restrict, control or specify the number of licences for any events or locations on a municipal, regional or geographic basis.
- 2.23 The Commission may require that all commercial bingo hall operators and casino management companies be licensed pursuant to section 2.22 and subject to investigation and inspection by the Public Gaming Branch.

BINGO

(Part III)

- 3.01 An organization conducting a bingo event will publicly display its current and valid licence in the premises in which the bingo event is being held.
- 3.02 No organization will provide for the playing of bingo games on more than 52 occasions in any one licence year and not more than 30 games on any one occasion, except as specifically authorized in the licence.
- 3.03 All players at a bingo occasion will be seated in the same building or controlled outdoor area with the bingo caller, except as specifically authorized in the licence.
- 3.04 The licensee will not rent a facility for bingo which attempts in any way to restrict the number of games, or reschedule playing dates provided for in the licence, unless approved in advance by the Commission.
- 3.05 A licensee will ensure secure storage is available for bingo supplies in any hall rented for a bingo occasion.
- 3.06 A licensee conducting bingo games will ensure that:
 - (a) only volunteer personnel from the licensed organization manage, conduct or assist in the conduct of any bingo occasion (except for specific exemptions provided for elsewhere in these Terms and Conditions);
 - (b) only the licensee controls the bingo event and has total control of all chase transactions;
 - (c) only the licensed organization advertises or promotes the bingo occasion;
 - (d) the fee to be paid for use of the bingo premises will be a specific flat rate or a levy based on attendance. Where a rate based on attendance is agreed to there will be a flat maximum rate identified in the rental agreement for each specified occasion. No fee based on a percentage of receipts will be permitted. Any other service including janitorial duties, set up of the hall, or concession operations will be included in the rental agreement and will be clearly defined;
 - (e) the licensee will not involve the owner of the hall, his agents or employees, in any capacity in respect of conduct of the games unless the licensee is also the owner of the hall;
 - (f) all rental or other agreements with a hall owner will be in writing and will be presented upon request of the P.G.B.
- 3.07 Licensees conducting bingo in the same hall may form an "association" to deal with items of common interest. Such items may include:
 - (a) procurement of a facility, supplies, advertising;

B U L L E T I N - 3

October 7, 1987

TO: ALL LICENSEES

The following amendment to the "Terms and Conditions Respecting Licensing of Lottery Events in British Columbia" was approved by the British Columbia Gaming Commission on September 25, 1987.

- 2.24 The Commission may restrict, control or specify the number of licences for any events on the basis the organization or the charitable object or purpose of the organization is in any way concerned with, connected, related, associated or ancillary to an organization or a charitable object or purpose for which a licence or licences have already been issued by the Commission.



R.M. MacIntosh
Chairman

- (b) establishing a common bingo program including rules-of-play and house rules, consistent with the intent of these Terms and Conditions;
- (c) maintaining financial and inventory controls for supplies and services provided to member organizations;
- (d) maintaining relations with the Commission and the P.G.B. on behalf of individual licensees.

The association's activities will be directed by a Board of Directors consisting of representatives of each of the member organizations.

No member of the Board may draw a salary or in any way be remunerated for their services. Neither may any other person receive a salary or in any way be remunerated for their services to the association.

3.08 Only bingo cards approved by the Commission will be used in British Columbia.

Each bingo card will bear a logo approved by the Commission together with sequential and series numbers.

All bingo events at which the total prizes for the entire event are in excess of \$1,000.00 will utilize approved bingo cards. In exceptional circumstances an exemption may be granted by the Commission.

(Over a reasonable period of time all bingo events conducted in British Columbia will change to the use of approved bingo cards.)

3.09 A licensee will ensure that:

- (a) only hard cards or approved bingo cards will be utilized at a licensed bingo event;
- (b) there will be no bingo cards sold at discount prices; and
- (c) no free bingo cards will be awarded as an inducement to attend a bingo occasion, or as a prize;
- (d) there will be no scheme to increase the size of the prize by the sale of bonus cards (such as higher priced cards for larger prize awards) except as provided for in subsection (e);
- (e) promotional games in which prizes are selected by chance or skill are permissible, provided that the total value of all prizes awarded complies with the requirements of section 3.20.

3.10 Every licensee will issue a receipt to each patron for every amount of money paid to him by the bingo patron for the opportunity of playing bingo, except where the game is conducted or played at a designated fair or exhibition. Receipt forms will be:

- (a) commercially-printed, consecutively-numbered tickets;

(Where tickets are used the opening and closing numbers will be recorded, the tickets will be issued in sequence and either colour-coded or stamped as to value, and the roll or rolls will be used for bingo receipts only);

or

- (b) approved disposable bingo cards;

(Where disposable bingo cards are used they will be sold in sequence and the opening and closing numbers as well as the series number will be recorded for audit purposes);

or

- (c) cash register-dispensed receipts. (Any bingo operator holding a yearly bingo licence which has gross receipts exceeding \$50,000.00 annually will use an electronic cash register unless the licensee is using only approved bingo cards and is conducting a bingo event which is known as a "walk-in bingo".)

(The cash register receipt issued to the patron and the copy retained in the machine will show the name of the licensee conducting the bingo, the date issued and the amount of money paid for the opportunity to play.)

(Only bingo cards for which a receipt has been obtained will be permitted in the playing area. No prize will be paid if the number of cards being played exceeds the amount covered by the receipt.)

- 3.11 Licensees who purchase approved bingo cards for any portion of their bingo occasion will retain a copy of the purchase invoice as part of their records. The records will clearly identify the first and last of the sequential numbers, as well as the series numbers of the cards purchased.
- 3.12 No person managing, conducting or assisting in the conduct of a bingo occasion will participate as a player in any game of bingo during the same bingo occasion. Members of a licensed organizations may participate as a player at any bingo occasion at which they are not involved as a worker.
- 3.13 No single prize awarded in a bingo occasion will exceed \$1,000.00 in Canadian funds or merchandise, or real or personal property having an equivalent market value.
- 3.14 The total value of prizes awarded at a bingo occasion will not exceed \$7,500.00 in Canadian funds. Attendance, or door prizes, must be calculated as part of the prize payout.
- 3.15 In any game involving open-faced throw-away cards the game will be completed once it has commenced, except where presealed sheets are utilized. No buy-back or exchange scheme of purchased bingo sheets will be permitted.
- 3.16 Where an honorarium is paid for managing, conducting or assisting in the conduct of a bingo occasion, the amount paid will not exceed the following:
- | | |
|---|--------------|
| Key personnel, to a maximum of three per bingo occasion | \$40.00 each |
| Additional assisting personnel per bingo occasion | \$15.00 each |
- No honoraria will be paid until and unless the prescribed percentage is paid to charity in accordance with section 3.20.
- 3.17 Under no circumstances will a tip or gratuity be paid to, or accepted by, any bingo worker in relation to a bingo activity.
- 3.18 Pyramiding of prizes is prohibited.
- 3.19 Notwithstanding any other Terms and Conditions noted heretofore, licensees conducting bingo in halls that are run by or are in total control of the licensees may make application to the Commission for designation and registration as a "Charitable Community Association". Upon confirmation that the licensees are, or will be, in total control of the bingo activity, and providing that any other requirements are met, the licensees may be designated as a CCA. This designation will permit the management committee of the CCA to manage and conduct all bingo occasions licensed to be played in that hall and incorporate a pooling of receipts, expenses and charitable contributions, if desired, but only if all other Terms and Conditions are adhered to and the following additional terms and directives are accepted by the applicants:
- the applicant must agree to a system of accounting and auditing stipulated by the Commission;
 - the accounting system will be monitored by an independent auditor who will submit an audited report and a financial statement which will present the financial position of the CCA, and each participant, at the end of each month. A copy of the audited report will be submitted to the Commission;
 - If their CCA has a pooling arrangement, each participant in the Association will receive, at the end of each month, their prescribed share of that month's gross receipts, as required by these Terms and Conditions. If the CCA does not have a pooling arrangement each participant will receive the full net receipts from their licensed events;
 - the Commission must have a copy of all rules, by-laws or agreements of a CCA and a written account of all arrangements between a CCA and a participant before it can be registered.
- 3.20 The following formula will govern the distribution of the proceeds derived from the bingo event(s):
- Where the aggregate value of the prize awards in a licence year exceeds \$60,000.00, a maximum of 60% of gross proceeds may be given back as prize payouts and, a minimum of 25% of gross proceeds will be given to charity;
 - Where the aggregate value of the prize awards in a licence year exceeds \$20,000.00 but does not exceed \$60,000.00, a minimum of 20% of gross proceeds will be given to charity;
 - Where the aggregate value of the prize awards in a licence year does not exceed \$20,000.00, a minimum of 15% of gross proceeds will be given to charity.

Licensees conducting their bingo events in self-owned premises which are being utilized for charitable or religious purposes, may pay out more than the above noted percentages, but must fully comply with the requirements of the noted minimum donations to charity. If the licensee rents or leases the premises to other licensees for gaming events, this Term and Condition will not apply.

Licensees conducting their bingo events in a rental facility which is utilized as a bingo hall must comply with subsection (a) above, irrespective of the dollar volume of prize awards in their licence year.

3.21 Fees payable to the Minister of Finance and Corporate Relations for a licence under this Part:

- (a) A licences — \$25.00 or one per cent (1%) of the gross receipts, whichever is the greater amount. The remittance of the required balance of fee must be made within 30 days of the conclusion of the licensed event;
- (b) B licences — \$10.00.

TICKET LOTTERIES

(Part IV)

4.01 Not less than 35 per cent of the gross proceeds will be paid under this Part to the charitable or religious object as set out by the licensee in the application for licence.

4.02 The organization managing or conducting a licensed lottery where tickets or cards are sold will:

- (a) Indicate on the ticket or card the following information:
 - (i) the name and the address of the organization,
 - (ii) the number of the licence,
 - (iii) the location, date, and the time of the draw,
 - (iv) total value of prizes to be awarded and the method of awarding same,
 - (v) the sequence number of the ticket,
 - (vi) the total number of tickets printed;
- (b) provide for consecutive numbering of the tickets or cards;
- (c) indicate in its application the number of tickets or cards to be printed;
- (d) in any scheme offering a cash prize representing a percentage of the tickets sold, i.e., (50/50 draws), tickets will only be sold at a social or sporting event and the draw is to take place at the conclusion of the event.

4.03 An applicant for a licence under this Part will

- (a) set a firm date for the draw;
- (b) provide for a selling period not exceeding four months up to and including the draw date; and
- (c) confine ticket sales to that area of the Province where the residents could be expected to benefit from the funds raised by the lottery.

Under no circumstances will the draw date be altered once ticket sales have begun.

4.04 Any organization licenced to conduct a ticket lottery will

- (a) complete the lottery once ticket sales have commenced, and award the prize(s) advertised whether or not all the tickets have been sold; and
- (b) where prize awards are in excess of \$5,000.00 retail value, hold clear title to any property or merchandise offered or, with respect to a cash prize, confirm in writing that sufficient funds are available to pay out the value of the prize.

4.05 Evidence may be required that the applicant has sufficient cash funds to cover any prize offered.

4.06 Where honoraria are paid to ticket sellers under this Part, the amount will not exceed 10% of the price of each ticket sold.

- 4.07 Where the cost of a ticket to a social function includes a chance to compete in a draw for a prize, the element relating to the lottery will represent a sum sufficient to comply with these Policy Directives, had the lottery been operated as a separate entity. The element of the cost of the ticket related to the lottery will be set out in the application for licence.
- 4.08 An organization will be issued not more than three lottery licences under this Part in any calendar year.
- 4.09 Where prizes on a ticket lottery are unclaimed, said prizes will be held in trust for a period of one year from the date of the draw. If at that time the prizes are unclaimed, the entire amount of said prizes will be donated to the charity named in the application.
- 4.10 No unsold ticket or stub will be entered in the draw container or be otherwise considered for the draw to determine the winner or winners of any prize.
- 4.11 Not more than 5 ticket lottery licences will be issued within the Province of British Columbia during a calendar year, each having an aggregate prize structure in excess of \$100,000.00.
- 4.12 No licence will be issued for any ticket lottery having an aggregate prize structure in excess of \$250,000.00
- 4.13 No lottery ticket will be sold outside of the Province.
- 4.14 Fraternal and service organizations may be granted a yearly licence to conduct an "in house" ticket lottery (raffle) subject to the following additional conditions:
- (a) ticket sales are confined strictly to the premises of the licensee;
 - (b) only members and/or bona fide guests of the licensed organization may purchase tickets;
 - (c) commercially-printed, consecutively-numbered tickets must be utilized;
 - (d) comprehensive records for each draw must be maintained including the recording of the opening and closing numbers of the tickets sold for each draw;
 - (e) a yearly record of all the revenues, prizes, expenses and charitable donations is maintained;
 - (f) a financial statement covering all draws held during the licence year is submitted in accordance with section 2.15 of these Terms and Conditions.
- 4.15 Fees payable to the Minister of Finance and Corporate Relations for a licence under this Part will be as follows:
- (a) A licences — \$25.00 or one percent (1%) of the gross receipts, whichever is the greater amount. The remittance of the required balance of fee must be made within 30 days of the conclusion of the licensed event;
 - (b) B licences — \$10.00.

CASINO EVENTS

(Part V)

- 5.01 Organizations will be granted a maximum of 3 licences to conduct a casino per calendar year, each one for periods of 1, 2 or 3 days.
- 5.02 Gross receipts from a casino event will be deposited to the licensee's casino account and.
- (a) 10% remitted to government as a licence fee,
 - (b) a minimum of 50% retained for charitable purposes as specified on the licensee's application,
 - (c) the balance to be applied, not to exceed 40%, for all administrative, overhead, and contracted costs, including fees to casino management companies, honoraria, advertising, room rentals, etc.,
 - (d) the payment to the casino management company, and payment of the balance of the licence fee will be made by cheque within three (3) days of the end of the casino.

- 5.03 Casinos may operate for a maximum of eight (8) hours between the hours of 6:00 p.m. and 2:00 a.m.; exceptions may be made in special circumstances as determined by the Gaming Commission. The hours of operation will be specified at the time of application.
- 5.04 A maximum of fifteen (15) games will be permitted at a casino.
- (a) Permitted games include: blackjack, roulette, and wheels of fortune.
 - (b) No wheel of fortune will have a house advantage exceeding 25%.
 - (c) Any mix of games is permitted.
 - (d) The number and type games to be played must be specified at the time of application.
- 5.05 The bet limit at a casino event will be:
- (a) the maximum bet at blackjack will not exceed \$5.00 except that a player may bet an additional amount equal to the original bet, on "splits" and "double downs". The minimum bet at blackjack will be \$1.00 and tables must provide accommodation for players wishing to bet the minimum;
 - (b) the maximum bet at roulette will be \$5.00. The minimum bet will be 0.50 and tables must provide accommodation for players wishing to bet the minimum;
 - (c) the maximum bet at a wheel of fortune will be \$5.00. The minimum bet will be 0.50. All wheels of fortune must provide accommodation for players wishing to bet the minimum;
 - (d) "insurance bets" and "bets for the dealer" are not permitted;
 - (e) for the purposes of Part V of these Terms and Conditions, roulette will not be considered as a wheel of fortune.
- 5.06 All bets must be placed with chips. Chips will be purchased only at the gaming tables and only with cash. Chips are redeemable only at the cashier's cage and only chips issued by the supplier to the licensee for that event are to be accepted.
- 5.07 Any admittance fee charged for attending at a casino shall form part of the gross proceeds of the licensed event.
- 5.08 In the game of blackjack all cards must be dealt face up and in the event of a "push" (tie) the player will not lose his bet.
- 5.09 The granting of credit, the cashing of cheques, and the honouring of credit cards is prohibited at a casino.
- 5.10 The licensee will ensure that only bona fide members listed on the licence application, will conduct and control the chip bank, the cashier, and all internal cash chip transactions.
- 5.11 No person managing, conducting or assisting in the conduct of a casino will participate as a player in any of the games.
- 5.12 No one under the age of 19 may participate as a player in any of the games, or operate or deal any of the games.
- 5.13 The casino will be conducted in accordance with the procedures and financial controls established by the Commission.
Only the financial forms approved by the Commission will be used in the conduct of a casino. The licensee will retain all voided and completed forms for a minimum of two years.
- 5.14 The licensee shall ensure that adequate security is provided at the licensed event by the casino management company.
- 5.15 The licence, together with the game rules approved by the Commission, will be prominently displayed in the casino. House Rules, not inconsistent with these Terms and Conditions, may be established and made available to the players.
- 5.16 In addition to the fee noted in paragraph 5.02 (a), a cheque or money order in the amount of \$25.00, made payable to the Minister of Finance and Corporate Relations, must accompany the application for a casino licence.
- 5.17 A Social Occasion casino licence, at which attendance is strictly limited to members and guests of the licensed organization, may be approved by the Commission under Terms and Conditions it establishes therefore.

FAIRS OR EXHIBITIONS

(Part VI)

For the purposes of this Part "fair or exhibition" is defined in accordance with the *Criminal Code* of Canada and means an event where agriculture or fishing products are presented or where activities relating to agriculture or fishing take place. To obtain designation as a "designated fair or exhibition" the board of the fair or exhibition must apply to the Commission for such designation.

- 6.01 The board of a fair or exhibition will obtain one licence for wheels of fortune offering cash prizes held at the fair or exhibition, or for a fair-related ticket lottery commencing the four months immediately preceding the days of the fair.
- 6.02 Where the board of a fair or exhibition, licensed under this Part, intends to operate wheels of fortune other than in conjunction with a licensed concessionaire, the application for licence will include the full name and date of birth and address of each operator of the games, and a description and the number of each game to be operated.
- 6.03 The licensee, his agents, servants, and employees will comply with the provisions of the *Criminal Code*. Any person with a record of a conviction for an offence, directly or indirectly related to any gaming activity, may not participate in the activities relating to a licensed event.
- 6.04 Such persons as the Commission will appoint, and all peace officers will, at all reasonable times, have direct and unencumbered access to inquire into the nature, management, or conduct of the proceedings for which the licence has been granted, either prior to, during, or after the conclusion of such proceedings.
- 6.05 A licensee under Part VI will not:
 - (a) permit the pyramiding of games;
 - (b) permit the doubling up or pyramiding of fees or accumulation of points or prizes in any game, however, this does not prevent the winner of two or more minor prizes electing to receive a major prize in exchange, but does prohibit the wagering of a prize on the chance of winning a larger prize;
 - (c) introduce, operate or conduct the game known as blackjack.
- 6.06 No person who is managing, conducting or assisting in the running of games of chance will place a bet during the licensed event.
- 6.07 The maximum bet per person permitted under this Part is \$5.00 per turn of the wheel, regardless of the type of wheel being played.
- 6.08 No one under the age of nineteen will be permitted to offer a bet or wager on, or operate, any game of chance licensed under this Part.
- 6.09 Subject to authorized prior sale of tickets, licences under this Part are for use during the actual period of the fair only.
- 6.10 Fees payable to the Minister of Finance and Corporate Relations for a licence under this Part will be as follows:

(a) For a Class A Fair	\$300.00
(b) For a Class B Fair	\$150.00
(c) Other Fairs	\$ 50.00

CONCESSIONAIRES AT FAIRS AND EXHIBITIONS

- 6.11 In addition to the Terms and Conditions applicable for the Fairs and Exhibitions, Concessionaires will be subject to any Terms and Conditions to be determined by the Commission, including Terms and Conditions numbered 6.12 to 6.16 inclusive.
- 6.12 Each owner or operator of games of chance or mixed chance and skill offering a cash prize at a designated fair or exhibition will obtain a concessionaire's licence separate from any licence obtained by the board of the Fair or Exhibition.

- 6.13 The application for a concessionaire's licence will include on the prescribed form, the full name and address as well as the date of birth of each operator of the games, and a description of each game to be operated. Inaccurate information pertaining to the operators will delay the issuance of the licence.
- 6.14 Each Concessionaire licensed under this Part will, at each game location:
- display suitable signs relating to the rules of the game;
 - post a copy of the licence issued in respect to the game;
 - post a sign measuring not less than 8" x 12" prohibiting any one under the age of nineteen from playing the game.
- 6.15 A licence issued to a Concessionaire will be valid from the date of issue or April 1 of the year of issue, whichever is the later date, until March 31 of the following year.
- 6.16 Concessionaire licence fees payable to the Minister of Finance and Corporate Relations upon application for a licence under this Part will be as follows:
- | | |
|------------------------------------|----------|
| (a) Basic fee (including one game) | \$150.00 |
| (b) Each additional game | \$ 50.00 |

APPENDIX C

APPENDIX C



APPENDIX D

APPENDIX D

GAMING AND SELECTED B.C. COMMUNITIES

In the late summer and fall of 1987 research was conducted in four B.C. communities including Vancouver, Prince George, Trail and Fort St. John. This research was conducted by Connor Development Services Limited and included questionnaires completed by bingo and casino operators as well as representatives of local charitable organizations. The four communities were selected as being representative of typical urban and rural locations in various parts of the Province. Each community is described from a demographic perspective and the gaming activities are briefly outlined. A variety of topics were addressed including licensing, certification, bonding requirements, training of staff, advertising and promotional standards, equitable access to gaming activities and the appropriate distribution of funds from gaming events. Aside from these primary areas there was unsolicited but relevant information which was obtained and is included in the research report.

This research has provided valuable information which will be used when considering policy options in the future and has given the Commission a good understanding of the views and concerns of charitable organizations and the management companies involved in gaming in the Province. In each community, despite the differences in size there are similar problems and concerns about the future direction of gaming in B.C. It is essential that representatives from all communities be continued to be consulted and the Commission is actively encouraging this process.

The formal documentation of this research is available through the B.C. Gaming Commission office in Victoria but is not included as an addendum to this report due to its length. The Commission would like to thank Emma Sicoli and Desmond Connor for their commitment throughout this project and also thank all those who so willingly participated in the research.

APPENDIX E

APPENDIX E

GOVERNMENT AS GAMBLING ENTREPRENEUR

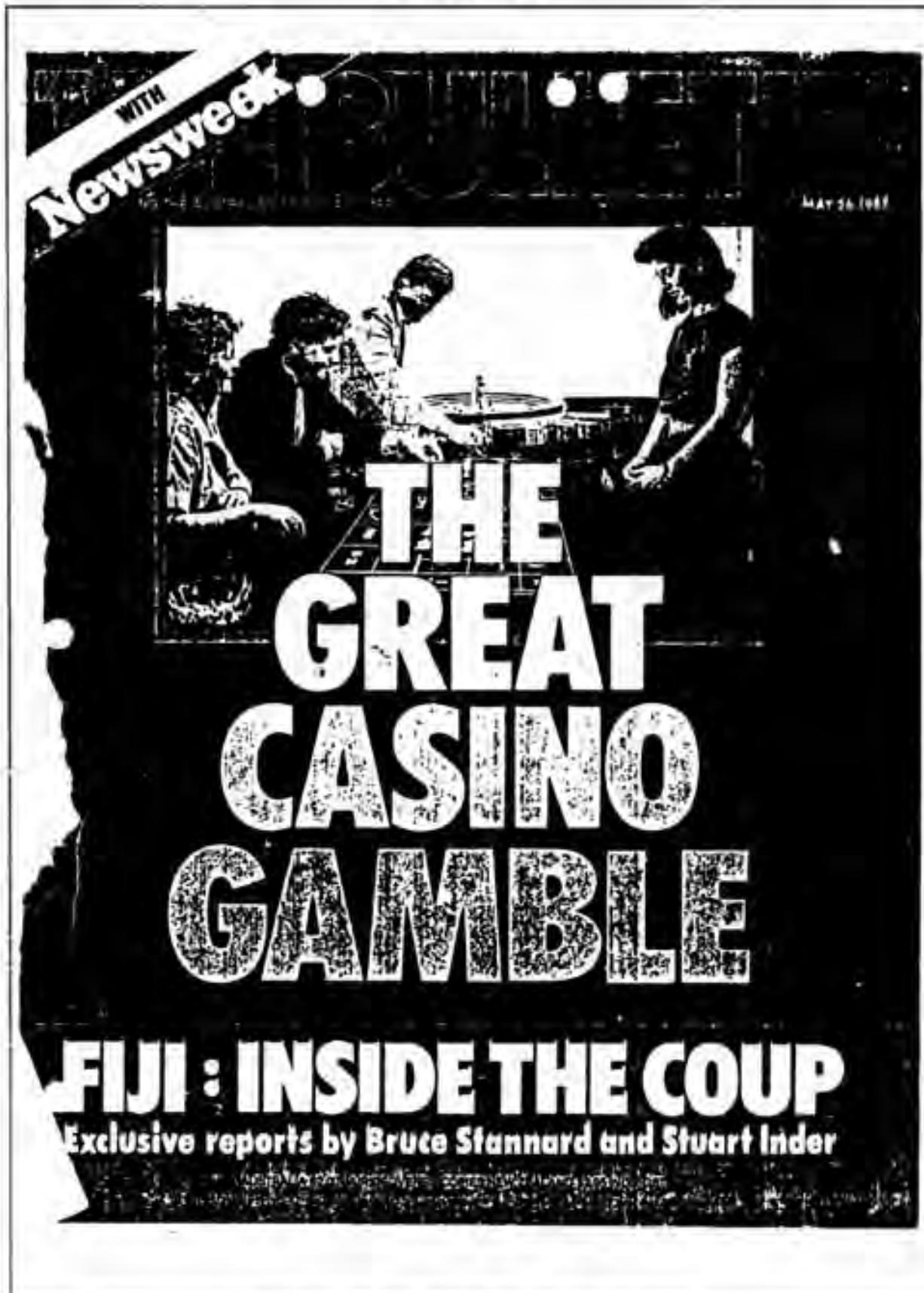
This report was prepared by the Legislative Research Council for the State of Massachusetts, U.S.A. in 1983. A brief excerpt taken from pages 32 and 33 of this report follows.

"The principal moral objection to state operated casinos is that the government would become an aggressive promoter of gambling by its citizens. Many voters may have felt such a policy would conflict with other policies in the public interest. Such a position has been forcefully expressed by Irving Kristol who writes:

In short, when the government gets into the gambling business, it necessarily assumes the responsibility for seeing that this business grows and prospers. In effect, it proclaims that gambling is not a necessary evil but an inherently good thing. And it does this while telling its citizens that, if they are to be good Americans, they should work hard, save their money, shun all get-rich-quick schemes. Is this not ridiculous? Does it really make sense for the government to insist that no one has a right to work for a penny less than the minimum wage and for the government then to encourage us all to blow our week's wages at the betting cage? Does it really make sense for the government to enact a mountain of legislation — from Securities and Exchange Commission registration to the labelling of consumer products — which protects people from unwise expectations while urging them to make the unwise expenditure of all, i.e., a gambling bet?

Practical objections to state-operated casino center on the government's ability to efficiently operate casinos. Casino gambling is a complex, risky business which requires a high degree of promotional, operational and administrative expertise. Skeptical about the presence of such expertise in the public sector, New Jersey voters were unwilling to expose the state treasury to the risk of incurring large capital losses if a state-run casino should fail. Several studies have concluded that government-operated casinos are likely to be less efficient in raising revenues than private casinos and that, in fact, the government's revenue from a tax on the profits of private casinos would probably exceed total profits from a state-owned operation. The electorate may also have been wary of creating a new bureaucracy that could be used for patronage purposes and which, once established, would seek to perpetuate itself. They may have also feared that "in addition to assuring the continuation of its own jobs and responsibilities, the bureaucracy will look for expansion of its jurisdiction — thus placing excessive and misplaced reliance on gambling activities for revenue production instead of developing more effective and more equitable alternative sources of revenue."

APPENDIX F



Courtesy of *THE BULLETIN*, Sydney, Australia.

COVER STORY

THE GREAT CASINO GAMBLE

As the NSW government struggles to find perfection in an operator for its Darling Harbor palace, the casino debate has re-ignited passions on all sides. Are casinos worthwhile? Who benefits, other than governments? In this report, DAVID M. NICOLL, TONY ABBOTT and LENORE NICKLIN answer the critical questions

EVER SINCE soldiers drew lots for the garment of Jesus, churches have viewed gambling with suspicion. But, as legal casinos proliferate in Australia, secular academics have scoffed the chorus of disuse.

"I don't want to sound like a puritan," says Professor Stuart Rose of Sydney University's Social Work department, "but we are creating a Sodom and Gomorrah society." Luring the world's biggest casino in Sydney's showpiece Darling Harbour development, he says, could be "colluding with all the stereotypes about the middle-class."

Australian gambling is legendary. Its traditional usages — Diggers playing two-up and bushmen at the races — at least reflect a sense of meaning from adversity. The modern reality is different. Government tax figures suggest that lotteries and poker machines constitute our major gambling forms, raising revenues for only 17 percent of gambling tax revenue.

The scale of our gambling, however, remains beside. Indeed, according to figures produced by Brian Flug, an economist at the Australian National University, Australians now gamble 50 percent more than in the halcyon days of the legal two-up school in the 1920s. Australians gamble about \$4 per head than the British — the nation next most addicted. In 1982-83,



Darling Harbour redevelopment site of Sydney's proposed casino

gambling consumed \$146 for every Australian (in the same year we spent \$1119 on beer or toast, \$58 on alcohol, \$32 on defence, \$121 on tobacco and only \$26 a head on private education).

What does this say about our society and its values? Defenders of legal casinos say that they create job-hunting development and — most importantly — raise government revenue. But is that really the end of the matter? In Queensland, Premier Sir Joh Bjelke-Petersen has solved his conscience by creating a 1 percent casino tax for a community benefit fund.

According to Dr John Hill, principal of the Catholic Institute of Sydney, "the lucky country syndrome has run riot ... we're really not much different from our northern neighbor where they believe in a single cult."

Ronald Conway, Melbourne sociologist, says that we have developed "... a something-for-nothing mentality ... a form of escapism ...".

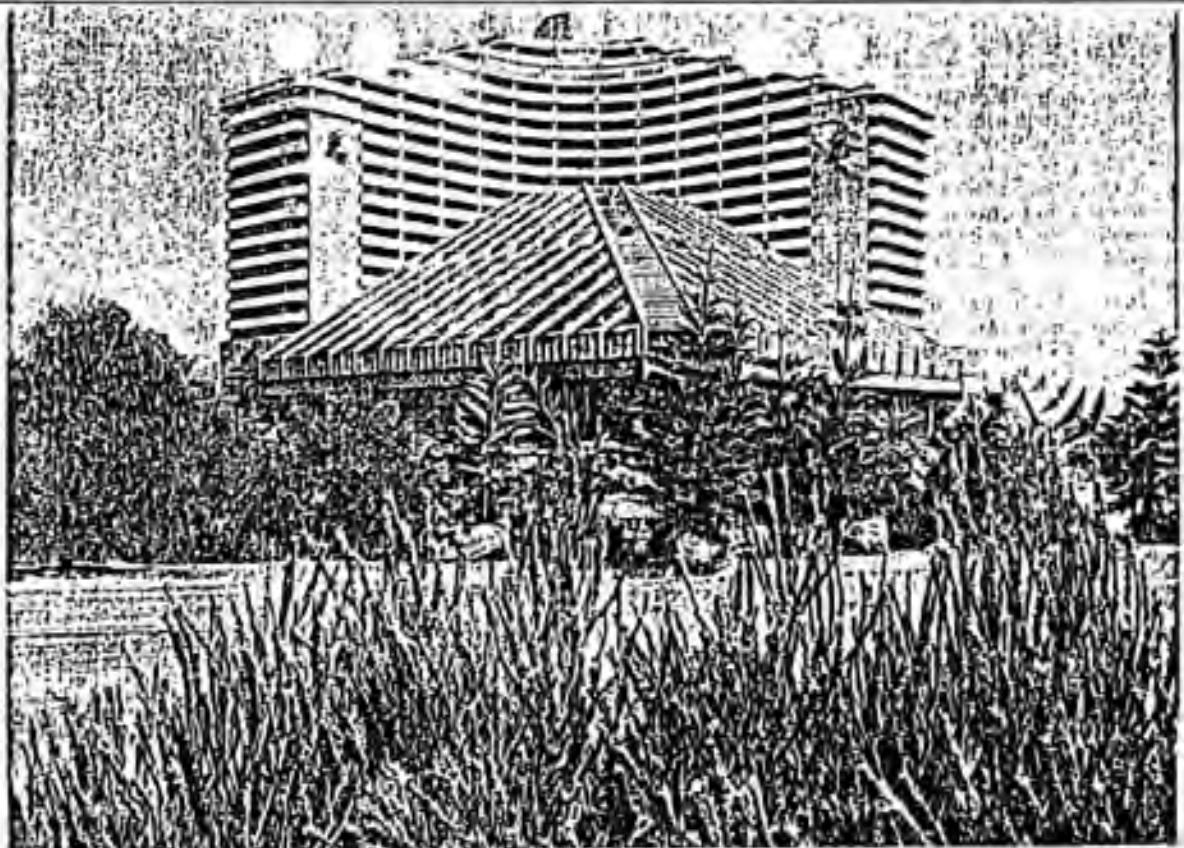
For Conway, the worse feature of casinos is that "other forms of vice follow in their train". With their associated hotel and entertainment complexes, they encourage "a total atmosphere of prodigality — eat, drink and be merry for tomorrow I divorce ... or get AIDS".

Dr Michael Walker, a Sydney University psychologist, says that casinos will attract people who don't normally gamble.

"The big, brassy casino image is attractive and different," he says. "I'll go." While some gambling spending will be redistributed from other outlets, Walker expects the total outlay to increase significantly. So do state governments, which are counting on increased revenues.

Civil Caldwell, director of the ANU's Centre for Criminology, says that public unfamiliarity will force casino operators to promote the game. Walker says that competition between the different types of gambling will tend to maximize spending.

Unquantifiable social costs will be heavy. Anglican Bishop John Reid, who chairs the church's Social Responsibilities Committee, says that "most" of the claims of welfare arm Careforce have financial problems associated



The Burswood Island complex in Western Australia, due for completion this year: luxurious but over budget.

with gambling. Consulting in Sydney sees "around 10" people a month whose financial problems are related to gambling. Centacare, the Catholic counselling agency, estimates that between 3 and 5 percent of troubled marriages result from gambling problems.

Much argument over the Darling Harbor complex has focused on its potential to be associated with crime.

Jon McMillen, a Brisbane academic who is president of the National Association for Gambling Studies, says there is no evidence of criminal involvement in the administration of Australian casinos. His anti-gambling NSW parliamentarian, the Reverend Fred Nile, says that criminals can use casinos "even if it is easier to rob them." Nile says that the recipients of criminal profits can "launder" money simply by passing it across a gaming table. The government is working on legislation to give inspectors wide powers to monitor suspicious gamblers but, McMillen concedes, there is no disposal system.

Premier Barry O'Bryan has since opposed the extension of gambling. According to a

press spokesman, he has "seen the light." O'Bryan says that the Darling Harbor development will obviously legitimize illegal casinos. A recent point in favour of the FAB is that all franchises

like Cyprus's will NSW's system apparently must be above reproach. The state government, however, is also suggesting that acceptable casino operators are hard to find. The government and Ayers demand the originally successful traders, the Hawker Hawks consortium, along with their chief George Hinton's alleged involvement in secret commissions to minor book-

makers. And two weeks ago three of the best tenders were eliminated — including that of John Hashash's Federal Hotels (see following story).

The tag of the only remaining tenderer, the Evening Telegraph, depends upon a West Australian Transport Affairs Commission investigation expected to be concluded "within a few weeks." Gentay is the main shareholder in Burswood Management, the named operator of the Perth casino. At issue is whether the company knew when it launched its prospectus of large cost overruns. A NSW government spokesman says that "what's taking time is the probity question — although he stresses that three other criteria — operational competence, financial stability and environmental suitability — must also be satisfied. "The selection process is taking longer than anyone else. You can draw your own conclusions from that." Nevertheless, the government remains committed to the project and is prepared to call a third round of tenders if necessary.

According to McMillen,



Casinos are an essential part of the modern entertainment industry and an "integral part of the way society is moving". That is precisely the problem, says Reid. Gambling thrives because of the restlessness and discontent generated by modern life. The important thing is to build "a desire to give rather than to get".

The people who are betting, with few exceptions, are not gamblers. And there are no Mafia bigwigs taking off Australian legal casino profits. The industry's main problem has been government. State and territorial governments made an estimated \$45 million in gaming taxes last year. Some say this figure could quadruple by 1990 with the opening of Sydney's Darling Harbor casino — tipped to be the world's biggest.

But, behind the sparkling facades and public optimism, Australia's casino operators are grappling about high taxes and costs squeezing their profits.

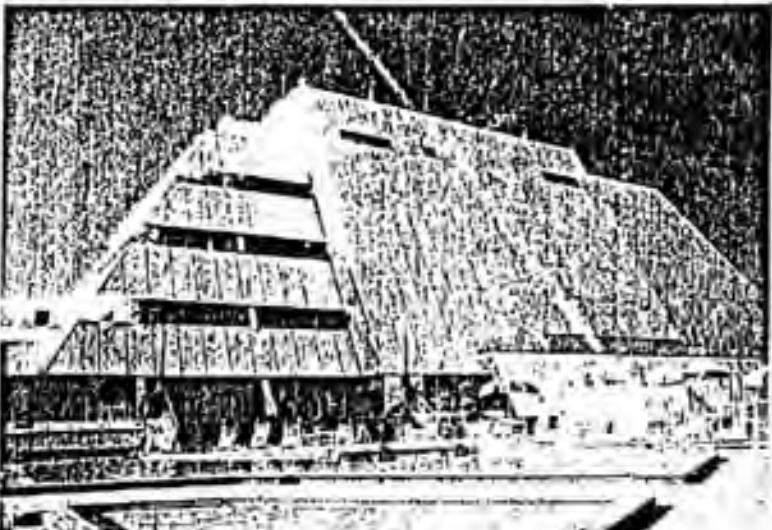
Industry sources say that casinos are lucky to keep 25 percent of their takings. Of this, up to 20 percent is returned to government in casino taxes. And 24-hour operation means that much of the wages bill is calculated at double time.

On top of its 25 percent gaming levy, the Federal Court's Impeto casino pays 1 percent of its net gambling revenue into a Community Benefit Fund which has just distributed more than \$100,000 to groups such as the ambulance service, life-saving clubs, the local Aboriginal aquafishing rehabilitation centre. Every one is happy, of course, but the smiles of casino executives seem rather strained.

Holiday, whose Federal Hotels group controls Tasmania's two casinos, has estimated that the Australian market contains up to 100 "high rollers" — players with bankrolls of more than \$200,000 — plus thousands who regularly gamble with amounts of about \$1000. Despite these and thousands of smaller patrons, the casinos it seems are not a licence to print money.

In its first six months of operation, for instance, the vast sum of \$132 million passed across the tables of Adelaide's casino. But net gambling revenue was \$72 million. The "gate" was about 1.1 million people, giving an average "drop" (loss per player) of only \$19.

The leveller is the "grind" trade, the thousands who flock to casinos for entertain-



Darwin's Diamond Beach Casino: High rollers fly in from South-east Asia

ment and sightseeing and to "have a flutter" with \$20 or so each.

Industry insiders say that the Alice Springs casino which has by far the largest proportion of overseas patrons, at 40 percent, also gets the largest average "drop".

At most casinos, however, the overseas "high roller" is more of a hope than a reality. Despite the provision of exclusive facilities and "complimentary" accommodation and transport to big gamblers, the overall percentage of overseas visitors hovers under 5 percent.

According to Neil Colledge, an analyst with stockbroker Haskins James Capel, the casino industry is suffering from inflated early expectations. It is fundamentally viable, he says. "Because Australians like gambling", but large-scale operations such as hotels and casinos always over-provide in

their first six months. "They don't want complaints and they don't know their market, so they over-sell."

In addition, Colidge says, opening periods always bring a flood of visitors more interested in sightseeing than in spending.

Colidge observes that Adelaide has thrown off its "city of churches" tag and boasts what may be Australia's best performing casino. It is housed in the old railway station which was used for the ballroom scene in the film *Gallipoli* and Colidge attributes much of the success to its unique charm.

Unlike other casinos, Adelaide has no accompanying hotel and entertainment complex. These may turn out to be money-splurges, says Colidge, but establishing them takes lots of time and money.

Perth's Ellerslie complex will have a \$20-bed hotel, a golf course, a sports arena and Western Australia's largest entertainment auditorium when completed this year, but the \$300 million project is already \$60 million over budget and too late for the America's Cup.

The casino is said to be efficiently managed and marketing manager Andrew Coward sounds confident, claiming that the first year's operating profit of \$17.6 million can only improve. The company's latest report, however, is less upbeat. It cites delays in construction through protracted industrial disputes and a series of bomb-houses.

Despite a \$14.4 million op-



THE MULLEN, MAY 26, 1987



Adelaide's Casino, housed in an old railway station, averages 8500 patrons a day.

bing profit in the six months to December, the management of the \$200 million Jupiters complex, comprising of patrons "doubtless less than posted and want of another" — which is the Queensland government's excuse for the 20 percent gambling levy.

Jupiters points out that the tax at the State's struggling Townsville casino has been reduced from 15 to 10 percent.

Industry sources say that the Townsville casino, which opened last June, has yet to make an operating profit.

Last year, Federal Hotels made a disappointing \$390,300 profit figures for the Northern Territory's two casinos, at Darwin and Alice Springs, are not available but both were in trouble before recent ownership changes.

AUSTRALIA'S CASINOS

Jupiters, the Gold Coast, averages about 16,000 patrons a day and employs nearly 2000 staff. In 1986, Jupiters paid casino tax of \$16.4 million on gambling revenue of \$72 million.

Basswood, Perth, averages 7200 patrons a day, employing 1420 staff. Basswood paid casino tax of \$10.7 million on gambling revenue of \$71 million in 1986.

Adelaide averages 8500 patrons a day and employs 1200 staff. In 1986, Adelaide is estimated to have paid casino tax of about \$12 million on gambling revenue of some \$60 million.

Breakwater, Townsville, averages 2500 patrons a day, with 500 staff. Tax and revenue figures are not available.

West Point Hobart, where

ages 3000 patrons a day, more than 700 staff. In 1986, West Point is estimated to have paid casino tax of about \$2.4 million on gambling revenue of some \$16 million.

Launceston Country Club, casino, averages 3000 patrons a day and employs about 400 staff. It is estimated to have paid casino tax of \$1.7 million on gambling revenue of about \$11 million in 1986.

Diamond Beach, Darwin, averages 3000 patrons a day, nearly 400 staff. Tax and revenue figures are not available, although the Darwin government expects returns of just over \$1 million on revenue of about \$17 million for two casinos this financial year.

Leisure, Alice Springs, averages 1200 patrons a day and employs about 170 people. Tax and revenue figures are not available.

— Tony Abbott

Grandma and orphans on a roll

LENORE NICKLIN spends a night at the tables.

AT THE West Point casino, someone has bought me a cold moderate, playing grandmother in the red cardigan. Her gaming is the son of avuncle and the father of stepson. This was true for old French players — grandmoths are on a winning streak. She puts one of her pile of 25 chips on the black 11 and up it comes. She collects 35 of the chips and leaves the original one on 11. Up it comes again.

"I hold just 15 per cent," says the baby-faced chipmunk. (Australia has the youngest gamblers in the world.)

As he pushes the second pile of chips towards the woman in the cardigan, the pat bats his hands. "Is she your grandmother?" West Point has a degree of informality not to be found at Monte Carlo or the Curzon House Club in London.

The Federal Hotels West Point operation, 30 years old, is the mother of all the legal casinos in Australia. West Point is less chic than the Adelaide casino and less posh than Jupiters on Queensland's Gold Coast. West Point is comfortable. She is aging gracefully and at a cost of some millions has been fitted out recently with new chandeliers and carpets, mirrored walls and new slot machines.

You don't notice the ceiling canopies that record every spin of the wheel, every shuffle of the cards or under the tables. What you mainly see are \$100 notes being pushed through slots in the gambling tables. Can the natural deficit really be so huge?

West Point is responsible. Those undeniably predictable that it would turn Tasmania into a devil's island of organised crime and prostitution have proved unfounded.

The management's policy near casual dress at all times (no blouses or jeans) is adhered to but dress for the most part is less smart than at a midweek care meeting at Gisborne.

On a recent Saturday night at 11.30, a pretty girl on the foyer was seen to be crying softly but it may have been a result of the heat rather than the gambling tables. Inside they were standing too deep amidst the antique tables,



"That's the most run of luck I've ever seen, Dad."

blackjack was doing brisk business, occasional cheerful shouts came from the two up area, the keno machines were flashing up on the big screens and the eight people playing at the roulette table were exchanging buoyed memories.

"My father promised he'd give me a bicycle the day I could beat him at draughts," says the man who has just been dealt three jacks. "But when I started to work I was still walking."

The poker players are the most visible of all the gamblers, chomping on their cigars in fine Banum Ruyan style and ordering cups of coffee which is not so Ruyan-esque but no alcohol is allowed at the tables. (The casino bars,

however, do a brisk trade in fluffy ducks, pussy foots and para coladas.)

The keno screens are receiving more than usual attention because the jackpot is at an all-time high of \$255,000. Keno, introduced to the casino in 1978, is a type of computerised bingo. Select the correct nine numbers and the \$255,000 is yours.

Most people at the roulette tables are too busy placing bets and concentrating on their systems to worry about keno, conversation or coffee. Serious players mark each winning number on the specially provided cards. A glance at the cards reveals that 27 and 11, as well as grandma's 33, have kept coming

up. A Japanese player puts green chips on practically every number, every throw. He and his chips are soon parted. On the opposite side of the table, people are playing the Tiers and Orphans systems.

Tiers required a six-piece bet on the 5/8, 10/11, 13/14, 23/24, 27/30 and 33/36 and the orphans a six-piece bet on the 1, 6/9, 14/17/20, 31/34 and 33. The orphans were winning.

Upstairs in the high rollers' room, reached by a glass-walled cylindrical lift, the really big money games are in progress. A variety of sporting prints is on the walls and here you don't have to pay for your coffee.

Gambling makes an honest living

DAVID McNICOLL talks to John Haddad about the business of casinos and his plans to expand beyond Australia.

THREE ARE some people who think that the man who introduced casinos into Australia should feel a burden of guilt. But if John Haddad, the so-called "Father of Casinos" feels any guilt, he certainly doesn't show it. In fact, he delights in the tag, is proud of the dramatic change he brought to Australian gambling — and looks to bigger and better casinos in the years to come.

John Haddad today is something of a hero to his peers. His trailblazing in the hotel-casino business has brought unstinted praise from the industry, and acclaim from governments notwithstanding the NSW government's recent rejection of his tender for Sydney's proposed Darling Harbor casino. He is chairman of the Australian Tourism Commission, president of the Australian Hotels Association, and on most of the boards associated with tourism in Victoria. He is, for his daily bread, also managing director of Federal Hotels, operator of two of Australia's leading casinos — Wrest Point (Hobart) and Lanesborough Country Club.

John Haddad is chunky, confident man of 52, of Lebanese heritage, whose family migrated to Australia in 1885. His father was a surveyor in comfortable circumstances, and young John was told, from early days, that he must lead for one of the professions. After Christian Brothers, St Kilda, he went to Melbourne University, on a Commonwealth scholarship, to do medicine.

"I wasn't a good student. I had an affinity for blood and guts. So I dropped out after four years, and looked around to see what else I could

do. The hotel industry looked as though it had some future, so I got a job as barmen at the King's Hotel."

"That was the start of his love affair with hotels. "It was an enormous experience. After two years I was offered the job of licensee. I grabbed the opportunity, and had the licence for five years, during which time I married."

The "godfather" in young Haddad's hotel career was Ray Markillie, who had extensive interests throughout Victoria. He took Haddad into Federal, first as Liquor Controller, then up through the ranks — sales manager, assistant general manager, manager.

"One day Ray Markillie said to me: 'John, Wrest Point is doing very badly. Go over there and ask the government if they'd agree to a casino. So I knocked on Eric Reeve's door — he was Premier of Tasmania — and put the proposition up to him. He was receptive, but when word got round of what was in the wind, the protests started."

The Tasmanian government had no intention of rushing into a casino without considerable deliberation. Haddad was sent off on a 12 months trip of inspection round the world. His main brief was to find casinos which had absolutely foolproof safeguards against underworld infiltration. His trip took him into an alien world. He had never gambled and still doesn't; had never been in a casino, legal or illegal.

"We were obsessed with a determination to avoid the horrendous problems which faced casinos in places like Vegas. We wanted a casino that had elegance and atmosphere, but was run



Federal Hotels' John Haddad wears a smile

with scrupulous honesty. The two casinos which showed up best were Baden Baden and Monte Carlo.

"Then we came to an arrangement with Pierre Bax. He was the greatest casino expert in the world, the everyone consulted him. He was fascinated with the challenge of formulating principles which could keep Wrest Point absolutely clean, and also satisfy the Tasmanian government."

The suggestion put up by Bax and Haddad was that the government would have the responsibility of controlling the takings. This removed accountability from the casino management, and ensured that nobody could slip into the till. The system worked so perfectly, that it was adopted at other Australian casinos, and was put into operation at Atlantic City.

There are no glistery chandeliers; gold-fringed lampshades cast discreet shadows over the tables. The room has only two roulette wheels and six blackjack tables but poker and baccarat can be accommodated as required. The limits are as high as \$100 minimum and \$5000 maximum.

"The maximums are determined by the action," says Jim Musgrove, the casino's military-looking day manager who was one of the original 20 casino professionals imported from England to set up West Point.

Has it lost business since the opening of the slate of casinos on the mainland? "We have not lost one of our

regular VIP players," says Musgrove. Just who they are, of course, he is not saying. "It's a confidential list — it's professional not to disclose the numbers of VIP players or the range of play."

"One thing you never do is discuss wins or losses or who wins and who loses. If I found any of my staff openly discussing the wins or losses of a player, I'd dismiss him."

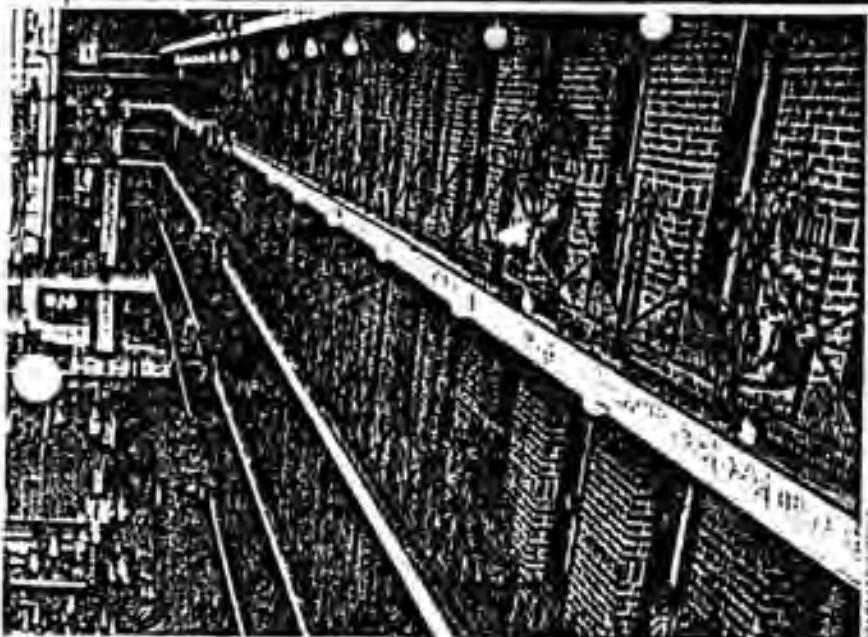
It is common knowledge that the biggest of the big games are played at Darwin's Diamond Beach Casino where the high rollers fly in from South-East Asia.

As a casino veteran, what advice does Musgrove have for the punter?

"Gamble within your means and enjoy yourself," he says.

"If you are determined to win, my best advice would have to be, 'Don't play. I don't believe in luck because the casino in all games holds the percentage so, eventually, we win.' But, to give yourself a fair chance of winning, increase when you're in front. You can't win if you play in level stakes because the percentage beats you. Increase but never chase."

Aimed with this knowledge, this reporter returned to the tables, increased, never chased and watched \$200 disappear in less time than it takes to drink a fluffy duck. □



All that, including that of Australia's "Father of Casinos"

The casino was the turning point in West Point fortunes. The local Aborigines had the opportunity for a little flutter if they wished to; but additionally, they now had the chance to see floor shows, and eat in several new restaurants associated with the casino. The gamblers from Melbourne and Adelaide flew in for the weekend by the hundred. Cruise ship passengers packed the casino tables. Haddad's first casino became the hell-for-leather for others.

Federal's excursion into the Northern Territory is a sure point with John Haddad. Casino hotels were opened by Federal in Darwin and Alice Springs. Darwin prospered, but Alice Springs was a fairly slow burner. The Chief Minister, Paul Lyndham, felt that the tourists were not attracting the high rollers who had been expected to come

in from the East, and from various parts of Australia. The pressure went on Federal to sell — so Federal sold.

"I am not sorry to be out of the territory," said Haddad. "As it turns out, the government appears to be the loses in the deal. It was a question partly of philosophy. I was happier to attract ten thousand tourists than ten millionaire gamblers."

The Launceston Country Club casino has turned out to be the Federal's "sleeper". It is small, discreet and protects anonymity. Its clientele includes the biggest gamblers in Australia. There is no bustle at Launceston; you could be weekending at a comfortable house far out in the country.

The latest challenge to land in Haddad's plate is a casino at Christmas Island, Christmas Island, an Australian

possession, lies in the Indian Ocean, slightly north-west of Darwin. It's commercial future has recently become uncertain, as a West Australian developer, Frank Woodhouse, conceived the idea of turning the island into a luxury resort. But what would be needed to attract people to this remote little island, where the rival attractions of Penang and Bali were within reasonable reach? A casino was the answer, and architect Kevin Curtis (who designed the Darwin and Alice Springs hotel-casinos) got to work. The complex should be finished within 18 months.

Haddad is very optimistic about Christmas Island. An enormous population is draped to the north and east of the island, and not so far away either, Jakarta is only 50 minutes, Singapore an hour and a half; flights from Perth are very possible. Casino competition in the East is on the wane. Casinos in the Philippines are consistently empty; Macao has an uncertain future, and is not a particularly attractive casino anyway. Malaysia's Genting establishment is reported to be increasingly shabby and suffering from the strong anti-gambling movement among Moslems.

Another Haddad project, even further afield, but not involving a casino, is the resort hotel on the Pearl River in Guangdong Province, China. This will be managed by Federal, and is due to open in early 1989.

John Haddad is extremely proud of the fact that no breath of suspicion of racketeering or gangsterism has ever floated near a Federal casino. He feels that if there had been the slightest hint of evidence that the wrong people had infiltrated West Point, then no more casinos would have been built in Australia. "We were investigated, and re-investigated," Haddad said. "We have been examined and probed, and we have been found to be completely clean. We have been fortunate in our

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PHOTOGRAPH

employees, particularly in having the former Racing and Gaming Commissioner of Tasmania, Arthur Neilsen, on our staff.

"Casinos entail a conscious effort to gamble. They are not impulsive. In our view, they offer the best form of gambling; and if visitors don't want to gamble they can enjoy all the associated attractions - floor shows, cabarets, discos, restaurants."

Why, I asked Haddad, had he never gambled? It has no attraction for him, but even if it did, he would not play in the casinos, and neither would any of his associates. Do any members of his family feel uneasy about his pioneering of casinos? No, says Haddad, not even his two sisters of Mercy aunts, Sister Paulette and the late Sister Davis.

Haddad is a passionate Australian and he believes passionately that the control of casinos should be in the hands of Australians and not be handed to overseas gambling organisations. Federal had its hat in the ring for the monster (300-400 tables) casino planned for Darling Harbour, in Sydney, and he is "miserably disappointed" at the rejection of his tender for the project. "It could and should be run by the only Australian company." He says the government has not indicated the reasons for its rejection although he thinks that there is a belief that Federal Hotels is not big enough to run a jumbo-size casino.

He is particularly concerned by the "assertion and innuendo" that the unsuccessful tenders did not get a favorable police report. Our record is "impeccable," he says. "In 14 years of operation we've never had so much as a bad headline... the police have even held conferences at Wrest Point".

Although casinos figure very large in Haddad's life, they do not overwhelm his interest in non-casino hotels. Federal's Manzies Rialto in Melbourne has won, for two years in succession, the award for best hotel in Victoria.

Despite his affiliation with one company, Haddad brings to his Tourist Commission activities a mind that embraces all facets of tourism, and everybody's accommodation. He is an admirer of Tourism Minister John Brown, and says that it is obviously Brown's dynamic personality which has resulted in respectable budgets for the tourism Commission.

As he talks, Haddad's eyes dance with enthusiasm. His success in keeping the underworld out of his casinos he sees almost as a personal triumph; and as a small indicator of his success he points out that of all the people who visit Hobart, 61 percent go to the Wrest Point Casino.

Odds are against casino in Cape Breton communities

Playing games of chance for money is gambling by most definitions, but the Nova Scotia government has its own rules

by Hal Dornblatt

Websler's dictionary defines gambling as "playing a game of chance for money"; that's the perfect description of a bingo game you might see anywhere in the province. Men, women and children gather in smoky halls or church basements, sometimes several times a week, in the hopes of coming home with prizes ranging from a few dollars to several thousand dollars.

For some, it's a harmless pastime that means a night out or a break in the monotony of the daily routine. For others, it's an obsession. There are other examples of gambling that are so common they're rarely thought of as such. Lotteries, and even-sold tickets for sports and church organizations are also forms of gambling, each with its own degree of acceptance.

Yet even with all these games of chance on the go, any attempt to organize a casino-style gambling system is usually met with heavy opposition. In the last year and a half, there have been two serious attempts at establishing such a venture in Cape Breton. Both efforts have failed, despite some obvious merits. Some observers feel that there is a contradiction in this situation that begs explanation.

The idea of establishing a gambling casino in Cape Breton is not new. Its location is ideal for taking advantage of the valuable American and European tourist markets. Last year, tourists spent \$250 million in Cape Breton and, in some circles, it's felt that a casino would be another "tourist draw." Also, over the past three years, there has been a sharp increase in cruise ship traffic to Sydney Harbour. These factors have added to the enthusiasm of potential casino developers.

One of those would-be developers is Jim Inch, Sr., a restaurant owner in Glace Bay. Inch says he was encouraged to look into the casino project by the federal department of regional industrial expansion (DRIE). In 1985, former DRIE Minister Sinclair Stevens, said the department would be willing to provide financial assistance for certain ventures in job-hungry Cape Breton. One of those ventures listed was "gaming facilities." However, DRIE said it wouldn't get involved until the project had the approval

of both the province and the municipality of Glace Bay.

That brought Inch to the Glace Bay town council in March of 1986. He said he was promoting the idea mainly because it would employ several hundred people directly and benefit the whole island indirectly through economic spin-offs. He said all he wanted from the town was a serviced lot of land and council's endorsement of the project.

By this time though, the community was reacting to the plan. There were cries of opposition claiming that gambling would bring "organized crime" to Glace Bay. The most vocal lobby against the proposal came from church groups who held strategy meetings to formulate ways to fight the plan. They also formed committees to keep an eye on council's handling of the situation and wrote letters of protest to town council. When Jim Inch saw the amount of opposition, parties largely from the religious community, he decided to let the proposal drop. Even now, more than a year later, Glace Bay town council still gets letters opposing the project.

A more recent attempt to start a gambling centre in Cape Breton sparked controversy in the town of Sydney Mines. Lawyer and businessman Nash Brogan went to town council in early February with a \$5-million plan for a family entertainment centre anchored around a 40-unit motel and a 20,000-square-foot gambling casino. Brogan said he would split any profit, which he expected to top \$20,000 in the first year of operation, with the town.

Recalling the controversy raised by the Glace Bay proposal just a year earlier, Sydney Mines council decided the best approach to the idea would be a plebiscite to find out the wishes of the citizens. Once again, opposition was swift. Phone calls to the mayor, to individual councillors and to the town hall, along with protest letters and personal contact with town officials were so heavy that council killed the idea of even having a plebiscite, putting an end to Brogan's project.

However, municipal approval of such ventures would only be academic. The provincial government of the day, as a matter of policy, refuses to grant licenses for casinos. The Brogan attempt is

Sydney Mines prompted the minister responsible for the lottery act, Greg Kerr, to say, "We know both morally and ethically, the people of Nova Scotia at this particular time in history, don't want legalized gambling in their province, and we are going to continue to turn those things down."

But the statistics conflict with that attitude. There are 450 licensed bingo games operating in Nova Scotia. Last year, sport, culture and recreation groups applied for 3,600 temporary gambling licenses for fund-raising projects that raised more than \$1 million in revenue.

The Atlantic Lottery Corporation, an inter-provincial agency of the four Atlantic provinces, had sales last year of \$150 million. Ticket sales in Nova Scotia generated \$67 million, the highest total of the four provinces.



Bingo is a pastime or an obsession

The acting executive-director of the Nova Scotia Lottery Commission, Clyde Hermer, says bingo games and ticket sales for fund-raising projects are "legal" because they are run by non-profit organizations — except for eight "commercial" bingo games that were operating before the commission existed — and, they pay two per cent of the total prize money to the province as a "licensing fee."

The Atlantic Lottery ticket sales are "legal" because the lottery corporation is a government agency.

But, whether Nova Scotians spend a dollar a month on an "A-Plus" ticket, or lose their week's pay in a poker game, according to the dictionary, it's still gambling. And it seems likely that this is a controversy that won't go away as long as the province's definition of gambling appears somewhat fuzzy to those who see a gambling casino as a positive economic addition to Cape Breton Island.

APPENDIX G

PUBLIC NOTICE

B.C. GAMING COMMISSION SEEKS PUBLIC INPUT

ABOUT THE ROLE OF GAMING IN BRITISH COLUMBIA

The Commission is responsible for licensing and regulating bingo, casino, and ticket lotteries conducted by charitable and religious groups, as well as studying topics related to gaming in the province.

Interested groups and individuals wishing to express their views are encouraged to submit letters or briefs by September 1, 1987. Background material can be obtained by writing the Commission at:



B.C. GAMING COMMISSION
Chairman: Richard M. Macintosh
848 Courtney Street
Victoria, B.C. V8V 1X4

APPENDIX H

APPENDIX H

CANADIAN CARNIVAL LAW

The criminal law pertaining to gaming is contained in Part V of the *Criminal Code* (Appendix 1). Certain games, including dice, three-card monte, punch board, coin table, bookmaking and pool selling, are completely prohibited. Other games can be conducted legally but are open to charges if the operator cheats or does not follow the prescribed conduct.

Game is defined in s. 179 as "a game of chance or mixed chance and skill." The courts have supported the inclusion of carnival games within this definition. For example, *R. v. Touzin and Touzin* (1979) 49 C.C.C. (2nd) 183, held that a game in which patrons toss coins at glasses or other objects, winning the object on which the coin lands, is within the meaning of game in s. 179. Games of pure skill are excluded from this definition, which presents a particular problem to law enforcement. Although such games can be operated fraudulently, none of the Provisions of Part V can be applied; thus, under current gaming law, police are left without recourse to protect the public from unscrupulous practices relating to games of skill alone.

Cheating at play is always prohibited under s. 192 C.C.C. and the courts have held that this section also applies to carnival games. For example, in *McGaray v. The Queen* (1972) 6 C.C.C. (2nd) 525, creating a false impression in a game (in this case, by not telling patrons that the bottom jars in a milk bottle toss game were weighted) was held to constitute cheating. In *R. v. Reilly* (1979) 48 C.C.C. (2nd) 286, however, the court stated that simple measures to increase the degree of skill required for success in a game are not improper.

Section 189 specifies offences relating to lotteries and games of chance. Subsections (1) (f) and (g) are of particular importance to carnivals. Essentially, they define as illegal the betting of money or other valuable property on games of chance or mixed chance and skill which award "goods, wares, or merchandise", or on wheels of fortune which dispense cash. However, subsection (3) states that these provisions "do not apply to the board of an annual fair or exhibition, or to any operator of a concession leased by that board within its own grounds and operated during the fair or exhibition on those grounds;" the fair or exhibition in question must relate to agriculture or fishing. As a result of this exemption, it is legal to operate games of either chance or a combination of chance and skill for merchandise prizes, or wheels of fortune for cash at fairs. "Wheel of fortune" was defined in *R. v. Andrews* at p. 379 as any "gambling device consisting of a revolving wheel." Also lawful at fairs are games of skill alone, since these are not even mentioned under the *Criminal Code*.

In addition to fitting the s. 189 games descriptions, carnival games fall within the s. 179 definition of "common gaming house."

"Common gaming house" means a place that is

- (a) kept for gain to which persons resort for the purpose of playing games, or
- (b) kept or used for the purpose of playing games, or
 - (i) in which a bank is kept by one or more but not all of the players,
 - (ii) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
 - (iii) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or
 - (iv) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game.

The courts have stated that a conviction for carnival gaming under this section will not be upheld if, on the same facts, the charge could alternatively have been laid under s. 189 (1) (f) or (g); in effect, the s. 189 exemption for carnival games at fairs or exhibitions has been widened to cover s. 185 charges as well.

It does not extend, however, if the gaming alleged under s. 185 involves the use of a slot machine. Under s. 180 (2), presence of a slot machine warrants a conclusive presumption that a common gaming house exists. The courts held in *R. v. Andrews* that s. 180 (2) is so specific with respect to the relationship between slot machines and common gaming houses that the s. 189 (3) exemption cannot be applied in such places. Thus, the presence of a slot machine indicates a common gaming house, regardless of whether or not it is being used at the fair. For example, "Nickel Digger" machines have been found to be slot

machines, and their operation to amount to keeping a common gaming house. However, there are indications that a mechanical device which dispenses some form of merchandise as a prize every time the game is played may not be classified as a slot machine. A 1936 Ontario case, *R. v. Beasley*, O.R. 299, held that digger machines which disposed of merchandise were not slot machines and could be legally operated at fairs. Moreover, the current Lotteries Branch practice of selling breakopen tickets through privately-owned vending machines is based on legal advice that a machine which dispenses merchandise each time cash is deposited is lawful, even if the value of the merchandise varies by chance.

Under s. 190, provision is made for the discretionary licensing of lottery schemes by the provincial governments, including licensing of all those games of chance described in s. 189. Section 190 (c) relates particularly to carnival gaming:

190. (1) Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful
- (c) for the board of a fair or exhibition or an operator of a concession leased by that board, to conduct and manage a lottery scheme in a province where the Lieutenant Governor in Council of the province or such other person as may be specified by the Lieutenant Governor in Council thereof has
 - (i) designated that fair or exhibition as a fair or exhibition where a lottery scheme may be conducted and managed, and
 - (ii) issued a licence for the conduct and management of a lottery scheme to that board or operator.

Note that this definition of a fair, unlike the one in s. 189, makes no reference to agriculture or fishing. Consequently, s. 190 implies that the provincial government is authorized to license gaming to any exhibition or fair board, regardless of whether or not the planned event involves agriculture or fishing, and furthermore, implies that such a licence is not restricted to fairgrounds during a fair. Since games of skill are not lottery schemes under the *Criminal Code* — because they do not contain an element of chance — they are not licensable under any provincial licensing system thus created.

Unfortunately, the combined effect of the licensing provisions of s. 190 and the exemption provisions of s. 189 (3) is somewhat ambiguous. The "notwithstanding" clause at the beginning of s. 190 suggests that, where a provincial licensing scheme has been instituted, it shall supersede the rest of Part V including s. 189. If so, licences for gaming at fairs would be required despite the specific exemption from prosecution already given by s. 189. However, the wording of s. 190 is directory, rather than imperative, with respect to the conduct of a licensing scheme, stating only that "it is lawful" that one should be created, not that the province "shall" make one. Consequently, some gaming authorities in B.C. are of the opinion that a carnival operator might be able to argue successfully in court that the s. 189 exemption obviates the need for him to obtain a licence pursuant to s. 190. The courts are, as yet, silent on this point.

APPENDIX I

APPENDIX I

SOCIAL CLUBS

PREAMBLE

With the permission of the Co-ordinated Law Enforcement Unit of the Ministry of Attorney General and with due regard for the sensitivity of information contained therein and the protection of their sources, the following excerpts from their report have been brought together as a summary. Some editorial restructuring has been necessary in the interests of brevity as well as aforementioned security. We must point out again that this is a new addition to the mandate of the Commission, one with which we are not yet fully familiar.

BACKGROUND

Formal licensing of social clubs permitting gambling was adopted in British Columbia in January 1975. Although this was four years after the permissive section of the *Criminal Code* of Canada was enacted, British Columbia was the only province to initiate licensing and still is. In 1972, terms of licensing were drafted by the Criminal Law Section of the Ministry. These were circulated to police departments and even to some unlicensed gambling clubs for comment. Eighteen of these clubs agreed to the terms, which included a licensing fee of \$100 (currently \$200), and submitted their money expecting to be licensed. No approval of the terms or licensing was forthcoming for two years. At the time of licensing there were approximately 40 active gambling clubs in British Columbia, all operating illegally.

When licensing was approved in 1975, the Director of Lotteries recommended that it be handled from his office so that licensing and control of all lotteries, bingos and social clubs would be concentrated in one location. This is subject of a memo dated May 13, 1980 to the Director of B.C. Lotteries from the Chief Licensing Officer. It is also indicated that the licensing officer in 1975 was given the authority to issue the licences. By 1980 there were 43 applications. The anticipated proliferation of these clubs did not occur and there were only 42 applications for 1987.

During the period from 1975 to 1985, efforts were made to bring social clubs in line with the intent of the *Criminal Code* and to "clean up" the terms of licence. The major problems which surfaced annually were whether or not a club was bona fide and whether there was a proven proprietorship. Questions of definition were asked of the Criminal Justice Branch, and, while these questions were well answered, the problem of effectively policing the terms continued to plague those responsible. These same problems exist today and will be discussed later in this appendix.

LICENSING STATUS FOR 1987

In October of 1986 a new application form was drafted and forwarded to 44 social clubs. A copy of this application is included at the end of this appendix. Forty-two clubs returned the application for processing. A covering letter forwarded with the form requested a return by November 27th of 1986 to allow for processing prior to January 1, 1987. Many clubs did not make that deadline for various reasons. The form had information requirements which were very demanding. These requirements included a financial statement, annual report and certificate of good standing. In the past, clubs would file late and even though the licence had expired, they would continue to operate. To offset this laissez-faire attitude, each club was warned with each piece of correspondence that they could not operate without a licence and, if they did, they were liable to be prosecuted.

It was also decided that an interim licence, valid for three months, would be issued in order to allow proper investigation of the applicant and to serve notice that a serious look was being taken at the entire social club situation.

Of the 42 clubs applying for licensing for 1987, 41 were inspected, while one was refused a city permit and had no alternate location. By March 31st of 1987, when the interim licences had expired, the breakdown was as follows:

Full licence for 1987	33
Further interim licence	3
Not recommended for licence	5

FULL LICENCE FOR 1987

The 33 social clubs that were granted a full licence were thoroughly investigated and inspected. Five of these have to meet conditions which require them to upgrade their premises by a certain date. This involves upgrading dirty bathroom areas, replacing or repairing torn rugs, and painting. All have agreed to the upgrading and notations giving details have been placed in their files. The Commission is of the opinion that 31 of the 33 clubs that received full licenses are proprietorships, based on investigation and intelligence received. However, this can not be proven.

PROPRIETORSHIP

As mentioned in the background of this report, one of the major problems with social clubs is the question of proprietorship. Police intelligence tells us that most "charters" or licences are bought and sold continually, with the transaction shown as "start-up" fees, that is, the money put up for tables and equipment as well as lease improvements. Some start-up fees are shown in the financial statement as loans, either with or without a chattel mortgage. Most loans, however, do not appear in writing.

Of the 42 clubs processed initially, 12 had start-up fees owing to a member. Of those, the average amount of the investment was \$10,000 with the highest being \$72,000. An examination of the positions held within the society by those people revealed that 11 of the 12 presently hold executive or management slots. It is fair to say that when a person takes over the start-up fees or debt owing by the club, he controls and manages it. In most of these cases there was no structured pay-back to satisfy the debt. In this way a person continues to have an interest or "share" in the club and sells it when he moves on. Where possible, we have insisted on a chattel mortgage and satisfying the debt so that it is cleared. These people using their money to start a club or to buy into a club invariably draw a wage as a manager. It is interesting to note that when asked why the debt was not being satisfied, eight replied that there was not enough money after wages.

Another area of examination is the use of holding companies which are formed by one or more of the principals or managers of a social club. These companies charge the club for handling the lease agreement, administrative fees and management arrangements. This is not only seen as a means to syphon off money, but it also gives a small body of people control over the society. Three social clubs having this structure were advised that these arrangements were not acceptable, and were changed accordingly.

In correspondence with Legal Services Branch and in researching case law, the test of proprietorship seems to be found in *R. v. Tatti*, (1965) 4 CCC 268:

Were the assets owned and controlled and was the conduct of the club controlled by all members equally; how are the proceeds of the games used; is there a personal gain for any one member or any group of members; what were the club's bylaws regulating use of the club by non-members or visitors.

It would seem that, if a club was a bona fide social club, the start-up fees and other debts should be shared equally by the members.

GAMES PEOPLE PLAY

Traditionally the Chinese social clubs play Mah Jong, Um Gow, Pie Gow and some play a Chinese game of Fish. Most clubs do not charge time fees for Mah Jong, some charge half of the \$2.00/hour time fee allowed. If a game requires a dealer due to its nature then all other players refuse the deal. Without a doubt,

all police intelligence indicates that the large Chinese clubs are hiring a dealer and are taking five per cent off the winning pot. This is prohibited in the Terms of Licence.

Oriental clubs have had problems over the years trying to conform to rules applied to poker clubs. To apply the same method of time fees to a game of Mah Jong or Pie Gow as you would to poker does not seem fair to them as the length of play is so short. Not only can you play seven Chinese games during the same period as one seven card stud poker hand but it is also unusual for a Chinese game to go beyond two hours whereas a poker game can go all night.

Occidental clubs or poker clubs play their own brand of poker. Most clubs like to play Texas Hold'em and Seven Card Stud or Seven Toed Pete, allowing for lots of betting. Other games of poker are:

Draw
Omaha
Hi-Lo Split
Lo Ball
Sousem
Pan

Pan, which requires eight decks of cards, is sometimes played with a dealer.

The split pot started the jackpot problem. If a pot were split between two players and an odd chip was left over, it was placed into a receptacle. When this had accumulated, it would be won by a pre-determined hand, such as the high losing hand of the night. Not only did this solve splitting the pot evenly but, in large clubs, it kept the players there until the draw. One particular club then went one better. It took one chip from each winning pot and put it into a jackpot. Some jackpots, won as noted before by a pre-determined hand at the end of the night or the end of a week, built up to over \$1,500. Word soon went out and players from other clubs moved over until the other clubs devised competitive jackpot schemes. While this was supposed to be voluntary, no one could refuse. The management of the clubs stated that they were only handling the chips from the pot to the bin for the player and only locking the jackpot bin up in the office for the players' protection. There was no possible way for a member to know what part of a jackpot went to a "winner". When the clubs were advised that this was not acceptable, one manager for some reason, offered to put up \$500 from his pocket for a jackpot. When asked why he would do that, he could not reply. The only logical reason was to draw customers from other clubs. A letter was sent to all clubs indicating that jackpot play was not permitted. The intent of the terms of licence was cited as a bar to clubs pulling up money.

No sooner had this been settled than multiple "buy-ins" were introduced to tournaments. If you entered a poker tournament and paid a buy-in fee which went to the winners but were subsequently knocked out, the club would let you buy back in and they would hold the money. If you went out again, you only had to pay a buy-in fee to play again. Once more there was no accounting for the money the house received. This manner of play was also found unacceptable. Decisions which were made were in concert with the Vancouver Police Department and RCMP Gaming Specialist.

These are two examples of manipulation which occur in the social club community. They exemplify the attitude and competition of this community.

Also played in the social clubs are rummy, usually one-half of the time fee, checkers, crib and bridge, no time fee is charged. Some have attempted to start up blackjack. As this requires a dealer it is not permitted and does not seem to be played.

ADVERTISING

The question of advertising is a gray area which affects the bona fides of a social club and is the subject of abuse. Common forms of advertising are signs, newspaper ads and business cards. At least six social clubs advertise in one form or another and 19 clubs were found claiming advertising costs as a club expense in their financial statement. A club in Victoria runs advertisements telling the general public to come and learn how to play poker. It always includes the word "member". A Vancouver club has articles, along with pictures, prominently displayed in trade magazines. Many of the social clubs have business cards which circulate throughout the gambling community.

The question "may we advertise?" is asked often and is difficult to answer. A large number of clubs asked for light advertising and while there is no prohibition to it, they were discouraged. Those who are

advertising were not told to stop as they insist that they are merely trying to increase membership, not go after customers.

The Legal Services Branch, Ministry of Attorney General, provided information on the question of advertising by social clubs. They indicated that they were unaware of any restrictions on advertising carried out by social clubs. As an example they did not think it would be objectionable if, for instance, an ethnic Greek social club were to circulate a discreet flyer within a part of the community, where it was known that there were many recent immigrants from Greece, in order to make them acquainted with the facilities available for recreation and socializing with their fellow countrymen. On the other hand, if a social club explicitly advertises its gambling facilities with the intention of attracting the general public and not simply members or prospective members, that may be evidence that goes to question its bona fides.

Most of the societies who advertise are aware of the distinction drawn between going after customers as part of an enterprise and soliciting membership. The results of the action are the same and to stop a club from advertising when it has the right is difficult.

MEMBERSHIP

All clubs inspected had membership lists in one form or another. Application forms required the submission of a list. Most social clubs have a register at the door which a person fills out to become a member. Society bylaws are standard in their membership requirements in that a director or officer of the club must approve an application for membership. This is not practiced as the "signing in" is usually sufficient to obtain membership. When questioned on this point, directors, who are usually floor managers as well, state that they review the book each night.

Membership fees range from "no charge" to \$50 per month. Most clubs charge \$2 to \$10 per year. The majority of clubs have membership cards which are produced on request.

The most common query concerning membership is the lack of provision for guests. The Terms of Licence prohibit anyone being on the premises unless he is a director, officer, employee or member of the licensee, or a peace officer or person designated by the Attorney General or his Deputy.

A legal opinion which was sought and received indicates: "There is nothing in the Society Act which regulates whether a club is allowed to admit guests. If the club is a bona fide social club, it would seem consistent with the purposes and objectives of the club (omitting for the moment that gambling may be carried on) that members be allowed to have guests admitted to the social facilities maintained by the club." The problem of guests is mostly identified with out-of-town relatives or friends.

As outlined in the previous paragraphs there have been many ways used to increase membership from jackpots to advertising, all of which has created competition.

POLICE INVOLVEMENT

Of the 42 social clubs examined, 23 are situated in the Lower Mainland, 14 of these in Vancouver. The breakdown of jurisdictions is:

Vancouver Police Dept.	14
Victoria Police Dept.	4
Port Moody Police Dept.	1
New Westminster Police Dept.	1
RCMP Lower Mainland	9
RCMP Vancouver Island	4
RCMP other areas	9

Vancouver Police Department actively police the clubs with their Vice Intelligence Unit. A team of two officers visit the clubs routinely each day. Social clubs in RCMP jurisdictions are generally monitored by a General Investigation Section (G.I.S.) if there is one in the area and by the Gaming Specialist who covers the province and Yukon Territories. Other police departments have their detective units respond.

The recent inspection and formal interview not only made the societies cognizant of a change of attitude by the province but also the police jurisdictions. In previous years the issuing of a licence has not created much interest in the police community unless there was a specific complaint. Now, as a result of

liaison and complete cooperation everyone concerned wishes to and does have input. The concept of a government inspector, who not only is knowledgeable but is known and respected, was well received by both police and gamblers.

CHINESE CLUBS

Seven Oriental social clubs applied for licensing in 1987. These present different enforcement problems from the Caucasian clubs. Mention has already been made of the games which are peculiar to the Chinese, some requiring a dealer and most subject to the collection of five per cent of the pots. The culture involved — combined with such factors as work patterns where many members work in the food industry until four or five o'clock in the morning and then wish to gamble — must be considered. While some clubs are neat and well-appointed, others, because of the location in Vancouver or Victoria Chinatown, are rundown and dingy. Difficulty was experienced when inspecting these clubs because of this cultural and language barrier.

MUNICIPAL BYLAWS

Two areas of concern in the operation of a social club are a municipal licence to operate within a city or town and a closing time bylaw. Most municipalities require a licence before an address can be confirmed for the club. Only one hearing was held as a result of a licence application. That was in the City of Vancouver when an effort was made to set up a club in the 300 block East Broadway. Local residents, church and school officials attended a hearing at City Hall along with the police and the licence was denied. As the club did not have a location from which to operate, no social club licence was issued.

A contentious issue continues to be the hours of operation. The City of Vancouver is the only jurisdiction which has a bylaw requiring social clubs to close by a specified time, in this case 2:00 A.M. Clubs outside of Vancouver can and do stay open all night. This causes two reactions. Societies locate their premises outside Vancouver to escape the bylaw. It also causes club hopping where players will belong to a Vancouver organization and another or several others outside the city. They then leave one club when it closes and go to another.

Many of the Vancouver clubs are asking for a uniform closing time. While this may be desirable for the reasons shown, it also presents the problem of arriving at a suitable and fair hour. As was mentioned, when discussing the Oriental clubs, many card players work late into the night and can only play after 2:00 or 3:00 A.M. Others, such as loggers or miners come into a city like Nanaimo or Port Alberni from a lengthy stay at a work site. To curtail the operation of their social club could defeat the intent of its licence. If a uniform closing time were adopted, these factors would have to be considered.

LIQUOR

It is understood in all social clubs which fall under the gaming licensing that no liquor is allowed. Rarely is this a problem for, like card cheats, no club wants it. However, there are instances of someone having a bottle of his own in the club or of single shot bottles being poured into coffee cups. It is felt that these cases are isolated.

Section 38 (1) (a) of the *Liquor Control and Licensing Act* prohibits gambling in a licensed establishment with certain exceptions. There is nothing, however, to prohibit liquor being present or consumed in a private social club. The terms of licence do not broach the subject and there appears to be nothing to prevent a member having his own liquor or being given liquor on the premises.

BONA FIDES

Most of the case law dealing with the bona fides of social clubs addresses the issues of control by a group over the club for purpose of gain. This is true of licenced social clubs in British Columbia. Compliance to form and observance of the Act and bylaws may place a club in good standing but is not conclusive of its bona fides. Social clubs have been made to comply with the requirements of the *Society Act*; however, they are still a proprietorship for gain.

Concealed ownership, financial interest or holding of shares is most often expressed in loans to a society by a founding group or individual for "start-up fees," an expression for money ostensibly used to help a club purchase equipment and pay leases. Some of these transactions were found in financial statements as chattel mortgages, others are never recorded.

Social club gambling is a money-making enterprise for the majority of the clubs. Shares are bought and sold, charters purchased and money skimmed. Knowledge of the law and retention of lawyers to ensure they conform to the legislative requirements leaves a licensing body with the task of proving a "state of mind" or of continually trying to out-maneuver the licensees.

The existence of social clubs cannot and should not be eliminated. The *Criminal Code* provides for them and if they are not following the intent of the legislation the remedy should be found at law.

COMPETITION

Competition for patrons is the norm in the gambling community. Delays in issuing licences caused concern that customers were being lost rather than a service was not available to members. Advertising is practiced to bring in customers but is couched in words which suggest a search for members. Should a society be formed because of a need expressed by a group or should a society be formed and a group then sought to participate? It seems that advertising is indicative of enterprise.

POLICE AND COMMUNITY

The presence of social clubs has not had a significant impact on the community. Very few complaints have been processed by police. Chinatown has had problems with the clubs and Asian youth gangs; however, these problems are not restricted to social clubs.

Troublemakers are few and do not present any major problems. They are well known to both the gambling clubs and to the police and, where necessary, the clubs have banned them from playing.

**APPLICATION FOR SOCIAL CLUB GAMING LICENCE PURSUANT TO
SECTION 179(2) OF THE CRIMINAL CODE OF CANADA**

INSTRUCTIONS

1. The individual (the Signing Officer) completing this application form on behalf of the Social Club which is applying for a gaming licence must be duly authorized to act on behalf of the Social Club.
2. The Signing Officer must read the attached Policy Guidelines before completing the application form.
3. The Signing Officer must read each item of the application form and answer each item which requires a response. If the answer to a particular item is "none" or "not applicable" it must be marked accordingly. The Signing Officer must initial each item to show that he has read and understood it and answered it accurately and completely. The initials are to be placed in the space provided in the left hand margin opposite each item.
4. If there is not sufficient space on the form to answer any item then use a separate sheet of paper for each such item with the item number in the top left corner of the page.

INFORMATION ABOUT THE SOCIAL CLUB

1.

(Registered Name of Applicant Social Club)

of

Suite No. Street No. Street City Province Phone No.

hereby applies to the Attorney General of British Columbia, or his designate, for a licence pursuant to Section 179(2) of the Criminal Code of Canada, to charge a fee to the members of this Club for the right or privilege of participating in the games of chance to be played on the abovementioned Social Club premises in accordance with the terms of the licence.

2. Has the Club had any previous names? (Yes or No) If yes give details.

3. Number and date of incorporation of the Club:

Incorporation Number

Incorporation Date (Day, Month, Year)

4. Attached are copies of the constitution of the Club and of a certificate of good standing issued by the Registrar of Companies for British Columbia.

5. The Club hereby declares that it is a non-profit organization.

6. Attached is a copy of the latest annual report of the Club including a copy of the financial statement of the Club which was submitted at the latest annual general meeting of the Club and a copy of the auditors report which was submitted at the latest annual general meeting of the Club.

7. The following parties are indebted to the Club in the following amounts:

Company Name or Surname	Given Names	Address	Phone No. (Home/Work)	Principal & Interest	Date Due	Reason for Loan

8. Give a brief description of the land and premises at which the Club operates and at which the proposed gaming operation would take place.

9. Is the Club the owner of the land and premises at which it operates? (Yes or No) _____
If no then complete the following and attach to this application a copy of the lease for the
premises.

Owner(s) of Land and Premises	Owner's Address	Owner's Phone No. (Home/Work)	Amount of Rent Paid	Rent Paid by: (Name & Address)

10. The Club has been in continuous operation since _____ Day _____ Month _____ Year _____

at the following premises:

Suite No.	Street No.	Street	City	Province	Postal Code

11. Has the Club been involved previously in gaming operations? (Yes or No) If yes give details.

12. The following privileges and facilities other than gambling privileges and facilities, are extended to members of this Club:

13. The Club intends to charge the following fee for the right or privilege of participating in games of chance: (not exceeding \$1.00 for each half hour)

14. The hours of operation of the proposed gaming operation will be as follows:

15. The fee for membership for each and every member in the Club is \$_____ per _____ (specify whether annually, monthly, etc.)

16. The income of the Club, after payment of operating expenses, will be disposed of as follows:

17. The Club has been convicted of the following offences involving dishonesty within 5 years preceding the date of this application. Such convictions include, but are not limited to, offences in the following areas: fraud, extortion, theft, blackmail, gaming, betting, gambling, lotteries, currency offences, bookmaking, bribery, counterfeiting, defrauding creditors, loansharking and false pretences.

Offence	Date of Conviction	Penalty

18. The Club has been convicted of the following breaches of regulatory laws and regulations including but not limited to breaches of the Societies Act, the Liquor Control and Licensing Act, the Securities Act and any municipal by-laws within 5 years preceding the date of this application:

Offence	Date of Conviction	Penalty

INFORMATION ABOUT INDIVIDUALS AND COMPANIES INVOLVED WITH THE SOCIAL CLUB

19. The Club directors, officers, employees and financial supporters are as follows:

(a) **DIRECTORS:**

Surname	Given Names	Date of Birth	Address	Phone No. (Home/Work)	Date of Appointment as Director

(b) **OFFICERS:**

Surname	Given Names	Date of Birth	Address	Phone No. (Home/Work)	Office Held	Date of Appointment as Officer

(c) **EMPLOYEES:** (this category includes all people performing services for the Club whether or not for remuneration)

Surname	Given Names	Date of Birth	Address	Phone No. (Home/Work)	Date Employed	Monthly Salary & Position

- (d) **FINANCIAL SUPPORTERS:** (this category includes all current creditors of the Club and all donors to the Club within the 5 preceding years)

Company Name or Surname	Given Names	Address	Phone No (Home/Work)	Type and Amount of Financial Support

- 20. Attached is a complete list of all members of the Club with the address, telephone number, date of admission to membership of each member and indication of whether or not each member is a voting member or a non-voting member.
- 21. The Club hereby declares that the directors and officers of the Club serve without remuneration.
- 22. The following directors, officers, members, employees, debtors or financial supporters of this Club are directors, officers, members, employees or debtors of another social club which operates a gaming house:

Surname	Given Names	Position with this Club	Name of other Club	Position with other Club

23. The following members of this Club are also employees of the Club:

Surname	Given Names	Date of Birth	Position with Club	Date Employed

24. The following directors, officers and employees of the Club have been convicted of an offence involving dishonesty within five years preceding the date of this application. Such convictions include but are not limited to offences in the following areas: fraud, extortion, theft, robbery, blackmail, gaming, betting, gambling, lotteries, currency offences, bookmaking, bribery, counterfeiting, defrauding creditors, loansharking, false pretences, uttering, breaking and entering and counselling.

Surname	Given Names	Date of Birth	Offence and Date of Conviction	Penalty

25. The following directors, officers and employees of the Club have been convicted of the following breaches of regulatory laws and regulations including but not limited to breaches of the Societies Act, the Liquor Control and Licensing Act, the Securities Act and any municipal by-laws within 5 years preceding the date of this application:

Surname	Given Names	Date of Birth	Offence and Date of Conviction	Penalty

26. To the best knowledge, information and belief of the individual completing this application form no member, financial supporter or debtor of the Club has been convicted of an offence involving dishonesty or of a regulatory offence, within 5 years preceding the date of this application except as listed below:

Sur. me	Given Names	Offence and Date of Conviction	Penalty

GENERAL STIPULATIONS

27. The Club is fully aware of the Attorney General's policy guidelines in respect of the issuance, suspension and revocation of licences under section 179(2) of the Criminal Code of Canada and if issued such a licence, will comply faithfully with all terms applicable to it, and hereby expressly consents, during the term of the licence or any renewal of it:
- (a) to routine and random inspections of the premises of the Club and audit of the records of the Club, by any person designated by the Attorney General or his Deputy without a search warrant, during the hours of operation of the Club for the purpose of ensuring compliance with the Attorney General's policy guidelines respecting the charging of fees; and
 - (b) to the removal for a reasonable time of the records of the Club by any such designated person for the purpose of making copies thereof if such designated person has reason to believe that the records are incomplete or inaccurate.
28. The Club will inform the Attorney General in writing immediately upon the occurrence of any changes with respect to any of the information in this Application Form which occur during the term of any license which is issued to the Club including, but not limited to, full particulars of any changes with respect to directors, officers, employees, members, financial supporters, volunteers, premises, location and name.
29. All of the information contained in this application is true and complete and no information which is required to be disclosed has been omitted. The undersigned is duly authorized by the Club to sign this application on its behalf.

DATED AT _____ B.C. this _____ day of
_____, 19____.

SIGNATURE OF SIGNING OFFICER ON BEHALF OF THE CLUB

**NAME OF SIGNING OFFICER:
OFFICE HELD:**

IMPORTANT:

THE PROVIDING OF FALSE, INCOMPLETE OR MISLEADING INFORMATION OR THE OMISSION OF INFORMATION IN THIS APPLICATION OR IN THE DOCUMENTS SUBMITTED WITH THIS APPLICATION, OR THE FAILURE TO NOTIFY THE ATTORNEY GENERAL OF ANY CHANGES TO THIS INFORMATION WHICH OCCUR DURING THE TERM OF THE LICENCE MAY RESULT IN REFUSAL OF LICENCE OR IN SUSPENSION OR REVOCATION OF ANY LICENCE ISSUED.

APPENDIX J

APPENDIX J **ADVERTISING GUIDELINES**

The following guidelines were issued by the Public Gaming Branch on October 5, 1987:

- (1) Advertising will be limited to the date, time, licensee, licence number, location and description of the location;
- (2) There will be no advertising of a guaranteed prize, e.g.:
 - (a) guaranteed prize dependent on attendance;
 - (b) prize related to another lottery event;
- (3) There will be no offer of a prize that is not part of the prize structure for that specific bingo event, e.g.:
 - (a) prize awarded by third party;
 - (b) communal prize awards;
 - (c) free admittance to a cash or merchandise draw;

These guidelines have been in effect for casino events and have met with the approval of casino management companies. It is noted that many bingo licensees are operating within these guidelines and their assistance is acknowledged.

FEE STRUCTURE

APPLICATION FEE

- (1) \$50.00 application fee for all types of licence (non-refundable) not to be deducted from any other fees.
- (2) \$25.00 fee for each amendment to any licence.

LICENCE FEE

- (3) Bingo 2% of gross revenue to cover the cost of increased inspections; fees due with each quarterly report.
- (4) Casino no change from current 10% of gross revenue.
- (5) Ticket 2% of gross revenue to cover the cost of increased inspections for "A" licence.
- (6) Fairs fees to be the same as each individual activity licenced based on a per cent of gross receipts:
 - 2% — cash bingo;
 - 10% — casino games;
 - 2% — ticket.Concessionaires:
 - \$150.00 — basic fee (including one game);
 - \$ 50.00 — each additional game;
 - \$ 25.00 — per person listed for investigation and clearance.
- (7) Social Clubs:
 - \$400.00 — inspection fee;
 - 10% — of time charges (remitted quarterly).
- (8) "B" Licences:
 - \$10.00.
- (9) Bingo Hall Operators and Casino Management Companies:
 - \$500.00 — investigation fee for each location;
 - \$200.00 — investigation fee for each additional location;
 - \$ 25.00 — investigation fee for each Director/Officer/Employee.

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Appendix B

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**Report on Gaming
Legislation and Regulation
in
British Columbia**

January 1999

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PART 2: GAMING CONTROL ACT

Executive Summary and Recommendations

The Honourable Mike Farnworth, Minister of Employment and Investment and minister responsible for gaming policy and programs in British Columbia, instructed that a White Paper on gaming and a draft *Gaming Control Act* be prepared for general public review and comment and consideration by government, in anticipation of presentation to the legislature of a new gaming statute.

This initiative followed several years of policy review and implementation of gaming expansion and diversification in the province. It also followed unprecedented levels of court activity involving the province, various municipalities, several charity groups, and government and commercial operators. Legal challenges, court decisions and appeals have required some changes to government's originally intended program of moderate gaming expansion. They also resulted in implementation of an "interim" regime defining the structure and roles of participants in government and charitable gaming. While the interim regime has served to bridge the period and circumstance of uncertainty, many of the current issues now in dispute or doubt will be resolved only with a set of clear policy decisions and the introduction of enabling provincial legislation. The White Paper and draft *Gaming Control Act* attempt to define those major issues and make recommendations to focus further discussion with and advice to the minister.

The White Paper broadly reviews the history and objectives of gaming policy and institutions in British Columbia. It also reviews and examines the policy objectives for gaming articulated by government over recent years and summarizes the positions of key stakeholders involved in or associated with gaming issues.

The White Paper benefits from a comprehensive review of British Columbia's bingo sector undertaken by the Gaming Policy Secretariat (the Bingo Review). Since that initiative occurred during the development of the White Paper there has been an opportunity for an exchange of ideas, and certain recommendations in the White Paper are also reflected in the Bingo Review. The studies and recommendations generated by the review have been published as a separate report by the Gaming Policy Secretariat, and have been considered in the White Paper recommendations.

The White Paper canvasses, in varying degrees, law enforcement, social policy concerns, gaming expansion and new or emerging issues such as Internet gaming. These issues are illustrative of the mosaic of questions and challenges surrounding gaming policy and its administration.

Guiding Principles

The White Paper and the proposed *Gaming Control Act* contain recommendations for consideration by government which, if adopted in provincial legislation, would form the foundation for gaming policy and administration in British Columbia. These recommendations are advanced with the certain knowledge that all the interests and points of view proffered by the various stakeholders cannot be met concurrently. However, they are intended to reflect the following principles:

- provincial legislation must provide a secure and sustainable legal foundation for gaming policy and activities;
- the *Gaming Control Act* must address issues of doubt or concern arising from recent and continuing court actions;
- the Act must provide a secure base for the implementation of government's stated policy objectives for gaming, and clarify the authority for future gaming expansion, if any;
- the Act should clearly articulate the participation by and entitlements of charities in gaming;
- the Act must provide a funding model whereby charities receive, in addition to charitable gaming income, a portion of casino gaming revenue substantially consistent with government's current announced policy;
- provincial legislation must clearly define roles for the public agencies and offices involved in gaming policy and administration, and clarify and resolve current regulatory uncertainty and overlap;
- the *Gaming Control Act* should secure resources for law enforcement and problem gambling education and treatment programs, and establish minimum age standards;
- the Act must resolve provincial-local government jurisdictional uncertainty in a manner consistent with both the provincial government's stated objectives for gaming expansion and its policy framework for provincial-municipal relations;
- the Act must create a stable legal foundation, resolve jurisdictional issues, and clarify regulatory responsibility so that commercial gaming operators can continue as service providers in a sustainable and more certain business environment; and
- the White Paper and *Gaming Control Act* should leave no doubt or uncertainty in respect of regulatory roles or jurisdictional issues.

Recommendations

1. Gaming legislation and policy should be structured in accordance with the legal framework described in Chapter 3 of the White Paper.
2. Legislation should clearly define roles, jurisdiction and responsibilities of the key public agencies and offices involved in government and charitable gaming, including:
 - the minister responsible for gaming;
 - the Attorney General;
 - the British Columbia Lottery Corporation;
 - the British Columbia Gaming Commission; and
 - the Gaming Audit and Investigation Office.
3. Legislation and government policy should encompass the findings and recommendations respecting bingo gaming that flow in part from the Bingo Review undertaken by the Gaming Policy Secretariat.
4. Legislation should reflect the structure for gaming administration recommended in Chapter 10 of the White Paper, specifically, segmentation of gaming activities between government based gaming and charity based gaming.
5. Government gaming should be undertaken through a restructured and renamed British Columbia Lottery and Casino Corporation that would be responsible for the conduct of all gaming under s. 207(1)(a) of the *Criminal Code* of Canada, including traditional lottery tickets and casino gaming including slot machines.
6. The Lottery and Casino Corporation should discontinue all bingo gaming activity.
7. The Gaming Commission should assume all responsibility for the charitable bingo gaming sector, and should retain responsibility for reviewing, approving and monitoring applications by charities for access to gaming venues or revenues.
8. All bingo should be undertaken pursuant to s. 207(1)(b) of the Code.
9. Charities should have exclusive domain over all bingo activities, subject to licensing by the Gaming Commission.

10. Charitable bingo gaming could include "technology assisted" bingo where the Gaming Commission is satisfied that the technology is consistent with Code requirements.
11. The Gaming Commission should:
 - continue its current regulatory and enforcement programs and supplement resources as necessary to accommodate expanded jurisdiction in bingo activities; and
 - undertake a review of its current programs and resources for evaluating and auditing approved charitable use of proceeds.
12. The Lottery and Casino Corporation should review and assess its security programs to reflect its continuing and growing role in casino activities, including slot machines.
13. The *Gaming Control Act* should include a funding mechanism that incorporates government's initial guarantee of \$125 million with a formula that ensures charity entitlement to an amount, after accounting for retained bingo revenues, equal to 1/3 of ongoing government net casino gaming revenue.
14. The Gaming Commission and the British Columbia Association for Charitable Gaming should develop a protocol to define an appropriate relationship between government and the association as a representative of charity participants.
15. In order to address concerns over the ability of licensed charities adequately to fulfill the obligation for conduct and management of licensed charitable bingo, the Gaming Commission should pursue a materially different model involving the licensing of charitable associations, recognized as charitable public foundations for income tax purposes, to conduct and manage bingo for the benefit of other charitable and religious organizations. To this end, the Gaming Commission should:
 - actively examine the replacement of bingo associations with charitable associations and, to that end, ascertain by an appropriate submission to Revenue Canada, for itself or in support of a new charitable association, whether it is acceptable for *Income Tax Act* purposes that charitable gaming in bingo halls be conducted and managed by licensed charitable associations (public foundations as defined in the *Income Tax Act*);
 - review the terms of the management services agreements made by licensed charities with gaming management companies, either directly, or indirectly through bingo associations, for compliance with the requirements of s. 207(1)(b) of the Code and, by amending its Terms and Conditions and Standard Procedures, assist the parties to those agreements in carrying out such changes to their contractual roles and responsibilities as are necessary to minimize any risk of noncompliance; and

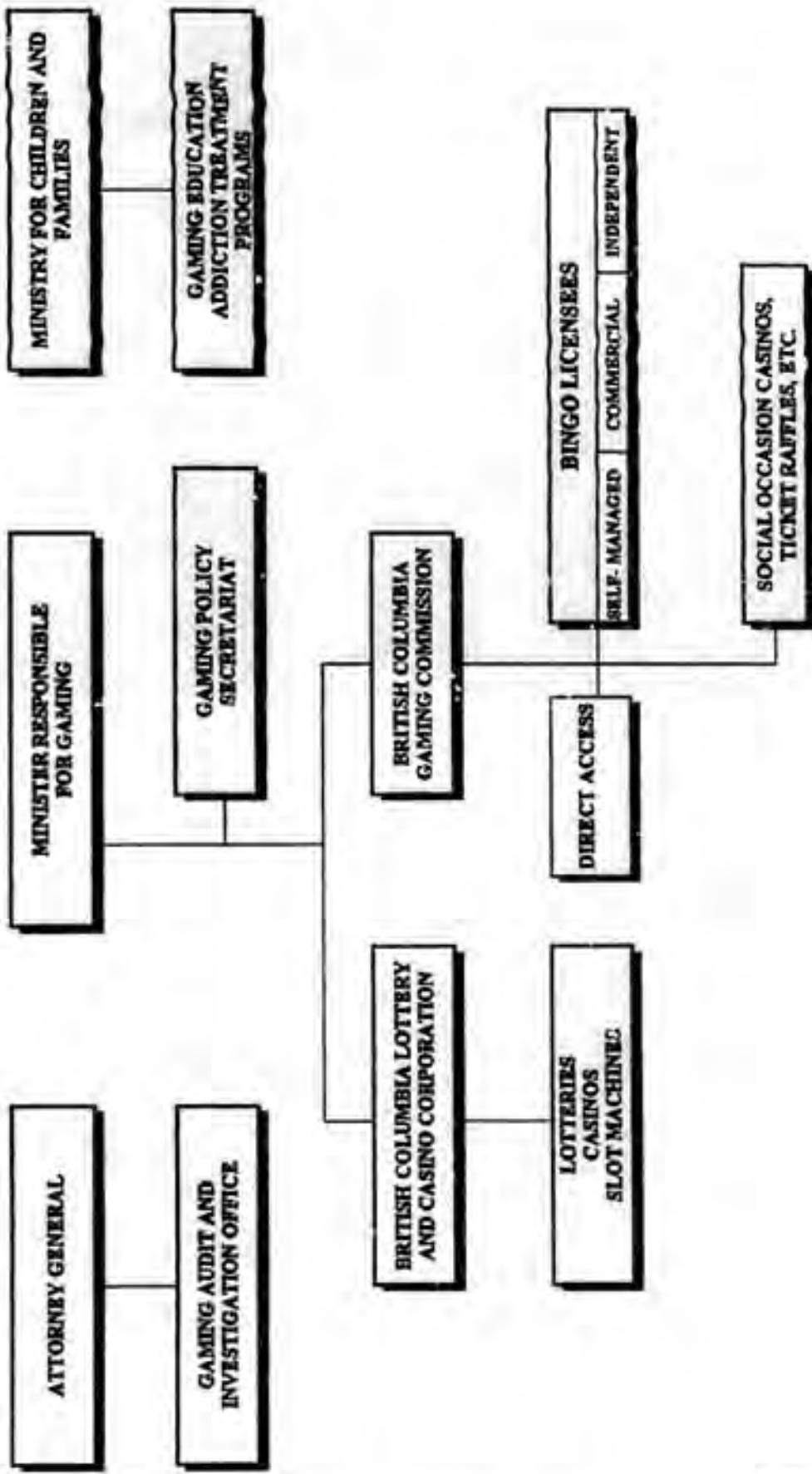
- examine and specify contractual arrangements with commercial bingo hall operators to ensure their continued involvement.
16. The Gaming Commission should develop a policy framework that fosters continued involvement and business stability for commercial bingo hall operators and self-managed bingo facilities and provides for long-term service and facility contracts.
17. Where the Lottery and Casino Corporation retains casino management companies to provide facilities and/or gaming operational services, those companies should be designated by legislation as Crown agents in respect of any "conduct and management" activities they may incidentally perform in providing such facilities or services.
18. The Gaming Audit and Investigation Office (GAIO) should:
- be constituted in legislation that confirms its jurisdiction, mandate and funding mechanism;
 - have clear law enforcement jurisdiction over all aspects of gaming regulation and operations; and
 - review its current written disclosure consents from applicants for registration to ensure that the consents are appropriately worded and permit information sharing for the purpose of facilitating background and criminal record checks.
19. GAIO and the Gaming Commission should be responsible for establishing internal procedures for reconsidering licensing and registration decisions to which affected charities and operators object.
20. GAIO, the Gaming Commission, the Lottery and Casino Corporation and provincial and municipal police agencies should implement or review and refine operating agreements in respect of law enforcement roles, responsibilities and information sharing.
21. The Gaming Commission should obtain appropriately worded explicit written disclosure consents from applicants for licences or for direct access to gaming revenue, to facilitate background and criminal record checks during the application process.
22. The Lottery and Casino Corporation should review its existing contracts with casino operators to clarify which operator records are under the custody and control of the corporation and hence subject to disclosure under the *Freedom of Information and Protection of Privacy Act*.
23. Government should enact regulations under the new *Gaming Control Act* requiring that every casino have a video surveillance system to prescribed standards, and display conspicuous, intelligible warning signs at its

- perimeters, informing players that the premises are subject to video surveillance.
24. Provincial agencies involved in gaming should enter into memoranda of understanding or operational protocols with local and provincial law enforcement agencies with respect to the collection, use and disclosure of law enforcement information.
 25. The *Gaming Control Act* should require that the Lottery and Casino Corporation and the Gaming Commission provide comprehensive annual reports to the minister responsible for gaming, who should file those reports annually with the legislature.
 26. The Gaming Commission's annual reports should provide an overview of policy, licensing and enforcement activities and detail all payments made to individual charities and all funds paid by charitable associations to individual charitable groups. The Act should require full disclosure of all payments made from charitable gaming revenues, by individual location, to service providers as well as entitled charities.
 27. The Act should require that the Gaming Commission's annual report also provide similar details in respect of other forms of approved and licensed gaming events, including ticket lotteries.
 28. The Gaming Commission should seek the advice and direction of the Auditor General for British Columbia in designing and fulfilling its reporting requirements.
 29. Government should:
 - approve a special police and prosecutorial program dedicated to investigating illegal gambling and prosecuting criminal offences;
 - ensure that enforcement officials give high priority to investigating and prosecuting operators of illegal social clubs;
 - fund the program with gaming proceeds, in the initial amount of \$1.5 million, through GAJO, to ensure proper coordination of resources and appropriate accountability for the expenditure of provincial funds; and
 - structure the program at the provincial level, through a special unit to be established within "E" Division, RCMP, or on a basis consistent with the recommendations of the recently completed independent review of organized crime and the restructuring of the Coordinated Law Enforcement Unit, or as the Attorney General may otherwise decide.
 30. Government should mandate, and fund with provincial gaming revenues, programs for problem gambling education, addiction and treatment, and specifically:

- authorize the expenditure of approximately \$2 million in the next fiscal year for the problem gambling program;
 - agree to review funding levels in subsequent fiscal years on the basis of reports submitted by the Ministry of Children and Families; and
 - require Adult Addiction Services to submit a comprehensive annual report, to both the Minister of Children and Families and the minister responsible for gaming, on the incidence of problem gambling and the services provided.
31. The *Gaming Control Act* should provide broad inspection and enforcement powers and establish significant sanctions, penalties and fines, as recommended in the draft Act.
32. The Act should resolve the ongoing dispute over provincial/municipal jurisdictional issues, specifically by extending current government policy respecting destination gaming and local government approval to all new gaming applications. A legislative mechanism should be included to exempt existing gaming venues as necessary from municipal jurisdiction inasmuch as those casino operations have previously been approved by the province. Their full and successful operation is essential to achieving government's policy objectives and to maximizing charity and government revenues.
33. This special status for existing community casino locations should specifically be provided for in the Act.
34. In respect of revenue sharing:
- where the province approves an application for a destination casino facility that is also approved by a host local government, the latter should receive 1/6 of net revenues for the benefit of the host local community;
 - local governments should receive 10% of the net revenues from individual community casino operations within their jurisdictions for the benefit of the local community;
 - where a local government approves, or does not oppose, the operation of a community casino facility, the local government should receive those funds on an automatic and ongoing basis, effective at the commencement of the new fiscal year on April 1, 1999;
 - those local governments that oppose gaming or gaming expansion should indicate by council resolution, in a form prescribed by the minister, their willingness to receive the local government share of revenues from community casinos operating within their jurisdictions; and
 - funds not requested by qualifying local governments should be earmarked for other local governments and distributed annually by the minister.

35. The *Gaming Control Act* should incorporate a provision to accommodate limited local government licensing of small-scale charitable gaming, as deemed appropriate by the provincial government, under the terms of a bilateral agreement between the province and the local government.
36. The minister responsible for gaming should have clear authority under the Act to approve gaming expansion and types of gaming.
37. The Act should regulate all aspects of or activities related to the sale of lottery tickets in British Columbia, including tickets in domestic or foreign lotteries.
38. Government should consult with prosecution and enforcement officials in the Ministry of Attorney General, who are familiar with the activities of lottery ticket resellers, in order to ensure that the proposed statutory provision adequately regulates lottery ticket sales within the province.
39. The minister responsible for gaming should direct that the Gaming Policy Secretariat, with other appropriate ministries, further consider the emerging gaming issues, such as Internet gaming, identified in the White Paper and develop appropriate action plans to anticipate and deal with those issues, either through the powers and authorities of the provincial government, or in concert with the other provincial governments and the federal government.

The following organizational chart is provided only as a means to illustrate the recommended structure for the administration of gaming activities in British Columbia, and is not intended to be a definitive description of the proposed regime.

Chart 1: Recommended Structure for Gaming Administration in British Columbia

1.0 Purpose

In 1998, the Honourable Mike Farnworth, Minister of Employment and Investment and the minister responsible for gaming, confirmed government's commitment to proceed with a provincial *Gaming Control Act* as a way to provide:

- long-term legal and financial stability for the provincial and charitable gaming sectors; and
- a formula or method for distribution of gaming revenues.

Central to the minister's announcement is government's commitment that a new *Gaming Control Act* reflect:

- the current structure of permitted gaming under the *Criminal Code of Canada*;¹
- limitations on gaming activities identified by the courts in decisions in both British Columbia and elsewhere; and
- the provincial government's stated policy on gaming operations, expansion and revenue objectives.

In addition, as announced by the minister, the new Act is to provide a consolidated and comprehensive governance structure for all forms of government and charitable gaming in the province other than horse racing.

To achieve these objectives, the minister initiated a two-stage process of consultation first with key stakeholders, public officials and other interested parties and then with the wider community. In so doing, the minister appointed Mr. Frank Rhodes to:

- chair a Gaming Project Working Group;
- coordinate the consultative process; and
- prepare a report on gaming legislation and regulation in British Columbia, including a White Paper and a draft *Gaming Control Act*.

The first stage of the consultative process has now been completed. This is a report on the results of the Working Group's review and consultation. It includes an Executive Summary and Recommendations, a White Paper and Appendices (Part 1) and a draft *Gaming Control Act* (Part 2). The report, in its entirety, forms the basis for a second stage of public discussion and review within the wider community.

In addition to the initiatives in connection with the White Paper and draft *Gaming Control Act*, the minister instructed the Gaming Policy Secretariat to carry out a comprehensive review of bingo gaming (the Bingo Review). The Bingo Review has been published as a separate report by the secretariat.

The White Paper provides:

- Chapter 1** A statement of purpose and a glossary of terms
- Chapter 2** Background information on the history of gaming, its current structure and recent developments that have informed or limited the provincial government's policy choices in developing a new *Gaming Control Act*
- Chapter 3** A discussion of the legal framework within which provincial legislation can be enacted and gaming policy must be developed
- Chapter 4** An overview of government's current policy framework for gaming legislation in the province
- Chapter 5** A summary of the review process, stakeholder submissions and other consultation that contributed to the development of the recommendations in the White Paper
- Chapter 6** An overview of the bingo sector and the Bingo Review process, a description of the development of charitable bingo and recommendations for a future model
- Chapter 7** A discussion of social policy and law enforcement issues
- Chapter 8** A discussion of local government issues
- Chapter 9** A discussion of the emerging issues that government must address in the near future
- Chapter 10** A discussion of government's options for gaming governance and organization

Glossary

Gaming terminology is unique to the industry and its regulators. The following definitions and descriptions are intended to introduce the general reader to some of the terms used frequently in the White Paper. Terms preceded by an asterisk (*) have been first used in the White Paper.

Adjacent local government means a local government having elected responsibility for a jurisdiction, contiguous to that of a host local government, that may be materially affected by the introduction of a destination or charity gaming facility.

BCACG means the British Columbia Association for Charitable Gaming.

Bingo association means an association, formed by charity licensees in a particular bingo hall, that provides or obtains services for the licensees for the purpose of facilitating the conduct and management of charitable gaming events.

Bingo Review means the Gaming Policy Secretariat's concurrent review of bingo gaming in British Columbia.

- **Charitable association** means the form of non-profit corporation proposed in the White Paper to replace bingo associations and to be licensed by the Gaming Commission to conduct and manage bingo events on behalf of charities designated by the Gaming Commission to receive net revenues.

Charitable gaming event means a gaming event conducted and managed by a charity where the proceeds of the gaming event are used for charitable or religious purposes.

Charity or charitable organization means a charitable or religious organization as described under s. 207(1)(b) of the *Criminal Code* of Canada.

Class "A" licence means the licence issued by the Gaming Commission for the conduct and management of:

- a. bingo events or ticket raffles where:
 - i. the projected gross revenue exceeds \$10,000 in a calendar year; or
 - ii. the projected gross revenue for each bingo event or ticket raffle exceeds \$5,000.
- b. social occasion casino events; and
- c. fairs, exhibitions, wheel of fortune events or community carnivals where the projected gross revenue exceeds \$10,000.

Class "B" licence means the licence issued by the Gaming Commission for the conduct and management of bingo events, ticket raffles or wheel of fortune events where:

- a. the projected gross revenue does not exceed \$5,000 at each bingo or wheel of fortune event or ticket raffle; and
- b. the projected gross revenue from all class "B" licences does not exceed \$10,000 in a calendar year.

CLEU means the Coordinated Law Enforcement Unit.

Code means the *Criminal Code* of Canada.

1.0 Purpose

Commercial hall means a bingo hall in which operational services are provided by commercial operators to bingo associations representing licensed charities.

Commercial operator means a commercial or for-profit management company retained under an agreement by the Lottery Corporation, by a bingo association or by a licensee, for the purpose of facilitating the operation of a charitable gaming event.

- **Community casino** means a casino, generally located in an urban area, that usually offers up to 50 table games and up to 300 slot machines.

COSMO means the Coalition of Self-Managed Operators.

Destination casino means a casino, generally in a non-urban area, that usually offers up to 30 table games and up to 300 slot machines.

GAIO means the Gaming Audit and Investigation Office.

Gaming Commission means the British Columbia Gaming Commission.

Host local government means a local government having primary elected responsibility for a jurisdiction in which a destination gaming facility is located or proposed.

Licence means a licence issued by the Gaming Commission for the purpose of conduct and management of a gaming event, including a bingo event, social occasion casino event, ticket raffle or fair or exhibition.

Licensee means a person, including an unincorporated charity, licensed by the Gaming Commission for the purpose of conducting and managing a gaming event.

Local government includes a municipality, city, regional district or First Nations Band Council.

Lottery Corporation means the British Columbia Lottery Corporation.

Minister, unless the context otherwise provides, means the Minister of Employment and Investment and minister responsible for gaming.

Nanaimo case refers to the decision of Mr. Justice Owen-Flood in *Nanaimo Community Bingo Association v. British Columbia (Attorney General)*, a January 14, 1998 decision of the Supreme Court of British Columbia.

Net revenue means the revenue from a bingo or casino gaming event less the amount paid out in prizes or winnings and operating costs, including applicable fees.

Racing Commission means the British Columbia Racing Commission.

RFP means the Request for Proposals issued by government in July 1997 seeking proposals for the development of new gaming facilities.

Section 207(1)(a) gaming means gaming conducted and managed by the province.

Section 207(1)(b) gaming means gaming conducted and managed by charities licensed by the province.

Self-managed hall means a bingo hall in which operational services are provided to licensed charities by a bingo association.

UBCM means the Union of British Columbia Municipalities.

VLT means video lottery terminal.

WIN in casino gaming means the wagers placed by customers less winnings paid out to customers, plus the rake from rake games.

- * **Working Group** means the Gaming Project Working Group established to prepare this White Paper and the draft *Gaming Control Act*.
-

Endnote

- ¹ R.S.C. 1985, c. C-46.

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2.1 Overview

This chapter of the White Paper provides background on the historical and legal framework for gaming in Canada, and on the current structure and recent developments in British Columbia.

The *Criminal Code of Canada*,¹ including the provisions of Part VII of the Code that permit limited forms of gaming under provincial legislation and licensing regimes, applies in all Canadian provinces and territories.

Pari-mutuel wagering on horse racing has long been associated with agricultural fairs and exhibitions. Responsibility for various aspects of the regulation of horse racing and the licensing of racing events is divided between the federal Minister of Agriculture and the provincial Racing Commission.

Most forms of gaming were prohibited under the Code, although a 1938 amendment permitted *bona fide* social clubs and small lottery schemes held occasionally and for charitable purposes. These provisions did not change significantly until 1969. During the 1970s, the province began issuing gaming licences to charities and to fairs and exhibitions. In 1974, British Columbia became a partner with the three other western provinces in the Western Canada Lottery Foundation.

Since 1985, British Columbia has operated lottery schemes through the British Columbia Lottery Corporation. In 1987, the provincial government established the British Columbia Gaming Commission as an independent administrative agency responsible for developing gaming policies and procedures, and for licensing all forms of non-government gaming other than horse racing and social clubs.

In March 1997, the provincial government announced policies to permit the controlled expansion of gaming and the development of new, comprehensive gaming legislation. The new policies and supporting regulations were subject to several legal challenges in late 1997 and early 1998, some of which remain outstanding.

In response to these challenges, the provincial government took steps, in March 1998, to implement an interim regime for the purpose of stabilizing the government and charitable gaming sectors pending the development and enactment of a new *Gaming Control Act*.

Gaming issues have been the source of considerable public debate in several other provinces as well. Recent developments in those jurisdictions are described in this chapter of the White Paper as further context for a discussion of the opportunities and constraints that inform the development of gaming legislation in British Columbia.

2.2 Historical Perspective on Canadian Gaming Law

Gambling has existed in various forms since at least 2100 B.C. While social attitudes toward gambling have varied considerably among societies, gambling in England was long ago prohibited by statute. Fencing, as a form of gaming, was prohibited as early as 1285.² In the fourteenth century, all games except archery were prohibited at the urging of Richard II in an attempt to suppress "idle" games of dice. While this early form of blanket prohibition has been eroded by centuries of amendments and repeal, the principle of blanket prohibition was extended to Canada at Confederation and now forms the basis of our criminal law with respect to gaming.

Canada's Criminal Code

By 1892, Canada's gaming laws had been consolidated in a general federal statute and then substantially re-enacted as part of Canada's first *Criminal Code*. From 1892 to 1969, there were no significant amendments to the gaming provisions and the Code continued to prohibit all forms of gaming except pari-mutuel wagering on horse races, small lottery schemes conducted for charitable purposes and limited forms of carnival gaming at agricultural fairs.

Under the Canadian constitution, the federal parliament has exclusive jurisdiction over the criminal law, which imposes limits on gaming activities. Any provincial legislation, regulation or order that purports to deal with gaming may be exercised only within the limits and constraints of the Code. Where there is a conflict between a provincial enactment and the criminal law, the provincial enactment is inoperable to the extent of that conflict.

In short, the province's powers to conduct, manage, license or regulate gaming may be exercised only within the framework established by the Code.

1969 Criminal Code Amendments

In 1969, the federal parliament amended the Code to exempt from its general gaming prohibitions licensed gaming and gaming conducted and managed by government. Specifically, s. 190 [now s. 207] of the Code was amended to permit:

- * the government of Canada to conduct lottery schemes; and
- * the provinces to conduct or authorize lottery schemes.³

As a result of these amendments, it became possible for a provincial Lieutenant Governor in Council (Cabinet) or a person designated by Cabinet to license charities to manage a lottery scheme within a province. By order in council in April 1970, Cabinet designated the Attorney General of British Columbia for this purpose and licences were subsequently issued by the Attorney General to charities.

In 1974, British Columbia became a partner with the other three western provinces in the creation of the Western Canada Lottery Foundation. The foundation was created to conduct and manage inter-provincial lottery schemes. Each province was responsible for marketing lottery products within its boundaries.

In the same year, the province enacted its first *Lottery Act*,⁴ thereby authorizing a provincial Cabinet minister or a person designated by the minister to conduct and manage lottery schemes in British Columbia on behalf of the government. The first provincial lotteries followed in 1974.

The development of charitable bingo, casino and ticket raffle activity was slow to evolve relative to ticket lottery activity in British Columbia. However, in 1984, a large bingo hall commenced operations in the lower mainland and, in November of that year, government policies attempted to clarify the roles and responsibilities of commercial halls and charity licensees. A moratorium was placed on the issuance of new licences in an effort to control the proliferation of bingo activity.

In the late 1970s, the federal government established Lotto Canada and the Sports Pool Corporation. However, federal involvement in gaming in direct competition with the provinces met with vigorous provincial opposition. In 1979, the short-lived Conservative government agreed with the provinces that it would no longer operate federal lotteries. However, it took a protracted series of federal/provincial negotiations to reach agreement on the next significant round of amendments to the gaming provisions of the Code.

1985 Criminal Code Amendments

In 1985, the federal parliament enacted the *Criminal Code (Lotteries) Amendment Act*,⁵ repealing the exemption for federal government lottery schemes. There have been no substantial amendments to the gaming provisions of the Code since 1985.

In the same year, the British Columbia legislature passed the *Lottery Corporation Act*⁶ and established the British Columbia Lottery Corporation for the purpose of conducting and managing lottery schemes on the government's behalf.

The number of charity bingo halls and casinos continued to grow throughout the province. Both bingos and casinos became well-established in permanent facilities. The provincial government responded to the rapid growth in public gaming by establishing the British Columbia Gaming Commission by order in council on April 1, 1987. The Gaming Commission's mandate was to carry out the province's licensing functions for non-government gaming under s. 207(1) of the Code and to establish comprehensive gaming policies and procedures for licensee gaming events. The Gaming Commission became the licensing authority for charitable bingos, casinos and ticket raffles, and for gaming at fairs and exhibitions.

In August 1987, responsibility for licensing and establishing terms and conditions for social clubs under s. 179 [now s. 197] of the Code was transferred to the Gaming Commission from the Police Services Branch, Ministry of Attorney General. Licensing of these clubs was discontinued in August 1996.

2.3 Permitted Exemptions under the *Criminal Code*

The *Criminal Code* of Canada includes a general prohibition against a wide range of activities associated with gaming and sanctions for engaging in those activities. While the act of placing a bet is not in and of itself illegal, Part VII of the Code prohibits associated activities including:

- using unauthorized systems of pari-mutuel betting;
- placing bets on behalf of others;
- engaging in book-making;
- keeping common gaming or betting houses;
- owning, renting or keeping machines or devices for gaming; and
- advertising gaming contests.

Part VII of the Code is reproduced in Appendix 1. It is illegal in British Columbia to engage in any way in gaming unless the gaming activity falls within one of the exemptions under Part VII of the Code.

The principal forms of gaming that are operated in British Columbia under the auspices of provincial public agencies or officials are horse racing, lottery ticket sales, bingos, casinos, ticket raffles and gaming events at fairs and exhibitions. Copies of the relevant provincial statutes and regulations are included in Appendix 1.

Horse Racing

Wagering on horses at agricultural fairs and exhibitions was one of the earliest forms of permitted gaming in British Columbia. Unlike lottery schemes, which are subject to the exclusive regulatory jurisdiction of the provinces, horse racing is subject to separate but shared regulation by both the federal and provincial governments.

Section 204 of the Code requires that the federal Minister of Agriculture approve systems of pari-mutuel betting and establish and administer standards for drug testing.

2.0 Background

The *Horse Racing Act*⁷ establishes the British Columbia Racing Commission and authorizes the commission to license race tracks, operators and personnel. The commission also approves racing dates. The *Horse Racing Tax Act*⁸ provides for licence fees and taxes on pari-mutuel wagering. The pari-mutuel tax is used to provide general revenue to government and direct support to the provincial horse racing industry.

The racing industry is currently facing a number of significant challenges which, while outside the scope of this White Paper, must be addressed by government and the industry over the next few years.

Other Permitted Forms of Gaming

Section 207 of the Code establishes requirements for the conduct and management of most forms of lawful gaming other than horse racing. Each paragraph under s. 207(1) establishes a distinct scheme with different eligibility requirements and different restrictions on which games may be offered, on the conduct of those games and on the use of proceeds from the gaming events.

Government Gaming

Section 207(1)(a) of the Code permits the provincial government to conduct and manage lottery schemes under the following conditions:

- the province must enact a law authorizing the conduct and management of the lottery schemes;
- the lottery schemes must be conducted and managed by, and not merely regulated by, government;
- the province may conduct and manage any form of gaming permitted under the Code, including provincial and inter-provincial lotteries, traditional bingo and casino games, ticket raffles, electronic or linked bingo games, slot machines and video lottery terminals; and
- the province is not subject to any restrictions on the use of gaming proceeds.

The *Lottery Corporation Act* establishes the statutory authority of the British Columbia Lottery Corporation to conduct and manage lottery schemes on behalf of government. The Lottery Corporation is stated in s. 3(1) of the Act to be a Crown agent for all purposes and, under s. 4(2) of the Act, it may "develop, undertake, organize, conduct and manage lottery schemes on behalf of the government".

Within this statutory framework, the Lottery Corporation now conducts and manages inter-provincial, provincial and instant lotteries, sports betting, electronic and linked bingo and, since 1998, most casino gaming in the province other than social occasion casinos. Net revenues from these games are returned to the provincial consolidated revenue fund, from which a portion of the revenues flows back to charities.

Charitable or Religious Gaming

Section 207(1)(b) of the Code permits charities to conduct and manage lottery schemes if they obtain a licence from the provincial Cabinet or a person designated by Cabinet to issue gaming licences to them. Section 207(1)(b), when read together with s. 207(4), establishes the following conditions:

- the licensee must be a charitable or religious organization;
- the proceeds from the gaming event must be used for charitable or religious purposes; and
- the licensee is prohibited from conducting and managing any form of gaming that is operated on or through a computer, video device or slot machine.

British Columbia Gaming Commission

By Order in Council 612/87, effective April 1, 1987, government established the British Columbia Gaming Commission, named its first members and set out the terms of their appointments.

By Order in Council 579/87, effective the same date, the Gaming Commission was specified to be the authority responsible for issuing licences to charities and others as permitted under s. 207(1)(b), (c) and (d) of the Code.

In 1995, the British Columbia Court of Appeal found that Cabinet had authority to create the Gaming Commission and appoint members to it.⁹ However, the court did not consider the exercise of the Commission's powers with respect to the regulation and licensing of gaming.

Section 9 of the *Miscellaneous Statutes Amendment Act (No. 3)*, 1998¹⁰ amended the *Lottery Act* by adding s. 2.1, thereby validating licences issued by the Gaming Commission from the date of its first appointment. The *Lottery Act*, as amended, deems the Gaming Commission to be an authority to which licensing responsibility has been delegated.

Definitions of charitable or religious organizations and purposes

The Code does not define charitable or religious organizations or purposes. Accordingly, these words and phrases take their meaning from the common law principles established by the courts.

At common law, charitable organizations are those which have charitable purposes as their sole objects. Canadian courts¹¹ have accepted the principle that a charitable purpose, in the legal sense, is one that fits within the classifications derived from the seventeenth century English *Charitable Uses Act*.¹²

2.0 Background

In 1891, the House of Lords offered a legal definition of "charitable trust" that has continued to influence judicial thinking and public policy throughout the common law world.¹³ The court stated that a charitable trust must provide for:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; or
- other purposes beneficial to the community not falling under any of the preceding heads.

The courts have restricted the meaning of the phrase "other purposes beneficial to the community" to purposes within the spirit and intent of the *Charitable Uses Act*. In essence, a charitable or religious purpose must benefit the community or an appreciably important section of the community.¹⁴

Implications for provincial licensing

The province does not have the power to define the words as they are used under the Code. The province is therefore bound by the common law principles and cannot define charitable or religious organizations or purposes in a manner that expands the classes of permissible licensees under the Code.

Fairs and Exhibitions

Section 207(1)(c) of the Code permits the Cabinet or a person designated by Cabinet to issue a gaming licence to the board of a designated fair or exhibition. This authority is currently exercised by the Gaming Commission pursuant to the *Lottery Act*, as amended.

Places of Amusement

Section 207(1)(d) of the Code permits Cabinet or a person designated by Cabinet to issue gaming licences to the operators of places of amusement. This authority is currently vested in the Gaming Commission pursuant to the *Lottery Act*, as amended, and is occasionally used for unorganized community fairs and exhibitions.

Extra-Provincial Lotteries

Section 207(1)(e) of the Code permits the province to enter into lottery agreements with other provinces allowing for sale of their lottery tickets in British Columbia. There are currently no agreements in place under this section.

2.4 Gaming Operations in British Columbia

Gaming is big business in British Columbia. While lawful forms of gaming are conducted and managed or licensed and regulated by provincial government agencies and officials, it is also widely acknowledged within the law enforcement community that illegal gambling is widespread and well-established outside the government's regulatory framework.

There is little documented research on the relationship between lawful gaming and illegal gambling or on the precise scope of illegal gambling. However, law enforcement officials have provided anecdotal information illustrating that:

- enhanced opportunities to participate in lawful forms of gaming will not necessarily lead to a reduction in illegal gambling; and
- the overall growth in both lawful gaming and illegal gambling may lead to increases in reported incidents of domestic violence, financial ruin, family break-up, theft and fraud.

It is generally accepted by law enforcement officials in British Columbia that as lawful gaming becomes more sophisticated and the stakes become higher, the gaming market becomes more lucrative and attractive to illegal gambling operators. Law enforcement officials report that in these circumstances, there may be additional opportunities for loan sharking, money laundering, extortion and intimidation.

It will be important to develop strategies to address illegal gambling issues as the province and its gaming regulators strive to preserve the integrity of lawful gaming activities and provide a stable environment for the continued, successful operation of lawful gaming in the province.

As William R. Eadington, a noted Nevada authority on gaming, has observed:

...the fundamental requirement for success for any form of commercial gaming is a strong regulatory base to provide a strong environment, both legal and economic, which has the potential of attracting long-term financial capital, and which has the potential of generating a profitable environment for those operations.¹⁵

Lawful Gaming

Gaming in British Columbia, as a legitimate pursuit, had its origins in wagers on horses at agricultural fairs and in bingo games at community and church halls. Lawful gaming has since become a sophisticated enterprise that:

- offers a variety of recreational activities to residents and visitors;
- sustains an increasingly diverse industry with a broad base of local employment; and

- contributes to the provincial economy through returns to community programs, general revenues to government and other indirect economic benefits.

Scope of the Industry

The lawful gaming industry operates under the authority and direction of the minister responsible for gaming and the British Columbia Lottery Corporation, the British Columbia Gaming Commission and the British Columbia Racing Commission.

Lottery Corporation

The Lottery Corporation currently conducts and manages inter-provincial, provincial and instant lotteries, including 6/49, BC/49, Extra, Daily 3 Club Keno, Sports Action and break opens. Its mandate is to maximize revenue for return to the province through the consolidated revenue fund.¹⁶

The Lottery Corporation provides direct employment for 350 people in offices located in Kamloops, Richmond and Victoria. The corporation licenses 2,100 lottery retailers province-wide who receive income from the payment of sales commissions. Additional economic benefits to British Columbians are realized through goods and services the corporation secures, from ticket printing to couriers. The corporation purchases approximately \$40 million in goods and services each year.

The Lottery Corporation is the sole supplier of bingo paper at 40 registered bingo halls and it conducts and manages electronic bingo gaming at Planet Bingo in Vancouver and in Prince George. The corporation also offers linked bingo gaming in other bingo facilities and it has recently initiated pilot projects in six bingo locations to evaluate hand-held bingo card minders.

Following the implementation of the interim gaming framework in June 1998, the Lottery Corporation assumed responsibility for the conduct and management of casino gaming throughout the province, other than social occasion casinos. This sector of the gaming industry comprises 17 casino facilities where premises and operational services are provided under contract to the corporation by private sector, for-profit companies.

Gaming Commission

The Gaming Commission issues licences to charities that participate in conventional paper bingo events, ticket raffles and social occasion casinos. The commission also approves applications from other eligible charities for direct access to provincial gaming revenues. In 1997/1998, more than 4,500 charities received revenues from gaming events. It is estimated that these gaming events provide direct employment for more than 2,000 gaming workers.

Most bingo events are conducted in one of the 40 bingo halls throughout the province. At some halls operational services are provided on a commercial basis, while others are either self-managed by a bingo association or operated directly by the licensees themselves.

The conduct and management of ticket raffles, social occasion casinos and other forms of small-stakes gaming relies heavily on charity volunteers and employment within this sector is limited.

The Gaming Commission also issues licences to designated fairs and exhibitions for the conduct and management of gaming events at those venues.

Racing Commission

Studies by the British Columbia Ministry of Agriculture, Fisheries and Food in 1994, and the Horse Racing Alliance in 1997, estimated that the provincial racing industry provides employment for approximately 3,000 people directly and approximately 3,000 indirectly. In 1998, racing events took place at seven tracks throughout the province on a total of 279 racing days.

Gaming Revenues

The net gaming revenue in British Columbia per capita is the lowest in Canada at \$243 per adult, as compared to Saskatchewan (the highest in Canada) at \$491 per adult. This measure is an average of the net gaming revenue received from casino, lottery, bingo and other gaming in the province. Table 1 provides an overview of net gaming revenues and distribution, by type of game.

2.0 Background

Table 1: Net Gaming Revenues and Distribution (\$ Millions)

Sector	1995/1996	1996/1997	1997/1998 ¹	1998/1999 ¹
Charities				
Bingo	67.5	62.7	60.0	60.0
Casino Tables	44.4	47.7	80.0 ⁴	15.0
Ticket Raffles	16.7	18.7	17.1	17.5
Fairs	3.0	1.6	1.6	1.6
Direct Access ²	0.0	0.0	0.0	50.0
Sub-Total	131.6	130.7	158.7	144.1
Government (includes fees)				
Bingo	5.0	4.4	4.1	0.0
Casino Tables	8.9	9.5	16.0 ³	3.0 ³
Ticket Raffles	0.9	1.0	0.9	1.0
Lottery Corporation ³	244.1	265.9	279.3	434.8
Horse Racing	6.0	5.0	4.3	4.0
Sub-Total	264.9	285.8	304.6	442.8
Direct Access²	0.0	0.0	0.0	-50.0
Subtotal (Government)	264.9	285.8	304.6	392.8
TOTAL (Charities & Government)	369.5	416.5	463.3	536.9

¹ estimated, 1998/1999 figures based on June 1998 forecasts

² direct access funds paid from trust to charities

³ includes slot machine revenue beginning in 1997/1998 and casino table revenue in 1998/1999

⁴ charities received additional funds for 1997/1998 as result of decision in *Nonalmo* case

⁵ April/May 1998

Source: Gaming Policy Secretariat

Illegal Gambling

While the prevalence of illegal gambling is widely acknowledged, its precise scope is unknown. Law enforcement agencies are often unable or unwilling to assign the resources necessary to investigate difficult and often complex illegal gambling operations because of other more pressing priorities.

Most local police detachments have no specific resources dedicated to illegal gambling enforcement. The Vancouver Police Department is unique in this respect as it has assigned one dedicated specialist to address illegal gambling activities.

The principal forms of illegal gambling include:

- video lottery terminals (VLTs);
- social clubs;
- Internet gaming;
- midnight casinos;
- bookmaking; and
- lottery ticket resales.

These activities are described more fully in Chapters 7 and 9 of the White Paper.

2.5 Recent Developments in British Columbia

The gaming operations of the British Columbia Lottery Corporation and the British Columbia Racing Commission have always been supported and sustained by provincial legislation. In contrast, the British Columbia Gaming Commission operated on the basis of orders in council from its inception in 1987 until the *Lottery Act* was amended in 1998. Over this period, there has been continuing interest, within the Gaming Commission and among charity licensees and gaming operators, in the enactment of a provincial *Gaming Control Act* to strengthen the commission's role and to provide a stable legal foundation for the business planning decisions of commercial and non-profit operators.

Shortly after the commission was established, government announced a moratorium on new charity casino operations. The moratorium was intended to contain the rapid and uncontrolled expansion of an increasingly sophisticated casino industry and to allow the commission time to develop and implement a regulatory framework with sanctions appropriate to an industry characterized by:

- high initial capital costs;
- significant operating expenditures; and
- extensive security and surveillance requirements considered necessary to preserve the integrity of the casino games.

In 1994, government initiated a review of gaming policy¹⁷ which led to an announcement in October of that year by the then Premier, the Honourable Michael Harcourt, that government would:

- not permit Las Vegas-style casinos anywhere in the province;

- lift the moratorium on new charity casinos;
- explore a modest expansion of charitable gaming for both casinos and bingos; and
- permit the Lottery Corporation to introduce video lottery terminals (VLTs) in adult-only premises.

The Premier's announcement stimulated widespread public discussion, particularly with respect to the introduction of VLTs. In response, government announced that it would not offer gaming using VLTs. As a consequence, British Columbia is one of only two provinces in Canada that does not operate VLTs.¹¹

In 1996, government appointed a senior public official to provide a detailed assessment of the options and opportunities for gaming expansion within the province.¹² A Lotteries Advisory Committee was subsequently appointed in March 1997 to implement the province's new gaming policy initiatives.

Provincial Policy Initiatives

In British Columbia, and in most other provincial jurisdictions, gaming policies and their attendant regulatory and administrative structures have undergone significant change and development in response to a number of factors, including competitive market forces for gaming revenues, changes in technology and changes in the nature and complexity of the gaming industry itself.

In a news release issued on March 13, 1997, the Honourable Dan Miller, the minister then responsible for gaming, broadly defined government's gaming policy goals, stating that:

We are committed to a well-controlled and regulated environment for gaming in British Columbia. And these steps are a continuation of the moderate changes to gaming that have taken place in our province over the past few years and will be supported through the development of new comprehensive gaming legislation.¹³

As announced, government's new gaming initiatives were intended to create a predictable and growing stream of income to charities and a source of revenue for the government in support of social programs. To achieve these objectives, Mr. Miller announced initiatives that would permit:

- the enhancement of charitable casinos through higher bet limits, new games and extended hours of operation;
- the introduction of slot machines in charitable casinos;
- the introduction of electronic and linked bingo in charitable bingo halls;
- a process for receiving and reviewing proposals for new destination gaming facilities;

- the establishment of guidelines for local government involvement in the evaluation of proposals for new destination gaming facilities;
- the funding of dedicated police and prosecutorial resources to address illegal gambling and gaming enforcement; and
- the funding of problem gambling response programs.

Finally, Mr. Miller confirmed government's earlier commitment that it would not approve VLTs or consider proposals for major Las Vegas-style casinos, although both have been acknowledged as significant revenue producers for governments in other jurisdictions.

Public Consultation

In June 1997, the Lotteries Advisory Committee announced a province-wide information program and tour to introduce and discuss aspects of the new provincial gaming policy, including revenue sharing arrangements for charities and proposed gaming enhancements for casinos and bingo halls.

As part of its strategy for public consultation, the Lotteries Advisory Committee also supported the establishment of a province-wide association of charity licensees and clarified guidelines for local government involvement in the evaluation of proposals for destination gaming facilities.

British Columbia Association for Charitable Gaming

The British Columbia Association for Charitable Gaming (BCACG) was established in June 1997 with initial financial support from government. Its purposes were to act as a province-wide association representing the interests of the charities involved in gaming and to review and advise government on charitable gaming issues. Prior to the formation of BCACG, the thousands of charity licensees (over 4,900 in 1996/1997) represented a highly diffuse and geographically dispersed group whose positions on issues were, more often than not, passed on to government through the commercial or non-profit operators of gaming facilities or through individual charities.

Government expected that an association of licensees would provide a mechanism for more direct and representative consultation. As a result of initial negotiations with the new association, it was agreed that BCACG would:

- represent all types of charitable gaming, including bingo, casinos and ticket raffles;
- represent all geographic areas of the province;
- be composed solely of elected members, rather than paid staff, who were also representatives of the charities licensed to participate in charitable gaming;

2.0 Background

- have limited access to funds from gaming to be used only for purposes consistent with its mandate in addressing charitable gaming issues; and
- exclude any and all representatives involved in the day to day operations of a gaming facility.²¹

BCACG has recently revised its constitution and bylaws to address charities' concerns. Its membership now includes more than 1,400 charities that participate, as licensees, in gaming events or benefit from the Gaming Commission's interim program of direct access to gaming revenues. The Gaming Commission has authorized payment by licensed charities of a modest annual membership fee to support BCACG's activities.

Guidelines for Local Government Involvement

In June 1997, the Lotteries Advisory Committee also outlined the provincial government's guidelines for local government involvement in the review of proposals for new gaming facilities.²² Under the terms of a Request for Proposals (RFP), these guidelines were to apply to all proposals for new gaming facilities and for the relocation of existing gaming facilities from one local government area to another.

The Lotteries Advisory Committee made it clear that, in the absence of local government approval in principle of a new gaming facility, the province would not give further consideration to the proposal.

With respect to the role of local governments, the guidelines stated that:

- new gaming facilities must have demonstrated local support expressed in the form of a resolution by the local council;
- adjacent communities must have the opportunity to demonstrate any negative impact a new facility might cause;
- in the event that more than one proposal was put forward in a particular community, local government would be asked to make an expression of preferred objectives and to define the types of benefits that would be appropriate and desirable for the community; and
- only local governments hosting destination facilities would share in revenues from the gaming events.

Request for Proposals

The Lotteries Advisory Committee issued the RFP in July 1997, inviting interested parties to submit proposals for the development and construction of new destination and charitable gaming facilities in the province.²³

Documents issued in support of the RFP indicated that enhancements to casino operations and the introduction of electronic gaming had already been or were

currently being implemented. These documents also reaffirmed government's gaming policy objectives by stating:

The government intends to carefully manage the evolution of the provincial gaming market to ensure that a proper balance is maintained between financial, economic and social priorities. The interests of charities, the gaming industry, communities and the government will all be carefully balanced.²⁴

The RFP process was completed as of December 17, 1998 with the announcement by the Honourable Mike Farnworth, minister responsible for gaming, of the third round of approvals in principle. From a group of 49 proposals, the minister has announced government's approval in principle of plans to provide nine new casino facilities and one new bingo facility in various locations in the province.²⁵

Revenue Models

Under the terms of the RFP, two distinct revenue models were outlined for new charitable and destination gaming facilities.

Charitable Gaming Facilities

The RFP characterized new charitable gaming facilities as community-based. As such these facilities were expected to attract, primarily, local clientele specifically seeking to participate in lawful gaming activities. The RFP stated:

These facilities typically do not provide a wide range of non-gambling amenities or entertainment, and this is not their purpose.²⁶

Within this framework, new charitable gaming facilities were expected to provide primary benefits to communities through revenues to charitable and religious organizations. As a consequence, the RFP provided that 1/3 of the net income, after the payment of prizes and operating commissions and costs, would flow to these organizations, with the balance going to the provincial government.

Destination Gaming Facilities

The RFP characterized new destination gaming facilities as facilities that would form part of a larger existing or planned development that would cater to a broader clientele than would a charitable facility. In essence, the destination gaming facility would:

...act as a catalyst for the development of multi-function destination complexes that (might) include new or existing hotels, marinas, recreation facilities, convention facilities, and other tourist attractions.²⁷

Within this framework, new destination gaming facilities were expected to provide primary benefits to communities through direct revenue participation to assist in the provision of:

...infrastructure that [might] be necessary to accommodate the development as a whole, or any other purpose generally for the benefit of the community.²³

The RFP provided that 1/6 of the net income, after the payment of prizes and operating commissions and costs, would flow to local government, with up to 1/6 also available to the successful proponent for development assistance and the balance going to the provincial government.

Gaming Proceeds Distribution Regulation

On October 31, 1997, Cabinet approved and enacted the Gaming Proceeds Distribution Regulation²⁴ to give effect to government's commitment for revenue distribution from enhanced gaming to participating charitable organizations and government.

The regulation included a trust agreement with three parties: the province, the British Columbia Charitable Gaming Funding Society and the Lottery Corporation. The trust agreement established a provincial trust fund²⁵ for the deposit of net gaming revenues and included a prescribed formula for:

- distributing a guaranteed share of net revenues to each charity licensee; and
- transferring the balance of net revenues to the provincial consolidated revenue fund.

Payments to the trust fund under the trust agreement flowed from the total earnings of charitable casino and bingo gaming, generated at venues where both government and charitable gaming were conducted, and from government-based gaming activity to the extent of 1/3 of the Lottery Corporation's net revenue from electronic gaming, including electronic and linked bingo and slot machines. This funding model recognized the changing structure, market and revenue yield of various sectors of the gaming industry, the potential for the erosion of income to charities from traditional activities and the concomitant market and revenue growth potential in electronic gaming. No provision was made for the sharing among charities of revenue from destination casinos.

Gaming policy and the trust agreement acknowledged that the charitable gaming industry would change as a consequence of government policy initiatives. Accordingly, a transitional guarantee was provided to charities which would cease when a mature market was achieved. At that point, provincial policy contemplated a division of funds under the trust agreement, with 1/3 of the funds flowing to charities and 2/3 to the provincial consolidated revenue fund.

Challenge to Validity of Regulation

In December 1997, the Nanaimo Community Bingo Association filed a petition in the Supreme Court of British Columbia against the province as represented by the Attorney General. The petition sought:

- a declaration that the Gaming Proceeds Distribution Regulation was *ultra vires* the Lieutenant Governor in Council of British Columbia and was therefore invalid and of no force and effect; and
- a declaration that the province of British Columbia could not receive, or authorize or require for-profit companies to receive, the proceeds of gaming managed and conducted by charitable and religious organizations in British Columbia.

The Supreme Court's Decision

On January 14, 1998, Mr. Justice Owen-Flood made a decision on the petition in the *Nanaimo* case striking down the Gaming Proceeds Distribution Regulation.¹¹ He held that:

- there was no existing statutory authority for government to regulate the distribution of proceeds from charitable gaming and hence the regulation was beyond the powers of the government;
- the regulation was inconsistent with s. 207(1)(b) of the *Criminal Code* of Canada as:
 - (i) proceeds from charitable gaming must be used for charitable or religious purposes; and
 - (ii) the regulation purported to expropriate proceeds from charity gaming for the benefit of government and to direct proceeds to commercial or "for-profit" management companies by providing for payments to them of fixed percentages of gaming revenue; and
- the impugned provisions of the regulation were so essential or fundamental that the remaining provisions could not be severed or survive independently.

The Attorney General has initiated an appeal of this decision which is scheduled to be heard early in 1999.

Implications for Provincial Government Gaming Policies

In the *Nanaimo* case, the court found that the regulatory foundation for the new distribution of gaming revenues was invalid. However, while the implications of the court's decision are significant and far-reaching, the decision did not negate the policy objectives of government. Rather, it rendered invalid certain aspects of

the administrative and regulatory structure that government had put in place to implement the policy.

In essence, the court's decision is not an impediment to the implementation of an appropriate operational model that meets government's policy objectives and complies with the court's determination of the necessary legal requirements. Government remains committed to achieving its policy objectives for the distribution and sharing of gaming revenues between charities, for their charitable and religious purposes, and government, for the public programs and purposes it funds through the consolidated revenue fund.

Implications for Charitable Gaming

The immediate effects of the court's decision in the *Nanaimo* case called into question government's licensing framework for charitable gaming in the province by:

- rendering uncertain the disposition of funds in the provincial trust fund and funds held in trust by casino management companies;
- suspending the flow of expected gaming revenues to charities dependent on these revenues for immediate and long-term operating needs and programs;
- challenging the basis upon which government agreed to guarantee \$118 million in revenues to charity licensees;
- raising issues about how charity licensees could realize benefits from the revenues of electronic and linked bingo and slot machines;
- raising issues about how commercial gaming operators could be compensated for the operation of gaming events for charity licensees; and
- raising issues about how government could meet its revenue goals under its fiscal management plan.

Implications for Revenue Sharing

The decision does not limit the right of government to provide a share of its revenues from electronic and linked bingo or slot machines to charity licensees, and it does not limit the right of charity licensees to pool their own gaming proceeds. However, the decision gives clear direction that all proceeds from charitable gaming must be retained by the charities and used for their charitable or religious purposes.

Government's Response

Immediately following the release of the court's decision, the Honourable Mike Farnworth, the minister responsible for public gaming policy in

British Columbia, established a review process. The purposes of the review, as identified in terms of reference, were to:

- establish a process through the Gaming Commission and the Lotteries Advisory Committee to ensure that charitable gaming organizations receive funds currently owing to them;
- consult with charitable gaming organizations and establish an interim framework for charitable gaming; and
- develop a work plan to ensure a continuation of charitable gaming activities over the long-term.

The minister released a report of the review, *Gaming Policy Recommendations*,³² and an interim framework for charitable gaming on March 2, 1998 and in so doing stated that it was his goal to "bring back some stability to the gaming industry".³³ The minister also confirmed that government:

- would not implement a gaming model that consolidated all gaming in government and created a province-wide, ad hoc grant system in a "community chest" model;
- was committed to the principle that charitable gaming revenues should be retained by and spent in local communities; and
- would ensure that charities continued to receive a stable and growing level of revenue from gaming proceeds.

Charity Trust Funds

Some of government's policy initiatives with respect to increased bet limits and longer hours of operation had been implemented prior to the enactment of the Gaming Proceeds Distribution Regulation. Incremental revenues from enhanced gaming were temporarily deposited into interim trust accounts at each casino.

After the enactment of the regulation, net revenues from both government and charitable gaming began to flow to a provincial trust fund established under the regulation by agreement between the Lottery Corporation, the British Columbia Charitable Gaming Funding Society and the government.

The effect of the court's decision in the *Nanaimo* case in striking down the regulation was to freeze the monies in the provincial trust fund and to raise issues concerning the use and application of the monies in the interim trust account. The government and the British Columbia Association for Charitable Gaming immediately sought direction from the court on the distribution of these monies.

On January 21, 1998, the minister announced that the charities would receive payments due to them from provincial and interim trust accounts, and that the balance due to them would be released after being verified by independent audits. Subsequent applications to the court for direction on the distribution of the funds

remaining in the provincial trust fund have been made and the funds, including funds from electronic gaming, have been distributed to the charities in accordance with the direction of the court.

As an immediate measure following the court's decision, government also reverted to the model for the distribution of gaming revenues that had been in place prior to the enactment of the regulation. This model was to remain in place pending the implementation of recommendations for an interim framework for charitable gaming.

Gaming Policy Recommendations - An Interim Framework

The March 1998 report to the minister on gaming policy recommendations included recommendations that would:

- place the regulatory framework for public and charitable gaming within a more sustainable legal framework;
- allow government to achieve its goals with respect to a stable and growing income stream to charities for charitable purposes and to government for health, education and other public purposes; and
- anticipate further changes over the longer term to address potential legal challenges to existing and interim arrangements and to elements of gaming policy that had been in place since 1987.³⁴

The report identified several options for government's consideration in implementing an interim charitable gaming framework. As part of this framework, it was recommended that a fund, similar in purpose to the trust established under the Gaming Proceeds Distribution Regulation, be established and that a charitable guarantee be constituted within the fund.

The key features of the implemented interim framework and its current status are described below in Section 2.6.

Gaming Policy Recommendations - Work Plan

The report to the minister also included recommendations for a long-term work plan to:

- assess the interim framework, in consultation with stakeholders and industry representatives, and make recommendations to government for any further changes necessary to address ongoing legal and regulatory developments;
- develop a White Paper and draft *Gaming Control Act*;
- appoint a full complement of commissioners to the Gaming Commission;
- complete the RFP process initiated in mid-1997; and

- undertake a review of the bingo sector for the purpose of developing a strategic vision for the sector as the basis for future government policy initiatives.

Shortly after the release of the report, the minister established a Gaming Project Working Group to develop this White Paper and a draft *Gaming Control Act* in consultation with key stakeholders and public officials. Details of the process for consultation and review are set out in Chapter 5 of the White Paper.

Cabinet also appointed a new chair and a full complement of commissioners to the Gaming Commission. The commission has thus been able to play a significant role in the Bingo Review, in the ongoing assessment of government's charitable gaming policy and in the implementation of new procedures for direct charity access to gaming revenues.

Finally, the minister allowed the appointments to the Lotteries Advisory Committee to lapse and established the Gaming Policy Secretariat for the purpose of:

- providing ongoing advice to government on gaming issues; and
- facilitating consultation with gaming stakeholders.

In carrying out its mandate, the Gaming Policy Secretariat directed the completion of the RFP process and undertook a comprehensive review of the bingo sector. The Bingo Review has been published as a separate report by the secretariat, and is referenced in Chapter 6 of the White Paper.

Slot Machines

Government's authority to install and operate slot machines in casinos has come under scrutiny by the courts in several recent cases, notably in one case involving the City of Vancouver and another involving the City of Surrey. At issue are questions about the validity of zoning and land use bylaws that prohibit the operation of slot machines in casino facilities.

Vancouver Litigation

In early October 1997, a private casino management company under contract to the Lottery Corporation began installing slot machines in its charity casino facility in the City of Vancouver. The city responded by passing a zoning bylaw that divided casinos into two classes. The first class permitted traditional casino table games while the second permitted table games, video lottery terminals and slot machines. The bylaw then went on to prohibit all casinos in the second class from any land use zone in the city.

The Lottery Corporation brought an application in the Supreme Court of British Columbia asking the court to set aside or quash the city's zoning bylaw.¹³ The court found that the bylaw was valid despite the fact that it was in direct conflict with a regulation of the directors of the Lottery Corporation. In upholding the bylaw, the court held that:

- regulations of the directors of the Lottery Corporation are not paramount to bylaws under the *Vancouver Charter*;¹⁴
- s. 14(2) of the *Interpretation Act*¹⁵ does not permit the government to exempt itself from the operation of zoning bylaws by, as the court characterized it, merely placing government-owned equipment in a privately-owned business on privately-owned land; and
- only the provincial legislature could enact a law that is paramount to the city's bylaw.

The Lottery Corporation has appealed this decision and the appeal is scheduled to be heard in January 1999. In the meantime, the Lottery Corporation has suspended the installation of slot machines in Vancouver casinos.

Surrey Litigation

The City of Surrey enacted a bylaw prohibiting the operation of video lottery gaming in the land use zone that applied to the location of the Surrey casino. The casino operator, Great Canadian Casino Company Ltd. (Great Canadian), brought a petition in the Supreme Court of British Columbia seeking, among other things, a declaration that the definition of video lottery gaming did not apply to slot machines (as distinct from VLTs).¹⁶

The court found that the bylaw was valid and applied to slot machines. The court granted an injunction to prevent Great Canadian from operating slot machines in Surrey. This decision has been appealed and a number of related proceedings are also outstanding.

Government's Response

Subsequent to the court's decision on Great Canadian's petition, the Lottery Corporation, as part of the interim gaming framework described below, assumed conduct and management of table games (formerly conducted and managed by charities, under licence) at the Surrey casino. It also took an assignment of the lease of the premises and implemented a new operating model for the provision of operational services by Great Canadian. The Lottery Corporation has commenced proceedings to bring this new operating model before the courts to obtain an order relieving Great Canadian of the injunction granted against it, but the matter has not yet been determined by the courts.

Effect of Recent Litigation

The recent court decisions have brought to the forefront three major issues with respect to the regulation of gaming in British Columbia, namely:

- the meaning of the phrase "conduct and manage" as it is used in s. 207(1) of the Code and as it applies to both government and charitable gaming;
- the limitations on the use of proceeds for charitable or religious purposes under s. 207(1)(b) of the Code; and
- the respective rights and jurisdictions of provincial and local governments over gaming facilities and operations.

2.6 British Columbia's Interim Gaming Framework

The immediate challenge for government in response to the decision in the *Nanaimo* case and the report on gaming policy recommendations was to implement an interim gaming framework that would provide both a stable basis for continued charity access to gaming revenues and the lead time necessary to develop and implement a new *Gaming Control Act*. The key features of the interim framework include:

- a guaranteed return to charitable and religious organizations from bingo and casino gaming;
- the assignment of responsibilities to the British Columbia Lottery Corporation for the conduct and management of casino gaming events; and
- new procedures within the British Columbia Gaming Commission for providing direct charity access to revenues from the Lottery Corporation's casino gaming events.

Charity Guarantee

In deciding to proceed with the controlled enhancement of gaming, government made a commitment to provide a guaranteed minimum revenue return to charities. As initially enacted in the Gaming Proceeds Distribution Regulation, this guarantee was intended to supplement, where necessary, revenues from traditional forms of charity bingo and casino gaming with revenues from enhanced forms of gaming including electronic and linked bingo and slot machines. Government's commitment to the principle of a charity revenue guarantee has not changed as a result of the court's decision in the *Nanaimo* case.

The interim gaming framework guarantees a minimum of \$125 million to charities in the 1998/1999 fiscal year. The sources of funds for the guarantee amount are:

- proceeds from paper, linked and electronic bingo; and
- a portion of proceeds from casino operations.

The guarantee does not include revenues from other forms of gaming, including ticket raffles, social occasion casinos and other forms of small-stakes gaming.

Casino Gaming

The interim framework continues the requirement that charity volunteers participate in the conduct and management of traditional paper bingo gaming events, ticket raffles and other forms of charitable gaming under s. 207(1)(b) of the *Criminal Code of Canada*.

However, as an interim measure, government determined that casino gaming events including traditional table games, together with slot machines, should be conducted and managed by the Lottery Corporation, with operational services provided by casino management companies. At the operational level, the effect of this decision was to:

- eliminate charity casinos and the requirement that charities provide volunteers to conduct and manage casino gaming events; and
- require that the Lottery Corporation implement procedures for the conduct and management of casino gaming events.

Charity Access to Gaming Revenues

Under the interim framework, the Gaming Commission continues to be responsible for charity access to gaming revenues. The commission continues to grant licences to charities for the purpose of conducting and managing bingo and ticket raffles. In addition, the commission has implemented new terms and conditions under which eligible charities may receive direct revenue from Lottery Corporation casino activities.²⁹

Bingo and Ticket Raffles

During the interim period, responsibility for conduct and management of paper bingo games and ticket raffles has remained with the charities. As a consequence, government determined that existing procedures for licence applications through the Gaming Commission could and should remain in place. Thus, established requirements for eligibility, financial reporting and the use of gaming proceeds continue to apply, during the interim period, to the charities that participate in bingo gaming or ticket raffles.

Casinos

The effect of government's decisions with respect to the charity guarantee and the transfer of responsibility for the conduct and management of casino gaming events to the Lottery Corporation is to require a reconsideration of existing procedures for charity access to a share of the returns from these events. As an interim measure, government determined that there should be:

- a mechanism for charities to apply for and receive a share of the revenues from casino gaming events on a basis consistent with the government's commitment to the charity guarantee; and
- a clear separation between the agency responsible for the conduct and management of casino events and the agency responsible for determining which charities should have access to the revenues from these events.

In view of the Gaming Commission's long-standing expertise in the assessment of eligibility for access to gaming revenues, government determined that, over the interim period, responsibility for granting access to and monitoring the use of proceeds from casino gaming events should remain with the Gaming Commission. At the operational level, the effect of this decision was to:

- replace applications by charities for direct participation in casino gaming events with applications by charities for direct access to casino gaming revenues; and
- continue with procedures established by the Gaming Commission for determining the eligibility of charities for access to gaming proceeds and for assessing the charities' use of gaming proceeds.

Current Status

Implementation of the interim gaming framework has been based, to a large extent, on the goodwill of the many participants in gaming who have been required to make short-term adjustments to established procedures and expectations.

While the interim framework addresses certain legal issues, other issues must be addressed in order to create a comprehensive and sustainable regulatory regime.

This White Paper canvasses the issues and options that government is asked to consider in enacting a new *Gaming Control Act* and in resolving current issues that call into question the ongoing integrity and sustainability of gaming in British Columbia.

Endnotes

¹ R.S.C. 1985, c. C-46.

² Osborne, Judith A. and Campbell, Colin S., "Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power Between Federal and Provincial Governments" (1988) 26 Osgoode Hall L. J. 19 at 21.

- ³ *An Act to Amend the Criminal Code, the Parole Act, the Penitentiary Act, the Prisons and Reformatories Act and to make certain consequential amendments to the Combines Investigation Act, the Customs Tariff, and the National Defence Act*, S.C. 1968-69, c. 38.
- ⁴ S.B.C. 1974, c. 51 [now R.S.B.C. 1996, c. 278].
- ⁵ S.C. 1985, c. 52.
- ⁶ S.B.C. 1985, c. 50 [now R.S.B.C. 1996, c. 279].
- ⁷ R.S.B.C. 1996, c. 198.
- ⁸ R.S.B.C. 1996, c. 199.
- ⁹ See *C.W. Casino World Ltd. v. British Columbia Gaming Commission* (January 15, 1996), Doc. Vancouver A954171 (B.C.S.C.), reversed (1996), 132 D.L.R. (4th) 385 (B.C.C.A.). The Court of Appeal found that the Gaming Commission exists as a result of the royal prerogative which the Lieutenant Governor in Council may exercise by virtue of the combined effect of the *Constitution Act*, R.S.B.C. 1979, c. 62 [now R.S.B.C. 1996, c. 66] and the *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, reprinted R.S.C. 1985, App. II, No. 5.
- ¹⁰ S.B.C. 1998, c. 37, deemed effective May 28, 1986.
- ¹¹ See for example *Native Communications Society of British Columbia v. M.N.R.* (1986), 86 D.T.C. 6353 (Fed. C.A.).
- ¹² 43 Eliz. I, c. 4 (1601).
- ¹³ *Income Tax Special Purposes Commissioners v. Pemsel*, [1891] A.C. 531 at 583 (H.L.).
- ¹⁴ The interpretation of the phrase "other purposes beneficial to the community" is currently the subject of an appeal to the Supreme Court of Canada in *Vancouver Society of Immigrant & Visible Minority Women v. Canada (Minister of National Revenue)* (1996), 96 D.T.C. 6232 (Fed. C.A.); leave to appeal granted (1997), 213 N.R. 319 (note) (S.C.C.).
- ¹⁵ Eadington, William R., *Indian Gaming and the Law* (Reno: University of Nevada, 1990) at 158.
- ¹⁶ British Columbia Lottery Corporation:
<http://www.pc.gov.bc.ca/psh/bclotto.htm>.
- ¹⁷ British Columbia, Ministry of Government Services, "Report of the Gaming Policy Review" (Victoria: October, 1994).
- ¹⁸ Despite government's decision that it would not sanction VLTs, law enforcement officials estimate that between 5,000 and 10,000 of these machines are currently operating illegally in unlicensed gaming establishments and convenience stores.
- ¹⁹ British Columbia, Ministry of Employment and Investment, "Gaming Review - Expansion Options and Implications" (Victoria: January 1997).

- ²⁰ Ministry of Employment and Investment, News Release 020 (Victoria: March 13, 1997).
- ²¹ Letter from Lotteries Advisory Committee to British Columbia Association for Charitable Gaming, dated August 21, 1997.
- ²² Letter from Lotteries Advisory Committee to local governments, dated June 11, 1997.
- ²³ British Columbia, Ministry of Employment and Investment, "Request for Proposals - Destination and Charitable Gaming Facilities in the Province of British Columbia" (Victoria: 1997).
- ²⁴ Ibid.
- ²⁵ Ministry of Employment and Investment, News Release 102 (Victoria: December 17, 1998).
- ²⁶ RFP, *supra* note 23.
- ²⁷ Ibid.
- ²⁸ Ibid.
- ²⁹ B.C. Reg. 362/97.
- ³⁰ The trust fund was administered initially by the British Columbia Charitable Gaming Funding Society, as trustee. As originally contemplated, the society's members and directors were to include representatives of the Lotteries Advisory Committee and the British Columbia Association for Charitable Gaming. Pending formation of the association, representatives of the committee acted as directors.
- ³¹ *Nanaimo Community Bingo Association v. British Columbia (Attorney General)* (January 14, 1998), Victoria 97/4779 (B.C.S.C.).
- ³² Rhodes, Frank A., "Gaming Policy Recommendations - A Report to the Honourable Mike Farnworth" (Victoria: February 1998).
- ³³ A copy of the news release that accompanied the interim report is included in Appendix 3.
- ³⁴ *Supra* note 32 at 37.
- ³⁵ *Lottery Corporation of British Columbia v. City of Vancouver* (1997), 46 B.C.L.R. (3d) 24 (S.C.).
- ³⁶ S.B.C. 1953, c. 55.
- ³⁷ R.S.B.C. 1996, c. 238.
- ³⁸ *Great Canadian Casino Co. v. Surrey (City)* (May 15, 1998), Vancouver A980167 (B.C.S.C.).
- ³⁹ British Columbia Gaming Commission, "Terms and Conditions for Direct Charitable Access to Gaming Revenue" (Victoria: updated to April 1998).

3.0 Legal Framework for Gaming

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3.1 Overview

The development of a provincial scheme for gaming regulation must take account of the legal constraints inherent in the provisions of the *Criminal Code* of Canada,¹ which allow for gaming activities within certain bounds. It is also necessary to consider other legal issues that influence the structure of permissible gaming activity, including issues arising out of the federal *Income Tax Act*.² This chapter of the White Paper analyzes these legal constraints and issues, and seeks to derive guidelines for the structure of a regulatory regime within which gaming may be carried on by charities in furtherance of their charitable or religious objects and purposes, and by government for the benefit of the public.

This chapter includes discussion of:

- the constitutional context for provincial regulation of gaming;
- the structure of the Code provisions relating to gaming, including a description of some of the offence provisions and the scheme for permitted gaming activities;
- the roles that must be performed in respect of the conduct and management of permitted gaming activities by charities and by government;
- the use of agents by charities or by government in the conduct and management of gaming activities;
- eligibility issues for charities arising under the Code and certain tax implications for such organizations;
- permissible forms of gaming that may be carried on by charities and by government; and
- restrictions on the use of proceeds from gaming carried on by charities.

This discussion does not deal at any length with permitted lottery schemes carried on at fairs, exhibitions or public places of amusement. These constitute a very small part of gaming activity in the province. Emerging issues, such as Internet gaming and resale of lottery tickets, are left to Chapter 9 of the White Paper. Finally, this discussion does not deal with horse racing and pari-mutuel betting or social clubs.

This chapter is intended to highlight issues for the purpose of public discussion and for consideration in the review of the recommendations set out in other parts of the White Paper. This chapter is not intended to serve as legal advice to any party and is not to be relied upon as such. Parties requiring legal advice on these matters should consult counsel. The views expressed are those of the authors of the White Paper and are not expressions of opinion for or on behalf of the provincial government.

3.2 The *Criminal Code* of Canada

Offences

Part VII of the *Criminal Code* of Canada is entitled "Disorderly Houses, Gaming & Betting" and contains the prohibitions and exceptions which, in large part, establish the framework within which the provinces may undertake gaming activities and regulate charitable gaming. The provisions of Part VII are included in Appendix I to the White Paper.

Part VII includes offences with which anyone may be charged who keeps or is found in a common gaming house or who, as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house (s. 201). A "common gaming house" includes a place that is "kept for gain to which persons resort for the purpose of playing games". A "keeper" includes a person who is or assists an owner or occupier of a place, has the care or management of a place or uses a place. However, not all persons who fall within the definition of "keeper" may be convicted of keeping a common gaming house. The person must participate in some way in the wrongful use of the place. A "keeper" not participating in the wrongful use may be convicted of the lesser offence of permitting such use.

Section 206 of the Code contains various offences relating to lotteries and games of chance, including offences for anyone who "conducts or manages any scheme...for the purpose of determining who...are the winners of any property..." or who "conducts, manages or is a party to any scheme...by which any person, on payment of any sum of money...shall become entitled...to receive from the person conducting or managing the scheme...or any other person, a larger sum of money...by reason of the fact that other persons have paid...any sum of money...under the scheme...."

From 1938 to 1969, the Code excluded from the definition of a "common gaming house" a place "while occasionally being used by charitable or religious organizations for playing games therein for which a direct fee is charged to the

Permitted Lotteries

players if the proceeds are to be used for the benefit of any charitable or religious object".

In 1969, Parliament amended the Code to exclude from its gaming and betting prohibitions certain permitted "lottery schemes", including ticket lotteries or games of chance. The current provision is s. 207(1), which provides that lottery schemes are lawful, notwithstanding any of the provisions of Part VII, if conducted and managed by:

- the government of a province, either alone or in conjunction with another province, in accordance with any law enacted by the provincial legislature;
- a charitable or religious organization, if licensed by a province and if the proceeds are used for charitable or religious purposes;
- the board of a fair or exhibition or operator of a concession leased by such a board, if designated and licensed by a province; and
- any person at a public place of amusement, if licensed by a province and if prizes and bet limits are under stipulated maximums.

In 1970, British Columbia began issuing licences to charities, thereby allowing them to take advantage of the Code exemption.

In respect of any lottery scheme that is conducted and managed by these identified persons or organizations, it is lawful for any person to do anything in a province, in accordance with the applicable law or licence, that is required for the conduct, management or operation of the lottery scheme or for a person to participate in the lottery scheme. All of this would otherwise be prohibited by the Code.

The Code provides in s. 207(4) that permitted lottery schemes do not include certain games (dice, three-card monte, etc.) or betting on races, fights or on a single sport event or athletic contest. It also provides that only governments of one or more provinces may conduct and manage gaming that is "operated on or through a computer, video device or slot machine".

Provincial Jurisdiction

The province has jurisdiction to license and regulate gaming as part of its constitutional jurisdiction over property and civil rights, licensing and maintenance of charitable institutions. The leading case for this proposition is *Furiney v. The Queen*.⁴ The province also has constitutional competence to enact legislation including offences.

Section 92(15) of the *Constitution Act, 1867*⁷ allows the province to make laws for:

The imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any matter coming within any of the Classes of Subjects enumerated in this Section.

Section 92(15) imposes no limitations on the severity of provincial sanctions. The phrase "fine, penalty, or imprisonment" has been held to be broad enough to include forfeiture of property.⁸

The province must ensure that it imposes penalties ancillary to valid provincial legislation and that the legislation or penalty provisions are not a colourable attempt to exercise the federal criminal law power. Drawing a distinction may be difficult. Criminal law is generally identified by a prohibition coupled with a penalty for typical criminal law purposes, which have been identified as including the preservation of public peace, order, security, health and morality.⁹ However, there is no general area or domain of criminal law for constitutional purposes and the objects and purposes of each enactment must be considered.¹⁰ The distinction is made more difficult because it is within the constitutional competence of the province to enact legislation (within one of the heads of s. 92 of the *Constitution Act, 1867*) aimed at suppressing conditions likely to cause crime, rather than at punishment.¹¹

Given the difficulties of distinguishing between provincial offences that are validly ancillary to provincial legislation and those that are a colourable attempt to exercise the criminal law power, it is useful to note that Peter W. Hogg, a respected constitutional authority, considers that the cases reveal a tendency to uphold provincial legislation.¹² He notes that this tendency continues in recent cases, citing, among cases where provincial power to enact penal laws was upheld, a case dealing with regulation of the location of video games.¹³

Provincial slot machine legislation was the subject of considerable judicial activity in the first half of this century. The legislation generally provided for penalties for the possession of slot machines, including forfeiture of the machines, which penalties either were intended or appeared to be intended to supplement punishment provided for in the *Criminal Code of Canada*. In *A.G. v. Johnson*,¹⁴ the Supreme Court of Canada was split on the question of whether the Alberta legislation there in question was an attempted exercise of the criminal law power and therefore invalid. The legislation provided that no slot machine was capable of ownership or could be the subject of property rights in the province and provided for search, seizure and confiscation. Three of seven justices would have upheld it as valid provincial legislation, but the majority held it to be *ultra vires*.

Notably, this case pre-dates the introduction in 1969 of the exemptions in s. 207 of the Code, which now make it possible (by withdrawing to some extent the criminal law prohibition) for the provinces to exercise the jurisdiction they have always possessed to license and regulate gaming. This legislative change, and the confirmation in *Furtney* of provincial jurisdiction in this area, suggests that the

result might be different were provincial gaming legislation, including penalty provisions, to be considered now.

Indeed, Québec legislation, imposing penal consequences for possession of video lottery terminals (VLTs) other than as part of the legislative scheme for government gaming, has survived constitutional challenge. In *Québec c. 3044190 Canada Inc.*,¹² the accused was convicted by the Québec Provincial Court of possession of VLTs without a permit. The conviction was upheld by the Québec Superior Court and the Court of Appeal. The section in question provides:

52.3 No one shall manufacture, assemble, install, maintain, repair, sell or otherwise dispose of, purchase or otherwise acquire, operate, possess or keep a video lottery machine without the required permit [translation].

VLTs are defined under the legislation as follows:

...with the exception of machines operated by Lotto Québec in the context of a lottery not subject to this law, a slot machine within the meaning of the *Criminal Code* and any other machines operated by a computer, an electronic video device, a mechanical or electro-mechanical device or a device which is operated with the assistance of the foregoing and which offers games, means, systems, devices or other operations described in paragraphs 206(1)(a) to (g) of the *Criminal Code* [translation].

The accused argued that the purpose of the law was to prohibit specific kinds of lotteries and therefore trench on the criminal law power. The Court of Appeal rejected this argument, referring principally to *Furtney* and holding:

I am of the view that Parliament was competent to remove lotteries established and operated by a provincial government from the application of Article 207 or other provisions of Part VII of the *Criminal Code*.

In exercising its criminal law power, Parliament can determine not only what criminal activities are but also what they are not. This is what parliament has done in allowing for a provincial lottery regime. The power to organize a lottery with the assistance of video lottery machines includes the power to issue licenses for a valid provincial purpose.

I am of the view that in so legislating Parliament has not given the provinces the power to prohibit gambling. Furthermore I am of the view that in enacting the law, the provincial legislator did not have as its goal the prohibition of lotteries and gambling. Rather, the legislator established a regime where gambling was permitted but where profits accrue to the state [translation].¹³

The Québec legislation also contains procedures for seizure and confiscation of unregistered VLTs, which provisions are being applied in Québec. In another case, in March 1997, the Québec Court of Appeal quashed an order for return of seized machines until a confiscation application could be disposed of, all without considering any constitutional impediment to the seizure or potential confiscation.¹⁶

If provincial legislation relates, in pith and substance, to licensing and regulation of gaming activity in the province, enforcement and penalty provisions will be constitutionally sustainable. Identifying the matter to which the legislation, in pith and substance, relates is generally a matter of identifying the leading feature of the enactment or provision in question.

Federal Paramountcy

Provincial jurisdiction over the licensing and regulation of gaming within the province is subject, as a matter of constitutional principle, to the paramountcy of the Code. If there is any conflict between the Code and provincial legislation or regulations, the latter, although valid, will be inoperable to the extent of the conflict. The accepted test for the application of this doctrine is express contradiction.¹⁷ The question is whether there is actual conflict in that one enactment says "yes" and the other "no", or compliance with one is defiance of the other. If so, there is an express contradiction. If both can be complied with, even if they provide for different consequences or overlap, there is no express contradiction. Dual compliance is, however, not possible if application of the provincial statute would frustrate Parliament's legislative purpose.¹⁸ The provisions of the Code therefore provide constraints or limits within which provincial licensing and regulation of gaming must operate.

Existing Provincial Legislation

In British Columbia, gaming is provincially regulated under the *Lottery Act*¹⁹ and the *Lottery Corporation Act*.²⁰

The *Lottery Act* (first enacted in 1974), in its current form, authorizes the Lieutenant Governor in Council to license persons to conduct and manage lottery schemes (as defined in s. 207(4) of the Code) in British Columbia. The statute allows for the delegation of that authority and the discretion to attach terms and conditions to licences. The British Columbia Gaming Commission has, since April 1, 1987, been the licensing authority. In fulfillment of its mandate, the Gaming Commission has stipulated and amended, from time to time, terms and conditions relating to the conduct, management and operation of and participation in lottery schemes in British Columbia. Pursuant to the *Lottery Act*, as amended, the *Gaming Fees Regulation*²¹ was deposited on August 5, 1998. There are currently no other regulations under the *Lottery Act*.

The *Lottery Corporation Act* (first enacted in 1985) provides that the British Columbia Lottery Corporation is, for all purposes, an agent of the government and sets out the objects of the corporation, which include conducting and managing lottery schemes on behalf of the government.

3.4 Conduct and Management

In British Columbia, government gaming is currently the responsibility of the British Columbia Lottery Corporation, a Crown corporation, which is engaged in ticket lotteries of various types and casino gaming. The Lottery Corporation relies on the services of independent retailers for lottery ticket sales and private sector operators for the provision of casino facilities and services. Charitable gaming in British Columbia involves a number of different operational models. In some cases, independent bingo sites for instance, only a charity is involved. In bingo halls, services required to facilitate conduct, management and operation of gaming are provided to licensed charities either by private sector, for-profit operators (commercial halls), typically under contract to a bingo association representing the interests of the licensees, or by the bingo association itself (self-managed halls).

Given the various operational models, it is necessary to understand the extent and nature of the role that must be fulfilled by the person or organization permitted or licensed to conduct and manage the lottery scheme. It is also necessary to consider the extent to which those activities that amount to conduct and management may be performed by agents, and the types of agents which may be so involved.

The Requirement to Conduct and Manage

The words "conduct and manage" are not defined in the *Criminal Code* of Canada and their meaning in s. 207(1) has not been settled in the case law. There is little judicial interpretation on point and most of the cases that do address the meaning of these words in the gaming context do so in the course of determining whether particular individuals have committed an offence by their involvement in unlicensed lottery schemes. The definitional approach in those cases may be of limited use.

Principles of statutory interpretation require that the ordinary meaning of words be considered in their statutory context and in light of the purpose of the statute. The federal *Interpretation Act*²¹ provides that all legislation is to be given a liberal and purposive interpretation. In the context of criminal legislation, the proper construction of a provision may, if there is any doubt or ambiguity, be resolved in favour of an accused. One author has articulated the modern interpretation rule as follows:

There is only one rule in modern interpretation, namely courts are obliged to determine the meaning of legislation in its total context, having regard to the purpose of the legislation, the consequences of proposed interpretations, the presumptions and special rules of interpretation, as well as admissible external aids. In other words, the courts must consider and take into account all relevant and admissible indicators of legislative meaning. After taking these into account, the court must then adopt an interpretation that is appropriate. An appropriate interpretation is one that can be justified in terms of (a) its plausibility, that is, its compliance with the legislative text; (b) its efficacy, that is, its

promotion of the legislative purpose, and (c) its acceptability, that is, the outcome is reasonable and just.²¹

Ordinary Meaning

The dictionary definitions of the words "conduct and manage" can be seen to support a distinction between these activities and other "operational" activities, although there is considerable overlap and the ordinary meanings themselves may not sufficiently distinguish the concepts. It is to be noted that Parliament must be taken to have intended a meaning to attach to the words "conduct" and "manage" when used together which would not attach to either in the absence of the other. Each word is to be given a different meaning and is not to be interpreted²² in a manner that would render either of them redundant.

Shorter Oxford English Dictionary definitions include the following:

Conduct (n.): The action of conducting; guidance, leading...Leadership, command...Direction, management; handling....

Conduct (v.): To lead, guide...To lead, command...to direct...to manage....

Manage: Management; Conduct (of affairs); administration, direction, control...To administer...To deal with carefully....

Operation: Action, performance, work; a particular form or kind of activity; an active process. The performance of something of practical or mechanical nature.

Context

The Code provisions prohibiting gaming activities also support a distinction between conduct and management on the one hand, and operational activities on the other. Authorities considering the words in other statutory contexts must be approached with caution. Given the plain meaning as derived from the dictionary definitions, the statutory context is critical to deriving an appropriate statutory construction.

The charging provisions in s. 206(1)(d) of the Code relate to everyone who "conducts or manages" a scheme and in s. 206(1)(a) to (c) to everyone who engages in other specific activities which, at least in some respects, connote functional or clerical activities or concern what might be viewed as operational services: "makes, prints, advertises or publishes...", "sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange...", "knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped, or delivered, or knowingly accepts for carriage or transport or conveys..."

Section 207(1)(g) provides that it is lawful for any person to do anything "that is required for the conduct, management or *operation* [emphasis added]" of an otherwise lawful lottery scheme. Given that the provision is predicated on the lottery scheme being lawful under paragraphs (a) to (f) of s. 207(1), this provision does not derogate from the requirement that government or the other named persons or organizations conduct and manage lottery schemes under paragraphs (a) to (f) respectively. It does, however, use the word "operation", which would not be necessary if conduct and management included all operational activities. Similarly, s. 207(2) refers to the imposition of licence terms and conditions "relating to the conduct, management and *operation* of or participation in the lottery scheme [emphasis added]". Section 207(3) also refers to "conduct, management or *operation* [emphasis added]".

In considering the context of s. 207, it is important to keep in mind that the Code is bilingual legislation. The English and French versions are equally authentic and authoritative. The traditional approach is to attempt to find a shared meaning and, if there is apparent conflict, seek to reconcile the two by identifying and adopting a shared meaning.

As stated in *Driedger on the Construction of Statutes*:

Where the two versions of bilingual legislation do not say the same thing, the meaning that is shared by both ought to be adopted unless this meaning is for some reason unacceptable.²³

This is an important guide, but is not an absolute rule if its application would not accord with a proper, purposive interpretation of the statute. These principles are discussed in *Floata Cubana De Pesca v. Canada (Minister of Citizenship and Immigration)*.²⁴

In s. 206, where the English version uses "conduct and manage", the French version uses "*conduit ou administre*", a phrase which bears a meaning very close to that of the English words.

Section 207(1), rather than using "*conduit ou administre*," uses an entirely different formulation of the activity which may lawfully be carried on by provincial governments or licensed charities. Rather than "conduct and manage", the French formulation is "*mettre sur pied et exploiter une loterie*", which may be translated as set up (or establish) and run a lottery. In s. 207(1)(g), where the English version introduces the word "operation" in addition to conduct and management, the French formulation is "*mettre sur pied, administrer ou gérer la loterie*". The addition of the word "gérer" indicates that not all of the activities related to the gaming are encompassed in the phrase "*mettre sur pied et exploiter une loterie*". The difference between "administre" and "gérer" is difficult to determine. Both terms are used to refer to management, but "gérer" may connote a more direct, hands-on involvement. *Le Robert Dictionnaire Historique de la Langue Francaise*, a dictionary of historic French usage, suggests the word is derived from the latin *gerere* ("to wear" or "to carry") and originally was employed in French to suggest the act of doing or executing an activity.

Overall, the French version of s. 207 supports the view that not all activities related to the gaming must necessarily be carried out by the provincial government or licensee, but that the government or licensee should be the directing mind, or the party leading and controlling, the lottery scheme. The French formulation of ss. 207(1)(a) and (b), to the extent that it does not track the French version of s. 206, may serve to confirm that caution should be exercised in applying judicial interpretations of "conduct and manage" in the offence provisions to the responsibilities of the government or licensed charity. The shared meaning of the two versions in ss. 207(1)(a) and (b) arguably denotes a higher level management and direction role than the meaning conveyed by the English words.

Purpose

In considering questions of judicial interpretation, it is important to note that gaming continues to be viewed, at law, as an activity that must be kept within certain strict bounds. Depending on the context, this purpose will inform the approach of the courts to definitional problems.

With reference to the offences relating to disorderly houses, gaming and betting, the Supreme Court of Canada stated in *Rockert v. The Queen*:²³

The authorities leave little, if any, doubt that the mischief to which these offences were directed was not the betting, gaming and prostitution *per se*, but rather the harm to the interests of the community in which such activities were carried out in a notorious and habitual manner.

An examination of the scheme and legislative history of this part of the Code supports the view that the general prohibitions and limited exceptions thereto are intended to prevent the proliferation of gaming activities for private profit. The Code countenances generation of gaming revenues for the benefit of the public, through gaming conducted and managed by government or by charities. Other types of gaming activities, which might be expected to generate private profit, are constrained by the imposition of small bet limits and by restriction of the opportunities for such endeavours to fairs, exhibitions or places of amusement.

The exceptions to the gaming prohibitions in the Code are likely to be strictly enforced. In *R. v. Nelkin*,²⁴ the Manitoba Court of Appeal dealt with a situation in which a social club steward was given the right by the club to sell decks of cards at substantial profit and on occasion took part of the gaming pot as part of his remuneration. The steward would have had the benefit of an exception if no portion of the bets or proceeds from games were directly or indirectly paid to him, as the keeper of a place which would in the absence of the exception be a common gaming house. The majority of the court considered the steward was carrying on his own separate private business for gain within the club. The arrangements were characterized as a "colourable device to evade the statute". The majority held:

They [social clubs] are by sec. 168(2) [the exception] granted privileges. These and no others they have. If such clubs wish to

carry on without interference they must keep strictly within the liberty allowed by sec. 168(2) and avoid setting up on the club premises a person who thereon operates a private business for gain, particularly one who, participating as a player, takes part of the gain out of the bets or proceeds from games played at the club."²⁷

Resort to legislative history, as evidence of legislative intent, is a somewhat uncertain and often criticized interpretive approach. It may, however, be instructive. In the case of the Code amendments establishing the current permitted lottery schemes, the evidence of legislative intent, such as it is, tends to confirm the view that gaming is to be kept within strict bounds and that allowing private profit from gaming activities was not among the intended purposes of the exceptions.

The Ontario Court of Appeal in *R. v. Pamajewon*²⁸ noted that the current gaming provisions of the Code can be traced to the 1957 report of the Joint Committee of the Senate and House of Commons on capital punishment, corporal punishment and the lotteries.²⁹ That report responded to a number of concerns: there appeared to be support for lotteries organized for "charitable and benevolent purposes", concerns that inconsistencies and anomalies in the law should be eliminated, an observable lack of public support for the existing prohibitions, and the desire to protect the public from fraudulent lottery schemes, which the committee described as those "where all or the major portions of the proceeds are taken by promoters operating under the guise of charity". Even in respect of lotteries described by the committee as "organized by reputable organizations for worthy purposes", there was a concern that some "had been entrusted to the management of professional promoters who had retained most of the proceeds". The committee also noted "there was evidence that professional operators had conspired to manipulate and cheat at bingo games and thereby gain valuable prizes".

The committee concluded that control of these frauds was difficult under then existing laws. The report concluded that regulation, not prohibition, would advance the public interest and recommended various exceptions to the Code prohibitions, including licensed lotteries "in support of charitable, religious and other community purposes". The report went to some length to recommend limits to prevent lotteries from being available to "professional promoters". On this subject, the report stated:

Prizes, although sufficient to attract patronage, should not be permitted to become so valuable as to create large lotteries because large lotteries inevitably attract professional operators. Essential expenses for printing and other necessities must be met but expenses for advertising should be curtailed and no payment by way of wages, commission or otherwise should be permitted for services of individuals in the promotion or conduct of the lottery.

Specifically, it should be a condition of each licence that the net proceeds of the lottery should be devoted to charity, religion or community welfare.

Limitation of expense is necessary to prevent the encouragement of professional operators by making permitted lotteries unprofitable and unattractive to them. Likewise, limitation of expense is essential to ensure that a reasonable proportion of the proceeds is devoted to the purposes for which it is organized.¹⁰

The report went so far as to recommend that:

Special restrictions are necessary to ensure that the proceeds are not appropriated under the guise of rent either for equipment or premises. The experience of other jurisdictions indicates that rental of lottery equipment should be prohibited because the operation of such rental services attracts an undesirable element who would acquire a vested interest in the continuance of lotteries. Likewise, it is essential to limit the payment of rent for premises to a fixed sum and to prohibit any rent based on a percentage of the proceeds. The rent should be the fair economic rent ordinarily charged for such premises.¹¹

The report concluded with a recommendation for the exemption of three types of lotteries, including:

Lotteries licensed by provincial or delegated authority in aid of charitable, religious and community purposes if they met the following conditions:

- (i) Retail value of prizes offered by any one organization not to exceed \$5,000 in any year.
- (ii) Expense to be limited by prohibition against payments to promoters or any other persons for services performed in connection with the lottery; by the limitation of rent and similar charges; and the restriction of advertising.
- (iii) Properly audited reports on the operation of each such lottery to be submitted to the licensing authority prior to the issue of a subsequent licence.¹²

It is not possible to discern complete acceptance of these recommendations in the subsequent 1969 Code amendments. Indeed, the report had recommended against state lotteries, which were permitted by the 1969 amendments, and the amendments did not expressly include many of the limitations referred to in the report. It appears that the detail of the size and regulation of lottery schemes was to be left largely to local authorities. However, the legislative scheme was clearly intended to provide some constraints. These constraints are reflected in the conduct and management requirement and the restriction on the use of proceeds.

In introducing the amending legislation, John Turner, then Minister of Justice stated:

The nature of the proposed amendments might be described as a local option within prescribed limits set in the Code.... Charitable or religious organizations will be allowed to run lotteries under a provincial licence. How many and how big these lotteries may be will depend on the licences."

Cases - Conduct and Management

The most important case on point is *Keystone Bingo Centre Inc. v. Manitoba Lotteries Foundation*.⁴⁴ Keystone, the owner of a commercial bingo hall, sought compensation after a change in gaming licensing policy by the Manitoba government effectively put the operation out of business.

The Manitoba Court of Appeal concluded no compensation was payable as the operation was illegal. An association of charities had been formed. The individual charities obtained licences to conduct and manage bingo games. The association entered into a lease with Keystone for the bingo hall. Keystone agreed to provide the premises and all necessary supplies. It agreed to supply the personnel required to conduct and manage the bingo events, including managers, bingo callers, checkers and security guards. It maintained and operated a canteen or concession facility. Keystone received rent equal to its direct operating expenses plus 15%, repayment of costs of improvements and equipment, amortized, and the cost of certain supplies, plus 20%. In addition, it received all concession revenue, except for a \$1,000 credit to the association.

The Manitoba Court of Appeal concluded the arrangement contravened the Code because Keystone was conducting and managing a lottery scheme and was sharing in the proceeds, holding:

Keystone carefully constructed an elaborate scheme to put itself in the position of a landlord simply renting out its premises. That scheme cannot conceal the reality that Keystone was conducting and managing a lottery scheme, a fact conceded by counsel for Keystone, or conceal the reality that the remuneration package went far beyond the typical landlord and tenant relationship and provided Keystone with a very real participation in the profits of the bingo hall operation.⁴⁵

The court held that the provisions of the Code did not permit an independent contractor to act as the "operating mind of the whole scheme", stating:

In our view Keystone did not come within the exception found in s. 190 (1) (c) (i) in the words "...and for that purpose for any person under the authority of such licence to do any thing described in any of paragraphs 189(1) (a) to (g)... [now section 207 (1) (g)]. Those words can only relate to those persons who are directly associated with, and in a sense part of, the

charitable or religious organization for whom the exemption was defined. It was never intended to exempt from the provisions of s. 189 (1) (now section 206 - the offence provision) an independent contractor such as Keystone, who was the operating mind of the whole scheme.²⁸

This passage is arguably capable of a construction limiting those involved in conduct and management of permitted lottery schemes to "members" of the licensee. Alternatively, the true import of the passage may simply be that independent contractors may not conduct and manage a permitted lottery scheme. The former conclusion presents difficulty if persons who, because of the constitution and structure of the organization, may not be considered "members" assist as volunteers in the conduct and management of the gaming. The latter conclusion avoids this difficulty and is consistent with the current provision, s. 207(1)(g), which is premised on the lottery scheme being lawful under ss. 207(1)(a) to (f) (that is, conducted and managed by the identified persons or organizations) given that the acts of persons acting not on their own behalf as independent contractors, but on behalf of a principal, may be attributed to the principal.

In *Keystone*, the court viewed the scheme as "calculated to circumvent the provisions of the Code" and stated that "not even the legislature of Manitoba could give Keystone the colour of right to act in the manner which it did."²⁹

In British Columbia, the distinction between conduct and management and operational activities finds support in the April 17, 1998 decision of the British Columbia Supreme Court in *Great Canadian Casino Company Ltd. v. City of Surrey*.³⁰ In that case, a private sector company, under contract to the British Columbia Lottery Corporation, provided services necessary for the operation of slot machines. The court reviewed some of the cases referred to below and concluded the services provided did not amount to conduct and management of the gaming. The court did consider that the particular contractual arrangements amounted to a "profit-sharing scheme" between the Lottery Corporation and the private sector company, but stated that this did not automatically mean the private sector company had assumed conduct and management of the gaming and that an examination of all the indicia was required. On that examination, the court found that the private sector company was neither "its own master" in the operation of the slot machines, nor the "operating mind" with respect to the gaming.³¹

As noted above there are a number of cases construing the words "conduct and manage" to determine whether particular individuals have committed an offence.

In *R. v. McKenzie, Ennis and Meilleur*,³² the Ontario Court of Appeal held:

It remains to be considered whether or not the accused "conducted" the scheme. We believe they did. The word "conduct" is defined in the shorter Oxford English Dictionary as "the action...of guidance, leading, to lead, guide".

We believe that on the evidence all three of the accused...could be found to be guiding and leading the proposed recruits in the workings of the scheme and thus, "conducting" the scheme....

In *R. v. Gladue and Kirby*,⁴¹ the Alberta Provincial Court stated:

The role of the "Cashier" and the "Caller" undertaken by each of the accused were essential in the conduct of the bingo event. The bingo event was clearly a scheme with the essential elements of a lottery being present: consideration, prize and chance...the term "conduct" certainly includes the physical operation of the event and each of the accused did, in fact, conduct the scheme described.

In *R. v. Rankine*,⁴² the British Columbia Court of Appeal considered a charge that the accused conducted or managed a scheme for the purpose of determining the winners in a lottery. The accused sold foreign lottery tickets and performed incidental services. Martin C.J.B.C. held:

...when the practical effect of the section is looked at its intention is clear, to me at least, and it is that it is primarily aimed at those who have the power of control over the scheme complained of to determine, i.e., to select by whatever means, the winners in the lottery, and not at those who merely act as their servants or agents in affording persons in this country an opportunity by means of receipts or tickets or otherwise to try their luck in a draw....⁴³

In *R. v. Miller*,⁴⁴ the Ontario County Court found:

I am clearly of opinion [sic] that the scheme here contravenes the section in question, and that the accused was conducting the scheme. He evidently has all of Canada for his territory, he is free to appoint his own agents, and collects the money from them, forwarding it to headquarters.... Part of the scheme naturally was the selling of tickets and the collecting of money, and he was completely his own master in that respect in his own field.... To conduct or manage a scheme it is not necessary, in my opinion, that one should be the proprietor of it.

An annotation to the report of the *Miller* case notes:

It is not often that a case arises like the *Miller* case in which an agent is convicted under s. 236(1)(c)...in regard to conducting a lottery ("conducts or manages any scheme..."). It is generally recognized that s. 236(1)(c) is primarily aimed at those who initiate and carry through the proceedings and make the selection of winners (citing *R. v. Rankine*). However, in the *Miller* case the Court holds that to "conduct the scheme" it is not necessary to be the proprietor of it. It should be borne in mind when dealing with the *Miller* case on this point that not only was a vast quantity of

lottery paraphernalia found on a search of the premises but there was clear evidence in the opinion of the Court that accused was carrying on a scheme, contrivance or operation within the meaning of s. 236(1)(c). The case *Rex v. Rankine* is clearly distinguishable.⁴³

In its 1978 decision in *Rockert*, discussed above, the Supreme Court of Canada used language suggestive of a distinction between operational involvement in, and conduct of, the gaming. In dealing with the definition of a common gaming house, the majority suggested the possibility of distinct roles and actors; for example, persons who kept and persons who used a place. The keeper of a common gaming house was referred to as "the person in control of the place who makes it available to others" and who, by virtue of the decision in *R. v. Kerim*,⁴⁴ participates in some fashion in the "*operation* of the games played [emphasis added]". The user was referred to as "the person *conducting* the forbidden activities, whether or not he is a keeper [emphasis added]".

Use of Agents for Conduct and Management

The question arises as to the manner in which the provincial government or the other named persons or organizations may fulfill the requirement that they conduct and manage the permitted lottery schemes, and the extent to which agents may be used for this purpose.

It is clear that s. 207 of the Code contemplates the exercise of conduct and management functions by agents of some sort, acting on behalf of either provincial governments or charities. Government and incorporated charities can act only through the agency of persons, be they natural persons (individuals) or artificial persons (corporations). In recognition of this fact and to shield such persons from criminal liability, s. 207 includes subs. (1)(g) which provides that it is lawful:

...for any person, for the purpose of a lottery scheme that is lawful in a province under any of paragraphs (a) to (f), to do anything in the province, in accordance with the applicable law or licence, that is required for the conduct, management or operation of the lottery scheme or for the person to participate in the scheme....⁴⁵

It is clear that this provision does not derogate from the requirement that conduct and management be that of the provincial government or charities, because the exception applies only where the lottery scheme is otherwise lawful under one of the preceding paragraphs. As a result, the acts of others, to the extent they amount to conduct and management, must be attributable to, or in effect be the acts of, the provincial government or the licensed charity.

Use of Agents By Government

Government gaming in Canada is typically conducted and managed on behalf of provincial governments by Crown corporations, pursuant to enabling legislation under which those corporations are expressly made Crown agents. In some provinces, private sector service providers are relied on for operational services.

and are or may be involved in conduct and management functions, for which purpose they are or may be engaged as government agents. Agency relationships with private sector entities may arise under contract or statute. At least one province has provided for a limited statutory appointment.⁴⁹

Statutory Appointment of Crown Agents

Statutory appointment may be expressed as being for all purposes (which will encompass all purposes contemplated by the statute and in furtherance of a Crown purpose) or for only certain limited purposes.

It is clear that the words "government of a province" in s. 207(1)(a) include entities that are Crown agents for all purposes. In *Formea Chemicals Ltd. v. Polymer Corp. Ltd.*,⁵⁰ the Supreme Court of Canada held that s. 19 of the *Patent Act*,⁵¹ which allowed the "Government of Canada" to use patented inventions on payment of reasonable compensation to the patent holder, also applied to Crown agents. The court equated "Government of Canada" with the Crown and held:

In my opinion the Crown, under s. 19, has an unrestricted right to use a patent. It caused the respondent [Polymer] to be incorporated to manufacture, sell and deal in synthetic rubber and made the respondent, for all its purposes, its agent. The use by the respondent of the patent was, in the circumstances, a use by the Crown within s. 19. This being so, there was no infringement by the respondent of such patent.⁵²

Express statutory designation as a Crown agent "for all purposes" is effective to confer that status and the enjoyment of the associated statutory immunity, even without any particular governmental controls as such over the agent's activities. In *R. v. Eldorado Nuclear Limited*,⁵³ the majority of the Supreme Court of Canada, referring to *Formea Chemicals*, held:

The 'agent for all its purposes' designation was held to be determinative; there was no inquiry into the actual independence of Polymer. I think this case makes it clear that when an enactment refers to the Crown, and a particular body is expressly made a Crown agent for all purposes, the enactment embraces the statutory agent.⁵⁴

If there is an express statutory appointment as a Crown agent for certain purposes rather than "for all purposes", the court may conclude that for other purposes the entity is not a Crown agent or was not in particular circumstances acting for a Crown purpose. In so determining, courts often have resort to the common law control test, discussed below. However, as long as the entity is clearly acting within the scope of authority expressly granted to it as agent, and within its authorized purposes as agent, it will likely be held to be acting on behalf of and for the benefit of the Crown. In *Eldorado Nuclear*, the majority of the court stated:

When a Crown agent acts within the scope of the public purposes it is statutorily empowered to pursue, it is entitled to Crown immunity from the operation of statutes, because it is acting on behalf of the Crown. When the agent steps outside the ambit of Crown purposes, however, it acts personally, and not on behalf of the state, and cannot claim to be immune as an agent of the Crown. This follows from the fact that s. 16 [now s. 17] of the *Interpretation Act* [of Canada, which provides that statutes do not bind the Crown except as mentioned] works for the benefit of the state, not for the benefit of the agent personally.²⁴

This suggests that, for the purposes of a particular statute, a Crown agent appointed for limited purposes should be included in the meaning of any reference to government if, but only if, the activity that is the subject of the agency appointment is the very activity that is the subject of the provision in which reference is made to government.

If there is no express statutory designation as a Crown agent, the court will consider the extent of the right of the Crown to control the agent (*de jure* control), not the control exercised in fact. Resort to consideration of control is not required where there is express statutory language indicating that the body acts on behalf of or as an agent of the Crown because "the position at common law is not that those under *de jure* control are entitled to Crown immunity, but rather that immunity extends to those acting on behalf of the Crown".²⁵ The control test is simply the means to determine whether the body acts on behalf of the Crown where the statute does not expressly so provide. The court in *Eldorado Nuclear* noted that:

At common law the question whether a person is an agent or servant of the Crown depends on the degree of control which the Crown, through its minister, can exercise over the performance of his or its duties. The greater the control, the more likely it is that the person will be recognized as a Crown agent. Where a person, human or corporate, exercises substantial discretion, independent of ministerial control, the common law denies Crown agency status. The question is not how much independence the person has in fact, but how much he can assert by reason of the terms of appointment and nature of the official.²⁶

Referring to situations where the statute does not expressly indicate whether the body is a Crown agent, Professor Flannigan, states:

Lord Wright's novel approach [in *Montreal Locomotive*, discussed below] was offered in a case concerned with a contractual Crown agency situation. Presumably, it would equally be applicable in a statutory Crown agency situation. In the former case there would be a control analysis of contractual provisions, and in the latter, a control analysis of statutory provisions. Crown status would attach if there were a sufficient connection or relationship. The effect of the test, in the present context, is to define as a Crown agent any person or body engaged

in an activity or operation which the government controls in whole or in part. This is in conformity with Dickson C.J.C.'s suggestion in *R. v. Eldorado Nuclear Limited*. A sufficient degree of control would be any significant government control.⁵⁷

Contractual Appointment of Crown Agents

Crown agent status may be conferred contractually on a private person, but mere designation as such, without more, is not determinative. Under the common law test, it is the degree of control government has over the person (as discussed in *Eldorado Nuclear*, referred to above) that determines whether a contractual relationship is one of Crown agency.

The leading case on contractual Crown agency status, *Montreal v. Montreal Locomotive Works Ltd.*,⁵⁸ focuses not merely on the ability to control the manner of the work (the traditional approach to drawing a distinction between servants and independent contractors), but on what has been described as an "enterprise control" test.⁵⁹ The decision in *Montreal Locomotive* advocates a test involving "(1) control; (2) ownership of the tools; (3) chance of profit; (4) risk of loss" and states that "control in itself is not always conclusive".⁶⁰ *Montreal Locomotive Works Ltd.* managed the undertaking, but was subject to such supervision, direction and control as the government should desire to exercise, supplied no financing for the undertaking, took no risk of loss or liability, and received a fee only for management services, "something very different from the risk of profit or loss".⁶¹ In the circumstances of the case, the company was held to be a Crown agent, not an independent contractor.

In discussing the approach taken in *Montreal Locomotive*, Professor Flannigan states:

The result of this change was to reveal a simple and intuitive basis for differentiating between servants and independent contractors. The difference between servants and independent contractors becomes the difference between enterprises. If there are two distinct enterprises [i.e. that of the employer and that of the worker], the worker is not the servant of the employer. If no separate worker enterprise can be identified, the worker is only a servant of the employer's enterprise.

The precision of this approach is found in the "enterprise control" test extracted from Lord Wright's judgment [citing R. Flannigan, "Enterprise Control: The Servant-Independent Contractor Distinction" (1987), 37 U.T.L.J.25]. This test involves assessing the control associated with the productive employment of the assets of the activity or operation in question. As discussed at length elsewhere, the test identifies whether or not separate enterprises are being carried on [citation deleted]. A separate worker enterprise will be found on the basis of this test: if there is a high degree of worker control. That is, separate enterprises will not be found if the employer exercises more than a nominal

degree of control in relation to the activity or operation. The test is straightforward. The 'enterprise' aspect is the conceptual background or framework for analysis. 'Control' is the factor which is analyzed to determine if a separate enterprise exists.⁴²

The context under consideration imposes an additional requirement. Under s. 207(1)(a) of the Code, provincial government conduct and management of lottery schemes must be "in accordance with any law enacted by the legislature of that province". Any contractual appointment of agents should therefore, in this context, be authorized by statute.

Gaming Cases - Crown Agency Issues

There has been some judicial consideration of the use of agents in provincial government gaming.

In *Alberta Shuffleboards (1986) Ltd. v. Alberta*,⁴³ a group of operators of coin-operated amusement machines sought an injunction to prohibit a video lottery scheme introduced by the Alberta government. Under the Alberta *Interprovincial Lottery Act*,⁴⁴ the Minister was given the authority to conduct, manage and operate lottery schemes on behalf of the government and to enter into agreements with individuals, partnerships or corporations regarding the conduct, management and operation of lottery schemes on behalf of the government. The legislation further provided:

- 3. The Minister may issue a licence to any person authorizing that person, as agent of the Government of Alberta, to conduct, manage and operate a lottery scheme within Alberta and to carry out the terms of any agreement under this Act.*
- 4. A licence issued under this Act shall contain any terms and conditions the Minister considers appropriate.*

A partnership of two private sector companies had been licensed to conduct, manage and operate a lottery scheme to be known as the "Video Lottery" and acted, in that regard, as an agent of the Alberta government. Applying the Alberta *Proceedings Against the Crown Act*, the court concluded that since an injunction was not available against the Crown, it was not available against a Crown agent.⁴⁵

Despite this conclusion, the court went on to consider the merits of the injunction application and, in so doing, referred to s. 207(1)(a) of the Code and the provincial legislation, stating:

These particular Statutes now permit a Province or its duly authorized Agents to engage in what was formerly an illegal activity, and to set the Rules and Regulations under which those activities may be conducted.

I have already referred to s. 3 of the Interprovincial Lottery Act which clearly points out that the Minister is unfettered in issuing a

Licence to any person, authorizing that person as Agent of the Crown to conduct, manage and operate a lottery scheme within Alberta and to carry out the terms of any agreement under the Act. In addition it also provides that a Licence issued thereunder shall contain any terms and conditions the Minister considers appropriate.

Regardless of what terminology is used to describe such appointments by the Minister, they are in fact lawful and not open to challenge. Accordingly, as already indicated, no serious issue to be tried exists.⁴²

The Provincial Court of Manitoba in *R. v. Nelson*⁴³ considered contractual relationships between the Manitoba Lotteries Corporation (MLC), a provincial Crown corporation, and private sector operators. The contracts dealt with the use of premises and the provision of services required for the operation of video lottery terminals (VLTs). Despite the fact that the private sector operators' compensation was set at 90% of the net revenue from the VLTs, the court found that the agreements were essentially agency contracts and that, pursuant to those agreements, the MLC effectively controlled all aspects of the video lottery scheme.

The MLC site holder agreements relating to the operation of VLTs were again considered in *R. v. Warwaruk*.⁴⁴ The Manitoba Court of Queens Bench noted that the agreements constituted the Nelson House First Nation Band as an "agent" of the MLC. The MLC owned and serviced the VLTs, while the band otherwise managed and ran the "entire operation". The court accepted that, "legally and officially", the MLC was conducting and managing the gaming, stating: "The gaming operations were carried out under the auspices of the MLC and were not unlawful."⁴⁵

This argument did not prevent the conviction of Warwaruk, a third party, for keeping a common gaming house. Warwaruk had participated with the band in control of the lottery scheme in various ways. Although he did not have complete control, he exercised a significant "degree" of control. He had been instrumental in the planning of the operations, arranged for contractors, paid for renovations, gave directions to managers of the gaming houses as to bank deposits, and arranged for insurance on equipment. The court also found that he exercised control through funding agreements, which required, among other things, that the band maintain the VLTs in good operational order, and which had a term of five years, the result of which was that the bands "were not at liberty to exercise the important management right to close down the operations at an earlier date without the consent of [Warwaruk]." This degree of control, coupled with participation in the profits (to the extent of 45%), caused the court to conclude that Warwaruk was the keeper of a common gaming house. Section 207(1)(a) of the Code did not shelter the accused, as:

...the operations were in themselves gaming activities which were prohibited and unlawful and that, while the Code did not apply to

the government, it did not exempt the accused from prosecution....

Thus, while it was undoubtedly lawful for the MLC to conduct and manage the lotteries in question, it was not lawful for the accused to do so.

Reliance on this authority for an indication of the difference between conduct and management on the one hand and operations on the other must be approached with caution. There is no reference in the decision to s. 207(1)(g) and no apparent consideration of any difference between conduct and management or operational activities. The apparent equation of a person who is a "keeper" of a common gaming house with one who conducts and manages a lottery scheme is arguably incorrect. A keeper is one who has management and control *over the premises* and participates in some way in the unlawful activity, but the extent of participation need not amount to conduct and management; participation of an operational or functional nature suffices when combined with control of the premises.

Effects of Crown Agency

If a Crown agent acts within the scope of its authority or within the purposes for which the agency was created, then it will be permitted to invoke those Crown immunities that are germane to the Crown purpose in which it is engaged. If a Crown agent were found to be acting outside the scope of its authority, then the Crown immunities would not be available to the agent. This is true whatever the form of appointment, including appointment by statute "for all purposes" because this phrase will be interpreted to encompass only all purposes within the contemplation of the enabling legislation.

At common law, the Crown and its agents were immune from statute unless a statute expressly or by necessary implication provided otherwise. It is open to the provincial legislature and federal parliament to determine the extent of application of their respective laws to the Crown, subject only to constitutional considerations of the extent to which one order of government may exert jurisdiction over the activity of the other, as in s. 125 of the *Constitution Act, 1867*, which provides that no "lands or property belonging to Canada or any Province shall be liable to Taxation". This provision does not provide any immunity from taxation of lands or property (including income) of a private sector entity, even one appointed for limited purposes as a provincial Crown agent, if the lands or property were owned by that entity in its own right.

Section 149 of the federal *Income Tax Act* provides a series of exemptions for corporations owned directly or indirectly by the Crown (generally where there is 90% or greater Crown ownership). These exemptions would not apply to a private sector service provider, even if it were appointed as a Crown agent for the purpose and to the extent of incidental involvement in conduct and management of government gaming. Furthermore, goods or services acquired by the private sector service provider, for its own purposes in providing operational services

under contract to a Crown corporation, would not be exempt from the imposition of federal goods and services tax under the *Excise Tax Act*.⁷⁰

The application of statutes to the Crown is now the subject of legislation at both federal and provincial levels. Section 17 of the federal *Interpretation Act* provides that the Crown is not bound except to the extent mentioned or referred to. In British Columbia, this position has been reversed. Section 14(1) of the provincial *Interpretation Act*⁷¹ provides that enactments (all statutes, regulations, etc.) apply to the Crown unless the Crown is expressly excepted. This is qualified by subs. 14(2), which excepts the Crown from application of enactments that would bind or affect it in the use or development of land. The provincial legislature may specify that a Crown agent does not have all the same statutory immunities as does the Crown itself. Section 125 of the *Constitution Act, 1867* does not restrict the provincial government from taxing its agents.

Crown agency does not necessarily insulate the agent from liability under substantive law. In his treatise on Canadian constitutional law, Professor Hogg states:

Assuming that a Crown agent is a suable entity, the next question is whether the rules of substantive law operate to impose liability on the Crown agent. Generally speaking, the case-law assimilates a Crown agent to an individual Crown servant, and holds the Crown agent directly liable in those circumstances where a Crown servant would be personally liable. On this basis, a public corporation may be liable in tort or contract (or other head of liability) despite its status as an agent of the Crown.

...The possession of the legal capacity to sue or be sued carries the implication that a public corporation can be entitled to rights and subject to obligations in its own right.⁷²

From the government's perspective, where there is a valid Crown agency and the acts of the agent are performed within its authorized powers and for a Crown purpose, the agent's actions become those of the government itself. The Canadian *Charter of Rights and Freedoms* may apply to a Crown agent performing governmental functions under government control. In some instances, the government may bear some responsibility for the agent's *Charter* violations. Also, the government itself may in certain circumstances incur primary contractual or tort (civil wrongs, such as negligence, etc.) liability as a result of the Crown agent's acts or omissions.

The Crown is liable in contract, as principal, if a contract is made on its behalf and for its benefit by an authorized agent, acting within the scope of its authority. It is possible for a Crown agent to incur contractual liability in its own right as well, but not if it is acting *only* as a Crown agent in so contracting. In certain circumstances liability may attach to the principal for contracts entered into by an agent even where the agent exceeds his authority, if the agent has apparent or ostensible authority and the other contracting party relies on that authority.

Crown agents enjoy no immunity from liability for torts committed by them. In some circumstances direct or vicarious liability may also attach to the Crown for acts or omissions of certain agents.⁷³

Any appointment of a Crown agent must take account of the effects of such an appointment. This is particularly so if the Crown agent is a private sector entity. The extent to which provincial laws bind the agent may be addressed by statute. Other risks may be managed by limiting the scope of the agency itself. In this context, contractual provisions between a Crown corporation and a private sector entity may be used to manage particular risks.

Summary - Crown Agents

The British Columbia Lottery Corporation conducts and manages ticket lottery schemes and casino gaming in the province. The Lottery Corporation is a Crown corporation and carries on its activities as an agent of the government "for all purposes" pursuant to s. 3(1) of the *Lottery Corporation Act*. It falls therefore within the meaning of "government of a province" in s. 207(1)(a) of the Code. The Lottery Corporation has adopted an operating model for casino gaming in which it contracts with private sector service providers for the supply of premises and certain services. This operating model endeavours to restrict the role of private sector service providers to operational functions and ensure control by the Lottery Corporation. This model will be the subject of judicial scrutiny in proceedings currently before the courts.

Uncertainty remains because it is difficult to discern the precise dividing line between activities related to gaming that amount to mere operational services and activities that are in the nature of conduct and management. A provincial statutory scheme for government gaming that confers Crown agency status on a private sector service provider to the extent it engages in or is involved in conduct and management should help to resolve that uncertainty. A statutory appointment should serve to ensure that no incidental involvement by the service provider in an activity found to amount to conduct and management would put the lottery scheme at risk of conflicting with the provisions of the Code.

Given the implications of appointment as a Crown agent and given that it is neither appropriate nor required in the circumstances, any such statutory appointment should not be "for all purposes", but should extend only to the incidental involvement in conduct and management.

It would appear advisable to provide clearly for government control over any private sector operator statutorily designated as a Crown agent for the limited purpose of involvement in conduct and management of government gaming. The statutory scheme should be such that the gaming enterprise is controlled by the government. This would serve as additional support for the conclusion that the service provider is, to the extent of any involvement in conduct and management, within the meaning of "provincial government" in s. 207(1)(a) of the Code.

The statute appointing the Crown agent should deal in an appropriate manner with the extent to which the agent is to be bound by provincial enactments. The

statutory provisions should not be seen as a replacement for contractual arrangements with the Lottery Corporation that would restrict and control the activities of the private sector service provider. Without attempting to characterize the services and functions provided by the private sector service provider as "operational" or as "conduct and management", the contractual model should restrict the service provider to carrying out functions involving either no exercise of discretion, or only the exercise of limited discretion which is subject to the control of the Crown corporation.

Use of Agents By Charitable or Religious Organizations

As noted above, incorporated charities may act only through the agency of other persons. For this reason, s. 207(1)(b) of the Code must be taken to contemplate that conduct and management by a charity may be undertaken through the agency of others, be they directors, officers, employees or other agents. Agents may, as a matter of law, include paid agents or volunteers (characterized as gratuitous agents) and may be natural persons or corporations.

Unincorporated charities may be licensed to conduct and manage gaming. An unincorporated association is not a distinct legal entity. It is nothing more than a group of persons who agree, implicitly or explicitly, collectively to advance a common purpose. Such associations may be organized with varying degrees of formality, but the relationship of the members is essentially contractual. They have agreed to act together, and to govern themselves in certain fashions when so acting. Because the unincorporated association is not a legal entity, licensing of the association must be seen as licensing of the individual members acting in furtherance of their common purpose.

An unincorporated association does not itself have legal capacity to contract, whether to hire employees or appoint agents or otherwise. Where such associations purport to do so, the true legal relationship between the employee or agent and the association is generally found to involve the employee or agent and some or all of the association's members in their personal capacities. Volunteers acting for and on behalf of such unincorporated associations may be considered members, or perhaps gratuitous agents, depending on the structure of the association.

The question then is not whether agents may be used, but rather what type of agents may be used. As a matter of agency law alone, the principal/agent relationship may, but need not, be characterized by a particular nature or degree of control by the principal. However, in the gaming context, the legislative scheme requires that conduct and management be that of the charity. Indeed, unless this is so, other persons do not have the benefit of the exception in s. 207(1)(g) of the Code when engaged in activities required for the conduct, management or operation of a lottery scheme. To the extent that those activities amount to conduct and management, they must be attributable to the licensed charity. This would exclude persons whose relationship with the licensed charity would be characterized as that of an independent contractor. Much as an independent contractor would not be considered a Crown agent (see the discussion above of the *Montreal Locomotive* case) and would not fall within the meaning of "provincial

government", such a person should not be understood to fall within the meaning of "charitable or religious organization" in s. 207(1)(b) of the Code. This was the conclusion in the *Keystone* case, discussed above in some detail. There the Manitoba Court of Appeal did not construe s. 207 as intending to exempt from the general gaming prohibitions an independent contractor "who was the operating mind of the whole scheme".⁷³

Central to the identification of independent contractors is the nature and degree of control exercised by the principal. Traditionally, the distinction between independent contractors and servants lies in the right of the principal to control the manner of the work. As stated by the authors of *Bowstead & Reynolds on Agency*:

An independent contractor has been defined as one who undertakes to produce a given result, but so that in the actual execution of the work he is not under the orders or control of the person for whom he does it and may use his discretion in things not specified beforehand.⁷⁴

As noted above, in the discussion of contractual appointment of Crown agents, the *Montreal Locomotive* case introduced the use of a test described by one commentator as an "enterprise control" test.⁷⁵ Application of this test broadens the focus from control of the manner of work to control of the enterprise itself and imports elements such as ownership of the productive assets and the chance of profit or loss from the enterprise. The test posits the question: whose business is it? Adapted to the gaming context, this test allows for a distinction that, although fine, is fundamental. The gaming business should be that of the licensed charity, not that of an unlicensed operator (whose business may instead be the provision of facilities and services). The gaming business and the service provider must be subject to the control of the charity.

It seems reasonable to conclude that a service provider, over whom the licensed charity has control, may be appointed as its agent and may, in that capacity, be involved in conduct and management of gaming under s. 207(1)(b) of the Code. Its activities in that capacity should be regarded as those of the charity. In order to avoid characterization as an independent contractor, the service provider should not have any independent discretion beyond the control of the licensee. Where the service provider is the owner of the productive assets and has the chance of profit (or risk of loss) from the gaming itself, the risk of characterization as an independent contractor is increased.

There appears to have been no judicial consideration of the use of a service provider to conduct and manage gaming as an agent of a licensed charity. In the absence of such consideration, the effectiveness of these arguments remains open to question. The *Keystone* decision, discussed above, renders the issue no more certain. The better view, however, appears to be that it is only those persons acting on their own behalf, as independent contractors, who may not be involved in the conduct and management of gaming under s. 207(1)(b).

In order to survive judicial scrutiny, it is critical that the licensee have not only the right but the capacity, in practical terms, to exercise control over the service

provider. In the absence of real control, which must include the ability to terminate the agency if necessary, there is a risk that a court would not find that a true agency relationship exists. This may pose difficulty in halls with multiple licensees, under current operating circumstances, where the reality of the right and ability of any individual licensee to exert control may be subject to question. The number of persons involved on behalf of the licensee and other elements of the structure of the licensing and operational regime, may present limitations on the control which may be exerted over the service provider. These limitations may militate in favour of a different licensing structure, in which one licensee conducts and manages the gaming for the ultimate benefit of multiple charities.

Summary - Conduct and Management

Clearly, substance rather than form will be crucial to a determination of whether a person or entity is engaged in conduct and management. The court will look behind the contractual arrangements to determine the true nature of the relationship among the parties involved in conduct, management and operation of the lottery scheme. It is unlikely that any single factor will be determinative; rather, the entire factual context will be considered. As one author has put it:

The overall approach of the courts seems to focus on the reality behind any scheme. The court examines the scheme to determine who is guiding or leading the scheme, who is controlling the major decisions and who is benefiting directly from the lottery scheme. There does not appear to be a simple laundry list; rather, it requires an examination of the complete scheme as it is implemented or to be implemented to determine who is conducting and managing a lottery scheme.⁷⁷

It appears that regulation of a lottery scheme does not in and of itself amount to conduct and management. Parliament could simply have decriminalized lottery schemes that are regulated by provincial authorities, but it did not. It decriminalized those conducted and managed by a provincial government or by a licensed charity.

Conduct and management is not simply a matter of having a dominant role. The government or licensed charity must be the "operating mind" of the lottery scheme. It must be the party leading, directing and controlling the lottery scheme. Conduct and management is not to be shared. Those discretionary elements of the design and implementation of a lottery scheme which establish its very character or nature likely comprise conduct and management activities. Decision-making power in these respects must not be exercised by a service provider in the capacity of an independent contractor. An independent contractor should be confined to carrying out a merely functional (i.e. operational) role if the activities in question pertain to the essential character or constituent elements of the lottery scheme. That role should be performed in accordance with specifications of the operating mind of the lottery scheme. Any decision-making power left to an independent contractor in the design or implementation of the lottery scheme increases the risk that the independent contractor will be found to be, in part or in whole, conducting and managing the lottery scheme. If some element of conduct and management is in the hands of an independent contractor, the fact that the government or a licensed charity has an ownership or proprietary interest in the lottery scheme will

not save it. Finally, participation in gaming profits may be indicative of conduct and management.

In general, it might be expected that business activities common to any commercial undertaking and not unique to gaming will be within the permissible bounds of services provided by independent contractors (provision of premises, janitorial or concession services, etc.). In *R. v. Kerim* and other authorities, such activities have not been considered sufficient in and of themselves to amount even to participation in the operation of the gaming activity for the purpose of conviction for keeping a common gaming house.

Provision and maintenance of premises and other types of ancillary services ought not to be viewed as part of the conduct and management of the lottery scheme as such. If the exemption in s. 207 is engaged, the Code should not prohibit a person from leasing commercial space or providing concession or other operational services at premises that would otherwise be a "common gaming house".

To the extent that these activities do not of themselves amount to conduct and management of gaming, no particular control over the manner of their performance need be vested in the government or licensed charity in order to meet the Code requirements.

However, payment for these services should not be structured in such a way as to indicate arrangements other than would be made for such services in non-gaming contexts. Indeed, as discussed below, the financial arrangements may have to be more carefully structured than might otherwise be the case due to the restriction on use of proceeds from charitable gaming.

It is in respect of the elements of the gaming itself that an independent contractor must be most strictly confined. To minimize the risk that the independent contractor will be found to be in any way the operating mind of the lottery scheme, there should be no discretion left to the independent contractor in respect of the gaming itself.

Remuneration for operational services should be designed to minimize any risk that it will be viewed as an indication of conduct and management by other than government or a licensed charity. This risk is minimized where a fee for service provides only for cost recovery. More risk is entailed in a fee for service that includes a reasonable return on investment or a profit margin. However, the key may well be the amount of the return or profit margin. Returns that are not defensible as reasonable market rates or profit margins for the services in issue (without regard to the gaming context) might adversely colour the view taken of the operational arrangements. The form adopted for the fee for service will also bear on the risk. For instance, a fixed charge would less likely be viewed as indicative of conduct and management than would a percentage of the gaming revenues. Remuneration that varies with the success or volume of the gaming presents a higher risk of being seen as indicating conduct and management of the gaming by the recipient of that remuneration. If such a compensation structure is used, particular attention will be required to ensure that, when viewed as a whole,

the operational arrangements do not indicate that the independent contractor is conducting and managing the lottery scheme, in whole or in part.

An alternative approach to attempting to discern a clear division between conduct and management on one hand and operational services on the other, is to ensure that any involvement of a service provider in conduct and management is only as an agent of government or of the licensed charity as the case may be. In this context, "agent" is used as distinct from "independent contractor" and refers to persons who act on behalf and under the control of a principal. The acts of the agent should be attributable to the principal. In this manner the conduct and management requirement is met, with the result that the principal has the benefit of the exception in s. 207(1)(a) or (b) and the agent has the benefit of the exception in s. 207(1)(g).

An agent for the provincial government may be appointed by statute, but an agent for charities may be appointed only by contract. The contractual agency appointment must be real. Mere designation as such, without more, will not suffice. The charity must have the right and ability to exert control over the agent. The agent may have no area of independent discretion in relation to the gaming beyond the principal's control. Other elements of the relationship may also be taken into account in determining whether a real agency relationship exists. If the purported agent has ownership of the productive assets used in the gaming and has the chance of profit or risk of loss depending on the success of the gaming, this may lead a court to conclude the service provider is an independent contractor. The gaming enterprise must in essence be that of the government or the licensed charity.

It should be noted that reliance on establishing an agency relationship, particularly in the charitable gaming context, will not necessarily provide greater certainty than will reliance on restricting an independent contractor to mere operational functions. Success in either approach will depend on the particular facts and the details of the arrangements between the parties.

3.5 Charitable or Religious Organizations

The *Criminal Code* of Canada has, since 1969, allowed for the conduct and management of gaming by "charitable or religious organizations", if licensed by provincial government authorities. Between 1938 and 1969, places used "occasionally" by "charitable and religious organizations" were excluded from the Code definition of a common gaming house. It is necessary to determine what forms or types of organizations are eligible to be licensed. The focus of this discussion will be "charitable organizations", a term not defined by the Code. Although not directly applicable in determining eligibility for licensing under the Code, provisions of the federal *Income Tax Act* dealing with registered charities must be considered as the tax exemptions they confer may influence the form and structure of gaming activities.

These issues are particularly important in the consideration of the use of a funding organization to serve as the gaming licensee to raise gaming revenues for distribution to charitable organizations that carry on charitable activities in the community. This approach may assist in addressing some issues relating to the proper conduct and management of licensed gaming activities and is discussed in Chapter 6.

Charitable Purpose

The words "charitable purpose" are used in s. 207(1)(b) of the Code to restrict the use to which proceeds of gaming activity may be put. The concept is also fundamental to a determination of the status of an organization as charitable. These words have a legal sense, which they must bear as a matter of statutory construction, unless a contrary intention appears. The words are to be given their technical sense, rather than any popular meaning.²⁰

The legal sense of "charitable purpose" derives from the Elizabethan *Statute of Charitable Uses* passed in 1601.²¹ The case law reveals four principal classifications: (1) the relief of poverty; (2) the advancement of education; (3) the advancement of religion, and (4) other purposes beneficial to the community.²² The fourth classification has been restricted by judicial interpretation to those purposes within the spirit and intent of the Elizabethan statute as revealed in its preamble, but the archaic nature of the legislation continues to perplex courts called on to determine whether an activity is charitable. In some cases, modern conditions have been accommodated within this analysis, but the results are at times strained and unpredictable.

Recently, the Federal Court of Appeal held in *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*²³ that a society formed to "provide educational forums, classes, workshops and seminars to immigrant women" did not fall within the ambit of the charitable purpose classifications set out above. The case has been appealed to the Supreme Court of Canada. The appeal has been heard and the decision is currently under reserve. Some reform of the law in this area may result from this case.

Charitable Organization

In determining eligibility under s. 207(1)(b) of the Code, the focus is on the activities carried on by the organization. Charitable organizations are those which act exclusively in furtherance of charitable purposes. However, the Code does not restrict the form the organization may take and it may be any unincorporated association, foundation, society or non-profit corporation, as long as it is clearly formed for and operating in furtherance of a charitable purpose.

Charitable organizations, within the meaning of s. 207(1)(b), are not necessarily only those that fit the definition of "charitable organization" for the purposes of the federal *Income Tax Act*. The present definition in the *Income Tax Act* is narrow, and refers to organizations that directly carry on charitable activities. Organizations the prime purpose of which is to fund other organizations, which carry on charitable activities, are dealt with separately under the *Income Tax Act* as public or private foundations.

The Code does not preclude a licensee from raising money through gaming activities to provide funding for other charitable organizations, which then directly

carry on charitable activities. Service clubs that raise money to fund the charitable activities of other organizations have been regarded as charitable organizations for the purposes of the Code gaming exceptions.⁵

As discussed above, a charitable organization may but need not be incorporated. If it is an unincorporated (voluntary) association, a legal "person" is not created, but legal relationships, of a contractual nature and of varying formality, are established among the members.⁶ The context and purpose of the exemption under s. 207(1) of the Code requires an interpretation that the acts of the members in their capacity as such are the acts of the organization for the purposes of that section. In effect, as the organization is not a legal person, the members are licensed and the exemption operates in their favour.

Permissible Activities for Charitable Organizations

The law is clear that a charitable organization may lose its status as such if its activities cease to serve an exclusively charitable purpose. The law is less clear, however, on the nature and extent of non-charitable activities which may be undertaken in furtherance of that charitable purpose.

In *Tow'e Estate v. Canada (M.N.R.)*,⁷ the Supreme Court of Canada determined that the non-charitable activities of a medical alumni association would not serve to deprive it of its character as a valid charity. The Court found that non-charitable activities such as the promotion of good fellowship were in fact acceptable, incidental means to a charitable end. After observing that "by far the greatest part of the Association's efforts during recent years had been devoted to charitable purposes," the court dealt in the following terms with the minister's concern that the fellowship purpose set out in the letters patent meant that the organization was not constituted for exclusively charitable purposes:

In my view, social gatherings of the members are in no way inconsistent with the exclusively charitable purposes of any [sic] charitable organizations; I think, on the other hand, that the holding of dinners, luncheons, teas, receptions, and other such gatherings are important "means to the fulfillment" of the purposes of such organizations and I am accordingly of the opinion that the object described in paragraph (d) of the Letters Patent does not constitute an end in itself but is rather to be regarded as a means of furthering the purposes to which the Association's main effort is devoted.⁸

This case makes it clear that a charitable organization may undertake both non-charitable and charitable activities where the former is a means to achieving the charitable purpose. However, it leaves unanswered the question of whether or not an organization whose sole activities are of a business nature may be considered a charitable organization because its ultimate objective is to give its profits to charitable organizations.

The leading case on that question is *Alberta Institute of Mental Retardation v. Canada*.⁹ In this case, the Federal Court of Appeal considered an appeal from a decision of the Minister of National Revenue refusing to grant charitable status to an institute formed to raise funding for charities because its primary activity

consisted of operations under a commercial agreement with a second-hand retail business. By the terms of that agreement, the institute solicited and collected items, which the business would sell at a profit with a share going to the charitable organization. After reviewing the objects set out in the institute's memorandum, all of which concerned the welfare of mentally handicapped persons, the court rejected the minister's contention that the commercial activity had gone beyond an incidental means to an end and had become an end or collateral purpose in itself. The minister's decision was overturned in the following terms:

Where, as in this case, the involvement of the charitable organization with a commercial enterprise is not an end or purpose in itself but is merely a means to the fulfillment of the purposes of the charitable organization which are exclusively charitable, that involvement will not result in the charitable organization losing its exemption.... Counsel for the respondent cited the decision of this Court in *Hutterian Brethren Church of Wilson v. the Queen* (1979), D.T.C. 5474 (F.C.A.). The facts in that case present a classic example of an organization with mixed objects, some charitable and some non-charitable since there that appellant was, *inter alia*, in the business of farming for a profit. That, however, is not the situation in the particular circumstances of this case. The sole purpose of the appellant, at all times, has been and is to raise the money for the benefit of persons (and their families) suffering from mental retardation. The means chosen to raise such monies, i.e., the solicitation for and collection of used goods is, in reality, simply a conversion of goods into money and does not itself change the nature of the appellant's operation in any way.

For these reasons I have concluded that, in the somewhat unusual circumstances here present where all the monies received are dedicated to the charitable purposes for which the appellant was incorporated and where the business aspect of the operation is merely incidental to the attainment of its charitable objects, the appellant can, indeed, be said to be operating exclusively for charitable purposes.¹⁰

A similar position was taken in the recent case of *Ben and Esther Dayson Charitable Foundation v. British Columbia*.¹¹ In that case, the British Columbia Supreme Court considered whether renting land in order to raise revenue for a charity could itself be considered a valid charitable purpose. The issue was whether a transfer of land from a donor to the appellant foundation was subject to an exemption under the provincial *Property Transfer Tax Act*.¹² After reviewing the *Alberta Institute of Mental Retardation* case, the court concluded that the rental activity constituted "use for a charitable purpose" because renting land to generate revenue which could then be disbursed to other charities constituted performance of the very charitable purpose allowed by the Foundation.¹³

These cases support the proposition that a charitable organization may conduct considerable business activity and remain legally "charitable" provided its profits

are ultimately applied to an overriding and validly charitable objective of the organization.

This principle is apparently qualified, however, by the notion that where an organization's business activities prove profitable and most of those assets are redirected to expansion of the undertaking, the business activities may be characterized as a collateral purpose or end rather than a means in furtherance of a valid charitable purpose. In *Hutterian Brethren Church of Wilson v. the Queen*,¹¹ the Federal Court of Appeal found that a Hutterite farming operation that funnelled the vast majority of its profits back into the enterprise could not be considered a "charitable organization" under the terms of the *Income Tax Act*.

Taxation Issues

Registered charities within the meaning of the *Income Tax Act*, namely "charitable organizations", "private foundations" and "public foundations", are exempt from income tax by virtue of s. 149(1)(f) of the Act.

The essential difference between these three entities is this: the definition of "charitable organization" limits the designation as such to bodies that "do things", i.e. churches, schools, hospitals and the like, whereas foundations are primarily (although not exclusively) funding bodies. A foundation is private if more than 50% of the board members do not deal with each other at arm's length or if more than 50% of the donated capital comes from a single source. The classic example of a private foundation is a family foundation where all the funds come from a single source and the board is controlled by the family. Private foundations are not relevant to this discussion.

A public foundation must be structured as a trust or corporation (which includes a society). It must be constituted and operated exclusively for charitable purposes and must not distribute any of its income to any proprietor, member, shareholder, trustee or settlor (s. 149.1(1)). Charitable organizations to which a public foundation distributes from gaming revenues could not be members of that foundation, but representative individuals might serve as members instead.

In order to be registrable and thus entitled to tax exempt status, a charitable public foundation must not carry on a business that is not related to its charitable object (this is also true for charitable organizations as defined in the *Income Tax Act*). A public foundation must not acquire control of any corporation, or incur debt other than for current operating expenses or for investments or administration of charitable activities. Furthermore, it must meet certain statutory disbursement requirements.

Related Business

The *Income Tax Act* does not comprehensively define "related business". It merely provides in s. 149.1 that a related business includes an unrelated business where "substantially all persons employed by the charity in the carrying on of that business" are unpaid.¹² As a result, where gaming is conducted and managed by volunteers there is no issue regarding whether charitable gaming amounts to a business activity or whether, if so, it is related or unrelated. A recent Revenue Canada Technical Interpretation¹³ suggests that where a business activity staffed

by volunteers also involves paid independent contractors, the latter may be treated as being employed by the charity in the carrying on of that business.

If paid employees are to be used in the gaming activity, it becomes crucial for tax purposes to determine whether gaming constitutes a business activity related to the charitable objects of the organization. In the case of a business activity with paid employees, the business must be related to the objectives of the organization or the organization may lose its charitable registration.

The leading case is *Alberta Institute of Mental Retardation v. Canada*.⁴ As discussed above, the case involved an appeal from a decision of the Minister of National Revenue refusing to grant charitable status to an organization formed to raise funding for charities because its primary activity consisted of the solicitation of second-hand goods under an agreement with a third-party business. The Federal Court of Appeal considered the following four factors in determining whether a given business activity would constitute a "related business": (1) the degree of relationship to the charity; (2) profit motive; (3) the extent to which the business operation competes with other businesses, and (4) the length of time the operation has been carried on by the charity. The court held that the appropriation of net revenues to charitable purposes demonstrated both the requisite relationship to the charity and the absence of profit motive necessary to establish that the business was a related business. There was no evidence before the court with respect to the third and fourth factors and the court based no conclusions on them.

This case supports the proposition that a charity's sole activity may be a business activity provided the revenue is destined for charitable purposes. It also supports the notion that a business is "related" if it furthers the overall charitable objectives of the organization.

Ultimately, the effect of any particular business activity on a charitable registration will turn on whether the activity can be seen to be clearly related to the organization's objectives. The unique legal circumstance of charitable gaming, as provided for in s. 207(1)(b) of the Code, presents the possibility that the conduct of charitable gaming to raise revenue for charitable purposes is a valid charitable purpose in and of itself. Given that, with very limited exceptions, it is not lawful for anyone other than provincial governments and charities to conduct gaming and that the proceeds must be used for charitable purposes, the gaming carried on by charities is arguably undertaken only in furtherance of a charitable purpose. As a result, the conduct of charitable gaming itself is an activity that could be seen to fall within the fourth head of the charitable purpose classifications set out above.

Given the paucity of case law in this area, there remains uncertainty as to whether conducting charitable gaming to raise revenue for charity is a valid charitable purpose or a "related business" in furtherance of a charitable purpose. Resolution of this uncertainty may be required in making structural changes to gaming in British Columbia. Appropriate determinations may need to be sought from Revenue Canada.

3.6 Use of Proceeds

Section 207(1)(b) of the *Criminal Code* of Canada requires that proceeds from 'lottery schemes conducted and managed by charities be used for charitable or religious objects or purposes.

This requirement was an alternative basis on which Mr. Justice Owen-Flood would have struck down the *Gaming Proceeds Distribution Regulation* in *Nanaimo Community Bingo Association v. Attorney General of British Columbia*, a January 14, 1998 decision of the British Columbia Supreme Court.¹¹ The regulation was held to be *ultra vires* the regulation-making power conferred on the Lieutenant Governor in Council under the *Lottery Act*, but Mr. Justice Owen-Flood also gave reasons on the alternative basis of a conflict with the Code. His reasons on this issue are technically *obiter dicta*, but he held that proceeds of gaming conducted and managed by charities could not be diverted to general government revenues or for-profit management companies.

The *Nanaimo* case is under appeal. It is notable that government receipt of revenues from gaming is clearly not a mischief at which the Code provisions are directed, because it is expressly permitted under s. 207(1)(a). It is also notable that the decision dealt with a regulation providing for the distribution of "proceeds" and did not deal with the imposition of taxes, fees or other charges, which might be deducted from revenues in order to determine the "proceeds" of the gaming.

Ordinary Meaning

"Proceeds" are not defined in the Code. Ordinary meanings indicate that the word may be synonymous with revenues or profits, but do not necessarily indicate a meaning gross or net of expenses and charges:

- *Shorter Oxford English Dictionary*

Proceed: That which proceeds from something, produce, outcome, profit;

- *Canadian Oxford Dictionary*

Proceeds: money produced by a transaction or other undertaking; and

- *Webster's Third New International Dictionary*

Proceeds: 1a: what is produced or derived from something (as a sale, investment, levy, business) by way of total revenue: the total amount brought in...b: the net profit made from something...2: the net sum received...after deduction of any discount or charges....

Purpose

The apparent purpose of the restriction on the use of proceeds in s. 207(1)(b), as gleaned from the available evidence of legislative intent and the context provided by the legislative scheme for permitted lotteries,¹² is to prevent licensed gaming from becoming itself a vehicle for private profit.

Assistance in construing s. 207(1)(b) may be sought in post-1969 cases, which consider the section itself, in pre-1969 cases considering the exemption for occasional use of a place by charities, or in cases from other jurisdictions with similar exceptions to gaming prohibitions.

Post-1969 Cases

In the *Nanaimo* case, Mr. Justice Owen-Flood referred to the Manitoba Court of Appeal decision in *Keystone*, where the court relied on the decision of Duff J., as he then was, in *Bampton v. The King*,⁴⁷ on the meaning of the word "proceeds":

The section is aimed, I think, at the participation by the owner of the place where the game is carried on, in the profits or other proceeds accruing to members from the game itself.

In *Bampton*, a small fee paid by players for the use of a chair (i.e. for a seat at the gaming table) was held not to fall within the meaning of the word "proceeds" as used in the phrase "stakes or bets or other proceeds". The fee was not seen as revenue flowing from the gaming itself, although it was clearly incidental thereto. It is not clear that "proceeds" in s. 207 of the Code would have quite as limited a meaning, as it does not appear in such a restrictive phrase. Arguably the meaning of "proceeds" should be bounded by the limits of a lottery scheme, and should not extend to revenues from activities not integral to the gaming itself, such as concession revenues, rental of the hall or equipment and even supply of personnel, if properly structured. There has been no express judicial treatment of the issue, but *Keystone* is troubling in this regard as the concession revenue was part of the revenue to the operator under the impugned financial arrangements.

In *Keystone*, the Manitoba Court of Appeal considered that the financial arrangements between the bingo hall operator and the charities amounted to a sharing in proceeds because "the remuneration package went far beyond the typical landlord and tenant relationship and provided Keystone with a very real participation in the profits of the bingo hall operation".⁴⁸ As described above, the financial arrangements were structured on a cost plus basis and included all concession revenue, except \$1,000.

In the *Nanaimo* case, Mr. Justice Owen-Flood held that sections of the *Gaming Proceeds Distribution Regulation* providing for payments of fixed percentages to for-profit bingo management companies amounted similarly to a sharing in the proceeds. His Lordship arrived at this conclusion because:

The effect of the regulation is to vest an entitlement in the bingo operator to a fixed proportion of the revenue raised for charitable or religious purposes regardless of the value of the service the operator provides... .

Obviously, a substantial portion of the proceeds of charitable gaming is directed to the for-profit bingo operators - proceeds which previously went to the licensed charitable or religious gaming groups.⁴⁹

Later in his reasons, His Lordship reiterated that:

The regulation authorizes the transfer of such funds in certain circumstances to for-profit management companies, over and above the entitlement of these bingo operators to proper remuneration for their management services.¹⁰²

The decisions in *Keystone* and the *Nanaimo* case were distinguished by the Alberta Court of Queen's Bench in its August 14, 1998 decision in *Arkay Casino Management and Equipment (1985) Ltd. v. Alberta (Attorney General)*.¹⁰³

At issue in *Arkay* was a requirement of the Terms and Conditions of Casino Licence Agreements issued by the Alberta Gaming and Liquor Commission, which required that providers of casino facilities and services enter into agreements with licensed charities for the payment of fixed fees or charges for the operation of the casino, subject to a maximum of 50% of the net casino proceeds. The Alberta Court of Queen's Bench did not find this amounted to a "vesting" or statutory entitlement in the operator to a fixed portion of the profits, but found that the 50% was a cap only, stating:

The Article does not, in my view, purport to effect a 50/50 split of gambling profits such as to allocate profit intended for religious or charitable purposes to the "for-profit" operator.¹⁰⁴

The court further considered that the contractual arrangements created a "clear and direct link between the monies paid to the (for-profit operator) and the services provided" and that:

The essential fact is that in no event can the (for-profit operator) receive more than the actual cost of its services as fixed by the Casino Facility and Services Agreement entered into between it and the charity before the event is held. Thus in no sense can it be said that these provisions permit the (for-profit operator) to receive 'more than their proper remuneration for their management services' [per the *Nanaimo* case] or a 'very real participation in the profits' of the casino [per *Keystone*].¹⁰⁵

This latter conclusion is suspect. Precisely the same thing could have been said of the contractual arrangements in *Keystone*: that the operator would not receive more than its due under its agreements with charities. In that case, the Manitoba Court of Appeal considered that the substantive provisions of the agreements resulted in returns to the operator amounting to a "very real participation in the profits". Presumably a fixed fee, even one subject to a cap, might have that same effect. If *Arkay* is to be taken as authority for the proposition that in no case need there be scrutiny of the actual results of contractual arrangements, it is not readily defensible in principle.

The judgments in *Keystone* and the *Nanaimo* case implicitly accept the deduction of expenses incurred in the conduct and management of a lottery scheme, so long as the amounts deducted do not amount to a share in the profits.

Pre-1969 Cases

The cases on the pre-1969 exemption for occasional use of a place for gaming by charities are instructive as the exemption required that the proceeds from the games be used for a charitable or religious object.

In *R. v. McGee*,¹²⁴ the accused sublet a hall for bingo seven times per week to seven different charities. The accused received a fixed rent of \$25 for each bingo event and an increased rental fee of 5 cents in respect of each player in excess of 400. He also made money from the sale of refreshments and tobacco. The charities managed the bingo games and took the profits after the accused had been paid. The magistrate convicted the accused as a keeper of a common gaming house, finding that he had "retained the use of a part of the premises; he had an interest in the success of the gaming house" and he "was in effect a partner of each organization".

The Manitoba Court of Appeal agreed with the magistrate's finding that the accused was "participating in the success of the venture" and "was a partner", referring to the accused's defence that the "bingo games were not conducted" by him as "true in part". On the scope of the exemption, the court held:

This provision does not help the accused, for instead of permitting an *occasional game* to be played on his premises for charitable or religious objects, without any direct or indirect participation in the stakes or bets, he conducts these premises as a regular revenue-producing business five evenings and two afternoons in every week. This section . . . is designed to protect such people as trustees of club houses, . . ., who permit the occasional use of their premises for a charitable or religious object without gain or profit to themselves. The accused makes a regular business out of keeping his premises for the playing of games of chance, and the conviction should be affirmed.¹²⁵

A similar case before the Ontario Court of Appeal, *R. v. Goldberg*,¹²⁶ involved an accused who apparently controlled the actual operation of the bingo games, which were "sponsored" by various charities. The accused charged a fixed rent and deducted operating expenses from the participation fees paid by the bingo players, remitting the balance to the charities. The court decided that the exemption was not available to the accused as the use was not occasional. The court did not determine the issue argued before it as to "whether proceeds meant gross or net proceeds" or consider, in the context of the exemption, the control exercised by the accused over the gaming activity.

Cases From Other Jurisdictions

The net proceeds approach is supported by an Australian case, *Forge v. Mays*.¹²⁷ In that case, the Victoria State Supreme Court interpreted the definition of "proceeds", as that term was used in a provision to "decriminalize" raffles raising funds for charities, as follows:

It also appears that some of the money paid by the competitors for the right to compete in the lottery was paid by way of prizes to the winners, so that the appropriation to charity did not comprise the whole of the actual entry money. But again I agree with the

magistrate that this fact alone is not enough to take the case outside the exemption. I think that there is an exclusive appropriation of 'proceeds' for charity within the meaning of subsection (3)(c), although the actual expenses incurred in the conduct of a lottery are deducted.¹⁰³

American cases also support a net proceeds approach. These cases, though not determinative given their different constitutional and legislative context, may be persuasive.

In *Commonwealth v. Alexander*,¹⁰⁴ the Supreme Judicial Court of Massachusetts considered a Lord's Day statute permitting entertainment by a religious or charitable society, the proceeds of which were to be devoted exclusively to a charitable or religious purpose. The court stated:

...the meaning of the word 'proceeds' is that which finally results or proceeds from the entertainment, taking into account not only that which is received, but that which is incidentally and properly paid out. The proceeds are net returns after the payment of necessary expenses.¹⁰⁵

In *Nebraska v. City Betterment Corporation*,¹⁰⁶ the Supreme Court of Nebraska dealt with a provision of the state constitution which permitted lotteries "the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries" and with enabling legislation enacted thereunder. The court stated:

The word 'proceeds' in Article III, section 24, Constitution of Nebraska, (and in the enabling legislation), means 'net proceeds'. Reasonable and necessary expenses incident to the organization and operation of a lottery may be paid from lottery proceeds....¹⁰⁷

Most significant of the American cases on point is the decision of the Court of Appeals of Texas in *Aerospace Optimist Club of Fort Worth v. Texas Alcoholic Beverage Commission*.¹⁰⁸ The Texas constitution allowed the state legislature to authorize and regulate bingo games conducted by certain religious or non-profit organizations provided "all proceeds from the games are spent in Texas for charitable purposes of the organizations". The Texas state legislature passed legislation imposing a tax on gross receipts of bingo operations of 2%, later raised to 5%. In the taxing legislation, net proceeds was defined as the amount remaining after deduction of "reasonable sums necessarily and actually expended" for certain specified costs, including licence fees and gross receipts taxes. The court held:

...the phrase 'all proceeds' as used in the [constitutional provision] means net proceeds after payment of reasonable, incidental, and necessary expenses. Any other construction would be unreasonable. Nothing suggests that the drafters of the amendment or the voters intended bingo operators to seek outside sources of revenue in order to conduct bingo operations.¹⁰⁹

Dealing with the contention of the appellants (who conceded that it was lawful to pay "reasonable expenditures for operating expenses, prizes, rental, overhead and the like") that gross receipts taxes were not one of the expenses properly payable, the court stated on the same page:

Their argument is circular, however, in that it is based upon their literal construction that 'all proceeds' means all proceeds and, therefore, not one cent for tax.

The court held that the imposition of a gross receipts tax was constitutional on the basis that net proceeds could be equated with net profits and that Texas courts consider taxes to be expenses incurred in carrying on business, which may be deducted from total receipts before net profits are calculated. The court also based its decision on the broad taxing power of the state legislature, subject only to constitutional limits, holding that the constitutional provision neither expressly nor impliedly prohibited the imposition of a gross receipts tax. The reasoning in this case can arguably be applied in the Canadian context, *sr.* lends support to arguments excluding taxes, licence fees or other charges from "proceeds" within the meaning of the Code.

Summary - Proceeds

It is apparent that "proceeds" are to be construed as net of expenses incurred in the conduct, management and operation of lottery schemes and should also be net of applicable taxes, fees or charges imposed by government. "Proceeds" would seem most reasonably, in this context, to bear interpretation as the after-tax profits from the gaming. The risk to be avoided is that a particular compensation structure for service providers will be viewed as a profit-sharing arrangement, rather than payment of expenses only.

The decision in the *Nanaimo* case and other authorities, such as they are, indicate that an across-the-board compensation structure for service providers based on a percentage of revenue conflicts with the Code. Unless and until an appellate decision in the *Nanaimo* case modifies that part of the reasoning relating to compensation, a uniform, percentage-based compensation structure should not be imposed. This does not preclude the imposition of percentage-based caps to limit allowable expenditures for the use of service providers.

Risk that a court will view compensation as a profit-sharing arrangement is obviously minimized where the service provider recovers only its costs. This may be feasible, but only for a non-profit service provider. For-profit service providers will obviously seek a return on the capital invested and the time and effort required to manage their employees and assets to provide the particular services in question. This should not in and of itself amount to sharing in the proceeds of the gaming.

In respect of activities not essential to the conduct, management or operation of the lottery scheme, participation in profits from those services (or even exclusive profit) should not in principle present a problem. For example, profits from concession services should not be viewed as part of the proceeds of gaming. However, if in other respects the compensation structure reveals a participation in

gaming profits, the compensation for non-gaming services may be viewed askance (as it apparently was in *Keystone*).

It will be important to consider both quantum and form of the compensation of for-profit service providers for services pertaining to gaming.

A compensation structure may be seen as profit sharing if it results in a return wholly disproportionate to the value of the services provided. This may be the case whatever form is adopted for the compensation. However, so long as the rate of return or profit margin to the service provider does not exceed that which might reasonably be expected in a non-gaming context for similar services, it may be argued that the profit is derived from the services provided and not from the gaming itself.

Nevertheless, the amount of compensation alone will likely not be determinative. An excessive return may be an indication of profit sharing, but is not a necessary feature of such an arrangement. It seems clear that the courts will also consider the form of the service provider's compensation. There is a substantial risk that any compensation structure, negotiated or imposed, that varies with the volume or profitability of the gaming activities may be held to result in the service provider sharing in the proceeds of the gaming. This risk is most pronounced in arrangements based on a percentage of net revenues. Compensation based on a percentage of gross revenue will not avoid this risk, unless perhaps the cost of providing the service in question is in direct correlation to the gross revenue.

To avoid the risk that a compensation structure will be viewed as a profit sharing arrangement, rent and payment for gaming services may be structured as a lump sum or a rate fixed in a manner that directly correlates with the cost of providing service, rather than as a percentage of revenues.

3.7 Permissible Forms of Gaming

Certain types of gaming do not fall within those lottery schemes that may be conducted and managed by either provincial governments or charities. Other types of gaming are available to provincial governments but not to charities, namely gaming operated on or through computers, video devices or slot machines.

Relevant Provisions

Subsection 207(4) of the *Criminal Code of Canada* restricts the definition of "lottery scheme" for the purposes of the exemptions for permitted lottery schemes in s. 207:

- (4) In this section, "lottery scheme" means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than
 - (a) a dice game, three-card monte, punch board or coin table;
 - (b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest; or
 - (c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device or slot machine, within the meaning of subsection 198(3).¹¹⁵

Subsection 198(3) provides that "slot machine" means:

- ...any automatic machine or slot machine
- (a) that is used or intended to be used for any purpose other than vending merchandise or services, or
 - (b) that is used or intended to be used for the purpose of vending merchandise or services if
 - (i) the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,
 - (ii) as a result of a given number of successive operations by the operator the machine produces different results, or
 - (iii) on any operation of the machine it discharges or emits a slug or token.

but does not include an automatic machine or slot machine that dispenses as prizes only one or more free games on that machine.

State of the Law

Section 207(4)(c) has not been judicially considered, and its proper construction remains unclear. The lack of a settled understanding of the proper scope for the use of technology in charitable gaming has resulted in a variety of proposals and some controversy.

There have been attempts to introduce various devices into charitable bingo in Canada. Available technology includes stand-alone console-type devices capable of generating bingo faces and numbers for individual play. Also available are smaller, hand-held devices with various capabilities or functions, intended to electronically "mark" bingo faces which may or may not be internally generated. These devices automatically "mark" numbers called (with or without player intervention), may or may not alert the player that she has a bingo and may be capable of storing and marking simultaneously any number of different bingo faces. The acceptability of such devices in charitable bingo has not yet been judicially determined. A case concerning the Ontario Gaming Control Commission's refusal to approve for use by licensed charities an electronic bingo system that generates bingo cards but not numbers has not been dealt with by the court on the merits and appears to be in abeyance.¹¹⁰

Confusion also surrounds the use of technology to provide for multi-site bingo gaming, referred to in some jurisdictions as linked or satellite bingo. Various forms of such gaming have been implemented, some involving computer generation of numbers, others involving a central caller without computer generation of numbers, and all involving various types of communications systems. Due to the uncertainty of the bounds of permissible gaming, some of these models have been implemented in government gaming, others in charitable gaming. There is, as yet, no judicial guidance on these issues.

There is only one case dealing, on the merits, with an issue relating to forms of gaming permissible for licensed charities. The case does not deal with electronic bingo devices or any form of linked bingo, and while it concerns the scope of s. 198(3) of the Code, it does not address any issues relating to the interpretation of s. 207(4)(c). In *Charity Vending Ltd. v. Alberta Gaming Commission*,¹¹¹ the Alberta Court of Appeal dealt with a coin-operated device that dispensed pull-tab lottery tickets. The Alberta Court of Queen's Bench had determined that the Alberta Gaming Commission erred in concluding that the device was a slot machine and refusing to license charitable organizations using it. The Alberta Court of Appeal overturned this decision. The case indicates that the courts may adopt a restrictive approach. In ruling that the pull-tab vending machine was a "slot machine", the Alberta Court of Appeal stated:

The main thrust of the argument is that since the pull-tickets may be lawfully sold through a human instrumentality, where authorized under the licensing provisions of the Code, there should be no wrong in doing so through a machine. That is a plea that must be directed to Parliament which has chosen to proscribe that instrumentality.¹¹²

Principles for Interpretation of Section 207(4)(c)

In order to interpret s. 207(4)(c) of the Code, the ordinary meaning of the words used must be considered in light of both their immediate context and the context provided by the other gaming provisions in the Code, and in light of the evident purpose of the provision. Certain principles of statutory construction are relevant to the task. These include the presumptions that Parliament chose the words carefully and intended that they all have meaning and not be redundant, and that they have consistent meanings and form a coherent legislative scheme. Where general words or words capable of broad meaning are used, the intended meaning may be derived from the words with which they are associated.

It is, in this instance, most convenient first to determine the purpose of the provision, then to place it in its proper context within the statutory scheme, and only then to consider the ordinary meanings, statutory definitions and relevant judicial interpretations of components of s. 207(4)(c).

Purpose of Section 207(4)(c)

As noted in *R. v. Zippilli*:¹¹⁹

Section 11 of the federal *Interpretation Act*, [citation deleted], requires that all Acts, including the *Criminal Code*, be interpreted by the 'purposive approach'. That is the meaning of particular words or phrases, wherever possible, must yield to the purpose, object and intention of the Legislature without regard for common law principles of interpretation...

...when s. 11 of the Interpretation Act requires that words and phrases of an enactment shall be given a 'fair, large and liberal construction and interpretation' it means not necessarily that such words and phrases be given a wide meaning, but rather that they be given such meaning, which may be narrow, as will effect the purpose or object of the Legislature.

Section 207(4) was introduced into the Code in 1985. The then Minister of Justice explained its introduction in evidence before the Standing Senate Committee on Legal and Constitutional Affairs as intended to be restrictive of gaming. After referring to liberal legal interpretation and judicial determination of the scope of the term "lottery scheme", the minister stated in a letter filed in evidence that the amending legislation would:

...provide clear legislative authority for the conduct of provincially operated or licenced [sic] activities that are currently being undertaken....

In recognizing past and current activities, the Bill would, on the other hand, narrow the scope of other activities that, likely, could be conducted or licensed [sic] by provinces under the present judicial interpretation of the law. The amendments would create some additional limits to those that currently exist in the law, and the operation or licensing [sic] of certain types of activities would be specifically prohibited....

The Bill also proposes restrictions in respect of lotteries or other games of chance that are operated through computers, video devices or other machines that amount to 'slot machines' within the meaning of the *Criminal Code*. Legal arguments have been made that under the current law, slot machines could be operated under the rubric of 'lottery scheme'. The Bill, however, would restrict such interpretation. Only provincial governments themselves would be permitted under the proposals to operate such devices. The provinces would not be able to licence [sic] the operation of such devices by other persons.¹²⁰

In evidence before the Senate Committee, the General Counsel, Criminal Law Policy and Amendments Section, Department of Justice characterized the effect of the proposed amendments as follows:

The licensing of lottery schemes or gambling devices which are operated on or through any computer, video device or machine would also not be permitted. However, provincial governments themselves could operate such devices.¹²¹

The General Counsel's evidence as to the exclusion of dice games, three-card monte (shell games), punch boards or coin tables from permitted lottery schemes for provincial governments and others noted that "those particular forms of gaming are susceptible to control by the operator".¹²² There is no express indication that the same rationale was applied in arriving at the other limitations in s. 207(4), but it is arguably so. This would seem to explain the restriction in s. 207(4)(c) on betting on any "race or fight or on a single sport event or athletic contest", as such events are readily susceptible to manipulation. The restriction to provincial governments of lottery schemes operated on or through computers, video devices or slot machines is also consistent with concerns regarding manipulation or control. Presumably, there is a higher level of confidence that such lottery schemes will be properly conducted if their conduct and management is vested only in provincial governments. (Note, however, that allowing provincial governments to conduct and manage dice and other games or single sporting events, where the individual operators or participants may still be able to influence the outcome, would not necessarily resolve these concerns.)

After considering all of the evidence, including that of witnesses who did not share the view that the existing law was as liberal as represented and who viewed the amendments as an expansion of gaming opportunities available to provincial governments, the Senate committee issued a report recommending approval of the amending legislation and finding that:

It would restrict the availability of gaming computers and video devices, as well as slot machines, to lottery schemes actually conducted and managed by the provinces. At present, it is arguable that, those who may conduct gaming under provincial licence are not precluded from using these devices.¹²³

It appears likely that the purpose of introducing s. 207(4)(c) was either to limit charitable gaming opportunities in order to prevent excessive proliferation of gaming generally, or to prevent or restrict opportunities for types of gaming involving a greater risk of manipulation and control. The latter seems the more reasonable view, given that the scope of charitable gaming activity would be subject in any event to provincial control through licensing. The apparent purpose of the s. 207 licensing scheme is to allow different provinces to determine how much gaming activity to permit ("a local option"). It is inconsistent to view s. 207(4)(c) as being imposed to constrain the amount of gaming that might occur in a province, particularly since the restriction does not apply to provincial governments. It is consistent with the other parts of s. 207(4) to view paragraph (c) as being directed at controlling the potential for manipulation and control of the gaming activity. The purpose of protecting the public from abuse through forms of gaming subject to manipulation or control is achieved by the Code through the restriction to provincial governments of the opportunity to use computers, video devices and slot machines.

There is no indication in the legislation itself or in the available evidence of legislative intent that the purpose of s. 207(4)(c) is to limit gaming of a more attractive or potentially addictive sort. Such a purpose would not be effectively served by a provision leaving those forms of gaming open to provincial governments. Since the extent of charitable gaming is subject to provincial licensing control, further controls to avoid proliferation of addictive forms of gaming are arguably not necessary.

Context of Section 207(4)(c)

If one is to arrive at a proper construction of s. 207(4)(c), one must try to interpret it in a manner consistent with the other gaming provisions of the Code. It is presumed that Parliament has adopted consistent expressions and intends to avoid internal conflict in the statutory scheme. It is also presumed that each word is to be given a meaning and role in the legislative scheme, and that no words are redundant. These principles may be rejected where it is clear that such an interpretation results in an absurdity or does not accord with the purpose of the enactment.

It is not easy to apply these presumptions in the interpretation of ss. 198(3) and 207(4)(c). The gaming provisions in the Code have evolved over time to meet various developments in gaming activities or judicial interpretations. It is difficult to reconcile all of the gaming provisions, but it is necessary to do so in order to arrive at some sort of classification scheme within which the use of various devices or technology may be considered.

The legislative scheme includes presumptions in s. 198 to facilitate proof that a place is a common gaming house. A rebuttable presumption arises that a place is a common gaming house if "gaming equipment" (defined in s. 197 as "anything that is or may be used for playing games or betting") is found there. A conclusive presumption, which has since been held unconstitutional,¹²⁴ arises if a "slot machine" (as defined in the section) is found there. "Slot machines" are some sub-set of "gaming equipment" and the limits of that sub-set must be understood. Also, attention must be given to the internal components of the statutory definition of "slot machine", which includes machines for vending of merchandise and

services and machines with any other function. These components should be interpreted, if at all possible, in a coherent manner and are discussed below.

Further, the use in s. 207(4)(c) of the words "computer, video device or slot machine, within the meaning of subs. 198(3)" must be considered and, if possible, be given a meaning which is consistent with other gaming provisions in the Code. It must be determined whether the words "within the meaning of subs. 198(3)" qualify only the words "slot machine" or also the words "computer" and "video device".

The fact that subs. 198(3) is itself a statutory definition of "slot machine" strongly suggests that the qualifying phrase applies only to "slot machine". Also, if the words "computer" and "video device" were qualified by the reference to subs. 198(3), this would leave no room for meaning in the words themselves. As discussed below, the statutory definition of "slot machine" has not been restricted to any particular technology. The words "computer" and "video device" would not be necessary unless intended to mean something different from a slot machine within the meaning of s. 198(3). It is notable that it was not considered necessary to amend the statutory definition of "slot machine", for purposes of the presumption in s. 198, to include computers or video devices.

***Ordinary
Meanings,
Statutory
Definitions
and Judicial
Consideration***

Computer

The Canadian Oxford Dictionary defines "computer" as:

1. an electronic device for storing and processing data according to instructions given to it in a variable program.

Webster's Third New International Dictionary includes the following definition:

...a programmable electronic device that can store, retrieve and process data.

For other purposes the Code defines "computer system", in s. 342.1, as:

...a device that, or a group of interconnected or related devices one or more of which,

- (a) *contains computer programs or other data, and*
- (b) *pursuant to computer programs*
 - (i) *performs logic and control, and*
 - (ii) *may perform any other function...;*

and "computer program" as

...data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function....

This statutory definition is consistent with the ordinary meaning of the word "computer" and it is likely that reference to a computer in s. 207(4)(c) will be construed consistently with "computer system".

The likely genesis of s. 342.1 and its definition of "computer system" is the Supreme Court of Canada's decision in *R. v. McLaughlin*.¹²³ In that case, the court distinguished computers from communications technology, in particular telecommunication facilities (including radio and television broadcasting facilities). The court upheld the acquittal, on a charge of theft of telecommunication service, of a person who had accessed an interconnected computer system to obtain programs and information. From this case, it is clear that where penal consequences are attached to the use of computers the court will focus on whether the essential characteristic of the device is the internal processing of data. It is also clear that the court will not adopt over-inclusive definitions and will expect Parliament to refer with some precision to the type of technology proscribed.

The British Columbia Supreme Court, in *Great Canadian Casino Company Ltd. v. Surrey (City)*,¹²⁴ considered a municipal bylaw prohibiting "video lottery gaming", which was defined as "any activity or game of chance for money or other valuable consideration carried out or played on or through a computer, electronic or other video device or machine...". The court characterized the machines in question as slot machines and noted that they contained an EPROM (Erasable Programmable Read-Only Memory) computer chip which determined the game played and the prize payout, and that they were connected to a central computer system which sent instructions and monitored and retrieved data. The court held that the slot machines were "games of chance for money played on or through a computer" and fell within the prohibition in the bylaw.

Video Device

The *Canadian Oxford Dictionary* defines "video" as:

1. the process of recording, reproducing, or broadcasting visual images on magnetic tape.... 2. the visual element of television broadcasts....;

and "video display terminal" as:

a device for displaying on a screen data stored in a computer....

In its ordinary meaning, "video device" appears to denote a device for creating visual images, without reference to particular screen or display technology.

Introduction of technical evidence could result in qualification of this meaning by reference to cathode ray tube technology (used in television picture tubes).¹²⁷

In the *Great Canadian Casino* case, referred to above, the court took note of technical and trade usage evidence and held, in construing the municipal bylaw, that:

It is only the use of a television type picture tube to display game features that will bring a computer or electronic game within the meaning of the word 'video'.

The use of the words "video device" does not necessarily connote transmission. It more reasonably connotes a device which displays visual images, whether received from a transmission system or internally generated. Given that the Code and other federal statutes expressly define telecommunications facilities (inclusive or exclusive of broadcast facilities), it is likely that a "video device" would not be interpreted to encompass a television broadcasting system.

Slot Machine

A slot machine is, in its ordinary meaning, a machine operated by inserting a coin into it.¹²⁸ There is nothing in the ordinary meaning of "slot machine" to suggest a restriction to particular technologies. Indeed, the cases involving s. 198(3) and its predecessor provisions do not distinguish mechanical from electronic machines.

Section 207(4)(c) incorporates a statutory definition of a "slot machine" from s. 198(3), which, as noted above, in its current form provides that "slot machine" means:

...any automatic machine or slot machine

- (a) *that is used or intended to be used for any purpose other than vending merchandise or services, or*
- (b) *that is used or intended to be used for the purpose of vending merchandise or services if*
 - (i) *the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,*
 - (ii) *as a result of a given number of successive operations by the operator the machine produces different results, or*
 - (iii) *on any operation of the machine it discharges or emits a slug or token,*

but does not include an automatic machine or slot machine that dispenses as prizes only one or more free games on that machine

The *Shorter Oxford English Dictionary* defines "automatic" as:

1. Self-acting, having the power of motion or action within itself.
2. Going by itself; esp. of machinery and its movements, which produce results otherwise than by hand, or which simulate human or animal action.

The legislative history of the statutory definition includes a number of amendments, often in response to judicial interpretation.

The initial predecessor to s. 198(3) was s. 986(3), introduced into the Code in 1924. It referred only to automatic machines in creating a presumption that a place fitted or provided with such machines was a common gaming house:

- (3) ...any automatic machine intended to be used for vending merchandise or for any other purpose, the result of one or any number of operations of which is as regards the operator a matter of chance or uncertainty, or which as a consequence of any given number of successive operations yields different results to the operator....

The words "slot machine" and "services" were introduced in 1938 in s. 986(4):

- (4) ...any automatic or slot machine used or intended to be used for any purpose other than for vending merchandise or services shall, and any such machine used or intended to be used for vending merchandise shall, if the result of one or any number of operations of it is, as regards the operator, a matter of chance or uncertainty or if as a consequence of any given number of successive operations it yields different results to the operator or if on any operation it discharges or emits any slug or token, other than merchandise...

It is not entirely clear that the qualifying conditions in s. 986(4), as amended, applied only to the second type of machine referred to, but this is the logical conclusion to be drawn from the separation into two types of machine. The issue of the proper grammatical construction to be placed on s. 986(4) was raised but not decided in *R. v. Collins*,¹²⁵ where the Saskatchewan Court of Appeal stated:

Of these two possible constructions of the subsection, the first (the qualifying conditions do not apply to machines not used to vend merchandise or services) is, of course, the more stringent. It condemns all automatic and all slot machines which are not used for vending merchandise or services, regardless of what their use or manner of operation may be.

The provision was re-enacted in the form of the current s. 198(3), set out above, except for the concluding proviso that excludes automatic or slot machines that dispense as prizes only free games.¹²⁶ A result of re-enactment in this form was the addition to the statutory definition of automatic machines or slot machines

used or intended to be used for the purpose of vending services. The re-enactment also confirmed that the qualifying provisions, as to chance or uncertainty, different results or discharge of slugs or tokens, applied only to those machines intended or used to vend merchandise or services.

The proviso to exclude machines dispensing only free games was added by *An Act to Amend the Criminal Code*, S.C. 1974-75-76, c. 93.

The interpretation of the statutory definition in its various forms has been the subject of considerable debate. The legislative history and judicial treatment of the provision was reviewed in *R. v. Currie, Davis and Lukas*,¹¹¹ where the Ontario Court of Appeal noted:

Some assistance with respect to the interpretation of the section is obtained by reference to its history. That history is remarkable for the frequency of legislative change, and the amount of litigation engendered by it, as well as for the marked divergence of views with respect to its interpretation reflected in the cases, often among different members of the Court in the same case.¹¹²

The court also stated:

As has often been held, the provisions of the Code with respect to slot machines are directed at the suppression of gambling.¹¹³

It appears from the current wording of s. 198(3) that a very wide scope is intended. This accords with ministerial statements on the introduction of amendments excluding machines returning only free prizes:

I think this is really to clarify the situation and to make it clear that that kind of machine (providing free games) is the one kind of legal machine allowed, that is the one that all it does is dispense as prizes additional free games and is intended for purposes of entertainment and not for gambling. The only legal kind of machine is that one, which allows you to win a prize of more free games, but if it is prizes of goods or merchandise or money of course, that is an illegal machine.¹¹⁴

The statutory definition clearly aims to distinguish between legal and illegal uses of automatic and slot machines. The object and purpose of the definition as a whole is to prevent the use of such machines for gaming. The object and purpose of the particular provisions relating to machines that vend merchandise or services appears to be to exclude from the ambit of the definition those machines that serve no gaming purpose.

The words "automatic machine" are capable of very broad meaning. The question arises as to whether they are intended to refer to any automatic machine, or to only those machines typically used directly by players.

In the context of s. 198(3) and the association with the words "slot machine", it is likely that "automatic machine or slot machine" is intended to mean a machine typically used directly by players. This view is supported by the characterization of the statutory definition in *R. v. Shisler*,¹³⁵ where the Ontario Court of Appeal stated that "having regard to the definition of slot machine, the section is aimed at well-known gambling devices". The cases dealing with the statutory definition tend to confirm, or at least conform to, this more restricted interpretation. The machines involved are uniformly of a type used directly by players.

It is possible that "automatic machine or slot machine" might be construed even more narrowly. It may be that the intended meaning is not simply any machine used by players directly, but only those machines used in and of themselves to determine the outcome of a game. It might be contended that automatic machines used to provide some function in a larger game constitute "gaming equipment" and therefore give rise to a rebuttable presumption that a place in which they are found is a common gaming house, but are not the "well-known gambling devices" that ought to give rise to the conclusive presumption in s. 198(2). In most instances, cases considering the statutory definition of "slot machine" fit easily within this more restricted meaning. Even the pull-tab vending machine considered by the Alberta Court of Appeal in *Charity Vending Ltd. v. Alberta Gaming Commission*, discussed above, may be seen as a machine which itself produced the outcome (in the sense adopted by the Court of Appeal and discussed below). However, cases such as *R. v. Smith*¹³⁶ and *R. v. Dumont*,¹³⁷ where the machines in question were held to be slot machines despite the fact that no prizes were awarded until the end of each week and determination of the prize winners depended on the scores of all players during the week, militate against an interpretation in which an "automatic machine or slot machine" is only one which of itself determines the outcome.

The machine need not be entirely automatic.¹³⁸ Also, it has been held that disabling a machine (e.g. plugging or obstructing a coin slot) does not necessarily change its character for purposes of applying the statutory definition.¹³⁹

As noted above, the courts do not distinguish different technologies in cases considering automatic and slot machines. The language used and the judicial treatment provide no basis on which to conclude that the statutory definition of "slot machine" would not encompass computers or video devices otherwise falling within its meaning.

The Québec Provincial Court's decision in *R. c. Dostie*¹⁴⁰ concerned video poker machines that used computer technology (microprocessors to generate random numbers and ensure a return to the owner) and a cathode screen. Coin slots on the machines were not functional, but the machines were used to make wagers and for credits, which were accounted for by the computer system. The court concluded that the results were a matter of chance (the outcome was not determined by experience, knowledge, coordination, ability or speed) and found that the machines were slot machines within the meaning of s. 198(3)(b)(i) or (ii) of the Code.

A similar result was reached in *Québec v. 3044190 Canada Inc.*,¹⁴¹ a case dealing with "video lottery machines", which the provincial legislation defined as:

...a slot machine within the meaning of the *Criminal Code* and any other machine operated by a computer, an electronic video device, a mechanical or electro-mechanical device or a device which is operated with the assistance of the foregoing and which offers games, means, systems, devices, or other operations described in paragraphs 206(1)(a) to (g) of the *Criminal Code*.

The Québec Court of Appeal agreed with the trial judge that a video poker machine (comprising a video screen, coin slot, 12 buttons for playing, an electronic circuit which controlled its operations, and a computer which controlled the game using a software program) and a video version of a traditional slot machine were both slot machines within the meaning of section 198 of the Code.

Vending Machines

The provision dealing with automatic or slot machines used or intended to be used for vending merchandise or services has been the primary focus of judicial attention in the reported cases.

Early this century, vending machines were developed to incorporate gambling elements by providing different results on successive operations and discharging slugs or tokens, which could be exchanged for merchandise. Much of the early development of the statutory definition of "slot machine" relates to efforts to control these types of machines. Although they vended merchandise, the real attraction was their gambling element. As it was put in one case:¹⁴²

...the machine is calculated to minister to the gambling humour, and therein lies its vice. The statute is intended to suppress the gambling propensity - a propensity which this machine is designed to stimulate and arouse.

The focus of attention later moved to amusement machines, such as pinball machines. The legislative and judicial development of the statutory definition reflects an attempt to come to grips with the use of these machines for gaming purposes rather than for "innocent" amusement. Judicial efforts to exclude machines used only for amusement led to a broad definition of the word "services", machines for the vending of which were not at an early stage included in the statutory definition. After considerable judicial conflict, machines such as pinball and other machines have been held to vend services by providing a game for amusement. In arriving at this conclusion, it has been held that the word "service" or "services" includes "amusement" and is properly used to mean "'help' or 'benefit' or 'advantage' conferred". In *Laphkas v. The King*,¹⁴³ the Supreme Court of Canada stated that it fully agreed with the Ontario Court of Appeal in *R. v. Levine*,¹⁴⁴ where it was said that:

...it does no violence to the language of the statute in question to say that an automatic machine that does nothing but amuse is a machine used, or intended to be used, for vending services.

The judgment in *Laphkas* continues:

It is necessary, however, to add, as the Chief Justice of Ontario has pointed out, that certain machines vending merchandise and services may be illegal if for instance they have gaming as their purpose. The vending of merchandise or services does not authorize the use of a slot machine that for other reasons would violate the dispositions of the *Criminal Code*. But this is not the case here. The machine which furnishes only amusement and which has no other purpose than vending services, does not come within the ban of the Act.

To like effect, in *Isseman v. The Queen*,¹² "services" and "amusements" were held to be synonymous.

The qualifying conditions in s. 198(3)(b) result from the interaction of legislative and judicial developments. It appears from this history and from the structure of the current provision that those conditions are intended to carve out an exception for vending machines (including amusement machines) not used for a gaming purpose. The provisions are not intended to carve out an exception for certain types of gaming machines.

To the extent the operation of machines vending merchandise or services is a matter of chance or uncertainty, they are slot machines if they provide any consideration for use other than one or more free games. In *R. v. Topechka*,¹³ the majority judgment of the Supreme Court of Canada was informed by a reluctance to brand a person as criminal where there is "no element of gambling or hazard" and states:

What the law forbids is a machine that by electronic devices or other means defeats the ability of the player to obtain favourable results. To be within the law, the player must control the game, and not be at the mercy of a machine where skill is not the only element, as it is in the present case.

When the Act speaks of a *matter of chance or uncertainty to the operator*, it refers obviously to the machine itself which may produce different results independently of the skill of the player. I think this is the letter and spirit of the law....

The Alberta Court of Appeal did not apply the reasoning in the *Topechka* case to the matter before it in *Charity Vending Ltd. v. Alberta Gaming Commission*. That court accepted the characterization of the machine as a machine vending merchandise, but distinguished *Topechka* as a case dealing with a machine the operation of which was a matter of skill. In respect of the pull-tab vending machine under consideration in *Charity Vending*, the court looked on the resul-

from operation of the machine as obtaining either a winning or non-winning lottery ticket, stating:

The result of the operation of this machine is a matter of chance or uncertainty to the operator who will receive a ticket that is either worthless or valuable. I cannot accept the proposition that since the operator receives a ticket in each case the result of the operation is not a matter of chance or uncertainty to him or her. Indeed, a result of the operation of a typical proscribed slot machine is that the operator will always receive some combination of symbols, but another result, sought from the operation, is the cash reward. The result sought by the operator of this machine is a valuable ticket, a matter of uncertainty to the operator.¹⁴⁷

It may be argued that the Alberta Court of Appeal adopted an overly restrictive approach. The comparison with the "typical proscribed slot machine" is not particularly apt. In the case of such machines, the machine itself, through its internal mechanics or electronics, determines the outcome. However, the apparent purpose of s. 198(3)(b) is to distinguish between "true" vending machines and vending machines used for gaming. Construing the "result", which is a matter of uncertainty, to include the ultimate outcome to the operator, even if that "result" is a combination of the "certain" actions of the machine and some factor of chance not generated by the machine itself, is not inconsistent with the apparent purpose of the provision.

As to when a result is a matter of chance or uncertainty to the operator, it has been held, in a case dealing with a charge relating to disposal of goods by a game of chance, that:

The constituent element of chance is the unknown, the uncertain, the doubtful, or the absence of fore-knowledge in a person of the result of an act or operation performed by him.¹⁴⁸

Non-vending Machines

The Code also contemplates, in s. 198(3)(a), a category of automatic or slot machines that are used or intended to be used for any purpose other than vending merchandise or services. Paragraph (a) is not qualified in the manner of paragraph (b). This provision must be given meaning. Its interpretation is an open question.

The broad judicial definition of "services" in the context of s. 198(3), encompassing any help, benefit or advantage, limits the usefulness of functionality as a point of distinction between paragraphs (a) and (b). The distinction may lie in the fact that automatic slot machines may be used to return money or otherwise provide monetary gain to the operator of the machine (the typical casino-style slot machine), rather than to vend merchandise or services. This view is supported by the comment at the British Columbia Court of Appeal, in reference to a machine

the operation of which returned either slugs or coins or a combination, that "[t]he evidence does not show that it was in reality a vending machine..."¹⁴⁹

In view of the structure and apparent purpose of s. 198(3), it appears that those automatic machines or slot machines used only to vend merchandise or services should fall to be considered under paragraph (b). This is a reasonable interpretation, given that the apparent purpose of the qualifications in that paragraph is to distinguish "true" vending machines from those incorporating an element of gambling. If, in addition to vending merchandise or services, a machine pays out money or entitles the operator to monetary benefit, it would appear to fall under paragraph (a). Paragraph (b) speaks of use or intended use for the purpose of vending merchandise or services. Arguably, this language indicates an exclusive use for that purpose. If the paragraph included all machines that vend merchandise or services, in addition to being used or intended to be used to return money or otherwise provide monetary gain to the operator, there would be no scope for meaning in paragraph (a). Again this is due to the very wide meaning given to the word "services" in the context of this definition.

It is arguably appropriate to interpret paragraph (b) in such a way as to exclude machines used to return money or otherwise provide monetary gain. In the context of the presumption in s. 198(2), it is not unreasonable to presume that machines used or intended to be used to return money or otherwise provide monetary gain are gaming machines, at which the provision is intended to strike. The additional qualifications in paragraph (b), necessary to distinguish legitimate vending machines from those vending machines incorporating gambling features, are not required where operation of a machine directly provides the potential for monetary gain.

This interpretation is supported by the reasoning of the Ontario Court of Appeal in *R. v. Levine*, referred to above, which found favour with the Supreme Court of Canada in *R. v. Laphkas*. In *Levine*, the Ontario Court of Appeal declined to interpret the word "services" narrowly in order to give meaning to the category of machines that did not vend merchandise or services (as had been suggested by the Saskatchewan Court of Appeal in *R. v. Collins*). The court stated:

I do not find in this any justification for restricting the one class that is wholly excluded from the operation of the statute to any narrower limits than are required by the words describing it. Nor do I think it necessary to resort to any such method of interpretation to give a fair meaning to the other terms of the statute, or to find room for the third class of machines (those which perform functions which are neither a vending of merchandise nor a vending of services). There may well be machines that, while vending services, including amusement, have gaming for their real purpose, and machines that vend merchandise, but have gaming as their substantial purpose. Such machines serve as illustrations of a machine whose use or intended use is, in truth, for a purpose other than for vending either merchandise or services, namely for the purpose of gaming and, in my opinion, they may more reasonably be considered to

have been the objects of the legislative prohibition than a machine that furnishes nothing but simple amusement.¹²⁶

The reference in paragraph (b) to vending machines that discharge a slug or token supports, by omitting any reference to discharge of money, an argument that any machine that, in addition to vending merchandise or services, returns money or otherwise provides monetary gain falls within paragraph (a).

A possibly discordant note is the French version of s. 198(3)(b)(iii), which refers to "pièclettes ou jetons". The *Collins Robert French Dictionary* indicates that *jetons* may be translated as either "token" or "slug" and *pièclettes* may be translated as "small coin". It is difficult to understand this version. It is apparently not a reference to the discharge of any money by coins (the word *pièce* means coin) and it may be that *pièclettes*, when used in conjunction with the word *jetons*, could bear a meaning such that the coins referred to are not lawful currency. An intention to exclude money is suggested by the change to use of *pièclettes*, from the original form as enacted in 1938 which used "quelques pièces ou jetons".

If *pièclettes* does not in this context bear a meaning that excludes money, then either reading the two versions together may modify the ordinary meaning of the French version, or the two versions cannot be reconciled by the adoption of a shared meaning. As noted in *Driedger on the Construction of Statutes*:

In the absence of a shared meaning, the court must choose one version or the other, relying on ordinary interpretive principles and techniques....

In testing the acceptability of the shared meaning, or in deciding which version to prefer where there is no shared meaning, the courts rely most heavily on purposive analysis....

In addition to legislative purpose, the courts rely on contextual cues, both legislative and non-legislative, and on the full range of interpretive rules and principles....¹²⁷

The meaning expressed by the English version appears better suited to give effect to the legislative scheme and avoids rendering paragraph (a) meaningless. The meaning conveyed by the English version is likely either to modify that of the French version or to be the preferred version (in the construction of both versions), should the issue fall to be determined by the courts.

The courts have to date had no need to construe paragraph (a) in distinction to paragraph (b). In view of the characteristics of particular machines, it has not been necessary to decide which paragraph they fall into as they would be considered a "slot machine" under either. For example, in *R. v. Elliot*,¹²⁸ the court dealt with devices operated by electric power which were activated by inserting a quarter. Without further control by the person operating it, a metal bar might push one or more quarters into a chute to a payout cup. The only prize or material

benefit from the machines was provided by this potential payout. The court concluded that:

The evidence established that the two devices were automatic machines or slot machines which either, (a) were intended to be used for a purpose other than vending merchandise or services, or (b) if supplying facilities for the purpose of gambling be considered vending a service, these machines produced different results as a result of a given number of successive plays by the operator and were therefore "slot machines" as defined in s. 180 [now s. 198] (3)(a), or (b)(i) or (ii) of the Code.¹¹

Interpretation of "on or through"

A key element in the meaning of s. 207(4)(c) and in any limits on its ambit appears to be that it is only those games, proposals, schemes, plans, means, devices, contrivances or operations (described in s. 206(1)(a) to (g)) *operated on or through* computers, video devices or slot machines that are not permitted to be conducted and managed other than by provincial governments.

Webster's Third New International Dictionary includes in its definition of "on":

8. used as a function word to indicate means or agency... (playing the latest hits on the piano)...;

and in its definition of "through":

- 2a. by means of, by the help or agency of.

The Shorter Oxford English Dictionary includes in its definition of "through":

7. indicating medium, means, agency or instrument: By means of; by the action of, by (*obs.* or *arch.*). Now spec. by the instrumentality of.

This ordinary meaning is confirmed by the French version of s. 207(4)(c) which, translated, reads:

...for the application of paragraphs 1(b) to (f), the games, means, systems, devices or operations described in paragraphs 206(1)(a) to (g) that are *operated by* a computer, an electronic video device, a slot machine, *within* the meaning of subsection 198(3), *or with the assistance of* the foregoing [emphasis added].

The ordinary meaning of the English version suggests that the technology or device referred to will play a central and direct role in the gaming activity, but does not indicate that the technology or device need necessarily be the sole agency or instrumentality involved. The words "operated on or through" seem to encompass assistance provided by the technology or device in the operation of the gaming. This ordinary meaning may also be derived from the French version. The fact that this ordinary meaning is shared tends to confirm that it is the intended meaning.

Summary - Permissible Gaming

The *Great Canadian Casino Company* case, discussed above, indicates clearly that where the computer or video device determines the course or outcome of the game, the game is played "on or through" it.

The construction of s. 207(4)(c) has not been the subject of judicial determination and is a matter of substantial uncertainty.

Given the apparent purpose of s. 207(4)(c), a lottery scheme would likely be held to be operated on or through a computer, video device or slot machine where the technology or device plays a direct and central role in determining the result or fulfilling functions essential to the gaming, such that concerns arise regarding the potential for manipulation by the person conducting and managing the lottery scheme.

Case by case consideration will be required, but some general guidelines may arguably be derived from the authorities, and through application of the principles of statutory interpretation.

Computer or video devices that determine internally the chance of winning or automatically perform some essential gaming function would not appear to be permitted. Such devices would be caught within the statutory definition of slot machines in s. 198(3) if used directly by players or, if not used directly by players, would be caught by the addition of the words "computer" and "video device" in s. 207(4)(c). Thus, any such device that generates the numbers or symbols played would not be permitted. A device that performs a gaming function on its own without human control, such as notifying the player of a win, would not be permitted. A device that automatically performs an essential gaming task that would otherwise be performed manually would not be permitted. The apparent purpose of s. 207(4)(c) is engaged in any instance where information relating to the very gaming activity itself is generated, stored or manipulated by the device or technology. In all such situations, the potential exists for manipulation by the person operating the lottery scheme. This will arguably inform the conclusion as to whether the lottery scheme is operated on or through the device or technology.

Where elements of play are made possible only "on or through a computer, video device or slot machine", the scheme will likely not be held to be a permitted lottery scheme for conduct and management by a charity. Elements of play would likely include performance of any necessary functions. In bingo, for instance, this would include generation of numbers, marking and storing marked bingo faces, identifying a winning bingo face and conferring a prize on the winner. Operational arrangements for subsequent manual completion of bingo faces, or other such arrangements, may be viewed by the courts as a sham to evade the limitations in the Code.

Examples of these are devices that have been proposed for use by players to mark automatically the bingo faces they are playing, without internally generating the numbers called. A court would most likely find, if it were to consider the use of such devices in charitable bingo, that they conflict with s. 207(4)(c) of the Code.

In such devices, microprocessor technology is used to input, store and retrieve information. The devices are essentially computers. It appears likely that such machines are "automatic machines or slot machines" used for a purpose other than vending merchandise or services and fall to be considered within s. 198(3)(a). As such, the particular manner of operation of the machine is not relevant.

Interpreting s. 198(3)(a) as applicable to such machines does not suggest an inappropriate result. It is not surprising or absurd that a place equipped with such machines would be subject to the presumption in s. 198(2) that it is a common gaming house. In the context of s. 207(4)(c), such a result cannot be viewed as inconsistent with the apparent purpose of the provision, as reliance on automatic devices to perform gaming functions gives rise to concerns regarding manipulation.

Were such machines to be considered to be used for the purpose of vending services, within the meaning of s. 198(3)(b), the reasoning of the Alberta Court of Appeal in the *Charity Vending* case must be considered. It appears possible that the "result" of use may be viewed as either obtaining a "bingo" (and winning the money prize) or not obtaining a "bingo". This result cannot be said to be the product of skill alone and is, to the operator, a matter of chance or uncertainty. This conclusion would be very likely if the device itself generated the bingo faces and, although the conclusion is less obvious if it did not, the result may still be held to be a matter of uncertainty even though the uncertainty arises from an external source.

Finally, were it to be contended that such a machine is not an "automatic machine or slot machine" within the contemplation of s. 198(3), perhaps on the basis that it performs only part of the gaming function, it would nevertheless appear that the game is operated on or through the device, which is essentially a computer. The computer is receiving, storing and retrieving information directly related to the gaming activity itself. It is helping the player to play the game.

Joint prize pools involving both gaming operated on or through a computer, video device or slot machine and gaming not involving such technology or devices may be viewed as one "lottery scheme". The result is that such a lottery scheme may be conducted and managed only by a provincial government and not by a charity.

Not all use of technology is precluded on the basis of a purposive analysis. For instance, use of technology that is in essence a communications system would not appear to result in operation of the gaming activity on or though a computer or video device. Where the device does not perform any gaming function (that is, where it does not generate, store or manipulate information relating to the gaming itself), there should arguably be no concern. This is reinforced where the device or technology used for communications is not within the control of the person conducting and managing the lottery scheme.

Bingo gaming involving a number of participating locations may be structured in such a manner that it may be conducted and managed by charities. The form of the game may not be precisely that currently known in British Columbia as linked bingo. A permissible linked game might, for instance, use manual calling (without the use of a computer for random number generation) and

telecommunications or broadcasting systems for communications purposes. Out of an abundance of caution, any video devices used for display of the numbers called should be used separately from an audio broadcast or public announcement system, and in an ancillary role. In the conduct and management of a linked game, it is necessary to address issues relating to the roles of multiple charities and any commercial operator involved, but the use of technology itself need not preclude such gaming.

Further, the use of computer or video technology purely as an adjunct or accessory to the gaming activity (not in replacement of any manual control of gaming functions) should likewise not present a concern. For instance, use of devices to verify results after play has been completed would not be a problem. However, use as an adjunct or accessory must not be a mere sham.

3.8 Conclusions

The *Criminal Code* of Canada requires that provincial governments and licensed charities have conduct and management of any gaming carried on under their prescribed exemptions. It is possible to use a service provider to provide, under contract, operational or support services related to the gaming. However, no service provider should be the operating mind, in whole or in part, of the gaming. This may be achieved by ensuring that:

- all decision-making in relation to the design and implementation of the gaming, in all its essential aspects, is performed by the provincial government or licensed charity; and
- the operational services performed by the service provider are performed to detailed specifications set and monitored by the provincial government or licensed charity.

In the case of government gaming, conduct and management responsibilities of the provincial government may be performed by an agent of the government appointed by statute or contract. To be effectively appointed by contract, the agent should be subject to the control of the provincial government.

In the case of charitable gaming, conduct and management responsibilities of licensed charities may be performed through the use of agents. It is necessary to ensure that the use of paid employees of the licensee or service provider does not imperil the charitable registration of licensed charities for the purposes of the federal *Income Tax Act*. In the circumstances, consultation with Revenue Canada is required. If a contracted service provider, either a for-profit or non-profit corporation, is used to conduct and manage gaming it must not, in that respect, be acting as an independent contractor. This may be achieved by ensuring that:

- the service provider has no independent discretion in the design and implementation of the gaming which is beyond the control of the licensed charity;
- the right and ability of the licensed charity to exercise control is real and effective and includes a right and ability to terminate the agency; and
- the service provider does not have a chance of profit or risk of loss dependent on the success of the gaming.

For government gaming, the compensation structure for service providers that are not agents of the Crown must be designed in a manner that does not evidence involvement in conduct and management. This is best achieved by compensation that does not vary with the success of the gaming. This is not an essential feature of the compensation design for government gaming if it is otherwise clear that the service provider is providing only operational or support services or is appointed as a Crown agent.

For charitable gaming, the compensation structure for service providers, whether providing operational or support services or acting as an agent for the purpose of conduct and management of gaming, should not vary with the success of the gaming. No chance of profit or risk of loss from the gaming itself should lie with the service provider. This may be achieved by ensuring that:

- rent and payment for services is not based on a percentage of revenues from the gaming, although such percentages may be used to set caps; and
- rent and payment for services reflect no more than a fair market rental or reasonable return for similar premises or comparable services in other commercial contexts.

For charitable gaming, permissible forms of gaming may include the use of communications systems to link dispersed sites, but should not include the use of computer technology to generate or manipulate information pertaining to the gaming activity itself. Any use of video devices in such a communications system should be in addition to and not in place of audio communication devices. Charities should not conduct and manage gaming where players use any computers, video devices or other automatic machines to perform any functions related to the gaming activity itself.

Endnotes

- 1 R.S.C. 1985, c. C-46.
- 2 R.S.C. 1985, c. l (S^e Supp.), as amended.
- 3 *R. v. Kerim* [1963] S.C.R. 124.
- 4 [1991] 3 S.C.R. 89.
- 5 (U.K.), 30 & 31 Vict., c. 3, reprinted R.S.C. 1985, App II, No. 5.

- ⁸ *R. v. Nat Bell Liquors Ltd.*, [1922] 2 A.C. 128 at 138.
- ⁹ *Re Validity of section 5(a) of the Dairy Industry Act*, [1949] S.C.R. 1 at 50, affirmed [1951] A.C. 179 (P.C.).
- ¹⁰ *O'Grady v. Sparling* [1960] S.C.R. 804 at 810 and 811.
- ¹¹ *Bedard v. Dawson*, [1923] S.C.R. 681, in which a Québec law prohibited use of a place as a disorderly house and provided that proof of a criminal conviction was *prima facie* proof of such use.
- ¹² Hogg, Peter W., *Constitutional Law of Canada*, 4th ed. (Toronto: Carswell, 1997) at 501.
- ¹³ *Montreal v. Arcade Amusements* [1985] 1 S.C.R. 368.
- ¹⁴ [1954] S.C.R. 127.
- ¹⁵ (January 31, 1997), [1997] R.S.Q. 766 (C.A. Qué.), leave to appeal to S.C.C. refused June 12, 1997.
- ¹⁶ *Ibid.* at para. 73 ff.
- ¹⁷ *Techno-Jeux Inc. c. Québec (Procureur général)* (March 27, 1997), [1997] R.J.Q. 1237 (C.A. Qué.).
- ¹⁸ *Multiple Access v. McCutcheon*, [1982] 2 S.C.R. 161.
- ¹⁹ *Bank of Montreal v. Hall* [1990] 1 S.C.R. 121 at 150-155. The conclusion in this case has been the subject of critical comment: *Constitutional Law of Canada*, *supra* note 10 at 426-427. However, since a purposive interpretation will generally be given to the federal enactment, it is not unlikely a provincial enactment defeating that purpose would give rise to an express contradiction.
- ²⁰ R.S.B.C. 1996, c. 278, as amended by the *Miscellaneous Statutes Amendment Act (No. 3)* 1998, S.B.C. 1998, c. 37.
- ²¹ R.S.B.C. 1996, c. 279.
- ²² B.C. Reg. 286/98.
- ²³ R.S.C. 1985, c. I-23.
- ²⁴ Sullivan, Ruth, ed., *Dredger on the Construction of Statutes*, 3d ed. (Toronto: Butterworths, 1994).
- ²⁵ *Ibid.* at 220.
- ²⁶ [1998] 2 F.C. 303 (C.A.).
- ²⁷ [1978] 2 S.C.R. 704 at 712.
- ²⁸ (1957) 24 W.W.R. 172.
- ²⁹ *Ibid.* at 189.
- ³⁰ (1994), 21 O.R. (3d) 385 at 391, appeal dismissed [1996] 2 S.C.R. 821.
- ³¹ Ottawa: July 31, 1956.

- ³⁰ Ibid. at 72-73.
- ³¹ Ibid. at 74.
- ³² Ibid. at 76.
- ³³ House of Commons Debates (January 23, 1969) at 4721-4722.
- ³⁴ (1990), 76 D.L.R. (4th) 423 (Man. C.A.), leave to appeal to S.C.C. refused, 79 D.L.R. (4th) vii.
- ³⁵ Ibid. at 429.
- ³⁶ Ibid. at 430-431.
- ³⁷ Ibid. at 430.
- ³⁸ (1998), 45 M.P.L.R. (2d) 240, supplementary reasons at 261. The decision is under appeal.
- ³⁹ The court took the view that the profit-sharing brought the arrangements "dangerously close" to involving the operator in conduct and management.
- ⁴⁰ (1982), 135 D.L.R. (3d) 374 at 379.
- ⁴¹ (1986), 30 C.C.C. (3d) 308 at 311.
- ⁴² [1938] 4 D.L.R. 201.
- ⁴³ Ibid. at 202-203.
- ⁴⁴ [1951] O.W.N. 230 p. 233.
- ⁴⁵ (1951) 11 C.R. 324 (Ont. Co. Ct.).
- ⁴⁶ Supra note 3.
- ⁴⁷ The view that s. 207(1)(g) allows for the use of agents in the conduct and management of government or charitable gaming is supported by the different structure adopted for proposed amendments in Bill C-51 (first reading June 12, 1998), which would introduce a new s. 207.1 to provide an exemption for lottery schemes on international cruise ships. The provision makes it lawful for "the owner or operator of an international cruise ship, or their agent, to conduct, manage or operate and for any person to participate [emphasis added]" in a lottery scheme if certain conditions are met. There is no provision parallel to s. 207(1)(g), presumably because the express reference to agents in the exemption makes it unnecessary. The new provision would also clearly support a distinction between activities which comprise conduct, management or operation of lottery schemes.
- ⁴⁸ The Nova Scotia *Gaming Control Act*, S.N.S. 1994-95, c. 4, provides in s. 25(4) that "a person who enters into an agreement [with the Nova Scotia Crown corporation responsible for government gaming] is, with respect to, and only with respect to, the conduct and management of a lottery scheme in accordance with that agreement, an agent of Her Majesty in right of the Province". The approach in Alberta (see *Alberta Shuffleboards*, infra note 63)

- may be characterized as either a statutory appointment or a contractual appointment authorized by statute.
- ⁴⁰ [1968] S.C.R. 754.
 - ⁴¹ R.S.C. 1952, c. 203.
 - ⁴² *Formea Chemicals*, supra note 49 at 764.
 - ⁴³ [1983] 2 S.C.R. 551.
 - ⁴⁴ *Ibid.* at 575, per Dickson J.
 - ⁴⁵ *Ibid.* at 565-566, per Dickson J.
 - ⁴⁶ *Eldorado Nuclear*, supra note 52 at 574.
 - ⁴⁷ *Ibid.* at 573-574.
 - ⁴⁸ "Crown Agent Status" (1988) 67 Can. Bar Rev. 229 at 251.
 - ⁴⁹ [1947] 1 D.L.R. 161 (P.C.).
 - ⁵⁰ Flannigan, R., "Enterprise Control: The Servant-Independent Contractor Distinction" (1987) 37 U.T.L.J. 25.
 - ⁵¹ *Montreal Locomotive*, supra note 58 at 169.
 - ⁵² *Ibid.* at 170.
 - ⁵³ "Crown Agent Status", supra note 57 at 250.
 - ⁵⁴ (1992) 132 A.R. 126 (Q.B.).
 - ⁵⁵ R.S.A. 1980, c. I-8.
 - ⁵⁶ The court characterized the partnership as the "type of agent" contemplated by the definition of "agent" in that statute, which included "an independent contractor employed by the Crown" - this characterization is suspect and does not appear germane to the result as the court later relied on the principle that an agent created by statute acting under its statutory authority benefits from any Crown immunity to injunctive relief.
 - ⁵⁷ *Alberta Shuffleboards*, supra note 63.
 - ⁵⁸ [1998] 2 C.N.L.R. 137.
 - ⁵⁹ (October 28, 1998), Docket CR 98-01-19523 (Man. Q.B.).
 - ⁶⁰ *Ibid.* at para. 49.
 - ⁶¹ R.S.C. 1985, c. E-15, Parts VIII and IX.
 - ⁶² R.S.B.C. 1996, c. 238.
 - ⁶³ *Constitutional Law of Canada*, supra note 10 at 256-257.
 - ⁶⁴ Discussion of the extent to which the Crown may be directly or vicariously liable for the acts or omissions of its agents is beyond the scope of this analysis.

- ⁷⁴ *Keystone*, supra note 34 at 430-431.
- ⁷⁵ 16th ed., (London: Sweet & Maxwell, 1996) at 24.
- ⁷⁶ Flannigan, R., "Enterprise Control: The Servant-Independent Contractor Distinction", supra note 59.
- ⁷⁷ Bourgeois, *The Law of Charitable and Non-profit Organizations*, 2d ed. (Toronto: Butterworths, 1995) at 227.
- ⁷⁸ *Dames Religieuses de Notre Dame de Charite du Bon Pasteur v. Sunny Brae Assessors*, [1952] 2 S.C.R. 76.
- ⁷⁹ 43 Eliz. I, c. 4 (1601).
- ⁸⁰ *Income Tax Special Purposes Commissioners v. Pemsel*, [1891] A.C. 531 at 583 (H.L.).
- ⁸¹ [1996] 2 C.T.C. 94.
- ⁸² *R. v. Parrot*, [1947] O.W.N. 152 (C.A.).
- ⁸³ In *The Law of Charitable and Non-profit Organizations*, supra note 77 at 34-35, the author advances the following description: "an organization is made up of 'members' who agree, explicitly or implicitly, with the common purpose" and come together to advance that purpose.
- ⁸⁴ [1967] S.C.R. 133.
- ⁸⁵ Ibid. at 148-149, per Ritchie J.
- ⁸⁶ [1987] 2 C.T.C. 70, leave to appeal refused (1988), 87 N.R. 397n (S.C.C.).
- ⁸⁷ Ibid. at 70.
- ⁸⁸ (1996), 140 D.L.R. (4th) 763 (B.C.S.C.).
- ⁸⁹ S.B.C. 1987, c.15.
- ⁹⁰ Supra note 88 para. 20.
- ⁹¹ (1980), 108 D.L.R. (3d) 99.
- ⁹² In a discussion draft of a proposed guide (RC4108E - Registered Charities and the Income Tax Act), Revenue Canada interprets "substantially all" to mean at least 90% of the staff.
- ⁹³ Technical Interpretation 9733735 (June 9, 1998). A church planned to subdivide land and sell serviced lots. The church planned to engage independent contractors to survey lots, build roads, sewers, etc. Membership of the church would, on a voluntary basis, supervise these activities. Revenue Canada viewed the development as an "unrelated business" and stated: "The Department has traditionally taken a broad interpretation of the phrase 'persons employed by the charity in the carrying on of that business' to include more than individuals engaged under an employee/employer relationship. While there may be voluntary supervision, planning and other activities provided by members of the church, generally the Department

would not overlook the fact that other labour and expertise had been utilized in the business in the form of independent contractors."⁹¹

⁹¹ Supra note 86.

⁹² (January 14, 1998), Victoria 97/4779 (B.C.S.C.).

⁹³ As discussed in the section on conduct and management.

⁹⁴ [1932] 4 D.L.R. 209 at 217.

⁹⁵ *Keystone*, supra note 34 at 429.

⁹⁶ *Nanaimo* case, supra note 95 at 15.

⁹⁷ *Ibid.* at 20.

⁹⁸ (August 14, 1998), Calgary 9701-14936 (Alta. Q.B.).

⁹⁹ *Ibid.* at para. 32.

¹⁰⁰ *Ibid.* at para. 33.

¹⁰¹ [1942] 2 W.W.R. 206 (Man. C. A.).

¹⁰² *Ibid.* at 211.

¹⁰³ [1961] O.W.N. 203.

¹⁰⁴ [1946] V.L.R. 423 (Victoria State S.C.).

¹⁰⁵ *Ibid.* at 425.

¹⁰⁶ 70 N.E. 1017 (1904).

¹⁰⁷ *Ibid.* at 1018.

¹⁰⁸ 250 N.W. 2d 601 (1977).

¹⁰⁹ *Ibid.* at 606.

¹¹⁰ 886 S.W.2d 556 (1994).

¹¹¹ *Ibid.* at 561.

¹¹² Amendments to s. 207(4) proposed in Bill C-51 (first reading June 12, 1998) would add dice games to permissible gaming for provincial governments but not for charities or other persons who may be licensed under s. 207(1).

¹¹³ *T.I.C.C. Ltd. (c.o.b. as The International Centre) v. Ontario (Gaming Control Commission)*, (March 20, 1996) Doc. 442/95 (Ont. Div. Ct.).

¹¹⁴ (1988), 45 C.C.C. (3d) 455.

¹¹⁵ *Ibid.* at 457.

¹¹⁶ (1980) 54 C.C.C. (2d) 481, at 486-487 (Ont. C.A.).

¹¹⁷ Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs (April 12, 1985) at 31A:2-5.

- ¹²¹ Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs (Dec. 11, 1985) at 32:13.
- ¹²² Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs (Dec. 11, 1985) at 32:12.
- ¹²³ Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs (Dec. 20, 1985) at 35:10-15.
- ¹²⁴ *R. v. Shisler* (1990), 53 C.C.C. (3d) 531 (Ont. C.A.).
- ¹²⁵ (1980), 18 C.R. (3d) 339.
- ¹²⁶ (May 15, 1998), Vancouver A980167 (B.C.S.C.).
- ¹²⁷ McGraw-Hill, *Dictionary of Scientific and Technical Terms*, 2d ed.
- ¹²⁸ *Shorter Oxford English Dictionary*.
- ¹²⁹ [1939] 1 D.L.R. 302 at 307 (Sask. C.A.).
- ¹³⁰ *Criminal Code*, S.C. 1953-54, c. 51.
- ¹³¹ (1975) 26 C.C.C.(2d) 161 (Ont. C.A.), leave to appeal to S.C.C. denied.
- ¹³² *Ibid.* at 168.
- ¹³³ *Ibid.* at 175.
- ¹³⁴ Quoted in *R. v. Zippilli*, *supra* note 119 at 487.
- ¹³⁵ *Supra* note 124 at 540.
- ¹³⁶ [1951] O.W.N. 832 (C.A.).
- ¹³⁷ [1936] 3 D.L.R. 257 (Qué. K.B.).
- ¹³⁸ In *R. v. MacLaughlan* (1949) 8 C.R. 422 at 425 (N.B.S.C.), a pinball machine with a plunger that required further operations by the player after activation was nonetheless held to be "automatic".
- ¹³⁹ See for example *R. v. Weiss* (1954), 19 C.R. 169 (Alta. Mag. Ct.) and *R. v. Currie, Davis and Lukas*, *supra* note 131 at 179.
- ¹⁴⁰ (November 11, 1996), no. C.Q. Beauharnois (Longueil) 760-01-001120-952, 760-01-001127-957 (C.Q.).
- ¹⁴¹ [1997] R.J.Q. 766 (C.A.).
- ¹⁴² *R. v. Gerasse* (1916), 10 W.W.R. 1304 at 1310 (Man. K.B.).
- ¹⁴³ [1942] 2 D.L.R. 47 (S.C.C.).
- ¹⁴⁴ [1939] 4 D.L.R. 368.
- ¹⁴⁵ (1956), 24 C.R. 346 (S.C.C.).
- ¹⁴⁶ (1960), 34 W.W.R. 97 (S.C.C.).
- ¹⁴⁷ *Charity Vending*, *supra* note 117 at 457.
- ¹⁴⁸ *R. v. Black* (1924), 62 Que. S.C. 401.

¹⁴⁸ *R. v. Thomas*, [1934] 1 W.W.R. 493 (B.C.C.A.).

¹⁴⁹ *Levine*, supra note 144 at 373.

¹⁵⁰ *Driedger*, supra note 22 at 231 and 233.

¹⁵¹ (1977), 18 N.B.R. (2d) 585 (N.B.S.C., App. Div.).

¹⁵² *Ibid.* at 589.

4.0 Recent Developments in Government Gaming Policy

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4.1 Overview

Government policy in British Columbia, developed in light of what is permitted under the *Criminal Code of Canada*,¹ has fostered the growth of a gaming industry that is unique in Canada. Since 1994, gaming policy "has been crafted specifically to address both British Columbia's unique situation and the expectations of those who live here".² This policy has been characterized by government as a "made in B.C. plan".³

4.0 Recent Developments in Government Gaming Policy

This chapter of the White Paper sets out the recent history and principal features of government's policies for gaming in the province, including policies with respect to charitable gaming, gaming expansion, operations and enforcement, revenue sharing and liquor.

The material in this chapter is drawn largely from ministerial news releases and published reports. Copies of the news releases that express these policies are included in the White Paper as Appendix 3.

Charitable Gaming

The principal policies that provide the foundation for the charitable gaming industry in the province include long-established roles for:

- charities as participants in and beneficiaries of gaming activities conducted and managed under s. 207(1)(b) of the Code, including those organizations that conduct and manage their own independent bingo, ticket raffles and social occasion casinos;
- bingo associations, as registered representatives of bingo licensees, in facilitating the conduct and management of bingo gaming events at provincially approved, non-profit bingo halls; and
- registered commercial operators and management companies, rather than provincial public employees, in facilitating the conduct and management of bingo and casino gaming events.

A separate administrative structure under the British Columbia Gaming Commission was established in 1987 to further the development of the charitable gaming industry.

Government Gaming

Government policy, as expressed in the *Lottery Act*,⁴ the *Lottery Corporation Act*,⁵ the *Horse Racing Act*⁶ and the *Horse Racing Tax Act*,⁷ has supported and encouraged the sale of traditional lottery tickets through programs offered by the British Columbia Lottery Corporation and the conduct of horse racing and the enhancement of the industry it supports under the auspices of the British Columbia Racing Commission.

Following the decision of the British Columbia Supreme Court in the *Nanaimo* case on January 14, 1998,⁸ government implemented an interim administrative structure by assigning to the Lottery Corporation the responsibility to, on the government's behalf, conduct and manage casino gaming.

Gaming Policy Initiatives

On March 13, 1997, the Minister of Employment and Investment announced a series of policy initiatives to strengthen the existing administrative and financial structure of gaming thereby ensuring:

- a well-controlled and regulated environment for gaming in British Columbia;
- a continuation of moderate changes to gaming that had taken place over the previous years; and

- the development of new comprehensive gaming legislation to support the proposed enhancements."

In April 1998, the minister established a Gaming Project Working Group and instructed the group to prepare, within the framework of current government gaming policy, a White Paper and draft *Gaming Control Act*. To facilitate the achievement of government's gaming objectives and to establish an integrated model for gaming administration and regulation, the minister also directed that the new *Gaming Control Act* incorporate and amend, where necessary, existing provisions of both the *Lottery Act* and the *Lottery Corporation Act*. Horse racing issues were deferred pending the enactment of the new *Gaming Control Act* and a separate review of that sector of the industry.

4.2 Charitable Gaming

Charitable gaming is a key component of the gaming industry in British Columbia. The vitality of this sector of the industry is unique in Canada and its enhancement and continued viability and success remain a cornerstone of government's gaming policy.

Since 1987, the charitable gaming sector has grown into a significant source of revenue for community activities and services and an important generator of local employment. Revenues to charities will reach \$125 million in the current fiscal year. In addition, traditional forms of charitable gaming have generated employment for more than 2,300 British Columbians.

It is widely acknowledged that public acceptance of gaming is closely associated with the role of charities as major participants in and beneficiaries of gaming. With that in mind, in March 1997, government announced its commitment to implement the enhancements necessary to provide charities with increased gaming revenues and continued growth.

In April 1998, the minister responded to the British Columbia Supreme Court's decision in the *Nanaimo* case by directing that an interim gaming structure be implemented, and by reaffirming government's commitment to charitable gaming, stating its intention to:

- preserve the important role of charities in gaming;
- protect charitable gaming revenues and guarantee charities a minimum return of \$125 million during the 1998/1999 fiscal year;
- provide for the continued operation of bingo gaming operated through charity licensees; and

- give charities a meaningful opportunity to provide advice on the proposed *Gaming Control Act*.¹⁰

The consultative process undertaken by the Gaming Project Working Group in preparing this White Paper has confirmed broad support for government's charitable gaming policies. Accordingly, the gaming model recommended in this White Paper and reflected in the draft *Gaming Control Act* includes a separate administrative structure that will sustain the continued operation of charitable gaming under s. 207(1)(b) of the *Criminal Code* of Canada and provide an additional guaranteed flow of funds to charities from government gaming under s. 207(1)(a) of the Code.

4.3 Gaming Expansion

The Minister of Employment and Investment initiated a process in December 1996 to review gaming expansion options within the province, in order to identify:

- potential gaming revenue options in a way that benefits both charities and British Columbians in general;
- opportunities to build the economy and provide revenue to protect health care and education; and
- options for enhancing the tourism industry and generating good, long-term employment opportunities for British Columbians within a well-run, carefully regulated environment.¹¹

The review was completed in March 1997 and formed the basis for government's announcement of its new gaming policy, which included a commitment to expanded gaming through the development of new destination and charitable casinos and bingo halls.¹² To give effect to this policy, government issued a Request for Proposals (RFP) in July 1997. The RFP indicated that enhancements to casino operations and the introduction of electronic gaming had already been or were currently being implemented. The RFP also reaffirmed government's intention to, through gaming policy, achieve and maintain a proper balance between the interests of charities, the gaming industry, communities and the government.¹³

The RFP established the terms and conditions under which government would evaluate proposals for new gaming facilities. Specifically, proposals were required to provide the following:

- demonstrable local government support, including a local government resolution in favour of additional gaming facilities;

- input from adjacent communities, including information about whether the gaming facilities would have a demonstrable material impact on those communities;
- a viable business plan, including requirements for infrastructure in the form of water, sewers and parking; and
- for destination facilities, an economic development component.¹⁴

Local government was broadly defined in the RFP to include municipalities, regional districts and First Nations band councils. The RFP thus created the opportunity for First Nations to participate in gaming on the same basis as any other community, thus confirming government's commitment to this principle as first expressed by the Minister of Government Services in May 1995.¹⁵

Government also confirmed that proposals must include a detailed market assessment highlighting the market potential of the proposed facility and the potential impact on any existing facility within the same market.¹⁶ To this end, government announced that:

- new facilities would not be approved if they were expected to have a material impact on existing charitable gaming facilities; and
- new applications for relocation of facilities across municipal boundaries must go through the RFP process.

A total of 49 proposals were received. 12 were returned immediately as they did not contain the requisite local government support. On January 6, 1998, the minister announced that 37 proposals would move to the next stage of the evaluation process. On May 14, 1998, the minister indicated that approval in principle had been given to three proposals, one each in the Kootenays, in the Cariboo and on the North Coast.¹⁷ In a subsequent announcement on August 14, 1998, approval in principle was given to four additional destination gaming facilities, one in Campbell River, one in New Westminster and two in Penticton.¹⁸ On December 17, 1998, the minister announced the final approvals in principle under the RFP:

- a destination casino in Merritt;
- a charitable bingo hall in Burnaby; and
- a community casino in Burnaby.¹⁹

The RFP process established general principles to guide gaming expansion in the province. Since the opportunity to submit proposals under the RFP has now lapsed, future proposals for new gaming facilities and requests for the relocation of existing facilities will require government response. The issue of future expansion is addressed in Chapter 9 of the White Paper.

4.4 Gaming Operations

Questions about appropriate models for and forms of gaming operations have been the subject of widespread public discussion and consultation since 1992.²⁰ In October 1994, the Premier announced that large Las Vegas-style casinos would not be permitted in British Columbia because "such facilities would be out of step with the quality of life British Columbians expect and value so highly".²¹

In May 1995, the Minister of Government Services announced that, in response to public opposition to video lottery terminals (VLTs), they would not be introduced anywhere in British Columbia. The minister stated that "our decision not to introduce VLTs is part of our ongoing commitment to ensure that our 'made in B.C.' gaming policy reflects the values and interests of British Columbians".²²

Government's decisions on Las Vegas-style casinos and VLTs were reconfirmed by the Minister of Employment and Investment in March 1997 when he outlined government's new gaming policy. Central to this policy was government's commitment to protect charitable gaming from foreign competition, notably in Washington State, and to protect funding for health care and education. To this end, the minister announced a series of initiatives to permit a modest expansion of electronic and charitable gaming in both casinos and bingos.²³

Electronic Gaming

Section 207(4)(c) of the *Criminal Code* of Canada reserves to government the exclusive right to operate lottery schemes on or through a computer, video device or slot machine. Government announced in 1996 that the British Columbia Lottery Corporation, as an agent of government, would own and manage all forms of electronic gaming in the province, including slot machines in casinos and linked and electronic bingo in charitable bingo halls.

Casino Operations

As part of its 1997 review of gaming policy, government established new parameters for casino operations, including:

- longer hours of operation;
- higher bet limits of up to \$500 for traditional casino card games;
- new games, including pai gow and mini baccarat;
- a maximum of 30 tables; and
- approval for the introduction of up to 300 slot machines in each casino.²⁴

This operational model for casino gaming was to apply to both existing and proposed casino facilities. As a consequence of ongoing litigation in the cities of Vancouver and Surrey, there are no slot machines in casinos in those communities.

Bingo Operations

To enhance bingo operations, government also approved in 1997 an increase in the size of bingo halls to 800 seats and authorized the Lottery Corporation to:

- introduce linked bingo, a type of bingo gaming operated centrally and broadcast to charity bingo halls; and
- expand the numbers of venues offering the same type of electronic bingo gaming currently in operation at Planet Bingo in Vancouver.

In addition, following the 1998 public release of a report on gaming policy recommendations,²² the minister initiated a comprehensive review of the bingo industry (the Bingo Review). The Bingo Review is referenced in Chapter 6 of the White Paper and has been published in full as a separate report by the Gaming Policy Secretariat.

Minimum Age

Current government policy establishes a minimum age of 19 in most gaming venues.²³ This policy forms part of the Terms and Conditions issued by the British Columbia Gaming Commission.²⁴ The age restriction applies to players at class "A" bingo events and to players, volunteers and staff at casinos, social occasion casinos and wheels of fortune. Ticket raffles and bingo events conducted under class "B" licences are expressly excepted from this policy. Class "A" and "B" licences are defined in the Notes on Terminology in Chapter 1 of the White Paper.

4.5 Gaming Enforcement

Gaming enforcement is a highly specialized activity that is key to the ongoing integrity of the games and the industry. Following the October 1994, Report of the Gaming Policy Review,²⁵ government established a new agency within the Ministry of Attorney General with primary responsibility for gaming monitoring and enforcement.

This agency, now known as the Gaming Audit and Investigation Office (GAIO), operates separately from the British Columbia Gaming Commission and the British Columbia Lottery Corporation. GAIO administers a proactive audit program with primary focus on operational compliance and the use of gaming proceeds. GAIO is also responsible for the investigation and registration of gaming operators, suppliers and personnel.

The continued operation and enhancement of GAIO's role in gaming enforcement is one of the principal objectives of government's gaming policy. Government has also announced that it will fund dedicated police and prosecutorial resources to deal with illegal gambling and gaming enforcement.²⁶

A more in-depth discussion of the law enforcement issues attendant upon gaming is provided in Chapter 7 of the White Paper.

4.6 Revenue Distribution

When government announced its new gaming policy in March 1997, it outlined its commitment to protect charitable gaming revenue and to provide for its continued growth. At the same time, government announced that increased revenues from gaming enhancements would be used largely to protect health care and education.*

Government developed and implemented two revenue models – one for charitable gaming and one for destination gaming facilities. Following the court's decision in the *Nanaimo* case, discussed below, the revenue model for existing casinos was adjusted within the overall framework of government's revenue objectives to comply with the court's findings on the use of charitable gaming proceeds. The models are now addressed in the draft *Gaming Control Act*.

Charitable Gaming Revenues

On October 31, 1997, government enacted the *Gaming Proceeds Distribution Regulation*¹¹ to give effect to its gaming revenue policies and to provide a new revenue distribution model for charities, government and gaming operators. The regulation and the accompanying trust agreement contemplated that during the implementation phase of the proposed gaming enhancements charities would receive a guaranteed minimum amount as calculated under a prescribed formula. Then, in a mature market, charities would receive 1/3 of the net revenue from charity casinos and bingo operations, after the payment of operator commissions and prizes. The remaining 2/3 of the net revenue would flow to government to support health care and education.

On January 14, 1998, the Supreme Court of British Columbia determined in the *Nanaimo* case that the regulation was invalid.¹² The decision did not negate the policy objectives of government, but it did render invalid certain aspects of the administrative and regulatory structure that government had put in place to implement its new gaming policy.

Government's commitment to the key elements of the revenue model remained in place, namely that:

- revenue to charities should be guaranteed and allowed to grow; and
- once a mature gaming market is realized, revenue to charities should be set at 1/3 of net revenue with the balance flowing to government for health care and education.

Following the decision in the *Nanaimo* case, the minister announced an interim framework for charitable gaming to:

- allow charities to continue to be involved in charitable gaming; and
- authorize the British Columbia Gaming Commission to determine direct access by the charities to revenues from casino gaming, now conducted and managed by the British Columbia Lottery Corporation.

The minister also stated that:

...the community chest grant-system is not the way to go in our province, and I want a stable, familiar structure in place for focused discussions toward a new *Gaming Control Act* next year.

...I want to protect a strong role for charities in gaming, and this government wants to ensure that money raised by charities in their own communities stays there.³¹

Destination Gaming Revenues

The revenue model for destination gaming facilities was set out in the RFP. In order that the community could benefit, government announced that 1/6 of the net revenue would be paid to host local governments and that up to 1/6 of the net revenue would be made available to proponents to assist in the development of amenities ancillary to the new gaming facilities. The balance of net gaming revenues from destination facilities would flow to government to fund health care and education, dedicated police and prosecutorial resources and a program to deal with problem gambling.

4.7 Liquor Policy

The Liquor Control and Licensing Branch, Ministry of Attorney General, is responsible for implementing government liquor policy in licensed premises and gaming facilities.

Gaming in Licensed Premises

The Branch permits limited forms of gaming in some licensed premises. Approved games include Keno and break open tickets.

Liquor in Gaming Premises

The British Columbia Gaming Commission's Terms and Conditions for Licensed Charitable Access to Gaming Revenues prohibit the sale or consumption of liquor in any room where casinos, bingos, social occasion casinos, wheels of fortune or class "B" ticket events are conducted, managed or operated.³²

The operators of destination casino facilities will be eligible to apply for liquor licences in a new category under the regulations of the Liquor Control and Licensing Branch.

Endnotes

¹ R.S.C. 1985, c. C-46.

² Office of the Premier, News Release P30/94 (Victoria: October 4, 1994).

³ Ibid.

⁴ R.S.B.C. 1996, c. 278.

- ¹ R.S.B.C. 1996, c. 279.
- ⁴ R.S.B.C. 1996, c. 198.
- ⁵ R.S.B.C. 1996, c. 199.
- ⁶ *Nanaimo Community Bingo Association v. British Columbia (Attorney General)* (January 14, 1998), Victoria 97/4779 (B.C.S.C.).
- ⁷ Ministry of Employment and Investment, News Release 020 (Victoria: March 13, 1997).
- ¹⁰ Ministry of Employment and Investment, News Release 031 (Victoria: April 9, 1998).
- ¹¹ Ministry of Employment and Investment, News Release 138 (Victoria: December 4, 1996).
- ¹² Ministry of Employment and Investment, News Release 020, *supra* note 9.
- ¹³ Ministry of Employment and Investment, "Request for Proposals - Destination and Charitable Gaming Facilities in the Province of British Columbia" (Victoria: July 1997) at 7.
- ¹⁴ Ministry of Government Services, News Release 094 (Victoria: July 31, 1997).
- ¹⁵ Ministry of Government Services, News Release P12/95 (Victoria: May 9, 1995).
- ¹⁶ Ministry of Employment and Investment, News Release 141 (Victoria: December 2, 1997).
- ¹⁷ Ministry of Employment and Investment, News Release 035 (Victoria: May 14, 1998).
- ¹⁸ Ministry of Employment and Investment, News Release 064 (Victoria: August 14, 1998).
- ¹⁹ Ministry of Employment and Investment, News Release 102 (Victoria: December 17, 1998).
- ²⁰ Lord and Streifel, "Findings of the Gaming Review Committee" (Victoria: January 1993).
- ²¹ Office of the Premier, News Release P30/94 (Victoria: October 4, 1994).
- ²² Ministry of Government Services, News Release P13/95 (Victoria: May 24, 1995).
- ²³ Ministry of Employment and Investment, News Release 020, *supra* note 9.
- ²⁴ Ministry of Employment and Investment, News Release 094, *supra* note 14.
- ²⁵ Rhodes, Frank A., "Gaming Policy Recommendations" (Victoria: February 1998).
- ²⁶ Ministry of Employment and Investment, News Release 020, *supra* note 9.

- ²⁷ British Columbia Gaming Commission, "Terms and Conditions for Licensed Charitable Access to Gaming Revenue" (Victoria: updated to April 1998) at 2.16, 6.3, 7.3 and 8.2.
- ²⁸ Ministry of Government Services, "Report of the Gaming Policy Review" (Victoria: October 1994).
- ²⁹ Ministry of Employment and Investment, News Release 020, *supra* note 9.
- ³⁰ *Ibid.*
- ³¹ B.C. Reg. 362/97.
- ³² *Nanaimo* case, *supra* note 8.
- ³³ Ministry of Employment and Investment, News Release 031, *supra* note 10.
- ³⁴ British Columbia Gaming Commission, "Terms and Conditions for Licensed Charitable Access to Gaming Revenue", *supra* note 27 at 2.18.

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5.1 Overview

Following the release in March 1998 of a report on Gaming Policy Recommendations, the Honourable Mike Farnworth, the minister responsible for gaming, announced the establishment of a Gaming Project Working Group to develop a White Paper and a draft *Gaming Control Act* as a basis for consultation on gaming issues. At the same time, the minister announced government's intention to proceed with the enactment of gaming legislation during the spring sitting of the legislature in 1999.

To meet the minister's commitments, the Working Group recommended a two-stage process for consultation to provide:

- a structured process of consultation with key stakeholders, public officials and other interested parties during the summer and fall of 1998; and
- a more broadly based process of public discussion and review during the winter of 1998-99.

Stage One Consultation

The first stage of the consultation was undertaken with initial general direction from a Gaming Project Advisory Committee whose members were drawn from among those most directly involved in the bingo and casino gaming sectors.

A summary of the submissions, presentations and other advice that the Working Group received during the first stage is included in this chapter of the White Paper. A list of persons consulted and submissions received is attached as Appendix 4.

Submissions were requested but not received from:

First Nations Summit Society

Independent Bingo Operators

Lake Country Bingo

Union of British Columbia Indian Chiefs

***Stage Two
Consultation***

The recommendations in this report, including the White Paper and the draft *Gaming Control Act*, provide the framework for a second stage of public consultation. The minister has indicated that he will develop a plan for the distribution of the report and a process for the second stage of public consultation.

5.2 Gaming Project Advisory Committee

To assist in developing an appropriate work plan and process for consultation and review, the Working Group established a Gaming Project Advisory Committee. The members of the committee included representatives from:

British Columbia Association for Charitable Gaming

Casino Management Council

Coalition of Self-Managed Operators

Great Canadian Casino Company Ltd.

Independent Bingo

Registered Gaming Management Companies of British Columbia

Union of British Columbia Municipalities

The Advisory Committee may be called upon to participate in the development of a work plan for the second stage of consultation.

5.3 Key Stakeholders

From July to October 1998, the Gaming Project Working Group met separately with and received submissions and presentations from key stakeholders in the gaming sector.

Across the industry a strong consensus emerged on the need for a provincial *Gaming Control Act* and on the critical importance of clarifying and sustaining a role for charities in gaming through ongoing access to gaming revenues. It was common ground that this access should be protected in legislation and that revenues to charities should increase under a transparent formula for revenue distribution as overall provincial gaming revenues increase.

There was also strong support among virtually all of the stakeholders for an enhanced role for the Gaming Audit and Investigation Office (GAIO) as an independent entity within the Ministry of Attorney General responsible for all aspects of gaming enforcement including responses to illegal gambling.

The stakeholders expressed widely divergent views on several critical issues including:

- the role of government in gaming and the use of gaming proceeds realized by government;
- the role of the charities and their associations in the conduct and management of gaming events;
- the role of the Lottery Corporation in casino and bingo gaming activities; and
- the role of local governments in their exercise of jurisdiction over gaming facilities and events through their powers to regulate land use, zoning and business licensing and regulation.

The following summaries reflect the issues raised and positions taken by the stakeholders who participated in the first stage of the consultative process.

**British
Columbia
Association
for Charitable
Gaming**

The British Columbia Association for Charitable Gaming (BCACG) was established in June 1997 with the encouragement and initial financial support of the provincial government. BCACG's mandate is to act as a province-wide association representing the interests of the charities involved in gaming and to review and advise government on charitable gaming issues.

BCACG has approximately 1,400 members drawn from the charities that participate as licensees in gaming events or benefit from the British Columbia Gaming Commission's interim program of direct access to gaming revenues.

BCACG believes that all parties involved in gaming should form a partnership of equals and that gaming should be elevated from "a form of taxation thinly disguised as a game of chance to a game of chance openly promoted as a course [sic] of money that provides the best of the best for the people of British Columbia".¹ BCACG argues that, to achieve this objective, government must form a partnership with the charities because the acceptance of gaming is "in direct proportion to the amount of and perception of connection to charity".²

In BCACG's view, there is a need for statutory assurance of continued access for charities to gaming revenues. BCACG recommends that all gaming revenue "be put into a single trust with a portion to be used for 'government charities' (health and education), and a portion to be used for 'volunteer' charities and non-profits."¹¹ It proposes a legislated formula for the distribution of up to 1/3 of total gaming revenues to non-government charities, including a guaranteed minimum of \$125 million. In BCACG's view, this guarantee "must be enshrined in the proposed *Gaming Act* and must be made as unassailable as the law allows".¹²

BCACG recommends that the Gaming Commission continue to receive applications for access to gaming revenues from volunteer charities and non-profit organizations. BCACG recommends that the commission also receive and approve applications for funds from government health and education agencies for the purpose of supplementing or enhancing budgetary appropriations.

**British
Columbia
Association of
Chiefs of
Police**

The British Columbia Association of Chiefs of Police represents all of the local and provincial policing authorities in the province including community-based RCMP detachments and independent municipal police departments. The association has established a Gaming Committee to monitor and advise on gaming issues throughout the province.

At a meeting in 1997, the association passed the following resolution with respect to gaming:

Whereas lawful and unlawful gaming exists in British Columbia.

Whereas gaming has expanded and continues to expand in British Columbia.

Whereas there is gaming associated crime and social disorder.

Whereas gaming crime and social disorder create a societal demand on policing.

Whereas it is incumbent upon police to account for and meet the demands of society specific to gaming in British Columbia.

Therefore it necessarily follows that policing needs additional gaming specific and general duty officers to account for and meet the increasing demands created by gaming and expanded gaming in British Columbia.

Be it resolved that the B.C. Association of Chiefs of Police address this need to the Police Services Branch and the B.C. Gaming Commission seeking funding for a province-wide gaming enforcement team and additional local general duty officers wherever gaming expands in British Columbia.¹³

The primary issue for the police is clearly related to resources. In the past, the RCMP had a designated provincial gaming specialist who assisted local police forces in the investigation of both illegal gambling and lawful gaming. As this service is no longer provided, local police forces must now respond to and

investigate gaming activities as part of their other policing responsibilities. The Vancouver Police Department is the only municipal police force that has dedicated resources for gaming enforcement and these resources are called upon, from time to time, to advise other municipal forces.

The association strongly supports the role of GAIO in the regulation of lawful gaming and in the conduct of preliminary investigations into some related forms of illegal gambling. However, the association believes that enforcement with respect to illegal gambling must remain with the police and that the police and GAIO should enter into a formal memorandum of understanding that clarifies their respective roles and responsibilities and permits them to share sensitive law enforcement information. The association also believes that GAIO should develop and adopt appropriate training standards for its employees and investigators.

In the association's view, effective gaming enforcement requires a coordinated provincial strategy with adequate funding at both the local and provincial levels to address:

- local gaming issues, including theft, property crime, traffic and associated social impacts within the community; and
- provincial gaming issues, including extra-provincial lottery ticket sales, organized crime, money laundering and Internet gaming.

Campbell River Gaming Association

The Campbell River Gaming Association is a registered non-profit society that represents 126 charity licensees who operate in the Campbell River bingo facility. The association has also established an informal network of communication with bingo associations in other communities, particularly on Vancouver Island.

The Need for Legislation

Since 1994, the association has advocated the enactment of a provincial *Gaming Control Act* as a means of protecting the interests of the charitable and non-profit sector in the gaming industry. The association views the purposes of public gaming as encompassing:

- support for charitable and religious endeavours;
- contributions to the development of the horse racing industry;
- government revenues for socially beneficial purposes;
- legal, crime-free gaming for adults who enjoy that activity;
- a legal alternative that displaces illegal gambling; and
- support for First Nations' economic development and self-sufficiency.¹

The association also believes that the level of public gaming should be kept moderate and that gaming expansion should be implemented in ways that reduce or eliminate negative impacts, including providing help for problem gamblers.

Charity Bingo Gaming Model

The association views gaming as an integral part of local community fundraising, and its members envision a strong role for charity volunteers and bingo associations in the conduct and management of licensed gaming events. The association believes that this role was to some extent misplaced following the implementation of the interim regime in early 1998, and that it should now be re-evaluated and redefined. The association has stated that it is opposed to the concept of pooling in bingo facilities. Individual charities should be encouraged or required to participate, through their volunteers, and should in turn receive the revenue from their own gaming events.

Associations should work in concert with licensing officials to provide community input on licensing issues. In addition, gaming associations should be involved, on behalf of licensees, in negotiating leases and management agreements with commercial operators and in controlling gaming programs and products. Inequities that have developed over the years with respect to the ownership of premises and the funding of associations should be addressed in the context of the current review.

The association is committed to the concept of a grass-roots organization of local charities with a regional and provincial structure that will facilitate communication among the licensees and enable them to advise government on gaming issues and policy. This structure should include all charities who are involved in both bingo and casino gaming. There is a concern within the association that the BCACG is too closely tied to the provincial government and not representative of all charities across the province.

Commercial Operators

The association supports the concerns of commercial operators about the need for tenure and a fair rate of return on funds invested in gaming facilities. It recommends 5-year leases with either a renewal clause or a right of first refusal. The association recommends that, in exchange, operators be required to submit a 5-year operations plan outlining facility improvements, measures to overcome potential negative impacts of new gaming facilities and strategies for developing the current player base.

Provincial Governance Model

The association recommends that there be one authority to regulate gaming and gaming expansion and that this authority be the British Columbia Gaming Commission. The commission would be responsible for:

- charitable access to gaming revenues, either directly or as a full participant under a gaming licence;
- distribution of proceeds to the charitable sector;
- obtaining input from local gaming associations on licensing decisions at the facility level;
- the terms and conditions for conduct and management of gaming facilities and events; and
- appeals.

While the Lottery Corporation would be responsible for gaming under s. 207(1)(a) of the *Criminal Code of Canada*,⁷ the association recommends that the Lottery Corporation be overseen by the Gaming Commission.

Provincial Charitable Board

The association recommends that a provincial charitable board be established to:

- protect the interests of charitable and non-profit sectors and their access to benefits derived from gaming;
- act as an advocate for charitable interests in matters under appeal before the Gaming Commission; and
- provide input into all aspects of gaming legislation and policy.

Within this framework, the board would:

- oversee the operation of the charitable trust and the transfer of funds through the Gaming Commission;
- provide advice to provincial regulators on access criteria, use of proceeds and other issues of common concern to the charitable and non-profit sectors;
- provide comments to government on regulatory changes and continued access to benefits from gaming revenues; and
- provide comments to government on gaming expansion.

The board would be funded by dues from all licensees and beneficiaries of direct gaming access and its directors would be elected from among the licensees or benefiting charities.

Local Charitable Gaming Associations

At the local level, the association recommends that local charitable gaming associations be established to focus on the needs of the local groups that derive benefits from gaming. Membership in these associations would be mandatory and directors would be elected from within the membership. Specific responsibilities of the local associations would include:

- entering into agreements for the operation and maintenance of facilities;
- entering into agreements with the Lottery Corporation with respect to electronic gaming;
- advertising and promotion;
- resolving disputes within the gaming regulatory framework;
- representing licensees' concerns in discussions with municipal government; and
- advising the Gaming Commission on licensing issues at the facility level.

Regional Charitable Boards

The association also recommends the establishment of regional charitable boards with one elected representative from each local association. Regional boards would, in turn, elect two representatives to sit on the provincial charitable board. Specific responsibilities of regional boards would include:

- representing the interests of the charitable and non-profit sectors within each region;
- overseeing and reporting back to local associations on the impacts of gaming expansion within the region as a whole;
- developing strategies to overcome potential negative impacts in local areas; and
- working with provincial regulators to establish uniform regulations and enforcement procedures.

Charitable Guarantee

It is the association's view that a charity guarantee should be funded exclusively from bingo and casino revenues with no funding from ticket raffles, other games

Casino Management Council

or products offered by the Lottery Corporation or other forms of gaming permitted under the Code.

The Casino Management Council is an industry-based association of casino management companies representing casino operators in British Columbia, other than Great Canadian Casino Company Ltd. and Lake City Casinos. In its submission and presentation to the Working Group, the council focused on:

- fundamental requirements for casino operators;
- gaming issues to be addressed in the new *Gaming Control Act*; and
- issues of local government jurisdiction over land use.

In discussion, the council also commented on a number of issues with respect to the British Columbia Lottery Corporation.

Operator Requirements

The council's primary concerns with respect to casino operators relate to security of tenure, fairness in the administration of government policy and certainty in contract.

Security of Tenure

The council states that the significant investment by casino operators in infrastructure and personnel has created an industry that currently employs over 3,000 people and provides a service that is enjoyed annually by millions of residents and tourists. In order to protect this investment and assist in the expansion of gaming, the council believes that operators must have "bankable security of tenure".¹

As defined by the council, security of tenure would include:

- in addition to the current registration process, a licence to operate a casino, for a commercial term that would be subject to renewal and that could be used to secure bank financing and create confidence in the investment community, particularly for those operators who elect to become public corporations;
- a long-term, stable agreement with the provincial government that allows operators to expand and maintain their operations over an extended period of time;
- a specified remuneration formula for operators;
- a financial recognition of facility upgrading; and
- an ability of operators to retain ancillary revenues.

Fairness in Administration

The council recommends that all casino operators be treated equally and fairly through:

- province-wide consistency with respect to the location of casinos and the permitted mix of games; and
- the elimination of distinctions between existing casinos and destination casinos approved under the recent Request for Proposals process.

Certainty in Contract

The council recommends that government provide certainty in contract for casino operators, in order to provide an appropriate environment for future investment in the casino industry.

Legislative Issues

The council recommends that the following gaming issues be addressed and resolved in the new *Gaming Control Act*.

Conduct and Management

It is the council's view that charities cannot conduct and manage casino gaming under s. 207(1)(b) of the Code because:

- most charities do not have the expertise and resources necessary to operate casinos in their current form and thus must rely on casino operators to such an extent that the operators are in jeopardy of contravening that section of the Code;
- slot machines and other forms of computer gaming must be operated by the provincial government and the introduction of these forms of gaming in traditional charity casinos would result in a duplication of management and overlapping jurisdictions in conducting and managing two separate lottery schemes in the same premises at the same time; and
- recent court decisions on the use of proceeds may prevent the government from receiving more than a minimal licence fee from charitable gaming.

As a consequence, it is the council's view that all casino gaming should be conducted by government or its agents under s. 207(1)(a) of the Code. To achieve this result, the council recommends that legislation be implemented to:

- permit government to appoint casino operators as agents of the Crown for the purposes of s. 207(1)(a) of the Code;
- authorize government to enter into service contracts with casino operators under s. 207(1)(g) of the Code; or

- provide for the appointment of a Crown corporation as agent of the Crown for the purposes of s. 207(1)(a) of the Code and authorize the corporation to enter into service contracts with casino operators under s. 207(1)(g) of the Code.

Regulations and Operations

The council believes that, due to the sensitive nature of gaming, there may be public policy reasons to separate gaming regulation from gaming operations.

Distribution of Proceeds

The council takes no position on how the provincial government should distribute net gaming proceeds among itself and the charities.¹⁰ However, the council recommends that government deal with remuneration to casino operators contractually on the basis of the following formula for returns to the operators:

- 40% of the table WIN;¹¹
- 25% of the slot machine WIN;
- 3% of the table and slot machine WIN for facility development purposes; and
- all revenues associated with any ancillary activities in the casino such as food, beverage and other retail services.

Land Use Jurisdiction

The council states that land use jurisdiction "goes to the very heart of the need for casino operators to be treated fairly and consistently throughout the Province".¹² Recently, local governments have exercised jurisdiction over casino gaming through land use bylaws by, in some cases:

- enacting zoning bylaws that prohibit casinos throughout the municipality;
- creating limited zones in which casinos may operate and then effectively prohibiting gaming by making ancillary regulations with respect to parking, setbacks and design so restrictive as to reduce the financial viability of an operation; or
- enacting zoning bylaws that permit table games but prohibit slot machines.¹³

It is the council's view that individual municipalities should not be allowed to control or limit the type of gaming carried on within a casino. To support the legitimate public policy objectives of the provincial government, the council recommends that government:

- amend the *Municipal Act*¹¹ or provide specific overriding language in the new *Gaming Control Act* eliminating a municipality's right to prohibit or regulate casinos and casino gaming;
- appoint casino operators as agents of the government, thus allowing s. 14(2) of the *Interpretation Act*¹² to apply to casino operations; or
- amend the *Municipal Act* or provide specific reference in the new *Gaming Control Act* to require that all municipal bylaws, existing or contemplated, that will affect casinos or casino gaming, be of no force and effect until first approved by the minister responsible for gaming.

The council also recognizes that certain transitional provisions may be required in the new *Gaming Control Act* to allow existing casinos to realize the currently approved casino model of 30 table games and up to 300 slot machines.

British Columbia Lottery Corporation

In addition to its written submission, the council provided the following comments on the role and responsibilities of the Lottery Corporation:

- the Lottery Corporation has a degree of business acumen that is appropriate for casino operations although there have been some difficulties during the interim period while the corporation familiarized itself with these operations;
- the operators' current contract with the Lottery Corporation is deficient in a number of respects, notably in that there is no guarantee of tenure for the operators, no provision for arbitration or mediation in the event of disputes between an operator and the corporation, and no mechanism for appeal;
- the Lottery Corporation's role in conduct and management should be limited to the operation of the lottery scheme and should not extend to the business decisions of the operators; and
- the Lottery Corporation and its key personnel should be subject to the jurisdiction and registration programs of GAIO and should be precluded from establishing programs that parallel those of GAIO.

Coalition of Self-Managed Operators

The Coalition of Self-Managed Operators (COSMO) is a non-profit society representing bingo associations that lease or own bingo halls and operate bingo games at those halls. The members of COSMO represent about 700 charity licensees and account for approximately 40% of the bingo revenues in the

province. As such, COSMO represents the broadest range of bingo operators by facility, type and location.

As a group of operators, COSMO is concerned about the long-term viability of the bingo sector in light of increased competition from other forms of gaming and recent changes in the mix of games and the betting limits at casinos.

To achieve its objectives, COSMO believes that gaming under ss. 207(1)(a) and (b) of the Code should operate in tandem and that there should be access to revenues from government gaming available to the charities licensed under s. 207(1)(b).

Charity Bingo Gaming Model

COSMO is a strong advocate of a community-based model of charitable gaming with an ongoing role for non-profit bingo associations and charity volunteers in the conduct and management of licensed bingo events. Underscoring the view that charities should continue to have a right to participate in a self-managed structure is COSMO's commitment to the principle that charitable gaming revenues should remain, and should be seen to remain, in local communities.

COSMO recommends a model for charity bingo gaming that includes:

- a focus on the customer and an emphasis on bingo as a recreational activity;
- a discretion, at the hall level, to determine a mix of games and products that is tailored by each community for that community;
- an integration of paper and electronic games, operating in tandem and using live callers as opposed to random number generators;
- a single authority under the British Columbia Gaming Commission and a public gaming branch to oversee and regulate bingo operations;
- a bridging agreement or authority that allows charitable bingo associations to conduct and manage bingo gaming on behalf of member licensees;
- an exclusive right vested in the charity licensees, through their volunteers, to conduct and manage all permissible forms of bingo gaming in the province; and
- an independent office or official to receive complaints about charities and to adjudicate other charitable gaming issues.

COSMO also recommends that, over the longer term, bingo operators be given authority to purchase bingo paper directly from suppliers rather than through the Lottery Corporation.

Bingo Associations

Charities that have been licensed to conduct and manage bingo events at a specified bingo hall have formed bingo associations to coordinate and facilitate gaming events within the hall. These associations may choose to administer bingo directly themselves or use a bingo management company. In self-managed halls, the association is the operator.

COSMO supports the association model for bingo events and recommends that:

- as a condition of licensing, charities be required to be members of a bingo association;
- a "bridging authority" be put in place to allow associations lawfully to conduct and manage bingo events for the licensees;
- charities receive a 5-year licence to provide stability and security and to sustain ongoing business arrangements; and
- the Gaming Commission establish an appeal process for the charities if business arrangements are not meeting the charities' needs.¹³

Self-Managed Bingo Operations

COSMO believes that bingo associations should have an option to elect to operate in self-managed bingo halls. These associations employ staff to assist with the operation of the games and return the balance of proceeds, after the payment of actual operating costs, to the charity members of the association.

In order to operate on an equal footing with bingo management companies, COSMO recommends that self-managed bingo operations be allowed to:

- purchase bingo facilities;
- establish cash-flow reserves; and
- have the resources necessary to be responsible and fair community employers.

Provincial Governance Model

The COSMO model for bingo governance is centred on the Gaming Commission and independent appellate and advisory bodies. COSMO recommends a limited role for the Lottery Corporation and no role for GAJO in the bingo sector.

British Columbia Gaming Commission

COSMO believes that the Gaming Commission should be the single authority for bingo in the province. Up to nine members of the commission should be

appointed by order in council. The chair and vice-chair should be appointed for renewable 3-year terms.

The primary focus for the Gaming Commission would be to develop policy for:

- bingo regulation and operations;
- licensing, access and the use of proceeds;
- distributing charity trust funds;
- reviewing future requests for expanded gaming; and
- establishing lists of approved bingo suppliers.

COSMO also recommends that the commission's work be supported by a public gaming branch and that a separate appellate body be established to hear appeals from charities and operators.

Advisory Bodies

COSMO advocates the establishment of a bingo council, with representatives from all bingo operators and the charities, to "improve the image of bingo through joint marketing and advertising ... [sic]".¹⁶

COSMO also recommends that the province establish a resource council, with representatives of all gaming industry stakeholders, to act as "stewards of the philosophy of the Act [and] guardians of the charitable sector".¹⁷

British Columbia Lottery Corporation

COSMO believes that, under the current operating model for bingo, the Lottery Corporation is operating in direct competition with self-managed and commercial bingo operators to the detriment of the industry. COSMO therefore proposes a limited role for the Lottery Corporation in the bingo sector that would include:

- the supply of electronic bingo machines; and
- research and market development under the direction of the Gaming Commission.

Charitable Guarantee

As a representative of its member charities, COSMO wants to see a charity guarantee clearly embodied in legislation and not subject to erosion or to periodic or arbitrary change by government. Furthermore, the charity guarantee should be tied, through a formula, to overall growth in the gaming sector as contemplated by government's announced policies on controlled gaming expansion. COSMO envisions a permanent role for charities in the gaming sector and not just a "small

**Great
Canadian
Casino
Company Ltd.**

"sideline" role in the receipt of modest returns from a gaming sector dominated by government.

Great Canadian Casino Company Ltd. (Great Canadian) is British Columbia's largest casino management company. Great Canadian has expressed a commitment to the implementation of provincial gaming legislation that will:

- establish a stable, secure and appropriate system for ensuring the integrity of casino gaming within the framework permitted under the Code;
- recognize the ongoing business and professional role of registered casino management companies in the operation of casinos under the policies, terms, conditions and standard operating procedures established by the provincial gaming authority; and
- provide a revenue sharing formula that supports the continued economic viability of commercial interests and meets the needs of the government's revenue objectives for charities, problem gambling programs, local governments and the province.

Managing the Marketplace

Casino gaming in the province takes place within a regulated marketplace in which private sector businesses must comply with government policies on the number of venues, the number, size and types of gaming units, hours of operation, betting limits, advertising, promotion and the distribution of revenues. Great Canadian believes that government must, within this environment, support the continued economic viability of the casino industry by:

- resolving ongoing legal issues and uncertainties;
- protecting, in particular, the tenure of commercial interests;
- recognizing the contribution of commercial interests to the growth of the industry and their investments in capital and human resources;
- developing a strategic plan for the entire gaming industry to reduce uncertainty and encourage flexibility in responding to public demand;
- providing certainty with respect to guaranteed returns to non-profit organizations;
- addressing local government issues;
- providing effective processes for stakeholder input; and
- implementing an impartial appeal process.

Casino Gaming Model

Great Canadian believes that the legislative model for casino gaming should achieve the following objectives:

- a clear separation between gaming regulators and service providers;
- a recognition of the role of commercial interests in the operation of gaming events authorized under the Code; and
- a specific formula for revenue sharing that meets government's revenue goals.

To achieve these objectives, Great Canadian has provided detailed recommendations on a structure for casino gaming control that includes defined roles and responsibilities for:

- a provincial gaming authority and advisory board;
- a gaming audit and investigation office;
- a charitable gaming commission;
- casino operators;
- the British Columbia Lottery Corporation;
- local governments;
- a program for problem gamblers; and
- an independent and impartial review or appellate body.

British Columbia Gaming Authority

Great Canadian recommends the establishment of a single, independent provincial authority, the British Columbia Gaming Authority, designated in legislation as an agent of the Crown for the purpose of conducting and managing gaming under s. 207(1)(a) of the Code. The authority would report to the Minister of Employment and Investment and would be responsible for implementing government gaming policies. In this respect, the authority would supervise the business of gaming by:

- establishing gaming standards and operating procedures;
- entering into contracts with registered casino operators and the Lottery Corporation to facilitate the conduct, management and operation of casinos;
- establishing the revenue sharing formula;

- conducting periodic market analyses and assessments across the entire gaming industry to ensure its long-term commercial viability;
- establishing criteria and assessing proposals for new casino locations;
- setting marketing, advertising and promotion criteria;
- liaising with GAIO;
- supervising the Charity Gaming Commission; and
- conducting annual audits of casino operations.

Great Canadian recommends that the province establish a Gaming Advisory Board to provide input and advice to the Gaming Authority. The board would comprise key stakeholders and representatives from public gaming bodies, casino operators, UBCM, First Nations, the police and the charities.

Gaming Audit and Investigation Office

In order to ensure that casino gaming remains fair and honest and to preserve the integrity of the games, Great Canadian recommends that a separate agency be mandated by legislation to monitor the conduct of casino gaming, ensure compliance and register gaming companies, equipment and personnel.

Great Canadian supports a continued role for GAIO for this purpose and recommends that GAIO:

- continue to report to the Attorney General; and
- be given an expanded mandate and the resources to investigate and make recommendations on the prosecution of offences related to illegal gambling.

With respect to illegal gambling, Great Canadian is of the view that enforcement to date has been hampered by a lack of police resources and the relatively low priority that has been accorded this issue by established policing agencies.

Great Canadian states that the "high profitability of illegal gambling, combined with the low risk of apprehension, makes it extremely attractive to the organized criminal elements in our society".¹⁴

Great Canadian also notes that, although social clubs are no longer licensed by the Attorney General, these clubs continue to operate in the absence of any regulatory or enforcement framework. Great Canadian recommends that legislation provide for the establishment of an appropriate regulatory framework, in the event that government determines that social clubs should continue to operate.

Charity Gaming Commission

Great Canadian recommends that a Charity Gaming Commission be established to:

- administer the charity trust; and
- license all gaming under ss. 207(1)(b) and (c) of the Code.

The Gaming Commission would report to the Gaming Authority, set the terms and conditions for licensing, and audit the use of proceeds by licensees.

Casino Operators

Great Canadian recommends that primary responsibility for the operation of casinos be conferred upon casino operators under contract to the Gaming Authority. Under the policies, terms, conditions, standards and procedures of the authority, casino operators would provide:

- gaming premises and equipment, other than gaming machines;
- security and surveillance;
- registered and trained staff;
- financial accounting and reporting;
- advertising and promotion;
- community and customer relations; and
- operating materials and supplies.

As a member of the Gaming Advisory Board, Great Canadian would make recommendations to the Gaming Authority on issues that arise in carrying out its responsibilities for casino gaming.

Subject to the implementation of an appropriate revenue model, casino operators would underwrite the costs associated with the provision of these goods and services.

British Columbia Lottery Corporation

Based on its experience with the British Columbia Lottery Corporation under the interim gaming framework, Great Canadian believes that, although the Lottery Corporation is an effective marketer of traditional lottery products, as currently structured it has neither the mandate nor the expertise to provide effective regulation and supervision of casino gaming operations. Great Canadian cites, in particular, the complex nature of casino gaming and the Lottery Corporation's failure to implement detailed operating procedures, which Great Canadian believes are essential to preserve the integrity of the games.

Great Canadian therefore proposes that the Lottery Corporation's role in casino gaming be limited to providing slot machines and other gaming machines to casino operators under contract to the Gaming Authority. This view is founded upon the principle that the Lottery Corporation cannot and should not be positioned as both a regulator of casino operators and an operator of casino gaming events.

As a member of the Gaming Advisory Board, the Lottery Corporation would make recommendations to the Gaming Authority on issues that arise in carrying out its responsibilities for the supply of casino gaming machines. The Lottery Corporation would also underwrite the costs associated with the provision of casino gaming machines.

Local Governments

Great Canadian takes the position that the Code and the provincial programs established under it authorize the operation of casinos in local jurisdictions throughout British Columbia. In the company's view, local regulation must take into account the authority of senior governments to authorize and pursue legitimate policy objectives. In its submission, Great Canadian states that:

In every municipality in British Columbia, there are facilities and commercial establishments that are a source of concern to some members of the community. These may range from mushroom growing operations, abortion clinics, and maximum security prisons through bingo halls, pubs, casinos, liquor stores and video arcades to strip clubs and adult video stores. While such enterprises may offend the specific moral standards of some segments of the community, they are all legal businesses.¹⁰

Great Canadian recognizes that local governments have regulatory powers under the *Municipal Act* to enact bylaws with respect to zoning, land use and business licensing. However, it is Great Canadian's view that these powers have been "unreasonably applied" in some communities where bylaw powers have been used to:

...effectively prohibit certain legal businesses from locating in their community, often in response to pressures from special interest groups.¹¹

In addition, Great Canadian observes that local governments:

...have used other measure [sic] at their disposal to strongly discouraged [sic] casinos from being established. Examples include extraordinary requirements for design, development and building permits, licencing [sic], traffic, parking, lighting and signage.¹²

To address the issues that arise in operating a provincially sanctioned and registered casino business within the framework of local government control over

5.0 Consultation and Review

land use, zoning and business licensing, Great Canadian recommends that local government development plans contain designated entertainment or public assembly zones, that provincial legislation "clearly establish its paramount position over the *Municipal Act*"²³ and that the legislation specifically provide for:

- the location of casinos within designated zones;
- local bylaws and procedures that do not unreasonably limit casino development or operating parameters;
- an independent arbitration process to resolve disputes among the province, the operators and local government;
- a share of gaming revenues to offset increased costs to local government for infrastructure, policing and other related costs;
- participation of local governments in the development and delivery of problem gambling programs;
- participation of local governments in the establishment and review of current access and eligibility criteria for determining those non-profit and charitable organizations within their community entitled to revenue from the Charity Trust Fund; and
- the membership of local government on the gaming advisory board to facilitate input on gaming issues.²⁴

Problem Gambling Program

In its submission, Great Canadian reports that research studies have indicated that 1.1% of British Columbians have a gambling problem and that a further 2.4% are at risk of developing gambling problems. In Great Canadian's view, problem gambling is a health issue and this issue should be addressed by:

- continuing research into the nature and scope of the problem;
- the development of appropriate, effective programs for awareness and treatment;
- the delivery of those programs to the addicted and the general public; and
- monitoring the programs to assess their effectiveness.²⁵

Great Canadian recommends that responsibility for the problem gambling program be transferred from the provincial Ministry of Children and Families to the provincial Ministry of Health. Funding for the program should be established in legislation and provide that a portion of net income from all gaming, including horse racing, lotteries, casinos and bingos, be allocated to the responsible ministry.

In addition, Great Canadian recommends that casino operators be required to train casino employees to recognize problem gambling symptoms and take appropriate actions.

Reviews and Appeals

The recent series of legal challenges to government's revenue model and operating policies has highlighted the importance of establishing a mechanism outside the court process for resolving disputes between entities involved in casino gaming. In its submission and subsequent discussions with the Working Group, Great Canadian has recommended that government establish an independent and impartial process for reviews and appeals either through:

- an entity like the Advisory Board;
- mediation; or
- arbitration.

In Great Canadian's view, this process could be used more effectively and efficiently than the courts to address issues such as:

- gaming expansion; and
- municipal regulations and licensing.

Revenue Model

Great Canadian states that, as a consequence of government's interim decision in 1998 to operate all casinos under s. 207(1)(a) of the Code, references to charity gaming casinos are now obsolete and there should no longer be a distinction between destination casinos and any other casinos. Great Canadian proposes that the term "casino" be defined in legislation as follows:

"Casino" is a premise in which registered casino operators and the British Columbia Lottery Corporation operate approved lottery schemes under contract to the British Columbia Gaming Authority in accordance with its policies, terms, conditions and regulations.²¹

Great Canadian believes that the British Columbia Gaming Authority should be authorized by legislation to determine the revenue sharing formula for casino gaming. The legislation should specify that:

- a portion of the net income from all gaming be allocated to the ministry responsible for problem gambling; and
- a minimum of \$125 million per year be allocated from casino gaming to charities.²²

Great Canadian recommends that changes to the contribution levels should be addressed, periodically, by the Gaming Authority in consultation with the Gaming Advisory Board. In addition, Great Canadian proposes that revenue to all casino operators be based upon the formula adopted for destination casinos in the Request for Proposals.²⁷ This formula provides that operators receive:

- 40% of the table gaming WIN;
- 25% of the machine gaming WIN;
- 3% of the table and machine gaming WIN for facility refurbishment purposes and customer complimentary allowances; and
- up to 1/6 of the Net Income²⁸ from table and machine gaming for facility improvement and development purposes.

Access to net income for facility improvement or development purposes would be based upon compliance with a development plan approved by the Gaming Authority and would require the audit of actual expenditures by the Gaming Authority.

Great Canadian recommends further that:

- the Lottery Corporation receive 11% of the machine gaming WIN; and
- host local governments receive 1/6 of the Net Income from table and machine gaming.

The balance of net income from casinos would be paid to the Gaming Authority.

*Association of
Registered
Gaming
Management
Companies*

The Association of Registered Gaming Management Companies represents private sector management companies who provide management services and facilities at 20 locations for bingo gaming events to more than 1,000 charities each year.

It is the association's view that bingo operators are facing a serious crisis which threatens to undermine the stability of the industry. Recent increases in betting limits and hours of operation for casinos, combined with the introduction of slot machines in casinos and strict limits on bingo prize boards, have resulted in significant declines in bingo revenues. To address the crisis facing the bingo industry, the association's members believe that:

- it is "critical [for government] to entrench the roles and rights of both charitable organizations and the private sector in legislation"; and
- the management companies' "commitment to invest in the industry must be acknowledged through a recognition of our rights to continued participation, ownership and fair return on the investment of capital, expertise and ongoing efforts provided by bingo operators."²⁹

Charitable Guarantee

Government's commitment to the participation of charities as the beneficiaries of gaming revenues must be transparent and durable. In the association's view, "charitable concern, at the grass-roots, is not about losing the right to "manage and conduct" a bingo event but rather access to on-going cash-flow".¹⁰

The association states that "a charitable 'trust' must exist in more than name only".¹¹ To achieve this objective, the association recommends that the *Gaming Control Act*:

- acknowledge charities as perpetual beneficiaries of gaming activity in British Columbia;
- define the criteria for being a charitable beneficiary;
- establish the current charitable guarantee as the baseline;
- enshrine a formula for escalating the charitable share of revenue as provincial gaming fortunes rise; and
- entrench a requirement that any change to the formula or the guarantee require a free vote of the legislative assembly.¹²

Framework for Legislation

The association believes that no other provincial gaming model adequately reflects the operation of the bingo industry in British Columbia. It recommends that government introduce legislation that will provide and maintain a legal foundation for the industry as it operates and will continue to operate in the province.

Gaming Operators

The *Gaming Control Act* must clearly identify who can operate gaming establishments. In that regard, the association recommends that the Act authorize and empower gaming management companies through provisions that legitimize their existence and give them certain rights.

It is the association's view that any gaming establishment in which government shares in any of the revenue must operate under s. 207(1)(a) of the Code. The association recommends that "only those charities who opt out of the guaranteed revenues should be legally eligible to operate as self-managed facilities" under s. 207(1)(b).¹³

The association also believes that "most of the instability in the gaming market has been... created by a lack of understanding by the previous Gaming Commission of business principles, and by a failure to acknowledge that the private sector gaming companies built the industry".¹⁴ In order to put gaming

operators on a firm business foundation, the association recommends that the *Gaming Control Act* entrench the following rights:

- to operate a licensed gaming establishment;
- to offer any gaming products allowed under British Columbia law;
- to buy or sell an existing gaming facility;
- to relocate a facility subject to criteria currently defined in regulations;
- to receive profitable compensation for facilities, services and products provided; and
- to have recourse with respect to decisions made by regulators that are not in keeping with the spirit of the Act."

In addition, the association recommends that operators should receive tenure for ten years and that this tenure should be renewable and subject to compliance with the terms and conditions of licence and registration.

Finally, the association recommends that bingo operators be entitled to 3% of revenue for facility improvements, on the same basis as casino operators.

Permitted Games

The association recommends that the legislation define a list of permitted games and that operators be eligible to apply for the full range of authorized gaming activities including slot machines, keno, electronic bingo and table games. In the association's view, slot machines in particular should not be within the exclusive purview of casinos.

The association's approach would lead to the establishment of adult gaming entertainment centres with graduated classifications based on the size of the facility and the types of games permitted. It would also narrow the distinctions between casinos and bingo halls, allowing products to be integrated between the two.

Regulations

The association recommends that regulations address:

- operational standards and procedures;
- tenure and security of operation;
- allowable expense component for cost of operations;
- limits on wagers or prizes;

- optimum hours of operation;
- boundaries for promoting player participation; and
- penalties for contravening the Act.¹⁶

Role of Local Governments

The association believes that:

The decision as to what combination of games will be allowed in different establishments should continue to be a policy decision which is legally protected by the Act from being overruled by local jurisdictions.¹⁷

Gaming Entertainment Centres

Implicit in the recommendations of the association is the concept of a long -term move to "gaming entertainment centres" that offer a full range and mix of permitted games. To this end, the association has recommended that a small number of slot machines be installed in existing bingo facilities where there is local government support.¹⁸

Union of British Columbia Municipalities

The Union of British Columbia Municipalities (UBCM) represents the interests of local government and has been in existence since the turn of the century. UBCM was formally incorporated by provincial statute in 1959.¹⁹

The membership of UBCM includes all of the 180 municipalities and regional districts in the province. Following the provincial government's call for proposals for expanded gaming in 1997, UBCM established a gaming committee to:

- represent the UBCM executive in consultations with the provincial government;
- develop, recommend and implement policies for or on behalf of the UBCM executive and the membership; and
- monitor government activities and court actions and share information on gaming matters with UBCM members.²⁰

A summary of the UBCM submission is provided in this section of the White Paper. A further discussion of the submission, the issues it raises and the responses of other stakeholders to local government issues is provided in Chapter 8 of the White Paper.

Legislative Principles

UBCM has articulated six key principles that form the basis for local governments' position on gaming legislation, namely that:

1. local government:

- participate in the evaluation of community impacts of any existing or expanded gaming activity;
- endorse specific gaming locations prior to approval; and
- receive a portion of the revenue of any gaming activity to mitigate financial impacts of the activity on local government; and

2. the provincial government:

- assess the potential effect of gaming activity on charity gaming revenue levels;
- stipulate a minimum legal age that applies to all gaming activities; and
- implement a comprehensive program to assist problem gamblers.⁴²

Recommendations for Legislation

UBCM supports the implementation of a comprehensive "*Gaming Act* [that would] guide and coordinate the actions of every gaming agency and its activities" and would "maintain integrity and fairness and provide a measure of stability to communities, the industry and charities".⁴³ To this end, UBCM recommends that:

- the *Gaming Act* require a broad consultation process as an essential component of gaming policy development and that this process include public consultation and a mechanism for consultation with UBCM;
- the right of local governments to determine the extent and type of gaming in their communities be recognized in the *Gaming Act*;
- any local government hosting gaming facilities be allocated a share of gaming revenue to mitigate increased costs from gaming;
- the *Gaming Act* provide a formula to determine the annual allocation of revenue to the charitable trust fund and a provision that the formula reflect the increase in government gaming revenue;
- the *Gaming Act* provide for a fair and open process for allocating gaming revenues to charities;

- the *Gaming Act* provide for the allocation of gaming revenue for problem gambling education, prevention and treatment, and for a funding base tied to the increase in government gaming revenues; and
- there be an assessment of the economic and social impacts of gaming activities prior to the introduction of new or expanded gaming venues and a regular assessment of the economic and social impacts of existing gaming activities.⁴

Additional Issues for Inclusion in the Act

In addition to issues of direct concern to UBCM and its members, the gaming committee included in its submission the following list of issues that, in its view, should be addressed in the White Paper and draft *Gaming Control Act*:

- a definition of agency roles and responsibilities;
- the separation of regulatory powers from gaming operations;
- a comprehensive program for regulation and enforcement;
- public accountability through external audits, information access, ethical standards and guidelines, periodic policy reviews and annual reports;
- a clear definition of types of permitted gaming;
- a consultation process to address gaming expansion;
- programs to address social issues; and
- a formula for gaming revenue distribution.⁴⁴

5.4 Provincial Public Agencies

The Gaming Project Working Group met with provincial public agencies with a primary or significant interest in gaming issues. The views of these agencies are summarized below. In addition, representatives of the Gaming Policy Secretariat and the Legal Services Branch, Ministry of Attorney General, were engaged directly and extensively in the development of the recommendations, the White Paper and the draft *Gaming Control Act*.

**British
Columbia
Gaming
Commission**

The British Columbia Gaming Commission was established by order in council in 1987.⁴ Since that time, the commission has been responsible for establishing:

- eligibility criteria for charities that wish to conduct and manage permitted gaming events under s. 207(1)(b) of the *Criminal Code* of Canada;
- policy with respect to accepted uses of gaming proceeds;
- the terms and conditions of charitable gaming licences; and
- operating and auditing procedures.

Following the implementation of the interim gaming regime in June 1998, the commission was designated as the agency responsible for granting charities direct access to gaming revenues from casino operations under s. 207(1)(a) of the Code.

The Gaming Commission resolved that it would not take a position on the new *Gaming Control Act* except with respect to the entitlement of charities to a guaranteed share of the revenues from gaming. On that issue, the commission recommends that the entitlement of charities to 1/3 of the revenue from a mature gaming market be enshrined in legislation.

**British
Columbia
Lottery
Corporation**

The British Columbia Lottery Corporation is designated as a Crown agent under the *Lottery Corporation Act*⁴ for the purpose of conducting and managing lottery schemes in the province on the government's behalf. Until June 1998, the corporation's primary activities were lottery ticket sales and marketing, the operation of electronic bingo, and the supply of bingo paper. With the implementation of the interim gaming regime in June 1998, the corporation was designated as the agent of government for the purpose of conducting and managing casino gaming events and, in this capacity, it has entered into contracts with established casino operators for the purpose of providing on-site operational services.

Framework for Gaming

The Lottery Corporation recommends that overall responsibility for the regulation and management of all forms of gaming, including horse racing, should be vested in a single authority. The corporation believes that it may be appropriate to establish, within that authority, subsidiary entities to address the unique needs and requirements of various sectors of the industry.

The corporation currently oversees lottery ticket retailers and casino operators on a predominantly commercial basis, under the terms of its agreements with those retailers and operators. In the corporation's view, these agreements do not provide a sufficient foundation for effective monitoring and enforcement. The corporation therefore believes that the framework for gaming enforcement should be established in legislation and that the legislation should provide a range of control measures encompassing penalties, sanctions and ultimately revocation of registration or termination of contractual rights.

Revenue Model

The Lottery Corporation believes that net gaming revenues should continue to flow through the corporation to the consolidated revenue fund and that a separate and independent public agency should be responsible for the distribution of that net revenue to charities and other public programs.

Illegal Gambling

The corporation believes that gaming is tolerated by a large segment of the population because it has been well-regulated. However, factors external to lawful gaming currently pose serious threats to the integrity of gaming within the province. In particular, the corporation cites lottery ticket resales, social clubs and the recent and rapid expansion of Internet gaming. In the corporation's view, without effective enforcement strategies, these external threats may undermine public confidence in and tolerance for legal forms of gaming.

The corporation recommends that government:

- expand the role of GAIO so that it may address illegal gambling issues; and
- introduce offences for the possession of illegal gambling equipment, thus facilitating the prosecution of offences.

Coordinated Law Enforcement Unit

The Coordinated Law Enforcement Unit (CLEU) was a centralized, provincial policing agency with responsibility for cross-jurisdictional police investigations, enforcement and policy. Only limited resources within CLEU were directed specifically to illegal gambling.

Following the September 1998 release of a report by an independent review committee on British Columbia's response to organized crime,¹⁷ the operations of CLEU were suspended. The former director of policy within CLEU offered the following observations to the Working Group in an interview conducted in August 1998.

Gaming Legislation

In other jurisdictions with provincial gaming legislation, the legislation usually provides a satisfactory legal framework for gaming enforcement. However, experience in these jurisdictions has tended to show that, in response to resource constraints and uncertainty about government's underlying policy commitment to effective gaming enforcement, neither the police nor Crown counsel have assigned a high priority to the investigation and prosecution of illegal gambling activities. In essence, within the context of the current provisions of the Code, the principal issues for the law enforcement community with respect to illegal gambling can be linked to resource issues and public policy rather than to the underlying legal framework.

Lawful Gaming

A gaming enforcement model should include separation between the agencies responsible for investigations into lawful gaming and illegal gambling. However, the model must also include an effective framework for inter-agency cooperation and appropriate consents for the sharing of information among gaming regulators, the police and the commercial operating companies. In addition, dedicated Crown counsel should be available to provide immediate and expert legal advice to regulators and the police, thus enhancing and protecting the integrity of ongoing investigations.

From a law enforcement perspective, provincial legislation should provide:

- the power to inspect gaming facilities and records, without warrant, any time or anywhere, with the sole exception of private residences;
- the authority to look behind information provided in applications for licensing or registration thus ensuring transparency of process and the corroboration of information; and
- the authority to ensure that commercial operators bear their own costs for security and compliance in accordance with the standards established by the gaming regulators.

Illegal Gambling

Illegal gambling takes place in a variety of forms and venues throughout the province. While its exact scope and impact are difficult to assess without a committed and effective investigative initiative, it is known that organized criminal elements are involved in:

- the widespread supply and operation of video gambling machines; and
- the operation of unlicensed gambling clubs and midnight casinos.

In addition, commercial interests are involved in illegal and unregulated gambling through:

- poker clubs and sports betting operations;
- the reselling of lottery tickets to American and European customers; and
- the promotion of access to Internet gambling venues.

Subsequent to government's announcement in March 1997 of its policies for enhanced gaming in the province, the Ministry of Attorney General reviewed effective cross-jurisdictional and multi-disciplinary enforcement mechanisms implemented through a consolidated operational model, components of which include:

- the establishment of a provincial Gambling Unit;
- the creation of a dedicated Crown counsel responsible for gambling prosecutions in the province; and
- the establishment of a joint committee of police, Crown counsel and regulatory officials to ensure operational coordination and the provision of timely briefings and policy advice to the Attorney General and government.

**Criminal
Justice
Branch**

The Criminal Justice Branch, Ministry of Attorney General, provides Crown counsel services throughout the province. In providing these services, Crown counsel exercise discretion in determining whether to prosecute particular offences based upon the likelihood of conviction.

Prosecution of gaming offences is primarily a resource issue for Crown counsel. In light of its other priorities, the branch views gaming offences as social regulatory matters where prosecution takes place only as a last resort, after warnings have been issued, and only when prosecution is clearly in the public interest.

It is the branch's view that amendments to the Code will not be forthcoming on the basis of court decisions within British Columbia alone. Therefore, the branch recommends that the *Gaming Control Act* include a range of administrative sanctions as an alternative to offences under the Code. Such sanctions could include:

- licensing of gaming equipment with a power to confiscate unlicensed equipment;
- registration of gaming operators with a power in the court to impose significant fine or terms of imprisonment;
- a requirement that investigative costs be levied against an accused; and
- offence provisions that apply equally to corporations and their individual directors or officers.

**Gaming Audit
and
Investigation
Office**

The Gaming Audit and Investigation Office (GAIO) was created as a monitoring and enforcement agency within the Ministry of Attorney General and is separate from all other government functions related to gaming. Its mission is to ensure that public gaming in British Columbia is conducted honestly and is free from criminal and corruptive elements. The formal mandate of GAIO, as authorized by the Attorney General, is to:

- register individuals and companies involved in the activity of lawful gaming in British Columbia;

- investigate any occurrence which may be of a criminal nature or bring into disrepute lawful gaming under either s. 207 of the Code or provincial enactments; and
- audit and review gaming operations and organizations against standards established by provincial legislation and policy.⁴⁴

GAIO inspectors are appointed as peace officers under s. 9 of the *Police Act*.⁴⁵ GAIO recommends that this practice be continued under the new *Gaming Control Act* and that the legislation provide an appropriate legal framework for GAIO's activities and registration programs and an internal process for the review or reconsideration by the director of staff decisions.

Roles and Responsibilities

The current GAIO structure has been in place for approximately one year. Over this period, it has become evident that roles and responsibilities, particularly in the areas of compliance and enforcement, need to be clearly defined and delineated as between the Lottery Corporation, the Gaming Commission, GAIO and the Gaming Policy Secretariat. GAIO recommends that this issue be addressed in the new *Gaming Control Act*.

Illegal Gambling

In GAIO's view, illegal gambling can have the effect of "cannibalizing" lawful gaming operations. In addition, illegal gambling is a revenue source with tremendous potential for organized crime. It is GAIO's assessment that:

- there is currently "little or no effort or interest within the police community toward the investigation and prosecution of illegal gaming";⁴⁶ and
- illegal gambling cannot continue to be ignored.

GAIO recommends that government establish a provincial illegal gambling unit and dedicated prosecution services. The unit would be staffed by police officers and would work closely with GAIO both operationally and with respect to intelligence gathering. From an operational perspective, GAIO recommends that the police unit and dedicated prosecution service be housed with GAIO but have separate reporting responsibilities to "E" Division of the RCMP.

GAIO also recommends that government consider enacting provincial legislation to prohibit the possession of gaming devices that are not part of the provincial gaming scheme.

The *Delgamuukw decision*⁴⁷ makes it clear that there should be meaningful consultation with aboriginal communities on governance issues that affect First Nations. Both the First Nations Summit Society and the Union of British Columbia Indian Chiefs were invited, on several occasions from July to

September 1998, to make presentations and submissions to the Gaming Project Working Group. While this consultation has not yet taken place, these organizations and other interested First Nations band councils and agencies will be invited to comment on the recommendations, the White Paper and the draft *Gaming Control Act* as part of the second stage of public consultation and review.

The Ministry of Aboriginal Affairs has advised the Working Group that status organizations are interested in gaming both as operators and as licensees. Several proposals for new gaming facilities were received from First Nations governments as part of the Request for Proposals process.

The ministry has also advised the Working Group that Metis organizations are primarily interested in access to gaming revenues either as licensees or through the Gaming Commission's interim program for direct access.

Current Status

The ministry provided the following overview of the current status of gaming among First Nations.

- First Nations recognize the importance of gaming revenues and the employment opportunities that gaming brings but some First Nations are ambivalent about gaming in light of addiction issues and American Indian experiences;
- First Nations have apparently accepted the province's authority to regulate gaming and a separate aboriginal process and jurisdiction over gaming are not currently in issue;
- some illegal gambling is taking place on non-urban reserves; and
- police will intervene where illegal gambling poses a threat to legitimate gaming operations in urban areas.

Considerations for Legislation

The ministry has suggested the following guidelines in considering new gaming legislation and policy:

- First Nations should be treated similarly on similar issues;
- provincial policy should address First Nations' access to American linked bingos; and
- provincial legislation or policy should establish a process for consultation with respect to gaming expansion or the relocation of existing facilities and should provide for reciprocal consultation between affected municipal governments and First Nations.

5.0 Consultation and Review

*Ministry of
Children and
Families*

The Ministry of Children and Families is responsible for the Adult Addiction Services program.¹¹ This program includes specific funding, resources and services to address problem gambling. For an overview of these services, see Chapter 7 of the White Paper.

*Ministry of
Small
Business,
Tourism and
Culture*

The Minister of Small Business, Tourism and Culture has established an Advisory Committee on Gaming to:

...review gaming in British Columbia as it affects the cultural sector and to make recommendations to the minister in advance of the proposed new gaming legislation.¹²

In its November 1998 report to the minister, the committee made a number of recommendations aimed at ensuring a guaranteed and increasing share of gaming revenues for provincial charities. The committee also made recommendations about allocating a fixed percentage of government's gaming revenue available to provincial arts, cultural and heritage agencies and organizations.

Recommendations about the overall allocation of government revenues from enhanced gaming to specific government services and programs that are unrelated to gaming are outside the scope of the White Paper. However, a copy of the committee's report was provided by the Minister of Small Business, Tourism and Culture to the Gaming Project Working Group. A copy has also been made available to the minister responsible for gaming.

Endnotes

- ¹ BCACG: "Gaming in British Columbia" (October 7 and 20, 1998).
- ² Ibid.
- ³ Ibid.
- ⁴ Ibid.
- ⁵ Letter from Superintendent J.H. Graham, North Vancouver RCMP, July 10, 1998.
- ⁶ Campbell River Gaming Association: "Submission to Gaming Project Working Group on a Provincial Gaming Act and Charitable Representation" (July 1998) at 3.
- ⁷ R.S.C. 1985, c. C-46.
- ⁸ Casino Management Council: "Submission" (October 13, 1998) at 10.
- ⁹ Ibid. at 14.
- ¹⁰ WIN is defined as the amount held by the casino operator after the payment of prizes.
- ¹¹ Casino Management Council submission at 14.
- ¹² Ibid. at 15.

- ¹³ R.S.B.C. 1996, c. 323.
- ¹⁴ R.S.B.C. 1996, c. 238.
- ¹⁵ COSMO submission at 9.
- ¹⁶ Ibid. at 16.
- ¹⁷ Ibid.
- ¹⁸ Great Canadian: "Paper on Gaming Legislation" (October 1998) at 27.
- ¹⁹ Ibid. at 21.
- ²⁰ Ibid.
- ²¹ Ibid.
- ²² Great Canadian: Letter of October 20, 1998 to Wendi J. Mackay at 1.
- ²³ Great Canadian submission, *supra* note 18 at 21-22.
- ²⁴ Ibid. at 25.
- ²⁵ Ibid. at 11.
- ²⁶ Ibid. at 23.
- ²⁷ "Request for Proposals - Destination and Charitable Gaming Facilities in the Province of British Columbia" (Victoria: July 1997).
- ²⁸ Net Income is defined as WIN less operator and Lottery Corporation shares.
- ²⁹ Association of Registered Gaming Management Companies' Presentation (October 13, 1998) at 1.
- ³⁰ Ibid. at 3.
- ³¹ Ibid. at 4.
- ³² Ibid. at 4.
- ³³ Ibid. at 5.
- ³⁴ Ibid. at 6.
- ³⁵ Ibid. at 7.
- ³⁶ Ibid. at 11.
- ³⁷ Ibid. at 9.
- ³⁸ Letter from Mr. Tom Nellis, Association of Registered Gaming Management Companies, October 28, 1998.
- ³⁹ *Union of British Columbia Municipalities Incorporation Act*, S.B.C. 1959, c. 106.
- ⁴⁰ "UBCM First Submission on a *Gaming Act*" (October 1998) at 1.
- ⁴¹ Ibid. at 2.
- ⁴² Ibid. at 3.

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- ⁴³ Ibid. at 3-7.
- ⁴⁴ Ibid. at 7-9.
- ⁴⁵ Order in Council 612/87, effective April 1, 1987.
- ⁴⁶ R.S.B.C. 1996, c. 279.
- ⁴⁷ Ministry of Attorney General: "The Report of the Organized Crime Independent Review Committee" (Victoria: September 15, 1998).
- ⁴⁸ GAIO: "Presentation to the Gaming Review Committee" (October 16, 1998), at 2-3.
- ⁴⁹ R.S.B.C. 1996, c. 367.
- ⁵⁰ GAIO submission, *supra* note 48 at 6.
- ⁵¹ *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.
- ⁵² Adult Addiction Services, Ministry of Children and Families, "British Columbia Problem Gambling Program, Orientation and Resource Handbook" (Victoria: September 1997).
- ⁵³ Minister's Advisory Committee on Gaming, "Interim Report and Recommendations" (Victoria: November 1998) at 1.

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6.1 Overview

Bingo is one of the most challenging components of the provincial gaming framework. Its current complex structure, the legal constraints imposed by the *Criminal Code of Canada*¹ and recent court decisions, as well as the long history of involvement of charities and bingo associations, are all factors that must carefully be addressed in any new framework.

Bingo in British Columbia has evolved dramatically over the last decade, both in terms of the magnitude of financial benefit to charities, and in relation to the number and operational model of bingo facilities. In recent years, bingo revenues have stopped growing and have either become static or begun to decline. This trend is evident throughout North America, apparently regardless of the level of competition from other forms of gaming.

In order to prevent, and perhaps reverse, further significant decline, it is imperative to identify and address the key underlying causes of bingo's present condition.

6.0 Bingo Gaming

Stakeholder Issues and Concerns

Through the variety of operational models that have evolved in bingo, a similar variety of stakeholder groups have emerged, often holding divergent views and visions for bingo in the future.

Charities, as represented by the British Columbia Association for Charitable Gaming (BCACG) and canvassed through the Bingo Review survey, express strong views respecting the future uncertainty of income from bingo. Underlying this is a serious concern that any new model that does not continue to provide for the active participation of charities in bingo events, rather than simply as beneficiaries, would result in reduced control by charities over bingo fundraising and fund distribution.

Commercial bingo operators seek a stable business environment in which to plan for business growth, establish and maintain a client base, make capital investments, and earn sufficient rates of return to remain in the business. Many commercial operators expressed a preference for achieving this through the consolidation of all bingo activity under s. 207(1)(a) of the Code, with operators acting as agents of government. In their view, this would stabilize the policy framework, provide for secure and predictable returns to charities and, through tenure, encourage reinvestment into bingo facilities.

Self-managed bingo operators, as represented by the Coalition of Self-Managed Operators (COSMO), seek a model that provides for maximum returns to charities, the involvement of bingo associations in the bingo sector, and a level playing field to compete with new forms of gaming. COSMO expressed strong concerns respecting the existing state of legal uncertainty, and the threat of expanded gaming through electronic and linked bingo to traditional charity-based bingo activity. This group advocates community-based as opposed to commercial bingo gaming, and proposes that volunteer and bingo association participation in bingo be fostered, encouraged and rewarded.

Legal Issues and Constraints

Considerable attention has been dedicated to these issues in the general gaming context, in Chapter 3 of this White Paper. In relation to bingo in particular, three primary legal issues must be addressed in the provision of a new and stable bingo framework:

- **Conduct and Management:** including the respective roles of charity licensees, bingo associations and operators;
- **Use of Proceeds:** including operator compensation and the mingling of revenue from government and charity bingo; and
- **Technology-assisted Bingo:** including the degree to which technology-assisted forms of bingo can be offered as charity bingo gaming.

Organizational Structure

The existing organizational structure for bingo is unnecessarily complex, as it involves multiple operational models and multiple government entities.

The most significant existing complication is the shared responsibility for bingo between the Lottery Corporation and the Gaming Commission. This poses an

obstacle to coordination of the operational and regulatory requirements of the sector. The problem is exacerbated by the different natures of the two government entities: the Lottery Corporation is an operational entity, while the Gaming Commission is a regulator.

The multiple forms of operational models pose a less significant obstacle to the coordinated management of the bingo sector. They do, however, complicate the analysis of framework options for bingo, as their sometimes disparate interests cannot be addressed equally in all options.

Regulatory Issues

The Gaming Commission's current series of operational requirements for bingo is based largely on the regime established when the commission was created. The primary necessity at that time was to provide structure and stability to a volatile sector. There was also a need to balance the powers of operators and charities. The regime achieved these objectives.

The needs it addressed, however, are no longer the primary needs of the sector. A modernized operational regime is needed now to encourage creativity and competitiveness in the management of bingo operations. The bingo game must be allowed to evolve in a way that continues to attract new players, while at the same time continuing to provide sufficient safeguards to ensure the integrity of bingo operations.

The existing bingo regime has provided a measure of protection for marginal halls. This is an impediment to the ability of the bingo sector to compete effectively in the current competitive gaming environment. It is important to recognize and accept that, in encouraging greater competitiveness for the bingo sector generally, marginal halls may be unable to continue. While hall failures should not be an objective, marginal halls should not be preserved at the expense of the entire bingo sector.

Regardless of the level of success bingo achieves, it will remain important for gaming revenue to continue to be an ancillary, rather than primary, source of revenue for charities.

Technology

Bingo remains a predominantly paper-oriented game. Despite recent technological advances, the new forms of bingo remain secondary in popularity and importance.

Of the three major groups of technological enhancements, "linked" halls and hand-held devices have proven most successful. Console-based devices have had only limited success and it is unclear whether the higher costs of these devices could be supported on a large scale in this province.

While market experience appears to mandate a continued focus on paper bingo as the core form of bingo, technological enhancements should be made available where there is a demand for them, and to the extent that they can be accommodated within the provisions of the Code.

6.0 Bingo Gaming

Market

Bingo players fall into two distinct groups: a core group of dedicated players, and a larger group of casual players. A large portion of the general population does not play bingo.

Efforts to expand the player base will likely be most successful when they focus on attracting current non-players (longer term) and existing casual players (shorter and longer term). These initiatives should be pursued in parallel, since only together do they provide the potential for a steady and manageable expansion of the player base.

6.2 The Gaming Policy Secretariat and the Bingo Review

The Gaming Policy Secretariat undertook a comprehensive review of the bingo sector (the Bingo Review) parallel to the preparation of this White Paper. The full text of the findings and analysis has been published as a separate report by the secretariat. The information generated by the Bingo Review has provided useful background for the preparation of the White Paper.

The process undertaken in the Bingo Review was similar to that undertaken in preparing the White Paper. An advisory group composed of key stakeholders, including charity and operator representatives, assisted in the development of a work plan and terms of reference. These initial consultations included the British Columbia Association for Charitable Gaming, the Coalition of Self-Managed Operators, the Association of Registered Gaming Management Companies, and bingo associations. The resulting terms of reference focused on providing recommendations for revitalizing the bingo sector, and developing options that would promote the ongoing viability of this sector of gaming.

The management consulting firm of PricewaterhouseCoopers was retained by the secretariat to undertake a comprehensive review of the bingo sector and prepare a written report of their findings. Vancouver market research consultants Campbell Goodell Traynor were retained to undertake surveys of existing bingo players, the general public, and bingo charities. These reports are contained in the Bingo Review.

The Gaming Policy Secretariat received written submissions and presentations from key stakeholders, as a means of gathering advice on and facilitating the development of the Bingo Review report. The Bingo Review also involved research on the bingo sector, followed by focused discussions with key bingo sector stakeholders in British Columbia, as well as bingo professionals throughout North America.

6.3 Conduct and Management of Charitable Bingo Gaming

Introduction

Bingo gaming by charitable organizations has been lawful since 1938, when amendments to the *Criminal Code of Canada*¹ first excepted from the definition of a common gaming house places used occasionally by charitable organizations for gaming. The limitation to occasional use was removed in 1969 with the introduction of the current licensing scheme.

Charitable bingo and casino gaming operated at fairly modest levels until the mid-1980s, when both charitable bingo halls and charitable casinos proliferated throughout the province. On June 1, 1998, the role of charities in respect of casino gaming was changed pursuant to the interim regime described in Section 2.6 of the White Paper. At that time, the conduct and management of casino gaming was transferred to the British Columbia Lottery Corporation, to be carried on as government gaming under s. 207(1)(a) of the Code. Since then, charities have continued to be licensed for charitable bingo events and, instead of being licensed for casino gaming, have been approved for direct access to proceeds of casino gaming.

Charity bingo is currently operated either by bingo associations, the members of which are the participating licensed charities (self-managed halls), or by registered bingo management companies under contract to bingo associations representing the participating licensed charities (commercial halls). As a result, bingo associations have become a key element of charitable bingo gaming.

Evolution of Bingo Associations

The role of bingo associations has changed significantly over the history of their involvement in charitable gaming and their current function is best understood through explanation of this development.

In the mid-1980s, the Public Gaming Control Branch (the predecessor of the British Columbia Gaming Commission) was concerned that individual charities were at a disadvantage in their bargaining with bingo hall owners, and encouraged the charities to establish bingo associations "to deal with items of common interests" which, under a policy directive, included:

- procurement of facilities, supplies and advertising;
- establishing a common bingo program including rules of play and house rules consistent with the intent of these policy directives;
- maintaining financial and inventory controls for supplies and services provided to member organizations; and
- maintaining relations with the Public Gaming Control Branch on behalf of individual licensees.²

The branch stipulated that an association's board would consist of representatives of the member organizations and that the association could hire an employee but

that an employee's duties "will not include the conduct of bingo events on behalf of individual licensees". The first bingo associations were set up in 1987.

Currently, in all but one of the 20 commercial halls, bingo associations represent the charitable licensees. Bingo associations operate all of the self-managed halls.

In May 1987, the Gaming Commission supplemented the bingo association model by introducing into the terms and conditions for charitable gaming the concept of a "Charitable Community Association" which was to be a bingo hall or association run by or in total control of charities licensed to conduct bingo.⁴ As in the case of the bingo associations, the Charitable Community Associations were to be directed by a board consisting of representatives of each of the member organizations. Neither board members nor other persons serving the Charitable Community Association were to be paid.

The terms and conditions stipulated that, if the requirements were met, the Charitable Community Association would be "designated" and its management committee would thereupon be permitted to conduct and manage all licensed bingo occasions. Since these bodies were not licensed, the basis on which they were being authorized to conduct and manage is unclear. Various financial and reporting requirements were imposed as a condition of designation. After four years, the model was superseded by a melding of both models.

In 1991, the concepts of bingo associations in commercial halls and Charitable Community Associations in charity-run or self-managed halls were merged into the "bingo association" then defined as an association formed by licensees "to facilitate the conduct and management of bingo events for its members".⁵ This statement of purpose prevails today. The board of the association was to be elected from among the volunteer members of the charity licensees and serve without remuneration. The Gaming Commission recognized that an association might carry out one or more of the responsibilities of the licensees and the terms and conditions stipulated that, if so, the association would be bound by the licence terms to the same extent as were the licensees.

The association was required to be incorporated under the *Society Act*.⁶ Its constitution and bylaws and any leases, labour or service agreements made by it were required to be reviewed by and filed with the Gaming Commission. All charity licensees at the hall were required to be association members for so long as they held licences. If the association provided the charity members with common management services, it was required to satisfy the registration requirements of the Gaming Audit and Investigation Office (GAIO). These concepts are reflected in the Gaming Commission's current terms and conditions governing all licensed bingo.⁷

In all cases, the charities supply volunteers who have the stated responsibility to conduct and manage the bingo events. The volunteers are assisted by paid association staff in the self-managed halls and by employees of the private management companies in the commercial halls.

The Gaming Commission's Standard Procedures for Bingo Halls⁸ require that a single volunteer be present throughout the bingo event unless there are more than

350 patrons or a multi-floor facility is used, in which case two or more volunteers may be required. Volunteers are responsible for verifying cash and bingo paper sales and prize payouts but otherwise the event is operated by the employees of the association or of the management company.

Bingo Associations Today

Bingo associations are a dominant feature on the landscape of charitable gaming in British Columbia. Associations are present in all but one bingo hall in British Columbia.

Under the Gaming Commission's Standard Procedures for Bingo Halls, bingo associations are authorized "to facilitate the conduct and management of bingo events in a bingo hall for its members". It is noteworthy that the Gaming Commission contemplated that the bingo association would "facilitate" the conduct and management by the licensee. It does not endorse actual conduct and management of the bingo events by the bingo association as agent for the licensee or otherwise, but it does recognize that some of the licensee's duties may be performed by the association and, to that end, includes a further stipulation that "where the association carries out one or more of the responsibilities of the licensees, the association is bound by the terms of the licences in the same manner and to the same extent as the licensees."¹¹

Under the Gaming Commission's terms and conditions governing all licensed bingo, the "licensee is responsible, *through its volunteers*, for the conduct and management of the licensed gaming event in accordance with the licence, these Terms and Conditions for Licensed Charitable Access to Gaming Revenue, Standard Procedures and all relevant policies, procedures and orders of the Commission [emphasis added]."¹²

Volunteers, having received the orientation required by the Gaming Commission concerning their roles and responsibilities, must be present throughout the event. Only small numbers of volunteers are required to perform a defined, limited set of financial verifications. In an apparent attempt to demonstrate the overriding authority and competence of the volunteer, the Standard Procedures invest the volunteer with the "authority to commence the event and... stop the event if the volunteer deems that the event is not in compliance with the Terms and Conditions for Licensed Charity Access to Gaming Revenues or these Standard Procedures for Bingo Halls."¹³

The bingo associations or, in the case of the commercial halls, the bingo management companies, typically own or lease the halls and provide all landlord-type services (including the bingo equipment) and employ the persons (manager, caller, coordinators, floor walkers and cashiers) who actually run the bingo event.

The principal corporate purpose of the bingo association is typically framed in terms such as "representing its members and acting in their best interests in matters relating to the operation of the members' bingo events." In some cases the corporate purpose of the bingo association is much less explicit. Two examples from the constitutions of bingo associations illustrate this point:

To provide a channel whereby charities of _____ may participate in raising funds for the services they provide.

Provide for members a common vehicle through which facilities will be provided for the operation of fund raising events on a regular basis; primarily the operation of [licensed]... bingo events.

To the extent that the associations purport to act as agents for the members, presumably they do so based upon the stated corporate purpose, as formal agreements in that respect between the charity members and the bingo association do not appear to be common. The intended agency role is in some instances declared in leases or service agreements made by the associations with landlords and gaming management companies. In any event, the agency status, if intended, is not sufficiently clear and certain.

Some of the associations created during the period when the Gaming Commission contemplated "Charitable Community Associations" (1987-1991) include in their constitutions the explicit purpose of managing and conducting bingo events on behalf of member charities.

Where a bingo association is in place, each licensed charity connected to the hall must be a member of the association for so long as it holds a licence, and ceases to be a member when it ceases to be a licensee.¹⁰ Typically, individual charities continued to be licensed over many years and established long-standing relationships with the bingo associations. Those individual members with an interest in or commitment to charitable gaming as the outlet for their urge toward "volunteerism" often have enduring involvement in the governance of the bingo associations.

The bingo associations generally have paid professional management and, as noted above, except in the commercial halls where management companies are under contract, all of the core functions of the gaming events are performed by the employees of the bingo association. Where management companies are hired, these functions are discharged by their employees. In both cases, the licensee's volunteers are required to perform only financial verification functions including verifying prize payouts.

In the commercial halls, management agreements govern the relationships between the bingo associations and the bingo management companies. In self-managed halls, typically there are no agreements between the licensees and the bingo associations.

The bingo management companies' agreements with the associations usually provide the operator with authority to establish the prize board payouts and promotions "on behalf of and in conjunction with the association". This seems to suggest that the management company is acting as agent ("on behalf of") the association which, in turn, is apparently the agent of the licensee which by law is required to conduct and manage the event. At the same time, the bingo management company typically is contractually authorized to supervise the

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conduct of the bingo event, but with no controlling authority vested in the bingo association.

The decision of the regulators in the 1980s to encourage the creation of bingo associations has probably served the interests of charitable gaming quite well. Over time the bingo associations have matured as operating entities and as representatives of charities in dealing with bingo management companies. As a result, they now play a more dominant role in respect of gaming than do the individual charities. The associations, set up to be the servants of the charities, may in some cases have become the masters. In terms of meeting the charitable ends of the individual licensees, this may not be a negative factor and, indeed, may be salutary. However, when viewed in the context of the legal framework outlined in Chapter 3 of the White Paper, it is difficult to say with certainty that the licensed charities are directly, or through duly constituted agents, the guiding or operating minds of the lottery scheme to the extent that the courts appear to require for the purpose of s. 207(1)(b) of the Code. The body of law in this area has grown in recent years and, since greater legal certainty is an objective, the roles and relationships of the licensed charities, the bingo associations and the bingo management companies may also need to evolve.

Even if the bingo associations might validly be characterized as agents of the licensed charities, it is a relationship in which the "principal" (the licensed charity) is but one of numerous "principals" and one with little control over the agency relationship or ability to alter or terminate it except in a very limited capacity as a voting member of the bingo association.

Furthermore, the concept of a small number of volunteers, with varying degrees of enthusiasm, serving to verify certain financial information at various stages of a bingo event does not present a model that supports a confident conclusion that the CoA's requirements for "conduct and management" are being met. Moreover, it is by no means certain that merely increasing the number of volunteers (if practical at all) is the solution.

The Gaming Commission's Standard Procedures for Bingo Halls themselves recognize the risk of non-attendance of the volunteer and require the recruitment of someone else as, i.e. "volunteer". This illustrates the difficulty, in a large, sophisticated, professionally-run bingo hall, of resting compliance with the Code requirements for conduct and management on the shoulders of a small group of marginally trained volunteers.

The issues become even more complex in the commercial halls, with the licensed charity ostensibly conducting and managing, the bingo association purporting to act on its behalf and the bingo management company running the event through its employees. Recognizing that the law does not permit that conduct and management functions be shared by the licensee and any other person (except perhaps an agent of the licensee, subject to substantial control by the licensee over the elements of the lottery scheme), it is difficult to conclude with confidence that, under the present structure and rules, the necessary authority and controls rest with the licensee or with its properly constituted agent.

The licensing requirements imposed by Parliament under the Code import a notion of personal suitability. These requirements militate against a scheme that allows conduct and management by an unlicensed entity unless the latter is closely controlled by the licensee. In the case of the bingo association, there may be an element of control through the membership relationship and the governance role. However, this may not amount to control by the licensee in other than an indirect manner. Registration of the bingo association by GAIO (in cases where such registration is required) lends some comfort concerning the issue of suitability for participation in gaming activity. This is also true for the gaming management companies, all of which are required to be so registered.

This overview of the current structure leads to the conclusion that it would be desirable to modify the present models, to increase the certainty of their sustainability when viewed in the context of the legal framework described in Chapter 2 of the White Paper.

Alternatives to the Current Regime

Examination of the current regime has identified two possible alternative approaches to addressing the uncertainty concerning compliance with the conduct and management requirements of the Code, particularly in the relationship between the licensed charities and the bingo associations. One alternative is to enhance their existing relationship. The second alternative is to substitute a non-profit corporation registered under the *Income Tax Act*²⁴ as a public foundation, the sole purpose of which would be to conduct charitable gaming under licence for the benefit of other charitable bodies. For reference purposes, and to distinguish it from bingo associations, this second alternative is described herein as a "charitable association".

Enhancement Model

In order to address some of the apparent shortcomings of the present structure, the following enhancements could be considered:

- formalizing the agency status of the bingo association through an agency agreement between it and each licensed charity it represents;
- reserving to each licensed charity through the agency contract, factually and legally, the authority to direct or control all aspects of its gaming activity where an element of discretion may be present;
- continuing to require that the licensed charity be a member of the bingo association and be involved in its governance and policy setting;
- continuing to require that the bingo association, along with its employees directly involved in gaming, be registered with GAIO to ensure its suitability to represent the licensed charity;
- ensuring that the stated purposes of the bingo association in its constitution and in all third party contracts clearly declare its role as an agent and representative of the licensed charities in terms consistent with

- the agency agreement and the Code requirements in respect of conduct and management; and
- considering the utility of increasing the number and responsibilities of volunteers to increase the presence and controlling authority of the charity licensee.

This approach essentially attempts to patch up perceived shortcomings of the present regime. It is questionable whether, in fact, the individual licensed charities could be expected to provide the depth of resources and knowledge and number of volunteers required to fulfill this role. Further, expecting a broad range of licensed charities to acquire significantly more skilled volunteers is probably neither realistic nor reasonable.

It remains uncertain whether the described enhancements are sufficient to make it clear in law that the actions of the bingo association should be regarded as the actions of the licensee in order to ensure their lawfulness for Code purposes. For these reasons, this alternative, while possible with these or other enhancements, is not preferred.

Charitable Association Model

The second, preferred alternative involves the establishment of charitable associations to conduct and manage bingo directly in self-managed halls and to conduct and manage bingo in commercial halls by way of operational services contracts with the bingo management companies. These charitable associations would be successors to the bingo associations (either by incorporation under the *Society Act*, or, if practical, by appropriate amendment by the bingo associations of their constitutions and bylaws). Under this alternative:

- the sole purpose of the charitable associations would be to conduct and manage s. 207(1)(b) charitable bingo under licence from the Gaming Commission and to distribute the proceeds to charities designated by the Gaming Commission as approved recipients;
- the designated recipients would essentially be those currently eligible to be licensed by the Gaming Commission, although they would no longer need to be licensed;
- the charitable associations would be incorporated as non-profit corporations under the *Society Act* (as bingo associations are now) but, to ensure that their revenues from charitable gaming remained tax exempt, they would also be registered as public foundations under the *Income Tax Act*.¹¹

6.0 Bingo Gaming

- the charitable associations would have to meet the requirements of public foundations under the *Income Tax Act*, the principal features of which are:
 - i. in contrast to a "charitable organization", which conducts its own charitable activities, it is essentially a body that funds other charities;
 - ii. a majority of its members and its board must be at arms length from one another and a majority of its external funding (i.e. donations or contributions) must come from more than one source;
 - iii. it must be constituted exclusively for charitable purposes;
 - iv. it must not distribute any of its income to any proprietor, member, shareholder, trustee or settlor. To satisfy this test, the membership should comprise not the designated charities, which would receive the proceeds of charitable bingo gaming, but rather individuals interested in supporting the aims of the entity;
 - v. it must not carry on any business unrelated to its charitable object. If the bingo activity is a "related business" it may be conducted wholly or substantially by paid employees, and if it is not a "related business", it may nevertheless be deemed to be so provided it is conducted substantially by volunteers. There is a strong case to be made:
 - a. that bingo conducted by a registered public foundation licensed by the Gaming Commission to raise funds for charities is the totality of the foundation's charitable object since only charities may lawfully conduct such gaming and, accordingly, the issue of related business should not even arise; and
 - b. that if the conduct of charitable bingo is a business, it is a related business because it is solely in furtherance of the charitable object;
 - vi. unless the public foundation's assets are deemed to be used directly in charitable activities, the foundation must distribute annually 4.5% of the value of its assets. Since the public foundation would distribute the proceeds of the bingo activity to the designated charities, this test should not be a material obstacle; and
 - vii. it must not incur debts other than for current operating expenses for purchase and sale of investments or for administering charitable activities;
- to the extent that volunteers were necessary or desirable, they would be recruited from the designated charities as they are now provided by the licensed charities under the current regime; and

- each charitable association, along with its key employees, would be subject to GAIO registration and would be governed by a board elected from among its members.

The second alternative is attractive for self-managed halls because it eliminates any question of whether the licensed entity is conducting and managing the gaming event. Under this model, such activity is part of the primary purpose of the charitable association. For commercial halls, where the charitable association would contract for operational services with bingo management companies, it would still be necessary to review the present contractual structure and determine the extent of amendment necessary to ensure that it meets the legal requirements for conduct and management and use of proceeds articulated in Chapter 3 of the White Paper.

Because the use of charitable associations is a new concept which raises complex issues under the charitable registration requirement of the *Income Tax Act*, Revenue Canada should be approached, by or on behalf of the Gaming Commission or on behalf of a proposed charitable association, in respect of the acceptability of this model, as it may be necessary to secure the appropriate determination.

Position of Bingo Management Companies

Bingo management companies are recognized as important participants in bingo gaming, and as suppliers of resources that facilitate access by charities to gaming revenues for charitable purposes. At the same time, the demands of the legal framework are no less rigorous where bingo management companies share the stage with licensed charities and bingo associations. In commercial halls the operational role is taken on by the management company, and the bingo association has a correspondingly smaller role than does its counterpart in self-managed halls. The terms under which bingo management companies provide services, for licensed charities directly or through bingo associations, or for new charitable associations (if this new model is successfully adopted), must be capable of satisfying the limitations inherent in the s. 207(1)(b) exemption. Changes may be required to achieve adequate legal certainty.

Recommendations

It is recommended that:

1. the concept of charitable associations replacing bingo associations be actively pursued and to that end:
 - the *Gaming Control Act* licensing provisions encompass this concept; and
 - the Gaming Commission confirm by an appropriate submission to Revenue Canada, for itself or in support of a new charitable association, the acceptability for *Income Tax Act* purposes of licensed charitable associations (public foundations as defined under the *Income Tax Act*) conducting and managing charitable gaming in bingo halls;

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2. the Gaming Commission review the terms of the management services contracts made by licensed charities with bingo management companies (made directly or indirectly through bingo associations) for compliance with the requirements of s. 207(1)(b) of the Code, and, by amending its terms and conditions and standard procedures, assist the contracting parties in carrying out such changes to their contractual roles and responsibilities as are necessary to minimize any risk of noncompliance; and
 3. the Gaming Commission examine and specify contractual requirements for commercial bingo hall operators to ensure their continued involvement and business stability.
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Endnotes

- ¹ R.S.C. 1985, c. C-46.
- ² *An Act to Amend the Criminal Code*, S.C. 1938, c. 44, s. 12.
- ³ Public Gaming Control Branch, Policy Directive (June 3, 1986).
- ⁴ British Columbia Gaming Commission, "Terms and Conditions Respecting Licensing of Lottery Events in British Columbia" (Victoria: May 1, 1987).
- ⁵ British Columbia Gaming Commission, "Terms and Conditions of Licence" (Victoria: April 1, 1991).
- ⁶ R.S.B.C. 1996, c. 433.
- ⁷ British Columbia Gaming Commission, "Terms and Conditions for Licensed Charitable Access to Gaming Revenues" (Victoria: updated to April 1998).
- ⁸ (Victoria: updated to July 1998).
- ⁹ *Ibid.*
- ¹⁰ *Ibid.*
- ¹¹ "Terms and Conditions for Licensed Charitable Access to Gaming Revenues", *supra* note 7.
- ¹² "Standard Procedures for Bingo Halls", *supra* note 8.
- ¹³ *Ibid.*
- ¹⁴ R.S.C. 1985, c. I (5th Supp.), as amended.
- ¹⁵ *Ibid.* s. 149.1.

7.0 Social Policy and Law Enforcement Issues

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7.1 Overview

The development of a comprehensive provincial scheme for gaming administration and regulation requires consideration of a number of distinct social policy and law enforcement issues that are central to the achievement of government's gaming policy goals.

This chapter of the White Paper addresses the following issues:

- the well-established role of charities in gaming through their participation as volunteers in community fund raising and their membership in local and provincial charity associations;
- the social impact of problem gambling and provincial initiatives to mitigate these concerns;
- the need to ensure that, within the established legislative framework, gaming agencies have the right and the capacity to share sensitive gaming information to preserve and protect the integrity of gaming operations; and
- the need to provide clearly defined roles and responsibilities for the public agencies engaged in law enforcement and policing and to allocate sufficient resources to address both lawful and illegal gambling.

7.2 Community Involvement in Gaming

In the past year alone, over 4,500 charities participated in gaming directly through the presence of charity volunteers at charitable gaming events or indirectly as beneficiaries of revenues from provincial gaming. In the current fiscal year, charities will receive \$125 million in revenues from these events.

It is evident from consultation with key stakeholders that there is support across the gaming industry for continued charitable gaming in British Columbia. Gaming is viewed as a legitimate source of fundraising for community activities and this legitimacy reinforces its public acceptance.

Charity Volunteers

In the British Columbia Gaming Commission's Terms and Conditions for Licensed Charitable Access to Gaming Revenue,¹ a volunteer is defined as:

...an individual who serves an organization as a designated representative without remuneration, other than reimbursement of approved out of pocket expenses.

Under s. 7.11 of those terms and conditions, the Gaming Commission has established minimum requirements for volunteer participation at licensed bingo events. Following the transfer of responsibilities for conduct and management of casino gaming from charities to the British Columbia Lottery Corporation, a charity presence is no longer required at these events. However, charity involvement will continue to be required at all gaming events under s. 207(1)(b) of the *Criminal Code of Canada*.⁷

Local Bingo Associations

The Gaming Commission has encouraged bingo licensees to establish bingo associations for the purpose of "addressing common interests in the conduct and management of bingo events in a bingo hall".⁸ The development and functioning of bingo associations is discussed in Chapter 6 of the White Paper.

Provincial Charity Association

As part of its commitment to provide a continuing and increasing flow of gaming revenues to charities, the provincial government encouraged and provided initial financial support for the establishment of the British Columbia Association for Charitable Gaming (BCACG).

BCACG's original mandate is described in Chapter 2 of the White Paper. Its purpose is to act as a province-wide association representing the interests of the charities involved in gaming. It is to view and advise government on charitable gaming issues. In furtherance of this mandate, the Gaming Commission has recently permitted charities to collect from the proceeds of gaming an approved fee for membership in BCACG.

A provincial association of charities can achieve worthwhile public policy goals on behalf of its members and should be able to sustain itself through membership fees.

It is recommended that the Gaming Commission and BCACG proceed with the development of a protocol to define an appropriate relationship between government and BCACG.

7.3 Social Impact of Problem Gambling

The American Psychiatric Association defines compulsive or pathological gambling as:

...a chronic, progressive failure to resist impulses to gamble and gambling behaviour that compromises, disrupts, or damages personal, family or vocational pursuits.⁹

Scope of Problem Gambling

A 1994 Ontario report concluded that within the adult population:

- 2% - 7% encounter serious gambling-related problems; and
- 1% qualify as compulsive or pathological gamblers.¹⁰

Similarly, in a 1996 report to the British Columbia Lottery Corporation, it was estimated that:

- 4% of British Columbians are problem gamblers; and
- 6% are gamblers with potential problems.⁶

The report stated that:

The criminal justice system can be severely affected by pathological gambling. Studies have shown that two out of three pathological gamblers commit illegal acts in order to pay gambling related debts and/or to continue gambling.... Some crimes...involve violence or armed robbery...most are non-violent crimes against property. Many involve embezzlement or fraud.⁷

Finally, the report noted that "there is currently no program to assist those with gambling problems".⁸

Government's Response

As access to gaming events becomes more widespread as a result of longer hours of operation, higher bet limits and new gaming venues, government can anticipate renewed calls for effective public programs to address the issues of problem gambling education, treatment and addiction.

Within the framework of government's recent initiatives for the modest expansion of gaming in British Columbia, government approved additional funds for the Adult Addiction Services program within the Ministry of Children and Families. The initial annual budget for the program is \$2 million and the program includes a 24-hour toll-free gambling help line for immediate personal help, information brochures and posters, and specialized counsellors who may be accessed through each of the ministry's 22 regional offices or community-based addiction agencies. An advisory council will review the program and advise government on enhancements and revisions.⁹

While additional revenue for programs of general benefit to the community will be available to local governments that host destination casino facilities, there is also a clear expectation among stakeholders that the provincial government will take a leadership role in the development, implementation and funding of programs to address problem gambling. As a consequence:

It is recommended that government confirm its commitment to the problem gambling program by:

- authorizing the expenditure of approximately \$2 million in the next fiscal year for the problem gambling program;
- agreeing to review funding levels in subsequent fiscal years on the basis of reports submitted by the Ministry of Children and Families; and

- requiring Adult Addiction Services to submit a comprehensive annual report, to both the Minister of Children and Families and the minister responsible for gaming, on the incidence of problem gambling and the services provided.

7.4 Information and Privacy

The *Freedom of Information and Protection of Privacy Act*¹⁰ governs the collection, use and disclosure of confidential personal and business information by public bodies in British Columbia, including all of the government agencies that are involved in gaming administration and enforcement. Other enactments that have implications for information and privacy include the provincial *Privacy Act*¹¹ and *Child, Family and Community Service Act*¹² and the federal *Access to Information Act*¹³ and *Privacy Act*.¹⁴

The current statutory regime strikes a balance between, on the one hand, the need to protect individuals and companies from unreasonable invasion of personal privacy or harmful disclosure of confidential business information, and on the other hand, the need to facilitate the exchange of sensitive private and confidential information to protect the public interest.

Government's objectives in protecting the integrity of gaming can be satisfied under existing laws subject to the following considerations:

It is recommended that:

- GAO review its current written consents to disclosure from applicants for registration to ensure that these consents are appropriately worded and permit information sharing for the purpose of facilitating background and criminal record checks;
- the British Columbia Gaming Commission obtain appropriately worded explicit written consents from applicants for licensing or direct access to facilitate background and criminal record checks during the application process;
- the British Columbia Lottery Corporation review its existing contracts with casino operators to clarify which operator records are under the custody and control of the corporation and hence subject to disclosure under the *Freedom of Information and Protection of Privacy Act*;
- government enact regulations under the new *Gaming Control Act* to require that casino operators institute a video surveillance system to prescribed standards;

- casino gaming operators display conspicuous and intelligible warning signs at the perimeters of casino gaming premises informing players that the premises are subject to video surveillance; and
- provincial agencies involved in gaming enter into memoranda of understanding or operational protocols with local and provincial law enforcement agencies with respect to the collection, . . . and disclosure of law enforcement information.

7.5 Law Enforcement and Policing Programs

This section of the White Paper reviews a set of issues pertaining to law enforcement and policing programs. It provides a history of regulatory structures in British Columbia, duplicating to some extent information contained in other sections of this report, and summarizes programs in other jurisdictions.

The purpose of this section is to provide guiding recommendations aimed at improving existing regulatory and enforcement structures or programs. These recommendations are intended to be very general in scope. Individual agencies will have to develop specific details about implementation. A number of the recommended initiatives will require specific approvals for proposed funding models and levels.

History of Law Enforcement in Gaming

In 1938, the *Criminal Code* of Canada provided the first exceptions to the illegality of common gaming houses by permitting exemptions for *bona fide* social clubs and occasional charitable gaming events. These provisions did not change significantly until 1969.

The first major developments in gaming law enforcement in British Columbia commenced shortly after the Code was amended in 1969. The amendments allow provincial governments to license gaming provided that the proceeds are used for charitable purposes.

In April 1970, an order in council passed pursuant to the Code permitted licensed public gaming in British Columbia. Shortly thereafter, a licensing branch was created within the Ministry of Attorney General and began issuing gaming licences to charitable and religious organizations and agricultural fairs and exhibitions. Between 1970 and 1974, the branch developed policies for the licensing and financial accountability of charities.

As part of this development, the branch started an inspection section responsible for monitoring compliance with the Code and overseeing field operations and inspections.

In 1974, British Columbia became a partner with the other three western provinces in the creation of the Western Canada Lottery Foundation. The foundation was

created to conduct and manage inter-provincial lottery schemes. Each province was responsible for marketing lottery products within its boundaries.

The province also enacted the *Lottery Act*¹³ and created the Lotteries Branch to perform marketing functions and continue the province's licensing activities. The branch was placed under the Ministry of the Provincial Secretary and Government Services. The Act assigned responsibility to the minister for:

- the administration of the branch;
- the conduct of provincial lotteries;
- the regulation and licensing of other gaming activities; and
- the establishment of a committee to advise and assist the minister.

The licensing branch was transferred from the Attorney General to the Ministry of the Provincial Secretary and became part of the Lotteries Branch. The first field inspectors joined the branch (in Vancouver and Victoria) and began to enforce the regulations. In 1981, on the recommendations of Treasury Board, the branch was expanded to include a chief inspector and six field inspectors.

The focus of priorities changed in 1982. The branch became a licensing body, with an inspection staff of seven people. Provincial lotteries became the sole responsibility of the Western Canada Lottery Foundation, separate from the branch. As a consequence, jurisdictional authority for gaming was divided as follows:

- provincial gaming was conducted by the Western Canada Lottery Foundation; and
- charitable gaming remained the responsibility of the branch.

Ticket lotteries continued to be administered by the Western Canada Lottery Foundation until April 1, 1985, when the British Columbia Lottery Corporation was established under the *Lottery Corporation Act*¹⁴ to conduct and manage provincial and inter-provincial lottery schemes.

During the 1970s and into the early 1980s, the development of bingo, casino, and ticket raffle activity was slow to evolve relative to ticket lottery activity in British Columbia. However, in 1984, the first large bingo hall commenced operations in the lower mainland and in November of that year, government policy was adopted in an attempt to clarify roles and responsibilities of commercial bingo halls and charity licensees. A moratorium was placed on the issuance of new charity licences in an effort to control the proliferation of bingo activity.

Within the year, as part of government restraint measures, the branch was reduced in staff and there was little opportunity to monitor the degree of compliance with or to enforce the new policies. When the moratorium was lifted additional personnel were hired and an enforcement function was re-established. Regional

offices were set up in Prince George, Kamloops, Cranbrook and Vancouver and on Vancouver Island. Most inspection staff were hired on a contract basis.

On November 6, 1986, the branch was transferred back to the Ministry of Attorney General and renamed the Public Gaming Branch. Its mandate continued as the agency responsible for:

- licensing charitable and religious organizations;
- monitoring licensed gaming activity for compliance with the regulations; and
- advising the minister on all gaming matters and changes in regulations.

On April 1, 1987 the British Columbia Gaming Commission was established by order in council.¹⁷ Its purpose was to advise on gaming policy within the province and to set the terms and conditions of licences issued to charities for bingo, ticket raffles and casino events. The commission was also the licensing authority for these charitable gaming events and for gaming at fairs and exhibitions.

In August 1987, responsibility for licensing and establishing the terms and conditions for social clubs under s. 179 of the Code was transferred to the Gaming Commission from the Police Services Branch, Ministry of Attorney General.

In November 1995, the Public Gaming Branch became part of the Gaming Commission and all gaming licensing activities in the province were consolidated. Enforcement was split into inspection activities which remained with the Gaming Commission and audits and investigations which were assigned to the Gaming Audit and Investigation Office (GAIO) in the Ministry of Attorney General.

GAIO was formed as a result of the recommendations in the Report on Gaming Policy released in October 1994.¹⁸ The separation of inspections from audits and investigations was the result of a study on organizational transformation prepared in 1995. The concept of separation was the primary factor in the creation of GAIO, thus ensuring that the agency responsible for gaming not investigate itself or be in a position of conflict and that audits and investigations be independent of any other gaming activities.

The 1995 study also reaffirmed that all government gaming organizations had an inherent responsibility for regulatory compliance with respect to the gaming activities under their jurisdiction. Hence, the Gaming Commission and the Lottery Corporation have retained this function subject to further independent audit by GAIO.

Current Enforcement Structure

In British Columbia, examples of illegal gambling activities include unlicensed social clubs, video lottery terminals (VLTs) and bookmaking.

Provincially-sanctioned gaming is authorized under the Code and subject to provincial legislation, regulations and policies. In British Columbia, these activities include casinos, bingo, ticket raffles, horse racing and ticket lotteries.

Matters requiring enforcement include offences under the Code that address cheating at play, theft and fraud, or provincial regulatory contraventions, including violation of the terms and conditions of gaming licences.

At present, four separate provincial and local government programs have various responsibilities for the enforcement of gaming laws in British Columbia:

- provincial and local law enforcement units in the form of either the RCMP or municipal police departments;
- the Gaming Commission;
- the Lottery Corporation; and
- GAJO.

Provincial and Local Enforcement Units

Provincial and local law enforcement units are responsible for enforcing the Code and provincial legislation and regulation in respect of gaming. There are limited resources and few dedicated law enforcement positions to carry out these responsibilities primarily because:

- municipal police are reluctant to provide resources to enforce gaming regulations since gaming is a provincial responsibility; and
- most policing resources are focused on higher-priority crimes, including crimes against individuals, rather than on gaming enforcement.

Additional resources for gaming enforcement by local police forces may become available in those jurisdictions where destination gaming facilities have been approved and host local governments apply revenues from these facilities to offset policing costs.

British Columbia Gaming Commission

The Gaming Commission is responsible for regulating charitable gaming, including paper bingos, ticket raffles, social occasion casinos, wheels of fortune and gaming at fairs and exhibitions. The commission also approves applications from charities for direct access to gaming revenues. Gaming enforcement is carried out by licensing, inspection and audit staff.

The Gaming Commission is charged with ensuring that gaming events under its jurisdiction are conducted in compliance with its rules. Specifically, the Gaming Commission monitors compliance by:

- enforcing the terms and conditions of licence, standard operating procedures for bingo and Gaming Commission policy.

- determining the eligibility of charities for access to gaming revenues; and
- auditing the charities' use of gaming proceeds.

Inspection and audit staff are located in Gaming Commission regional offices in Vancouver, Kelowna and Prince George and on Vancouver Island.

The Gaming Commission refers criminal matters to GAIO or to local law enforcement units. Non-criminal matters are dealt with by Gaming Commission staff or by referral to GAIO under the terms of a memorandum of understanding where an audit or investigation involves issues and circumstances that are not routine or may be complex and lengthy.

British Columbia Lottery Corporation

The Lottery Corporation is a Crown corporation established by the *Lottery Corporation Act*. It is responsible, as an agent of the Crown, for the conduct and management of:

- provincial government lottery schemes;
- slot machines and electronic and linked bingo;
- casino table gaming; and
- approved destination bingo facilities.

The Lottery Corporation has established a Corporate Security Department with responsibility for security at all Lottery Corporation operations. The department also ensures regulatory compliance at casinos and electronic and linked bingo sites.

Gaming Audit and Investigation Office

GAIO is part of the Ministry of Attorney General. Its mission is to ensure that public gaming in British Columbia is conducted honestly and is free from criminal and corruptive elements. The formal mandate of GAIO, as authorized by the Attorney General, is to:

- register individuals and companies involved in lawful gaming in British Columbia;
- investigate any occurrence which may be of a criminal nature or bring into disrepute lawful gaming under either s. 207 of the Code or provincial enactments; and
- audit and review gaming operations and organizations against standards established by provincial legislation and policy.

GAIO investigators are appointed as special constables under s. 9 of the *Police Act*.¹⁹ As special constables, GAIO investigators are authorized to enforce gaming provisions under both the Code and provincial enactments. In practice, GAIO involves local police forces where there are Code violations. Neither the *Lottery Act* nor the *Lottery Corporation Act* includes specific provisions for GAIO's enforcement purposes. Accordingly, GAIO has entered into memoranda of understanding with the Gaming Commission and the Lottery Corporation.

While GAIO's audit responsibilities include the operations of the Gaming Commission and the Lottery Corporation, GAIO has, in the absence of express legislation, limited its focus to audits of gaming under the auspices of these bodies and not to audits of the organizations themselves.

GAIO's activities are carried out in three primary program areas comprising registrations, investigations and audits.

Registration Program

GAIO registers all gaming operators and key personnel who are involved in the conduct and management of gaming activities in the province. This program is complex and requires significant resources to address:

- the size and complexity of many gaming service providers that are multinational and publicly-traded corporations; and
- gaming worker registrations for several thousand casino and bingo personnel.

Investigation Program

GAIO conducts investigations at its own discretion into activities emanating from provincially sanctioned gaming. By and large, however, investigations by GAIO are reactive, resulting from requests by the Lottery Corporation, the Gaming Commission or the public.

Audit Program

GAIO also conducts proactive compliance audits and reviews of both gaming operations and the use of charitable gaming revenues by participants in the licensed gaming field. Further, GAIO from time to time reviews compliance and inspection policies and procedures of the Lottery Corporation and Gaming Commission and follows up with recommendations to each as the case may be.

British Columbia's Response to Organized Crime

The Coordinated Law Enforcement Unit (CLEU) was a centralized, provincial policing agency with responsibility for cross-jurisdictional police investigations, enforcement and policy. CLEU's activities were focused primarily on organized

crime, and only limited resources within CLEU were directed specifically to illegal gambling and related criminal activities.

In June 1998, the Attorney General initiated a special independent review of CLEU. The terms of reference for the review were broad and required consideration of CLEU's rationale, structure and effectiveness and its role in combatting organized crime in the province.

Twenty-three recommendations were contained in the report of the Independent Review Committee.²⁰ Among other things the report recommended that the Attorney General:

- discontinue the operations of CLEU in its current form;
- implement a new organizational model assigning a criminal intelligence responsibility to each law enforcement agency; and
- appoint a new coordinating Joint Management Team.

While the report made no specific recommendations with respect to illegal gambling, the structures proposed in the report are consistent with the need to ensure that organized crime and illegal gambling are targeted effectively in British Columbia.

Enforcement Structures in Other Provinces

Provincial gaming enforcement laws deal with offences and sanctions with respect to:

- provincial licensing and regulatory regimes; and
- illegal activities occurring within the lawful gaming framework.

The provinces have adopted different models to meet enforcement requirements. A brief summary of these models follows. A broader overview of the legislative and operational regimes for gaming in each of the other provinces is attached as Appendix 2 to the White Paper.

Alberta

In Alberta, gaming and liquor regulation are addressed together in the *Gaming and Liquor Act*.²¹ The Alberta Gaming and Liquor Commission deals with all gaming issues, from inspections to full investigations. The Act designates police officers as inspectors for gaming and liquor matters, and authorizes the commission to designate its employees or other persons as inspectors. Inspectors have the authority to inspect premises and to seize unlawful gaming equipment and supplies. Generally, police do not become involved until a search warrant is issued.

Saskatchewan

In Saskatchewan, gaming is regulated under *The Alcohol and Gaming Regulation Act*.²² The Act authorizes the Liquor and Gaming Authority to license and regulate charitable gaming. Both alcohol and gaming offences are enforced by compliance regulatory officers in the Inspection Service and Audit Services Branches of the authority. Senior inspectors have peace officer status. The police become involved at the request of the compliance officers.

Manitoba

Gaming in Manitoba is regulated by the Gaming Control Commission, established under the *Gaming Control Act*.²³ Enforcement is carried out by persons appointed by the commission to its inspection staff, some of whom have peace officer status. Inspection staff have authority to carry out inspections and audits and to investigate the use of proceeds, the sale and use of fraudulent bingo paper and breaches of licence terms and conditions. Illegal gambling offences are the responsibility of the commission, with assistance from or referral to local police.

Ontario

Ontario regulates gaming under the *Gaming Control Act, 1992*.²⁴ The enforcement regime is extensive. The Ontario Provincial Police (OPP) has full-time officers who focus on commercial casinos. OPP officers also deal with charitable gaming, and civilian compliance officers perform more routine audit and investigation functions. To complement these activities, additional part-time compliance officers are available for gaming enforcement.

Québec

Gaming in Québec is regulated by Loto-Québec, a Crown corporation, under *An Act respecting Lotteries, Publicity Contests and Amusement Machines*.²⁵ Enforcement is the responsibility of inspectors on the staff of Loto-Québec and members of the Sûreté de Québec. The Sûreté has full-time staff who perform security clearances and investigations. Illegal gambling is handled by regional crime squads, which are part of the Québec Provincial Police and each of which has at least one member dedicated to gaming.

New Brunswick

The New Brunswick Lottery Commission administers the *Lotteries Act*.²⁶ The commission is responsible for implementing gaming policy and procedures. Enforcement is currently the responsibility of the policy making body although inspection staff are expected to be appointed shortly. Illegal gambling enforcement is the responsibility of the local police.

Nova Scotia

The *Gaming Control Act*²⁷ establishes the Nova Scotia Gaming Authority as the agency responsible for regulation and licensing. Compliance officers inspect casinos and liquor establishments that offer video lottery terminals. Illegal gambling and criminal investigations are the responsibility of the RCMP Gaming Unit, together with local police.

Prince Edward Island

Lottery schemes in Prince Edward Island are organized, conducted and managed by the Prince Edward Island Lotteries Commission, a Crown agent established under the *Lotteries Commission Act*.²⁸ One inspector is dedicated to the enforcement of the schemes which include 600 video lottery terminals, licensed charitable gaming events and various bingo halls. Investigations related to illegal gambling are handled by local police.

Newfoundland

Gaming in Newfoundland is regulated under the *Lotteries Act*.²⁹ The Act authorizes the Minister of Justice to issue licences to owners of electronic or mechanical amusement devices. Enforcement of the gaming regime is addressed in provincial policy. The Auditing Compliance Section is responsible for enforcing rules and policies. All Code violations are referred to the police.

Law Enforcement Issues

The complex and evolving history of gaming enforcement in British Columbia evidences a number of issues that make enforcement difficult. These issues relate broadly to:

- the interrelated roles and responsibilities that mark gaming enforcement;
- funding constraints for both provincial and local governments; and
- the changing face and type of criminal activity in the province.

Roles and Responsibilities

Under the present system for law enforcement and policing, there is an overlap of responsibility for gaming enforcement in several areas. Both the Gaming Commission and the Lottery Corporation are responsible for regulatory compliance with respect to the gaming they regulate. GAIO's mandate also includes responsibility for regulatory compliance, and the police have responsibilities for the investigation of criminal offences. All of these agencies are therefore involved, to varying degrees, in gaming inspections, audits and investigations and there is a potential for overlap or omission if responsibilities are not clearly demarcated and authorized under gaming legislation.

The following issues must be addressed to ensure that law enforcement officials have the authority and capacity to perform effectively their gaming enforcement responsibilities.

Provincial Gaming Officials

Where law enforcement activities involve provincial regulatory offences, sanctions and penalties, there must be a clear demarcation of responsibilities among provincial gaming officials in the Gaming Commission, the Lottery Corporation and GAJO.

GAJO has achieved a very high level of acceptance and professional respect from the stakeholders who made submissions to the Gaming Project Working Group. In its role and in the manner in which it has discharged its responsibilities, GAJO has been a steady and stable influence on the conduct and management of gaming in the province.

GAJO has entered into memoranda of understanding with the Gaming Commission (September 1997) and the Lottery Corporation (November 1998). These agreements have been adopted to define the roles and allocate the responsibilities of each body with respect to common areas of jurisdiction.

Provincial Gaming Officials and the Police

Where law enforcement activities involve offences under the Code, there must be a clear demarcation of responsibilities between provincial gaming officials and the police. While the police need not be involved in routine gaming inspections, audits and investigations, it is essential that provincial gaming officials and the police understand their respective responsibilities for the investigation and prosecution of criminal offences.

Provincial and Municipal Police

Provincial and municipal police must adopt a coordinated approach to criminal law enforcement. One of the hallmarks of illegal gambling is its rapid, elusive and cross-jurisdictional nature, both within and outside British Columbia. It is essential that provincial and municipal police understand their respective responsibilities for the investigation and prosecution of criminal offences.

The Vancouver Police Department has developed its own internal expertise in gaming enforcement through the dedication of a full-time officer and the secondment of personnel to the former CLEU. This expertise should be acknowledged in establishing new enforcement mandates for provincial and municipal police.

Funding Constraints and Resource Issues

In recent years, both provincial and local government agencies have experienced funding constraints and increased demands for services. Illegal gambling and

provincial gaming enforcement are rarely a priority. While illegal gambling schemes are numerous, the resources available to investigate and prosecute are few. Some of the more widespread forms of illegal gambling that have been difficult to enforce because of resource limitations include VLTs, unlicensed social clubs, Internet gaming, midnight casinos, bookmaking and lottery ticket resales.

The British Columbia Association of Chiefs of Police has been active in urging the provincial government to fund the policing resources necessary to address gaming enforcement issues. At a meeting in 1997, the association passed a resolution requesting:

...additional gaming specific and general duty officers to account for and meet with increasing demands created by gaming and expanded gaming in British Columbia.²⁰

The association resolved to bring these matters to the attention of the Police Services Branch and the Gaming Commission and to seek:

...further funding for a province-wide gaming enforcement team and additional local duty officers wherever gaming expands in British Columbia.²¹

It is clear that structuring and funding appropriate and effective police programs should be a priority for the provincial government. Illegal gambling activity should be addressed through the establishment of a rigorous program of investigation and prosecution. This program should operate province-wide to provide a centralized intelligence and prosecution function.

The Changing Character of Gaming Activities

The provincial government has implemented detailed policies, procedures and rules to control the conduct and management of provincially sanctioned forms of gaming in British Columbia. However, despite these initiatives, the police and industry observers report a proliferation of the following forms of unlicensed or illegal gambling activities.

Video Lottery Terminals

Under s. 207(1)(c) of the Code, lottery schemes that are operated on or through a computer, video device or slot machine must be conducted and managed only by a provincial government or its agent.

With the British Columbia government's announcement in March 1997 of its policy for moderate gaming expansion, VLTs were expressly excluded from the legitimate forms of permitted gaming. Despite this prohibition, many people have continued openly to operate these machines.

VLTs operate primarily in convenience stores where they are often in plain view of the public. VLTs contain a mechanism that allows them to be converted easily

from purely amusement machines to slot machines and vice versa. As a consequence, these machines are difficult to seize and their owners are difficult to prosecute. Police estimate that between 5,000 and 10,000 illegal or "grey" VLTs are currently operating in the province.

Social Clubs

Under s. 197(2) of the Code, the Attorney General of a province may license a genuine social club to conduct limited forms of gaming. British Columbia is the only jurisdiction in Canada that licensed this form of gaming. The practice began in 1975 but ceased in August 1996.

Despite government's decision to discontinue licensing of social clubs, a number of unlicensed social clubs or card rooms now operate in the province. Some are long-established clubs with regular clientele, while others are seasonal. Social clubs hold card tournaments with "bonus" prizes and "jackpots" making them a popular venue for card players and casino customers. The operators of these clubs are aware that gaming activities at the clubs are illegal.

It is recommended that, as part of an enhanced provincial gaming enforcement program, enforcement officials should give high priority to investigating and prosecuting operators of illegal social clubs.

Internet Gaming

Recent expansion of the Internet as a tool for computer gaming, through virtual casinos, has lead to a number of queries and complaints about the legality of this form of gaming. For a discussion of emerging issues with respect to Internet gaming, refer to Chapter 9 of the White Paper.

Midnight Casinos

The police report that known criminal elements operate unauthorized, clandestine casinos that move frequently to avoid enforcement. According to police reports, drugs and alcohol are readily available at these casinos. It is also reported that clandestine casino operators solicit customers and employees from government casinos and that midnight casinos operate through the night. Customers at these casinos may be subject to extortion and violence.

The Vancouver Police Department reports that several recent investigations involving homicide, kidnapping, extortion, violent assault and robbery were directly related to the collection of gambling debts associated with midnight casinos.

Bookmaking - Horse Racing and Other Sporting Events

Police report that there are at least six bookmaking parlours in the Vancouver area that broadcast illegally intercepted simulcast signals to their customers and take bets on horse races and other major sporting events. As reported, most of these parlours are linked to known criminal elements.

The police estimate that bookmaking parlours are siphoning off up to 65% of the Pacific Racing Association's simulcast revenue and about 50% of their customer base. In addition, these parlours are a conduit for clandestine betting by some individuals in the racing industry. Finally, as most bookmaking is conducted on credit, loansharking and extortion are common.

Foreign Lottery Ticket Resellers

Approximately 100 companies in British Columbia resell foreign lottery tickets to American and European customers. Many of these companies reportedly employ fraudulent, deceptive or high pressure sales tactics.

This matter has proven so troublesome to police, Crown counsel and governments generally, that a Canada-US working group has been established by the Prime Minister and the President. A vigorous enforcement effort in the United States has been directed specifically at British Columbia companies and their principals.

For a discussion of emerging issues with regard to foreign lottery ticket sales, refer to Chapter 9 of the White Paper.

Data Collection and Analysis

At this time, a common database is not available to the police or others for the purpose of assessing gaming offences and trends.

Offences under the Code are subject to prosecution and, on conviction, to fines, imprisonment or both.

At this time, various forms of sanctions may be imposed for violations of provincial gaming policy, including breaches of:

- the terms and conditions of charitable gaming licences;
- the standard operating bingo and casino procedures; or
- the terms of lottery ticket retailer contracts.

However, in the absence of provincial legislation, gaming regulators may enforce these sanctions only by denying, revoking or suspending charity and retailer licences and operator registrations. For example, the requirement that lottery tickets be sold only to those over age 19 is set out in the Lottery Corporation Retailers Agreement rather than through a statutory or regulatory schedule of offences and fines.

It is clear that the new *Gaming Control Act* should provide a range of sanctions and penalties to support the regulatory regime, including:

- administrative sanctions; and
- significant fines and penalties.

Conclusions

As recommended elsewhere in the White Paper, the *Gaming Control Act* must articulate clearly the roles and responsibilities of the provincial agencies that are responsible for gaming regulation and enforcement, including the Gaming Commission, the Lottery Corporation, GAIO and the police.

Individual responsibilities must be aligned within a structure that best meets government's objectives for a legally sustainable regime capable of realizing government's policy and revenue objectives. Within this context, recommendations in this chapter deal specifically with substantive or new policy initiatives deemed essential for more effective gaming enforcement programs.

It is recommended that:

- the Gaming Commission continue its current range of regulatory and enforcement programs and supplement resources as necessary to accommodate expanded jurisdiction in bingo activities;
- the Gaming Commission undertake regular reviews of its programs and resources for evaluating and auditing approved uses of proceeds by charities;
- the Lottery Corporation assess its security programs to reflect its continuing and growing role in casino activities, including slot machines;
- GAIO be constituted in legislation and its jurisdiction and mandate be confirmed in the Act;
- GAIO be given clear jurisdiction over regulation of gaming, including personnel, equipment and suppliers, and the activities of the Gaming Commission, the Lottery Corporation and the Gaming Policy Secretariat, as applicable;
- GAIO, the Gaming Commission, the Lottery Corporation and provincial and municipal police agencies implement or review and refine operating agreements with respect to law enforcement roles, responsibilities and information sharing;
- government approve a special police and prosecutorial program dedicated to investigating illegal gambling and prosecuting criminal offences;
- government fund the program in the initial amount of \$1.5 million through GAIO to ensure coordination of resources and appropriate accountability for the expenditure of provincial funds; and
- government structure the program at the provincial level either through a special unit to be established within "E" Division of the RCMP, or on a basis consistent with the recommendations of the recently completed independent review of organized crime and the

restructuring of CLEU, or as the Attorney General may otherwise decide.

The Ministry of Attorney General is considering the details of a new program to address the recommendations of the Independent Review Committee, and has completed preliminary resource planning. The gaming enforcement program must provide for a combination of dedicated police and prosecution services, and effective linkages must be established with the new criminal intelligence initiative under way through the Ministry of Attorney General.

Endnotes

- ¹ (Victoria: updated to April 1998), Part 1.
- ² R.S.C. 1985, c. C-46.
- ³ "Terms and Conditions for Licensed Charitable Access to Gaming Revenue", *supra* note 1 at s. 7.12.
- ⁴ Canadian Foundation on Compulsive Gambling (Ontario), "Gambling in Ontario", cited in *Cases and Materials on Gaming Law* (Kingston: Queens' University, September 1998) at 605.
- ⁵ *Ibid.* at 605.
- ⁶ Auditor General of British Columbia, "A Review of Government Revenue and Expenditure Programs Relating to Alcohol, Tobacco, and Gaming" (Victoria: March 1997) at 27.
- ⁷ *Ibid.* at 35.
- ⁸ *Ibid.* at 42.
- ⁹ British Columbia, Ministry of Children and Families, "British Columbia Problem Gambling Program, Orientation and Resource Handbook" (Victoria: September 1997).
- ¹⁰ R.S.B.C. 1996, c. 165.
- ¹¹ R.S.B.C. 1996, c. 373.
- ¹² R.S.B.C. 1996, c. 46.
- ¹³ R.S.C. 1985, c. A-1.
- ¹⁴ R.S.C. 1985, c. P-21.
- ¹⁵ S.B.C. 1974, c. S.
- ¹⁶ S.B.C. 1985, c. 50.
- ¹⁷ Order in Council 612/87.
- ¹⁸ British Columbia, Ministry of Government Services, "Report of the Gaming Policy Review" (Victoria: October 1994).
- ¹⁹ R.S.B.C. 1996, c. 367.

- ²⁰ Ministry of Attorney General, Independent Review Committee, "British Columbia's Response to Organized Crime" (Victoria: September 15, 1998) at ix.
- ²¹ S.A. 1996, c. G-05.
- ²² S.S. 1988-1989, c. A-18.01.
- ²³ S.M. 1996, c. 74.
- ²⁴ S.O. 1992, c. 24.
- ²⁵ L.R.Q., c. L-6.
- ²⁶ S.N.B. 1976, c. L-13.1.
- ²⁷ S.N.S. 1994-1995, c. 4.
- ²⁸ R.S.P.E.I. 1988, c. L-17.
- ²⁹ S.Nfld. 1991, c. 53.
- ³⁰ The full text of the resolution and a summary of the association's submission to the Gaming Project Working Group is reproduced in Chapter 5 of the White Paper.
- ³¹ Ibid.

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8.1 Overview

The role and interests of local government raise a range of complex issues with respect to provincial gaming policy. In this context, local government is defined broadly to include municipalities, cities, regional districts and First Nations band councils.

The powers and rights of local governments (with the exception of First Nations) in British Columbia are found in the *Municipal Act*,¹ the *Vancouver Charter*² and other provincial enabling statutes or statutory provisions. The traditional role of local government in relation to gaming pertains to matters of land use, zoning, planning and business licensing and regulation.

The legal framework for gaming under the *Criminal Code of Canada*³ involves no direct role for local government. However, under the exceptions to the general prohibition against gaming, the Code permits the provinces to conduct, manage or license gaming activities and, in most jurisdictions, these powers have been formalized in legislation. Provincial legislation or policy may also establish a specific role for local government in the development and administration of provincial gaming policy.

Following the British Columbia government's announcement of its intention to implement gaming enhancements, issues with respect to the provincial government's jurisdiction over gaming and the traditional role of local government came into sharp focus, largely through:

- debate, discussion and the actions of individual local governments, both in support of and in opposition to provincial gaming policy initiatives;
- policy initiatives and recommendations of the Union of British Columbia Municipalities (UBCM); and
- ongoing litigation involving principally the cities of Vancouver and Surrey.

At this time, the critical issues for local governments relate to:

- their involvement in decisions about the location and scale of community gaming facilities; and
- their ability to participate in revenues from gaming activities as a means of funding community programs and infrastructure and addressing the social and law enforcement costs associated with enhanced gaming activities.

A successful resolution of local government issues is essential for proper implementation of provincial gaming policy and programs. At present, relationships between the province and some local governments are dysfunctional

and a changed course, marked by clarity in the roles and expectations of local government, is required to establish an effective policy base.

This chapter of the White Paper addresses local government issues and recommends a new approach for provincial gaming policy that incorporates the interests of the province, local governments, charities and commercial gaming operators.

8.2 Legislative Framework

Part VII of the *Criminal Code* of Canada establishes the legislative framework for the conduct and management of permitted forms of gaming in Canada.⁴ Under Part V⁵, it is lawful, in prescribed circumstances, for the government of a province or a provincially-licensed charitable or religious organization to conduct and manage approved forms of gaming.

British Columbia has enacted the *Lottery Act*⁶ and the *Lottery Corporation Act*⁷ for the purpose of conducting and managing government gaming. The province has also established the British Columbia Gaming Commission for the purpose of licensing charities to participate in gaming events or providing charities with direct access to revenues from government gaming.

Local government authority, if any, must be embodied in either a provincial enactment or provincial government policy.

8.3 Local Government in British Columbia

The *Municipal Act*, the *Vancouver Charter* and other provincial enabling statutes or statutory provisions establish the powers and rights of local governments (with the exception of First Nations) in British Columbia. The public policy principles that guide the relationship between the province and local governments was formalized in a 1996 Protocol of Recognition.⁸ These principles have also been enacted recently as part of the *Local Government Statutes Amendment Act, 1998* (Bill 31).⁹

In some circumstances, provincial enactments may override the traditional powers of local governments with respect to land use, planning and business licensing or regulation. In other circumstances, provincial enactments or policy may confer upon local governments the right or opportunity to participate and influence decision-making in what would otherwise be a matter of provincial jurisdiction.

Protocol of Recognition

This section of the White Paper provides an overview of the protocol, Bill 31 and selected provincial enactments and policies that define, in part, the role of local governments in British Columbia.

On September 18, 1996, the provincial government and the Union of British Columbia Municipalities (UBCM) signed a Protocol of Recognition which speaks, in the preamble, of the need for a cooperative rather than a prescriptive approach. The preamble provides, in part, that:

Whereas:

- There is a need to clarify and define the jurisdiction and responsibilities of the province and local governments when addressing certain issues, and a need to increase the level of trust and commitment to cooperation;
- The provincial and local governments, having distinct legislative authority in their respective fields, are committed to ensuring logically organized and cost-effective performance by both levels of government.

Article 1 of the protocol provides that:

In the interest of all British Columbia the parties are committed to discharge their responsibilities within their respective areas of jurisdiction, while respecting the jurisdiction of others.

On the issue of partnership, article 2 of the protocol provides, in part, that:

...the parties are committed to cooperate in the spirit of partnership particularly in the harmonization of legislation, regulations, policies, programs and projects.

Finally, on the question of consultation, article 5 provides that:

In the spirit of fairness, openness and good faith any proposed significant change in legislation, regulations, standards, policies or programs will be preceded by appropriate consultation among the affected parties, including timely notification of the proposed change.

While the protocol describes relationships between the province and local governments in broad terms, it makes no direct references to gaming policy and expansion.

**Local
Government
Statutes
Amendment
Act, 1998
(Bill 31)**

Bill 31 refers to the protocol and its purpose in recognizing local government "as an independent, responsible and accountable order of government." The purposes of the Act, as stated in s. 1, are to:

- provide a legal framework and foundation for the establishment and continuation of local governments to represent the interests and needs of their communities;
- provide local governments with the powers, duties and functions necessary for fulfilling their purposes; and
- provide local governments with the flexibility to respond to different needs and changing circumstances of their communities.

Section 4 of the Act establishes principles on which the relationship between local governments and the provincial government should be based:

- 4 *The relationship between local governments and the Provincial government in relation to this Act is based on the following principles:*
 - (a) *cooperative relations between the Provincial government and local governments are to be fostered in order to efficiently and effectively meet the needs of the citizens of British Columbia;*
 - (b) *local governments need the powers that allow them to draw on the resources required to fulfill their responsibilities;*
 - (c) *notice and consultation is needed for Provincial government actions that directly affect local government interests;*
 - (d) *the Provincial government recognizes that different local governments and their communities have different needs and circumstances and so may require different approaches;*
 - (e) *the independence of local government is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally.*

The Act does not, however, in any specific fashion or section, interfere with or change the rights of the provincial government to initiate or proceed with policy or legislation in areas of traditional provincial domain. In that respect the Act is not determinative of the key issues involving provincial and municipal interests in governing, including the approval authority and revenue sharing for local governments.

**Provincial
Interest
Paramount**

There are a number of examples where, in the provincial interest, government has affirmed provincial paramountcy. The following examples from the *Municipal Act* and other provincial statutes illustrate the effect of extraordinary powers for the province in areas traditionally regulated by local government bylaw.

Bylaws and Plans

Section 874 of the *Municipal Act* authorizes the minister to override some local government bylaws or plans if the minister objects to a bylaw or plan enacted under specified divisions of Part 26 of the Act. Section 874 provides that:

- 874(1) If a bylaw has been enacted by a local government under Division 2, 3, 7, 9 or 11 of this Part, and the minister believes that all or part of the bylaw is contrary to the public interest of British Columbia, the minister may notify the local government*
 - (a) of the minister's objections to the bylaw or a plan, and*
 - (b) that the council or the board must, within 90 days after receipt of the notice, alter the bylaw or plan accordingly.*
- (2) If the local government does not alter the bylaw or plan in accordance with the notice, the minister may, with the prior approval of the Lieutenant Governor in Council, order the bylaw or plan to be altered in accordance with the notice.*
- (3) On the date or an order of the minister under subsection (2), the bylaw or plan is conclusively deemed to be altered in accordance with the notice.*
- (4) An order of the minister under subsection (2) is final and binding.*

Soil Removal

Subsections 723(2) and (4) of the *Municipal Act* deal with soil removal and the respective powers of the local and provincial governments. These subsections provide that:

- 723(2) A council may, by bylaw, regulate or prohibit*

- (a) the removal of soil from, and*

- (b) *the deposit of soil or other material on any land in the municipality or in any area of the municipality.*
- (4) *A provision in a bylaw under subsection (2) that prohibits the removal of soil has no effect until the provision is approved by the minister [of Municipal Affairs] with the concurrence of the Minister of Energy, Mines and Petroleum Resources.*

Farm Lands

Under s. 916 of the *Municipal Act*, the minister responsible for the administration of the *Farm Practices Protection (Right to Farm) Act*⁹ may establish provincial standards for farm bylaws to guide local governments in the preparation of rural land use and zoning bylaws. Section 917 authorizes local government, subject to the approval of the minister, to make specific bylaws in relation to farming areas.

Agricultural Land Reserves

The *Agricultural Land Commission Act*¹⁰ provides for the designation and establishment of agricultural land reserves. Under s. 18(1)(a) of the Act, local governments are prohibited from permitting the use of agricultural land except for farm and related uses or as permitted by provincial regulations:

- 18(1) *After December 21, 1972, except as permitted by this Act, the regulations or terms imposed in an order of the commission, the following rules apply:*
- (a) *a municipality or regional district, or an authority, board or other agency established by it or person designated under the Local Services Act may not permit agricultural land to be used for other than farm use, or permit a building to be erected on the land except for farm use or for residences necessary to farm use or as permitted by regulation.*

Waste Management

Section 25 of the *Waste Management Act*¹¹ deals with conflicts between the Act and the bylaws or permits of a municipality.

- 25(1) *Despite the Municipal Act or the Vancouver Charter,*
- (a) *a bylaw of a municipality, other than a bylaw under section 23 or 24, or*

- (b) a permit, licence, approval or other document issued under the authority of a municipal bylaw that conflicts with this Act, the regulations, an approved waste management plan or a permit, approval or order under this Act is without effect to the extent of the conflict.
- (2) A bylaw under section 23 or 24 that conflicts with this Act, the regulations, an approved waste management plan or a permit, approval or order, other than one issued by a district director, is without effect to the extent of the conflict.
- (3) A permit, approval or order issued by a district director that conflicts with this Act, the regulations, an approved waste management plan or a bylaw under section 23 or 24 is without effect to the extent of the conflict.
- (4) A bylaw of a municipality that conflicts with a bylaw under section 23 or 24 is without effect to the extent of the conflict.
- (5) For the purposes of subsections (1) to (4), a conflict does not exist solely because further restrictions or conditions are imposed by the bylaw, permit, licence, approval, order or other document that is without effect if a conflict exists, unless the minister by order declares that a conflict exists.
- (6) Despite the Municipal Act and the Vancouver Charter, if
 - (a) a bylaw of a municipality purports to zone land for a use, or
 - (b) a land use contract under the Municipal Act purports to restrict the use of land to a use that would not allow the land to be used for the purpose allowed under a permit, approval or order issued in respect of the land or an approved waste management plan respecting the land, the Lieutenant Governor in Council may, by order, suspend the operation of the bylaw or contract to the extent the Lieutenant Governor in Council considers necessary to enable the rights given by the permit, approval or order to be exercised.

Correctional Centres

Under s. 8 of the *Correction Act*,¹² the Lieutenant Governor in Council may establish or discontinue correctional centres as the Lieutenant Governor in Council considers necessary.

Film Distributors, Retailers and Theatres

The *Motion Picture Act*¹³ establishes a licensing scheme for film distributors, retailers and theatres. Under s. 9 of the Act, a municipality must not issue a business licence unless the person or theatre is currently licensed under the Act. In addition, a municipality must not deny a business licence to a person who or theatre that is licensed under the Act.

Dangerous Goods

Under s. 23(1) of the *Transport of Dangerous Goods Act*,¹⁴ a municipality may make bylaws with respect to highways under its direction, control and management:

- (a) designating the route and time of travel of road vehicles transporting dangerous goods, and
- (b) prohibiting the carrying of dangerous goods on the highways specified in the bylaw.

However, s. 23(2) provides that the bylaws do not come into force until approved by the minister.

Local Government Consultation

Many provincial enactments recognize local government jurisdiction and require that the views of local residents be considered with respect to provincial programs and services. The following selected examples illustrate specific areas where the provincial government accords a role to local governments and residents.

Liquor Control and Licensing

The *Liquor Control and Licensing Act*¹⁵ and the regulations under it establish a comprehensive scheme for the approval of licensed premises. Section 11(2)(b) of the Act authorizes the general manager to consider the views of local residents in the form of:

- (i) a resolution of a municipal council or regional district board,
- (ii) public response to a notice [given by the licence applicant to residents of an area specified by the general manager],
- (iii) a petition signed by those residents,
- (iv) a referendum of the opinion of those residents, or

- (v) a combination of the forms referred to in subparagraphs (i) to (iv) that the general manager directs.

Bars and Restaurants

An applicant for a licence to operate a bar or restaurant must provide a resolution from the municipal council, obtain appropriate zoning approval and otherwise comply with local and provincial requirements. While the general manager considers that the municipal resolution is advisory only, the general manager will not overrule other local or statutory requirements and all of these requirements must be met, including requirements with respect to municipal zoning, fire and health and requirements under, for example, the *Islands Trust Act*¹⁸ or the *Agricultural Land Commission Act*.

Neighbourhood Pubs

Where a person has applied for a licence to operate a neighbourhood pub, the general manager requires that local government canvass community views by whatever technique the local government considers appropriate. While the technique used must comply with provincial standards with respect to fairness and openness, local government may conduct a referendum, a rezoning hearing or a public hearing.

Stadiums and Large Entertainment Venues

Local government approval is required before the general manager will consider an application for a liquor licence at a stadium or large entertainment venue.

Local Government Grants

Section 6 of the *Local Government Grants Act*¹⁹ provides that the minister must consult, at least annually, with representatives of UBCM regarding the amounts and administration of grants to local governments under the Act.

Provincial Assessments

Section 22 of the *Assessment Act*²⁰ establishes special rules for the assessment of railway property. In subs. (3) the Act provides that the Lieutenant Governor in Council may make regulations under this section only "after the minister has consulted with representatives of the Union of British Columbia Municipalities respecting the proposed regulation".

Regional Growth Strategies

Part 25 of the *Municipal Act* establishes the framework for the development of regional growth strategies in various regions of the province. Section 862 provides that the minister must consult with representatives of UBCM in preparing a list of persons who may act on a settlement panel.

Section 870 of the Act further provides that:

- 870(1) The minister may establish policy guidelines regarding the process of developing and adopting regional growth strategies and official community plans.*
- (2) The minister, or the minister together with other ministers, may establish policy guidelines regarding the content of regional growth strategies and official community plans.*
- (3) Guidelines under subsection (1) or (2) may only be established after consultation by the minister with representatives of the Union of British Columbia Municipalities.*

Bilateral Agreements

In its submission to the Gaming Project Working Group, UBCM referred to several bilateral agreements that had proven beneficial in the development of policy. These agreements include:

- the Protocol on Sharing Environmental Responsibilities, 1993 (Ministry of Environment, Lands and Parks);
- the Memorandum of Understanding, 1993 and follow up Protocol, 1994 (Ministry of Aboriginal Affairs) on local government involvement in treaty negotiations; and
- the Protocol of Recognition, September 18, 1996.

8.4 Local Government and Gaming in British Columbia

Local governments have traditionally had a role in reviewing proposals for the relocation of existing charitable gaming facilities. Since 1987, the British Columbia Gaming Commission has set policy on these issues. In July 1997, following its decision to lift the moratorium on new gaming facilities, government clarified its policies on the role of local governments in the approval of new destination and charitable gaming facilities.

Gaming Commission Policy

In its policy manual, the Gaming Commission provides for the involvement of local government in the relocation of existing gaming facilities within the same municipality. Effective October 22, 1997, the commission stated that relocations outside municipal boundaries would be the responsibility of the Lotteries Advisory Committee through the Request for Proposals (RFP) process.

The commission's role in reviewing requests for relocations is to create a stable economic environment for the conduct of charitable gaming. The commission considers relocations where sufficient player demand and community acceptance can be demonstrated to exist within a community.¹⁹

Upon receipt of a relocation proposal, the Gaming Commission requests a staff assessment of the proposal and provides notice in writing to the affected local government. The municipality is invited to identify any concerns it might have prior to further review of the proposal by the commission. The response of local government is one of several factors that the commission considers in accepting or rejecting the proposal.

Gaming Expansion and the RFP Process

In March 1997, the provincial government announced a new gaming policy. The objectives of the new policy framework were articulated as threefold:

- to provide charities with increased gaming revenues;
- to protect the existing charitable gaming industry and its estimated 2,300 jobs; and
- to create incremental revenues from enhanced gaming to protect health care and education.

These objectives were to be realized by expanded and enhanced charitable casinos, with longer hours of operation, higher bet limits, new games and slot machines. In addition, proposed enhancements to charitable bingos were to include electronic and linked bingo. In announcing these enhancements, government expressly rejected video lottery terminals (VLTs) and Las Vegas-style casinos.

In July 1997, government issued a Request for Proposals for Destination and Charitable Gaming Facilities.²⁰ At closing on November 29, 1997, government had received 49 proposals for one or more of the following:

- Charitable Bingo Facility;
- Charitable Casino Facility;
- Destination Bingo Facility; or
- Destination Casino Facility.

The RFP was predicated on the legal and regulatory framework established by the provincial government and in existence at that time. On January 14, 1998, the decision of the British Columbia Supreme Court in the *Nanaimo* case²¹ rendered invalid the Gaming Proceeds Distribution Regulation.²² As a consequence, and after consultation with gaming stakeholders, an interim regime was put in place in June 1998.

This history is important because the concept of a "charitable casino" was effectively extinguished with the implementation of the interim regime and the redefinition of operator responsibilities. While charities had formerly been responsible for the conduct and management of charitable casino gaming, under the interim regime this responsibility shifted to the British Columbia Lottery Corporation and its contractors, the commercial casino operators. As a result, the framework for charitable casinos under the RFP was significantly altered.

Local Government Arrangements

The RFP clearly defined the provincial government's expectation of the role to be played by local governments, the powers of local governments and the arrangements for revenue sharing with them. The RFP established the principles that would apply to proposals for both destination gaming facilities and new charitable gaming facilities.

Host Local Government

The RFP defined a host local government as:

...a municipality, city, regional district or First Nations Band Council having primary elected responsibility for a jurisdiction in which a destination and/or charitable gaming facility is proposed.²²

The RFP then went on to state that:

- new facilities, either charitable or destination, will only proceed if host local government support is expressed in the form of a resolution by the local council;
- local governments will design their own appropriate approval mechanism for new gaming facilities;
- in the event that more than one proposal is received for a given location, host local governments will be asked to make an expression of preferred objectives and define the types of benefits that would be appropriate and desirable for their community; and
- the same rules will apply for the relocation of existing facilities to a different municipality.

Adjacent Local Government

The RFP defined an adjacent local government as:

...a municipality, city, regional district or First Nations Band Council having elected responsibility for a jurisdiction that may

be materially affected by the introduction of a destination and/or charitable gaming facility.

In establishing a role for adjacent local governments, the RFP instructed proponents to canvass any material issues or concerns expressed by these governments and to deal with these concerns or demonstrate that input was requested and not received.

Revenue Sharing

With respect to shared revenue from destination gaming facilities, the RFP established the following important principles:

- a portion of the revenue would flow to the host local government to provide any infrastructure that might be necessary to accommodate the development as a whole or for any other purpose generally for the benefit of the community;
- that portion of the revenue would be set at 1/6 of net gaming income; and
- the host local government would be required to provide an annual report to government on the use of its portion of the revenue and to submit to a fiscal and compliance audit.

The principle of municipal revenue sharing with respect to destination facilities was established by the RFP process, although this principle did not apply to either existing or proposed charitable gaming facilities.

The View of the Union of British Columbia Municipalities

In its submission to the Gaming Project Working Group, the Union of British Columbia Municipalities (UBCM) stated that:

The decision by the provincial government to issue a Request for Proposals (RFP) for expanded gaming, cemented the importance of local government in gaming matters. The RFP explicitly recognized the UBCM position that local government approval was a requirement and that adjacent local governments must be consulted.²⁴

Current Status

With the completion of the RFP process on December 17, 1998, the provincial government has issued approvals in principle for destination casinos in Cranbrook, Wells, Penticton (two), Merritt, Campbell River, a mini cruise vessel home-ported in Prince Rupert and a riverboat casino in New Westminster. The government has also given approval in principle to a community casino and a charity bingo hall in Burnaby.²⁵

In addition, with local government approval or in the absence of local government opposition, expanded gaming facilities are operating in Nanaimo, Kelowna, Kamloops, Vernon, Prince George, Quesnel and New Westminster.

8.5 Local Government and Gaming in Canada

Other provincial jurisdictions have addressed the role and interests of local government with respect to provincial gaming activities. This section of the White Paper provides an overview of these initiatives elsewhere in Canada. A more detailed synopsis of the gaming regimes in other provinces is included in Appendix 3.

Alberta

The Alberta *Gaming and Liquor Act*²² allows for appointment of Community Lottery Boards and for local plebiscites on the presence of gaming devices in specific communities. While plebiscites are not binding on the province, the province has agreed to allow community determination relative to video lottery terminals (VLTs) in bars and pubs.

Saskatchewan

Gaming in Saskatchewan is regulated and controlled by the Liquor and Gaming Authority (LGA) under *The Alcohol and Gaming Regulation Act*.²³ Under s. 98.2 of the Act, the Lieutenant Governor in Council may designate a local authority for the purpose of issuing licences under s. 207 of the *Criminal Code* of Canada. The Act provides that licensees must:

- use the proceeds of the lottery scheme for charitable or religious purposes;
- ensure that prizes do not exceed \$2,000 or a lower amount prescribed by the Lieutenant Governor in Council; and
- not conduct more than one event per week.

Under s. 98.3 of the Act, any local authority that issues licences must provide an annual report to the LGA setting out the names of the licensees, the value of prizes, the revenue generated and the purposes for which the proceeds were used.

The Saskatchewan Indian Gaming Authority operates casinos in four locations in partnership with the LGA.

Manitoba

The Manitoba *Gaming Control Act*²⁴ establishes the Gaming Control Commission to regulate and control gaming activity in the province. The Manitoba Lotteries Corporation operates all government gaming and is subject to the regulation of the commission with respect to electronic gaming equipment.

Government proceeds from VLT gaming are shared on the basis of 20% to stakeholders, 10% unconditionally to local governments, 25% to rural economic development initiatives and the balance to general government revenue.

The Act provides for the designation of local governments as licensing authorities. Section 57(1) of the Act defines licensing authority:

57(1) In this part, "licensing authority" shall mean a municipality or a body or an association of persons specified in the manner required by clause 207(1)(b) of the Criminal Code (Canada) to issue licences to charitable or religious organizations for the purposes and with the objects set out therein, but shall not include the Commission.

Local governments have been designated by order in council as licensing authorities for raffles with a prize value of \$3,000 or less.

Ontario

The Ontario *Alcohol and Gaming Regulation and Public Protection Act, 1996*⁶ establishes the Alcohol and Gaming Commission as a Crown corporation responsible for administering the *Gaming Control Act, 1992*.⁷

Order in Council 2688/93 permits the registrar of alcohol and gaming and municipal councils to issue licences for the conduct and management of lottery schemes under s. 207 of the Code. Municipalities may issue licences for:

- paper bingo events where the prize value does not exceed \$5,500;
- raffles where the prize value does not exceed \$50,000; and
- bazaars and break open tickets where the tickets are not sold in conjunction with another licensed gaming event.

Where a paper bingo event is licensed by a municipality, the municipality is entitled to 3% of the prize board.

Québec

The Québec *Act respecting Lotteries, Publicity Contests and Amusement Machines*⁸ establishes the Régie des alcools, des courses et des jeux (the board) to regulate gaming by charitable or religious organizations, by fairs and exhibitions and at public places of amusement. The board may also exercise certain limited powers over the Québec Lottery Corporation in respect of its VLT program and casino operations.

Under s. 34 of the Act, the board may delegate to designated First Nations bands, through their band councils, authority to issue and regulate bingo licenses for bingo events on reserves.

Section 36.3 of the Act overrides municipal bylaws and permits the operation of VLTs provided the machines are operated in accordance with the conditions prescribed in the Act or the regulations.

New Brunswick

The Lotteries Commission, established under the New Brunswick *Lotteries Act*,⁹ has authority to conduct and manage lottery schemes on behalf of the province and to issue licences to charities, community groups and fairs and exhibitions.

8.0 Local Government Issues

Under s. 11.2(1) of the Act, the minister may enter into an agreement with a First Nations band for the purpose of establishing a band gaming commission to license and regulate lottery schemes on the band's reserve. Most of the net revenue from break open tickets and VLTs located on band reserves is designated for First Nations groups.

Nova Scotia

The Alcohol and Gaming Authority, established under the Nova Scotia *Gaming Control Act*,³³ regulates all lottery and casino activity. The province has entered into gaming agreements with a number of First Nations bands for the purpose of establishing band gaming commissions to issue gaming licences and regulate gaming activity on reserves.

Net revenue from bingo and VLTs located on band reserves is designated for First Nations. In addition, 50% of the net profit from the Sydney casino is designated for First Nations.

Prince Edward Island

The Prince Edward Island Lotteries Commission is authorized under the *Lotteries Commission Act*³⁴ to conduct and manage lottery schemes on behalf of the province. The Department of Community Affairs and the Attorney General licence charitable and religious gaming. There is no provision in the provincial legislation for the participation of local government in gaming activities.

Newfoundland and Labrador

The *Lotteries Act*³⁵ authorizes the Minister of Finance to organize, conduct and manage lottery schemes in the province. The Minister of Justice has the authority to license and regulate certain gaming activities, while the Department of Government Services and Lands, Trade Practices and Licensing Division licenses charitable and religious gaming. There is no provision for local government participation in gaming activities.

Conclusions

In Newfoundland and Prince Edward Island, provincial legislation makes no provision for local government involvement in gaming. Each of the other provinces has addressed the role and interests of local governments and revenue sharing in a distinctive way. In Ontario and Saskatchewan, local governments are permitted to license limited forms of gaming.

In Manitoba and Ontario, revenues from some gaming events are distributed to municipal governments. In Québec, New Brunswick and Nova Scotia, designated First Nations bands receive proceeds from both traditional gaming activities and VLTs.

Québec is the only jurisdiction in Canada that has enacted express provisions to override local government bylaws with respect to VLTs. In contrast, Alberta has agreed to consider the results of local plebiscites with respect to the location of VLTs in bars and pubs.

Given the British Columbia government's gaming policy objectives, the framework and obligations imposed by the Code and the unique history of charitable gaming in the province, no other provincial model would resolve the current policy issues that concern local governments in British Columbia.

8.6 UBCM Gaming Recommendations

The Union of British Columbia Municipalities (UBCM) represents all of the municipalities and regional districts in the province. Following the provincial government's call for proposals for expanded gaming in 1997, UBCM established a gaming committee to:

- represent the UBCM executive in consultations with the provincial government;
- develop, recommend and implement policies for or on behalf of the UBCM executive and the membership; and
- monitor government activities and court actions and share information on gaming matters with UBCM members.²⁴

The UBCM gaming committee has contributed as a key stakeholder to the preparation of this White Paper. The Gaming Project Working Group participated in several meetings with the gaming committee and attended a workshop at the annual UBCM convention in September 1998 in Penticton.

Legislative Principles

UBCM has articulated six key principles that form the basis for local governments' position on gaming legislation, namely that:

1. local government:

- participate in the evaluation of community impacts of any existing or expanded gaming activity;
- endorse specific gaming locations prior to approval;
- receive a portion of the revenue of any gaming activity to mitigate financial impacts of the activity on local government;

2. the provincial government:

- assess the potential effect of gaming activity on charitable gaming revenue levels;
- stipulate a minimum legal age that applies to all gaming activities; and
- implement a comprehensive program to assist problem gamblers.²⁵

UBCM has supported the need for a provincial "Gaming Act" since 1994 and urged its development through a full public review process. In its submission, the gaming committee stated that such an Act "would guide and coordinate the actions of every gaming agency and its activities".²⁶

The gaming committee also defined the broad objectives of the proposed Act as follows:

The UBCM membership has consistently supported the need for a comprehensive gaming act that would maintain integrity and fairness and provide a measure of stability to communities, the industry and charities.”

Central to UBCM’s position is the overriding principle of local determination or approval of the establishment or growth of gaming facilities within individual municipalities. As stated in its brief:

The ability of communities to determine the appropriate level and type of gaming for their communities should be protected. The Act should also include revenue sharing for local government and define a role for UBCM in developing and changing gaming policy.⁴⁰

Recommendations

Within the context of the six guiding principles and the overarching issue of local determination, the UBCM gaming committee advanced a number of long-standing and well-considered recommendations, including:

Recommendation 1: Consultative Model

A consultative model that includes consultation with UBCM and the public

UBCM recommends a broad consultation process relating to gaming issues in British Columbia be recognized in the *Gaming Act*. This process should include:

- a) Public Consultation
- b) A mechanism for consultation with the UBCM.⁴¹

The submission details examples of structured consultative models between UBCM and various government ministries that have been successful in developing policy solutions through negotiated protocol agreements, memoranda of understanding and effective working committees.

Recommendation 2: Local Government Determination

The ability of local governments to determine the extent and type of gaming in their communities

UBCM recommends that the right of local governments to determine the extent and type of gaming in their communities be recognized in the *Gaming Act*.⁴²

This issue is central to the UBCM submission. The gaming committee stated that the right of local government in this respect should be recognized in the Act, because:

The issue of community values has become an integral part of municipal governments. It is this issue that is central to local governments' insistence that there be a mechanism for communities to accept or reject new gaming facilities, the extension of existing facilities, and to generally determine the appropriate extent and type of gaming activity in their communities.⁴⁰

The UBCM believes that both the past practice of the British Columbia Gaming Commission in consultation on new facilities, and the recently-completed RFP process which mandated local government participation, support this position. The gaming committee's submission states:

As part of local government's involvement in gaming matters, municipal powers relating to land use and development must be recognized and preserved.⁴¹

In support of these principles, the submission refers to recent court decisions and traditional actions by the provincial government in allowing municipal determination of new gaming venues.

Recommendation 3: Revenue Sharing

Allocation of gaming revenues: Local government costs

UBCM recommends that any local government hosting gaming facilities be allocated a share of gaming revenue to mitigate increased costs from gaming.⁴²

As a precedent for this recommendation, the gaming committee referred to the RFP process, whereby local governments would receive 1/6 of net gaming revenue from new destination gaming facilities. The gaming committee also argued for the elimination of the disparity between municipalities that would receive 1/6 of net gaming revenue from destination facilities and municipalities that would receive no revenue from existing or expanded gaming facilities. The submission urged that "this disparity should be corrected".⁴³ Municipal costs, including policing, traffic and parking management and bylaw enforcement were cited as major cost drivers.

While the UBCM gaming committee cited cost pressures on municipalities, it did not provide any recent studies quantifying such costs or give specific examples of actual cost increases that had been incurred by local government through gaming expansion. Nevertheless, the submission did recommend receipt of revenues by local government to "generally benefit the community".⁴⁴

Recommendation 4: Charitable Trust Fund

A formula to determine the annual allocation of revenue to a charitable trust fund.

UBCM recommends that there be a provision in the *Gaming Act* for a formula to determine the annual allocation of revenue to the charitable trust fund. The formula must reflect the increase in government gaming revenue....⁴

In acknowledging the province's commitment to a stable and growing income stream for both charities and government, the gaming committee urged the creation of a separate funding vehicle, such as a trust, to ensure predictability of income to charities.

Recommendation 5: Charity Revenues

Allocation of gaming revenues: Charities

UBCM recommends that there be a provision in the *Gaming Act* for a fair and open process for allocating gaming revenues to charities.⁵

UBCM acknowledges the positive role played by the British Columbia Gaming Commission since 1987 in creating an acceptable process for determining access to and distribution of funds earned through charity-based gaming. It urges the continuation of a process for allocating gaming revenues that is open and ensures fairness for charities.

An underlying concern of UBCM is the adequacy of funds paid to charities and the prospect of increased pressure on municipalities for funding if gaming or other revenues prove insufficient to meet the growing demand for funding of charity programs.

Recommendation 6: Problem Gambling

Allocation of gaming revenue: problem gambling

UBCM recommends that a portion of gaming revenue be allocated for problem gambling education, prevention and treatment, and a provision for increasing the funding base for these problem gambling programs as government gaming revenues increase.⁶

UBCM acknowledges the growth of the gaming industry and increased public participation in gaming activities. To ensure continued funding for problem gambling education, prevention and treatment, UBCM recommended a formula on either a per capita basis or linked to total gaming revenues. UBCM also

recommended that such programs and funding mechanisms be explicitly included in the Act.

Recommendation 7: Ongoing Assessments

Economic and social impact studies

UBCM recommends that there be regular and on-going assessment of the economic and social impacts of existing gaming activities.²¹

UBCM also recommends that such an assessment be done prior to the introduction of new or expanded gaming venues.

The UBCM gaming committee acknowledged the direct and indirect economic impacts of gaming activity as well as issues of community and social costs. It recommended that the Act create an obligation to assess these issues both for existing and planned facilities or gaming activities.

Other Legislative Issues

In addition to the seven specific recommendations made by UBCM on issues of primary concern to local governments, the gaming committee's submission also:

- articulated founding principles to be addressed in the White Paper and the draft Act; and
- elaborated on other issues including roles, responsibilities and accountability.

Founding Principles

The UBCM gaming committee's list of "founding principles" for the White Paper and draft Act included:

- consolidation of all gaming administration and regulation;
- provision of a stable regulatory framework for gaming that meets the intent of the relevant sections of the *Criminal Code*;
- separation of powers between operational activities and the regulatory compliance authority;
- guarantee of adequate gaming revenue and a fair revenue distribution model for charitable organizations;
- inclusion of a public consultation process;
- provision for assessment/mitigation of economic and social impacts;
- stipulation of ethical principles;

- definition of First Nations powers; and
- recognition of the private sector role.³²

Definition of Roles

UBCM calls for a clear definition of the roles of gaming agencies and other affected bodies, including local government, charities, the police, the British Columbia Gaming Commission, the British Columbia Lottery Corporation and gaming management companies. It also urges a clear separation of powers between regulatory and operational authorities.

Regulation and Enforcement

With respect to regulation and enforcement, UBCM urges that the proposed Act provide for a uniform minimum age for all forms of gambling, and registration requirements for key personnel involved in gaming, including criminal record checks and training standards for regulatory staff. UBCM also recommends that the Act deal with issues of credit, advertising, liquor availability and the specifics of gaming, including bet limits, hours of operation and the prohibition of video lottery terminals (VLTs).

Accountability

The UBCM gaming committee spoke strongly about the need to establish appropriate accountability mechanisms. Issues to be dealt with include the independent audit of gaming operations, public access to financial information, ethical standards, conflict of interest guidelines and an appropriate annual reporting requirement.

Certainty

In recommending that the proposed Act specify types of approved gaming activities, UBCM expressed concern about gaming expansion without prior municipal approval. The gaming committee argued for the need for certainty in municipalities in terms of facilities, scope and use. The committee also suggested a requirement that contiguous or included First Nations groups or municipalities consult on gaming issues and facility development.

Social and Economic Impacts

A recurring theme in the UBCM submission was the need to evaluate social and economic impacts of gaming, both on an ongoing basis and before major new policy initiatives are implemented. The gaming committee recommended that an advisory council be established to assist in programs of education, treatment of addiction and other problem gambling issues.

8.7 Submissions from Other Local Governments

Most municipal governments expressed the respective positions of their councils on gaming issues through the UBCM gaming committee, regardless of their support or opposition to gaming initiatives in the province. The cities of Richmond and Nanaimo, however, corresponded directly with the Gaming Project Working Group to express specific comments.

Richmond

The City of Richmond, on September 14, 1998, adopted the position of the UBCM gaming committee and further stated:

Most important of all, on behalf of City Council, I wish to convey to you that notwithstanding the above request for particular provisions to be included within the proposed *Gaming Control Act*, Council has gone on record in the past as not being supportive of any new gaming facility within the City.²³

Nanaimo

The City of Nanaimo, in September 1998, advised the UBCM gaming committee and the Working Group of their concerns that:

...a disparity exists between municipalities that have destination casinos and municipalities that have charitable casinos. Council feels strongly that this disparity needs to be corrected. Council also would like to see the *Municipal Act* amended to allow municipalities to levy a higher business licence fee for casinos.²⁴

Specifically, the City of Nanaimo recommends "that municipalities hosting charity casinos should be entitled to 1/6²⁵ of the net revenue from the operation of the casino in Nanaimo".²⁶ In suggesting that this revenue flow from the provincial government share of earnings, the City holds the view that:

The public have expectations that at least some of the provincial revenue being received from gambling proceeds should be returned to the community.²⁷

8.8 Local Government Gaming Litigation

The decision of the British Columbia Supreme Court in the *Nanaimo* case in January 1998 led to the implementation of an interim gaming regime. Other litigation between municipalities and the provincial government over specific aspects of government's gaming policy initiatives has also had a profound effect on these initiatives and on both charities and commercial gaming operators.

Two cases in particular, involving the cities of Vancouver and Surrey, are currently before the courts.

City of Vancouver

In an action heard in December 1997, between the British Columbia Lottery Corporation and the City of Vancouver, Mr. Justice Williamson found that:

- the bylaws of the city and the regulations of the Lottery Corporation were both subordinate enactments at the same legislative level;
- the doctrine of paramountcy had no application to the enactments of two agencies at the same legislative level;
- s. 14(2) of the *Interpretation Act* did not permit government to exempt itself from the operation of zoning bylaws by, as the court characterized it, merely placing government-owned equipment in a privately-owned building on privately owned land;
- the challenged municipal zoning bylaws were valid; and
- the regulations of the Lottery Corporation affirming a paramountcy over city bylaws were beyond the jurisdiction of the corporation under its legislation.¹⁷

The effect of this decision was to suspend the actions of the Lottery Corporation in the installation of slot machines in existing casinos within Vancouver. The Lottery Corporation has appealed the decision, and the appeal is scheduled to be heard in January 1999.

City of Surrey

On April 17, 1998, in an action involving Great Canadian Casino Company Ltd. (Great Canadian), the City of Surrey and the British Columbia Lottery Corporation, Mr. Justice Leggatt found that Surrey's municipal bylaw validly prohibited the operation of slot machines and ordered a cessation of slot machine gaming at the Surrey casino.

Both Great Canadian and the Lottery Corporation have appealed this decision. The Lottery Corporation has also filed a separate petition seeking a declaration that its current casino operations are not subject to Surrey's zoning bylaws by virtue of s. 14(2) of the *Interpretation Act*.¹⁸

Assessment

The effect of these two decisions and continuing actions has been to delay the implementation of the provincial government's gaming policy and revenue initiatives, notwithstanding the ability of the provincial government to reorganize the gaming regime to achieve its goals or to legislate a definitive resolution of these disputes with municipal authorities.

8.9 Gaming Industry Submissions

The current conflict between the provincial government and certain municipalities over gaming issues obviously, and materially, has both direct and indirect impact on commercial operators and charity groups. The effect is felt mainly, however, by commercial firms involved in casino operations, as charities are the object of the government's commitment to an increased and guaranteed level of return.

The provincial government's decisions to expand the gaming regime by introducing slot machines and to enhance general revenues for government and charities have come into direct conflict with municipal bylaw powers with respect to land use in circumstances where local governments are opposed to the operation of slot machines. As a result of this conflict and ongoing litigation, commercial operators, particularly in ...os, are in a position that can only be described as uncertain. What is more important, the province's revenue goals, both for government and for charities, cannot be achieved until casinos can function as contemplated with the operation of both table games and slot machines.

From the perspective of the operators, normal business planning, banking, financial and employment initiatives cannot be undertaken. Facility investment and upgrades, intended to allow the implementation of new gaming initiatives, have been made in good faith without, in some cases, subsequent revenue support. In addition, renewal of commercial leases becomes highly speculative. Understandably, this state of affairs is, as far as the operators are concerned, untenable.

Casino Management Council

The Casino Management Council represents all casino operators in British Columbia, other than Great Canadian Casino Company Ltd. and Lake City Casinos. In its brief to the Working Group, the council argued for a number of provisions in the proposed Act to deal with fairness, security and business development needs. A summary of the council's submission on general gaming matters is included in Chapter 5 of this White Paper.

With regard to the respective roles of provincial and municipal governments in gaming, the council states that:

The Province and not municipalities must regulate all aspects of casino gaming. This legitimate policy objective may be attained by:

- (a) Amending the *Municipal Act* or providing specific overriding language in the new *Gaming Act* eliminating a municipality's right to prohibit or regulate casinos and gaming;
- (b) Appointing casino operators as agents of the province pursuant to s. 207(1)(a), [thus allowing s. 14(2) of the *Interpretation Act* to apply to casino operations]; or

- (c) Amending the *Municipal Act* or providing specific reference in the new *Gaming Act* to require all municipal bylaws existing or contemplated, which do or will affect casinos or casino gaming, be of no force and effect until first approved by the Minister responsible for gaming.¹⁰

In speaking to land use jurisdiction, the council observes that "this issue is particularly troubling as it goes to the very heart of the need for casino operators to be treated fairly and consistently throughout the Province".¹¹ The Council observes that the province has "absolute discretion in the amount of control it wishes to exercise over gaming. Accordingly, the approach it takes with respect to land use jurisdiction is solely one of public policy."¹²

**Great
Canadian
Casino
Company Ltd.**

Great Canadian Casino Company Ltd. (Great Canadian), British Columbia's largest casino management company, outlined the current difficulties facing casino operators, including uncertainty, financial instability, investment and employment issues. A summary of the company's submission to the Working Group is included in Chapter 5 of the White Paper.

In addressing the issue of local government involvement in gaming, Great Canadian argues that the inclusion of "designated entertainment zones" should be required within municipal or local development plans. These plans would define location criteria for gaming establishments, acknowledge other and related bylaws and create a dispute resolution process.

The company also argues for a redefined revenue sharing model in which "a portion of the gaming revenues should be provided to the host local government"¹³ and recommends that, where appropriate considering traffic, infrastructure or other issues, a portion of revenue be shared by the host municipality with contiguous local government.

**Association of
Registered
Gaming
Management
Companies**

The Association of Registered Gaming Management Companies of British Columbia represents the operators who provide management services and facilities at 20 bingo locations in the province. A summary of the association's submission is included in Chapter 5 of the White Paper.

While the bingo sector has been less affected by municipal bylaw and approval processes and has not been directly involved in litigation to date, issues about the stability of the overall gaming regime factor heavily into the concerns of bingo operators.

The association supports a new provincial *Gaming Control Act* and believes that legislation must "first resolve the outstanding political issues beyond present and potential future legal challenges".¹⁴ The association also argues that there must be clear and paramount provincial legislation:

The legislation must establish the authority of the Provincial Government to license or register gaming establishments in locations it deems appropriate and to empower qualified Registered Gaming Management Companies to operate these

facilities according to the regulations embodied by the Gaming Act.⁶⁴

The association also recommends that the Act establish conditions under which a facility can be relocated and provide for "gaming entertainment centres". These centres would be licensed for specific gaming activities and would allow for some integration of bingo and casino activity, including mixes of slots, linked and electronic bingo and other activities as provided for by licence.

8.10 Discussion and Recommendations

At the heart of the problem of defining a renewed, legally sustainable gaming regime that complies with the requirements of the *Criminal Code* of Canada and achieves government's economic and revenue objectives lie two key issues of concern to local governments:

- resolving the impasse between the province and some local governments over paramountcy of jurisdiction; and
- implementing a revenue model that recognizes the role of local governments as partners in the gaming regime.

These issues must be addressed in relation both to new gaming facilities that may be approved under the *Gaming Control Act* and to existing gaming facilities.

Jurisdiction

With respect to gaming matters, local governments argue that their powers extend broadly to issues of local land use, zoning, planning, business regulation and licensing. It is in the attempt by local government to exercise these powers that conflict arises, in some municipalities, between acceptable uses as determined by municipal government and provincial gaming policy initiatives. Current litigation involving the cities of Vancouver and Surrey illustrates the dilemma faced by both levels of government and the uncertainty that prevails for governments and for charities and commercial gaming operators.

Interpretation Act, s. 14

Section 14 of the *Interpretation Act* provides that:

- 14(1) *Unless it specifically provides otherwise, an enactment is binding on the government.*
- 14(2) *Despite subsection (1), an enactment that would bind or affect the government in the use or development of land, or in the planning, construction, alteration, servicing, maintenance or use of improvements, as defined in the Assessment Act, does not bind or affect the government.*

In *British Columbia Lottery Corporation v. City of Vancouver*, Mr. Justice Williamson considered the issue of paramountcy and concluded:

In my view, the doctrine of paramountcy arises only when the legislative assembly and a subservient regulatory body occupy the same legislative field. The doctrine has no place when comparing the enactments of two subservient regulatory agencies such as the Board of Directors of the Lottery Corporation and the Council of the City of Vancouver.⁴³

Mr. Justice Williamson also concluded with respect to the "use or development of land" that:

The mere placing of a piece of government machinery on a property does not, in my view, come within the expressions 'the use or development of land' or the 'use of improvements as defined in the Assessment Act'.⁴⁴

An appeal from this decision is scheduled to be heard in January 1999 and the application of s. 14 of the *Interpretation Act* will be central to the appeal.

It is abundantly clear, however, that it is within the powers of the provincial government to resolve the issue of paramountcy. The provincial government could, either in a new *Gaming Control Act* or through amendments to the *Municipal Act* and the *Vancouver Charter*, completely prevent municipalities from exercising any authority over the location and operation of gaming facilities.

New Gaming Facilities

With respect to the issue of jurisdiction over new gaming facilities:

It is recommended that new gaming facilities be subject to:

- provincial government approval; and
- local government approval.

Existing Gaming Facilities

With respect to the issue of jurisdiction over existing gaming facilities:

It is recommended that existing casinos be authorized by provincial legislation to implement government's gaming policies.

Revenue Model

Casino Revenue Sharing Proposal

As a consequence of the decision in the *Nanaimo* case and the implementation of the interim gaming regime, the provincial government or its agent is now responsible for the conduct and management of gaming events at all casinos. The

distinction between the revenue flow to local government from destination casinos and charitable (now community) casinos is problematic and results in clear inequities in the application of the funding distribution formula.

Specifically, under current government policy, a host local government that has approved a destination casino will receive 1/6 of the net income from that facility, while a local government that has a community casino within its boundaries does not receive any of the net income, even though the scale and scope of the gaming operations and the resulting local impacts and needs with respect to those operations may well be similar. The White Paper accordingly recommends that some provincial revenue be redirected to local governments in connection with the operation of community casinos, defined as casinos that offer up to 30 table games and up to 300 slot machines.

While destination and community casinos may themselves be similar, there is an expectation that additional expenditures will be associated with destination casinos, including, for example, the costs of promotion and development in connection with the facility. For this reason, it is recommended that the funding formula be applied to new and existing casinos in the following way:

Destination Casino Facilities

It is recommended that where the province approves an application for a destination casino facility that is approved by a host local government, the host local government receive 1/6 of the net earnings for the benefit of the host local community.

Community Casino Facilities

It is recommended that provision be made for local governments to receive 10% of the net earnings from individual casino operations within their jurisdictions, for the benefit of their community.

It is also recommended that where a local government approves the operation of a community casino facility, or does not oppose its operation, the local government receive those funds on an automatic and ongoing basis, effective April 1, 1999, the commencement of the new fiscal year. Payments should be provided quarterly, in arrears, and a fiscal year-end reconciliation should be provided to each local government.

A number of local governments have expressly opposed the operation of community casino facilities where they provide for the full expanded array of gaming opportunities approved by government. The White Paper has attempted to deal with the realities of this conflict between provincial and municipal viewpoints, the need to perfect a revenue generation model to meet government and charity revenue requirements, the urgency of achieving legal stability and the lack of fulfillment of government policy objectives. To that end the White Paper has recommended that full operations, including slot machines, commence at all existing or approved community casinos. Appropriate authorities are contained in

the draft *Gaming Control Act*. New community casinos will, on the other hand, require local government approval.

In recognition of the opposition to gaming by some local governments, it is recommended that those local governments that oppose gaming, or gaming expansion, indicate by resolution of their councils, in a form prescribed by the minister, their willingness to receive the local government share of revenues from community casino operations within their jurisdictions.

It is noted that some local governments may choose not to apply for revenues flowing from gaming activities. In such cases, and given that the concept of a beneficial interest in gaming for local governments is a central recommendation of this report, it is recommended that funds not requested by qualifying local government be earmarked for other local governments and distributed annually by the minister. In allocating these funds the minister may establish criteria for revenue distribution, such as on a per capita basis, or to achieve municipal matching for local infrastructure, social or cultural programs, or a combination thereof.

The adoption of these recommendations represents a redirection of provincial gaming funds and not a reduction of the charity funds that are the subject of government's charitable guarantee. Net revenue from new and existing casinos will continue to underwrite government's commitment to ensure that charities' revenue from gaming is at minimum an amount equal to 1/3 of that revenue.

Bingo Revenue Model

Bingo facilities are currently operated for the benefit of charities. General community benefits are realized through the flow of funds to these organizations for charitable programs and services. Under the Code, proceeds from charitable gaming must be used for charitable or religious purposes.

It is not anticipated that any proposals for destination bingo facilities will be approved.

Local Government Licensing

Licensing has been delegated in Manitoba and Ontario to local governments for the purpose of licensing small-scale charitable gaming. While implementation of these programs has not been without its difficulties, local government licensing provides an opportunity for local autonomy and decision-making in the funding of local charitable programs and services.

Neither the UBCM gaming committee nor any municipal government in British Columbia has made any recommendations with respect to the involvement of local government in the licensing process for charitable gaming. Current government policy does not contemplate the designation of a local government as a licensing authority. However, it may be desirable that the *Gaming Control Act* contemplate such action in the future if provincial and local governments determine that such a

course is appropriate. Such licensing authority should be restricted to small -scale charitable gaming.

It is recommended that the *Gaming Control Act* incorporate a provision to accommodate limited local government licensing of small-scale charitable gaming as determined appropriate by the provincial government under the terms of a bilateral agreement between the province and the local government.

Recommended Revenue Model

Table 2 estimates the revenues that would likely flow to local governments from community and destination casino activity if the recommendations in this chapter of the White Paper were implemented.

8.0 Local Government Issues

Table 2: Application of Revenue Model - Estimated Payments to Selected Local Governments¹

Community Casinos - Estimated Payments to Selected Local Governments		
Local Government	First Full Year²	After 5 Years Growth³
Quesnel	\$ 600,000	\$ 750,000
Prince George	1,000,000	1,250,000
Kamloops	1,800,000	2,200,000
Vernon	1,000,000	1,250,000
Kelowna	1,700,000	2,050,000
Richmond	3,800,000	4,500,000
New Westminster	2,600,000	3,100,000
Burnaby	2,800,000	3,300,000
Nanaimo	<u>2,200,000</u>	<u>2,600,000</u>
	\$17,500,000	\$21,000,000
Other funds for distribution to municipalities on resolutions of councils		
	\$17,000,000	\$25,200,000
Destination Casinos - Payments to Participating Local Governments		
Local Government	First Full Year	After 5 Years Growth
Penticton	\$2,700,000	\$3,300,000
Cranbrook	2,100,000	2,600,000
Campbell River	2,500,000	3,100,000
Wells	300,000	400,000
New Westminster River Boat Casino	<u>4,200,000</u>	<u>5,100,000</u>
	\$12,000,000	\$14,500,000
TOTAL LOCAL GOVERNMENT ENTITLEMENT		
	\$46,500,000	\$60,700,000

¹ Assumes full year of operation with maximum current casino capacity.

² Assumed as 2000/2001.

³ Assumes 20% growth in five years.

Endnotes

- ¹ R.S.B.C. 1996, c. 323.
- ² S.B.C. 1953, c. 55.
- ³ R.S.C. 1985, c. C-46.
- ⁴ See Chapter 3 of the White Paper for a discussion of permitted gaming exceptions under the *Criminal Code* of Canada and Appendix 1 for the provisions of the Code that permit gaming in Canada.
- ⁵ R.S.B.C. 1996, c. 278.
- ⁶ R.S.B.C. 1996, c. 279.
- ⁷ British Columbia and the Union of British Columbia Municipalities Protocol of Recognition (Victoria: September 18, 1996).
- ⁸ S.B.C. 1998, c. 34.
- ⁹ R.S.B.C. 1996, c. 131.
- ¹⁰ R.S.B.C. 1996, c. 10.
- ¹¹ R.S.B.C. 1996, c. 482.
- ¹² R.S.B.C. 1996, c. 74.
- ¹³ R.S.B.C. 1996, c. 314.
- ¹⁴ R.S.B.C. 1996, c. 458.
- ¹⁵ R.S.B.C. 1996, c. 267.
- ¹⁶ R.S.B.C. 1996, c. 239.
- ¹⁷ R.S.B.C. 1996, c. 275.
- ¹⁸ R.S.B.C. 1996, c. 20.
- ¹⁹ British Columbia Gaming Commission, Policy Manual (Victoria: periodic, updated October 22, 1997) at s. 4.1.
- ²⁰ Ministry of Employment and Investment, "Request for Proposals – Destination and Charitable Gaming Facilities in the Province of British Columbia" (Victoria: July 1997).
- ²¹ *Nanaimo Community Bingo Association v. Attorney General of British Columbia*, (January 14, 1998), Victoria 97/4779 (B.C.S.C.).
- ²² The Gaming Proceeds Distribution Regulation, B.C. Reg. 362/97, is reproduced in Appendix 1 of the White Paper.
- ²³ RFP, *supra* note 20, "Definitions and Terms".
- ²⁴ UBCM First Submission on a *Gaming Act* (October 1998) at 1.
- ²⁵ Copies of the news releases that accompanied these announcements are included in Appendix 3.

- ²⁴ S.A. 1996, c. G-05.
- ²⁵ S.S. 1988-1989, c. A-18.01.
- ²⁶ C.C.S.M., c. G5.
- ²⁷ S.O. 1996, c. 26.
- ²⁸ S.O. 1992, c. 24.
- ²⁹ L.R.Q., c. L-6.
- ³⁰ S.N.B. 1976, c. L-13.1.
- ³¹ S.N.S. 1994-95, c. 3.
- ³² R.S.P.E.I. 1988, c. L-A.
- ³³ S. Nfld. 1991, c. 53.
- ³⁴ UBCM First Submission, *supra* note 24 at 1.
- ³⁵ *Ibid.* at 2.
- ³⁶ *Ibid.* at 2.
- ³⁷ *Ibid.* at 3.
- ³⁸ *Ibid.* at 3.
- ³⁹ *Ibid.* at 4.
- ⁴⁰ *Ibid.* at 4.
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- ⁴³ *Ibid.* at 4.
- ⁴⁴ *Ibid.* at 5.
- ⁴⁵ *Ibid.* at 5.
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- ⁴⁸ *Ibid.* at 5.
- ⁴⁹ *Ibid.* at 6.
- ⁵⁰ *Ibid.* at 6.
- ⁵¹ *Ibid.* at 7.
- ⁵² *Ibid.* at Appendix 3.
- ⁵³ *Ibid.*
- ⁵⁴ *Ibid.*
- ⁵⁵ *Ibid.*
- ⁵⁶ *Ibid.*
- ⁵⁷ *British Columbia Lottery Corp. v. Vancouver (City)* (December 19, 1997), Vancouver A972911 (B.C.S.C.), which is also discussed in Chapter 2.

- ³⁹ R.S.B.C. 1996, c. 238.
- ⁴⁰ Casino Management Council: "Submission" (October 13, 1998) at 2.
- ⁴¹ Ibid. at 14.
- ⁴² Ibid. at 15.
- ⁴³ Great Canadian: "Paper on Gaming Legislation" (October 1998) at 22.
- ⁴⁴ Association of Registered Gaming Management Companies: "Presentation to Task Force on Gaming Legislation" (October 13, 1998) at 5.
- ⁴⁵ Ibid. at 7.
- ⁴⁶ *British Columbia Lottery Corp.*, supra note 57 at para. 24.
- ⁴⁷ Ibid. at para. 27.

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9.1 Overview

In addition to the issues that have been central to the development of recommendations for the White Paper and the draft *Gaming Control Act*, the Gaming Project Working Group has identified several emerging issues that will require government's attention in future. Some of these issues have, or will have, far-reaching effects.

This chapter of the White Paper does not exhaustively discuss these emerging issues. It is intended only to provide government and the wider community with a brief overview of some of the more significant issues and observations on the strategies government might consider in addressing or resolving them.

9.2 Gaming Expansion

The Request for Proposals (RFP) process that was initiated by government in July 1997 was intended to support a moderate expansion in provincial gaming over the short term. The process established firm dates for the submission of proposals for expanded gaming and the opportunity to submit new proposals has now lapsed.

The gaming industry is a dynamic one. Over the next few years, new markets may be identified for additional gaming facilities, new proponents may wish to bring forward other proposals and existing gaming operators may wish to relocate their facilities from one local government jurisdiction to another. There is currently no mechanism in place to allow government to consider and respond to these issues and proposals.

In order to address the issues of provincial government policy on the future and growth of gaming, local government involvement in decisions about gaming expansion or relocation, and the normal business planning needs of the operators who contribute in significant ways to the commercial viability of gaming in the province, the minister responsible for gaming should:

- evaluate the RFP process and assess its strengths and weaknesses in meeting government's original objectives for moderate gaming expansion; and
- consider options for implementing an ongoing process for review of proposals for new facilities or the relocation of existing bingo and casino gaming venues.

It is recommended that the *Gaming Control Act* provide that the authority to approve the expansion of gaming and any procedure for implementing that expansion be vested in the minister.

9.3 Horse Racing

The terms of reference for this White Paper did not include a review of the British Columbia horse racing industry and associated gaming activity. The Honourable Mike Farnworth, minister responsible for gaming policy and agencies, has

directed that a separate, comprehensive review be undertaken of this important industry. The review is expected to be completed by spring 1999.

The development and expansion of other forms of lawful gaming, not only in British Columbia but in other North American jurisdictions, appears to have affected the state of the horse racing industry. There are also changes occurring within the industry itself.

Wagering on horse races in North America, including British Columbia, has shifted from wagering exclusively at live races to wagering primarily on televised (simulcast) races. Almost 75% of wagering is now made on simulcast races.

Approximately \$227 million was wagered on horse racing in British Columbia in the fiscal year 1996/1997. Almost 95% of that amount was wagered at the two major race tracks:

- Hastings Park thoroughbred track in Vancouver, operated by the Pacific Racing Association (a non-profit society); and
- Fraser Downs standardbred track in Cloverdale, Surrey, operated by Orangeville Raceway Ltd., a privately owned business that also operates Sandown Harness Raceway in North Saanich.

There are also small track operations in Kamloops, Vernon, Princeton and Osoyoos.

The horse racing industry generates about 3,000 direct jobs, 3,000 to 4,000 indirect jobs, and up to 5,600 induced jobs in British Columbia. Capital investment in the horse racing sector has been estimated at about \$28 million.

The introduction of government-run lotteries may have limited the growth of wagering on horse racing in British Columbia. The introduction of charity casinos likely had little impact on horse racing when casino hours of operation were few and bet limits were low.

The 1997 increases in casino bet limits and hours of operation, along with the advent of slot machines in October 1997, are too recent to have had a measurable impact on horse racing at this stage. The horse racing industry is rightfully concerned, however, that these changes, and the introduction of destination casinos, may affect their share of the gaming market.

9.4 Foreign Lottery Ticket Sales

History

Lotteries have existed as a means of fundraising in Canada for over 300 years. Lottery activity was first statutorily prohibited in Canada in 1856, but as a result of pressure from religious organizations, an exception was passed to the strict prohibition, allowing limited forms of raffles for the purpose of raising funds for

charity. In 1892, the federal government included these lottery provisions in the first *Criminal Code* of Canada.¹

Charities found the law too restrictive, however, and lotteries declined in popularity until the 1930s, when they began to proliferate in response to the financial crisis caused by the Great Depression and were fuelled by the success of the Irish Sweepstakes. Most lotteries at that time were conducted illegally, but in light of significant public support and a more tolerant attitude among authorities, Code violations were typically not enforced.²

Legislative History Since 1969

Criminal Code

Amendments to the Code in 1969 decriminalized lottery activity provided such activity was carried out by the federal government, a provincial government, or charities or operators of agricultural fairs or exhibitions under a provincial licence.³ The 1969 amendments reduced the outflow of money from Canada into countries offering lotteries, and provided government with an additional revenue source.⁴

Provincial Legislation

Between 1970 and 1974, the Ministry of Attorney General issued lottery licences pursuant to an order in council. In 1974, the provincial government passed the *Lottery Act*,⁵ pursuant to which government thereafter operated and licensed lotteries in the province. During the same year, the province entered into partnership with the other three western provinces in the Western Canada Lottery Foundation. The Foundation administered provincial lotteries until 1985, when the British Columbia Lottery Corporation was established under the *Lottery Corporation Act*.⁶

The Lottery Corporation is the sole supplier of provincial lottery tickets. The corporation enters into agreements with retailers authorizing them to sell lottery tickets at a designated price, for which they are paid a commission.

Lottery Ticket Resales Industry

During the early 1970s, a secondary lottery ticket industry emerged from the resale of Canadian lottery tickets in other jurisdictions, predominantly the U.S. What started as a "kitchen table" industry grew rapidly into a large-scale commercial operation.

In British Columbia, private sector companies, which had no contractual relationship with the Lottery Corporation, would purchase tickets from retailers and sell them outside British Columbia at inflated prices. This developed into a highly profitable and virtually unregulated industry. As a result of the lack of regulation, concerns arose over:

- the questionable integrity of resellers;
- the unauthorized use of Lottery Corporation logos;

- unscrupulous and misleading sales practices;
- liquidity problems;
- unaudited operating procedures; and
- financial control problems.

In 1993, the government amended the *Lottery Corporation Act* to prohibit the direct or indirect foreign resale of British Columbia lottery tickets. Despite this ban, however, the industry has continued to thrive.

Section 11 of the *Lottery Corporation Act*, as amended, prohibits the resale of lottery tickets after they have been purchased from a British Columbia retailer. Since the Act does not apply to the resale of lottery tickets purchased outside the province, resellers have opted instead to resell lottery tickets purchased in other countries (e.g. Australia, Spain, Ireland, France and Germany) or in other provinces, in particular Atlantic lottery tickets. British Columbia has been identified in the media as a foreign lottery ticket resale haven with numerous operations including, reportedly, two of the largest foreign lottery ticket resale telemarketing companies in the world. These highly sophisticated operations set up offshore companies in various tax havens, as bases from which to distribute lottery materials. Offshore companies are used in an effort to bypass U.S. postal authorities, who would seize such material under postal and lottery laws.⁷

The primary targets for resellers are American senior citizens, who have reportedly been pressured into joining lottery schemes, only to lose their life savings as a result of alleged unscrupulous advertising, unauthorized credit card charges and multiple billings.⁸

Criminal Code

Section 206 of the Code prohibits a number of activities in relation to lotteries and games of chance. The provisions that are relevant to the sale of foreign lottery tickets are ss. 206(1) and (7):

Offence in relation to lotteries and games of chance

206(1) Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years who

- (a) *makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property by lots, cards, tickets or any mode of chance whatever.*
- (b) *sells, barters, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card,*

ticket or other means or device for advancing, lending, giving, selling, or otherwise disposing of any property by lots, tickets or any mode of chance whatever...

Foreign lottery included

(7) This section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or of the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.

Court decisions on these provisions have been few and inconsistent, and it is uncertain whether they can effectively be used to prohibit the sale of foreign lottery tickets in British Columbia.

In *R. v. Stromberg*,⁹ a corporation and its principals were charged with the sale of tickets or chances in foreign lotteries, distributing sales literature relating to foreign lotteries, and printing or publishing activities related to tickets or chances in foreign lotteries in contravention of ss. 206(1) and (7) of the Code. The defendants brought a preliminary application to have the sections declared unconstitutional for vagueness. They argued that s. 206(7) rendered uncertain the application of s. 206(1) to foreign lotteries. The Crown conceded that if s. 206(7) were unconstitutional the other charging provisions in s. 206 would not apply to foreign lotteries. On August 20, 1997, the British Columbia Provincial Court held that the provisions are unconstitutional because they are confusing and fail to provide adequate warning that selling foreign lottery tickets is illegal. The court dismissed the charges. That decision has been appealed, but the Court of Appeal has not yet ruled on this issue.

Days after the British Columbia Provincial Court's decision, some of the same defendants were indicted by a U.S. grand jury on 113 counts of alleged illegal foreign lottery ticket sales. On August 19, 1998, one of the personal defendants pled guilty to conspiring to violate U.S. anti-gambling laws and agreed to forfeit \$11.7 million as restitution to the victims.

In *R. v. World Media Brokers Inc.*,¹⁰ two corporations were charged in Ontario with eight offences under s. 206(1) of the Code in connection with the sale of shares of tickets in a Spanish lottery. In considering the Code sections, the court declined to follow the decision in *Stromberg*, and held that "a scheme to sell shares of tickets in a foreign lottery clearly falls within the prohibitions stated in s. 206(1), which are expressly made applicable to foreign lotteries by s. 206(7)".¹¹

Trade Practice Act

The provincial *Trade Practice Act*¹³ is of some assistance in dealing with the unfair trade practices of lottery ticket resellers. The Director of Trade Practices can obtain a civil injunction against a company using unfair trade practices. The provisions of the Act have been used as recently as November 19, 1998, when the RCMP's commercial crime section searched several telemarketing operations in the lower mainland and confiscated boxes of information.¹⁴

Competition Act

In November 1996, federal Industry Minister John Manley introduced Bill C-20, an act to amend the *Competition Act*.¹⁴ The proposed amendments are designed in part to crack down on deceptive telemarketing practices and improve procedures for dealing with misleading advertising. These amendments would:

- render illicit interactive telephone communications a criminal offence;
- impose disclosure requirements on telemarketers; and
- prohibit the offering of products at prices grossly in excess of their fair market value.

Bill C-20 passed third reading in the Senate on December 10, 1998 and will be returned to the House of Commons for consideration of an amendment when Parliament resumes sitting February 1, 1999.

Recommendations

In order to create a comprehensive provincial regime to regulate gaming activities within the province and to ensure adequate enforcement of that regime, it is recommended that:

- the *Gaming Control Act* regulate all aspects of and activities related to the sale of lottery tickets in British Columbia, including tickets in domestic and foreign lotteries; and
- government consult with prosecution and enforcement officials in the Ministry of Attorney General, who are familiar with the activities of lottery ticket resellers, in order to ensure that the proposed statutory provisions adequately regulate lottery ticket sales within the province.

9.5 Internet Gaming

What is Internet Gaming?

The Internet originated in 1969, when the United States Department of Defense developed a sophisticated network of interconnected computers to facilitate communication between universities conducting defence research, defence contractors and the military.¹⁵ The Internet has developed into "a unique and wholly new medium of worldwide human communication",¹⁶ and exists today as a readily accessible and unregulated network of networks connecting tens of millions of users and facilitating information exchanges, business transactions and, more recently, gaming.

Internet gaming essentially involves on-line wagering using a personal computer and a modem. The first on-line casino appeared in 1995¹⁷ but Internet gaming only really emerged in 1997. Since then the growth of on-line gaming has been phenomenal. Today, there are several hundred World Wide Web sites offering highly sophisticated audio/video gaming, and that figure is increasing rapidly. Players can access virtual casinos anywhere in the world, where they may bet on simulated card and dice games, slot games, sports, lottery products, scratch cards and bingo. The Internet has globalized the gaming industry.

Access to Internet Gaming

Although not all gaming Web sites are alike, typically prospective gamblers must set up an on-line account with the Web site operator in order to access the gaming products offered on a particular site. As part of the on-line registration process, prospective gamblers must first agree to abide by the rules and regulations governing gaming on the operator's Web site, in a sort of "virtual contract". The rules and regulations usually stipulate:

- play objectives;
- payouts and odds;
- eligibility for participation (such as minimum age restrictions);
- access codes for participation;
- limitations of the operator's liability;
- term and termination of the agreement;
- operator warranties; and
- a warning that the game is subject to all applicable laws and is void where prohibited by law.

Once the prospective gambler clicks the appropriate button in agreement, an account is opened with the operator and all the on-line user requires to gamble in the comfort of his or her own home is a credit or ATM card.

According to industry insiders, the economics of Internet gaming are excellent. There are costs associated with developing and staffing a sophisticated virtual casino, but they are insignificant compared to the costs of building and staffing a bricks and mortar casino. Licences to operate Internet casinos are relatively easily obtained in jurisdictions in which Internet gaming is legal. Reports indicating that some Internet casinos have received over seven million Web site visits in a single month demonstrate that on-line casino operators have succeeded in replicating the experience of traditional casinos.¹⁸

It is estimated that as many as 40 million people worldwide now have access to the Internet and that number is expected to reach 200 million by 1999.¹⁹ It is also estimated that in 1997 alone, Internet gaming generated approximately US \$300

Regulation of Internet Gaming

million in revenues. Revenues are forecast to hit US \$2.3 billion by the year 2001.²⁰

Gaming throughout the world is typically regulated by national, state or provincial legislatures or local municipalities. In many jurisdictions gaming is highly regulated or even prohibited, while in others it is considered acceptable and is subject to no government interference. Similarly, government responses to Internet gaming range from participation to prohibition. A number of countries have no clear policy on the issue.

United States

Gaming in the United States is regulated within each state. Most states prohibit gaming except for certain permitted activities. A number of states have attempted to regulate Internet gaming by applying the federal interstate wire legislation,²¹ which prohibits gambling over interstate phone lines. For example, the Attorney General of Minnesota filed an out-of-state lawsuit against an Internet Web site operator on the basis of false and misleading advertising displayed on its Web page.²² Since convictions can be secured under existing legislation, American courts have thus far sidestepped the difficult legal issues involved in further regulating Internet gaming. As a result, the larger issue of Internet gaming remains unresolved.

Congress has established the National Gambling Impact Study Commission, which is charged with reviewing the effects of gambling, including Internet gambling, on American society. The commission's report is due in 1999. In addition, the National Association of Attorneys General has formed an Internet Working Group to consider jurisdictional issues posed by the Internet and the possibility of criminalizing Internet gaming.

In 1997, Senator Jon Kyl (R-Ariz.) sponsored a bill known as *The Internet Gambling Prohibition Act*,²³ which would have amended the federal interstate wire legislation to prohibit any gaming via electronic transmission. On October 21, 1998, it was announced that the House and Senate would adjourn without adopting the bill, amid criticism that it was intrusive and would create barriers to future Internet commerce.²⁴

Europe

Most European states take the position that gaming is most appropriately governed by the law of the individual state. Some jurisdictions allow Internet gaming within their own borders, and there is Internet gaming between jurisdictions having reciprocal arrangements (for example Norway and Finland). Some smaller countries, such as Liechtenstein, license Internet gaming without territorial restrictions, whereas other jurisdictions have moved toward banning Internet gaming altogether. In 1991 the European Commission examined the issue of gaming generally and decided not to impose a gaming regulation on the European Union as a whole.²⁵

On May 15, 1998 the Gaming Regulators European Forum recognized that, in light of the individual social, cultural and economic circumstances of the various states in the European Union, the regulation of Internet gaming would be most appropriately implemented at the national or autonomous regional level. It was recommended that, in jurisdictions allowing Internet gaming:

- providers of Internet gaming be subject to the same level of investigation as traditional operators;
- licensed Internet operators be required to establish operations within the jurisdiction to enable policing and control; and
- Internet gaming be restricted to residents within the boundaries of the licensing jurisdiction, except to the extent that reciprocal arrangements are established with other jurisdictions.²⁹

The above recommendations have not been formally implemented, as the European Union has not yet adopted a unified approach to Internet gaming.

Australia

Queensland and the Australian Capital Territory have introduced legislation regulating Internet gaming.³⁰ The primary purpose of the legislation is to provide a secure regulatory environment for participants in on-line gambling. The Act:

- prohibits advertising of on-line gaming sites;
- requires that all players be registered (subject to providing proof of age, identity and residence);
- provides for licensing of on-line gaming service providers in respect of specific gaming products;
- provides for disciplinary action in respect of breach of licence, investigations of licensees, and suspension and cancellation of a licence;
- provides for licensing of key personnel of the licensee;
- allows for recognition of gaming service providers in reciprocal jurisdictions;
- provides for the remittance of fees and taxes to the government;
- provides for the evaluation and approval of regulated equipment; and
- includes a list of gambling offences including forgery, bribery and cheating.

Each minister responsible for gaming authorizes the conduct of Internet games within his or her jurisdiction. Unauthorized games are prohibited under the legislation, and the minister retains the power to prohibit the conduct of an authorized game in another participating jurisdiction.²¹

Canada

Gaming is prohibited under the *Criminal Code* of Canada subject to certain exceptions. Section 207(1) of the Code provides that it is lawful for a provincial government, a licensed charity, or a licensed board of a fair or exhibition to conduct lottery schemes as defined in the Code.

Pursuant to s. 207(4)(c) of the Code, the provincial government has the exclusive jurisdiction to manage lottery schemes that are operated on or through a computer, video device or slot machine (machine gaming). Since the Code does not restrict the medium through which provincial governments may offer machine gaming, it has been suggested that s. 207(4)(c) permits the province to offer Internet lottery schemes. To date, no province has expanded its gaming operations to include the conduct and management of lottery schemes via the Internet.²²

The federal Justice Department takes the position that the Code prohibits all Internet lottery schemes offered other than under a province's machine gaming authority.

On February 9, 1998, the Federal Court of Canada upheld a decision of the Executive Director of the Canadian Pari-Mutuel Agency denying the Ontario Jockey Club's request that its pari-mutuel betting permit be amended to enable it to accept wagers via the Internet.²³ The court indicated that what was required was not only a permit, but also the approval by the Canadian Pari-Mutuel Agency of the systems and facilities proposed to be used to provide on-line pari-mutuel betting. The court did not consider the broader issue of Internet gaming in its reasons for dismissing the application, and the issue of Internet gaming has not otherwise been considered in the Canadian courts.

In 1996, federal Liberal MP Dennis Mills tabled a Private Member's bill (Bill C-353)²⁴ proposing that s. 201 of the Code be amended to allow the federal government, alone or in conjunction with one or more of the provinces, to conduct and manage Internet lottery schemes. The bill failed to reach second reading and has not been reintroduced.

Other Jurisdictions

A number of small countries, typically those regarded as tax havens, are issuing on-line licences for Internet gaming activities directed at the international market. Obtaining such a licence usually requires payment of a one-time fee and is subject to no further government intervention or regulation. Although a licence may be issued in one country to the Internet service provider, often the gaming operator is based in another jurisdiction, which bans such activity.²⁵ Many countries have adopted a "wait and see" approach, preferring to observe the regulatory models

**Enforcement
Issues**

employed in other jurisdictions before deciding whether to ban or regulate Internet gaming in their own.¹²

Cyberspace is not without laws, but enforcement is often virtually impossible. Industry Canada commissioned a study of liability issues in respect of content circulating on the Internet and the adequacy of existing laws.¹³ The report, released in February 1997, concluded that existing laws, with some minimal changes, are adequate to handle Internet activities. Prohibited activities carried out on-line include the distribution of obscene materials, child pornography and hate propaganda, as well as copyright and trademark infringements. Persons possessing and distributing child pornography over the Internet have been convicted in Canada.¹⁴

One of the most significant challenges in applying the Code provisions in respect of Internet gaming is establishing territorial jurisdiction. In considering the limits of territoriality in a case involving criminal fraud, the Supreme Court of Canada set out the following test:

[A]ll that is necessary to make an offence subject to the jurisdiction of our courts is that a significant portion of the activities constituting that offence took place in Canada. As it is put in modern academics, it is sufficient that there be a "real and substantial link" between an offence and this country, a test well known in public and private international law....*

In his paper, *Internet Gaming Law in Canada*, Mitchell Garber states:

[I]t is clear that by [sic] hosting a gaming site from within Canada through a Canadian-based server, a Canadian-based presence provider, and further substantial connection to Canada, for example, the gaming contracts concluded in Canada, and money paid out of accounts located in Canada, would likely be in contravention of existing Canadian criminal law.¹⁵

The issue of jurisdiction becomes more complex where a licensed offshore Internet operator takes bets from Canadians. The question is whether Internet-based gaming operators have a "real and substantial" connection with any jurisdiction from which bets are placed. Where the Internet-based gaming operator is operating entirely offshore (i.e. where all contracts are concluded offshore, all banking arrangements are carried out offshore and the Internet service provider is located offshore), it is unlikely that Canadian courts will be able exert jurisdiction over the operator.

Some American states have aggressively tested the boundaries of jurisdiction in the context of cyberspace gaming. Most judicial decisions in the U.S. suggest that mere access to a Web site, without some further connection, is not sufficient to establish jurisdiction at law.¹⁶

Even in cases where the jurisdictional test can be met, whether a government can enforce its laws will depend upon whether it can effectively subject the person in

question to criminal proceedings, which it can do only if the person is physically present. Often, the only way to secure the physical presence of a person who is attempting to thwart Canada's laws offshore is through extradition. The federal government has entered into bilateral extradition treaties with a number of countries to facilitate that process, but otherwise the difficulties and costs associated with extradition are often thought to be insurmountable.

The enforcement of Code offences related to Internet gaming is complicated by the fact that evidence relating to such offences is typically located offshore. Unlike the case with child pornography, Internet gamblers do not typically download or store information. In addition, it is unlikely that Internet gaming would be regarded as a serious crime warranting invasive enforcement procedures such as residential wiretaps.

Social Implications

Worldwide Internet access to gaming may undermine local laws that prohibit or regulate gaming, and may also exacerbate the mischief at which those laws are directed. Some of the social implications of Internet gaming are:

- **Difficulty Enforcing Minimum Age Restrictions:** the anonymity inherent in computer gaming makes it virtually impossible to enforce existing minimum age restrictions established to protect minors;
- **Addiction:** scholarly research data indicates that gambling addiction, and in particular gambling addiction among minors and users of video lottery games, is increasing at an alarming rate.⁴⁰ Studies suggest that problem gamblers become quickly addicted to video gambling because of its "instant feedback mechanism", and video gambling has been termed the "crack-cocaine of gambling";⁴¹
- **Crime:** studies indicate that the incidence of criminal activity increases significantly with gaming. Compulsive gamblers engage in insurance related fraud, theft, domestic violence, break and enter, assault and other crimes, resulting in increased social costs for law enforcement and health care;⁴²
- **Integrity of Games and Operators:** in an unregulated environment it is virtually impossible to ensure the integrity of on-line games or the integrity and solvency of the operators offering such games; and
- **Internet Security:** Computer hackers who access a Web site may also access credit card information.

Other implications include increased costs of employment (as a result of lost productivity), law enforcement, health care and addiction programs.

Enforcement Options and Recommendations

Attempts to regulate Internet communication through the application of traditional laws are often ineffective. Approaches to Internet regulation may include:

- placing electronic filters or firewalls along Internet pathways to prohibit access to gaming Web sites;

- holding Internet service providers accountable for the content to which they provide access, by requiring that they be licensed and their sites be subject to content restrictions;
- requiring that on-line subscribers register with the Internet service provider and that the Internet service provider keep records of the on-line activities of its subscribers;
- requiring that Internet service providers monitor and block the transmission of illegal gambling materials sent to or from their subscribers;
- developing an international cooperation imposing "know your customer" legislation in countries licensing Internet gaming, requiring that Internet service providers determine the origin of on-line wagers and do not accept wagers placed from jurisdictions in which Internet gaming is unlawful;
- establishing government lists of prohibited Web sites and imposing annual liability on Internet service providers that service such sites;
- government monitoring of all communications with Internet service providers; and
- developing an international treaty or protocol on Internet gaming enabling the extradition of Web site operators, Internet service providers and others providing access to Internet gaming for persons in jurisdictions where Internet gaming is prohibited, and imposing uniform consumer protection standards to ensure the integrity of those providing access to Internet gaming and of the games provided.

The above points highlight some of the alternative approaches to regulating Internet gaming. It is unlikely, however, that any of them would be successful or practical. Technological restrictions may be bypassed by new technology, treaties require the cooperation of the international community, and placing strict requirements on Internet service providers may be unrealistically onerous from a business perspective.

To date Canada has adopted a passive approach to the development of Internet gaming, preferring to wait until the international legal landscape is settled. The legalization of Internet gaming in some jurisdictions has made it virtually impossible to contain the spread of on-line gaming. Absent a global convention banning Internet gaming or technology preventing access to gaming Web sites, any government regulation of Internet gaming will be effective only temporarily and locally.

The political and social implications of Internet gaming and the rapid growth of Internet access in an unregulated environment together suggest that the federal government, in conjunction with the provinces, should consider developing guidelines governing on-line gaming and encompassing clearly defined enforcement strategies for Canada.

It is recommended that the Attorney General of British Columbia, along with his federal and provincial counterparts, assemble a working group to study:

- the social and economic implications of Internet gaming in Canada; and
- the problems of law enforcement in cyberspace.

Endnotes

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- ¹⁵ *Reno v. American Civil Liberties Union*, 138 L.Ed.2d. 874 (U.S.S.C. 1997).
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- ¹⁷ Rose, Lance, "Online Gambling: Killer App or Sucker Bet?", *Boardwatch Magazine* (January 1996).

- ¹⁸ Janowner, Cynthia, "Gambling on the Internet" (1996) 2:2, *Journal of Computer-Mediated Communications*, <http://www.ascusc.org>.
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- ³⁷ Garber, Mitchell, "Internet Gaming Law in Canada" (1998) 2:2 *Gaming L. Rev.* 163.

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10.0 Governance and Organization

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10.1 Overview

Previous chapters of the White Paper have considered the requirements for compliance with the gaming provisions of the *Criminal Code* of Canada,¹ the history of and current policy framework for gaming in British Columbia and the views and interests of key stakeholders.

It is significant that individual provinces across Canada have created a wide range of policy alternatives and related organizational and governance structures and confirmed them, for the most part, in provincial gaming legislation. It must be emphasized however, that these options are limited to some extent by the explicit requirements of s. 207(1) of the Code.

It is important to note that these options are shaped also by the principles and objectives articulated by government and the related objectives of stakeholders.

10.2 Guiding Principles

The recommendations in the White Paper are made with the objective of meeting, as far as is practicable, the requirements of the following guiding principles, namely that gaming legislation must:

- provide a secure and sustainable legal foundation for gaming policy and activities;
- address issues of doubt or concern arising from recent and continuing court actions;
- provide a secure base for the implementation of government's stated gaming policy objectives and define policy for future gaming expansion, if any;
- ensure that charitable entitlements are clearly articulated;
- provide a funding model that, at maturity (being that point at which an amount equal to 1/3 of government gaming revenues would exceed \$125 million as adjusted for inflation), allows charities to receive charitable gaming income and such proportion of casino gaming revenues that the combined total amount equals 1/3 of government's net revenue from casino gaming operations;
- clearly define roles for the public agencies and offices involved in gaming policy and administration and resolve current regulatory uncertainty and overlap;
- secure resources for law enforcement and problem gambling education, treatment and prevention;
- establish minimum age standards for access to gaming;
- resolve provincial/local government jurisdictional issues, balancing the provincial government's stated objectives for gaming expansion, its

objectives for government and charity revenues and its policy framework for provincial/local government relations; and

- create a stable legal foundation, jurisdictional certainty and clarity of regulatory responsibility for commercial operators so that they may continue in their roles as service providers in a more certain and sustainable business environment.

10.3 Stakeholder Objectives

In developing the recommendations in the White Paper and the draft *Gaming Control Act*, the Gaming Project Working Group has identified the following objectives that are important to each of the key stakeholder groups. These objectives are not necessarily wholly compatible or consistent.

Charities

The objectives of the charities are to:

- attain a legally sustainable and stable framework for gaming;
- ensure that they receive a predictable and growing source of revenue from both charity-based and government-based gaming;
- ensure that both their historical role in gaming and their entitlement to revenue are clearly articulated and protected in legislation;
- continue to promote and encourage charity-based volunteer activity in the province;
- rationalize and clearly articulate a role for charities in gaming in relation to the government and the British Columbia Lottery Corporation;
- establish and maintain stable, harmonious relations with local governments; and
- ensure an independent, fair, equitable and accountable process for the assessment of charities' funding applications.

Commercial Operators

Commercial operators are of the view that any new regime should:

- establish and maintain the opportunity for operators to participate in current or new business ventures in gaming, with confidence in the legal sustainability and operational stability of provincial gaming policy;
- ensure opportunities for business continuity;

- eliminate ad hoc and changing contractual relations between operators, charities, bingo associations and government entities;
- resolve current provincial/municipal jurisdictional issues and legal confrontations;
- provide operators with additional gaming revenues for facility enhancements and improvements; and
- achieve a sufficiency of term for business or contractual relations to allow for appropriate financial planning, capital investment plans, human resource planning and normal business practices.

Local Governments

Local governments wish to ensure that:

- a clear and legally sustainable framework exists for provincial gaming policy;
- their jurisdiction extends to and includes, in all aspects, the establishment and operation of new gaming venues;
- they receive a portion of the revenues from existing casino operations on a basis similar to that for new destination gaming facilities, to offset local infrastructure, social and law enforcement costs; and
- the regime provides appropriate provincially-funded programs for law enforcement and for problem gambling education, training and prevention.

10.4 Recommended Framework for Gaming Administration

The recommended framework for gaming administration in British Columbia identifies and addresses the role of provincial public agencies in overseeing gaming activities in the province. This framework has been developed in light of the following:

- legal requirements under the *Criminal Code* of Canada and recent court decisions;
- guiding principles established by the provincial government for gaming policy in British Columbia; and
- objectives of key stakeholders, including charities, operators and local governments.

The government has already established the British Columbia Lottery Corporation, the British Columbia Gaming Commission and the Gaming Audit and Investigation Office (GAIO) as the primary agencies responsible for gaming administration in the province. These agencies can and should continue to be responsible for gaming administration, subject to some degree of modification, clarification and redefinition of roles and responsibilities. Government need not create any additional organizations or agencies to implement an appropriate administrative framework for gaming in the province.

It is recommended that the *Gaming Control Act* provide that:

- the minister responsible for gaming report to government, the legislature and the community at large for the implementation and periodic evaluation of government's gaming policy objectives;
- the renamed British Columbia Lottery and Casino Corporation be responsible for the conduct and management of government gaming under s. 207(1)(a) of the Code, but withdraw entirely from bingo gaming;
- the British Columbia Gaming Commission be responsible for charitable gaming and for ensuring that charities have the opportunity to participate in gaming events directly under s. 207(1)(b) of the Code;
- the Gaming Commission also be responsible for licensing gaming at fairs and exhibitions and for any other gaming licensing functions that may be delegated to it by the Lieutenant Governor in Council;
- the Attorney General, through GAIO, an independent agency separate from both the Gaming Commission and the Lottery and Casino Corporation, be responsible for ensuring the integrity of gaming through:
 - a. programs to register, audit and investigate equipment suppliers, service providers and personnel involved in gaming; and
 - b. the investigation and prosecution of participants in illegal gambling activities;
- the Gaming Commission and GAIO be responsible for establishing internal procedures for reconsidering licensing and registration decisions to which affected charities and operators object; and
- government confirm the establishment of comprehensive programs for problem gambling education, prevention and treatment and for law enforcement.

10.5 Recommended Model for Gaming Operations

The recommended model for gaming operations must comply with the requirements of the *Criminal Code* of Canada. It must also address the policy objectives of government and, to the extent possible, the divergent interests of key stakeholders.

A February 1998 report to the minister on Gaming Policy Recommendations considered a number of policy options for the structure of gaming in British Columbia. These recommendations were accepted in order to implement an interim regime for gaming operations following the January 1998 decision of the British Columbia Supreme Court in the *Nanaimo* case. In its preface, the report noted:

There are a number of interpretive issues, as yet unresolved by the courts, respecting the legislation that may have an impact on the viability of options and on policy decisions....Government may be compelled to fundamentally restructure gaming for an interim period while provincial legislation and longer term solutions are developed....²

The report's recommendations were made pending the development of a new provincial *Gaming Control Act*. With respect to ongoing legal challenges surrounding gaming policy, the report stated that:

The prospect of achieving stability for public gaming policy and predictability of revenues to charities and government may not be ensured by any of the options presented in this report.³

The options considered in the White Paper build on the interim measures taken as a consequence of the report and reflect additional stakeholder consultations and legal evaluations. The recommended option is reflected in the proposed *Gaming Control Act*.

Several options are available, each satisfying to varying degrees the requirements of the Code, the need for legal certainty, the achievement of government and public policy objectives and the balancing of stakeholder interests. There is no basis for suggesting that only one option will meet all of these requirements. The four options considered here are:

Option 1: Status Quo - Continuation of Interim Regime

Option 2: Modified Interim Regime

Option 3: Consolidation of Gaming in Government Operations

Option 4: Segmentation of Gaming Activities

It is important to note that local government objectives with respect to jurisdiction and revenue sharing are neither dependent upon nor determined by the specific operational models for gaming that are outlined in this section of the White Paper. Local government objectives cut across the various operational models considered here and these objectives can and must be addressed under whichever operational option is adopted.

The following pages provide an outline of each option and a general assessment of its acceptability.

**Option 1:
Status Quo -
Continuation
of Interim
Regime**

Option 1 was adopted as the interim gaming regime following the court's decision in the *Nanaimo* case. It has been in place since June 1998. Under this option:

- gaming is conducted under both s. 207(1)(a) and s. 207(1)(b) of the Code;
- government, through its agent the British Columbia Lottery Corporation, is responsible for lotteries, casino table games, slot machines and electronic and linked bingo; and
- charities are responsible for paper bingo, ticket raffles and social occasion casinos.

The following table summarizes the status quo.

Table 3: Current Interim Gaming Regime

<i>Government - s. 207(1)(a)</i>	<i>Licensees - s. 207(1)(b)</i>
Lotteries	Paper Bingo
Casino Table Games	Ticket Raffles
Slot Machines	Social Occasion Casinos
Electronic and Linked Bingo	

Operational Features

The Lottery Corporation conducts and manages lotteries, casino table games, slot machines and electronic and linked bingo through agreements with retailers, casino management companies and non-profit and commercial bingo operators. Charities conduct and manage ticket raffles and social occasion casinos, and paper bingo with or without services provided under agreements with commercial operators or provided by non-profit bingo associations.

Bingo licensees retain all revenue from paper bingo gaming and receive all revenues from electronic and linked bingo.

The British Columbia Gaming Commission evaluates requests for access by charities to gaming funds, approves or denies those requests, issues licences and monitors the use of proceeds.

Assessment

Casino gaming, formerly licensed gaming under s. 207(1)(b) of the Code, is now conducted and managed by the Lottery Corporation under s. 207(1)(a), thus addressing, in part, concerns regarding conduct and management in this sector of the industry.

However, some bingo gaming involves both the Lottery Corporation and charities under s. 207(1)(a) and s. 207(1)(b) of the Code, with joint prizes pools in facilities that offer both electronic and paper bingo. Legal issues with respect to conduct and management are not resolved with sufficient certainty.

There are other concerns with maintaining the status quo. For one thing, charities and bingo associations are not provided with the framework necessary to foster effective long-term planning, administration and development of volunteer-based activities. For another, commercial bingo and casino operators are in a difficult position with respect to normal business planning practices due to short-term contracts and lack of clarity respecting legal and policy issues.

In sum, the status quo is not a preferred option as it:

- leaves unresolved a set of critical legal issues;
- maintains uncertainty for charities, government and commercial operators;
- does not address municipal concerns; and
- does not maximize revenues for charities and government.

Option 2: Modified Interim Regime

Option 2 would be similar to the interim gaming regime, except that commercial bingo halls would operate in the same manner as casinos under s. 207(1)(a) of the Code and self-managed or independent bingo halls would elect to operate under s. 207(1)(a) if they wished to offer electronic bingo. Under this option:

- gaming would be conducted under both s. 207(1)(a) and s. 207(1)(b) of the Code;
- government, through its agent the renamed British Columbia Lottery and Casino Corporation, would be responsible for lotteries, commercial casinos and bingo activity in s. 207(1)(a) halls; and
- charities would be responsible for paper bingo in s. 207(1)(b) halls, ticket raffles and social occasion casinos.

The following table summarizes Option 2.

Table 4: Modified Interim Gaming Regime

<i>Conduct and Management by Government - s. 207(1)(a)</i>	<i>Conduct and Management by Charity Licensees - s. 207(1)(b)</i>
Lotteries	Paper Bingo
Casino Table Games	Ticket Raffles
Slot Machines	Social Occasion Casinos
Paper, Electronic and Linked Bingo	

Operational Features

Under this option, the Lottery and Casino Corporation would conduct and manage lotteries, casino table games, slot machines and bingo in s. 207(1)(a) halls through agreements with retailers, casino management companies and bingo operators or charities. Casinos and commercial bingo halls, if they elected to do so, would operate under s. 207(1)(a), with operators designated as agents of the Crown. Self-managed and independent bingo halls could elect to operate under s. 207(1)(a) or (b) and could only offer electronic bingo as agents of the Crown under s. 207(1)(a).

Bingo activities in s. 207(1)(b) facilities would include traditional forms of paper bingo and "technology-assisted" bingo if the Gaming Commission were satisfied that the system or device complied with the definition of a lottery scheme under the Code. The Gaming Commission would also evaluate requests for access by charities to gaming funds, approve or deny those requests, issue licences and monitor the use of proceeds.

Assessment

The operation of electronic bingo by government or its agent in s. 207(1)(a) facilities would resolve a potential legal issue about the joint operation of ss. 207(1)(a) and (b) gaming.

Legal issues with respect to conduct and management in s. 207(1)(b) facilities would not be resolved with sufficient certainty for individual charities in self-managed or commercial facilities, and, as is the case with Option 1, commercial bingo and casino operators would be in a difficult position with respect to normal business planning practices due to short-term contracts and lack of clarity about legal and policy issues.

This option is not recommended as it would not satisfactorily resolve important policy and legal issues. Further, it would not realize goals for charity and government revenues.

**Option 3:
Consolidation
of Gaming in
Government
Operations**

Option 3 would consolidate most gaming activities in the provincial government, and provide that government conduct these operations on a basis similar to those in Québec or Manitoba. Under this option:

- all gaming, other than ticket raffles, social occasion casinos and independent bingo, would be conducted under s. 207(1)(a) of the Code by the renamed British Columbia Lottery and Casino Corporation or another crown agency;
- gaming under s. 207(1)(a) would take place in government facilities and would be conducted and managed by government personnel with or without operational support by contractors; and
- charities would be licensed only for ticket raffles, social occasion casinos and independent bingo.

The following table summarizes the consolidation of most gaming activities in the provincial government.

Table 5: Consolidation of Gaming in Government Operations

<i>Conduct and Management by Government - s. 207(1)(a)</i>	<i>Conduct and Management by Charity Licensees - s. 207(1)(b)</i>
Lotteries	Ticket Raffles
Casino Table Games	Social Occasion Casinos
Slot Machines	Independent Bingo
Paper, Electronic and Linked Bingo	

Operational Features

Under Option 3, the Lottery and Casino Corporation would conduct and manage lotteries, casino table games, slot machines and all bingos except independent bingos. The Gaming Commission would license ticket raffles, social occasion casinos and independent bingo and would determine charity access to revenues guaranteed or provided by government and monitor the use of proceeds.

Assessment

Option 3 would eliminate most of the legal concerns with respect to charitable gaming under s. 207(1)(b) of the Code. While Option 3 would provide revenues from government-based gaming to charities on a grant basis, it would also effectively eliminate most direct charity participation in gaming activity and reduce or eliminate the roles of both bingo associations and commercial gaming operators.

**Option 4:
Segmentation
of Gaming
Activities**

This option would significantly reduce a key policy objective, namely charitable participation in gaming, and thus is not recommended.

Option 4 would restructure the current gaming regime by segmenting gaming activities between government and charities. Under this option:

- gaming would be conducted discretely under each of ss. 207(1)(a) and (b) of the Code;
- government, or its agent, would conduct and manage lotteries, casino table games and slot machines;
- electronic bingo would be discontinued;
- charities would be licensed to conduct and manage paper and technology-assisted bingo, ticket raffles and social occasion casinos; and
- bingo would be conducted and managed either by licensed charitable associations (the preferred model) or by licensed charities under an enhanced structure (the alternative model), both as described in Section 6.3 of the White Paper, with, in commercial halls, operational services provided by commercial bingo operators.

The following table summarizes Option 4.

Table 6: Segmentation of Gaming Activities

<i>Conduct and Management by Government - s. 207(1)(a)</i>	<i>Conduct and Management by Charity Licensees - s. 207(1)(b)</i>
Lotteries	Paper and Technology Assisted Bingo
Casino Table Games	Ticket Raffles
Slot Machines	Social Occasion Casinos

Operational Features

Under Option 4, the renamed British Columbia Lottery and Casino Corporation would conduct and manage lotteries, casino table games and slot machines, and would continue to supply bingo paper. Casino management companies would be retained to provide operational services and would be appointed by statute as agents of the Crown in respect of any aspect of conduct and management they may incidentally perform.

Charitable associations would conduct and manage bingo under licence pursuant to s. 207(1)(b) (the preferred model).

Under this option, the Gaming Commission would be responsible for the bingo sector and in this capacity would, under the preferred model, license charitable associations, approve appropriate forms of technology-assisted bingo, regulate self-managed, commercial and independent bingo halls, determine charity access to gaming events and revenues and monitor the use of proceeds.

Assessment

Option 4 would achieve a clear and complete separation between government gaming under s. 207(1)(a) and charitable gaming under s. 207(1)(b). It would consolidate bingo activity under s. 207(1)(b) and discontinue electronic bingo, as it appears that electronic bingo does not greatly benefit the bingo sector or materially increase revenues, but primarily diverts gaming dollars from traditional paper activity. (This conclusion is supported by the Bingo Review.) This option would also offer the prospect of introducing "technology-assisted" bingo under s. 207(1)(b) to the extent it complied with Code requirements. Option 4 would maintain bingo as the exclusive preserve of charities and eliminate perceived conflicts between the Lottery and Casino Corporation and bingo operators and charities.

Furthermore, Option 4 would address legal concerns about conduct and management by proposing the licensing of charitable associations as those charitable organizations with primary responsibility for the conduct and management of all forms of bingo gaming (other than independent bingo), with the proceeds flowing to charities designated by the Gaming Commission as recipients for approved charitable purposes. It would also eliminate the uncertainty of joint prize pools, and would expand and clarify the role of the Gaming Commission in the development, administration and regulation of all forms of bingo gaming.

Conclusions and Recommendations

It is recommended that government adopt Option 4: Segmentation of Gaming Activities, and that the features of this option be incorporated in the proposed *Gaming Control Act*.

To recap, the key features of Option 4 are:

1. The renamed British Columbia Lottery and Casino Corporation would conduct and manage lotteries, casino table games and slot machines.
2. The Lottery and Casino Corporation would contract with casino management companies to provide operational services for the casino gaming facilities.
3. Casino management companies would be designated as agents of the Crown to the extent that they may incidentally be involved in conduct and management.
4. The Lottery and Casino Corporation would be excluded from bingo.
5. The Gaming Commission would continue to determine access by charities to gaming funds and monitor the use of proceeds.

6. The Gaming Commission would be responsible for all aspects of bingo operations under s. 207(1)(b).
7. The Gaming Commission could approve "technology-assisted" bingo if it were satisfied that the requirements of the Code had been met.
8. The Gaming Commission would have jurisdiction, subject to the minister's approval, to control growth and approve new locations and facilities in the bingo sector.
9. Bingo events would be operated in self-managed, commercial or independent halls.
10. The Gaming Commission would license charitable associations (under the preferred model), or charities under an enhanced structure (under the alternative model), to conduct and manage bingo events and would oversee the distribution of funds to individual charities designated to participate in the proceeds.
11. The Gaming Commission would be responsible for the distribution of all charitable gaming funds, including government gaming revenues contributed to meet the legislative guarantee, and for reporting to the minister annually on funding allocation policy and payments to individual charities.

Option 4 would achieve a number of critically important policy objectives for gaming in British Columbia. While each of the identified options would address, in varying degrees, the objectives of government, charities and the operators, Option 4 would best achieve an appropriate balance among the stakeholders involved in gaming. In meeting these objectives, Option 4 would:

For the Provincial Government

- achieve an enhanced environment for a legally sustainable policy framework;
- allow, together with other recommendations in the White Paper, for the achievement of government's moderate gaming expansion initiatives and its revenue objectives for itself and the charities;
- clarify the role and jurisdiction of each of the Lottery and Casino Corporation, the Gaming Commission and the Gaming Audit and Investigation Office; and
- provide resources to meet police, prosecutorial and gaming addiction needs.

For Charities

- clarify and confirm the role and participation of charities in gaming in the province;

- maintain bingo as the exclusive preserve of charities in the province;
- provide confidence and security for appropriate longer range and strategic planning for bingo activities;
- establish the Gaming Commission as the single government agency with jurisdiction for all bingo activity in the province;
- under the preferred model, designate charitable associations as licensees thus clarifying certain legal and policy issues with respect to the requirements for conduct and management under the Code; and
- allow for the establishment of a funding mechanism to provide stability in charity earnings and participation in any growth of government gaming revenues.

For Gaming Operators

- achieve clarification and certainty of government gaming policy in a regime with the prospect of ensuring legal stability;
- maintain the role of casino management companies and strengthen arrangements made under the interim regime; and
- provide commercial bingo operators with a more stable business environment.

10.6 Recommendations for Revenue Sharing

Introduction

One of the most important elements of gaming policy in British Columbia is government's commitment to provide charities with a stable and growing source of funds from gaming revenues. This issue is of paramount concern to representatives of charities canvassed in the preparation of the White Paper, and also concerns all of the other key stakeholders. Stakeholders identified the following elements of revenue sharing as critical:

- revenues to charities should be predictable and should increase as a function of overall gaming activity in the province;
- revenues should be allocated by the British Columbia Gaming Commission to individual charities through a fair, impartial and transparent process;
- the revenue sharing model should be established clearly in the *Gaming Control Act*, rather than by regulation or policy; and

- the Act should provide for a complete reporting of payments to charities to ensure full accountability.

In addition to the goals identified by charitable groups for the revenue sharing model, representatives of local governments have recommended that local governments receive a portion of gaming revenue to offset community costs or to contribute to community purposes. It is recommended in Chapter 8 of the White Paper that a portion of gaming revenues be allocated to local governments.

Confirming Charity Revenue Entitlement in Legislation

Government policy was clearly set in the trust agreement under the Gaming Proceeds Distribution Regulation. The guarantee provided for initial payments to charities totaling \$118 million. Thereafter the amount was to be increased annually, commencing November 1, 1998, according to the Consumer Price Index for Vancouver. The trust agreement also established what was intended to be an enduring revenue sharing model. Schedule II to the trust agreement provided, in part:

8. The guarantee ends when the \$118 million, indexed, is smaller than the amount that is one-third of the amount of the aggregate win less operator commissions, from paper bingo, linked bingo, electronic bingo, casino table games and slot machines.

This formula was developed to ensure that charities retained a beneficial interest in revenue generation from government's moderate expansion of various forms of gaming.

A new model must be structured that builds on the principles of government policy and yields similar results in terms of revenues for the fiscal year 1999/2000 and each year thereafter. The new model must also comply with the requirements of ss. 207(1)(a) and (b) of the Code. Finally, the methodology for determining charity gaming revenue entitlement should be confirmed in the proposed *Gaming Control Act*.

Recommended Revenue Formula

It is recommended that the *Gaming Control Act* clearly define government's guarantee of revenue to charities. This legislative guarantee should provide that charity revenues will comprise:

- bingo revenues retained by charities; plus
- a transfer of that amount of funds from government gaming necessary to ensure:
 - initially, total revenue to charities of \$125 million inclusive of retained bingo revenues, indexed for the Vancouver CPI; and
 - at maturity and thereafter, an amount that will ensure that the total of retained bingo revenues plus an amount from government gaming equals 1/3 of government net revenue from casino gaming operations.

The recommended revenue model is represented in the following formula and its application is illustrated in Table 7:

Charity revenue will comprise:

bingo revenue retained by charities;

PLUS

- a. a transfer of funds from government gaming to ensure:
 - i. initially, an amount equal to \$125 million, inclusive of retained bingo revenue, indexed for Vancouver CPI; and
 - ii. at maturity and thereafter, an amount that will ensure that the total of retained bingo revenue plus an amount from government gaming equals 1/3 of Government Net Income from Gaming Operations.

Government Net Income from Gaming Operations will be determined as follows:

Community - Casino Net Revenue

PLUS

Destination Casinos Net Revenue

EQUALS

Government Casino Aggregate Net Income

LESS

Payments To Host Local Governments (Destination Casinos);

Payments to Host Local Governments (Community Casinos);

Payments for Destination Casinos (Development Assistance);

Payments to GAIQ in support of policing programs; and

Payments to the Ministry for Children and Families in support of gaming education and treatment programs

EQUALS

Government Net Income from Gaming Operations

Table 7: Application of Revenue Model - Estimated Values (\$ Millions)¹

Element	Projected 1999/2000 ²	First Full Operational Year 2000/2001	5 Year Growth (estimated at 20%)
Community Casinos - net revenue	281.0	383.0	460.0
Destination Casinos - net revenue	36.0	72.0	86.5
Total Government Casino Aggregate Net Income	317.0	455.0	546.5
Less			
Payments to Host Local Governments - Destination Casinos	6.0	12.0	14.5
Payments to Host Local Governments - Community Casinos, or Alternative	31.0	34.5	46.2
Payments to Destination Casino Development Plans	6.0	12.0	14.5
Payments for Policing, Educational and Treatment Programs	3.5	3.5	4.2
Total Payments	46.5	66.0	79.4
Government Net Income from Gaming Operations	270.5	389.0	467.1
Earnings By Charities			
Bingo revenue retained by charities	51.0	60.0	72.0
Transfer by Government to minimum guarantee	74.0	0.0	0.0
or			
1/3 net revenue participation		67.7	83.5
Total Charity Earnings	125.0	127.7	155.5
Total Government Residual Gaming Income	196.5	321.3	383.6
Charity Earnings as % of Government Net Income from Gaming Operations		33%	33 %

¹ Based on estimates made September 1998.² Assumes full year operation, commencing April 1, 1999, at maximum current capacity.

10.7 Recommendations for Accountability

Public accountability for the activities of the agencies involved in gaming and for the use and distribution of gaming funds is key to the integrity of gaming in the province. To ensure that gaming administration and regulation is open and transparent:

It is recommended that the *Gaming Control Act* require that the renamed British Columbia Lottery and Casino Corporation and the British Columbia Gaming Commission file comprehensive annual reports with the minister responsible for gaming for tabling in the Legislature.

It is also recommended that the Gaming Commission report provide:

- **an overview of policy, licensing and enforcement activities;**
- **a comprehensive report detailing the number of licences issued to charitable associations and the revenues received and disbursed by them in payment of operating costs and payments to individual charities;**
- **a comprehensive report detailing all payments made to individual charities either by the Gaming Commission or by licensed charitable associations;**
- **full disclosure of all payments from charitable gaming revenues, by individual location, to both charities and service providers; and**
- **a comprehensive report on the use of charitable proceeds.**

Endnotes

- ¹ R.S.C. 1985, c. C-46.
- ² Rhodes, Frank A., "Gaming Policy Recommendations", a report to the Honourable Mike Farnworth (Victoria: February 1998), Preface.
- ³ Ibid.

Appendix 1: Gaming in British Columbia - Legislation and Regulations

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Overview

This appendix contains current British Columbia statutes and regulations pertaining to gaming. The Gaming Proceeds Distribution Regulation is included for reference, although it is no longer in force as a result of the British Columbia Supreme Court's decision in the *Nanaimo* case. This appendix also includes Part VII of the *Criminal Code* of Canada, as amended.

Lottery Act **R.S.B.C. 1996, c. 278**

Contents

Section

- 1 Definitions
- 2 Minister may conduct lotteries
- 3 Lotteries Advisory Committee
- 4 Staff
- 5 Agreements
- 6 Reports
- 7 Power to make regulation.

Definitions

1 In this Act:

"committee" means the Lotteries Advisory Committee established under section 3;

"minister" includes a person designated in writing by the minister.

Minister may conduct lotteries

- 2 (1) The minister may, on behalf of the government, subject to section 5,
 - (a) conduct and manage lottery schemes in British Columbia,
 - (b) make arrangements with and cooperate with Canada or other provinces, or with their departments or agencies acting on behalf of their respective governments, in jointly conducting and managing lottery schemes in British Columbia and other provinces,
 - (c) act as agent for Canada or other provinces or their departments or agencies acting on behalf of their respective governments in conducting and managing lottery schemes in British Columbia and other provinces, and
 - (d) regulate and license certain persons to conduct and manage other lotteries in British Columbia as are permitted under the *Criminal Code* (Canada), under the authority conferred by the *Criminal Code* (Canada) and this Act and the regulations.
- (2) The minister is charged with the administration of this Act.

Lotteries Advisory Committee

- 3 (1) The Lieutenant Governor in Council may establish a committee called the Lotteries Advisory Committee for
 - (a) advising the minister respecting the administration of this Act or the regulations or any matter respecting the conduct of lotteries.

- (b) assisting the minister in the administration of this Act and the regulations, and
 - (c) performing other functions the Lieutenant Governor in Council specifies.
- (2) The committee is to be composed of that number of persons determined and appointed by the Lieutenant Governor in Council, who must also set their terms of office.
 - (3) If a committee is established under subsection (1), the Lieutenant Governor in Council must appoint a chair and a vice chair from among the members of the committee.
 - (4) The members of the committee may be paid the remuneration the Lieutenant Governor in Council approves and, in addition, may be reimbursed for reasonable travelling and out of pocket expenses incurred by them as members of the committee.
 - (5) Subject to the approval of the minister, the committee may make rules
 - (a) of procedure for the proper conduct of its affairs, and
 - (b) concerning the calling, holding and conducting of its meetings.

Staff

- 4 The minister may establish within the ministry a branch of the public service for administering this Act and the regulations, and may, under the *Public Service Act*, employ officers and employees the minister considers necessary for that purpose.

Agreements

- 5 For this Act, the minister may do one or more of the following:
 - (a) with the approval of the Lieutenant Governor in Council, on behalf of the government, enter into agreements or arrangements with Canada, or the other provinces or their departments or agencies;
 - (b) enter into agreements or arrangements with municipalities, regional districts or other local government bodies, or with another person;
 - (c) act as director of, or a shareholder in, any corporation lawfully authorized to conduct or manage lotteries, or appoint members of the committee to act as directors or shareholders, and participate in any way the minister considers advisable in its affairs;
 - (d) enter into agreements or arrangements with a corporation referred to in paragraph (c);
 - (e) delegate to the committee any power and authority that the minister may lawfully delegate under this Act that the minister considers necessary or advisable to assist in the administration of this Act.

Reports

- 6 (1) The minister must annually prepare a report respecting the administration of this Act and the operation of any lottery schemes conducted by the minister in British Columbia or jointly with Canada or other provinces, or with municipalities, regional districts, local government bodies or other persons during the previous fiscal year.
- (2) The minister must lay the report before the Legislature within 15 days after the commencement of the first session in the following year.

Power to make regulations

- 7 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
 - (a) respecting the conduct and operation of lotteries by the government or jointly with Canada, or other provinces, municipalities, regional districts, local government bodies or other persons;
 - (b) setting agents' or sellers' fees or commissions payable under the regulations;
 - (c) prescribing terms, conditions and fees respecting licences issued under the regulations.

***Miscellaneous Statutes
Amendment Act (No. 3), 1998
S.B.C. 1998, c. 37***

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Lottery Act

- 7 *Section 1 of the Lottery Act, R.S.B.C. 1996, c. 278, is amended by adding the following definitions:*
"lottery scheme" means lottery scheme as defined in section 207 (4) of the *Criminal Code*;
"person" includes an unincorporated charitable, religious or other organization.
- 8 *Section 2 (1) is amended*
(a) *by adding "and" at the end of paragraph (b),*
(b) *by striking out "and" at the end of paragraph (c), and*
(c) *by repealing paragraph (d).*
- 9 *The following section is added:*

Licences

- 2.1 (1) The Lieutenant Governor in Council may license persons to conduct and manage lottery schemes in British Columbia.
(2) The Lieutenant Governor in Council, by order, may delegate, to an authority specified in the order, the discretion under subsection (1) to license persons to conduct and manage lottery schemes in British Columbia.
(3) The discretion under this section to issue licences, of the Lieutenant Governor in Council or of an authority to which that discretion is delegated under this section, includes the discretion to attach terms and conditions to the licences that
(a) may differ for different licensees, and
(b) must be consistent with the terms and conditions prescribed under section 7.
(4) Each of the Provincial Secretary and Minister of Government Services, the Attorney General and the Public Gaming Control Branch is conclusively deemed to be, and to have been between

May 27, 1986 and the end of March 31, 1987, and the British Columbia Gaming Commission is conclusively deemed to be, and to have been since March 31, 1987, an authority to whom the discretion under subsection (1) to license persons to conduct and manage lottery schemes in British Columbia has been delegated by order under subsection (2).

- (5) A licence or purported licence is conclusively deemed to have been validly issued under this section on the date of the licence or purported licence if the licence
 - (a) was issued by
 - (i) the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch between May 27, 1986 and the end of March 31, 1987, or
 - (ii) the British Columbia Gaming Commission between March 31, 1987 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998*, and
 - (b) authorizes or authorized, or purports or purported to authorize, a person to conduct and manage a lottery scheme.

10 Sections 3 (1) (a) and 5 (c) are amended by striking out "lotteries" and substituting "lottery schemes".

11 Section 7 is amended

- (a) in subsection (2) (a) by striking out "lotteries" and substituting "lottery schemes",*
- (b) by repealing subsection (2) (c) and substituting the following:*
 - (c) prescribing terms and conditions of licences relating to the conduct, management and operation of, or participation in, lottery schemes;
 - (d) prescribing fees respecting licences.,
- (c) by adding the following subsections:*
 - (3) A regulation made under this Act may
 - (a) be made applicable generally or to a specific person, thing or transaction, or class of persons, things or transactions,
 - (b) for the purpose of the regulation, define classes of persons including classes that may include only one person,
 - (c) for the purpose of the regulation, define classes of things or transactions, and
 - (d) provide differently for different persons, things or transactions, or for different classes of persons, things or transactions.
 - (4) The Lieutenant Governor in Council, by regulation, may delegate the discretion to make regulations under subsection (2) (b) or (d) or both (2) (c) and (d) to an authority specified in the regulation.

- (5) Each of the Provincial Secretary and Minister of Government Services, the Attorney General and the Public Gaming Control Branch is conclusively deemed to be, and to have been between May 27, 1986 and the end March 31, 1987, and the British Columbia Gaming Commission is conclusively deemed to be, and to have been since March 31, 1987, an authority to which the discretion under subsection (2) (d) to prescribe fees respecting licences has been delegated by regulation under subsection (4).
- (6) Every licence fee or purported licence fee, in respect of a lottery scheme, imposed or purported to have been imposed by
- (a) the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch between May 27, 1986 and the end of March 31, 1987, or
 - (b) the British Columbia Gaming Commission, between March 31, 1987 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998*,
- is conclusively deemed to have been validly imposed by regulation under this section on the date of the licence or purported licence to which the licence fee or purported licence fee pertains.
- (7) The *Regulations Act* does not apply, and, between May 27, 1986 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998* did not apply, in respect of
- (a) the licence fees referred to in subsection (6), or
 - (b) a regulation referred to in subsection (6), , and
- (d) by adding the following subsection:
- (8) The *Regulations Act* applies to regulations under this Act that are made after the coming into force of this subsection by an authority to whom the Lieutenant Governor in Council delegates the regulation making authority under subsection (2) (c) or (d) or both (2) (c) and (d).

...

Immunity from legal action

- 42 (1) No action lies, and an action or other proceeding must not be brought or continued, against the government, the British Columbia Gaming Commission or any other person, for compensation, damages or any other remedy, because of anything done or omitted, between May 27, 1986 and the coming into force of this subsection, in the exercise or performance or intended exercise or performance of a discretion, duty or function of the government or of the British Columbia Gaming Commission in relation to

- (a) a licence or purported licence issued by the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch, or by the British Columbia Gaming Commission, that authorizes, or purports to authorize, a person to conduct and manage a lottery scheme as defined in section 207 (4) of the *Criminal Code*, or
 - (b) the imposition or purported imposition by the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch, or by the British Columbia Gaming Commission of a licence fee in respect of or in relation to a lottery scheme as defined in section 207 (4) of the *Criminal Code*.
- (2) Any statutory power, as defined in the *Judicial Review Procedure Act*, that was exercised under an enactment in relation to a matter described in subsection (1) and any decision, determination or order of an official of the government or of the British Columbia Gaming Commission in relation to a matter so described is not open to question or review in a court under the *Judicial Review Procedure Act* or otherwise.

Acts to be given legal effect

- 43 (1) The *Lottery Act* as amended by this Act, this section and sections 7 to 11, 42 and 46 (3) of this Act must be applied to and must be given effect in every action or proceeding, whether commenced before, on or after the date this Act receives Royal Assent.
- (2) The *Lottery Act* as amended by this Act, this section and sections 7 to 11, 42 and 46 (3) of this Act must not be construed as lacking effect, whether retroactive or otherwise, in relation to any matter because of making no specific reference to that matter.
- (3) If any of the sections referred to in subsections (1) and (2) or any provision of those sections or of the *Lottery Act* as amended by this Act is held to be invalid, the section or provision must be severed from the remainder those sections and provisions, and the remainder have the same effect as if they had been originally enacted separately from the section or provision held to be invalid.

....

Lottery Act

GAMING PROCEEDS DISTRIBUTION REGULATION

B.C. Reg. 362/97

O.C. 1206/97

Deposited October 31, 1997

Contents

- 1 Definitions
- 2 Bingo revenue distribution
- 3 Casino revenue distribution
- 4 Offence

Definitions

I In this regulation:

"B.C.G.C." means the British Columbia Gaming Commission;

"bingo event" means a series of bingo games;

"bingo operator" means a person that

- (a) has a Lottery Operations Agreement with the corporation, and
- (b) is the operator of a facility for bingo events authorized under a gaming licence issued to a religious or charitable organization;

"casino operator" means a person that

- (a) has a Lottery Operations Agreement with the corporation, and
- (b) is the operator of a facility for casino gaming activities authorized under a gaming licence issued to a religious or charitable organization;

"corporation" means the British Columbia Lottery Corporation;

"gaming activity" means a lottery scheme referred to in section 207 (1) (b) of the *Criminal Code* (Canada);

"gaming licence" means a licence issued by B.C.G.C. that authorizes a person to conduct a gaming activity;

"win", in relation to

- (a) a bingo event, means the money the operator of the event receives from customers, less winnings paid out to customers, and
- (b) casino gaming activities, means the money the operator of the casino receives from
 - (i) wagers placed on non-rake games by customers, minus the winnings paid out to the customers who place those wagers, and
 - (ii) the rake from rake games.

Bingo revenue distribution

- 2 (1) A bingo operator is to receive, from each gaming licensee on whose behalf the bingo operator runs bingo events at a bingo facility, a commission of 40% of the win on the first \$700 000 of the monthly paper bingo gross sales at the facility and 30% of the win on any part of those gross sales that exceeds \$700 000.
- (2) The bingo operator must remit
 - (a) on behalf of each gaming licensee described in subsection (1) the paper bingo win, less the commission due the bingo operator, to the British Columbia Charitable Gaming Funding Society, as trustee under a trust agreement among the corporation, the society and the government that is substantially in the form of the attached draft Trust Agreement, at the times and in the manner set out in the current publication of B.C.G.C. entitled "Terms and Conditions of Licence" that is distributed by B.C.G.C. to bingo gaming licensees and to bingo operators and is available to the public at the offices of B.C.G.C., and
 - (b) on behalf of the corporation the electronic and linked bingo wins, both less the commission that, under the bingo operator's Lottery Operation's Agreement with the corporation, is due the bingo operator, to the corporation at the times and in the manner set out in that agreement.
- (3) On receipt by the bingo operator, in accordance with the trust agreement, from the British Columbia Charitable Gaming Funding Society, of the share of net income from gaming that, under the terms of the trust agreement, is due to the gaming licensees for whom the bingo operator runs bingo facilities, the bingo operator must distribute to each of those gaming licensees that licensee's proper share of that net income.

Casino revenue distribution

- 3 (1) A casino operator is to receive, from each gaming licensee on whose behalf the casino operator runs casino gaming activities at a casino facility, a commission
 - (a) of 40% of the table game win at the casino facility, and
 - (b) subject to the casino operator adhering to a detailed facility development plan approved by the minister, of 3% of the table game win at the facility, to be applied by the casino operator toward development of the facility.
- (2) The casino operator must remit
 - (a) on behalf of each gaming licensee described in subsection (1), the table game win, less the commission due the casino operator, to the British Columbia Charitable Gaming Funding Society, as trustee under a trust agreement among the corporation, the society and the government that is substantially in the form of the attached draft Trust Agreement, at the times and in the manner set

out in the current publication of B.C.G.C. entitled "Terms and Conditions of Licence" that is distributed by B.C.G.C. to casino gaming licensees and to casino operators and is available to the public at the offices of B.C.G.C., and

- (b) on behalf of the corporation, the slot win, less the commission that, under the casino operator's Lottery Operation's Agreement with the corporation, is due the casino operator, to the corporation at the times and in the manner set out in that agreement.
- (3) On receipt by the casino operator, from the British Columbia Charitable Gaming Funding Society, of the share of net income from gaming that, under the terms of the trust agreement, is due to the gaming licensees for whom the casino operator runs casino facilities, the casino operator must distribute to each of those gaming licensees that licensee's proper share of that net income.

Offence

- 4 (1) A bingo operator that contravenes section 2 (2) or (3) commits an offence.
- (2) A casino operator that contravenes section 3 (2) or (3) commits an offence.

TRUST AGREEMENT

The Trust Agreement is not published here but may be found at pages 1296 - 1306 of the November 4, 1997 issue of the British Columbia Gazette Part II.

[Provisions of the *Lottery Act*, R.S.B.C. 1996, c. 278, relevant to the enactment of this regulation: section 7]

Lottery Act**GAMING FEES REGULATION**

B.C. Reg. 286/98
Gaming Comm.

Deposited August 5, 1998

Definitions

- 1 In this regulation,
 - "Act" means the *Lottery Act*;
 - "commission" means the British Columbia Gaming Commission;
 - "end licence date" means the date specified in a licence under the Act as the last day on which the licensee is authorized to conduct and manage a lottery scheme;
 - "wheel of fortune" means a gambling device resembling a revolving wheel with sections indicating chances taken or bets placed.

Fees

- 2 (1) There must be paid to the commission for a matter itemized and described in column 1 of the Schedule the fee set out in column 2 of that item, or, in the case of a matter itemized and described in column 1 of item 6, the fees set out in column 2 of that item.
 - (2) The fee set out in column 2 of each of items 1 to 4 of the Schedule is due and payable 60 days after the end licence date for the licence described in column 1 of that item.
 - (3) The fee set out in column 2 of each of items 5 to 7 of the Schedule is due and payable at the time of application for the licence described in column 1 of that item.
 - (4) The fee set out in column 2 of item 8 of the Schedule is due and payable at the time of filing the notice of appeal from the decision of the commission.

SCHEDULE

Item	Column 1	Column 2
1	For a ticket raffle licence issued to a charitable or religious organization, to the board of a fair or exhibition, or to an operator of a concession leased by that board, for the conduct and management of a ticket raffle, if the application specifies projected gross revenue from the sale of raffle tickets of more than \$5 000	2% of gross ticket sales
2	For a social occasion casino licence issued to a	10% of gross

	charitable or religious organization for the conduct and management during a social occasion of a lottery scheme involving casino games that are approved by the commission at the time of issuance of the licence	revenue from the lottery scheme
3	For a wheel of fortune licence issued to a charitable or religious organization, to the board of a fair or exhibition, or to an operator of a concession leased by that board, for the conduct and management during a period specified in the licence of a lottery scheme	10% of gross revenue from the lottery scheme
	(a) involving one or more wheels of fortune only, and	
	(b) for which projected gross revenue from the lottery scheme, specified in the application for the licence, is more than \$10 000	
4	For a casino licence issued to the board of a fair or exhibition, or to an operator of a concession leased by that board, for the conduct and management of a lottery scheme involving casino games that are approved by the commission at the time of issuance of the licence	10% of gross revenue from the lottery scheme
5	For an application for any of the following licences:	\$ 25
	(a) a licence that is as described in item 1, except that the projected gross revenue, specified in the application, from the sale of raffle tickets is \$5 000 or less;	
	(b) a licence that is as described in item 3, except that the projected gross revenue, specified in the application, from the lottery scheme is \$5 000 or less;	
	(c) a licence authorizing a charitable or religious organization, the board of a fair or exhibition, or an operator of a concession leased by that board, to conduct and manage a lottery scheme involving bingo games only, if the projected gross revenue, specified in the application, from the lottery scheme is \$5 000 or less;	
	(d) a licence authorizing any other person to conduct and manage a lottery scheme described in section 207(1)(d) of the <i>Criminal Code</i>	
6	For an application for a licence issued to an operator of a concession leased by a board of a fair or exhibition as described in section 207(1)(c) of the <i>Criminal Code</i>	
	(a) for the first or only game authorized under the licence.	\$150
	(b) for each additional game authorized under the licence, and	\$ 50
	(c) for each operator listed in the licence	\$ 25
7	For an application by a person that is a charitable or religious organization, the board of a fair or	\$100

	exhibition, or an operator of a concession leased by that board, for a licence of the type described in any of items 1 to 4 that, on issuance, will be	
	(a) the first licence of that type held by that person, or	
	(b) the first licence after a 6 year period during which that person did not hold any licence of that type	
8	For an appeal to a review board established by the commission of a decision of the commission pertaining to a licence or an application for a licence	\$500

Lottery Corporation Act

R.S.B.C. 1996, c. 279

Contents

Section

- 1 Definitions
- 2 Corporation continued
- 3 Corporation an agent of the government
- 4 Objects of corporation
- 5 Management
- 6 Officers and employees
- 7 Financial administration
- 8 Application of revenue
- 9 Grants in place of taxes
- 10 Limitation on actions
- 11 Resale of tickets to person outside B.C. prohibited
- 12 Power to make regulations

Definitions

- 1 In this Act:
"corporation" means the corporation continued under section 2;
"lottery" has the same meaning as "lottery scheme" in the *Criminal Code*;
"lottery ticket" includes a receipt or other record provided to a person participating in a lottery by which the person is, at the time of purchasing the record or at a later time, able to determine, from the face of the record or by comparing the information shown on the face of the record with information provided from another source, whether the person has won a prize, including, without limitation, a sum of money, as a result of the person's participation in the lottery.

Corporation continued

- 2 (1) The British Columbia Lottery Corporation is continued.
(2) Despite its incorporation under the *Company Act*, the British Columbia Lottery Corporation is a corporation without share capital, consisting of not more than 9 directors appointed by the Lieutenant Governor in Council.
(3) The *Company Act* does not apply to the corporation but the Lieutenant Governor in Council may declare that all or part of the *Company Act* does apply.
(4) The Lieutenant Governor in Council may appoint one of the directors as chair of the corporation.
(5) A member of the Executive Council or of the public service who is appointed a director of the corporation ceases to be a director when

the person ceases to be a member of the Executive Council or of the public service.

- (6) A director must be paid reasonable travelling and incidental expenses necessarily incurred in discharging duties and, in addition, may be paid for services as a director or chair remuneration set by the Lieutenant Governor in Council.

Corporation an agent of the government

- 3 (1) The corporation is, for all purposes, an agent of the government.
(2) The Minister of Finance and Corporate Relations is the fiscal agent of the corporation.
(3) The corporation may acquire and dispose of real and personal property.

Objects of corporation

- 4 The objects of the corporation are the following:
- (a) to develop, undertake, organize, conduct and manage lottery schemes on behalf of the government;
 - (b) if authorized by the minister, to enter into agreements to develop, undertake, organize, conduct and manage lottery schemes on behalf of or in conjunction with the government of Canada or the government of another province, or an agent of either of them;
 - (c) if authorized by the minister, to enter into the business of supplying any person with computer software, tickets or any other technology, equipment or supplies related to the conduct of lotteries in or out of British Columbia, or any other business related to the conduct of lotteries;
 - (d) if authorized by the minister, to enter into agreements with a person regarding any lottery conducted or managed on behalf of the government;
 - (e) to do other things the minister may require from time to time.

Management

- 5 (1) The directors must manage the affairs of the corporation and may
 - (a) exercise the powers conferred on them under this Act,
 - (b) exercise the powers of the corporation on behalf of the corporation, and
 - (c) delegate the exercise or performance of any power or duty conferred or imposed on them to a person employed by the corporation.

(2) Despite subsection (1), the directors must not implement a new type of lottery scheme or game that was not in operation on the date this Act comes into force except with the approval of the minister.

- (3) A resolution in writing, signed by all the directors, is as valid and effectual as if it had been passed at a meeting of directors properly called and constituted.

Officers and employees

- 6 (1) The *Public Service Act* does not apply to the officers and employees of the corporation.
- (2) The Lieutenant Governor in Council may declare that the *Pension (Public Service) Act* applies to the corporation and its employees.
- (3) The Lieutenant Governor in Council may declare that the *Public Service Benefit Plan Act* applies to the officers and employees of the corporation.

Financial administration

- 7 (1) The corporation must establish and maintain an accounting system satisfactory to the minister and must, whenever required by the minister, render detailed accounts of its revenues and expenditures for the period or to the day the minister designates.
- (2) All books or records of account, documents and other financial records must at all times be open for inspection by the minister or a person the minister designates.
- (3) The accounts of the corporation must, at least once in every year, be audited and reported on by an auditor appointed by the directors, and the costs of the audit must be paid by the corporation.
- (4) The corporation must each year submit to the minister and the minister must, as soon as practicable, lay before the Legislative Assembly
- (a) a report of the corporation on its operations for the preceding fiscal year, and
 - (b) an audited financial statement showing the assets and liabilities of the corporation at the end of the preceding fiscal year and the operations of the corporation for that year in the form required by the minister.
- (5) The audited financial statement referred to in subsection (4) must be prepared in accordance with generally accepted accounting principles.
- (6) The fiscal year end of the corporation is March 31.

Application of revenue

- 8 The net profits of the corporation after provision for prizes, the payment of expenses of operations and any payments the corporation is obliged to make under agreements entered into in respect of lotteries under section 4 (b) or (d) must be paid into the consolidated revenue fund at the times and in the manner directed by the Lieutenant Governor in Council.

Grants in place of taxes

- 9 Subject to the approval of the Lieutenant Governor in Council, the corporation may in any year pay to a municipality in which it has property a grant not exceeding the amount that would be payable as taxes on the property in that year if the property were not exempt from taxation by the municipality.

Limitation on actions

- 10 A director of the corporation is not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of the powers conferred under this Act.

Resale of tickets to person outside B.C. prohibited

- 11 (1) In this section, "resell" means, in relation to lottery tickets,
- (a) to resell one or more lottery tickets after they have been purchased from a person authorized under this Act to sell the tickets at retail;
 - (b) to sell an interest in one or more lottery tickets that have been or are to be purchased from a person authorized under this Act to sell the tickets at retail, or
 - (c) to sell an interest in any prizes won as a result of participation in a lottery scheme for which one or more lottery tickets have been or are to be purchased from a person authorized under this Act to sell the tickets at retail.
- (2) A person must not, directly or indirectly, do any of the following:
- (a) resell or offer to resell lottery tickets to a person outside British Columbia;
 - (b) advertise to resell lottery tickets to a person outside British Columbia or advertise regarding the possibility of such resale;
 - (c) distribute lottery tickets for the purpose of reselling referred to in paragraph (a);
 - (d) have in the person's possession lottery tickets for the purpose of reselling referred to in paragraph (a);
 - (e) conspire with another person to do anything referred to in paragraphs (a) to (d).
- (3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine of not more than \$100 000.
- (4) If a corporation commits an offence under subsection (2), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the penalty set out in subsection (3) whether or not the corporation is convicted of the offence.

(5) An information in respect of an offence under this section must be laid within 2 years from the time when the subject matter of the information arose.

Power to make regulations

- 12 (1) The directors of the corporation may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the directors may make regulations as follows:
- (a) limiting and regulating the sale of lottery tickets of the corporation by persons other than the corporation and prescribing the fees, commissions and discounts in such sales;
 - (b) governing the manner of selecting prize winners under a lottery or any class of lottery conducted by the corporation;
 - (c) prescribing the conditions and qualifications for entitlement to prizes in a lottery or any class of lottery.

**Regulation promulgated in 1996 by the British Columbia
Lottery Corporation under the British Columbia *Lottery
Corporation Act***

Operation of Lotteries in Businesses and Establishments¹

1. Any person carrying on a business or operating an establishment of any kind anywhere in the Province, including, without limitation, businesses and establishments which are licensed under the *Liquor Control and Licensing Act* R.S.B.C. 1979, c.237, may, upon entering into an agreement with the British Columbia Lottery Corporation, install, maintain, manage, conduct, or operate anywhere on its place of business or premises, or permit to be installed, maintained, managed, conducted, or operated anywhere on its place of business or premises any devices, computer software, equipment and any other technology by which a lottery or lottery scheme can be conducted or played, in accordance with the terms of the said agreement.

Endnote

- ¹ Approved pursuant to section 10 of the *Lottery Corporation Act*, S.B.C. 1985, c.50, by the Directors of the British Columbia Lottery Corporation at a meeting on November 20, 1996 at the Richmond Office.

**Regulation promulgated in 1997 by the British Columbia
Lottery Corporation under the British Columbia *Lottery
Corporation Act***

Management and Operation of Lottery Schemes¹

1. In this regulation,
 - (a) "lottery scheme" means a lottery scheme conducted and managed by the British Columbia Lottery Corporation on behalf of the Government of British Columbia under the authority of paragraph 207(1)(a) of the *Criminal Code*, R.S.C. 1985, c. C-46, and includes, without limitation,
 - (i) a game or any proposal, scheme, plan, means, device, contrivance or operation described in paragraphs 206(1)(a) to (g) of the *Criminal Code*; and
 - (ii) a game or any proposal, scheme, plan, means, device, contrivance or operation conducted or played by means of or in association with printed or electronic lottery tickets or cards or slot machines; whether or not the lottery scheme involves betting, pool selling or a pool system of betting;
 - (b) "lottery ticket" has the same meaning as in section 1 of the *Lottery Corporation Act*, R.S.B.C. 1996, c.279; and
 - (c) "slot machine" has the same meaning as in section 198(3) of the *Criminal Code* and includes, without limitation, any mechanical or electronic machine or device or lottery terminal that is activated for playing a lottery scheme upon payment of consideration and that, as a result of chance or the player's skill in playing the game, or both, may deliver to the player or entitle the player to receive cash, tokens or any other thing of value.
2. Any person carrying on a business or operating an establishment of any kind anywhere in the Province, including, without limitation, businesses and establishments that are licensed under the *Liquor Control and Licensing Act*, R.S.B.C. 1996, c. 267, may, upon being licensed by or entering into an agreement with the British Columbia Lottery Corporation, do anything in the Province that is required for the conduct, management or operation of a lottery scheme including, without limitation".
 - (a) the installation, maintenance, management, conduct, or operation of slot machines; and
 - (b) permitting slot machines to be installed, maintained, managed, conducted, or operated,anywhere on that person's place of business or premises, in accordance with the terms of the said license or agreement.
3. Despite any official community plan or official development plan adopted under the *Municipal Act*, R.S.B.C. 1996, c.323, or under the *Vancouver Charter*, S.B.C. 1953, c.55, or any zoning by-law enacted, passed or

adopted pursuant to the *Municipal Act* or the *Vancouver Charter*, the operation of lottery schemes and slot machines are permitted uses within a municipality if such uses are authorized by the minister responsible for the administration of the *Lottery Corporation Act*, R.S.B.C. 1996, c.279.

Endnote

- ¹ Approved pursuant to section 12 of the *Lottery Corporation Act*, R.S.B.C. 1996, c. 279, by the Directors of the British Columbia Lottery Corporation at a meeting on October 28, 1997 at the Richmond Office.

Criminal Code
R.S.C. 1985, c. C-46, Part VII

PART VII**DISORDERLY HOUSES, GAMING
AND BETTING***Interpretation***Definitions**

“bet”
“pari”

“common
bawdy-house”
“maison de
débauche”

“common betting
house”
“maison de pari”

“common gaming
house”
“maison de jeu”

197. (1) In this Part,

“bet” means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada;

“common bawdy-house” means a place that is

- (a) kept or occupied, or
- (b) resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency;

“common betting house” means a place that is opened, kept or used for the purpose of

- (a) enabling, encouraging or assisting persons who resort thereto to bet between themselves or with the keeper, or
- (b) enabling any person to receive, record, register, transmit or pay bets or to announce the results of betting;

“common gaming house” means a place that is

- (a) kept for gain to which persons resort for the purpose of playing games, or
- (b) kept or used for the purpose of playing games

- (i) in which a bank is kept by one or more but not all of the players,
- (ii) in which all or any portion of the bets on or proceeds from a

PARTIE VII**MAISONS DE DÉSORDRE,
JEUX ET
PARIS***Définitions et interprétation*

197. (1) Les définitions qui suivent s’appliquent à la présente partie.

“endroit public” Tout lieu auquel le public a accès de droit ou sur invitation, expresse ou implicite.

“jeu” Jeu de hasard ou jeu où se mêlent le hasard et l’adresse

“local” ou “endroit” Tout local ou endroit :

- a) qu’il soit ou non couvert ou enclos;
- b) qu’il soit ou non employé en permanence ou temporairement;
- c) qu’une personne ait ou non un droit exclusif d’usage à son égard.

“maison de débauche” Local qui, selon le cas :

- a) est tenu ou occupé;
- b) est fréquenté par une ou plusieurs personnes,

à des fins de prostitution ou pour la pratique d’actes d’indécence.

“maison de désordre” Maison de débauche, maison de pari ou maison de jeu.

“maisons de jeu” Selon le cas :

- a) local tenu pour fins de gain et fréquenté par des personnes pour se livrer au jeu;
- b) local tenu ou employé pour y pratiquer des jeux et où, selon le cas :
 - (i) une banque est tenue par un ou plusieurs joueurs, mais non par tous,
 - (ii) la totalité ou une partie des paris sur un jeu, ou du produit d’un jeu, est

Definitions

“endroit
public”
“public”

“jeu”
“game”

“local” ou
“endroit”
“place”

“maison de
débauche”
“common
bawdy-house”

“maison de
désordre”
“disorderly
house”

“maisons de jeu”
Selon le cas :

“maison de
jeu”

“common
gaming”

"disorderly house"
"maison de désordre"
"game"
"jeu"

"gaming equipment"
"matériel de jeu"

"keeper"
"tenancier"

"place"
"local"

"prostitute"
"prostituée"

"public place"
"endroit... à

game is paid, directly or indirectly, to the keeper of the place;

(iii) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or;

(iv) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game;

"disorderly house" means a common bawdy-house, a common betting house or a common gaming house;

"game" means a game of chance or mixed chance and skill;

"gaming equipment" means anything that is or may be used for the purpose of playing games or for betting;

"keeper" includes a person who

- (a) is an owner or occupier of a place;
- (b) assists or acts on behalf of an owner or occupier of a place;

(c) appears to be, or to assist or act on behalf of an owner or occupier of a place,

(d) has the care or management of a place, or

(e) uses a place permanently or temporarily, with or without the consent of the owner or occupier thereof;

"place" includes any place, whether or not

- (a) it is covered or enclosed;
- (b) it is used permanently or temporarily, or

(c) any person has an exclusive right of user with respect to it;

"prostitute" means a person of either sex who engages in prostitution;

"public place" includes any place to which the public have access as of right or by invitation, express or implied.

versée, directement ou indirectement, au tenancier du local;

(iii) directement ou indirectement, un droit est exigé des joueurs ou versé par eux pour le privilège de jouer à un jeu, ou d'y participer ou d'employer le matériel de jeu;

(iv) les chances de gagner ne sont pas également favorables à toutes les personnes qui pratiquent le jeu, y compris la personne, s'il en est, qui dirige le jeu;

"maison de pari" Local ouvert, gardé ou employé aux fins de permettre :

a) ou bien aux personnes qui le fréquentent de parier entre elles ou avec le tenancier, ou de les y encourager ou aider;

b) ou bien à une personne de recevoir, d'enregistrer, d'inscrire, de transmettre ou de payer des paris ou d'en annoncer les résultats.

"matériel de jeu" Tout ce qui est ou peut être employé en vue de pratiquer des jeux ou pour le pari.

"pari" Pari placé sur une contingence ou un événement qui doit se produire au Canada ou à l'étranger et, notamment, un pari placé sur une éventualité relative à une course de chevaux, à un combat, à un match ou à un événement sportif qui doit avoir lieu au Canada ou à l'étranger.

"prostituée" Personne de l'un ou l'autre sexe qui se livre à la prostitution.

"tenancier" S'entend notamment d'une personne qui, selon le cas :

a) est un propriétaire ou occupant d'un local;

b) aide un propriétaire ou occupant d'un local ou agit pour son compte;

c) paraît être propriétaire ou

maison de pari
"commune"
"betting"

"matériel de jeu"
"pari"
"bet"

"prostituée"
"prostitution"

"tenancier"

		occupant d'un local ou paraît lui aider ou agir pour son compte;
	d)	a le soin ou l'administration d'un local;
	e)	emploie un local, de façon permanente ou temporaire, avec ou sans le consentement du propriétaire ou de l'occupant.
Exception	(2)	A place is not a common gaming house within the meaning of paragraph (a) or subparagraph (b)(ii) or (iii) of the definition "common gaming house" in subsection (1) while it is occupied and used by an incorporated genuine social club or branch thereof, if <ul style="list-style-type: none"> (a) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof; and (b) no fee is charged to persons for the right or privilege of participating in the games played therein other than under the authority of and in accordance with the terms of a licence issued by the Attorney General of the province in which the place is situated or by such other person or authority in the province as may be specified by the Attorney General thereof.
	(2)	Un local n'est pas une maison de jeu au sens de l'alinéa a) ou du sous-alinéa b)(ii) ou (iii) de la définition de «maison de jeu» au paragraphe (1) pendant qu'il est occupé et utilisé par un club social authentique constitué en personne morale ou par une succursale d'un tel club, si : <ul style="list-style-type: none"> a) d'une part, la totalité ou une partie des paris sur des jeux qui y sont pratiqués ou sur des recettes de ces jeux n'est pas directement ou indirectement payée au tenancier de ce local; b) d'autre part, aucune cotisation n'est exigée des personnes pour le droit ou privilège de participer aux jeux qui y sont pratiqués autrement que sous l'autorité et en conformité avec les modalités d'un permis délivré par le procureur général de la province où le local est situé ou par telle autre personne ou autorité, dans la province, que peut spécifier le procureur général de cette province.
Onus	(3)	The onus of proving that, by virtue of subsection (2), a place is not a common gaming house is on the accused.
	(3)	Il incombe à l'accusé de prouver que, d'après le paragraphe (2), un local n'est pas une maison de jeu.
Effect when game partly played on premises	(4)	A place may be a common gaming house notwithstanding that <ul style="list-style-type: none"> (a) it is used for the purpose of playing part of a game and another part of the game is played elsewhere; or (b) the stake that is played for is in some other place. R.S., c. C-34, s.179; 1972, c.13, s.13; 1980-81-82-83, c. 125, s.11.
	(4)	Un local peut être une maison de jeu : <ul style="list-style-type: none"> a) même s'il est employé pour y jouer une partie d'un jeu alors qu'une autre partie du jeu est tenue ailleurs; b) même si l'enjeu pour lequel on joue est en un autre local. S.R., ch. C-34, art. 179; 1972, ch. 13, art. 13; 1980-81-82-83.
		Quand un jeu est pratiqué partiellement sur les lieux

ch. 125, art. 11.

Presumptions	Presumptions	Presumptions
<p style="text-align: center;"><i>Presumptions</i></p> <p>198. (1) In proceedings under this Part,</p> <p>(a) evidence that a peace officer who was authorized to enter a place was wilfully prevented from entering or was wilfully obstructed or delayed in entering is, in the absence of any evidence to the contrary, proof that the place is a disorderly house;</p> <p>(b) evidence that a place was found to be equipped with gaming equipment or any device for concealing, removing or destroying gaming equipment is, in the absence of any evidence to the contrary, proof that the place is a common gaming house or a common betting house, as the case may be;</p> <p>(c) evidence that gaming equipment was found in a place entered under a warrant issued pursuant to this Part, or on or about the person of anyone found therein, is, in the absence of any evidence to the contrary, proof that the place is a common gaming house and that the persons found therein were playing games, whether or not any person acting under the warrant observed any persons playing games therein; and</p> <p>(d) evidence that a person was convicted of keeping a disorderly house is, for the purpose of proceedings against any one who is alleged to have been an inmate or to have been found in that house at the time the person committed the offence of which he was convicted, in the absence of any evidence to the contrary, proof that the house was, at that time, a disorderly house.</p>	<p style="text-align: center;"><i>Présumptions</i></p> <p>198. (1) Dans les poursuites engagées en vertu de la présente partie :</p> <p>a) la preuve qu'un agent de la paix qui était autorisé à pénétrer dans un local en a été volontairement empêché, ou que son entrée a été volontairement gênée ou retardée, constitue, en l'absence de toute preuve contraire, une preuve que le local est une maison de désordre;</p> <p>b) la preuve qu'un local a été trouvé muni d'un matériel de jeu, ou d'un dispositif pour cacher, enlever ou détruire un tel matériel, constitue, en l'absence de toute preuve contraire, une preuve que le local est une maison de jeu ou une maison de pari, selon le cas;</p> <p>c) la preuve qu'un matériel de jeu a été découvert dans un local où l'on est entré sous l'autorité d'un mandat émis selon la présente partie, ou sur la personne de tout individu y trouvé, ou auprès de cette personne, constitue, en l'absence de toute preuve contraire, une preuve que le local est une maison de jeu et que les personnes y trouvées pratiquaient des jeux, que celui qui agit sous l'autorité du mandat ait observé ou non des personnes en train d'y pratiquer des jeux;</p> <p>d) la preuve qu'une personne a été déclarée coupable d'avoir tenue une maison de désordre constitue, aux fins de poursuites contre quiconque est soupçonné d'avoir habité la maison ou d'y avoir été trouvé, au moment où la personne a commis l'infraction dont elle a été déclarée coupable, en l'absence de toute preuve contraire, une preuve que la maison était alors une maison de désordre.</p>	<p style="text-align: center;"><i>Présumptions</i></p>

Conclusive presumption from slot machine	(2) For the purpose of proceedings under this Part, a place that is found to be equipped with a slot machine shall be conclusively presumed to be a common gaming house.	(2) Aux fins des poursuites engagées en vertu de la présente partie, un local que l'on trouve muni d'un appareil à sous est de façon concluante présumé une maison de jeu.	Présomption découlant d'un appareil à sous
Definition of "slot machine"	<p>(3) In subsection (2), "slot machine" means any automatic machine or slot machine</p> <ul style="list-style-type: none"> (a) that is used or intended to be used for any purpose other than vending merchandise or services; or (b) that is used or intended to be used for the purpose of vending merchandise or services if <ul style="list-style-type: none"> (i) the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator, (ii) as a result of a given number of successive operations by the operator the machine produces different results, or (iii) on any operation of the machine it discharges or emits a slug or token, <p>but does not include an automatic machine or slot machine that dispenses as prizes only one or more free games on that machine. R.S., c. C-34, s. 180; 1974-75-76, c. 93, s. 10.</p>	<p>(3) Au paragraphe (2), «appareil à sous» désigne tout machine automatique ou appareil à sous :</p> <ul style="list-style-type: none"> a) employé ou destiné à être employé pour toute fin autre que la vente de marchandises ou de services; b) employé ou destiné à être employé pour la vente de marchandises ou de services si, selon le cas : <ul style="list-style-type: none"> (i) le résultat de l'une de n'importe quel nombre d'opérations de la machine est une affaire de hasard ou d'incertitude pour l'opérateur, (ii) en conséquence d'un nombre donné d'opérations successive par l'opérateur, l'appareil produit des résultats différents, (iii) lors d'une opération quelconque de l'appareil, celui-ci émet ou laisse échapper des piècettes ou jetons. <p>La présente définition exclut une machine automatique ou un appareil à sous qui ne donne en prix qu'une ou plusieurs parties gratuites. S.R., ch. C-34, art. 180; 1974-75-76, ch. 93, art. 10.</p>	Définition de «appareil à sous»
Warrant to search	<p><i>Search</i></p> <p>199. (1) A justice who receives from a peace officer a report in writing that he believes on reasonable grounds that an offence under section 201, 202, 203, 206, 207 or 210 is being committed at any place within the jurisdiction of the justice may issue a warrant under his hand authorizing a peace officer to enter and search the place by day or night and seize anything found therein that may be evidence that an offence under</p>	<p><i>Perquisition</i></p> <p>199. (1) Un juge de paix qui reçoit d'un agent de la paix un rapport écrit déclarant qu'il a des motifs raisonnables de croire qu'une infraction visée à l'article 201, 202, 203, 206, 207 ou 210 se commet à quelque endroit situé dans le ressort du juge de paix, peut émettre un mandat sous sa signature, autorisant un agent de la paix à entrer et perquisitionner dans cet endroit, de jour ou de nuit,</p>	Mandat de perquisition

section 201, 202, 203, 206, 207 or 210, as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before him or before another justice having jurisdiction, to be dealt with according to law.

et à saisir toute chose y trouvée qui peut constituer une preuve qu'une infraction aux termes de l'article 201, 202, 203, 206, 207 ou 210, selon le cas, se commet à cet endroit, et à mettre sous garde toutes les personnes trouvées à cet endroit ou dans cet endroit, et requérant que ces personnes soient conduites et ces choses apportées devant lui ou devant un autre juge de paix compétent, afin qu'elles soient traitées selon la loi.

Search without warrant, seizure and arrest:

(2) A peace officer may, whether or not he is acting under a warrant issued pursuant to this section, take into custody any person whom he finds keeping a common gaming house and any person whom he finds therein, and may seize anything that may be evidence that such an offence is being committed and shall bring those persons and things before a justice having jurisdiction, to be dealt with according to law.

(2) Qu'il agisse ou non en vertu d'un mandat émis par application du présent article, un agent de la paix peut mettre sous garde une personne qu'il trouve tenant une maison de jeu et toute personne qu'il y découvre, et saisir toute chose susceptible de constituer une preuve qu'une telle infraction se commet, et il doit conduire ces personnes et apporter ces choses devant un juge de paix compétent, afin qu'elles soient traitées selon la loi.

Perquisition sans mandat, saisie et arrestation

Disposition of property seized:

(3) Except where otherwise expressly provided by law, a court, judge, justice or magistrate before whom anything that is seized under this section is brought may declare that the thing is forfeited, in which case it shall be disposed of or dealt with as the Attorney General may direct if no person shows sufficient cause why it should not be forfeited.

(3) Sauf lorsque la loi prescrit expressément le contraire, un tribunal, juge, juge de paix ou magistrat devant qui une chose saisie aux termes du présent article est apportée peut déclarer que la chose est confisquée, auquel cas il doit en être disposé comme peu l'ordonner le procureur général si personne n'établit par des motifs suffisants pourquoi cette chose ne devrait pas être confisquée.

Disposition des biens saisis

When declaration or direction may be made:

(4) No declaration or direction shall be made pursuant to subsection (3) in respect of anything seized under this section until

(4) Aucune déclaration ne peut être faite ni aucune ordonnance rendue aux termes du paragraphe (3) à l'égard d'une chose saisie en vertu du présent article :

Quand la déclaration peut être faite ou l'ordonnance rendue

- (a) it is no longer required as evidence in any proceedings that are instituted pursuant to the seizure; or
- (b) the expiration of thirty days from the time of seizure where it is not required as evidence in any proceedings.

- a) avant que cette chose ait cessé d'être requise comme preuve dans quelque procédure intentée par suite de la saisie;
- b) avant l'expiration de trente jours à compter du moment de la saisie, lorsque cette chose n'est

		pas requise comme preuve dans des procédures.	
Conversion into money	(5) The Attorney General may, for the purpose of converting anything forfeited under this section into money, deal with it in all respects as if he were the owner thereof.	(5) Le procureur général peut, en vue de réaliser un bien confisqué en vertu du présent article, en disposer à tous égards comme s'il en était le propriétaire.	Réalisation
Telephones exempt from seizure	(6) Nothing in this section or in section 489 authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment that may be evidence of or that may have been used in the commission of an offence under section 201, 202, 203, 206, 207 or 210 and that is owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of that person.	(6) Le présent article et l'article 489 n'ont pas pour effet d'autoriser la saisie, la confiscation ou la destruction d'installations ou de matériel de téléphone, télégraphe ou autre moyen de communication, qui peuvent servir à prouver qu'une infraction visée à l'article 201, 202, 203, 206, 207 ou 210 a été commise ou qui peuvent avoir servi à la commettre et qui sont la propriété d'une personne qui assure un service de téléphone, de télégraphe ou autre service de communication offerts au public, ou qui font partie du service ou réseau de téléphone, de télégraphe ou autre service ou réseau de communication d'une telle personne.	Téléphones exemptés de saisie
Exception	(7) Subsection (6) does not apply to prohibit the seizure, for use as evidence, of any facility or equipment described in that subsection that is designed or adapted to record a communication. R.S., c. C-34, s. 181.	(7) Le paragraphe (6) n'a pas pour effet d'interdire la saisie, pour utilisation à titre de preuve, d'une installation ou de matériel mentionnés à ce paragraphe et qui sont conçus ou adaptés pour enregistrer une communication. S.R., ch. C-34, art. 181.	Exception
Obstructing execution of warrant	<i>Obstruction</i> 200. Every one who, for the purpose of preventing, obstructing or delaying a peace officer who is executing a warrant issued under this Part in respect of a disorderly house or who is otherwise authorized to enter a disorderly house, does anything, or being the keeper of the disorderly house, permits anything to be done to give effect to that purpose is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 184.	<i>Entrave à l'exécution d'un mandat</i> 200. Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, en vue d'empêcher, de gêner ou de retarder un agent de la paix qui exécute un mandat émis sous l'autorité de la présente partie à l'égard d'une maison de désordre ou qui est autrement autorisé à pénétrer dans une maison de désordre, fait quelque chose ou, étant le tenant de la maison de désordre, permet qu'on fasse quelque chose pour obtenir ce	Entrave à l'exécution d'un mandat

		résultat. S.R., ch. C-34, art. 184.
	<i>Gaming and Betting</i>	<i>Jeux et paris</i>
Keeping gaming or betting house	201. (1) Every one who keeps a common gaming house or common betting house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.	201. (1) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de deux ans quiconque tient une maison de jeu ou une maison de pari.
Person found in or owner permitting use	(2) Every one who <ul style="list-style-type: none"> (a) is found, without lawful excuse, in a common gaming house or common betting house, or (b) as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house, is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 185.	(2) Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, selon le cas : <ul style="list-style-type: none"> a) est trouvé, sans excuse légitime, dans une maison de jeu ou une maison de pari; b) en qualité de possesseur, propriétaire, locateur, locataire, occupant ou agent, permet sciemment qu'un endroit soit loué ou utilisé pour des fins de maison de jeu ou de pari. S.R., ch. C-34, art. 185.
Betting pool-selling, book-making, etc.	202. (1) Every one commits an offence who <ul style="list-style-type: none"> (a) uses or knowingly allows a place under his control to be used for the purpose of recording or registering bets or selling a pool; (b) imports, makes, buys, sells, rents, leases, hires or keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any place under his control any device or apparatus for the purpose of recording or registering bets or selling a pool, or any machine or device for gambling or betting; (c) has under his control any money or other property relating to a transaction that is an offence under this section; (d) records or registers bets or sells a pool; (e) engages in book-making or pool-selling, or in the business or occupation of betting, or makes any agreement for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information that is intended 	202. (1) Commet une infraction quiconque, selon le cas : <ul style="list-style-type: none"> a) emploie ou sciemment permet qu'on emploie un local sous son contrôle dans le dessein d'inscrire ou d'enregistrer des paris ou de vendre une mise collective; b) importe, fait, achète, vend, loue, prend à bail ou garde, expose, emploie ou sciemment permet que soit gardé, exposé ou employé, dans quelque endroit sous son contrôle, un dispositif ou appareil destiné à inscrire ou à enregistrer des paris ou la vente d'une mise collective, ou une machine ou un dispositif de jeu ou de pari; c) a sous son contrôle une somme d'argent ou d'autres biens relativement à une opération qui constitue une infraction visée par le présent article; d) inscrit ou enregistre les paris ou vend une mise collective; e) se livre au bookmaking ou à la vente d'une mise collective.

to assist in book-making, pool-selling or betting;

(f) prints, provides or offers to print or provide information intended for use in connection with book-making, pool-selling or betting on any horse-race, fight, game or sport, whether or not it takes place in or outside Canada or has or has not taken place;

(g) imports or brings into Canada any information or writing that is intended or is likely to promote or be of use in gambling, book-making, pool-selling or betting on a horse-race, fight, game or sport, and where this paragraph applies it is immaterial

- (i) whether the information is published before, during or after the race, fight game or sport, or
- (ii) whether the race, fight, game or sport takes place in Canada or elsewhere,

but this paragraph does not apply to a newspaper, magazine or other periodical published in good faith primarily for a purpose other than the publication of such information;

(h) advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result of a contest, or a result of or contingency relating to any contest;

(i) wilfully and knowingly sends, transmits, delivers or receives any message by radio, telegraph, telephone, mail or express that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting or wagering; or

(j) aids or assists in any manner in anything that is an offence under this section.

ou à l'entreprise ou à la profession de parieur, ou fait quelque convention pour l'achat ou la vente de priviléges de pari ou de jeu, ou pour l'achat ou la vente de renseignements destinés à aider au bookmaking, à la vente d'une mise collective ou au pari;

(f) imprime, fournit ou offre d'imprimer ou de fournir des renseignements destinés à servir au bookmaking, à la vente d'une mise collective ou au pari sur quelque course de chevaux, combat, jeu ou sport, que cette course, ce combat, jeu ou sport ait lieu au Canada ou à l'étranger, ou qu'il ait eu lieu ou non;

g) importe ou introduit au Canada tout renseignement ou écrit destiné ou de nature à favoriser ou servir le jeu, le bookmaking, la vente d'une mise collective ou les paris sur une course de chevaux, un combat, un jeu ou un sport, et lorsque le présent alinéa s'applique, il est sans conséquence :

- (i) que le renseignement soit publié avant, pendant ou après la course, le combat, le jeu ou le sport,
- (ii) que la course, le combat, le jeu ou le sport ait lieu au Canada ou à l'étranger;

toutefois, le présent alinéa ne s'applique pas à un journal, magazine ou autre périodique publié de bonne foi principalement pour un autre objet que la publication de ces renseignements;

h) annonce, imprime, publie, expose, affiche ou autrement fait connaître une offre, invitation ou incitation à parier sur le résultat d'une partie disputée, ou sur un résultat d'une partie disputée, ou sur un résultat ou une éventualité concernant une partie disputée, ou à conjecturer ce résultat ou à

		le prédire;
		i) volontairement et sciemment envoie, transmet, livre ou reçoit quelque message par la radio, le télégraphe, le téléphone, la poste ou les messageries, donnant quelque renseignement sur le bookmaking, la vente d'une mise collective, les paris ou gageures, ou destiné à aider au bookmaking, à la vente d'une mise collective, aux paris ou gageures;
		j) aide ou assiste, de quelque façon, à une chose qui constitue une infraction visée par le présent article.
Punishment	(2) Every one who commits an offence under this section is guilty of an indictable offence and liable	(2) Quiconque commet une infraction prévue par le présent article est coupable d'un acte criminel et passible :
	(a) for a first offence, to imprisonment for not more than two years;	a) d'un emprisonnement maximal de deux ans pour la première infraction;
	(b) for a second offence, to imprisonment for not more than two years and not less than fourteen days; and	b) d'un emprisonnement de quatorze jours à deux ans pour la deuxième infraction;
	(c) for each subsequent offence, to imprisonment for not more than two years and not less than three months. R.S., c. C-34, s. 186; 1974-75-76, c. 93, s. 11.	c) d'un emprisonnement de trois mois à deux ans pour chaque récidive. S.R. ch. C-34, art 186; 1974-75-76, ch. 93, art. 11.
Placing bets on behalf of others	203. Every one who	203. Quiconque, selon le cas :
	(a) places or offers or agrees to place a bet on behalf of another person for a consideration paid or to be paid by or on behalf of that other person,	a) place, offre ou convient de placer un pari pour le compte d'une autre personne moyennant paiement d'une contrepartie par elle ou en son nom;
	(b) engages in the business or practice of placing or agreeing to place bets on behalf of other persons, whether for a consideration or otherwise, or	b) se livre à l'activité ou la pratique qui consiste à placer ou à convenir de placer des paris pour le compte d'autres personnes, même sans contrepartie;
	(c) holds himself out or allows himself to be held out as engaging in the business or practice of placing or agreeing to place bets on behalf of other persons, whether for a consideration or otherwise,	c) prétend ou laisse croire qu'il se livre à l'activité ou à la pratique qui consiste à placer ou à convenir de placer des paris pour le compte d'autres personnes, même sans
	is guilty of an indictable offence and	Placer des paris pour quelqu'un d'autre

	<p>liable</p> <p>(d) for a first offence, to imprisonment for not more than two years,</p> <p>(e) for a second offence, to imprisonment for not more than two years and not less than fourteen days, and</p> <p>(f) for each subsequent offence, to imprisonment for not more than two years and not less than three months. R.S., c. C-34, s. 187; 1974-75-76, c. 93, s. 11.</p>	<p>contrepartie,</p> <p>est coupable d'un acte criminel et possible :</p> <p>d) d'un emprisonnement maximal de deux ans, pour la première infraction;</p> <p>e) d'un emprisonnement de quatorze jours à deux ans, pour la deuxième infraction;</p> <p>f) d'un emprisonnement de trois mois à deux ans, pour chaque récidive. S.R., ch. C-34, art. 187; 1974-75-76, ch. 93, art. 11.</p>
Exemptions	<p>204. (1) Sections 201 and 202 do not apply to</p> <p>(a) any person or association by reason of his or their becoming the custodian or depository of any money, property or valuable thing staked, to be paid to</p> <ul style="list-style-type: none"> (i) the winner of a lawful race, sport, game or exercise; (ii) the owner of a horse engaged in a lawful race, or (iii) the winner of any bets between not more than ten individuals; <p>(b) a private bet between individuals not engaged in any way in the business of betting;</p> <p>(c) bets made or records of bets made through the agency of a parimutuel system on running, trotting or pacing horse-races if</p> <ul style="list-style-type: none"> (i) the bets or records of bets are made on the race-course of an association in respect of races conducted at that race-course or another race-course, and (ii) the provisions of this sections and the regulations are complied with. 	<p>204. (1) Les articles 201 et 202 ne s'appliquent pas :</p> <p>a) à une personne ou association en raison du fait qu'elle est devenue gardienne ou dépositaire de quelque argent, bien ou chose de valeur, mis en jeu, devant être payés, selon le cas :</p> <ul style="list-style-type: none"> (i) au gagnat d'une course, d'un sport, d'un jeu ou d'un exercice légitimes, (ii) au propriétaire d'un cheval engagé dans une course légitime, (iii) au gagnant de paris entre dix particuliers au plus; <p>b) à un pari privé entre des particuliers qui ne se livrent d'aucune façon à l'entreprise de parieurs;</p> <p>c) aux paris faits ou aux inscriptions de paris faites par l'intermédiaire d'un système de pari mutuel sur des courses de chevaux, des courses de chevaux au trot ou à l'amble si :</p> <ul style="list-style-type: none"> (i) d'une part, les paris ou les inscriptions de paris sont faits sur la piste de courses d'une association, relativement à une course tenue sur cette piste de courses ou sur une autre piste de courses, (ii) d'autre part, les dispositions du présent article et des règlements sont

		respectées.	
Exception	(2) For the purposes of paragraph (1)(c), bets made by telephone calls to the race-course of an association in accordance with the regulations are deemed to be made on the race-course of an association.	(2) Pour l'application de l'alinéa (1)c), les paris faits par voie d'appel téléphonique à la piste de courses d'une association en conformité avec les règlements sont réputés être faits sur la piste de courses d'une association.	Exception
Opération of pari-mutuel system	(3) No person or association shall use a pari-mutuel system of betting in respect of a horse-race unless the system has been approved by and its operation is carried on under the supervision of an officer appointed by the Minister of Agriculture.	(3) Aucune personne ou association ne peut utiliser un système de pari mutuel relativement à une course de chevaux, à moins que le système n'ait été approuvé par un fonctionnaire nommé par le ministre de l'Agriculture et que ce système ne soit conduit sous la surveillance de ce fonctionnaire.	Fonctionnement du système de pari mutuel
Supervision of pari-mutuel system	(4) Every person or association conducting a race meeting shall pay to the Receiver General, in respect of each individual pool of each race run at the race meeting and each individual feature pool, one-half of one per cent or such greater fraction not exceeding one per cent as may be fixed by the Governor in Council, of the total amount of money that is bet through the agency of a pari-mutuel system operated in accordance with subsection (3).	(4) Toute personne ou association qui tient une réunion de courses paie au receveur général, pour chaque cagnotte de chaque course tenue à la réunion et pour chaque cagnotte spéciale distincte, soit un demi pour cent, soit le pourcentage supérieur, à concurrence de un pour cent, fixé par le gouverneur en conseil, du montant total des paris faits par l'entremise d'un système de pari mutuel conduit conformément au paragraphe (3).	Surveillance du système de pari mutuel
Percentage that may be deducted and retained	(5) Where any person or association becomes a custodian or depository of any money, bet or stakes under a pari-mutuel system in respect of a horse-race, that person or association shall not deduct or retain any amount from the total amount of money, bets or stakes unless it does so pursuant to subsection (6).	(5) Lorsqu'une personne ou une association devient gardienne ou dépositaire de quelque argent, pari ou mise en jeu en vertu d'un système de pari mutuel, relativement à une course de chevaux, cette personne ou association ne peut déduire ni retenir aucun montant sur le total de l'argent, des paris ou des mises en jeu à moins qu'elle ne le fasse conformément au paragraphe (6).	Pourcentage qui peut être déduit ou retenu
Idem	(6) An association conducting a race meeting, or any other association or person acting on its behalf, may deduct and retain from the total amount of money that is bet through the agency of a pari-mutuel system in accordance with this	(6) Une association qui tient une réunion de courses, ou toute autre association ou personne qui agit en son nom, peut déduire et retenir sur le montant total qui est parié par l'intermédiaire d'un système de paris mutuel conformément au	Idem

	<p>section, in respect of each individual pool of each race or each individual feature pool, a percentage not exceeding the percentage prescribed by the regulations plus any odd cents over any multiple of five cents in the amount calculated in accordance with the regulations to be payable in respect of each dollar bet.</p>	<p>présent article, pour chaque cagnotte distincte de chaque course, ou pour chaque cagnotte spéciale distincte, un pourcentage qui ne dépasse pas celui que prescrivent les règlements plus tout cent qui dépasse tout multiple de cinq cents compris dans le montant payable pour chaque dollar de pari selon les calculs effectués conformément aux règlements.</p>
Stopping of betting	<p>(7) Where an officer appointed by the Minister of Agriculture is not satisfied that the provisions of this section and the regulations are being carried out in good faith by any person or association in relation to a race meeting, he may, at any time, order any betting in relation to the race meeting to be stopped for any period that he considers proper.</p>	<p>(7) Lorsqu'un fonctionnaire nommé par le ministre de l'Agriculture n'est pas convaincu qu'une personne ou une association observe de bonne foi les dispositions de présent article ou des règlements relativement à une réunion de courses, il peut à tout moment ordonner l'arrêt des paris relatifs à cette réunion de courses pour toute période qu'il juge à propos.</p>
Regulations	<p>(8) The Minister of Agriculture may make regulations</p> <p>(a) prescribing the maximum number of races for each race-course on which a race meeting is conducted, in respect of which a pari-mutuel system of betting may be used for the race meeting or on any one calendar day during the race meeting, and the circumstances in which the Minister of Agriculture or a person designated by him for that purpose may approve of the use of that system in respect of additional races on any race-course for a particular race meeting or on a particular day during the race meeting;</p> <p>(b) prohibiting any person or association from using a pari-mutuel system of betting for any race-course on which a race meeting is conducted in respect of more than the maximum number of races prescribed pursuant to paragraph (a) and the additional races, if any, in respect of which the use of a pari-mutuel system of betting has been approved pursuant</p>	<p>Arrêt du pari</p> <p>(8) Le ministre de l'Agriculture peut, par règlement :</p> <p>a) prescrire le nombre maximal de courses pour chaque piste de courses sur laquelle se tient une réunion de courses, pour lequel un système de pari mutuel peut être utilisé pendant la réunion ou en un même jour au cours de cette réunion, et les circonstances dans lesquelles le ministre de l'Agriculture ou une personne désignée par lui à cette fin peut approuver l'utilisation de ce système pour des courses supplémentaires tenues sur toute piste de courses pendant une réunion de courses déterminée ou au cours d'un jour donné pendant la réunion de courses;</p> <p>b) interdire à toute personne ou association d'utiliser un système de pari mutuel pour toute piste de courses sur laquelle se tient une réunion de courses, à l'égard d'une course qui est en sus du nombre maximal de courses prescrit en conformité avec l'alinéa a) et de toute course supplémentaire, s'il en est, à</p>

to that paragraph; and

(c) prescribing the percentage that may be deducted and retained pursuant to subsection (6) by or on behalf of an association conducting a race meeting on a race course, which percentage shall be determined by reference to

- (i) the average amount of money that is bet in respect of each race run at that race course during the calendar year immediately preceding the running of the race, or
- (ii) where no race meeting was conducted on that race course in accordance with this section during the calendar year referred to in subparagraph (i), an amount specified by the Minister of Agriculture or a person designated by him for that purpose.

l'égard de laquelle l'utilisation d'un système de pari mutuel a été approuvée en conformité avec cet alinéa;

c) prescrire le pourcentage qu'une association ou une personne agissant en son nom qui tient une réunion de courses sur une piste de courses peu déduire ou retenir conformément au paragraphe (6), ce pourcentage devant être déterminé :

- (i) soit en fonction de la moyenne des sommes pariées relativement à chaque course tenue sur la piste de courses pendant l'année civile qui précède la tenue de la course en question,
- (ii) soit en fonction du montant spécifié par le ministre de l'Agriculture ou une personne qu'il a désignée à cette fin, lorsque aucune réunion de courses n'a été tenue sur la piste de courses conformément au présent article au cours de l'année civile visée au sous-alinéa (i).

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(9) The Minister of Agriculture may make regulations respecting

- (a) the supervision and operation of pari-mutuel systems related to race meetings, and the fixing of the dates on which and the places at which an association may conduct those meetings;
- (b) the method of calculating the amount payable in respect of each dollar bet;
- (c) the conduct of race meetings in relation to the supervision and operation of pari-mutuel systems, including photo-finishes, film patrol and urine and saliva testing of horses engaged in racing at those meetings;
- (d) the prohibition, restriction or regulation of

 - (i) the possession of drugs or medicaments or of equipment

(9) Le ministre de l'Agriculture peut prendre des règlements concernant :

- a) la surveillance et la conduite de systèmes de pari mutuel en rapport avec les réunions de courses et la fixation des dates et des lieux où une association peut tenir de telles réunions;
- b) le mode de calcul du montant payable pour chaque dollar parié ;
- c) la tenue de réunions de courses quant à la surveillance et la conduite de systèmes de pari mutuel, y compris les photos de fin de courses, la patrouille cinématographique et les analyses d'urine et de salive des chevaux engagés dans ces courses, lors de telles réunions;
- d) l'interdiction, la restriction ou

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	<p>used in the administering of drugs or medicaments at or near race-courses, or</p> <p>(ii) the administering of drugs or medicaments to horses participating in races run at a race meeting during which a pari-mutuel system of betting is used; and</p> <p>(e) the provision, equipment and maintenance of accommodation, services or other facilities for the proper supervision and operation of pari-mutuel systems related to race meetings, by associations conducting those meetings or by other associations.</p>	la réglementation
Contravention	<p>(10) Every person who contravenes or fails to comply with any of the provisions of this section or of any regulations made under this section is guilty of</p> <p>(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or</p> <p>(b) an offence punishable on summary conviction.</p>	<p>(10) Est coupable :</p> <p>a) soit d'un acte criminel et passible d'un emprisonnement maximal de deux ans;</p> <p>b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire,</p> <p>quiconque contrevient au présent article ou à ses règlements d'application ou omet de s'y conformer.</p>
Definition of "association"	<p>(11) For the purposes of this section, "association" means an association incorporated by or pursuant to an Act of Parliament or of the legislature of a province, having as its purpose or one of its purposes the conduct of horse-races. R.S., c. C-34, s. 188; 1980-81-82-83, c. 99, s. 1.</p>	<p>(11) Pour l'application du présent article, «association» désigne une association constituée en personne morale par une loi fédérale ou provinciale ou en conformité avec une telle loi et dont le but ou l'un des buts est la tenue de courses de chevaux. S.R., ch. C-34, art. 188; 1980-81-82-83, ch. 99, art. 1.</p>
Permitted betting	<p>205. Notwithstanding any provision of this Part relating to gaming or betting, it is lawful</p> <p>(a) for the Government of Canada to operate and manage a pool</p>	<p>205. Nonobstant toute autre disposition de la présente partie relative aux jeux et paris, il est légal :</p> <p>a) pour le gouvernement du</p>

system of betting, and

(b) where the Government of Canada and the governments of any one or more provinces have entered into an agreement or agreements jointly to operate and manage a pool system of betting, for the Government of Canada and the governments of any one or more of those provinces jointly to operate and manage a pool system of betting.

on any combination of two or more athletic contests or events, in accordance with regulations made by the Governor in Council, and for that purpose for any person, in accordance with those regulations, to do anything described in any of sections 201 to 203. 1980-81-82-3, c. 161, s. 33.

Offence in relation to lotteries and games of chance

202. (1) Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years who

(a) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property by lots, cards, tickets or any mode of chance whatever;

(b) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property by lots, tickets or any mode of chance whatever;

(c) knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped or delivered, or knowingly accepts for carriage or transport or conveys any article that is used or intended for use in carrying out any device, proposal, scheme or

Canada d'exploiter et de gérer des paris collectifs;

b) lorsque le gouvernement du Canada et un ou plusieurs gouvernements provinciaux conviennent d'exploiter et de gérer conjointement des paris collectifs, pour ces gouvernements d'exploiter ; de gérer conjointement ces paris collectifs,

sur toute combinaison d'épreuves ou de manifestations sportives, conformément aux règlements pris par le gouverneur en conseil et, à cette fin, pour toute personne, conformément à ces règlements, d'accomplir tout acte visé dans les articles 201 à 203. 1980-81-82-3, ch. 161, art. 33.

206. (1) Est coupable d'un acte criminel et passible d'un emprisonnement maximal de deux ans quiconque, selon le cas :

a) fait, imprime, annonce ou publie, ou fait faire, imprimer, annoncer ou publier, ou amène à faire, imprimer, annoncer ou publier quelque proposition, projet ou plan pour céder par avance, prêter, donner, vendre ou de quelque façon aliéner un bien au moyen de lots, cartes ou billets ou par tout mode de tirage;

b) vend, troque, échange ou autrement aliéne, ou fait vendre, troquer, échanger ou autrement aliéner, ou amène à vendre, troquer, échanger ou autrement aliéner, ou y aide ou y contribue, ou offre de vendre, de troquer ou d'échanger un lot, une carte, un billet ou autre moyen ou système pour céder par avance, prêter, donner, vendre ou autrement aliéner quelque bien par lots ou billets ou par tout mode de tirage;

c) sciemment envoie, transmet, dépose à la poste, expédie, livre ou permet que soit envoyé,

Loteries et jeux de hasard

plan for advancing, lending, giving, selling or otherwise disposing of any property by any mode of chance whatever;

(d) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, lent, given, sold or disposed of;

(e) conducts, manages or is a party to any scheme, contrivance or operation of any kind by which any person, on payment of any sum of money, or the giving of any valuable security, or by obligating himself to pay any sum of money or give any valuable security, shall become entitled under the scheme, contrivance or operation to receive from the person conducting or managing the scheme, contrivance or operation, or any other person, a larger sum of money or amount of valuable security than the sum or amount paid or given, or to be paid or given, by reason of the fact that other persons have paid or given, or obligated themselves to pay or give any sum of money or valuable security under the scheme, contrivance or operation;

(f) disposes of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant or competitor pays money or other valuable consideration;

(g) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, three-card monte, punch board, coin table or on the operation of a wheel of fortune;

(h) for valuable consideration carries on or plays or offers to carry on or to play, or employs any person to carry on or play in a public place or a place to which the

transmis, déposé à la poste, expédié ou livré, ou sciemment accepté de porter ou transporter, ou transporte tout article qui est employé ou destiné à être employé dans l'exploitation d'un moyen, projet, système ou plan pour céder par avance, prêter, donner, vendre ou autrement aliéner quelque bien par tout mode de tirage;

a) conduit ou administre un plan, un arrangement ou une opération de quelque genre que ce soit pour déterminer quels individus ou les porteurs de quels lots, billets, numéros ou chances sont les gagnants d'un bien qu'il est ainsi proposé de céder par avance, prêter, donner, vendre ou aliéner;

e) conduit ou administre un plan, un arrangement ou une opération de quelque genre que ce soit, ou y participe, moyennant quoi un individu, sur paiement d'une somme d'argent ou sur remise d'une valeur ou, en s'engageant lui-même à payer une somme d'argent ou à remettre une valeur, a droit, en vertu du plan, de l'arrangement ou de l'opération, de recevoir de la personne qui conduit ou administre le plan, l'arrangement ou l'opération, ou de toute autre personne, une plus forte somme d'argent ou valeur plus élevée que la somme versée ou la valeur remise ou à payer ou remettre, du fait que d'autres personnes ont payé ou remis, ou se sont engagées à payer ou remettre, quelque somme d'argent ou valeur en vertu du plan, de l'arrangement ou de l'opération;

f) dispose d'effets, de denrées ou de marchandises par quelque jeu de hasard, ou jeu combinant le hasard et l'adresse, dans lequel le concurrent ou compétiteur paye de l'argent ou verse une autre contrepartie valable;

g) décide une personne à risquer

Definition of "three-card monte"	(2) In this section, "three-card monte" means the game commonly known as three-card monte and includes any other game that is similar to it, whether or not the game is played with cards and notwithstanding the number of cards or other things that are used for the purpose of playing.	(2) Au présent article, «bonneteau» s'entend du jeu communément appelé «three-card monte»; y est assimilé tout autre jeu analogue, qu'il soit joué avec des cartes ou non et nonobstant le nombre de cartes ou autres choses utilisées dans le dessein de jouer.	Définition de «bonneteau»
Exemption of agricultural fairs	(3) Paragraphs (1)(f) and (g), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to an agricultural fair or exhibition, or to any operator of a concession leased by an agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair on those grounds.	(3) Les alinéas (1)f) et g), en tant qu'il n'ont aucun rapport avec un jeu de dés, un jeu de bonneteau, une planchette à poinçonner ou une table à monnaie, ne s'appliquent pas à une foire ou exposition agricole, ni à un exploitant d'une concession louée par le conseil d'administration d'une foire ou exposition agricole dans les limites de ses propres terrains et exploitée durant la période de la foire annuelle sur ces terrains.	Exemption pour les foires agricoles
Offence	(4) Every one who buys, takes or receives a lot, ticket or other device mentioned in subsection (1) is guilty of an offence punishable on summary conviction.	(4) Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque achète, prend ou reçoit un lot, un billet ou un autre article mentionné au paragraphe (1).	Infraction

Lottery sale void	(5) Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending on or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged is forfeited to Her Majesty.	(5) Toute vente, tout prêt, don, troc ou échange d'un bien au moyen de quelque loterie, billet, carte ou autre mode de tirage qui doit être décidé par la chance ou par le hasard ou en dépend, est nul, et tout bien ainsi vendu, prêté, donné, troqué ou échangé est confisqué au profit de Sa Majesté.	La vente de loterie est nulle.
Bona fide exception	(6) Subsection (5) does not affect any right or title to property acquired by any bona fide purchaser for valuable consideration without notice.	(6) Le paragraphe (5) ne porte pas atteinte aux droits ou titres à un bien acquis par un acquéreur de bonne foi à titre onéreux, et qui n'a reçu aucun avis.	Exception
Foreign lottery included	(7) This section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.	(7) Le présent article s'applique à l'impression ou publication ou au fait d'occasionner l'impression ou la publication de quelque annonce, projet, proposition ou plan de loterie étrangère et à la vente ou offre de vente de billets, chance ou parts dans une pareille loterie, ou à l'annonce de vente de ces billets, chances ou parts et à la conduite ou administration d'un plan, arrangement ou opération de cette nature pour déterminer quels sont les gagnants dans une telle loterie.	Les loteries étrangères sont comprises
Saving	(8) This section does not apply to (a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property; (b) the distribution by lot of premiums given as rewards to promote thrift by punctuality in making periodical deposits of weekly savings in any chartered savings bank; or (c) bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums on redemption or otherwise. R.S., c. C-34, s. 189.	(8) Le présent article ne s'applique pas : a) au partage, par le sort ou le hasard, de tous biens par les titulaires d'une tenure conjointe ou en commun, ou par des personnes qui ont des droits indivis dans ces biens; b) à la distribution par lot de primes données en récompenses pour favoriser l'épargne par la ponctualité à faire des dépôts périodiques d'épargnes hebdomadaires dans une banque d'épargnes à charte; c) aux obligations, aux débentures, aux stock-obligations ou aux autres valeurs remboursables par tirage de lots et rachetables avec intérêt et pourvoyant au paiement de primes sur rachat ou autrement. S.R., ch. C-34, art. 189.	Réserve

Permitted lotteries

207. (1) Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful

(a) for the Government of Canada to conduct and manage a lottery scheme in accordance with regulations made by the Governor in Council and for that purpose for any person in accordance with those regulations to do any thing described in any of paragraphs 206(1)(a) to (f) or subsection 206(4);

(b) for the government of a province, either alone or in conjunction with the government of another province, to conduct and manage a lottery scheme in that province, or in that and such other province, in accordance with any law enacted by the legislature of that province and for that purpose for any person in accordance with such law to do any thing described in any of paragraphs 206(1) (a) to (f) or subsection 206(4);

(c) for a charitable or religious organization, under the authority of a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme in that province and for that purpose for any person under the authority of such licence to do any thing described in any of paragraphs 206(1) (a) to (g) or subsection 206(4), otherwise than in relation to a dice game, three-card monte, punch board or coin table, if

(i) the proceeds from the lottery scheme are used for a charitable or religious object or purpose, and

(ii) in the case of a lottery scheme conducted by the charitable or religious organization at a bazaar,

(A) the amount or value of each prize awarded does not

207. (1) Nonobstant toute autre disposition de la présente partie relative aux jeux et paris, il est légal :

a) pour le gouvernement du Canada, de conduire et d'administrer un système de loterie en conformité avec les règlements pris par le gouverneur en conseil et, à cette fin, pour toute personne, en conformité avec ces règlements, de faire ce que prévoient les alinéas 206(1)a) à f) ou le paragraphe 206(4);

b) pour le gouvernement d'une province, soit seul, soit de concert avec le gouvernement d'une autre province, de conduire et d'administrer un système de loterie dans cette province, ou dans cette province et dans l'autre province, en conformité avec toute législation édictée par la législature de cette province et, à cette fin, pour toute personne, en conformité avec cette législation, de faire ce que prévoient les alinéas 206(1)a) à f) ou le paragraphe 206(4);

c) pour un organisme de charité ou un organisme religieux, sous l'autorité d'une licence émise par le lieutenant-gouverneur en conseil d'une province ou par telle autre personne ou autorité, dans la province, que peut spécifier le lieutenant-gouverneur en conseil de cette province, de conduire et d'administrer un système de loterie dans cette province et, à cette fin, pour toute personne, sous l'autorité de cette licence, de faire ce que prévoient les alinéas 206(1)a) à g) ou le paragraphe 206(4), sauf en ce qui concerne un jeu de dés, de bonneteau, de planchette à poinçonner ou de table à monnaie, si :

(i) d'une part, le produit du système de loterie est utilisé

Loteries permises

exceed one hundred dollars, and

(B) the money or other valuable consideration paid to secure a chance to win a prize does not exceed fifty cents;

(d) for an agricultural fair or exhibition or an operator of a concession leased by an agricultural fair or exhibition board, under the authority of a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme in that province and for that purpose for any person under the authority of such licence to do any thing described in any of paragraphs 206(1)(a) to (f) or subsection 206(4);

(e) for any person, under the authority of a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme at a public place of amusement in that province and for that purpose for any person under the authority of such licence to do any thing described in any of paragraphs 206(1)(a) to (g) or subsection 206(4), otherwise than in relation to a dice game, three-card monte, punch board or coin table, if

(i) the amount or value of each prize awarded does not exceed one hundred dollars, and

(ii) the money or other valuable consideration paid to secure a chance to win a prize does not exceed fifty cents; and

(f) for the government of a province to agree with the government of another province that lots, cards or tickets in relation to a lottery scheme that is by any

pour des fins ou œuvres de charité ou religieuses,

(ii) d'autre part, dans le cas d'un système de loterie conduit par un organisme de charité ou un organisme religieux dans une vente de charité, les conditions suivantes sont réunies :

(A) le montant ou la valeur de chaque prix attribué ne dépassent pas cent dollars,

(B) l'argent ou autre valeur payés pour obtenir une chance de gagner un prix ne dépassent pas cinquante cents;

d) pour une foire ou exposition agricole, ou pour un exploitant d'une concession donnée à bail par le conseil d'une foire ou d'une exposition agricole, sous l'autorité d'une licence émise par le lieutenant-gouverneur en conseil d'une province ou par telle autre personne ou autorité, dans la province, que peut spécifier le lieutenant-gouverneur en conseil de cette province, de conduire et d'administrer un système de loterie dans cette province et, à cette fin, pour toute personne, sous l'autorité de cette licence, de faire ce que prévoient les alinéas 206(1)a) à f) ou le paragraphe 206(4);

e) pour toute personne, sous l'autorité d'une licence émise par le lieutenant-gouverneur en conseil d'une province ou par telle autre personne ou autorité, dans la province, que peut spécifier le lieutenant-gouverneur en conseil de cette province, de conduire et d'administrer un système de loterie dans un lieu d'amusement public dans cette province et, à cette fin, pour toute personne, sous l'autorité de cette licence, de faire ce que prévoient les alinéas 206(1)a) à g) ou le paragraphe 206(4), sauf en ce

of paragraphs (b) to (e) authorized to be conducted and managed in that other province may be sold in the province and thereafter it is lawful for any person under the authority of such agreement, to do anything described in any of paragraphs 206(1)(a) to (c) or subsection 206(4) in the province.

qui concerne un jeu de dés, de bonneteau, de planchette à poinçonner ou de table à monnaie, si :

- (i) d'une part, le montant ou la valeur de chaque prix attribué ne dépassent pas cent dollars,
- (ii) d'autre part, l'argent ou autre valeur payés pour obtenir une chance de gagner un prix ne dépassent pas cinquante cents;
- f) pour le gouvernement d'une province de conclure un accord permettant au gouvernement d'une autre province de vendre sur son territoire les lots, cartes ou billets d'un système de loterie qu'elle est autorisée à y conduire ou administrer en vertu des alinéas b) à e) et, par la suite, pour toute personne visée par un tel accord d'y faire ce que prévoient les alinéas 206(1)a) à c) ou le paragraphe 206(4).

Idem

(2) The Lieutenant Governor in Council of a province or such other person or authority in the province as may be designated by the Lieutenant Governor in Council thereof may issue a licence for the conduct and management in the province of a lottery scheme that is authorized to be conducted and managed in one or more other provinces where the authority by which the lottery scheme was first authorized to be conducted and managed consents thereto and, notwithstanding any of the provisions of this Part, it is lawful for any person under the authority of such licence to do anything described in any of paragraphs 206(1)(a) to (f) or subsection 206(4) in the province.

(2) Le lieutenant-gouverneur en conseil d'une province ou la personne ou autorité qu'il choisit dans cette province peut délivrer une licence permettant d'y conduire ou administrer un système de loterie déjà autorisé dans une autre province, avec le consentement de l'autorité qui l'a permis en premier lieu; nonobstant toute autre disposition de la présente partie, il est légal pour toute personne agissant sous l'autorité d'une telle licence, de faire ce que prévoient les alinéas 206(1)a) à f) ou le paragraphe 206(4).

Terms and conditions of licence

(3) Subject to this Act, a licence issued by or under the authority of the Lieutenant Governor in Council of a province as described in paragraph (1)(c), (d) or (e) or subsection (2) may contain such terms and conditions relating to the conduct and management of the

(3) Sous réserve des autres dispositions de la présente loi, une licence délivrée par le lieutenant-gouverneur en conseil d'une province ou sous son autorité comme l'indiquent les alinéas (1)c), d) ou e) ou le paragraphe (2), peut contenir les modalités que le

Idem

Modalités d'une licence

	<p>lottery scheme to which the licence relates as the Lieutenant Governor in Council of that province or the person or authority in the province designated by him may prescribe.</p>	<p>Lieutenant-gouverneur en conseil de cette province, ou la personne ou l'autorité dans la province qu'il choisit, peut prescrire, relativement à l'administration et à la conduite du système de loterie auquel la licence se rapporte.</p>	
<p>Conducting lottery in province other than province where authorized</p>	<p>(4) Every one who, in any province other than a province in which (a) a lottery scheme is by any of paragraphs (1)(b) to (e) or subsection (2) authorized to be conducted and managed, or (b) lots, cards or tickets in relation to a lottery scheme are by paragraph (1)(f) authorized to be sold, does anything described in paragraphs 206(1)(a) to (f) in a case described in paragraph (a) or in paragraphs 206(1)(a) to (c) in a case described in paragraph (b) for the purpose of that lottery scheme is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years</p>	<p>(4) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de deux ans quiconque, dans une province où il n'est pas permis : a) d'administrer et de conduire, en vertu de l'un des alinéas (1)b) à e) ou du paragraphe (2), un système de loterie; b) de vendre, en vertu de l'alinéa (1)f), des lots, cartes ou billets d'un système de loterie, pour les fins de ce système de loterie, accomplit un acte visé par les alinéas 206(1)a) à f) dans le cas mentionné à l'alinéa a) ou par les alinéas 206(1)a) à c) dans le cas mentionné à l'alinéa b).</p>	<p>Loterie conduite dans une province où cela n'est pas permis</p>
<p>Receiving lottery tickets in province other than province where authorized</p>	<p>(5) Every one who, in any province other than a province in which (a) a lottery scheme is by any of paragraphs (1)(b) to (e) or subsection (2) authorized to be conducted and managed, or (b) lots, cards or tickets in relation to a lottery scheme are by paragraph (1)(f) authorized to be sold, does anything described in subsection 206(4) for the purpose of that lottery scheme is guilty of an offence punishable on summary conviction.</p>	<p>(5) Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, dans une province où il n'est pas permis : a) de conduire et d'administrer, en vertu de l'un des alinéas (1)b) à e) ou du paragraphe (2), un système de loterie; b) de vendre, en vertu de l'alinéa (1)f), des lots, cartes ou billets d'un système de loterie, accompli un acte visé par le paragraphe 206(4) pour les fins de ce système de loterie.</p>	<p>Reception de billets de loterie dans une province où cela n'est pas permis</p>
<p>Printing and shipping of lottery tickets authorized</p>	<p>(6) Notwithstanding subsections (4) and (5), it is lawful for any person to make or print anywhere in Canada or to cause or procure to be made or printed anywhere in Canada lots, cards or tickets in relation to a lottery scheme that is by any of paragraphs (1)(b) to (e) authorized to be conducted and managed in any province or to send, transmit, mail,</p>	<p>(6) Nonobstant les paragraphes (4) et (5), est légal la fabrication ou l'impression au Canada de lots, cartes ou billets d'un système de loterie dont la conduite et l'administration sont autorisées dans une province en vertu de l'un des alinéas (1)b) à e) ou leur envoi, expédition, livraison ou transport vers un lieu où leur vente est légale</p>	<p>Autorisation de fabriquer et d'imprimer des billets de loterie</p>

	<p>ship, deliver or allow to be sent, transmitted, mailed, shipped or delivered or accept for carriage or transport or convey any such lots, cards or tickets where the destination thereof is a place where, by virtue of any of paragraphs (1)(b) to (f) or subsection (2), it is lawful to sell such lots, cards or tickets.</p>	<p>en vertu de l'un des alinéas (1)b) à f) ou du paragraphe (2)</p>	
Definition of "lottery scheme"	(7) In this section, "lottery scheme" includes a game.	(7) Au présent article «système de loterie» s'entend notamment d'un jeu.	Définition de «système de loterie»
Exception re pari-mutuel betting	(8) Nothing in this section shall be construed as authorizing the making or recording of bets made through the agency of a pari-mutuel system, other than in accordance with section 204, R.S., c. C-34, s. 190; 1974-75-76, c. 93, s. 12.	(8) Le présent article n'a pas pour effet de permettre de faire ou d'inscrire des paris par l'intermédiaire d'un système de pari mutuel, si ce n'est en conformité avec l'article 204, S.R., ch. C-34, art. 190; 1974-75-76, ch. 93, art. 12.	Exception relative au pari mutuel
Gambling in public conveyances	288. (1) Every one who obtains or attempts to obtain anything from any person by playing a game in any vehicle, aircraft or vessel used as a public conveyance for passengers is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.	288. (1) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de deux ans quiconque obtient ou tente d'obtenir quoi que ce soit d'une personne en pratiquant un jeu dans un véhicule, un aéronef ou un navire utilisé comme moyen de transport public pour des passagers ou voyageurs.	Jeu dans un véhicule, etc. servant de moyen de transport public
Arrest without warrant	(2) Every person in charge of a vehicle, an aircraft or a vessel and any person authorized by him may arrest, without warrant, a person who he has good reason to believe has committed or attempted to commit or is committing or attempting to commit an offence under this section.	(2) Toute personne ayant la charge d'un véhicule, d'un aéronef ou d'un navire, de même qu'une personne autorisée par celle-ci, peut arrêter sans mandat un individu qui, d'après ce qu'elle a de bonnes raisons de croire, a commis ou tenté de commettre ou commet ou tente de commettre l'infraction visée au présent article.	Arrêtation sans mandat
Posting up section	(3) Every person who owns or operates a vehicle, an aircraft or a vessel to which this section applies shall keep posted up, in a conspicuous part thereof, a copy of this section or a notice to the like effect, and in default thereof is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 191.	(3) Toute personne qui possède ou exploite un véhicule, aéronef ou navire visé par le présent article doit tenir affiché, dans quelque partie bien en vue de ce véhicule, aéronef ou navire, une copie du présent article, ou un avis au même effet, à défaut de quoi elle est coupable d'une infraction punissable sur déclaration de culpabilité par procédure	Affichage du présent article

Cheating at play	<p>209. Every one who, with intent to defraud any person, cheats while playing a game or in holding the stakes for a game or in betting is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years. R.S., c. C-34, s. 192.</p>	sommaire. S.R., ch. C-34, art. 191.	
	<p><i>Bawdy-houses</i></p>	<p><i>Maisons de débauche</i></p>	
Keeping common bawdy-house	<p>210. (1) Every one who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.</p>	<p>210. (1) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de deux ans quiconque tient une maison de débauche.</p>	Tenue d'une maison de débauche
Landlord, lessor, etc.	<p>(2) Every one who</p> <ul style="list-style-type: none">(a) is an inmate of a common bawdy-house,(b) is found, without lawful excuse, in a common bawdy-house, or(c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house, <p>is guilty of an offense punishable on summary conviction.</p>	<p>(2) Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, selon le cas :</p> <ul style="list-style-type: none">a) habite une maison de débauche;b) est trouvé, sans excuse légitime, dans une maison de débauche;c) en qualité de propriétaire, locateur, occupant, locataire, agent ou ayant autrement la charge ou le contrôle d'un local, permet sciemment que ce local ou une partie du local soit loué ou employé aux fins de maison de débauche.	Propriétaire, habitant, etc.
Notice of conviction to be served on owner	<p>(3) Where a person is convicted of an offence under subsection (1), the court shall cause a notice of the conviction to be served on the owner, landlord or lessor of the place in respect of which the person is convicted or his agent, and the notice shall contain a statement to the effect that it is being served pursuant to this section.</p>	<p>(3) Lorsqu'une personne est déclarée coupable d'une infraction visée au paragraphe (1), le tribunal fait signifier un avis de la déclaration de culpabilité au propriétaire ou locateur du lieu à l'égard duquel la personne est déclarée coupable, ou à son agent, et l'avis doit contenir une déclaration portant qu'il est signifié selon le présent article.</p>	Le propriétaire doit être avisé de la déclaration de culpabilité
Duty of landlord on notice	<p>(4) Where a person on whom a notice is served under subsection (3) fails forthwith to exercise any right he may have to determine the tenancy or right of occupation of the person so convicted, and thereafter any person is convicted of an offence</p>	<p>(4) Lorsqu'une personne à laquelle un avis est signifié en vertu du paragraphe (3) n'exerce pas immédiatement tout droit qu'elle peut avoir de résilier la location ou de mettre fin au droit d'occupation que possède la</p>	Devoir du propriétaire sur réception de l'avis

under subsection (1) in respect of the same premises, the person on whom the notice was served shall be deemed to have committed an offence under subsection (1) unless he proves that he has taken all reasonable steps to prevent the recurrence of the offence. R.S., c. C-34, s. 193.

personne ainsi déclaré coupable, et que, par la suite, un individu est déclaré coupable d'une infraction visée au paragraphe (1) à l'égard du même local, la personne à qui l'avis a été signifié est censée avoir commis une infraction visée au paragraphe (1), à moins qu'elle ne prouve qu'elle a pris toutes les mesures raisonnables pour empêcher le renouvellement de l'infraction. S.R., ch. C-34, art. 193.

**Transporting
person to
bawdy-house**

211. Every one who knowingly takes, transports, directs, or offers to take, transport or direct, any other person to a common bawdy-house is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 194.

**Transport de
personnes à
des maisons
de débauche**

211. Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, sciemment, mène ou transporte ou offre de mener ou de transporter une autre personne à une maison de débauche, ou dirige ou offre de diriger une autre personne vers une maison de débauche. S.R., ch. C-34, art. 194.

Procuring

Procuring

212. (1) Every one who

- (a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,
- (b) inveigles or entices a person who is not a prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit sexual intercourse or prostitution,
- (c) knowingly conceals a person in a common bawdy-house or house of assignation,
- (d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute,
- (e) procures or attempts to procure a person to leave the usual place of abode of that person in Canada, if that place is not a common bawdy-house, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,

Prostitution

Entremetteurs

212. (1) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de dix ans quiconque, selon le cas :

- a) induit, tente d'induire ou sollicite une personne à avoir des rapports sexuels illicites avec une autre personne, soit au Canada, soit à l'étranger;
- b) attire ou entraîne une personne qui n'est pas prostituée ou une personne reconnue de mauvaises mœurs vers une maison de débauche ou une maison de rendez-vous aux fins de rapports sexuels illicites ou de prostitution;
- c) sciemment cache une personne dans une maison de débauche ou une maison de rendez-vous;
- d) induit ou tente d'induire une personne à se prostituer, soit au Canada, soit à l'étranger;
- e) induit ou tente d'induire une personne à abandonner son lieu ordinaire de résidence au Canada, lorsque ce lieu n'est une

	<p>(f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house or house or assignation;</p> <p>(g) procures a person to enter or leave Canada, for the purpose of prostitution;</p> <p>(h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally;</p> <p>(i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or</p> <p>(j) lives wholly or in part on the avails of prostitution of another person,</p>	<p>maison de débauche, avec l'intention de lui faire habiter une maison de débauche ou pour qu'elle fréquente une maison de débauche, au Canada ou à l'étranger;</p> <p>j) à l'arrivée d'une personne au Canada, la dirige ou la fait diriger vers une maison de débauche ou une maison de rendez-vous, ou l'y amène ou l'y fait conduire;</p> <p>g) induit une personne à venir au Canada ou à quitter le Canada pour se livrer à la prostitution;</p> <p>h) aux fins de lucre, exerce un contrôle, une direction ou une influence sur les mouvements d'une personne de façon à démontrer qu'il l'aide, l'encourage ou la force à s'adonner ou à se livrer à la prostitution avec une personne en particulier ou d'une manière générale;</p> <p>i) applique ou administre, ou fait prendre, à une personne, toute drogue, liqueur enivrante, matière ou chose, avec l'intention de la stupéfier ou de la subjuger de manière à permettre à quelqu'un d'avoir avec elle des rapports sexuels illicites;</p> <p>j) vit entièrement ou en partie des produits de la prostitution d'une autre personne.</p>
Presumption	<p>is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.</p>	<p>(2) La preuve qu'une personne vit ou se trouve habituellement en compagnie de prostitués, ou vit dans une maison de débauche ou une maison de rendez-vous, constitue, en l'absence de preuve contraire, une preuve qu'elle vit des produits de la prostitution.</p>
Corroboration	<p>(2) Evidence that a person lives with or is habitually in the company of prostitutes, or lives in a common bawdy-house or house of assignation is, in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution.</p> <p>(3) No person shall be convicted of an offence under subsection (1), other than an offence under paragraph (j) of that subsection, on the evidence of only one witness unless the evidence of that witness is corroborated in a material particular</p>	<p>(2) Nul ne peut être déclaré coupable d'une infraction visée au paragraphe (1), autre qu'une infraction prévue par l'alinéa j) de ce paragraphe, sur la déposition d'un seul témoin, à moins que la déposition de ce témoin ne soit</p>

	by evidence that implicates the accused.	corroboree sous quelque rapport essentiel par une preuve qui implique l'accuse.
Limitation	(4) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence is alleged to have been committed. R.S., c. C-34, s. 195; 1972, c. 13, s. 14; 1980-81-82-83, c. 125, s. 13.	(4) Les poursuites à l'égard d'une infraction visée au présent article se prescrivent par un an à compter de la date de sa perpétration. S.R., ch. C-34, art. 195; 1972, ch. 13, art. 14; 1980-81-82-83, ch. 125, art. 13.
Soliciting	<i>Soliciting</i>	<i>Sollicitation</i>
	213. Every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction. 1972, c. 13, s. 15.	213. Toute personne qui sollicite une personne dans un endroit public aux fins de la prostitution est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire. 1972, ch. 13, art. 15.

**Criminal Law Amendment Act, 1985, R.S.C. 1985 (1st Supp.),
c. 27, ss. 29-32, s. 203****CHAPTER 27 (1st Supp.)**

An Act to amend the Criminal Code, to amend an Act to amend the Criminal Code and to amend the Combines Investigation Act, the Excise Act, the Food and Drugs Act, the Narcotic Control Act, the Parole Act and the Weights and Measures Act, to repeal certain other Acts and to make other consequential amendments

[1985, c. 19, assented to
20th June, 1985]

CHAPITRE 27 (1^e suppl.)

Loi modifiant le Code criminel, la Loi modifiant le Code criminel, la Loi relative aux enquêtes sur les coalitions, la Loi sur l'accise, la Loi sur les aliments et drogues, la Loi sur les stupéfiants, la Loi sur la libération conditionnelle de détenus, la Loi sur les poids et mesures, abrogeant certaines autres lois et apportant d'autres modifications connexes

[1985, ch. 19, sanctionné le
20 juin 1985]

29. Subsection 197(4) of the said Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) it is used on only one occasion in the manner described in paragraph (b) of the definition "common gaming house" in subsection (1), if the keeper or any person acting on behalf of or in concert with the keeper has used another place on another occasion in the manner described in that paragraph."

30. Section 200 of the said Act is repealed.

31. Section 207 of the said Act is amended by adding thereto, immediately after subsection (6) thereof, the following subsection:

"(6.1) Notwithstanding section 206 and subsections (4) and (5), it is lawful for any

29. Le paragraphe 197(4) de la même loi est modifié par adjonction de ce qui suit:

"c) même s'il n'est utilisé qu'une seule fois de la façon visée à l'alinéa b) de la définition de «maison de jeu» au paragraphe (1), si le tenancier ou une autre personne agissant pour son compte ou de concert avec lui, a utilisé un autre endroit dans une autre occasion de la façon visée à cet alinéa.»

30. L'article 200 de la même loi est abrogé.

31. L'article 207 de la même loi est modifié par insertion, après le paragraphe (6), de ce qui suit:

"(6.1) Par dérogation à l'article 206 et aux paragraphes (4) et (5), il est

Activités permises à l'égard de loteries

lottery schemes	person to	légal :	étrangères
	<p>(a) make or print anywhere in Canada or cause or procure to be made or printed anywhere in Canada any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property by lots, cards, tickets or any mode of chance whatever in relation to a foreign lottery scheme if that proposal, scheme or plan is or is intended to be conducted and managed in a place outside Canada where it is lawful to conduct and manage the proposal, scheme or plan;</p> <p>(b) make or print anywhere in Canada or cause or procure to be made or printed anywhere in Canada lots, cards or tickets in relation to a foreign lottery scheme if those lots, cards or tickets are or are intended to be sold in a place outside Canada where it is lawful to sell the lots, cards or tickets; or</p> <p>(c) send, transmit, mail, ship, deliver or allow to be sent, transmitted, mailed, shipped or delivered, or accept for carriage or transport or convey any proposal, scheme or plan referred to in paragraph (a), or any lots, cards or tickets referred to in paragraph (b), if the destination thereof is a place outside Canada where it is lawful to conduct and manage that proposal, scheme or plan or to sell those lots, cards or tickets."</p>	<p>a) de fabriquer ou d'imprimer, ou de faire fabriquer ou imprimer, au Canada quelque proposition, projet ou plan pour céder par avance, prêter, donner, vendre ou de quelque façon aliéner un bien au moyen de lots, cartes ou billets ou par un mode de tirage quelconque, à l'égard d'un système de loterie étranger si cette proposition, ce projet ou ce plan est ou doit être conduit et administré dans un endroit situé à l'étranger où cela est légal;</p> <p>b) de fabriquer ou d'imprimer, ou de faire fabriquer ou imprimer, au Canada des lots, cartes ou billets pour un système de loterie étranger si ces lots, cartes ou billets sont ou doivent être vendus dans un endroit situé à l'étranger où leur vente est légal;</p> <p>c) d'envoyer, de transmettre, de déposer à la poste, d'expédier, de livrer ou de permettre que soient envoyés, transmis, déposés à la poste, expédiés ou livrés quelque proposition, projet ou plan mentionné à l'alinéa a) ou des lots, cartes ou billets mentionnés à l'alinéa b) s'ils sont destinés à un endroit situé à l'étranger où leur conduite et exploitation ou leur vente, selon le cas, est légale.»</p>	
	32. Section 208 of the said Act is repealed.	32. L'article 208 de la même loi est abrogé.	

References to
"provincial court
judge"

203. (1) Whenever

(a) the term "magistrate" or the

203. (1) Sous réserve du
paragraph (2) et sauf exigence

Renvis au
règlement de la
cour

	expression "magistrate as defined in Part XIX" or "magistrate as defined in Part XIX of the <i>Criminal Code</i> ", unless that term or expression designates the chief official of a city, town, borough, county or other place, or (b) the term "district magistrate", "police magistrate", "provincial magistrate" or "stipendiary magistrate"	contraire du contexte : a) le mot «magistrat» ou l'expression «magistrat au sens de la partie XIX» ou «magistrat au sens de la partie XIX du <i>Code criminel</i> », à moins qu'il ne désigne le premier dirigeant d'une ville, d'un village ou d'un autre endroit; b) les mots «magistrat de district», «magistrat de police», «magistrat provincial» et «magistrat stipendiare»,	provinciale
is mentioned or referred to in the <i>Criminal Code</i> or in any other Act of Parliament other than this Act, including any such Act enacted in a session of the thirty-third Parliament, or in any regulation or statutory instrument made thereunder, there shall in every case, unless the context otherwise requires and subject to subsection (2), be substituted the expression "provincial court judge".	sont remplacés, partout où on les trouve dans le <i>Code criminel</i> , dans une autre loi fédérale autre que la présente loi y compris toute loi édictée au cours d'une session de la trente-troisième législature, ou dans un règlement, ou texte réglementaire pris sous son régime, par les mots «juge de la cour provinciale».		
Idem	(2) Where two or more of the terms to be replaced by the expression "provincial court judge" under subsection (1) occur in a sequence, they shall, unless the context otherwise requires, be replaced by a single mention of or reference to the expression "provincial court judge".	(2) Sauf exigence contraire du contexte, lorsqu'on rencontre plusieurs des expressions mentionnées au paragraphe (1), on ne doit pas répéter l'expression «juge de la cour provinciale».	Idem

*An Act to amend the Criminal Code (pari-mutuel betting),
R.S.C. 1985 (1st Supp.) c. 47, s. 1*

	CHAPTER 47 (1st Supp.)	CHAPITRE 47 (1^e suppl.)	
R.S., c. C-46	An Act to amend the Criminal Code (pari-mutuel betting) [1985, c. 44, assented to 29th October, 1985]	Loi modifiant le Code criminel (pari mutuel) [1985, ch. 44, sanctionné le 29 octobre 1985]	L.R., ch. C-46
	1. (1) Subparagraph 204(1)(c)(i) of the <i>Criminal Code</i> is repealed and the following substituted therefor:	1. (1) Le sous-alinéa 204(1)c(i) du <i>Code criminel</i> est abrogé et remplacé par ce qui suit :	
	"(i) the bets or records of bets are made on the race-course of an association in respect of races conducted at that race-course or another race-course in or out of Canada, and, in the case of a race conducted on a race-course situated outside Canada, the governing body that regulates the race has been certified as acceptable by the Minister of Agriculture or a person designated by that Minister pursuant to subsection (8.1) and that Minister or person has permitted pari-mutuel betting in Canada on the race pursuant to that subsection, and"	"(i) d'une part, les paris ou les inscriptions de paris sont faits à l'hippodrome d'une association, relativement à une course tenue à cet hippodrome ou à un autre situé au Canada ou non et, dans le cas d'une course qui se tient à un hippodrome situé à l'étranger, le ministre ou la personne qu'il désigne a, en conformité avec le paragraphe (8.1), agréé l'organisme chargé de réglement la course et permis le pari mutuel au Canada sur cette course."	
	(2) Section 204 of the said Act is further amended by adding thereto, immediately after subsection (1) thereof, the following subsection:	(2) L'article 204 de la même loi est modifié par insertion, après le paragraphe (1), de ce qui suit :	
Exception	"(1.1) For greater certainty, a person may, in accordance with the regulations, do anything described in section 201 or 202, if the person does it for the purposes of legal pari-mutuel betting."	"(1.1) Il est entendu que tout acte visé par les articles 201 ou 202 peut s'accomplir dans le cadre du pari mutuel autorisé par la loi."	Exception
	(3) Subsection 204(2) of the French version of the said Act is repealed and the following substituted therefor:	(3) Le paragraphe 204(2) de la version française de la même loi est abrogé et remplacé par ce qui suit :	
Exception	"(2) Pour l'application de l'alinéa (1)c), les paris faits par téléphone à l'hippodrome d'une association en conformité avec les règlements sont réputés faits à l'hippodrome d'une association."	"(2) Pour l'application de l'alinéa (1)c), les paris faits par téléphone à l'hippodrome d'une association en conformité avec les règlements sont réputés faits à l'hippodrome d'une association."	Exception

Supervision of pari-mutuel system

(4) Subsection 204(4) of the said Act is repealed and the following substituted therefor:

"(4) Every person or association operating a pari-mutuel system of betting in accordance with this section in respect of a horse-race, whether or not the person or association is conducting the race-meeting at which the race is run, shall pay to the Receiver General in respect of each individual pool of the race and each individual feature pool one-half of one per cent, or such greater fraction not exceeding one per cent as may be fixed by the Governor in Council, of the total amount of money that is bet through the agency of the pari-mutuel system of betting."

Percentage that may be deducted and retained

(5) Subsection 204(6) of the said Act is repealed and the following substituted therefor:

"(6) An association operating a pari-mutuel system of betting in accordance with this section in respect of a horse-race, or any other association or person acting on its behalf, may deduct and retain from the total amount of money that is bet through the agency of the pari-mutuel system, in respect of each individual pool of each race or each individual feature pool, a percentage not exceeding the percentage prescribed by the regulations plus any odd cents over any multiple of five cents in the amount calculated in accordance with the regulations to be payable in respect of each dollar bet."

(6) Paragraphs 204(8)(a) and (b) of the French version of the said Act are repealed and the following substituted therefor:

"a) fixer, pour chaque hippodrome où se tient une réunion de courses, le nombre maximal de courses pour lequel un système de pari mutuel peut être utilisé pendant toute la réunion ou seulement

(4) Le paragraphe 204(4) de la même loi est abrogé et remplacé par ce qui suit :

"(4) La personne ou l'association qui exploite un système de pari mutuel en conformité avec le présent article à l'égard d'une course de chevaux, qu'elle organise ou non la réunion de courses dont fait partie la course en question, paye au receveur général un demi pour cent ou le pourcentage supérieur, jusqu'à concurrence de un pour cent fixé par le gouverneur en conseil, du total des mises de chaque poule et de chaque poule de pari spécial tenues à l'égard de cette course."

Surveillance du système de pari mutuel

(5) Le paragraphe 204(6) de la même loi est abrogé et remplacé par ce qui suit :

"(6) l'association qui exploite un système de pari mutuel en conformité avec le présent article, ou son mandataire, peut déduire et retenir un pourcentage, égal ou inférieur au pourcentage maximal fixé par règlement, du total des mises de chaque poule et de chaque poule de pari spécial tenues à l'égard de chaque course; cette retenue est arrondie au multiple de cinq cents supérieur."

Idem

(6) Les alinéas 204(8)a) et b) de la version française de la même loi sont abrogés et remplacés par ce qui suit :

"a) fixer, pour chaque hippodrome où se tient une réunion de courses, le nombre maximal de courses pour lequel un système de pari mutuel peut être utilisé pendant toute la

durant certains jours de celle-ci et déterminer les circonstances où lui-même ou son représentant peut approuver l'utilisation de ce système pour des courses supplémentaires tenues à un hippodrome pendant une réunion de courses déterminée ou une journée déterminée de celle-ci;

b) interdire à toute personne ou association d'utiliser un système de pari mutuel à un hippodrome où se tient une réunion de courses, à l'égard d'une course qui est en sus du nombre maximal de courses fixé en conformité avec l'alinéa a) et de toute course supplémentaire, s'il y a lieu, à l'égard de laquelle l'utilisation d'un système de pari mutuel a été approuvée en conformité avec cet alinéa;”

(7) Subsection 204(8) of the said Act is amended by striking out the word “and” at the end of paragraph (b) thereof and by repealing paragraph (c) thereof and substituting the following therefor:

“(c) prescribing the maximum percentage that may be deducted and retained pursuant to subsection (6) by or on behalf of a person or association operating a pari-mutuel system of betting in respect of a horse-race in accordance with this section and providing for the determination of the percentage that each such person or association may deduct and retain; and

(d) respecting pari-mutuel betting in Canada on horse-races conducted on a race-course situated outside Canada.”

(8) Section 204 of the said Act is further amended by adding thereto, immediately after subsection (8) thereof, the following subsection:

“(8.1) The Minister of Agriculture or a person designated by that

réunion ou seulement durant certains jours de celle-ci et déterminer les circonstances où lui-même ou son représentant peut approuver l'utilisation de ce système pour des courses supplémentaires tenues à un hippodrome pendant une réunion de courses déterminée ou une journée déterminée de celle-ci;

b) interdire à toute personne ou association d'utiliser un système de pari mutuel à un hippodrome où se tient une réunion de courses, à l'égard d'une course qui est en sus du nombre maximal de courses fixé en conformité avec l'alinéa a) et de toute course supplémentaire, s'il y a lieu, à l'égard de laquelle l'utilisation d'un système de pari mutuel a été approuvée en conformité avec cet alinéa;”

(7) L'alinéa 204(8)c) de la même loi est abrogé et remplacé par ce qui suit :

“(c) fixer le pourcentage maximal que peuvent déduire et retenir en vertu du paragraphe (6) les personnes ou les associations - ou leurs mandataires - qui exploitent un système de pari mutuel sur des courses de chevaux en conformité avec le présent article et prendre des mesures concernant la détermination du pourcentage que peut déduire ou retenir une personne ou association en particulier;

d) prendre des mesures concernant le pari mutuel au Canada sur des courses de chevaux qui se tiennent à un hippodrome situé à l'étranger.”

(8) L'article 204 de la même loi est modifié par insertion, après le paragraphe (8), de ce qui suit :

“(8.1) Le ministre de l'Agriculture ou la personne

Minister may, with respect to a horse-race conducted on a race-course situated outside Canada,

- (a) certify as acceptable, for the purposes of this section, the governing body that regulates the race; and
- (b) permit pari-mutuel betting in Canada on the race."

(9) Paragraph 204(9)(c) of the said Act is repealed and the following substituted therefor:

"(c) the conduct of race-meetings in relation to the supervision and operation of pari-mutuel systems, including photo-finishes, video patrol and the testing of bodily substances taken from horses entered in a race at such meetings, including, in the case of a horse that dies while engaged in racing or immediately before or after the race, the testing of any tissue taken from its body."

(10) Subparagraph 204(9)(d)(i) of the French version of the said Act is repealed and the following substituted therefor:

"(i) de la possession de drogues ou de médicaments ou de matériel utilisé pour administrer des drogues ou des médicaments aux hippodromes ou près de ceux-ci,"

(11) Section 204 of the said Act is further amended by adding thereto, immediately after subsection (9) thereof, the following subsection:

"(9.1) For the purposes of this section, the Minister of Agriculture may designate, with respect to any race-course, a zone that shall be deemed to be part of the race-course, if

- (a) the zone is immediately adjacent to the race-course;
- (b) the farthest point of that zone is not more than 900 metres from

qu'il désigne peut, à l'égard d'une course de chevaux qui se tient à l'étranger :

- a) agréer, pour l'application du présent article, l'organisme chargé de réglementer la course;
- b) permettre le pari mutuel au Canada sur cette course."

(9) L'alinéa 204(9)c) de la même loi est abrogé et remplacé par ce qui suit :

"c) la tenue de réunions de courses quant à la surveillance et la conduite de systèmes de pari mutuel, y compris les photos d'arrivée, le contrôle magnétoscopique et les analyses de liquides organiques prélevés sur des chevaux inscrits à une course lors de ces réunions et, dans le cas d'un cheval qui meurt pendant une course à laquelle il participe ou immédiatement avant ou après celle-ci, l'analyse de tissus prélevés sur le cadavre;"

(10) Le sous-alinéa 204(9)d)(i) de la version française de la même loi est abrogé et remplacé par ce qui suit :

"(i) de la possession de drogues ou de médicaments ou de matériel utilisé pour administrer des drogues ou des médicaments aux hippodromes ou près de ceux-ci,"

(11) L'article 204 de la même loi est modifié par insertion, après le paragraphe (9), de ce qui suit :

"(9.1) Pour l'application du présent article, le ministre de l'Agriculture peut à l'égard d'un hippodrome désigner une zone qui est assimilée à l'hippodrome lui-même si les conditions suivantes sont réunies :

- a) la zone est contiguë à l'hippodrome;
- b) chacun des points de la

900 metre zone

Zone de 900 m

the nearest point on the race track of the race-course; and
(c) all real property situated in that zone is owned or leased by the person or association that owns or leases the race-course."

(12) Subsection 204(11) of the said Act is repealed and the following substituted therefor:

"(11) For the purposes of this section, "association" means an association incorporated by or pursuant to an Act of Parliament or of the legislature of a province that owns or leases a race-course and conducts horse-races in the ordinary course of its business and, to the extent that the applicable legislation requires that the purposes of the association be expressly stated in its constituting instrument, having as one of its purposes the conduct of horse-races."

Definition of
"association"

zone est situé à une distance égale ou inférieure à 900 m de la piste de l'hippodrome;
c) la personne ou l'association qui est propriétaire ou locataire de l'hippodrome est aussi propriétaire ou locataire de tous les biens immeubles situés dans la zone."

(12) Le paragraphe 204(11) de la même loi est abrogé et remplacé par ce qui suit :

"(11) Pour l'application du présent article, «association» s'entend d'une association constituée en personne morale sous le régime d'une loi fédérale ou provinciale, qui est propriétaire ou locataire d'un hippodrome, qui organise des courses de chevaux dans le cadre de son activité commerciale normale et, dans la mesure où la loi applicable l'exige, dont l'un des buts mentionnés dans son acte constitutif est la tenue de courses de chevaux."

Definition de
«association»

...

...

**An Act to amend the Criminal Code (prostitution), R.S.C. 1985
(1st Supp.), c. 51, s. 1**

	CHAPTER 51 (1st Supp.)	CHAPITRE 51 (1^e suppl.)
R.S., c. C-46	An Act to amend the Criminal Code (prostitution) [1985, c. 50, assented to 20th December, 1985]	Loi modifiant le Code criminel (prostitution) [1985, ch. 50, sanctionné le 20 décembre 1985]
Offence in relation to prostitution	<p>1. The heading preceding section 213 and section 213 of the <i>Criminal Code</i> are repealed and the following substituted therefor:</p> <p><i>"Offence in Relation to Prostitution"</i></p> <p>213. (1) Every person who in a public place or in any place open to public view</p> <ul style="list-style-type: none"> (a) stops or attempts to stop any motor vehicle; (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction. <p>(2) In this section, "public place" includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view."</p>	<p>1. L'article 213 du <i>Code criminel</i> et l'intertitre qui le précède sont abrogés et remplacés par ce qui suit :</p> <p><i>"Infraction se rattachant à la prostitution"</i></p> <p>213. (1) Est coupable d'une infraction punissable sur déclaration de culpabilité par procédure sommaire quiconque, dans un endroit soit public soit situé à la vue du public et dans le but de se livrer à la prostitution ou de retenir les services sexuels d'une personne qui s'y livre :</p> <ul style="list-style-type: none"> a) soit arrête ou tente d'arrêter un véhicule à moteur; b) soit gêne la circulation des piétons ou des véhicules, ou l'entrée ou la sortie d'un lieu contigu à cet endroit; c) soit arrête ou tente d'arrêter une personne ou, de quelque manière que ce soit, communique ou tente de communiquer avec elle. <p>(2) Au présent article, «endroit public» s'entend notamment de tout lieu auquel le public a accès de droit ou sur invitation, expresse ou implicite; y est assimilé tout véhicule à moteur situé dans un endroit soit public soit situé à la vue du public.»</p>
Definition of "public place"		Définition de «endroit public»

*An Act to amend the Criminal Code (lotteries), R.S.C. 1985
(1st Supp.), c. 52, ss. 1-3*

	CHAPTER 52 (1st Supp.)	CHAPITRE 52 (1^e suppl.)	
R.S., c. C-46	An Act to amend the Criminal Code (lotteries) [1985, c. 52, assented to 20th December, 1985]	Loi modifiant le Code criminel (lotteries) [1985, ch. 52, sanctionné le 20 décembre 1985]	L.R., ch. C-46
Exemption for fairs	1. Section 205 of the Criminal Code is repealed. 2. Section 206(3) of the said Act is repealed and the following substituted therefor: "(3) Paragraphs (1)(f) and (g), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to the board of an annual fair or exhibition, or to any operator of a concession leased by that board within its own grounds and operated during the fair or exhibition on those grounds.	1. L'article 205 du Code criminel est abrogé. 2. Le paragraphe 206(3) de la même loi est abrogé et remplacé par ce qui suit : «(3) Les alinéas (1)f) et g), dans la mesure où ils n'ont aucun rapport avec un jeu de dés, un jeu de bonneteau, une planchette à poinçonner ou une table à monnaie, ne s'appliquent pas au conseil d'une foire ou d'une exposition annuelle ni à l'exploitant d'une concession louée auprès du conseil et située sur le terrain de la foire ou de l'exposition et exploitée à cet endroit durant la période de la foire ou de l'exposition.	Exemption pour les foires
Definition of "fair or exhibition"	(3.1) For the purposes of this section, "fair or exhibition" means an event where agricultural or fishing products are presented or where activities relating to agriculture or fishing take place."	(3.1) Pour l'application du présent article, l'expression «foire ou exposition» s'entend d'une manifestation où l'on présente des produits de l'agriculture ou de la pêche ou exerce des activités qui se rapportent à l'agriculture ou à la pêche."	Définition de «foire ou exposition»
Permitted lotteries	3. Section 207 of the said Act is repealed and the following substituted therefor: "207. (1) Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful (a) for the government of a province, either alone or in conjunction with the government of another province, to conduct and manage a lottery scheme in that province, or in that and the other province, in accordance	3. L'article 207 de la même loi est abrogé et remplacé par ce qui suit : «207. (1) Par dérogation aux autres dispositions de la présente partie en matière de jeux et de paris, les règles qui suivent s'appliquent aux personnes et organismes mentionnés ci-après: a) le gouvernement d'une province, seul ou de concert avec celui d'une autre province, peut mettre sur pied et exploiter une loterie dans la	Lotteries autorisées

with any law enacted by the legislature of that province;

(b) for a charitable or religious organization, pursuant to a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme in that province if the proceeds from the lottery scheme are used for a charitable or religious object or purpose;

(c) for the board of a fair or of an exhibition, or an operator of a concession leased by that board, to conduct and manage a lottery scheme in a province where the Lieutenant Governor in Council of the province or such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof has

(i) designated that fair or exhibition as a fair or exhibition where a lottery scheme may be conducted and managed, and

(ii) issued a licence for the conduct and management of a lottery scheme to that board or operator;

(d) for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme at a public place of amusement in that province if

(i) the amount or value of each prize awarded does not exceed five hundred dollars, and

(ii) the money or other valuable consideration paid to secure a chance to win a prize does not exceed two

province, ou dans celle-ci et l'autre province, en conformité avec la législation de la province;

b) un organisme de charité ou un organisme religieux peut, en vertu d'une licence délivrée par le lieutenant-gouverneur en conseil d'une province ou par la personne ou l'autorité qu'il désigne, mettre sur pied et exploiter une loterie dans la province si le produit de la loterie est utilisé à des fins charitables ou religieuses;

c) le conseil d'une foire ou d'une exposition, ou l'exploitant d'une concession louée auprès du conseil peut mettre sur pied et exploiter une loterie dans une province si le lieutenant-gouverneur en conseil de la province ou la personne ou l'autorité qu'il désigne a, à la fois :

(i) désigné cette foire ou cette exposition comme l'une de celles où une loterie pouvait être mise sur pied et exploitée,

(ii) délivré une licence de mise sur pied et d'exploitation d'une loterie à ce conseil ou à cet exploitant;

d) toute personne peut, en vertu d'une licence délivrée par le lieutenant-gouverneur en conseil d'une province ou par la personne ou l'autorité qu'il désigne, mettre sur pied et exploiter une loterie dans un lieu d'amusement public de la province si :

(i) le montant ou la valeur de chaque prix attribué ne dépasse pas cinq cents dollars,

(ii) le montant ou la contrepartie versée pour obtenir une chance de gagner un prix ne dépasse pas deux dollars,

dollars;

(e) for the government of a province to agree with the government of another province that lots, cards or tickets in relation to a lottery scheme that is by any of paragraphs (a) to (d) authorized to be conducted and managed in that other province may be sold in the province;

(f) for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a province or such other person or authority in the province as may be designated by the Lieutenant Governor in Council thereof, to conduct and manage in the province a lottery scheme that is authorized to be conducted and managed in one or more other provinces where the authority by which the lottery scheme was first authorized to be conducted and managed consents thereto;

(g) for any person, for the purpose of a lottery scheme that is lawful in a province under any of paragraphs (a) to (f), to do anything in the province, in accordance with the applicable law or licence, that is required for the conduct, management or operation of the lottery scheme or for the person to participate in the scheme; and

(h) for any person to make or print anywhere in Canada or to cause to be made or printed anywhere in Canada anything relating to gaming and betting that is to be used in a place where it is or would, if certain conditions provided by law are met, be lawful to use such a thing, or to send, transmit, mail, ship, deliver or allow to be sent, transmitted, mailed, shipped or delivered or to accept for carriage or transport or convey any such thing where the destination thereof is such a place.

(2) Subject to this Act, a licence

e) le gouvernement d'une province peut conclure un accord avec celui d'une autre province afin de permettre la vente sur son territoire de lots, cartes ou billet d'une loterie qui, en vertu de l'un des alinéas a) à d), est autorisée dans cette autre province;

f) toute personne peut, en vertu d'une licence délivrée par le lieutenant-gouverneur en conseil d'une province ou la personne ou l'autorité qu'il désigne, mettre sur pied et exploiter dans la province une loterie autorisée dans au moins une autre province à la condition que l'autorité qui a autorisé la loterie dans la première province y consente;

g) toute personne peut, dans le cadre d'une loterie autorisée en vertu de l'un des alinéas a) à f), soit prendre dans la province, en conformité avec la législation ou les licences applicables, les mesures nécessaires pour mettre sur pied, administrer ou gérer la loterie, soit participer à celle-ci;

h) toute personne peut fabriquer ou imprimer au Canada, seule ou par un intermédiaire, tout moyen de jeu ou de pari à utiliser dans un endroit où son utilisation est permise par la loi ou le serait, à la condition de respecter les conditions que celle-ci prévoit, ou envoyer, transmettre, poster, expédier, livrer - ou permettre ces opérations - ou accepter en vue du transport ou transporter un moyen de jeu ou de pari si son utilisation au lieu de sa destination est permise par la loi ou le serait, à la condition de respecter les conditions que celle-ci prévoit.

Terms and

(2) Sous réserve des autres Conditions

conditions of license	issued by or under the authority of the Lieutenant Governor in Council of a province as described in paragraph (1)(b), (c), (d) or (f) may contain such terms and conditions relating to the conduct, management and operation of or participation in the lottery scheme to which the licence relates as the Lieutenant Governor in Council of that province, the person or authority in the province designated by the Lieutenant Governor in Council thereof or any law enacted by the legislature of that province may prescribe.	d'une licence délivrée en vertu de l'un des alinéas (1)b), c), d) ou f) par le lieutenant-gouverneur en conseil d'une province ou par la personne ou l'autorité qu'il désigne peut être assortie des conditions que celui-ci, la personne ou l'autorité en question ou une loi provinciale peut fixer à l'égard de la mise sur pied, de l'exploitation ou de la gestion de la loterie autorisée par la licence ou à l'égard de la participation à celle-ci.
Offence	<p>(3) Every one who, for the purposes of a lottery scheme, does anything that is not authorized by or pursuant to a provision of this section</p> <p>(a) in the case of the conduct, management or operation of that lottery scheme,</p> <ul style="list-style-type: none"> (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years, or (ii) is guilty of an offence punishable on summary conviction; or <p>(b) in the case of participating in that lottery scheme, is guilty of an offence punishable on summary conviction.</p>	<p>(3) Quiconque, dans le cadre d'une loterie, commet un acte non autorisé par une autre disposition du présent article ou en vertu de celle-ci est coupable :</p> <p>a) dans le cas de la mise sur pied, de l'exploitation ou de la gestion de cette loterie :</p> <ul style="list-style-type: none"> (i) soit d'un acte criminel et est possible d'un emprisonnement maximal de deux ans, (ii) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire; <p>b) dans le cas de la participation à cette loterie, d'une infraction punissable sur déclaration de culpabilité par procédure sommaire.</p>
Definition of "lottery scheme"	<p>(4) In this section, "lottery scheme" means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than</p> <p>(a) a dice game, three-card monte, punch board or coin table;</p> <p>(b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel</p>	<p>(4) Pour l'application du présent article, «loterie» s'entend des jeux, moyens, systèmes, dispositifs ou opérations mentionnés aux alinéas 206(1)a) à g), qu'ils soient ou non associés au pari, à la vente d'une mise collective ou à des paris collectifs, à l'exception de ce qui suit :</p> <p>a) un jeu de dés, un jeu de bonneteau, une planchette à poinçonner ou une table à monnaie;</p> <p>b) le bookmaking, la vente</p>

system, on any race or fight, or on a single sport event or athletic contest; or

(c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device or slot machine, within the meaning of subsection 198(3).

Exception re: pari-mutuel betting

(5) For greater certainty, nothing in this section shall be construed as authorizing the making or recording of bets on horse-races through the agency of a pari-mutuel system other than in accordance with section 204."

d'une mise collective ou l'inscription ou la prise de paris, y compris les paris faits par mise collective ou par un système de paris collectifs ou de pari mutuel sur une course ou un combat, ou une épreuve ou manifestation sportive;

c) pour l'application des alinéas (1)b) à f), les jeux, moyens, systèmes, dispositifs ou opérations mentionnés aux alinéas 206(1)a) à g) qui sont exploités par un ordinateur, un dispositif électronique de visualisation, un appareil à sous, au sens du paragraphe 198(3), ou à l'aide de ceux-ci.

(5) Il est entendu que le présent article n'a pas pour effet de permettre de faire ou d'inscrire des paris sur des courses de chevaux par l'intermédiaire d'un système de pari mutuel, sauf en conformité avec l'article 204.»

Exception à l'égard du pari mutuel

*An Act to amend the Criminal Code and the Canada Evidence Act, R.S.C. 1985 (3rd Supp.), c. 19, s. 9***CHAPTER 19 (3rd Supp.)**

An Act to amend the Criminal Code and the Canada Evidence Act

[1987, c. 24, assented to
30th June, 1987]

CHAPITRE 19 (3^e supp.)

Loi modifiant le Code criminel et la Loi sur la preuve au Canada

[1987, ch. 24, sanctionné le
30 juin 1987]

9. Subsections 212(2) to (4) of the said Act are repealed and the following substituted therefor:

"(2) Notwithstanding paragraph (1)(j), every person who lives wholly or in part on the avails of prostitution of another person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

(3) Evidence that a person lives with or is habitually in the company of a prostitute or lives in a common bawdy-house or in a house of assignation is, in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution, for the purposes of paragraph (1)(j) and subsection (2).

(4) Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years."

9. Les paragraphes 212(2) à (4) de la même loi sont abrogés et remplacés par ce qui suit :

«(2) Par dérogation à l'alinéa (1)y), est coupable d'un acte criminel et possible d'un emprisonnement maximal de quatorze ans quiconque vit entièrement ou en partie des produits de la prostitution d'une autre personne âgée de moins de dix-huit ans.

(3) Pour l'application de l'alinéa (1)y) et du paragraphe (2), la preuve qu'une personne vit ou se trouve habituellement en compagnie d'un prostitué ou vit dans une maison de débauche ou une maison de rendez-vous constitue, sauf preuve contraire, une preuve qu'elle vit des produits de la prostitution.

(4) Est coupable d'un acte criminel et possible d'un emprisonnement maximal de cinq ans quiconque, en quelque endroit que ce soit, obtient ou tente d'obtenir, moyennant rétribution, les services sexuels d'une personne âgée de moins de dix-huit ans.»

Idem

Presumption

Offence in relation to juvenile prostitution

Idem

Presumption

Protection des mineurs

**An Act to amend the Criminal Code (pari-mutuel betting), S.C.
1989, c. 2, s. 1**

38 ELIZABETH II

CHAPTER 2

An Act to amend the Criminal Code
(pari-mutuel betting)

[Assented to 29th June, 1989]

R.S., c. C-46,
cc. 2, 11, 27, 31,
47, 51, 52 (1st
Suppl.), cc. 1, 24,
27, 35 (2nd
Suppl.); 1987, cc.
13, 24, 37, 42;
1988, cc. 2, 30,
36, 37, 38, 40, 49,
51, 60

R.S., c. 47 (1st
Suppl.), s. 1(3)(F)

Presumption

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection 204(2) of the *Criminal Code* is repealed and the following substituted therefor:

"(2) For the purposes of paragraph (1)(c), bets made, in accordance with the regulations, in a betting theatre referred to in paragraph (8)(e), or by telephone calls to the race-course of an association or to such a betting theatre, are deemed to be made on the race-course of the association."

(2) Subsection 204(8) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) authorizing pari-mutuel betting and governing the conditions for pari-mutuel betting, including the granting of licences therefor, that is conducted by an association in a

Loi modifiant le Code criminel
(pari mutuel)

[Sanctionnée le 29 juin 1989]

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

1. (1) Le paragraphe 204(2) du *Code criminel* est abrogé et remplacé par ce qui suit :

«(2) Pour l'application de l'alinéa (1)e), les paris faits soit dans une salle de paris visée à l'alinéa (8)e), soit par téléphone à l'hippodrome d'une association ou à une telle salle de paris, en conformité avec les règlements, sont réputés faits à l'hippodrome de l'association.»

(2) Le paragraphe 204(8) de la même loi est modifié par adjonction de ce qui suit :

L.R., ch. C-
46, L.R.,
ch. 2, 11, 27,
31, 47, 51, 52
(1st suppl.),
ch. 1, 24, 27,
35 (2nd suppl.);
1987, ch. 13,
24, 37, 42;
1988, ch. 2,
30, 36, 37, 38,
40, 49, 51, 60

L.R., ch. 47
(1st suppl.),
par 1(3)(F)

Présomption

«e) autoriser et régir, notamment par la délivrance de permis, la tenue de paris mutuels, et déterminer les conditions relatives à la tenue de ces paris, par une

betting theatre owned or leased by the association in a province in which the Lieutenant Governor in Council, or such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, has issued a licence to that association for the betting theatre."

association dans une salle de paris lui appartenant, ou louée par elle, dans toute province où le lieutenant-gouverneur en conseil, ou toute personne ou tout organisme provincial désigné par lui, a, à cette fin, délivré à l'association un permis pour la salle.»

An Act to amend the Department of Agriculture Act and to amend or repeal certain other Acts, S.C. 1994, c. 38, ss. 14, 25

42-43 ELIZABETH II

CHAPTER 38

An Act to amend the Department of Agriculture Act and to amend or repeal certain other Acts

[Assented to 24th November, 1994]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

42-43 ELIZABETH II

CHAPITRE 38

Loi modifiant la Loi sur le ministère de l'Agriculture et abrogeant ou modifiant certaines lois

[Sanctionnée le 24 novembre 1994]

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

R.S., c. C-46

R.S., c. 47
(1st Supp.), t. 1(1)*Criminal Code*

14. Subparagraph 204(1)(c)(i) of the *Criminal Code* is replaced by the following:

(i) the bets or records of bets are made on the race-course of an association in respect of races conducted at that race-course or another race-course in or out of Canada, and, in the case of a race conducted on a race-course situated outside Canada, the governing body that regulates the race has been certified as acceptable by the Minister of Agriculture and Agri-Food or a person designated by that Minister pursuant to subsection (8.1) and that Minister or person has permitted pari-mutuel betting in Canada on the race pursuant to that subsection, and

Code criminel

14. Le sousalinéa 204(1)c)(i) du *Code criminel* est remplacé par ce qui suit :

(i) d'une part, les paris ou les inscriptions de paris sont faits à l'hippodrome d'une association, relativement à une course tenue à cet hippodrome ou à un autre situé au Canada ou non et, dans le cas d'une course qui se tient à un hippodrome situé à l'étranger, le ministre de l'Agriculture et de l'Agroalimentaire ou la personne qu'il désigne a, en conformité avec le paragraphe (8.1), agréé l'organisme chargé de réglementer la course et permis le pari mutuel au Canada sur cette course.

L.R., ch. C-46

L.R., ch. 47
(1^{er} suppl.),
par. 1(1)

References to
Minister of
Agriculture

REFERENCES

- 25.** (1) The following provisions are amended by replacing the expression "Minister of Agriculture" with the expression "Minister of Agriculture and Agri-Food":
- (a) the definition of "Minister" in section 2 of the *Agricultural Products Board Act*;
 - (b) the definition "Minister" in section 2 of the *Agricultural Products Cooperative Marketing Act*;
 - (c) the definition "Minister" in section 2 of the *Animal Pedigree Act*;
 - (d) the definition "Minister" in section 2 of the *Canada Agricultural Products Act*;
 - (e) the definition "Minister" in section 2 of the *Canadian Dairy Commission Act*;
 - (f) the definition "Minister" in section 2 of the *Canagrex Dissolution Act*;
 - (g) subsections 204(3), (7), (8), (8.1), (9) and (9.1) of the *Criminal Code*;
 - (h) the definition "Minister" in sub-section 2(1) of the *Advance Payments for Crops Act*;
 - (i) the definition "Minister" in section 2 of the *Experimental Farm Stations Act*;
 - (j) paragraph 4(2)(h) and subsections 5(2) and 16(2) of the *Farm Credit Corporation Act*;
 - (k) the definition "Minister" in section 2 of the *Farm Debt Review Act*;
 - (l) the definition "Minister" in section 2 of the *Farm Improvement and Marketing Cooperatives Loans Act*;
 - (m) the definition "Minister" in subsection 2(1) of the *Farm Improvement Loans Act*;
 - (n) the definition "Minister" in

REFERENCES

- 25.** (1) Dans les passages suivants, «ministre de l'Agriculture» est remplacé par «ministre de l'Agriculture et de l'Agroalimentaire», avec les adaptations nécessaires :
- a) la définition de «ministre», à l'article 2 de la *Loi sur l'Office des produits agricoles*;
 - b) la définition de «ministre», à l'article 2 de la *Loi sur la vente coopérative des produits agricoles*;
 - c) la définition de «ministre», à l'article 2 de la *Loi sur la généalogie des animaux*;
 - d) la définition de «ministre», à l'article 2 de la *Loi sur les produits agricoles au Canada*;
 - e) la définition de «ministre», à l'article 2 de la *Loi sur la Commission canadienne du lait*;
 - f) la définition de «ministre», à l'article 2 de la *Loi sur la dissolution de la société Canagrex*;
 - g) les paragraphes 204(3), (7), (8), (8.1), (9) et (9.1) du *Code criminel*;
 - h) la définition de «ministre», au paragraphe 2(1) de la *Loi sur le paiement anticipé des récoltes*;
 - i) la définition de «ministre», à l'article 2 de la *Loi sur les stations agronomiques*;
 - j) l'alinéa 4(2)h) et les paragraphes 5(2) et 16(2) de la *Loi sur la Société du crédit agricole*;
 - k) la définition de «ministre», à l'article 2 de la *Loi sur l'examen de l'endettement agricole*;
 - l) la définition de «ministre», à l'article 2 de la *Loi sur les prêts destinés aux améliorations agricoles et à la commercialisation selon la*

Mentions du
ministre de
l'Agriculture

section 2 of the *Farm Income Protection Act*;

- (o) the definition "Minister" in section 2 of the *Farm Products Agencies Act*;
- (p) the definition "Minister" in section 2 of the *Feeds Act*;
- (q) the definition "Minister" in section 2 of the *Fertilizers Act*;
- (r) the definition "Minister" in subsection 2(1) of the *Grain Futures Act*;
- (s) section 3 of the *Hay and Straw Inspection Act*;
- (t) the definition "Minister" in subsection 2(1) of the *Health of Animals Act*;
- (u) the definition "Minister" in section 2 of the *Meat Import Act*;
- (v) the definition "Minister" in subsection 2(1) of the *Meat Inspection Act*;
- (w) the definition "Minister" in section 2 of the *Pest Control Products Act*;
- (x) the definition "Minister" in section 2 of the *Pesticide Residue Compensation Act*;
- (y) the definition "Minister" in subsection 2(1) of the *Plant Breeders' Rights Act*;
- (z) the definition "Minister" in section 3 of the *Plant Protection Act*;
- (z.1) the heading before section 2 and subsection 2(1) of the *Revolving Funds Act*;
- (z.2) section 4 of the *Salaries Act*; and
- (z.3) the definition "Minister" in section 2 of the *Seeds Act*.

formule coopérative;

- m) la définition de «ministre», au paragraphe 2(1) de la *Loi sur les prêts destinés aux améliorations agricoles*;
- n) la définition de «ministre», à l'article 2 de la *Loi sur la protection de revenu agricole*;
- o) la définition de «ministres», à l'article 2 de la *Loi sur les offices des produits agricoles*;
- p) la définition de «ministre», à l'article 2 de la *Loi relative aux aliments du bétail*;
- q) la définition de «ministres», à l'article 2 de la *Loi sur les engrangis*;
- r) la définition de «ministres», au paragraphe 2(1) de la *Loi sur les marchés de grain à terme*;
- s) l'article 3 de la *Loi sur l'inspection du foin et de la paille*;
- t) la définition de «ministres», au paragraphe 2(1) de la *Loi sur la santé des animaux*;
- u) la définition de «ministre», à l'article 2 de la *Loi sur l'importation de la viande*;
- v) la définition de «ministre», au paragraphe 2(1) de la *Loi sur l'inspection des viandes*;
- w) la définition de «ministres», à l'article 2 de la *Loi sur les produits antiparasitaires*;
- x) la définition de «ministre», à l'article 2 de la *Loi sur l'indemnisation des dommages causés par des pesticides*;
- y) la définition de «ministres», au paragraphe 2(1) de la *Loi sur la protection des obtentions végétales*;
- z) la définition de «ministre», à l'article 3 de la *Loi sur la protection des végétaux*;
- z.1) l'intertitre précédent l'article 2 et le paragraphe 2(1) de la *Loi sur les fonds renouvelables*;

Idem

(2) Every reference to the Minister of Agriculture in any other Act of Parliament or in any order, regulation or other instrument made under an Act of Parliament shall, unless the context otherwise requires, be read as a reference to the Minister of Agriculture and Agri-Food.

2.2) l'article 4 de la *Loi sur les traitements*;

2.3) la définition de «ministre», à l'article 2 de la *Loi sur les semences*.

(2) Dans les autres lois fédérales ainsi que dans les textes d'application de ces lois, la mention du ministre de l'Agriculture vaut, sauf indication contraire du contexte, mention du ministre de l'Agriculture et de L'Agroalimentaire.

Autres dispositions

*An Act to amend the Criminal Code and other Acts
(miscellaneous matters), S.C. 1994, c. 44, s. 10*

42-43 ELIZABETH II

CHAPTER 44

An Act to amend the Criminal Code
and other Acts (miscellaneous
matters)

[Assented to 15th December, 1994]

Her Majesty, by and with the
advice and consent of the Senate and
House of Commons of Canada,
enacts as follows:

42-43 ELIZABETH II

CHAPITRE 44

Loi modifiant le Code criminel et
d'autres lois (en divers domaines)

[Sanctionnée 15 décembre 1994]

Sa Majesté, sur l'avis et avec
le consentement du Sénat et de la
Chambre des communes du
Canada, édicte :

10. Subsection 199(1) of the
Act is replaced by the following:

199. (1) A justice who is satisfied by information on oath that there are reasonable grounds to believe that an offence under section 201, 202, 203, 206, 207 or 210 is being committed at any place within the jurisdiction of the justice may issue a warrant authorizing a peace officer to enter and search the place by day or night and seize anything found therein that may be evidence that an offence under section 201, 202, 203, 206, 207 or 210, as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before that justice or before another justice having jurisdiction, to be dealt with according to law.

10. Le paragraphe 199(1) de
la même loi est remplacé par ce
qui suit :

199. (1) Un juge de paix convaincu, par une dénonciation sous serment, qu'il existe des motifs raisonnables de croire qu'une infraction visée à l'article 201, 202, 203, 206, 207 ou 210 se commet à quelque endroit situé dans son ressort, peut délivrer un mandat sous sa signature, autorisant un agent de la paix à entrer et perquisitionner dans cet endroit, de jour ou de nuit, et à saisir toute chose y trouvée qui peut constituer une preuve qu'une infraction visée à l'un de ces articles se commet à cet endroit, et à mettre sous garde toutes les personnes trouvées à cet endroit ou dans cet endroit, et requérant que ces personnes soient conduites et ces choses apportées devant lui ou devant un autre juge de paix compétent, afin qu'elles soient traitées selon la loi.

Warrant to search

Mandat de
perquisition

An Act to amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation), S.C. 1997, c. 16, s. 2

45-46 ELIZABETH II

CHAPTER 16

An Act to amend the Criminal Code
(child prostitution, child sex
tourism, criminal harassment and
female genital mutilation)

[Assented to 25th April, 1997]

R.S., c. C-46;
R.S., cc. 2, 11, 27,
31, 47, 51, 52 (1st
Suppl.), cc. 1, 24,
27, 35 (2nd
Suppl.), cc. 10, 19,
30, 34 (3rd
Suppl.), cc. 1, 23,
29, 30, 31, 32, 40,
42, 50 (4th Suppl.),
1989, c. 2; 1990,
cc. 15, 16, 17, 44;
1991, cc. 1, 4, 28,
40, 43; 1992,
cc. 1, 11, 20, 21,
22, 27, 38, 41, 47,
51; 1993, cc. 7,
25, 28, 34, 37, 40,
45, 46; 1994,
cc. 12, 13, 38, 44;
1995, cc. 5, 19,
22, 27, 29, 32, 39,
42; 1996, cc. 7, 8,
16, 19, 31, 34

45-46 ELIZABETH II

CHAPITRE 16

Loi modifiant le Code criminel
(prostitution chez les enfants,
tourisme sexuel impliquant
des enfants, harcèlement
criminel et mutilation
d'organes génitaux féminins)

[Sanctionnée le 25 avril 1997]

NOW, THEREFORE, Her Majesty,
by and with the advice and consent
of the Senate and House of
Commons of Canada, enacts as
follows:

L.R., ch. C-46
L.R., ch. 2,
11, 27, 31, 47,
51, 52 (1^{er}
suppl.) ch. 1,
24, 27, 35 (2nd
suppl.) ch.
10, 19, 30, 34
(3rd suppl.)
ch. 1, 23, 29,
30, 31, 32, 40,
42, 50 (4th
suppl.) 1989,
ch. 2; 1990,
ch. 15, 16, 17,
44; 1991,
ch. 1, 4, 28,
40, 43; 1992,
ch. 1, 11, 20,
21, 22, 27, 38,
41, 47, 51;
1993, ch. 7,
25, 28, 34, 37,
40, 45, 46;
1994, ch. 12,
13, 38, 44;
1995, ch. 5,
19, 22, 27, 29,
32, 39, 42;
1996, ch. 7, 8,
16, 19, 31, 34

2. (1) Paragraphs 212(1)(b)
and (c) of the Act are replaced by
the following:

2. (1) Les alinéas 212(1)b) et
c) de la même loi sont remplacés
par ce qui suit :

(b) inveigles or entices a person who is not a prostitute to a common bawdy-house for the purpose of illicit sexual intercourse or prostitution;

(c) knowingly conceals a person in a common bawdy-house.

(2) Paragraph 212(1)(f) of the Act is replaced by the following:

(f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house;

(3) Section 212 of the Act is amended by adding the following after subsection (2):

Aggravated offence in relation to living on the avails of prostitution of a person under the age of eighteen years

(2.1) Notwithstanding paragraph (1)(f) and subsection (2), every person who lives wholly or in part on the avails of prostitution of another person under the age of eighteen years, and who

(a) for the purposes of profit, aids, abets, counsels or compels the person under that age to engage in or carry on prostitution with any person or generally, and

(b) uses, threatens to use or attempts to use violence, intimidation or coercion in relation to the person under that age,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years but not less than five years.

(4) Subsection 212(3) and (4) of the Act are replaced by the following:

(3) Evidence that a person lives with or is habitually in the company of a prostitute or lives in a common bawdy-house is in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution, for the purposes of

b) attire ou entraîne une personne qui n'est pas prostituée vers une maison de débauche aux fins de rapports sexuels illicites ou de prostitution;

c) sciemment cache une personne dans une maison de débauche;

(2) L'alinéa 212(1)f) de la même loi est remplacé par ce qui suit :

f) à l'arrivée d'une personne au Canada, la dirige ou la fait diriger vers une maison de débauche, l'y amène ou l'y fait conduire;

(3) L'article 212 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit :

(2.1) Par dérogation à l'alinéa (1)f) et au paragraphe (2), est coupable d'un acte criminel et possible d'un emprisonnement minimal de cinq ans et maximal de quatorze ans quiconque vit entièrement ou en partie des produits de la prostitution d'une autre personne âgée de moins de dix-huit ans si, à la fois :

a) aux fins de profit, il l'aide, l'encourage ou la force à s'adonner ou à se livrer à la prostitution avec une personne en particulier ou d'une manière générale, ou lui conseille de le faire;

b) il use de violence envers elle, l'intimide ou la contraint, ou tente ou menace de le faire.

(4) Les paragraphes 212(3) et (4) de la même loi sont remplacés par ce qui suit :

(3) Pour l'application de l'alinéa (1)f) et des paragraphes (2) et (2.1), la preuve qu'une personne vit ou se trouve habituellement en compagnie d'un prostitué ou vit dans une maison de débauche constitue, sauf preuve contraire, la

infraction
grave - vivre
des produits
de la
prostitution
d'une
personne âgée
de moins de
dix-huit ans.

L.R.B.C. 19
(3^e suppl.),
art 9

Présumption

Offence in relation
to prostitution of a
person under the
age of eighteen
years

paragraph (1)(j) and subsections (2)
and (2.1).

(4) Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen years or who that person believes is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Presumption

(5) For the purposes of subsection (4), evidence that the person from whom the sexual services were obtained or attempted to be obtained was represented to the accused as being under the age of eighteen years is, in the absence of evidence to the contrary, proof that the accused believed, at the time the offence was alleged to have been committed, that the person was under the age of eighteen years.

preuve qu'elle vit des produits de la prostitution.

(4) Est coupable d'un acte criminel et passible d'un emprisonnement maximal de cinq ans quiconque, en quelque endroit que ce soit, obtient ou tente d'obtenir, moyennant rétribution, les services sexuels d'une personne qui est âgée de moins de dix-huit ans ou qu'il croit telle.

(5) Pour l'application du paragraphe (4), la preuve que la personne de qui l'accusé a obtenu des services sexuels ou a tenté d'en obtenir lui a été présentée comme ayant moins de dix-huit ans constitue, sauf preuve contraire, la preuve que l'accusé croyait, au moment de l'infraction présumée, qu'elle avait moins de dix-huit ans.

Infraction
concernant la
prostitution
d'une
personne âgée
de moins de
dix-huit ans

Présomption

Appendix 2: Gaming Legislation in Other Canadian Provinces

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Overview

This appendix summarizes, for the most part in point form, the gaming regime in each Canadian province other than British Columbia. Each summary outlines the statutory basis of and structures in place for both government and charitable gaming, describes the extent of local government involvement in gaming, and details enforcement methods.

Alberta

Statutory Basis

*Gaming and Liquor Act*¹ – enacted in 1996, updated and consolidated previous legislation concerning liquor and gaming licensing and regulation.

Structure and Scope of Government Gaming

The government engages in ticket lotteries and electronic gaming including slot machines and VLTs. All its activities are conducted and managed by the Alberta Gaming and Liquor Commission. The commission is responsible for administering the Lottery Fund, which receives all revenues from provincial gaming.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The commission exercises the authority to license and regulate charitable gaming.

Appeals

- Licence appeals may be made to the board of the commission.

Types of Bingo/Casino Gaming

- Charitable casinos and bingos only.
- Casinos feature table games and slot machines.
- Bingos feature paper bingo and linked bingo.

Charitable Casinos

- **Licensing:** charities licensed by the commission to manage and conduct table gaming. Casino facility licences required by casino operators in addition to event licences issued to charities. Casino licences are issued for 1 or 2 years; casino event licences are issued for 2 days.
- **Volunteer Requirement:** volunteers mandatory – numbers (25 for major casinos and 15 for minor casinos) and duties (supervisor, internal control positions) specified.
- **Operational Arrangements:** licensee contracts with casino management company to assist with casino event (management company receives a fixed fee up to a maximum of 50% - 75% of the net table revenue, depending on the location).
- **Slot Machines:** owned and operated by the commission – no charitable involvement.
- **Revenue to Charities:**
 - table games: 25% - 50% minimum of the net table revenue, depending on the location; and
 - slot machines: 15% of the net revenue to the charity; 15% to the casino facility licensee.
- **Revenue to Government:**
 - table games: licensing fee of \$15 per table/day (no fee for poker tables); and
 - slot machines: 70% of gross.

Charitable Bingos

- **Bingo Associations:** recognized by the Act.
- **Licensing:** charities licensed by the commission to manage and conduct paper bingo gaming. Facility licences required in addition to event licences.

Facility licences issued only to volunteer executives of bingo associations. Licences issued for one or two years.

- **Volunteer Requirement:** volunteers mandatory – numbers (15 - 20) and duties (internal control positions) specified.
- **Operational Arrangements:** bingo association of licensee may hire staff to assist with bingo event.
- **Linked Bingo:** owned and operated by a contracted agency on a fee for service basis (9.5% of gross sales) to charitable bingo licensees.
- **Revenue to Charities:**
 - paper bingo: net proceeds after prizes, operator costs and licensing fee; and
 - linked bingo: net proceeds after prizes and operator costs (no additional licensing fee).
- **Revenue to Government:**
 - paper bingo: licensing fee of \$30/event when total prizes under \$15,000; \$3,000/event when over \$15,000; and
 - linked bingo: none.

Alberta Lottery Fund

Administered by the commission.

Fund receives all net revenues from ticket lotteries and electronic gaming.

Allocation of funds determined annually in provincial budget.

Approximately 75% to general revenue and 25% to community organizations by direct grants or through 86 community lottery boards set up to adjudicate local grants.

Involvement of Local Government

Appoint members of community lottery boards.

Initiate local plebiscites on presence of gaming devices in the community – not binding on commission but persuasive.

Government has announced policy to respect community votes in favour of removal of video lottery terminals (VLTs).

First Nations' authorized activities include casinos, bingos, raffles, pull tickets and VLTs. No First Nations currently have casinos facilities.

Enforcement

Commission has power to designate commission employees or any other person as inspectors under the Act.

Every police officer, as defined in the *Police Act*,³ is an inspector under the Act.

53 person inspection team with 39 inspectors and 8 investigators with special constable status dedicated to investigation.

Offences and penalties – fine and/or imprisonment up to \$500,000 and/or 12 months.

Budget – \$3.5 million enforcement budget.

Saskatchewan

Statutory Basis

*The Alcohol and Gaming Regulation Act*⁴ – enacted in 1989, provides authority for the regulation and control of lottery schemes including bingo, casinos, raffles, video lottery terminals (VLTs), break open tickets and horse racing and, as well, the manufacture, importation, possession, sale and delivery of alcoholic beverages.

In 1997 *The Alcohol and Gaming Regulation Act, 1997*,⁵ was enacted to replace *The Alcohol and Gaming Regulation Act* but has not yet been proclaimed into law.

*The Slot Machine Act*⁶ was enacted to control the presence and use of slot machines in the province and, to that end, to provide that property in all slot machines is vested in the province except those supplied to the Saskatchewan Gaming Corporation (see below).

With respect to lottery ticket programs, Saskatchewan enacted *The Interprovincial Lotteries Act, 1984*,⁷ under which the minister responsible for gaming may license a non-profit organization to conduct or market lottery ticket schemes on behalf of the government.

Structure and Scope of Government Gaming

Lottery Tickets

Lottery ticket programs are administered by the Western Canada Lottery Corporation with management by a non-profit corporation (Sasksport) designated by the minister to conduct and manage. The net revenues are allocated to organizations specified by the minister, including municipalities, First Nations groups and non-profits established for sport, cultural and recreational purposes. The government charges a licensing fee of \$13.5 million to Sasksport. This fee is allocated to the General Revenue Fund (GRF).

Video Lottery Terminals

VLTs are located in licensed establishments and are owned and operated by the Liquor and Gaming Authority (LGA) constituted under *The Alcohol and Gaming Regulation Act*. All net revenues from the program are allocated to the GRF for provision of services to the public.

Casino Regina

The Saskatchewan Gaming Corporation, a Crown corporation, operates Casino Regina. 50% of the net profits are paid to the GRF, 25% to the First Nations Fund and 25% to the Associated Entities Fund.

The latter fund distributes monies to charities, exhibitions, associations, Metis organizations and other persons prescribed by Cabinet.

The corporation operates under a board of seven persons appointed by Cabinet, three of whom are nominees of First Nations groups.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The LGA is responsible for the regulation and licensing of charitable gaming, and charges a nominal, flat administration fee for each type of licence.

Appeals

- The Liquor and Gaming Licensing Commission hears appeals and other complaints concerning terms and conditions of licences. The commission is an independent, quasi-judicial administrative tribunal that reviews licensing decisions of the LGA.

Types of Bingo/Casino Gaming

- Charitable bingos only – no charitable casinos.
- Four First Nations casinos and two Exhibition Association casinos (s. 207(1)(c) of the *Criminal Code of Canada*).⁷
- Casinos feature table games and slot machines (VLTs in exhibition casinos only).
- Bingos feature paper bingo only – no electronic bingo. Linked bingo is scheduled to be introduced in early 1999.

Charitable Bingos

- **Licensing:** charities licensed to manage and conduct bingo event.
- **Volunteer Requirement:** volunteers mandatory – numbers and duties specified by hall management relative to the scale of operation.

- **Operational Arrangements:** charity may hire management company or staff to assist (event manager and caller are normally the only paid staff). Staff and suppliers are registered with the LGA.
- **Revenue to Charities:** net proceeds (minimum 20% of gross) after prizes and expenses.

**Involvement
of Local
Government**

Local authorities may be empowered to issue "minor" licences (i.e. raffle lotteries with a prize value not exceeding \$1,000).

First Nations, through Saskatchewan Indian Gaming, operate casinos in four locations in partnership with the LGA.

Enforcement

Inspection Service Branch and Audit Services Branch of the LGA regulate gaming and liquor (14 inspectors and 10 auditors). Senior inspectors have peace officer status.

Offences and penalties – fine and/or imprisonment (not more than \$10,000 for an individual and not more than \$50,000 for a corporation and/or a term of not more than 6 months).

Budget – \$1.3 million inspection budget for liquor and gaming for 1997/1998.

Manitoba

**Statutory
Basis**

*Gaming Control Act*⁴ – enacted in 1996, established the Gaming Control Commission (GCC) as a Crown agent having independent authority to regulate and control gaming activity in the province.

GCC's jurisdiction extends to regulation of electronic gaming equipment conducted and managed by the Manitoba Lotteries Corporation (MLC), a Crown corporation authorized under the *Manitoba Lotteries Corporation Act*⁵ to conduct and manage lottery schemes on behalf of the government. The GCC also registers the MLC's employees and major suppliers.

The GCC took over the charitable licensing function from the MLC when the *Gaming Control Act* came into force. The GCC also oversees all First Nations gaming in Manitoba.

**Structure and
Scope of
Government
Gaming**

All government gaming is managed and conducted by the MLC, which realizes gaming revenues from lottery tickets, video lottery terminals (VLTs) and the operation of 1 casino (Crystal Casino) and 2 entertainment centres (Club Regent and McPhillips Street Station). The casino offers table games and slot machines. The entertainment centres feature slot machines, break open tickets, touch screen games, electronic and paper bingo but no table games.

VLTs are located in licensed premises and all are owned and operated by the MLC.

The net proceeds realized by the MLC from gaming are distributed as follows:

- such amount as Cabinet directs to a trust account in the consolidated fund; and
- remainder allocated to the government revenue account.

The net proceeds realized from VLTs are distributed as follows:

- commercial siteholders receive a 20% commission from VLT net revenue;
- government receives 80% of net VLT revenue which is earmarked:
 - 10% to local governments unconditionally;
 - 25% to rural economic development initiatives; and
 - balance to General Revenue.

Structure and Scope of Charitable Gaming

Regulation and Licensing

The GCC exercises licensing and regulatory authority, and has power to pass statutory regulations. Licences are issued to charities, boards of fairs and amusement operators to hold lottery schemes at a public place of amusement.

The GCC's operations are funded from licence and registration fees.

Appeal

Licence appeals may be made to a panel of the GCC.

Types of Charitable Gaming

Charities are limited to operating charitable bingos and to receiving direct grants for supplying volunteers for bingos operated by the MLC at Club Regent and McPhillips Street Station. Many charitable organizations continue to receive funding through government funding umbrellas such as Sport Manitoba, Manitoba Arts Council, Manitoba Community Services Council, Heritage Grants Advisory Council, Multicultural Grants Advisory Council and Manitoba Community Education Association. These umbrella organizations were previously funded by lottery revenue but now receive funding through government revenue accounts.

Charitable Bingos

- **Licensing:** charities are licensed by the GCC to conduct and manage bingo events.
- **Volunteer Requirement:** volunteers mandatory but numbers/duties not specified.
- **Operational Arrangements:** charity may hire staff (no paid operator/manager permitted) to assist as long as expenses, including salaries, do not exceed 10% of gross.
- **Revenue to Charities:** net proceeds after prizes, expenses and licensing fees.
- **Revenue to Government:** 1.5% of gross revenue (licence fee).

In addition to bingo, charities may operate raffle events, sell break open tickets, and conduct wheels of fortune, calcutta auctions and Monte Carlo events under licence by the GCC.

Grants for Volunteers

- Charities get a direct grant (\$1,500 - \$3,000 depending on the event) in exchange for 10 volunteers working at the MLC bingo events at Club Regent and McPhillips Street Station.

**Involvement
of Local
Government**

Receive 10% of government's share of VLT revenues.

May be designated as a "licensing authority" under the *Gaming Control Act*.

Authorized by order in council to license and regulate raffles with a prize value of \$3,000 or less.

First Nations Gaming Commissions authorized by order in council.

Enforcement

GCC may appoint any person as an inspector under the *Gaming Control Act*.

Offences and penalties – maximum fines: \$100,000 fine to commercial sites/licensees – \$250,000 fine to the MLC.

Budget – 7.7% of net / 1.5% of gross charitable gaming revenue is dedicated to enforcement.

0.67% of all gaming revenue is earmarked for enforcement.

Among the 39 staff at the GCC:

- 12 security staff are dedicated to enforcement;
- 6 inspectors conduct inspections;

- 2 investigators conduct employee/supplier investigations;
- 3 investigators conduct investigation into complaints and concerns related to gaming; and
- 5 of these position incumbents hold peace officer status.

Ontario

Statutory Basis

*Gaming Control Act, 1992*¹⁰ (formerly the *Gaming Services Act*) – enacted in 1992, provides for the registration of suppliers of goods or services to charitable or casino gaming events.

Order in Council 2688/93, approved and ordered in October 1993, provides the Director of Gaming Control (now the Registrar of Alcohol and Gaming) and municipal councils with the authority to license eligible persons to conduct and manage lottery schemes under the provisions of s. 207 of the *Criminal Code of Canada*.

The *Alcohol and Gaming Regulation and Public Protection Act, 1996*¹¹ establishes the Alcohol and Gaming Commission of Ontario (AGCO) as a Crown corporation responsible for administering alcohol and gaming regulation under the *Gaming Control Act, 1992*, the *Liquor Licence Act*,¹² and the *Wine Content Act*.¹³

Structure and Scope of Government Gaming

Government gaming is authorized under the *Ontario Lottery Corporation Act*¹⁴ and the *Ontario Casino Corporation Act, 1993*.¹⁵

The Ontario Lottery Corporation (OLC), established under the *Ontario Lottery Corporation Act*, is responsible for conducting and managing all lottery schemes on behalf of the government, excluding commercial casinos but including the sale of traditional lottery products and electronic versions thereof, for example Superstar (linked) bingo. The *Ontario Lottery Corporation Act* also empowers the OLC to, with the approval of the Lieutenant Governor in Council, make regulations necessary to carry out the intent of that Act. The OLC owns lottery tickets and machines and distributes them through its retail outlets. Net profits of the OLC after provision for prizes and payment of expenses and operations are paid into the provincial consolidated revenue fund.

The Ontario Casino Corporation (OCC), established under the *Ontario Casino Corporation Act, 1993*, is a Crown corporation responsible for the conduct and management of games of chance and for operating provincial casinos. Provincial casinos are owned by the OCC and operated under contract by third party casino management companies. Currently there are 3 provincial casinos in Ontario: Casino Niagara (Niagara Falls), Casino Windsor (Windsor) and Casino Rama (Orillia). With the exception of revenues from Casino Rama, proceeds after deducting winnings, operator expenses, payments required to be made to the general fund of the AGCO and a required contribution to the consolidated revenue

fund (20% of net revenues received by the OCC from its activities under the *Casino Corporation Act*) are directed to the consolidated revenue fund.

The net revenue from Casino Rama is deposited into a First Nations Trust Fund for distribution to First Nations groups.

The *Alcohol and Gaming Regulation and Public Protection Act, 1996* amended the *Ontario Lottery Corporation Act* and the *Gaming Control Act, 1992* to provide for video lottery terminals (VLTs) to be administered by the OLC. In a news release issued in April 1998, the government cancelled the VLT initiative and announced that it would proceed with the implementation of slot machines in racetracks and charity casinos only.

In June 1998, the government cancelled the charity casino initiative (i.e. implementation of 36 full-time and 8 part-time/seasonal charity casinos) and announced a pilot project of 4 charity casinos located in Thunder Bay, Point Edward, Brantford and Sault Ste. Marie. Gaming activities at these venues are conducted and managed by the OLC.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The Registrar of Alcohol and Gaming and municipal councils license charitable gaming events.
- The suppliers and gaming assistants of charitable gaming events and casinos are required to be registered under the *Gaming Control Act*.

Appeals

- Appeals with respect to registration as a gaming supplier or gaming assistant may be made to the board of the AGCO.

Types of Bingo/Table Games

- Social gaming events – one day gaming events held ancillary to a social occasion and operating a maximum of 20 blackjack tables/wheels.
- Regular (paper based) bingo events – prize value does not exceed \$5,500. Other types of licensed bingo events include monster bingos, super jackpot bingo, merchandise bingo, decision bingo and shutter board bingo.

Social Gaming Events

- **Licensing:** charities licensed by the AGCO to hold one day social gaming event (maximum 20 blackjack tables/wheels) ancillary to social occasion.
- **Volunteer Requirement:** volunteers mandatory – minimum of 3 *bona fide* members of the charity licensee required (Designated Member in Charge, General Cashier and Chip Cashier).
- **Operational Arrangements:** charity licensee may contract with an operator to run event (operator supplies all goods, services and dealers); no fixed reimbursement for operators – charities negotiate contract.
- **Revenue to Charities:** net revenues after expenses (amounts not set) and licensing fee (\$5 per table).
- **Revenue to Government:** \$5 per table or wheel.

Charity Casinos :

- **Operational Arrangements:** As a result of recent policy changes the government has transferred conduct and management of charity casinos to the OLC.
- **Revenue to Charities:**
 - \$100 million per year through the Trillium Foundation.

Charitable Bingos

- **Licensing:** charities are licensed by local municipalities for bingo events where the prize value does not exceed \$5,000 (monster bingo where the prize value exceeds \$5,500 and super jackpots are licensed by the AGCO). Superstar (linked) bingo is not a charity licensed event.
- **Volunteer Requirement:** volunteers mandatory – minimum 3 *bona fide* members of the charity licensee.
- **Operational Arrangements:** charity may hire staff or bingo hall operator to assist (expenses set at 40% of net up to 15% of gross maximum).
- **Revenue to Charities:**
 - paper bingo: 60% of net income (gross wager less prizes, licence fees, honoraria to *bona fide* members, and advertising costs);
 - linked bingo: 22.5% of sales returned to the hall bingo association for distribution back to participating charities through pooling system.

**Involvement
of Local
Government**

- **Revenue to Government:**
 - paper bingo: 3% of prize board to licensing authority (provincial or municipal);
 - linked bingo: 18.5% of sales to Ontario Lottery Corporation.
- Municipalities may issue licences to eligible charities to conduct certain lottery schemes including bingo events where the prize value does not exceed \$5,500, raffles where the prize value does not exceed \$50,000, bazaars and break open tickets where the tickets are not to be sold in conjunction with another licensed gaming event.
- Municipalities also determine the charities to share in the Advance Funding Program (\$40 million from charity casinos). The Advance Funding Program expires March 31, 1998, after which time charities will apply through the Trillium Foundation to share in the \$100 million annually from charity casinos.

Enforcement

- The Registrar of Alcohol and Gaming may appoint compliance officers under the *Gaming Control Act*. There are 100 police officers and 36 full-time civilians involved in compliance investigations.
- Offences and penalties – A person convicted of an offence under the *Gaming Control Act* is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than 1 year, or to both. A corporation convicted of an offence under the *Gaming Control Act* is liable to a fine of not more than \$500,000.
- Enforcement budget – \$7 million annually (inclusive of all gaming and alcohol responsibilities/resources).

Québec

**Statutory
Basis**

*Act respecting Lotteries, Publicity Contests and Amusement Machines*¹⁸ – enacted in 1990, authorizes the Régie des alcools, des courses et des jeux (the Board) to regulate gaming by charitable and religious organizations, by fairs and exhibitions and at public places of amusement.

The Board also has limited jurisdiction over La Société des loteries du Québec (Loto-Québec) in respect of its operation of casinos and its video lottery terminal (VLT) program.

All rules adopted by the Board relating to lottery schemes require government approval.

Structure and Scope of Government Gaming

The Board may delegate to designated First Nations bands, through their band councils, the authority to issue and regulate bingo licences for bingo events on reserves.

Government gaming is authorized under the *Act respecting the Société des loteries du Québec*¹⁷ (the Loto-Québec Act), which creates the Loto-Québec Corporation as a government agent and authorizes it to conduct and administer lottery schemes and operate business incidental to the operation of a State casino.

Through this authority, Loto-Québec directly or by one of its subsidiary corporations:

- runs the lottery ticket operation for Québec;
- operates 3 State casinos which have 5,800 gaming places (tables, machines, etc.), 6 restaurants, 7 bars, 2 banquet halls, meeting rooms and a multi-functional amphitheatre; and
- operates a State VLT system in the casinos in bars, taverns and brasseries and at race tracks – a total of 15,292 terminals (operational as of October 1998).

For 1997/1998, net profits were \$283 million from the State casinos and \$315 million from the VLTs.

The provincial legislation governing VLTs overrides any municipal bylaws which have the effect of restricting VLTs otherwise permitted by the province.

Loto-Québec contracts with both retailers and non-profit organizations for the sale of lottery tickets. This is reported as having generated up to \$135 million for non-profits since 1978.

In addition, the Loto-Québec Act stipulates that 5% of its net profits is paid into a government account entitled "assistance fund for independent community action"; the remaining profits go into the consolidated fund and are used for general government purposes.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The Board has the statutory authority to license and regulate charitable gaming.

Types of Bingo/Casino Gaming

- Non-government gaming is limited largely to charitable bingo.
- There are no permanent or significant charity casinos.

- Charitable bingo features paper bingo and linked bingo (Loto-Québec is also authorized to engage in bingo operations).

Charitable Bingo

- **Licensing:** charities are licensed to manage and conduct paper bingo gaming.
- **Volunteer mandatory:** charities are responsible for conduct and management of events and paper inventory.
- **Operational Arrangements:** charity may hire staff to assist (duties/reimbursement not specified). Use of bingo hall operators is recognized through hall operator licences. Hall and equipment rentals and any paid workers to be on a fixed rate, non-participating basis.
- **Revenue to Charities:** net proceeds – no minimum (but 10% of gross is considered too low). In-hall bingo licensees are authorized to sell instant-win tickets during bingo events.
- **Revenue to Government:**
 - nominal licensing fees; and
 - 70% of gross revenue from Superstar (linked) bingo with 3% of this funnelled to bingo halls that do not have linked bingo in compensation (Superstar site operators get 30% of gross revenue).

**Involvement
of Local
Government**

First Nations bands may license and regulate on-reserve bingo events.

Enforcement

Municipalities precluded from using land use powers to restrict VLTs.

Under the provincial gaming legislation, there are four full-time inspectors dedicated to gaming issues. Sûreté de Québec handles gaming enforcement, investigations and security clearances.

There are 10 regional organized crime squads that have at least 1 member of the squad dedicated to gaming within the particular region.

Offences and penalties – fines of not less than \$50 nor more than \$7,000 in the case of a natural person and \$75 and \$70,000 in the case of a corporation.

New Brunswick

**Statutory
Basis**

*Lotteries Act*¹⁸ – enacted in 1976, established the Lotteries Commission of New Brunswick (LCNB) as a Crown agent with the authority to conduct and manage lottery schemes on behalf of the province.

An order in council issued on January 15, 1981 authorizes the LCNB to issue licences, pursuant to s. 190 [now s. 207] of the *Criminal Code* of Canada, to persons whose principal object is the furtherance of sport, social, community or fraternal objects and who will utilize the proceeds of any lottery scheme for such purposes.

An order in council issued on November 3, 1983 authorizes the LCNB to issue licences, pursuant to s. 207 of the Code, to an agricultural fair or exhibition, or an operator of a concession leased by an agricultural fair or exhibition, to conduct and manage lottery schemes.

Structure and Scope of Government Gaming

Lottery Tickets

Provincial lottery ticket programs are administered by the Atlantic Lottery Corporation (ALC), a corporation owned jointly by the 4 Atlantic provinces. The LCNB is the provincial shareholder of the ALC and appoints 2 representatives to the board of the ALC. The ALC offers break open products and regional ticket games (for example Pik 4, Auto Plus, TAG and Atlantic Choice). The ALC also handles Interprovincial Lottery Corporation products such as 6/49 and Super 7.

The ALC divides profits proportionally on the basis of provincial lottery ticket sales. Profits received by the LCNB from ticket sales are directed to the provincial consolidated fund. Earnings from certain types of games are designated to support the Arts Development Trust Fund and the Sport Development Trust Fund.

Video Lottery Terminals

Video lottery terminals (VLTs) are located in liquor-licensed and non-liquor-licensed establishments (small business establishments) on and off reserves. VLTs are managed by the ALC and are owned by the private sector members of the Coin Machine Operators Association.

Net revenues as of April 1, 1998 are divided:

- 53% to government;
- 24% to the owner of the VLT; and
- 23% to the owner or operator of the premises.

The ALC's net profits from VLTs are directed to the provincial consolidated fund, except for the first \$10 million, which is designated to the Environment Trust Fund. Nearly all of the province's net profit from VLTs located on reserves is designated to First Nations groups under formal agreement with the province.

Structure and Scope of Charitable Gaming***Regulation and Licensing***

Under an order of the Lieutenant Governor in Council, the LCNB is authorized to issue licences to charities, to persons whose principal object is the furtherance of sport, social, community or fraternal objects, to agricultural fairs or exhibitions or to an operator of a concession leased by an agricultural fair or exhibition board.

Types of Charitable Gaming

- Charitable Monte Carlo events/casinos.
- Monte Carlo events – no permanent facilities (limited number of blackjack tables and wheels of fortune); merchandise only.
- Bingos limited to 4 events per week/ocation.
- Raffles – prize limits \$75,000.
- Break open tickets – during events for charitable purposes only.

Charitable Casinos – Monte Carlos Only

- **Licensing:** charities licensed by the LCNB to manage and conduct Monte Carlo events.
- **Volunteer Requirement:** volunteers mandatory – numbers and duties not specified but licensee must be present and must be main beneficiary and is responsible for the conduct and management of the event.
- **Operational Arrangements:** charity may hire staff to assist – duties/reimbursement not specified.
- **Revenue to Charities:**
 - Monte Carlos: minimum 15% of gross revenue before expenses.
- **Revenue to Government:**
 - Monte Carlos: licensing fee of \$25/day.

Charitable Bingos

- **Licensing:** charities licensed by the LCNB to manage and conduct bingos. Bingos conducted in rented premises or charity owned facilities (i.e. legion halls) under a landlord-tenant relationship only.
- **Volunteer Requirement:** volunteers mandatory – numbers and duties not specified but licensee must be present and must be the main beneficiary and is responsible for the conduct and management of each bingo event.

- **Operational Arrangements:** charity may hire staff or bingo hall managers to assist with bingo event.
- **Revenue to Charities:**
 - bingo: minimum 15% of gross revenue before expenses.
- **Revenue to Government:**
 - bingos: \$25 per licence (licence can be issued for up to 1 year).

Involvement of Local Government

First Nations may be designated as "licensing authorities" if they have an agreement with the province and if they are appointed through an order in council. In addition to revenue sharing of VLT earnings, the agreements also include revenue sharing from on-reserve sales of break open tickets.

Enforcement

The LCNB appoints inspectors for ensuring compliance with the regulations under the *Lotteries Act* and agreements entered into by the LCNB.

It is expected that gaming enforcement people will in future be appointed as special constables.

Offences and penalties – penalties for non-compliance with the VLT program range from a fine of \$100 for minor offences, first violation, to suspensions for a duration to be determined by the LCNB.

Nova Scotia

Statutory Basis

*Gaming Control Act*¹⁹ – enacted in 1995, established the Nova Scotia Gaming Control Commission, now the Nova Scotia Alcohol and Gaming Authority (NSAGA), as a Crown agent with the authority to regulate and control casinos and other lottery schemes in the province. The NSAGA's jurisdiction extends to the regulation of the Nova Scotia Gaming Corporation (NSGC), a Crown corporation established under the *Gaming Control Act* to conduct and manage casinos and other lottery schemes on behalf of the Province. The NSAGA is responsible for licensing and for carrying out continuous studies on the socio-economic effect of gaming.

Structure and Scope of Government Gaming

Lottery Tickets

The provincial lottery ticket business is administered by the Atlantic Lottery Corporation (ALC), a corporation owned jointly by the four Atlantic provinces. In Nova Scotia, the ALC offers break open products, instant tickets and regional ticket games such as Atlantic Choice and Auto Plus. The ALC also markets Interprovincial Lottery Corporation products such as Super 7 and 6/49. The ALC's net revenues are divided among the 4 Atlantic provinces in amounts

directly proportional to the lottery ticket sales in each province. The net profits received by the NSGC from the ALC are paid to the consolidated revenue fund (CRF).

Video Lottery Terminals

The ALC also administers the video lottery business in Nova Scotia. Video lottery terminals (VLTs) are owned by the ALC and installed on the premises of approved VLT retailers. Retailers must hold a liquor licence to be eligible for VLT registration certificates, which are issued by the NSAGA. VLT retailers qualify for up to 12 VLTs depending on square footage and VLT revenues. This formula is under review by the NSGC, because the *VLT Moratorium Act* (passed June 29, 1998) capped the number of VLTs in Nova Scotia at approximately 3,200 (excluding First Nations VLTs).

VLT retailers receive commissions equal to 30% of the net VLT revenue. 1% of that commission is paid to the Nova Scotia Gaming Foundation (NSGF). The remaining net VLT revenues after payment of direct expenses incurred by the ALC in Nova Scotia are paid to the NSGC. The NSGC matches the contribution of the VLT retailers to the NSGF and pays the remainder to the CRF.

The ALC also leases and maintains VLTs on First Nations reserves. First Nations retain all revenues after payment of a rental fee to the ALC. The rental fee is calculated on a cost basis.

Casinos

ITT Sheraton Canada (Sheraton), an agent of the NSGC, operates the two casinos, which are located in Halifax and Sydney. Each casino has table games and slot machines.

20% of all net casino revenue is paid as a win tax directly to the CRF. \$100,000 per annum is paid as a registration fee to the NSAGA.

In respect of the Halifax Casino, Sheraton, as operator, receives 35% of the net profit. The balance is paid to the NSGC which, after deducting its expenses, directs the remainder to the CRF.

In respect of the Sydney casino, Sheraton receives 10% of the net profit, and the balance is distributed as follows:

- 50% to First Nations that have entered into gaming agreements with the province; and
- 50% to the CRF.

Structure and Scope of Charitable Gaming***Regulation and Licensing***

- The NSAGA licenses charitable and religious gaming.

Appeals

- Applicants and registrants are entitled to an informal hearing before the NSAGA's Executive Director of Gaming Control, and a formal hearing before the NSAGA.

Types of Charitable Gaming

- Charitable bingo – featuring paper bingo only.
- There are no permanent/significant charity casinos.
- Ticket lotteries.

Charitable Bingos

- **Licensing:** charities licensed to manage and conduct bingo events
- **Volunteer Requirement:** volunteers mandatory – numbers and duties not specified.
- **Operational Arrangements:** licensee may hire only staff to assist with bingo event (paid staff duties/reimbursement not specified). Licensee may not hire a manager to conduct an event.
- **Revenue to Charity Licensee:** minimum 15% of gross revenue must be used for charitable or religious object.
- **Revenue to Government:** licensing fee of \$25, prize fee of 2% of the fair value of all prizes awarded.

Ticket Lotteries

- **Licensing:** charities licensed by the NSAGA to conduct and manage ticket lotteries offering prizes valued at more than \$500. Charities are issued a permit by the NSAGA to conduct and manage ticket lotteries offering prizes valued at \$500 or less.
- **Volunteer Requirement:** not specified.
- **Operational Arrangements:** conduct and management not to be delegated to any organization or any person who is not a member of the licensee.

- **Revenue to Charities:** net proceeds after prizes, expenses and licensing fees for charitable, religious or community objects or purposes.
- **Revenue to Government:** 2% of the fair value of all prizes awarded.

**Involvement
of Local
Government**

The Province has signed gaming agreements with 10 of 13 First Nations. These agreements provide First Nations gaming commissions with the authority to issue gaming licences and regulate gaming activity on reserves. First Nations operate bingos and VLTs.

Enforcement

The NSAGA appoints investigators as compliance officers under the *Gaming Control Act*. Peace officers are investigators for the purpose of enforcement under the Act.

25 compliance officers and 12 RCMP officers are currently dedicated to the NSAGA.

Budget – $\frac{1}{2}$ of 1% of gross gaming revenue is earmarked for police enforcement of gaming related offences under the *Criminal Code of Canada*. $\frac{1}{2}$ of 1% of gross gaming revenue is designated for gaming enforcement.

Offences and Penalties – if the NSAGA or its Executive Director of Gaming Control determines that the Act or regulations have been contravened, either may order the payment of an administrative penalty of not more than \$5,000 for individuals or not more than \$50,000 for corporations.

Prince Edward Island

**Statutory
Basis**

*Lotteries Commission Act*²⁰ – enacted in 1976, established the Prince Edward Island Lotteries Commission (PEILC) as a Crown agent with the authority to organize, conduct and manage lottery schemes in the province.

**Structure and
Scope of
Government
Gaming**

Lottery Tickets

Provincial lottery ticket programs are administered by the Atlantic Lottery Corporation (ALC), a corporation owned jointly by the 4 Atlantic provinces. In Prince Edward Island, the ALC offers break open products and the regional ticket games, for example The Provincial Super-Loto and Scratch and Win. The ALC also handles and markets Interprovincial Lottery Corporation products such as 6/49. The net revenues of the ALC are divided among its shareholder provinces in amounts directly proportional to lottery sales in a particular province. The net profit realized from lottery ticket sales goes to the provincial consolidated revenue fund.

Video Lottery Terminals

Video lottery terminals (VLTs) are located in licensed premises only. The machines are privately owned but monitored by the ALC.

Net revenues from VLTs:

- 60% to the provincial government;
- 20% to the licensee siteholder; and
- 20% to the private VLT owner.

Casinos

There are no permanent charity or professional-run casinos in the province.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The Department of Community Affairs and Attorney General licenses charitable and religious gaming.

Appeals

- Rights of appeal are not specified.

Types of Charitable Gaming

- Charitable bingo only – featuring paper and electronic bingo.
- No charity casinos.
- Ticket lotteries, raffles and draws.

Charitable Bingos

- **Licensing:** charities licensed to manage and conduct bingo events.
- **Volunteer Requirement:** volunteers mandatory – numbers and duties not specified.
- **Operational Arrangements:** licensee can hire only staff to assist with bingo event (paid staff duties/reimbursement not specified). Licensee cannot hire a manager to conduct an event.
- **Revenue to Charity Licensee:** minimum 15% of gross revenue must be used for charitable or religious object.

- **Revenue to Government:** licensing fee not specified.

Ticket Lotteries

- **Licensing:** charities are licensed by the PEILC to conduct and manage ticket lotteries.
- **Volunteer Requirement:** not specified.
- **Operational Arrangements:** conduct and management not to be delegated to any organization or any person who is not a member of the licensee.
- **Revenue to Charities:** net proceeds after prizes, expenses and licensing fees, for charitable, religious or community objects or purposes.
- **Revenue to Government:** percentage prize payout not specified.

**Involvement
Of Local
Government**

None.

Enforcement

The province has one inspection officer. All *Criminal Code of Canada* gaming offences are handled by the local police.

Budget – approximately 10% (\$30,000) of gaming revenue is dedicated to enforcement.

Offences and penalties – not specified.

Newfoundland & Labrador

**Statutory
Basis**

*Lotteries Act*²¹ – enacted in 1991, gives the Minister of Finance the authority, with the approval of the Lieutenant Governor in Council, to organize, conduct and manage lottery schemes in the province. The Minister of Justice, or his or her designate, has the authority to license and regulate certain gaming activities in the province.

**Structure and
Scope of
Government
Gaming**

Lottery Tickets

Provincial lottery ticket programs are administered by the Atlantic Lottery Corporation (ALC), a corporation owned jointly by the four Atlantic provinces. In Newfoundland and Labrador, the ALC offers break open products and the regional ticket games, for example Atlantic Choice. The ALC also handles and markets Interprovincial Lottery Corporation products such as 6/49. The net revenues of the ALC are divided among its shareholder provinces in amounts directly

proportional to lottery sales in a particular province. The net profit realized by the ALC from lottery ticket sales goes to the provincial consolidated revenue fund.

Video Lottery Terminals

Video lottery terminals (VLTs) are located in licensed premises only and are all owned by the ALC. VLTs are installed and managed by the ALC and are operated by the owner or operator of the licensed premises ("licensee siteholder"), who is also registered under the *Lotteries Act*.

Net revenues from VLTs are distributed:

- 75 - 80% to ALC; and
- 20 - 25% to the licensee siteholder up to a maximum of \$100,000. For all revenues over \$100,000, the share drops to 20%.

Casinos

There are no permanent or professionally-run casinos in the province.

Structure and Scope of Charitable Gaming

Regulation and Licensing

- The Department of Government Services and Lands, Trade Practices and Licensing Division (the Department) licenses charitable gaming.

Appeals

- Appeals can be made to the Minister of Government Services and Lands.

Types of Charitable Gaming

- Charitable bingo – featuring paper bingo only.
- No permanent/significant charity casinos.
- Ticket lotteries.

Charitable Bingos

- **Licensing:** charities licensed to manage and conduct bingo events.
- **Volunteer Requirement:** volunteers mandatory – one person required to oversee the event.
- **Operational Arrangements:** licensee may hire a manager, but one volunteer member of the organization must be there to oversee the event. There is no

limit on the salary payable to the manager. Expenses for the event, including the manager's salary, must not exceed 20% of the gross revenue.

- **Revenue to Charity Licensee:** minimum 15% of gross revenue must be used for charitable or religious object.
- **Revenue to Government:** licensing fee of 1% of prize payout.

Ticket Lotteries

- **Licensing:** charities licensed by the Department to conduct and manage ticket lotteries.
- **Volunteer Requirement:** volunteers required to conduct and manage the event.
- **Operational Arrangements:** conduct and management not to be delegated to any organization or person who is not a member of the licensee.
- **Revenue to Charities:** net proceeds after prizes, expenses and licensing fees, for charitable, religious or community objects or purposes.
- **Revenue to Government:** 1% of the prize payout.

*Involvement
Of Local
Government*

None.

Enforcement

The province has established an Auditing Compliance Section consisting of 4 enforcement auditors and 2 licensing officers. All criminal matters are referred to the police.

Budget – Approximately \$300,000 is budgeted annually from gaming revenues to fund enforcement programs.

Offences and penalties – not specified.

Endnotes

- ¹ S.A. 1996, c. G-0.5.
- ² R.S.A. 1980, c. P-12.01.
- ³ S.S. 1988-89, c. A-18.01.
- ⁴ S.S. 1997, c. A-18.011.
- ⁵ S.S. 1997, c. S-50.
- ⁶ S.S. 1983-84, c. I-12.01.
- ⁷ R.S.C. 1985, c. C-46.

- ⁸ S.M. 1996, c. 74.
- ⁹ R.S.M. 1987, c. L-210.
- ¹⁰ S.O. 1992, c. 24.
- ¹¹ S.O. 1996, c. 26.
- ¹² R.S.O. 1990, c. L.19.
- ¹³ R.S.O. 1990, c. W.9.
- ¹⁴ R.S.O. 1990, c. O.26.
- ¹⁵ S.O. 1993, c. 25.
- ¹⁶ S.Q. 1990, c. L-6.
- ¹⁷ S.Q. 1990, c. S-13.1.
- ¹⁸ S.N.B. 1976, c. L-13.1.
- ¹⁹ S.N.S. 1994-95, c. 4.
- ²⁰ R.S.P.E.I. 1988, c. L-17.
- ²¹ S.N. 1991, c. 53.

Appendix 3: Provincial News Releases on Gaming Issues

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Overview

Government has since 1994 issued many news releases on gaming issues. The material in this appendix includes the full text of the news releases that are referenced in the White Paper. Chapter 4 provides an overview of the government's gaming policies on major issues as expressed in the news releases included here.

1994 News Releases

B.C. Government Says No to Vegas-style Casinos: October 4, 1994

Office of the Premier
P30/94

Vancouver - The provincial government has rejected Las Vegas-style casinos for British Columbia. Premier Mike Harcourt and Government Services Minister Robin Blencoe announced today.

"British Columbia is a magnificent province with the most dynamic economy in Canada," Harcourt said. "We weighed the advantages and disadvantages of Vegas-style casinos very carefully, and determined that such facilities would be out of step with the quality of life British Columbians expect and value so highly in this province."

"The people of British Columbia have expressed serious and legitimate concern about Vegas-style casinos here. This was a major factor in the decision of my cabinet and our government caucus," he said. "Our decision is consistent with my personal views and with the long-standing views of our party."

The casino decision is based on government's recently completed Gaming Policy Review, and is part of a new provincial gaming policy.

The new gaming policy has been crafted specifically to address both B.C.'s unique situation and the expectations of those who live here, Harcourt said. "While other provinces in Canada are following different paths, ours is a 'Made in B.C.' plan which puts the interests of British Columbians first."

Blencoe, B.C.'s minister responsible for gaming, said that there will be moderate expansion to existing charitable gaming, which has earned community acceptance and supports the work of more than 4,700 charitable organizations in B.C. The 1987 moratorium on new community-based charitable casinos will be lifted and an increase in charitable casinos will be explored. Currently 18 charitable casinos operate in the province, benefiting local community organizations and charities.

The new gaming policy for the province will also allow moderate, controlled expansions of electronic gaming, he said. These expansions, at existing charitable bingo halls, will be through a limited increase in electronic bingo based on a successful five-year pilot project in Vancouver. In addition, a restricted number of new video lottery terminals will be introduced at adult-only and licensed premises.

Introducing legal video lottery games will assist the provincial government in eliminating illegal gaming machines. The number of terminals introduced will result in a per capita ratio lower than any of the seven provinces offering this gaming outside of large casinos.

"This moderate expansion is designed to ensure charitable revenues are secured and enhanced," Harcourt said. "In addition, every new dollar of government revenue from gaming expansion will be used to address the priorities of British Columbians."

"My first priority for any new, additional gaming revenue is to put more police officers into our communities. I have directed the Attorney General and my ministers to report back to me on new community-based policing and crime prevention programs for consideration as first uses for these new revenues."

Improvements will also be made to how gaming is regulated in British Columbia, Blencoe said. "The government will introduce B.C.'s first comprehensive gaming act to strengthen monitoring and enforcement powers. All new gaming will be limited to adult-only facilities," he said. "We will work to ensure, through legal reform, that a crime-free gaming environment exists for those who enjoy it."

The provincial government has entered into gaming negotiations with the First Nations Summit. These negotiations will address First Nations gaming opportunities to foster economic development and self-sufficiency in aboriginal communities. Negotiations are being held on the basis that First Nations gaming will be within the new gaming policy and within the laws of British Columbia.

"This new gaming policy announced today, based on an extensive review process, responds to public concerns in a moderate and fair way," Harcourt said. "We will continue to listen to and be guided by British Columbians on the implementation of these decisions."

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1995 News Releases

Provincial Government Ends First Nations Gaming Negotiations: May 9, 1995

Ministry of Government Services
P12/95

Victoria - Gaming negotiations between the provincial government and the First Nations Summit have been ended by the province, Government Services Minister Ujjal Dosanjh announced today.

"The Summit's demands were totally incompatible with our government's firm commitment to ensure that gaming opportunities are moderate," said Dosanjh, the minister responsible for gaming. "The Summit was looking for a significant increase in the number of facilities and wanted casinos which were more like Vegas-style operations - large numbers of table games, high bet limits and slot machines."

The government has consistently ruled out that type of facility, Dosanjh said. "Premier Mike Harcourt, in announcing government's new gaming policy last October, clearly stated that Vegas-style casinos would not be allowed anywhere in the province, and that any changes to gaming would be moderate and within the laws of British Columbia."

Dosanjh said the government will develop a responsible and orderly process for introducing gaming on First Nations land. "We agree with B.C. First Nations that they should have opportunities to participate in gaming to enhance social, economic and cultural development in their communities," he said. "Gaming facilities available to First Nations will be the same as those available to the rest of British Columbia."

"Many people, including First Nations, are anxious to have their gaming proposals considered. In fairness to First Nations, we would like to have the First Nations gaming component completed when the overall provincial gaming policy is implemented," he said.

The province and the Summit held gaming discussions and negotiations for more than a year and the parties had initially hoped to negotiate a draft agreement by last December, he said. The target date for conclusion was moved back several times in an effort to reach agreement.

"The two sides are too far apart in these negotiations," Dosanjh said. "The provincial government will not delay implementing its gaming policy to wait for the end of the negotiations, especially when those negotiations are unlikely to result in an agreement."

Preparations for bringing in the provincial gaming policy are nearing completion and details are expected to be announced in June, Dosanjh said.

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Video Lottery Terminals Ruled Out by Provincial Government: May 24, 1995**Ministry of Government Services**
P13/95

Victoria - Video Lottery Terminals will not be introduced anywhere in British Columbia, Government Services Minister Ujjal Dosanjh announced today.

"We have heard and are acting on the public concerns expressed about VLTs," said Dosanjh, the minister responsible for gaming. "Our decision not to introduce VLTs is part of our ongoing commitment to ensure that our 'Made in B.C.' gaming policy reflects the values and interests of British Columbians."

Public opposition to the proposed introduction of VLTs has been mounting since last fall, Dosanjh said. "We have received hundreds of letters from groups and individuals opposing VLTs, and municipalities representing about 55 per cent of B.C.'s population have stated their objections.

"When Premier Harcourt announced the framework for a new gaming policy last October, made it clear that government would listen to and be guided by British Columbians on the implementation of those decisions. We have listened, and that input has helped guide us to this decision today," Dosanjh said.

Government will provide further details on British Columbia's gaming direction within a month, Dosanjh said.

-30-

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Ministry of Government Services
Gaming Implementation Project
Victoria (604) 356-8710

1996 News Releases

Government Appoints Senior Official to Examine Options for Gaming Expansion: December 4, 1996

Ministry of Employment and Investment

138

Victoria - The provincial government has appointed a senior official to review gaming expansion options in B.C., Employment and Investment Minister Dan Miller said today.

"We've assigned an individual who has expertise in the area to oversee the process and ensure any possible plans take into account gaming experiences in other areas such as Windsor and Montreal," Miller said.

Peter Clark, a long-time B.C. civil servant who participated in the follow-up to the 1994 review of gaming, will provide information and advice on gaming expansion options to government in early 1997. Clark managed the implementation of government's 1994 gaming policy and is the former executive director, special projects in the Ministry of Finance and Corporate Relations.

"As well, to help ensure that any gaming expansion is done in a fair and co-ordinated fashion, I've asked the B.C. Gaming Commission to hold off on the expansion of charity gaming until government has made a decision," said Miller. "Then we can better implement potential gaming revenue options in a way that benefits both charities and British Columbians in general."

"This government views expanded gaming as an opportunity to build the economy and provide revenue to protect health care and education," Miller added. "We see it as a way to enhance the tourism industry and generate good, long-term employment opportunities for British Columbians within a well-run, carefully regulated environment."

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Contact:

Don Zadravec
Executive Director, Communications Division
Ministry of Employment and Investment
(250) 480-9268

1997 News Releases

Government Rules Out Las Vegas-style Casinos and VLTs in Bars and Pubs: March 13, 1997

Ministry of Employment and Investment 020

Victoria – The provincial government has ruled out the establishment of Las Vegas-style casinos and video lottery terminals in bars and pubs as part of its new gaming policy, Employment and Investment Minister Dan Miller announced today.

"The changes respond to concerns expressed by British Columbians about large casinos and VLTs in bars and pubs," Miller said. "At the same time, charity gaming will be protected from foreign competition, preserving more than 2,000 jobs in the industry and helping protect funding for health care and education."

Miller, releasing a government report on gaming in British Columbia, said, "The report does not recommend any specific option; rather it provides a number of alternatives along with an analysis of the economic and social issues associated with each."

Attached to the report is a KPMG-authored economic and social assessment of gaming in Canada, including a detailed analysis of the impacts of various gaming expansion options.

"The report is an excellent analysis of the current state of the gaming industry in British Columbia and across Canada," said Miller. "The report helped to guide the government in its reappraisal of gaming policies. As well, the people of British Columbia have made it clear that they do not favor either VLTs in bars and pubs or the establishment of a Las Vegas-style casino in the province. As a result, those options were not adopted."

British Columbia's new gaming policy provides that:

- Video lottery terminals will not be allowed in bars and pubs.
- A Las Vegas-style casino will not be established in B.C.
- Charitable casinos will be enhanced to allow them to compete with casinos in other jurisdictions, particularly those in Washington state. These changes will include higher limits, new games and the placement of slot machines on their premises.
- The increased revenue from these enhancements will largely be used to help protect health care and education. Charitable gaming revenue, currently \$130 million per-year, will be protected and provision will be made for its continued growth.

- Destination and new additional charity casinos and bingo halls will require firm local government support and input from surrounding areas before they are allowed to go ahead. Communities will design their own appropriate approval mechanism for new casinos and bingo halls.
- Local additional costs (police and infrastructure) will be taken into account when destination facilities are established.
- The province will fund dedicated police and prosecution resources to address illegal gaming.
- There will be a minimum gaming age of 19 in B.C.
- In conjunction with these changes, the Ministry of Children and Families will establish a gambling addiction program.
- The B.C. Gaming Commission's process of charitable gaming expansion, announced in 1994, will be overseen by the new Lotteries Advisory Committee.
- Electronic bingo in charitable bingo halls will go ahead, also as announced in 1994.

"We are committed to a well-controlled and regulated environment for gaming in B.C. And these steps are a continuation of the moderate changes to gaming that have taken place in our province over the past few years and will be supported through the development of new comprehensive gaming legislation," said Miller.

"This made-in-B.C. approach will help ensure that gaming takes place in locations where adults make a conscious decision to participate, largely in existing facilities that are well regulated with trained staff. Destination or new additional charity casinos and bingo halls will only be allowed where there is local government approval."

"Although we haven't had an opportunity to read the report, we are satisfied that the government has decided to protect the gaming interests of charities in the province. A major government-run casino and VLTs in bars and pubs could have had a devastating impact on charitable revenues. We look forward to working with the committee in the weeks and months ahead," said Randall St. Godard, co-chair of Community Advocates for Charitable Gaming.

"We are encouraged that the government's new gaming policies have taken into consideration the needs of the province's dynamic racing industry," said Chuck Keeling, a representative of the Horse Racing Alliance of British Columbia, "we look forward to discussing ways of enhancing this very important sector of our economy."

Miller said Peter Clark, a senior civil servant, will lead the implementation of these changes through the new Lotteries Advisory Committee. The committee will work closely with charities and operators in developing the changes necessary

for successful implementation. The committee will also work with racing representatives to help ensure the continued viability of the British Columbia horse racing industry, and its estimated 3,000 direct jobs. This will include the placement of slot machines in age-restricted locations at racetracks if requested by the tracks.

Richard Macintosh, chair of the British Columbia Gaming Commission, has agreed to serve on the Lotteries Advisory Committee upon the completion of his term with the Gaming Commission. "Mr. Macintosh's gaming expertise and knowledge of charitable gaming will be an invaluable contribution . . . this initiative," said Miller.

The new chair of the B.C. Gaming Commission will be announced shortly. Gaming Commission members will work with the Lotteries Advisory Committee to implement the policies announced today.

As a result of today's announcement, B.C. will remain the only province in Canada not to have a province-wide VLT network and one of only five that does not have one or more Las Vegas-style casinos.

Copies of the gaming report are available from the Lotteries Advisory Committee, 3rd Floor, 712 Yates St., Victoria, BC, V8V 1X4, (250) 387-0757.

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Contact: Don Zadravec
A/Executive Director
Communications Division (250) 952-0607

Backgrounder
Gaming in British Columbia

- Gaming in B.C. currently consists of traditional lottery products, pari-mutuel wagering on horse racing, and charitable gaming (including casinos, bingos, and raffles).
- As part of the government's overall fiscal management plan, Peter Clark, a senior civil servant, was assigned the task in late 1996 of preparing a report on gaming in British Columbia. The report examined the financial and social implications of allowing additional gaming initiatives in British Columbia.
- In preparing the report Clark met with a variety of stakeholders per the instructions given to him by Employment and Investment Minister Dan Miller to make himself available to interested parties. Clark met with representatives of public interest groups, municipalities, the police, the gaming industry and the general public.
- KPMG was selected out of four firms that replied to an invitation to prepare a report on gaming. As part of this contract, KPMG sub-contracted a number of local suppliers.

- Gaming is a significant industry in British Columbia. The province's 17 charity casinos and 42 bingo halls earn about \$130 million annually for charities and employ over 2,300 people. The British Columbia Lottery Corporation contributed \$244 million to the provincial treasury in the 1996/97 fiscal year, half of which was dedicated to health care. Traditional lotteries employ about 2,000 workers. The horse racing industry, with seven racetracks and 22 teletheatres, directly employs approximately 3,000 British Columbians.
- Approximately 80 per cent of charitable casino gaming takes place in the Greater Vancouver Regional District.
- British Columbia remains the only province without a province wide Video Lottery Terminal (VLT) network and one of five provinces not to have one or more Las Vegas-style casinos.

Request for Proposals for Additional Gaming Facilities Issued: July 31, 1997

**Ministry of Employment and Investment
094**

Victoria - The provincial government today released the request for proposals for additional gaming facilities which outlines the terms and conditions under which the provincial government will evaluate new gaming opportunities.

Destination and additional charitable gaming facilities will proceed only after the following critical criteria are met:

- A proposal must have demonstrable local government support and will only be considered after the host local government has indicated, through a resolution, that it favors additional gaming facilities.
- Adjacent communities will have input into the process and the opportunity to demonstrate whether a new gaming facility will have a demonstrable material impact upon them.
- New gaming facilities, before being approved, will require a viable business plan, which must consider infrastructure needs (e.g. water, sewer, parking).
- An economic development component is expected for destination facilities.

New facilities will only be approved if they do not have a material impact on existing charitable facilities.

The provincial government, consistent with other Canadian jurisdictions, has removed the prohibition against the involvement of publicly-traded companies in gaming. This will allow proponents greater access to capital, and will provide for further scrutiny of gaming management companies by their respective securities commissions.

The RFP is available at the Lotteries Advisory Committee, PO Box 9311, Stn Prov Govt, Victoria, BC, V8W 9N1. Attention: RFP contact. FAX: (250) 356-1910.

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Contact: Peter Clark
Chair
Lotteries Advisory Committee
(250) 387-0757

Backgrounder
Request for Proposals

General

- The RFP closes on November 28, 1997.
- Casinos will have a maximum of 30 gaming tables and 300 slot machines. Bingo halls will have a maximum of 600 seats.
- There is a \$10,000 application fee per facility and a \$1,000 registration fee. In addition, proponents must pay (\$5,000 base fee plus any additional costs) for any required investigatory work by the Gaming and Audit Investigation Office of the Ministry of Attorney General (GAIO).
- The Lotteries Advisory Committee will evaluate the proposals and make recommendations to Cabinet.
- Relocations of existing facilities across municipal boundaries must proceed through the RFP process. Current British Columbia Gaming Commission (BCGC) policies will continue to apply to the relocation of existing facilities within a municipality.

Revenue

- Bingo hall operators will receive, net of prizes, 40 per cent of monthly paper sales up to \$700,000 and 30 per cent beyond this amount; and 30 percent of electronic and linked bingo sales. This compensation includes a provision for facilities development and improvement.
- Casino operators will receive 40 per cent of the table game win, 25 per cent of the slot machine win and an additional 3 per cent of each for a facility development fund, on which each operator must report expenditures and action annually.
- The British Columbia Lottery Corporation (BCLC) will own and manage slot machines, linked and electronic bingo. Consequently, the BCLC will receive a portion of the slot machine and electronic and linked bingo win (11 per cent) to cover its costs.

- The revenue (net of prizes and operating costs) from casinos and bingo halls will be shared as follows:
 - two-thirds to the provincial government to help protect health care and education;
 - in charitable facilities, one-third will go to charities; and,
 - in destination facilities, one-sixth will go to the host local government, whether a First nation or a municipality. The remaining one-sixth, in whole or in part, will go to the proponent as negotiated project by project, for economic development purposes. Any balance not negotiated will go to the provincial government.
- Charitable gaming revenues, at the facility level, is guaranteed at \$118 million plus the British Columbia Consumer Price Index annually until a mature market is achieved, which could take three years.
- The above policies and revenue sharing formulas will apply to new and existing facilities.
- The government intends to enter into 10-year agreements with successful proponents, with a 10-year renewal option.

Proposals for Gaming Facilities Face Rigorous Evaluation: December 2, 1997

**Ministry of Employment and Investment
141**

Victoria – Forty-nine proposals have been received for additional charitable and destination gaming facilities, but it is not known how many will be approved because of the rigorous evaluation that has been put in place, Peter Clark, chair of the Lotteries Advisory Committee, said today.

"There are no guarantees that even proposals that satisfy the host and adjacent local government requirements will be approved because these are only two of an extensive series of requirements," said Clark.

He said some of the proposals do not have official and final approval from the host local government as required. If this approval is not given by Dec. 29, those proposals will be returned to the proponents along with their submission fees.

"We will release further information about the proposals once we have determined final host local government approval.

"Over the next several months, the proposals will go through a rigorous evaluation process before the Lotteries Advisory Committee makes its recommendations to cabinet."

Clark said the proposals must have a viable business plan (including infrastructure needs such as water, sewer and parking), an economic development component for destination facilities, and a detailed market assessment that highlights the total market potential of the proposed facility as well as the potential impact on any existing gaming facility within the same market.

Evaluation teams, comprised of representatives of LAC, the B.C. Gaming Commission, the B.C. Lottery Corporation, the Gaming Audit and Investigation Office, Coopers & Lybrand and other expert consultants, have been established for each of the primary pre-established criteria set out in the request for proposals:

- Corporate experience/expertise
- Executive experience/expertise
- Business plans/costs
- Community relations
- Security and surveillance
- Financial strength and capacity
- Knowledge of relevant BC markets
- Market assessments.

These teams will evaluate the proposals under the direction and oversight of an evaluation committee comprised of representatives of LAC, the B.C. Gaming Commission and the BC Lottery Corporation. Host local governments that are interested in having additional gaming facilities can participate in the evaluation process of proposals for their communities.

The evaluation committee will present the results to the LAC, which in turn will make its recommendations to cabinet. All approval decisions will be made by cabinet.

It is expected that successful proposals will be announced during the winter/spring of 1998. Not all successful proposals will necessarily be announced at the same time. Proposals for stand-alone areas, where there are no competing proposals, may be evaluated and approved before other proposals.

The request for proposals process follows the government's announcement in March that destination and additional gaming facilities will proceed only after the following criteria are met:

- A proposal must have demonstrable local government support and will only be considered after the host local government has indicated, through a resolution, that it favors additional gaming facilities

- Adjacent communities will have input into the process and the opportunity to demonstrate whether a new gaming facility will have a demonstrable material impact upon them.
- New gaming facilities, before being approved, will require a viable business plan, which must consider infrastructure needs (e.g. water, sewer, parking).
- New facilities will only be approved if they do not have a material impact on existing charitable facilities.

Casinos are restricted to a maximum of 300 slot machines and 30 gaming tables.

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Contact:

Don Zadravec
Executive Director
Communications Division
(250) 952-0607

1998 News Releases

Farnworth Guarantees Higher Charity Gaming Revenues, Reorganizes System, Starts Talks for New Act: April 9, 1998

Ministry of Employment and Investment
31

Victoria – The provincial government is taking immediate action to reorder and stabilize the province's gaming structure, and to initiate stakeholder consultation toward a provincial gaming act in 1999, Employment and Investment Minister Mike Farnworth said today.

Farnworth also said he was guaranteeing increased charity revenues of \$125 million in 1998/99, up from \$118 million in 1997/98.

"Under the interim system, charities will continue to be involved in charitable gaming and the B.C. Gaming Commission will continue to be responsible for charity access to gaming revenue as it has for more than a decade," said Farnworth, minister responsible for gaming.

He said the B.C. Lottery Corporation would now manage and conduct casino table games, slot machines and electronic and linked bingo in compliance with Canada's Criminal Code, which only allows electronic gaming to be conducted by the provincial government or its agent.

Bingo facilities will continue to operate through charitable licensees, as they have in the past, and will retain the net proceeds, including those from electronic and linked bingo.

"This restructuring reflects both current legal uncertainties and the need to protect charity revenues," Farnworth said. "We have consensus that the community chest grant-system is not the way to go in our province, and I want a stable, familiar structure in place for focused discussions toward a new gaming act next year."

"This is a fair, win-win decision," Farnworth said. "It protects and preserves the important role of charities in B.C. gaming, it guarantees earnings for charities, and it increases the overall charity funding available. It establishes a firmer policy and legal base for gaming in light of the January decision of the court. It also meets the government's revenue goals to protect health care and education in B.C."

Wendy Thompson, spokesperson for charity bingo operators, said her membership supports government's interim bingo model and welcomed Farnworth's guarantee of higher charity revenues.

"This interim model sets the right tone for the coming year. It guarantees funding to charities, recognizes the differing needs of casino and bingo operators and, even more importantly, provides a meaningful opportunity for charities and stakeholders to participate in the development of a gaming act," she said.

These sentiments were also echoed by Rodney Ward of the Canadian Society for Asian Arts.

Tom Nellis, spokesperson for the province's largest association of commercial bingo operators, supports the need for a comprehensive bingo review.

"While this is not the model that best suits the needs of commercial operators, I understand why government has gone in this direction. We are, however, fully committed to working with government over the coming year to develop a longer-term framework for gaming," Nellis said.

"I want to protect a strong role for charities in gaming, and this government wants to ensure that money raised by charities in their own communities stays there," Farnworth said.

"A number of legal interpretive issues remain unresolved, but I had to act now for stability, and we will continue to monitor and evaluate developments in other provinces and in Ottawa," Farnworth said.

"This decision flows from my recent consultation with stakeholders, and from recommendations of Frank Rhodes in his gaming report. I am committed to introducing legislation next year to achieve a fair and lasting gaming act for British Columbia. This will take focused discussions with gaming stakeholders and municipal leaders."

Farnworth said he also wants a strategic analysis of B.C.'s bingo sector - together with stakeholder recommendations on future direction - to be a key outcome of consultation leading up to new provincial gaming legislation. "Mr. Rhodes has agreed to carry forward his recent work with gaming stakeholders, and will lead consultation toward the new act."

Meanwhile, the minister said appointments to the Lotteries Advisory Committee will be allowed to lapse, with another administrative structure within the ministry to handle policy co-ordination and support functions.

"Proposals for destination casinos are unaffected by any of today's decisions, with that process proceeding on schedule for decisions by government this spring," he said.

"The B.C. Gaming Commission is critical to the success of charitable gaming in the province. For this reason, I am also today naming Richard James (Jim) Carter of Victoria as the new chair of the commission and I am appointing six new members to complete today's restructuring," said Farnworth.

Carter is currently chair of Sport B.C., president of the Duke of Edinburgh Council (B.C.) and member of the education committee, Commonwealth Centre for Sport Development. In the 1980s, he served as deputy minister of the Ministry of Education and the Ministry of Social Services and Housing.

Appointed as members for two-year terms are:

- Linda Lauder of Prince George, senior partner of J.M. Associates, consultants to First Nations, and former acting executive director of Carrier Sekani Family Services
- Thelka Wright of Port Coquitlam, adult services (reference) assistant at the Terry Fox Library in Port Coquitlam.

Appointed for one-year terms are:

- Derick Yuk Heng Cheng of West Vancouver, pharmacist and chair, Chinese Cultural Centre
- Severin R. Morin of Burnaby, a food service consultant and currently involved in theatre development and fund-raising for the Michael J. Fox Theatre in Burnaby
- Shelagh Glibbery of Dawson Creek, an entrepreneur and bingo volunteer
- Dale Zinovich of Meadowbrook, former chair of the College of the Rockies board and currently member of the College of the Rockies Foundation Board.

Don Zadravec
 Executive Director
 Communications
 (250) 952-0607

Process implications for charities
New model

Licensed charitable access to gaming revenue*	Direct charitable access to gaming revenue
1. Charities fill out application form requesting access to gaming for SX.	1. Charities fill out same application form requesting access to gaming for SX.
2. Application form submitted to B.C. Gaming Commission for approval.	2. Application form submitted to B.C. Gaming Commission for approval.
3. B.C. Gaming Commission applies eligibility criteria to applicant.	3. B.C. Gaming Commission applies same eligibility criteria to applicant.
4. B.C. Gaming Commission determines level of demonstrated need.	4. B.C. Gaming Commission determines level of demonstrated need.
5. B.C. Gaming Commission approves license for amount of demonstrated need.	5. B.C. Gaming Commission approves access for amount of demonstrated need.
6. Charities required to provide volunteers at gaming event.	6. Charities not required to provide volunteers at gaming event.
7. \$125 million guarantee, indexed annually until 1/3 of net win exceeds the guarantee amount. Charities then get 1/3.	7. \$125 million guarantee, indexed annually until 1/3 of net win exceeds the guarantee amount. Charities then get 1/3.
8. Charities receive their share of revenue from the facility pool, plus any top-up from the trust necessary to satisfy the guarantee.	8. Charities receive their share of revenue directly from the trust.

* This process, with the exception of the guarantee, is identical to the model in existence since 1987.

Three Proposals for Casinos in Kootenays, Cariboo, North Coast Get Government's Approval-in-Principle: May 14, 1998

Ministry of Employment and Investment

035

Victoria – The provincial government has approved in principle proposals for three destination casinos, one each in the Kootenays, the Cariboo and the North Coast, Employment and Investment Minister Mike Farnworth said today.

The proposals are the Casino of the Rockies on the St. Mary's Indian Reserve near Cranbrook/Kimberley, the Jack O'Clubs at Wells near Barkerville and the Motor Vessel Pacific Aurora, with home base at Prince Rupert.

"These are three exciting projects that hold significant economic potential and will create jobs in their respective regions," said Farnworth. "Together these projects are estimated to create close to 500 full-time jobs and nearly 400 person-years of employment during the construction phase."

The specific project details include:

- Casino of the Rockies, proposed by five First Nations in the Ktunaxa/Kinbasket Tribal Council on the St. Mary's Reserve near Cranbrook/Kimberley. 30 tables, 300 slots as part of a resort that includes a 124-room hotel, lodges, restaurants, lounges, a conference centre, an 18-hole golf course, a recreation and aquatic centre, the Ktunaxa Interpretive Centre, a 24-unit Ktunaxa Teepee Camp, and a native women's arts and crafts centre.
- the Jack O'Clubs, proposed by Jack O'Clubs Gaming Hall Ltd., next to an existing hotel at Wells, near Barkerville, with seven tables and 125 slots, a 150-seat bar, a dining area and a live entertainment stage, with the facility modelled after the historic gold rush casino, Diamond Tooth Gertie's Casino, in the Yukon.
- the Motor Vessel Pacific Aurora, proposed by Pacific Gaming, with four tables, 35 slots, 38 cabins, a 70-seat restaurant, a pub and a viewing lounge, for casino cruises from home-port at Prince Rupert to Vancouver in the summer and to Victoria, Seattle, Nanaimo and Campbell River in the off-season.

"None of these projects, however, will open until I am fully satisfied that each of them has met appropriate regulatory and environmental requirements," said Farnworth.

Farnworth said the three proposals involve small casinos by international standards. However, they mean new jobs and training opportunities for the people of the Kootenays, the Cariboo and the North Coast, and economic development for those regions.

The provincial government issued a request for proposals for destination and charitable gaming facilities on July 31, 1997, under its new policy of a moderate expansion of gaming opportunities in the province.

The government received 49 proposals by the Nov. 29, 1997, deadline. Twelve did not receive local government support and were returned to the proponents along with the submission fees. The remaining 37 – including four for charity facilities – fell into three geographical groupings: Kootenays/Cariboo/North-nine; Thompson-Okanagan/Vancouver Island-15; and Lower Mainland-13.

The rigorous evaluation process is being conducted in three stages according to the groupings. The proposals for the Kootenays, the Cariboo and the North were evaluated first because they were the simplest, in terms of the number of proposals competing for the same market, and because these two regions have the shortest construction and tourist seasons.

"In total, less than 10 of all the 37 proposals under review will get to the approval-in-principle stage," said Farnworth. "Evaluations of the remaining casino proposals should be completed by the end of spring."

A major consideration in the approval process is the impact on existing charitable facilities. The evaluation process also considers if the business plan, including infrastructure needs, is viable and an economic development component is expected for destination facilities, he said.

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Contact: Ben Pires
Communications Manager
Communications
(250) 952-0611

Backgrounder
Three Destination Casino Proposals

Casino of the Rockies
St. Eugene Mission near Cranbrook/Kimberley
Proposed by Ktunaxa/Kinbasket Tribal Council Bands Gaming Corporation

This \$8-million destination casino, with 30 gaming tables and 300 slot machines, will be an integral part of a \$32-million resort that will include a 124-room hotel, lodges, restaurants, a conference centre, an 18-hole golf course, a recreation and aquatic centre, a Ktunaxa Interpretive Centre, a Teepee Camp, and a First Nation women's arts and crafts centre.

The project involves five First Nations of the Ktunaxa/Kinbasket Tribal Council and Coast Hotels and Resorts and is estimated to create more than 300 permanent jobs in the casino and resort, plus another 350 person-years of employment during construction.

Proponent contacts:

Larry J. Woolfe
Chair and CEO, The Navegante Group
Phone: (702) 247-8888

Chief Sophie Pierre
Ktunaxa/Kinbasket Tribal Council
Phone: (250) 489-2372

The Jack O'Clubs

Wells

Proposed by Jack O'Clubs Gaming Hall Ltd.

The destination casino will be located next to an existing hotel near historic Barkerville and will be modeled after the famous "gold rush" Diamond Tooth Gertie's Casino in the Yukon. It will have seven tables and 125 slots and will operate during the summer tourist season.

This project, with an investment of between \$1.1 million and \$2.2 million, is estimated to generate about 20 person-years of construction employment and up to 140 local jobs, including approximately 50 in the casino complex.

Proponent contact:

Colin M. Eves
Owner/President
Jack O'Clubs Gaming Hall Ltd.
Phone: (250) 992-9709

The MV Pacific Aurora

Prince Rupert

Proposed by Pacific Gaming Ltd.

Prince Rupert is the proposed home port for casino cruises on the MV Pacific Aurora between Prince Rupert and Vancouver in the summer, and between Prince Rupert and Victoria, Seattle, Nanaimo and Campbell River in the off-season. This \$4-million project involves a vessel that will have four tables, 35 slot machines, 38 cabins, a 70-seat restaurant, a pub and a viewing lounge.

The proponents estimate 32 seasonal and 12 full-time direct jobs will be created in the first year of operation, increasing to 90 seasonal and 36 full-time jobs by year three.

Proponent contact:

George Bartel
President
Inside Passages Cruises
Phone: (604) 683-2174

Backgrounder**Request for Proposals for Destination Casinos****General**

- The Request for Proposals [RFP] was issued on July 31, 1997 and closed on November 28, 1997.
- A destination casino is a gaming facility with table games and/or slot machines. The operational framework includes:
 - maximum of 14 hours of operation a day, closing no later than 2 a.m., seven days a week, 365 days a year;
 - maximum of 30 table games and 300 slot machines;
 - maximum table betting limit of \$500, minimum table betting limit of \$2;
 - maximum slot machine betting limit of \$10, minimum betting limit of 25 cents;
 - access to casino facilities is restricted to persons 19 years of age or older;
 - casino operators not be permitted to offer credit to patrons and ATM machines are not be allowed in the casino;
 - the sale and service of alcohol is permitted, subject to the proponent meeting all of the Liquor Control and Licensing Branch licensing requirements; alcohol can not be served or consumed in the gaming areas;
 - casino operators must comply with all operating standards set by the provincial government, including:
 - facility development and maintenance standards;
 - customer service and employee training standards;
 - problem gambling policies and programs;
 - internal control and security standards;
 - all casino service providers, employees and casino gaming suppliers are required to register with the Gaming Audit and Investigation Office and satisfy high standards of honesty, integrity, financial responsibility, and act in accordance with the law and in the public interest.

Evaluation criteria

The criteria proposals must meet include:

- demonstration of host local government support, expressed in the form of a council resolution, confirming that it favors additional gaming facilities within its boundaries;
- adjacent local governments must be given the opportunity to demonstrate whether a new gaming facility will have a demonstrable material impact on their community;
- a viable business plan which must consider infrastructure needs (e.g., water, sewer, parking);
- sufficient market to sustain the development without negatively impacting existing gaming facilities;
- an economic development component is expected.

Revenue

The net income from destination casinos will be distributed as follows:

- host local government: one-sixth of net income; and,
- provincial government: two-thirds of net income.

Operator compensation will be as negotiated between the proponent and the B.C. Lottery Corporation in their respective service agreements.

Four More Proposals for New Gaming Facilities Get Government approval-in-principle: August 14, 1998

Ministry of Employment and Investment 064

Victoria – The provincial government has approved in principle four destination casinos, one each for Campbell River and New Westminster and two for the Penticton area, Employment and Investment Minister Mike Farnworth said today.

All four proposals have host local government support as required under the request for proposals process.

"The proposed casinos mean training opportunities and more than 1,410 new, full-time jobs and 684 person-years of construction employment for the people of Campbell River, New Westminster and the Penticton area," Farnworth said.

"They also mean a new revenue source – one-sixth of the net gaming income from the facility – for the host local government," said Farnworth.

The specific project details for the four proposals include:

- Campbell River Casino proposed by the Campbell River Indian band in conjunction with Trillium Gaming Inc.; the project on municipal land in Campbell River, is to be completed in phases and includes the casino, a 130-room hotel, health club, a 300-seat restaurant and lounge with entertainment amenities, and a convention centre/banquet facility;
- Arrowleaf Resort and Casino on the Penticton First Nations Reserve, proposed by the Penticton Indian band in conjunction with Sodak Gaming Inc.; the project, to be developed in three phases, includes, in addition to the casino, a 144-room hotel, golf course, 240-seat meeting/banquet rooms, pool and spa facilities, and a 150-seat restaurant for Penticton;
- Lake City Casino at the existing Penticton Lakeside Resort and Convention Centre, proposed by Lake City Casinos Ltd.; this project has a casino, with 20 gaming tables and 200 slot machines, as well as a ballroom, meeting rooms, show lounge and health spa in a project that includes a 55-room hotel expansion and a roof-top restaurant and lounge; and,
- Star of Fortune Riverboat Casino that will cruise the Fraser River and dock at Westminster Quay, proposed by the Star of Fortune Management Corporation; the project, which will provide a tourist attraction for New Westminster, will include a casino, restaurant, lounge and entertainment facilities on the riverboat, and shore-based facilities including a restaurant and lounge.

"The proponents for the destination casinos must now successfully conclude negotiations with the B.C. Lottery Corporation and meet commitments to the ancillary development components of their proposals," Farnworth said.

"They will also not receive final approval until I am fully satisfied they have met all applicable government, regulatory and environmental requirements."

These four proposals bring the total of new destination casinos approved-in-principle to seven. In mid-May, the provincial government approved in principle proposals for three destination casinos, one each in the Kootenays, Cariboo and North Coast.

Ten proposals for seven additional gaming facilities – three in Burnaby, and one each Osoyoos, Sea Island, Tsawwassen and Merritt – require further analysis. The remaining 20 proposals were not successful.

Farnworth said a major consideration in the approval process is the impact of the proposals on existing charitable facilities. The proponents' business plan, including infrastructure needs, were also evaluated in terms of viability and an economic development component was necessary.

"In total, seven destination casinos of the 37 proposals reviewed have now reached the approval-in-principle stage after the rigorous evaluation and due diligence process. The 10 proposals for the seven facilities are being analysed

further and the rest did not score sufficiently high to move forward," Farnworth said.

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(Backgrounder)

Contact:

Don Zadravec
Executive Director
Communications
(250) 952-0607

Backgrounder

Approval-in-Principle For Four More Gaming Proposals

Campbell River Casino
Campbell River

Proposed by the Campbell River Indian Band (544507 BC Ltd.) in conjunction with Trillium Gaming Inc.

This proposal will create up to 400 permanent jobs plus another estimated 255 person-years of employment during construction.

The facility will be on municipal land in Campbell River.

This \$7.7-million destination casino, with 30 gambling tables and 300 slot machines, will be part of a \$28.9-million complex that includes, a 130-room hotel, health club, a 300-seat restaurant and lounge with entertainment amenities, a convention centre and banquet facilities.

Contact:

Robert Duncan, Business Manager
Campbell River Indian Band
1400 Weiwaikum Road
Campbell River, BC V9W 5W8

Phone: (250) 287-8631

Fax: (250) 287-8838

Arrowleaf Resort and Casino

Penticton First Nations Reserve

Proposed by the Penticton Indian Band in conjunction with Sodak Gaming Inc.

This proposal will create up to 400 permanent jobs plus another 285 person-years of employment during construction.

This project involves a \$10.2-million destination casino, with 26 gambling tables and 300 slot machines, in a \$27-million project that includes a 144-room hotel, golf course, 240-seat meeting/banquet rooms, pool and spa facilities, and a 150-seat restaurant.

Contact:

Jim Breindel
Director of Operations & Marketing
Sodak Gaming Inc.
5301 South Highway 16
Rapid City, SD 57701

Phone: (605) 341-5400
Fax: (605) 341-1443

Lake City Casinos Limited
City of Penticton
Proposed by Lake City Casinos Ltd.

This proposal will create up to 400 permanent jobs plus another 144 person-years of employment during construction.

This project involves a \$5.6-million casino, with 20 gaming tables and 200 slot machines, as well as a ballroom, meeting rooms, show lounge and health spa in a \$12-million project that includes a 55-room hotel expansion, as well as a roof-top restaurant and lounge.

Contact:

Steve Kumpf
Manager, Finance/Administration
Lake City Casinos Ltd.
108-565 Bernard Avenue
Kelowna, BC V1Y 8R2

Phone: (250) 861-5457
Fax: (250) 860-4407

Star of Fortune Riverboat Casino
The riverboat casino will cruise the Fraser River and dock at Westminster Quay in New Westminster
Proposed by the Star of Fortune Management Corporation.

This proposal will create 210 permanent jobs.

This \$5-million riverboat, 218 feet in length, will be a significant new tourist attraction in the lower mainland. It will have 30 gaming tables and 300 slots. In

addition to the casino, the riverboat will feature a restaurant, lounge and entertainment facilities. On-shore facilities will include a reception area and a restaurant/lounge.

Contact:

Douglas M. Holtby,
Chair Star of Fortune Management Corporation
6955 Isleview Road
West Vancouver, BC V7W 2L1

Phone: (604) 921-9277
Fax: (604) 921-2282

The government received 49 proposals—some of them included a casino and a bingo hall in one facility, but they each were treated as separate proposals for evaluation purposes.

Twelve proposals were eliminated at the start because they did not receive host local government support.

Thirty-seven proposals proceeded to the next stage. In mid-May, three destination casinos, one each in the Kootenays, the Cariboo and the North Coast, received approval-in-principle. Now four more destination casinos, two in the Okanagan and one each on Vancouver Island and the Lower Mainland, have received approval-in-principle, bringing the total of new destination casinos approved-in-principle to seven.

Ten proposals for seven facilities require further analysis. The remaining 20 were not successful.

The seven facilities requiring further analysis are:

- Musqueam 4444 Slahal Entertainments Inc. at Musqueam First Nations Reserve on Sea Island (destination bingo and casino)
- 427967 B.C. Ltd./Cadith Entertainment Ltd. at Burnaby (charity bingo hall)
- LLDC Inc./Lady Luck Gaming Corp. at Tsawwassen First Nations Reserve (destination bingo and casino)
- 455738 B.C. Ltd. at Burnaby (charity casino)
- Trillium Gaming Inc./Navegante Group Operations Inc. at Merritt First Nations Reserve (destination casino)
- 471438 B.C. Ltd. at Burnaby (charity casino)
- Desert Flower Resort Casino Corp./EML Casino Management Corp. at Osoyoos First Nations Reserve (destination bingo and casino)

Three New Gaming Facilities Approved in Principle: December 17, 1998**Ministry of Employment and Investment
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Victoria—Proposals for a charity bingo hall and a charity-style casino in Burnaby and a destination casino in Merritt have been approved in principle, Employment and Investment Minister Mike Farnworth said today.

The proposals are:

- the Coquihalla Casino proposed by Trillium Gaming Corp. and the Lower Nicola Indian band on the Joeyaska Indian reserve near Merritt. This destination casino would have 20 gaming tables and 200 slot machines and be part of a complex to include a restaurant, information and visitor centre, gift shop, gas station and convenience store, rest stop and recreational vehicle park;
- the Bingo Country charity bingo hall proposed by Bingo Country and Cadith Entertainments Ltd. for Middlegate Mall in Burnaby, with seating for 448 people;
- a charity-style casino, proposed by Steve Ng and Dimitrios Pilarinos (545738 B.C. Ltd.) for East Hastings Street in Burnaby. This casino would have 20 gaming tables and 300 slot machines. The approval in principle is subject to zoning permission from the City of Burnaby.

These approvals conclude the request-for-proposal process started by the government in July 1997. The government approved in principle a total of 10 proposals—eight destination casinos, one charity bingo hall and one charity casino—one each in the Kootenays, Cariboo, North Coast and Vancouver Island; three in the Lower Mainland; and three in the Okanagan.

"These proposals will create more than 2,300 full-time jobs, 1,200 person-years of construction employment and involve more than \$130 million in new investments in gaming and other facilities," said Farnworth. "The destination casinos also mean new revenue sources—one-sixth of the net gaming income from the facility—for the host local governments."

All proposals that have received approval in principle have support from host local governments, as required under the request-for-proposal process. Proposals for bingo halls and casinos that would have hurt existing charitable facilities were not approved.

"All those who applied will have an opportunity for a full debriefing on the evaluation process," Farnworth said.

The evaluation committee comprised representatives from the Gaming Policy Secretariat, the Gaming Audit and Investigation Office, the B.C. Gaming

Commission, the B.C. Lottery Corp., PricewaterhouseCoopers and other expert contractors.

The committee scored each proposal based on pre-established criteria: corporate experience/expertise; executive experience/expertise; business plans/costs; community relations; security and surveillance; financial strength and capacity; knowledge of relevant B.C. markets; and market assessments. Results of the evaluation were presented to cabinet for decision.

Successful proponents must conclude negotiations with the provincial government and the B.C. Lottery Corp. Proponents for destination casinos must also meet commitments to the ancillary development components of their proposals.

"Proposals will not receive final approval until I am fully satisfied they have met all applicable government, regulatory and environmental requirements," Farnworth said.

- 30 -

(Backgrounder)

Contact:

Don Zadravec
Executive Director
Communications
(250) 952-0607

Backgrounder

Three Gaming Proposals Receive Approval in Principle

Bingo Country Charity Bingo Hall
Middlegate Mall, Kingsway, Burnaby
Proposed by 427967 B.C. Ltd./Cadith Entertainments Ltd.

This charity bingo hall would seat 448 to 500 people. The total project investment would be more than \$500,000. This proposal would create another revenue source for licensed charities and religious organizations and more than 50 permanent jobs.

Contact: Alan Dyck Bingo
Country 401A – 7093 King George Highway
Surrey, BC V3W 5A2

Phone: (604) 590-3230
Fax: (604) 572-3435

Charity-style Casino

East Hastings Street, Burnaby

Proposed by Steve Ng and Dimitrios Pilarinos (545738 B.C. Ltd.).

This charity-style casino would have 20 gaming tables and 300 slot machines. The total project investment is estimated at \$1.6 million. This proposal would create another revenue source for licensed charities and religious organizations and more than 190 permanent jobs.

Contact: Steve Ng
2105 West 19th Ave.
Vancouver, BC V6L 1C1

Phone: (604) 681-5435
Fax: (604) 438-6668

Coquihalla Casino
Joeyska Indian Reserve, near Merritt
Proposed by Trillium Gaming Inc.

This destination casino, with 20 gaming tables and 200 slot machines, would be part of a \$10.6-million complex, to include a restaurant, information and visitor centre, gift shop, gas station and convenience store, rest stop, video-games area and recreational vehicle park. The proposal would create 340 permanent jobs plus 117 person-years of employment during construction.

Contact: Domenic Alfieri
410 – 135 Queen's Plate Dr.
Etobicoke, ON M9W 6V1

Phone: (416) 742-4700,
Fax: (416) 742-5880

The government received 49 proposals. Some included a casino and a bingo hall in one facility, but they were each treated as separate proposals for evaluation purposes.

Twelve proposals were eliminated because they did not receive support from the host local governments.

Thirty-seven proposals proceeded to the next stage. In mid-May, three destination casinos, one each in the Kootenays, Cariboo and North Coast, received approvals in principle. Four more destination casinos, two in the Okanagan and one each on Vancouver Island and in the Lower Mainland, received approval in August. The most recent approvals bring the total to 10. All other applicants were unsuccessful.

Appendix 4: Consultations and Submissions

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Overview

The Gaming Project Working Group met with each of the key stakeholders on at least one occasion from July to October 1998. The Working Group also met with representatives of the principal public agencies involved in gaming, other than horse racing, and received written submissions from a number of sources.

This appendix lists the organizations and agencies that provided input and advice in the development of the White Paper and draft *Gaming Control Act*. It also lists the submissions that have been received by the Working Group to date.

Consultation with Key Stakeholders

British Columbia Association for Charitable Gaming: Executive Members and President Bob MacInness (October 8, 1998).

British Columbia Association of Chiefs of Police: Gaming Committee (July 13, 1998).

Campbell River Gaming Association: Mr. Dave Crosby (July 16, 1993).

Casino Management Council: Executive Members and Legal Counsel (July 8, 1998 and October 15, 1998).

Coalition of Self-Managed Operators: Executive Members and Legal Counsel (July 17, 1998), Executive Members (September 29, 1998).

Great Canadian Casinos Inc: Executive Members (October 14, 1998).

Registered Gaming Management Companies: Executive Members (October 13, 1998).

Union of British Columbia Municipalities: Gaming Committee Members (July 8, 1998 and October 7, 1998), Annual Convention (September 25, 1998).

Consultation with Provincial Public Agencies

British Columbia Gaming Commission: Commission members and staff (September 11, 1998).

British Columbia Lottery Corporation: President and staff (September 23, 1998).

Coordinated Law Enforcement Unit: Director of Policy (August 17, 1998).

Criminal Justice Branch: Staff (September 29, 1998).

Gaming Audit and Investigation Office: Director and staff (July 21 and 22, 1998), Director (September 28, 1998).

Liquor Control and Licensing Branch: General Manager and staff (August 25, 1998).

Ministry of Aboriginal Affairs: Staff (July 21, 1998).

Ministry of Children and Families: Staff (November 18, 1998).

Submissions Received

Association of Registered Gaming Management Companies: "Presentation to Task Force on Gaming Legislation" (October 13, 1998).

Association of Registered Gaming Management Companies: Letter from Mr. Tom Nellis (October 28, 1998).

Boys' and Girls' Clubs of Greater Vancouver: Letter from Rick Ryan, Executive Director (July 14, 1998).

British Columbia Association for Charitable Gaming: "Gaming in British Columbia" (October 7 and 20, 1998).

British Columbia Association of Chiefs of Police: Letter from Superintendent J.H. Graham, North Vancouver RCMP (July 10, 1998).

Campbell River Gaming Association: "Submission to Gaming Project Working Group on a Provincial Gaming Act and Charitable Representation" (July 1998).

Casino Management Council: "Submission" (October 13, 1998).

City of Nanaimo: Letter to UBCM Gaming Committee from Nanaimo City Clerk (September 4, 1998).

City of Richmond: Letter to Gaming Project Working Group from Richmond City Clerk (September 16, 1998).

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Gaming Audit and Investigation Office: "Presentation to the Gaming Review Committee" (October 16, 1998).

Great Canadian Casino Company Ltd.: "Paper on Gaming Legislation" (October 1998).

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GAMING CONTROL ACT

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – INTERPRETATION

Interpretation

1 In this Act:

“adult” means a person 19 years of age or older;

“associate”, in relation to a licensee, registrant or applicant for a licence or registration, means

(a) any person that has a financial interest in the licensee, registrant or applicant, in the licensee's, registrant's or applicant's business or in a facility to which the licence, registration or application relates,

(b) if the licensee, registrant or applicant is an individual or a partnership in which one or more of the partners other than a limited partner is an individual,

(i) the spouse of the individual,

(ii) any relative of the individual or the spouse referred to in subparagraph (i) if the relative has the same residence as the individual.

- (iii) any corporation controlled by the individual, any of the corporation's officers and directors and any person that has a financial interest in the corporation, and
 - (iv) any corporation that is affiliated with the corporation referred to in subparagraph (iii), the affiliated corporation's officers and directors and any person having a financial interest in the affiliated corporation, or
- (c) if the applicant or licensee is a partnership in which one or more of the partners other than a limited partner is a corporation, or is a corporation, any other corporation that is affiliated with the applicant, licensee or corporation, any of the affiliated corporation's officers and directors and any person that has a financial interest in the affiliated corporation;

"bingo event" means a series of bingo games;

"casino gaming" means a series of casino games;

"charitable or religious organization" has the same meaning as it has in section 207 of the *Criminal Code*;

"commission" means the British Columbia Gaming Commission continued under section 3, and, after the coming into force of this definition, includes a person or another authority, if any, specified by order of the Lieutenant Governor in Council under section 2 (2);

"community gaming facility" means a facility or proposed facility for provincial gaming other than a destination casino;

"destination casino" means a facility or proposed facility for provincial gaming designated by order of the minister as a destination casino;

"director of GAIO" means the director of GAIO, appointed under section 16;

"GAIO" means the gaming audit and investigation office continued under section 15;

"gaming event" means a lottery scheme referred to in section 207 (1) (b), (c), (d) or (f) of the *Criminal Code*;

"gaming services" means services required for the conduct, management or operation of a lottery scheme;

"gaming services provider" means a person who provides gaming services, gaming workers or both, but does not include a person in a class of persons exempted from this definition by regulation;

"gaming supplies" means supplies, equipment and devices used or intended to be used for gaming, and includes things prescribed for the purpose of this definition, but does not include

- (a) normal office furnishings, equipment or supplies, or
- (b) classes of things exempted from this definition by regulation;

"gaming supplier" means a person who provides gaming supplies;

"gaming worker" means an individual

- (a) who is paid to assist in the conduct, management or operation of a lottery scheme, and
- (b) in any class of individuals connected in any capacity with the gaming industry and prescribed for the purpose of this definition,

but does not include individuals in classes of individuals exempted from this definition by regulation;

"licence" means a licence under Part 2;

"lottery and casino corporation" means the British Columbia Lottery and Casino Corporation continued under section 39;

"lottery scheme" has the same meaning as in section 207 (4) of the *Criminal Code*;

"municipality" includes the City of Vancouver;

"person" includes an unincorporated charitable, religious or other organization;

"pre-existing community gaming facility" means

- (a) a facility in which provincial gaming is conducted, managed or operated by the lottery and casino corporation, directly or using services provided by a registered gaming services provider,
- (b) a facility that on December 31, 1998, is operating in a municipality, as a facility for provincial gaming,
- (c) the facility constructed for provincial gaming at 4331 Dominion Street, Burnaby, B.C.,

and includes

- (d) a facility that, after December 31, 1998, is established in replacement for a facility described in paragraphs (a), (b) or (c) or for a replacement facility under this paragraph, whether at the same or a different location in the municipality, and
- (e) a facility described in paragraph (a), (b), (c) or (d) that, after December 31, 1998, is expanded in size or in scope of operation, within the limits, as to size and scope approved by order of the minister;

"provincial gaming" means a lottery scheme referred to in section 207 (1) (a) of the *Criminal Code*;

"registered" means registered under Part 3;

"reporting issuer" has the same meaning as it has in the *Securities Act*;

"residence" means a place used by a person as a permanent private dwelling, including any structure or land adjacent to the private dwelling that is used for the convenience or enjoyment of the occupants of the dwelling;

"spouse" means a person who

- (a) is married to another person and is not living separate and apart, within the meaning of the *Divorce Act* (Canada), from the other person, or

(b) is living with another person in a marriage-like relationship,
and, for the purpose of this definition, the marriage or marriage-like relationship
may be between members of the same sex;

"voting share" means a share of a class of shares of a corporation that carries the right to vote under all circumstances on a resolution electing directors, and includes a share of a class of shares of a corporation that carries the right to vote on such a resolution because of the occurrence of a contingency that has occurred and is continuing.

- (2) For the definition of "associate" in subsection (1) a corporation is affiliated with another corporation if it is an affiliate of the other corporation within the meaning of the *Company Act*.

PART 2 – LICENSED GAMING

Division 1 – Authority of Lieutenant Governor in Council

Licensed gaming events

- 2 (1) The Lieutenant Governor in Council may license persons to conduct and manage gaming events in British Columbia.
- (2) The Lieutenant Governor in Council, by order, may delegate, to the commission, to another authority specified in the order or to a person specified in the order, the discretion under subsection (1) to license persons to conduct and manage gaming events in British Columbia.
- (3) The discretion under this section to issue licences includes the discretion to attach conditions to the licences that
- may differ for different licensees or classes of licensees, and
 - must be consistent with the conditions of licences prescribed under section 77.

Division 2 – British Columbia Gaming Commission

Commission continued

- 3 (1) The British Columbia Gaming Commission is continued, consisting of not more than 7 members each appointed under subsection (2).
- (2) The Lieutenant Governor in Council may appoint the members of the commission and set the remuneration and other terms of appointment of each member.
- (3) The Lieutenant Governor in Council may designate a member of the commission as chair and one or more other members as vice chair.

- (4) A vacancy in the membership of the commission or the incapacity of any of the members does not impair the power of the remaining members to act.
- (5) The commission may
 - (a) determine its own procedure, and
 - (b) provide for the regulation and conduct of its meetings.

Staff and consultants

- 4 Officers and other employees required to carry out the responsibilities of the commission may be appointed under the *Public Service Act* and the commission may determine their duties.

Delegation by commission

- 5 (1) Subject to any prescribed limitations, the commission may delegate any of its responsibilities to
 - (a) the chair, a vice chair or a member of the commission, or
 - (b) an officer of the commission.
- (2) A delegation under this section must be made in writing and may be unconditional or subject to specified conditions.

Commission responsibilities

- 6 (1) The commission
 - (a) may make rules
 - (i) respecting gaming events or categories of gaming events, and
 - (ii) governing how gaming services providers carry out their responsibilities to licencees at gaming events.
 - (b) may set rules of play for gaming events or categories of gaming events.
 - (c) must monitor compliance by licensees with this Act, the regulations and the rules of the commission and by gaming services providers with the rules of the commission under paragraphs (a) and (b).
 - (d) may, subject to first receiving the approval of the director of GAIO in relation to prescribed aspects of the financing for and ownership of the premises and of any gaming facilities or proposed gaming facilities on the premises, designate the locations at which, and the premises or portions of premises in which and facilities at which, gaming events or categories of gaming events may be conducted, and
 - (e) may specify the fairs or exhibitions at which gaming events or categories of gaming events may be conducted.
- (2) The commission must each year submit to the minister and the minister, as soon as practicable, must lay before the Legislative Assembly a report of the commission on its operations for the preceding fiscal year.

Division 3 – Licences for Gaming Events

Licence formalities

- 7 (1) A licence may be signed by the chair of the commission or an officer of the commission authorized by the chair.
- (2) The commission may authorize the signature on a licence to be reproduced by mechanical means.

Licence not assignable

- 8 A licence is not assignable or transferable.

Conditions precedent to licence

- 9 The commission may not issue or renew a licence unless
 - (a) the commission considers it appropriate to do so,
 - (b) the applicant is eligible for the licence or renewal, and
 - (c) the requirements under this Act for issuing or renewing the licence have been met.

Rules as licence conditions

- 10 (1) The commission's rules
 - (a) respecting the activities authorized by a licence, whether the rules are made before or after issuance or renewal of the licence, are conditions of the licence, with effect in relation to a particular licence on and after the date the rules are provided to the licensee, under subsection (2).
 - (b) under section 6 (1) (a) and (b) are conditions of the registration of each gaming services provider that provides services to a licensee, with effect in relation to a particular registration on and after the date the rules are provided to the registrant, under subsection (3).
- (2) The commission must provide each licensee with a copy of
 - (a) the commission's rules that are conditions of the licence, and
 - (b) any amendments to those rules.
- (3) The commission must provide each gaming services provider with a copy of the commission's rules under section 6 (1) (a) and (b).
- (4) Subject to subsection (5), the conditions referred to in subsection (1), are additional to any conditions prescribed under section 77 or attached under section 2.
- (5) To the extent, if any, that the conditions referred to in subsection (1) are inconsistent with any conditions prescribed under section 77 or attached under section 2, the conditions so prescribed or attached prevail.

Division 4 – Licence Administration and Enforcement

Reasons for refusal of licence

- 11 The commission may refuse to issue or renew a licence if the applicant for the licence or renewal or any of the applicant's directors, officers, employees or associates
- (a) is considered by the commission, on reasonable grounds, to be a detriment to the integrity or lawful conduct or management of gaming events,
 - (b) no longer meets a licence requirement under this Act or did not meet such a requirement at the time of licensing,
 - (c) has breached or is in breach of a condition of the licence of the licensee,
 - (d) has made a material misrepresentation, omission or misstatement in the application for the licence or renewal of licence of the licensee or in reply to an inquiry by a person conducting an audit, inspection or investigation under this Act,
 - (e) has been refused a similar licence, registration or authorization in another jurisdiction,
 - (f) has held a similar licence, registration or authorization in another jurisdiction that has been terminated for cause, or
 - (g) has been convicted of an offence, inside or outside of British Columbia that in the opinion of the commission calls into question the honesty or integrity of the applicant.

Suspension or cancellation of licence for cause

- 12 The commission may cancel, suspend for a period of time, impose new conditions on, or vary existing conditions of, a licence for any of the reasons under section 11.

Written reasons and written reply

- 13 (1) The commission must provide the applicant for a licence or the licensee, as the case may be, with written reasons for a decision of the commission under section 11 or 12
- (a) refusing an application to issue or renew a licence,
 - (b) suspending or cancelling a licence,
 - (c) imposing new conditions on a licence, or
 - (d) varying existing conditions of a licence.
- (2) Within 30 days after the date the commission provides the written reasons to the applicant or licensee, the applicant or licensee may file a written reply with the commission.
- (3) Within 60 days after receiving a written reply under subsection (1), the commission must confirm or vary its decision.

Inquiries

- 14 (1) The commission may make inquiries and require information from an applicant or licensee that the commission considers necessary to decide whether or not to
- (a) issue or renew a licence,
 - (b) suspend or cancel a licence,
 - (c) impose conditions on a licence, or
 - (d) vary existing conditions of a licence.
- (2) For the purposes of an inquiry under subsection (1), whenever made, the commission may require the applicant or licensee to submit to a background investigation conducted by GAIO under Part 6.
- (3) Every licensee, when required in writing by the commission, must provide the commission with reports and information specified by the commission for the purposes of determining compliance under this Act.

PART 3 – GAMING AUDIT AND INVESTIGATION OFFICE

Division 1 – Office Continued

GAIO

- 15 (1) The Gaming Audit and Investigation Office is continued as an office of the government under the direction of the Attorney General.
- (2) The purpose of GAIO is to carry out the responsibilities given to it under this Act.

Appointment of the director

- 16 The Attorney General must appoint under the *Public Service Act* an individual to be the director of GAIO.

Delegation by director

- 17 (1) The director of GAIO may delegate any of his or her powers and duties under this Act to any person employed in GAIO.
- (2) A delegation under this section must be made in writing and may be "unconditional or subject to specified conditions."

Division 2 – Registration of Gaming Service Providers, Suppliers and Workers

Director of GAIO's responsibilities

- 18 (1) The director of GAIO must
- (a) maintain a register of persons who are registered as gaming service providers, gaming suppliers or gaming workers or in any of the classes of registration prescribed under section 77,

- (b) record in the register the names of persons registered under this Division and other information and records required to be included by a provision of this Act or of the regulations,
 - (c) in the register distinguish, in accordance with the regulations, between confidential information and public information, and
 - (d) make the public information available during business hours for inspection by persons on payment of the prescribed fee.
- (2) The director of GAIO may register persons as gaming services providers, gaming suppliers or gaming workers.
- (3) The discretion under this section to register persons as gaming services providers, gaming suppliers, or gaming workers includes the discretion to attach conditions to the registrations that
- (a) may differ for different registrants or classes of registrants, and
 - (b) must be consistent with the conditions of registrations prescribed under section 77.
- (4) The responsibilities under this Act of the director of GAIO include the enforcement of this Act and the regulations.

Registration not assignable

- 19 A registration as a gaming services provider, gaming supplier or gaming worker is not assignable or transferable.

Conditions precedent to registration

- 20 The director of GAIO may not register or renew the registration of a person unless
- (a) the director considers it appropriate to do so,
 - (b) the applicant is eligible for registration or renewal of registration, and
 - (c) the requirements under this Act for registration or renewal of registration have been met.

Eligibility – corporations

- 21 A corporation is not eligible to be registered as a gaming services provider or gaming supplier unless it is incorporated or continued under the *Company Act*, the *Society Act* or another enactment or is an extraprovincial company as defined in the *Company Act*, registered under that Act.

Eligibility – partnerships

- 22 (1) A partnership is not eligible to be registered as a gaming services provider or gaming supplier unless
- (a) the partnership and each partnership that is a partner in the partnership is registered under the *Partnership Act*, and

- (b) each individual partner is an adult and each corporation that is a partner meets the requirements of section 21.

Eligibility – Individuals

- 23 An individual is not eligible to be registered as a gaming services provider, gaming supplier or gaming worker unless the individual
 - (a) is an adult, and
 - (b) is qualified under this Act.

Application for registration as a gaming service provider

- 24 (1) An applicant for registration or renewal of registration as a gaming services provider must submit to the director of GAIO
 - (a) an application in the form and with content required by the director,
 - (b) information, affidavits and documents required by the director that the director considers relevant to the application,
 - (c) at the time of the application, the prescribed application fee, and
 - (d) at the time of the application, a deposit, to be held in trust by the minister responsible for the *Financial Administration Act*, in an amount equal to the director's written estimate of GAIO's costs of the background investigation referred to in section 25 (1) (c).
- (2) A deposit submitted under subsection (1) must be refunded to the applicant if, at any time before commencement of the background investigation, the application for registration or renewal of registration is withdrawn by the applicant or refused by the director of GAIO.
- (3) Subject to subsection (4), after commencement of the background investigation referred to in section 25 (1) (c),
 - (a) GAIO must proceed with the background investigation to its conclusion, even if the applicant withdraws the application, and
 - (b) the deposit submitted under subsection (1) is not refundable, except to the extent of the amount, if any, by which it exceeds GAIO's costs of the background investigation, determined under section 66.
- (4) If, after commencement of the background investigation referred to in section 25 (1) (c), an applicant withdraws an application referred to in subsection (1), the director of GAIO may authorize discontinuance of the background investigation, at any stage, if the director considers that the discontinuance is not detrimental to the public interest.
- (5) In making a decision under subsection (4), the director of GAIO must take into account the circumstances and any reasons for withdrawal given to the director by the applicant.

- (6) If the director grants an authorization under subsection (4), any part of the deposit submitted under subsection (1) that exceeds GAIO's costs of the background investigation, determined under section 66, up to the time of discontinuance must be refunded to the applicant.

Registration as gaming services provider

- 25 (1) On application, the director of GAIO may issue or renew the registration of a gaming services provider if
- (a) the applicant has paid the application fee referred to in section 24 (1) (c).
 - (b) the applicant has submitted the deposit referred to section 24 (1) and, immediately before the time of issuance or renewal, the deposit is in trust as set out in section 24 (1) (d).
 - (c) the applicant has submitted to a background investigation conducted by GAIO under Part 6 and GAIO has reported the results to the director, and
 - (d) the director considers it appropriate to issue or renew the registration, taking into account the report referred to in paragraph (c).
- (2) The term of the registration of a gaming services provider is 5 years and is to be specified in the register.
- (3) Any part of the deposit submitted under section 24 (1) (d) that exceeds GAIO's costs of the background investigation, determined under section 66 must be refunded to the applicant.

Application for registration as a gaming supplier

- 26 (1) An applicant for registration or renewal of registration as a gaming supplier must submit to the director of GAIO
- (a) an application in the form and with the content required by the director,
 - (b) information, affidavits and documents required by the director that the director considers relevant to the application,
 - (c) at the time of the application, the prescribed application fee, and
 - (d) at the time of the application, a deposit, to be held in trust by the minister responsible for the *Financial Administration Act*, in an amount equal to the director's written estimate of GAIO's costs of the background investigation referred to in section 27 (1) (c).
- (2) A deposit submitted under subsection (1) must be refunded to the applicant if, at any time before commencement of the background investigation, the application for registration or renewal of registration is withdrawn by the applicant or refused by the director of GAIO.
- (3) Subject to subsection (4), after commencement of the background investigation referred to in section 27 (1) (c),
- (a) GAIO must proceed with the background investigation to its conclusion, even if the applicant withdraws the application, and

- (b) the deposit submitted under subsection (1) is not refundable, except to the extent of the amount, if any, by which it exceeds GAIO's costs of the background investigation, determined under section 66.
- (4) If, after commencement of the background investigation referred to in section 27 (1) (c), an applicant withdraws an application referred to in subsection (1), the director of GAIO may authorize discontinuance of the background investigation, at any stage, if the director considers that the discontinuance is not detrimental to the public interest.
- (5) In making a decision under subsection (4), the director of GAIO must take into account the circumstances and any reasons for withdrawal given to the director by the applicant.
- (6) If the director grants an authorization under subsection (4), any part of the deposit submitted under subsection (1) that exceeds GAIO's costs of the background investigation, determined under section 66, up to the time of discontinuance must be refunded to the applicant.

Registration as gaming supplier

- 27 (1) On application in accordance with section 26, the director of GAIO may issue or renew the registration of a gaming supplier if
- (a) the applicant has paid the application fee referred to in section 26 (1) (c).
 - (b) the applicant has submitted the deposit referred to section 26 (1) (d) and, immediately before the time of issuance or renewal, the deposit is in trust as set out in section 24 (1) (d).
 - (c) the applicant has submitted to a background investigation conducted by GAIO under Part 6 and GAIO has reported the results to the director, and
 - (d) the director considers it appropriate to issue or renew the registration, taking into account the report referred to in paragraph (c).
- (2) The term of the registration of a gaming supplier is 5 years and is to be specified in the register.
- (3) Any part of the deposit submitted under section 26 (1) that exceeds GAIO's costs of the background investigation, determined under section 66 must be refunded to the applicant.

Application for registration as a gaming worker

- 28 An applicant for registration or renewal of registration as a gaming worker must submit to the director of GAIO
- (a) an application in the form and with the content required by the director,
 - (b) information, affidavits and documents that the director considers relevant to the application, and
 - (c) at the time of the application, the prescribed fee for registration as a gaming worker.

Registration as gaming worker

- 29 (1) On application, the director of GAIO may register or renew the registration of the applicant as a gaming worker if
- (a) the applicant has paid the registration fee referred to in section 28,
 - (b) the director considers it appropriate to register or renew the registration, taking into account the report referred to in paragraph (c), and
 - (c) the applicant has submitted to a background investigation conducted by GAIO under Part 6 and GAIO has reported the results to the director.
- (2) The term of a gaming worker's registration is 3 years and is to be specified in the register.

Division 3 – Registration Administration and Enforcement

Reasons for refusal of registration

- 30 The director of GAIO may refuse to issue or renew the registration of a gaming services provider, gaming supplier or gaming worker if the applicant for the registration or renewal, or in the case of an application for registration or renewal of registration as a gaming services provider or gaming supplier, any of the applicant's directors, officers, employees or associates
- (a) is considered by the director, on reasonable grounds, to be a detriment to the integrity or lawful conduct or management of gaming events or provincial gaming,
 - (b) no longer meets a registration requirement under this Act or did not meet such a requirement at the time of registration,
 - (c) has breached or is in breach of a condition of the registration of the registrant,
 - (d) has made a material misrepresentation, omission or misstatement in the application for the registration or renewal of registration of the registrant or in reply to an inquiry by a person conducting an audit, inspection or investigation under this Act,
 - (e) has been refused a similar registration, licence or authority in another jurisdiction,
 - (f) has held a similar registration, licence or authority in another jurisdiction that has been terminated for cause, or
 - (g) has been convicted of an offence, inside or outside of British Columbia that in the opinion of the director of GAIO calls into question the honesty or integrity of the applicant.

Suspension or cancellation of registration for cause

- 31 The director of GAIO may cancel, suspend for a period of time, impose new conditions on, or vary existing conditions of, a registration of any registrant for any of the reasons under section 30.

Written reasons and written reply

- 32 (1) The director of GAIO must provide the applicant for registration or the registrant, as the case may be, with written reasons for a decision of the director under section 30 or 31
- (a) refusing an application to issue or renew a registration,
 - (b) suspending or cancelling a registration,
 - (c) imposing new conditions on a registration, or
 - (d) varying existing conditions of a registration.
- (2) Within 30 days after the date the director of GAIO provides the written reasons to the applicant or registrant, the applicant or registrant may file a written reply with the director.
- (3) Within 60 days after receiving a written reply under subsection (1), the director of GAIO must confirm or vary his or her decision.

Inquiries

- 33 (1) The director of GAIO may make inquiries and require information from an applicant or registrant that the director considers necessary to decide whether or not to exercise a discretion under this Part to
- (a) grant or renew a registration,
 - (b) suspend or cancel a registration,
 - (c) impose conditions on a registration, or
 - (d) vary existing conditions of a registration.
- (2) For the purposes of an inquiry under subsection (1), whenever made, the director of GAIO may require the applicant or registrant to submit to a background investigation conducted by GAIO under Part 6.
- (3) Every registrant, when required in writing by the director of GAIO, must provide the director with reports and information specified by the director for the purposes of determining compliance under this Act.

Registration cancelled on dispossession of business

- 34 (1) A registration as a gaming services provider or gaming supplier is cancelled if
- (a) the registrant, through bankruptcy, insolvency, secured creditor realization or operation of law, ceases to carry on the activities authorized under the registration, or
 - (b) an individual who is the registrant dies.
- (2) However, if subsection (1) applies, the director of GAIO may issue a temporary registration to a person to carry on the activities authorized by the cancelled registration.

- (3) A temporary registration is valid for one year and, except as to its term, is subject to the same conditions as the registration cancelled under subsection (1).
- (4) A person registered under a temporary registration may apply for a new registration while the temporary registration is still in force.
- (5) The registrant under a registration referred to in subsection (1) or, in the event of the registrant's death or disability, the personal representative of the registrant, must give notice of an event described in subsection (1) to the director of GAIO within 10 days after the event.

Requirements respecting organizational changes

- 35 (1) It is a condition of registration as a gaming services provider or gaming supplier that the registrant deliver notice immediately to the director of GAIO of
- (a) a change in the directors, officers or associates of a registrant that is a corporation or in the partners, officers or associates of a registrant that is a partnership, and
 - (b) the direct or indirect acquisition or disposition by a person or group of persons acting in concert, in one or more transactions, of
 - (i) 5% or more of the outstanding voting shares in the capital of a registrant that is a corporation, or
 - (ii) one or more securities issued by the registrant, other than voting shares described in subparagraph (i), if the amount paid up under the security or securities is equal to or greater than 5% of the aggregate paid up capital of the licensee.
- (2) The notice under subsection (1) may be given to the director of GAIO in advance, in which case the director, not later than 60 days after receiving the notice must
- (a) approve the intended change in directors, officers, partners or associates, or the intended acquisition or disposition of shares or securities, as the case may be, if the director considers that it will not constitute grounds for taking action under section 31, and notify the registrant to that effect,
 - (b) refuse to approve the intended change in directors, officers, partners or associates, or the intended acquisition or disposition of shares or securities, as the case may be, if the director considers that it will constitute grounds for taking action under section 31, and notify the registrant to that effect, giving written reasons for the refusal, or
 - (c) specify a new date on or before which the director must decide whether to grant approval under paragraph (a) or to refuse approval under paragraph (b), if the director considers that the extension is necessary or desirable for the purpose of making inquiries under section 33 or, under that section, requiring information from the licensee, and notify the licensee to that effect, giving written reasons for the extension.

DISCUSSION DRAFT

Unregistered gaming services prohibited

- 36 A person other than the lottery and casino corporation must not provide gaming services unless the person is
- (a) a registered gaming services provider and acts in accordance with the conditions of registration, or
 - (b) a person who is exempted by regulation from the definition of "gaming services provider" and acts in accordance with the conditions, if any, of the exemption.

Unregistered use of or dealing in gaming supplies prohibited

- 37 A person other than the lottery and casino corporation must not keep for any purpose other than private personal use, make, sell, advertise, or distribute any gaming supplies unless the gaming supplies are approved, individually or according to type, by the director of GAIQ, and are readily identifiable under a system established by the director as having received that approval and the person is
- (a) a registrant or licensee and acts in accordance with the conditions of registration or of the licence, or
 - (b) exempted by regulation from the definition of "gaming supplier" and acts in accordance with the conditions, if any, of the exemption.

Gaming worker registration required

- 38 (1) A person must not work as a gaming worker unless that person is a registered gaming worker.
- (2) A person must not employ or engage another person as a gaming worker unless the other person is
- (a) a registered gaming worker, or
 - (b) exempted by regulation from the definition of "gaming worker" and acts in accordance with the conditions, if any, of the exemption.

PART 4 – BRITISH COLUMBIA LOTTERY AND CASINO CORPORATION

Division 1 – Corporation Continued

Corporation continued under new name

- 39 (1) The British Columbia Lottery Corporation is continued as a corporation under the name "British Columbia Lottery and Casino Corporation".
- (2) Despite its incorporation under the *Company Act*, the lottery and casino corporation is a corporation without share capital, consisting of not more than 9 directors appointed by the Lieutenant Governor in Council.

DISCUSSION DRAFT

- (3) The *Company Act* does not apply to the lottery and casino corporation but the Lieutenant Governor in Council may declare that all or part of the *Company Act* does apply.
- (4) The Lieutenant Governor in Council may appoint one of the directors as chair of the lottery and casino corporation.
- (5) A member of the Executive Council or of the public service who is appointed a director of the lottery and casino corporation ceases to be a director when the person ceases to be a member of the Executive Council or of the public service.
- (6) A director must be paid reasonable travelling and incidental expenses necessarily incurred in discharging duties and, in addition, may be paid for services as a director or chair remuneration set by the Lieutenant Governor in Council.

Corporation an agent of the government

- 40 (1) The lottery and casino corporation is, for all purposes, an agent of the government.
- (2) The Minister of Finance and Corporate Relations is the fiscal agent of the lottery and casino corporation.
- (3) The lottery and casino corporation may acquire and dispose of real and personal property.

Directions to the corporation and to gaming services providers

- 41 (1) The minister may issue general or specific directions to the lottery and casino corporation with respect to the carrying out of its responsibilities.
- (2) The minister's discretion to issue general or specific directions under subsection (1) includes but is not limited to directions specifying procedures, processes and methods for ensuring effective supervision and control by the lottery and casino corporation of gaming services provided by registered gaming services providers under agreements referred to in section 44 (1) (d) with the lottery and casino corporation.
- (3) The lottery and casino corporation must comply with the directions.

Management

- 42 (1) The directors must manage the affairs of the corporation and may
- (a) exercise the powers conferred on them under this Act,
 - (b) exercise the powers of the corporation on behalf of the corporation, and
 - (c) delegate the exercise or performance of any power or duty conferred or imposed on them to a person employed by the corporation.
- (2) A resolution in writing, signed by all the directors, is as valid and effectual as if it had been passed at a meeting of directors properly called and constituted.

Officers and employees

- 43 (1) The *Public Service Act* does not apply to the officers and employees of the corporation.
- (2) The Lieutenant Governor in Council may declare that the *Pension (Public Service) Act* applies to the corporation and its employees.
- (3) The Lieutenant Governor in Council may declare that the *Public Service Benefit Plan Act* applies to the officers and employees of the corporation.

Division 2 – Provincial Gaming

Lottery and casino corporation's mandate

- 44 (1) The lottery and casino corporation may
- (a) conduct, manage and operate provincial gaming on behalf of the government, either alone or in conjunction with the government of another province.
- (b) if authorized by the minister, enter into agreements, on behalf of the government of British Columbia, with the government of Canada or the governments of other provinces regarding the conduct and management of provincial gaming in British Columbia and in those other provinces,
- (c) if authorized by the minister, enter into the business of supplying any person with computer software, tickets or any other technology, equipment or supplies related to the conduct of
- (i) gaming in or out of British Columbia, or
- (ii) any other business related to gaming,
- (d) if authorized by the minister, enter into agreements with persons respecting provincial gaming, including but not limited to agreements with registered gaming services providers for services required for the conduct, management or operation of provincial gaming, but only under agreements that require the registered gaming services providers to provide those services under the control of the lottery and casino corporation,
- (e) subject to first receiving the approval of the director of GAIO in relation to prescribed aspects of the financing for and ownership of any gaming facilities or proposed gaming facilities in or on any premises, designate the locations at which, and the premises or portions of premises in which and facilities at which, provincial gaming or categories of provincial gaming may be conducted, and
- (f) do other things the minister may authorize or require.
- (2) However, the lottery and casino corporation must not
- (a) implement a new type of lottery scheme that was not in operation on the date this section comes into force except with the approval of the minister, or

- (b) conduct, manage or operate bingo events.
- (3) A registered gaming services provider, if engaged in any aspect of the conduct and management of a lottery scheme for the purpose of performing services pertaining to that lottery scheme, in accordance with an agreement under subsection (1) (d), is, and acts only as, an agent of the government, but only to the extent of that engagement and for that purpose.
- (4) A registered gaming services provider engaged in the conduct and management of a lottery scheme for the purpose set out in subsection (3), is subject to the law of British Columbia, despite the registered gaming services provider's status as an agent of the government under subsection (3).

Further mandate – destination casinos

- 45 (1) The lottery and casino corporation, if authorized by the minister, may also enter into agreements as follows:
- (a) with any municipality, regional district or first nation that has authority over land use planning at the proposed location of a destination casino respecting one or more of the following:
 - (i) the location and development within the boundaries of the municipality, regional district or first nation of the destination casino;
 - (ii) services, functions and works, in relation to the destination casino and its location, development and operation;
 - (b) with proponents of destination casinos respecting one or more of the following:
 - (i) the development of the destination casino and any facilities associated with it;
 - (ii) the roles and responsibilities, in relation to the destination casino and facilities, of the lottery and casino corporation and the proponent, respectively, before, during and after construction of the destination casino and facilities;
 - (iii) other matters in relation to the destination casino and facilities.
- (2) An authorization granted by the minister under this section may be general or specific and may be granted conditionally or unconditionally.

Consultation with municipalities, regional districts and first nations

- 46 The lottery and casino corporation must consult respecting the location and development of any community gaming facility or destination casino with
- (a) any municipality, regional district or first nation that has authority over land use planning at the proposed location of a destination casino within the boundaries of which the proponent intends to develop the community gaming facility or destination casino, and

- (b) any other municipalities, regional districts and first nations that the minister considers will be materially affected by the location of the community gaming facility or destination casino in a nearby municipality, regional district or first nation.

Municipal approval required for new provincial gaming facilities

- 47 (1) The lottery and casino corporation must not locate and put into operation any facility for provincial gaming without first receiving the approval, in the prescribed form and manner, of the municipality in which the facility for provincial gaming is proposed to be located.
- (2) This section does not apply in respect of pre-existing community gaming facilities.

Resale of tickets to person outside British Columbia prohibited

- 48 (1) In this section, "resell" means, in relation to lottery tickets,
- (a) to resell one or more lottery tickets after they have been purchased from a person authorized under this Act to sell the tickets at retail;
 - (b) to sell an interest in one or more lottery tickets that have been or are to be purchased from a person authorized under this Act to sell the tickets at retail, or
 - (c) to sell an interest in any prizes won as a result of participation in a lottery scheme for which one or more lottery tickets have been or are to be purchased from a person authorized under this Act to sell the tickets at retail.
- (2) A person must not, directly or indirectly, do any of the following:
- (a) resell or offer to resell lottery tickets to a person outside British Columbia;
 - (b) advertise to resell lottery tickets to a person outside British Columbia or advertise regarding the possibility of such resale;
 - (c) distribute lottery tickets for the purpose of reselling referred to in paragraph (a);
 - (d) have in the person's possession lottery tickets for the purpose of reselling referred to in paragraph (a);
 - (e) conspire with another person to do anything referred to in paragraphs (a) to (d).

Division 3 – Lottery and Casino Corporation Finances

Financial administration

- 49 (1) The corporation must establish and maintain an accounting system satisfactory to the minister and, whenever required by the minister, must render detailed accounts of its revenues and expenditures for the period or to the day the minister designates.

- (2) All books or records of account, documents and other financial records must at all times be open for inspection by the minister or a person the minister designates.
- (3) The accounts of the corporation, at least once in every year, must be audited and reported on by an auditor appointed by the directors, and the costs of the audit must be paid by the corporation.
- (4) The corporation must each year submit to the minister and the minister, as soon as practicable, must lay before the Legislative Assembly
 - (a) a report of the corporation on its operations for the preceding fiscal year, and
 - (b) an audited financial statement showing the assets and liabilities of the corporation at the end of the preceding fiscal year and the operations of the corporation for that year in the form required by the minister.
- (5) The audited financial statement referred to in subsection (4) must be prepared in accordance with generally accepted accounting principles.
- (6) The fiscal year end of the corporation is March 31.

Grants in place of taxes

- 50 Subject to the approval of the Lieutenant Governor in Council, the corporation, in any year, may pay to a municipality in which it has property a grant not exceeding the amount that would be payable as taxes on the property in that year if the property were not exempt from taxation by the municipality.

Application of revenue

- 51 (1) The portion of the lottery and casino corporation's net income in each fiscal year from casino gaming must be paid into the BC Gaming Special Account at the times and in the manner directed by the Lieutenant Governor in Council, after the lottery and casino corporation makes all of the following payments:
- (a) a contribution to each municipality in which a pre-existing community gaming facility is located, in an amount that is equal to 10% of the lottery and casino corporation's net income derived from casino gaming at that facility, subject to the council of that municipality making a request for the contribution by resolution in the prescribed form delivered to the lottery and casino corporation on or before January 15 of that fiscal year;
 - (b) a contribution to each municipality in which a community gaming facility, other than a pre-existing community gaming facility, is located, in an amount that is equal to 10% of the lottery and casino corporation's net income derived from casino gaming at that facility;
 - (c) a contribution to each municipality or first nation that has authority over land use planning at the proposed location at which a destination casino is developed and located or to the applicable regional district if there is no

- such municipality or first nation with land use planning authority, in an amount that is equal to 1/6 of the lottery and casino corporation's net income derived from casino gaming at that destination casino;
- (d) a development assistance contribution to the proponent of a destination casino referred to in paragraph (c), on conditions, and in an amount or in amounts, to be determined by the minister, not exceeding, in total for that proponent, 1/6 of the lottery and casino corporation's net income derived from casino gaming at that destination casino.
- (2) The lottery and casino corporation's net income in each fiscal year, other than from casino gaming, must be paid into the consolidated revenue fund at the times and in the manner directed by the Lieutenant Governor in Council after the lottery and casino corporation makes provision in that fiscal year for
 - (a) payments by the lottery and casino corporation under the agreements referred to in section 44 (1) (b), and
 - (b) payments by the lottery and casino corporation under other agreements respecting provincial gaming, excluding agreements referred to in section 45 (1).
 - (3) If, in any fiscal year, the council of a municipality in which a pre-existing community gaming facility is located does not make a request under subsection (1) (a) for a contribution in the amount described in subsection (1) (a) pertaining to that facility, the lottery and casino corporation must pay that amount into the BC Gaming Special Account.

Division 4 – Pre-existing Community Gaming Facilities

Exception to application of municipal enactments

- 52 (1) In this section, "municipal enactment" means an enactment, whether authorized or adopted before or after the coming into force of this section, of a municipality.
- (2) Despite any municipal enactment and despite anything in the *Municipal Act* or the *Vancouver Charter*,
- (a) the lottery and casino corporation has the right to conduct, manage and operate a pre-existing community gaming facility, including using gaming services provided by a registered gaming services provider under a contract described in section 44 (1) (d) with the lottery and casino corporation, and
 - (b) a registered gaming services provider has the right to provide gaming services for the lottery and casino corporation in respect of a pre-existing community gaming facility, in accordance with a contract so described.
- (3) A provision of a municipal enactment does not apply to the lottery and casino corporation, to a registered gaming services provider under a contract described in section 44 (1) (d) with the lottery and casino corporation, or to a person that provides the lottery and casino corporation or the registered gaming services provider with the premises at which the pre-existing community gaming facility

is located, if the minister notifies the municipality in writing that the minister considers the provision of the municipal enactment would impede

- (a) the lottery and casino corporation in the exercise of its right under subsection (2) (a), or
- (b) a registered gaming services provider in the exercise of its right under subsection (2) (b).

PART 5 – SPECIAL ACCOUNT

Definitions

53 In this Division:

"charitable gaming proceeds" means

- (a) for the fiscal year ending on March 31, 1999, \$125 million,
- (b) for each subsequent fiscal year the amount calculated by
 - (i) determining the ratio between the consumer price index at the beginning of that subsequent fiscal year and the consumer price index as of April 1, 1998, and
 - (ii) applying the ratio to \$125 million, and
- (c) for the fiscal year immediately following the fiscal year in which the combined annual net income from bingo and casino gaming first equals or exceeds 3 times the then applicable amount of charitable gaming proceeds calculated under paragraph (b), and for each subsequent fiscal year, an amount that equals 1/3 of the combined annual net income from bingo and casino gaming;

"charity bingo component" for a fiscal year means the aggregate net income of all gaming licensees during that fiscal year that is derived from bingo events conducted and managed by those licensees;

"charity gaming amount" means the charitable gaming proceeds minus the charity bingo component;

"combined annual net income from bingo and casino gaming" for a fiscal year means the sum of

- (a) the charity bingo component, and
- (b) money paid under section 51 into the special account;

"consumer price index" means the "All-items" index for the City of Vancouver of the Consumer Price Index for Canada published by Statistics Canada under the *Statistics Act* (Canada);

"fiscal year" means the fiscal year of the government;

"special account" means the BC Gaming Special Account established by section 54.

BC Gaming Special Account

- 54 An account called the BC Gaming Special Account is established as a special account in the general fund of the consolidated revenue fund.

Funding

- 55 The special account consists of the money paid under section 51 into the special account.

Expenditures

- 56 (1) The Minister of Finance and Corporate Relations must pay out of the special account during each fiscal year
- (a) subject to subsection (2) and as directed by the commission, contributions to eligible charitable or religious organizations in amounts, that the commission, in its sole discretion, considers reasonable after taking into account prescribed criteria,
 - (b) as directed by the minister responsible for this Act, contributions to municipalities in amounts and on conditions determined by that minister,
 - (c) towards the costs incurred by GAIO for funding police and prosecutorial programs related to gaming, the sum of \$1.5 million, and
 - (d) towards the costs of the Ministry for Children and Families in establishing and carrying out programs of gaming-related education and programs for the treatment of gaming addiction, the sum of \$2 million.
- (2) The aggregate amount of the contributions in any fiscal year
- (a) under subsection (1) (a) must be equal to, and must not exceed, the charity gaming amount applicable to that fiscal year, and
 - (b) under subsection (1) (b) must be equal to, and must not exceed, the sum of all amounts paid into the special account under section 51 (3) applicable to that fiscal year.
- (3) The Minister of Finance and Corporate Relations must ascertain and specify in writing the balance standing to the credit of the special account at the end of each fiscal year, after allowing for all payments required to be made during that fiscal year under this section.
- (4) At the end of each fiscal year the special account is reduced by the amount of the balance that the Minister of Finance and Corporate Relations specifies in writing in accordance with subsection (3).

PART 6 – COMPLIANCE

Division 1 – Audits, Inspections and Investigations

Definitions

57 In this Division:

- “applicant” includes a person who has submitted an application under section 24 or 26 in respect of which a background investigation referred to in section 25 or 27 has not been concluded, even if the person has withdrawn the application after commencement of the background investigation;
- “background investigations” means background investigations authorized under section 62 (i) and includes a background investigation mentioned in any of sections 14, 25, 27 29 and 33;
- “inspector” means a person appointed as an inspector under section 59;
- “licensee” includes a former licensee;
- “registrant” includes a former registrant.

Financial reporting requirements

- 58 (1) The commission may require a licensee to submit to the commission, at a time or at times determined by the commission a financial statement in the form and with the content required by the commission covering the licensee's activities during that financial year in relation to the licence.
- (2) Every registered gaming services provider or registered gaming supplier must submit annually to the director of GAIO, within 3 months after the end of each financial year of the registrant,
- (a) a financial statement in the form and with the content required by the director, and audited by an auditor approved by the director, covering the registrant's activities during that financial year in relation to the registration, and
 - (b) other information required by the director that he or she considers relevant.

Inspectors

- 59 For assessing applications for licences and registration and for monitoring compliance of licensees and registrants with this Act, the regulations, the rules and the conditions of licences and registrations, the director of GAIO may in writing appoint inspectors to conduct inspections.

Inspection powers

- 60 (1) For the purposes referred to in section 59, an inspector may
- (a) require any person who has possession or control over any of the records or things of a licensee or registrant to produce the records and things.

- (b) take reasonable samples of gaming supplies,
 - (c) inspect, audit and examine the records, things and samples,
 - (d) remove any of the records for the purpose of making copies or extracts or otherwise recording or marking them for identification, and
 - (e) remove any of the things or samples for the purpose examination, analyses and testing, or marking them for identification.
- (2) A person who has custody or control of records or things that an inspector considers necessary for the inspection must produce all the records and things that the inspector may require for the purposes of this section.
- (3) Subject to subsection (4), an inspector may enter at any reasonable time any business premises of a licensee or registrant or the premises at which the records or things referred in subsection (1) are kept.
- (4) An inspector who under this section removes records or things
- (a) may make copies of, take extracts from or otherwise record them,
 - (b) must give a receipt for them to the person from whom they are taken,
 - (c) must return them within a reasonable time, and
 - (d) may return them with alterations reasonably necessary for the exercise of the powers conferred under subsection (1).
- (5) The power to enter premises under subsection (3) must not be used without the consent of the occupier to enter a dwelling occupied as a residence.

Inspection to determine suitability of premises and facilities

- 61 An inspector may enter and inspect, at any reasonable time, premises or facilities that are described in or are relevant to an application for a licence or registration or for renewal of a licence or registration, to determine if the premises or facilities meet the requirements under this Act.

Investigations by GAIO

- 62 (1) For the purposes referred to in section 59, GAIO, on its director's own initiative or at the request of the commission or lottery and casino corporation, may conduct background investigations, including but not limited to criminal records checks and inquiries as to financial stability, of
- (a) applicants for licences or registration,
 - (b) licensees or registrants, and
 - (c) directors, officers, employees or associates of
 - (i) applicants for prescribed classes of licences,
 - (ii) licensees in prescribed classes of licences,
 - (iii) applicants for registration as gaming service providers or as gaming suppliers, and

- (iv) registered gaming services providers and registered gaming suppliers.
- (3) On the director of GAIO's own initiative or at the request of the commission or lottery and casino corporation, GAIO, for the administration and enforcement of this Act may conduct, in relation to licences or registrations, investigations of gaming events or of provincial gaming.
 - (4) In the conduct of an investigation under this section, the director of GAIO or a person employed in GAIO and designated by the director of GAIO has all the powers and duties that an inspector has under section 60.
 - (5) The director of GAIO must report the results of investigations referred to in subsection (3)
 - (a) to the Attorney General, if the results raise issues that the director considers to warrant the attention of the Attorney General, and
 - (b) if the investigation is undertaken at the request of the commission or the lottery and casino corporation, or if the director otherwise considers it appropriate to do so, to the commission or the lottery and casino corporation, or to both.

Search of residence under warrant

- 63 (1) In addition to any other powers under this part, the director of GAIO or a person authorized by the director, for all purposes under this Act, may enter a dwelling occupied as a residence without the consent of the occupier, under the authority of a warrant issued under subsection (2).
- (2) A justice may issue a warrant authorizing the director of GAIO or a person authorized by the director and, if appropriate, any peace officer that the director of GAIO may call on for assistance to enter a place in accordance with the warrant, in order to exercise any powers under this Act, if the justice is satisfied by evidence on oath that there are in the place records or things that there are reasonable grounds to believe are relevant to the exercise of those powers.

Information to be provided to GAIO

- 64 The commission and the lottery and casino corporation must provide to GAIO any information, records or things requested by GAIO that are relevant to an audit, inspection or investigation under this Act.

Requirement to submit to inspection

- 65 A person must not
 - (a) obstruct or interfere with a person acting under the authority of this Part in conducting an audit, inspection or investigation, or
 - (b) withhold, destroy, tamper with, conceal or refuse to produce any information, record or thing that is required by the person conducting the audit, inspection or investigation.

Costs of investigations

- 66 (1) On the conclusion or on the discontinuance authorized under section 24 (4) or 26 (4) of a background investigation the applicant for a licence or registration or the licensee or registrant, as the case may be, to which the background investigation pertains, must pay GAIO's costs of the background investigation, determined under this section.
- (2) The director of GAIO may prepare a certificate setting out the costs of a background investigation, including but not limited to the cost of the time spent by the director and persons employed in GAIO, and any fees paid to an expert, inspector, investigator or witness.
- (3) The applicant, licensee or registrant, or the director of GAIO, may apply to a master or registrar of the Supreme Court to review the certificate under the rules of court as if the certificate were a bill of costs, and on the review the master or registrar must review the costs and may vary them if the master or registrar considers that they are unreasonable or not related to the background investigation.
- (4) The tariff of costs in the Rules of Court does not apply to and in respect of a certificate reviewed under this section.

Division 2 – Offences and Penalties

Unlicensed lottery schemes prohibited

- 67 A person other than the government or a person authorized under this Act must not conduct or manage a lottery scheme.

Unauthorized sales of lottery tickets prohibited

- 68 A person other than lottery and casino corporation or another person authorized under this Act must not sell, offer for sale, purchase for resale, or do anything in furtherance of selling, offering for sale or purchasing for resale, any lottery ticket, whether it originates inside or outside of British Columbia.

Offences

- 69 (1) Section 5 of the *Offence Act* does not apply to this Act or to the regulations.
- (2) A person commits an offence who
- contravenes section 36, 37, 38, 48 (2), 58 (1) or (2), 60 (2), 65, 67 or 68;
 - does not comply with a condition of a licence or registration, or
 - makes a statement in a record filed or provided under this Act that is false or misleading with respect to a material fact or that omits to state a material fact, the omission of which makes the statement false or misleading.
- (3) A person does not commit an offence under subsection (2) (c) if at the time of the statement the person did not know that the statement was false or misleading and,

exercising due diligence, could not have known that the statement was false or misleading.

- (4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence commits the same offence whether or not the corporation is convicted of the offence.

Penalties

- 70 A person who commits any offence under section 69 is liable,
- (a) in the case of a corporation on a first conviction, to a fine of not more than \$100 000 and, on each subsequent conviction, to a fine of not more than \$200 000, and
 - (b) in the case of an individual
 - (i) on a first conviction, to a fine of not more than \$100 000 or to imprisonment for not more than 6 months or to both, and
 - (ii) on each subsequent conviction, to a fine of not more than \$200 000 or to imprisonment for not more than 12 months or to both.

Division 3 – General

Remedies preserved

- 71 A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

Court order to comply

- 72 If a person is convicted of an offence under this Act or the regulations, then, in addition to any punishment the court may impose, the court may order the person to comply with the provisions of this Act or the regulations.

Responsibility of directors and officers

- 73 (1) If a corporation is a licensee or registrant and a duty is imposed under this Act on the licensee or registrant, the duty is also imposed on each director or officer of the corporation.
- (2) If a partnership is a licensee or registrant and a duty is imposed under this Act on the licensee or registrant, the duty is also imposed on each partner or officer of the partnership.

Limitation period

- 74 Proceedings under this Act or the regulations must not be commenced more than 3 years after the date of the events that give rise to the proceedings.

Evidence by certificate

- 75 (1) A copy of a book, document, voucher or other paper obtained under this Act and certified to be a true copy by a person designated by regulation must be admitted in evidence in any action, proceeding or prosecution under this Act as *prima facie* proof of the original record without proof of the signature or appointment of the designated person.
- (2) A certificate purporting to be signed
- (a) by the chair of the commission or a person authorized by him or her, or
 - (b) by the director of GAJO or a person authorized by him or her
- that sets out any action or decision of the commission or of the director of GAJO, as the case may be, must be admitted in evidence as *prima facie* proof of the facts stated in the certificate without proof of the signature or the official character of the person signing it.

PART 7 – REGULATIONS

Regulations – general

- 76 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

Regulations – specific powers

- 77 (1) Without limiting section 76, the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the conduct, management and operation of, and participation in, provincial gaming
 - (i) by the government, or on behalf of the government by the lottery and casino corporation, or
 - (ii) by the government, or on behalf of the government by the lottery and casino corporation, jointly with Canada, or other provinces;
 - (b) prescribing conditions of licences relating to the conduct, management and operation of, or participation in, gaming events;
 - (c) respecting fees for licences or registrations or for applications for licences or registrations, including but not limited to
 - (i) prescribing fees expressed as specified amounts or as percentages of all or any components of gross or net revenue from gaming events or provincial gaming, and
 - (ii) prescribing methods of calculating the amounts of the fees and factors to be taken into account in the calculations;
 - (iii) prescribing methods of determining any fact necessary to be determined for calculating the amounts of the fees and the persons or officials by whom the facts must be determined;

- (d) establishing classes of licence;
- (e) establishing classes of registration;
- (f) respecting application procedures for licences and for registrations;
- (g) respecting conditions and eligibility requirements that must be met before a licence is issued or a registration is granted;
- (h) prescribing conditions of registration;
- (i) respecting the expiration of licences;
- (j) the posting of licences, certificates of registration, notices and information by licensees and registrants;
- (k) respecting the requirements and consequences that apply
 - (i) if a licensee or registrant sells or assigns the business or undertaking under which the activities authorized by the licence or registration are carried out, or becomes dispossessed of the business or undertaking by bankruptcy or operation of law, or
 - (ii) if a licensee or registrant who is an individual dies;
- (l) respecting facilities used for gaming events or provincial gaming, including the persons who may be present at the facilities, the food service at the facilities and activities that may or must not be carried on at or near the facilities;
- (m) requiring and setting standards for security and surveillance at gaming events and provincial gaming;
- (n) governing conflict of interest for
 - (i) members of the commission and its employees,
 - (ii) the directors, officers and employees of the lottery and casino corporation, and
 - (iii) the director of GAIO and employees of the government reporting to the director;
- (o) governing the use of credit extended to players of games of chance held in casinos;
- (p) prescribing rules relating to the handling of money and money equivalents received from players of games of chance;
- (q) requiring and governing books, accounts and other records to be kept by registered gaming services providers and registered gaming suppliers, including, but not limited to prescribing time schedules for which registered gaming services providers and registered gaming suppliers are to retain those books, accounts and other records;
- (r) governing the holding and disbursement of money received from players of games of chance by the lottery and casino corporation, licensees and gaming services providers;

- (s) limiting and regulating the sale of lottery tickets of the lottery and casino corporation by persons other than the lottery and casino corporation and prescribing the fees, commissions and discounts in such sales;
 - (t) governing the manner of selecting prize winners under a lottery or any class of lottery conducted by the lottery and casino corporation;
 - (u) prescribing the conditions and qualifications for entitlement to prizes in a lottery or any class of lottery;
 - (v) defining, for the purposes of this Act, words and expressions that are not defined in the Act.
- (2) A regulation made under this section may
- (a) be made applicable generally or to a specific person, thing or transaction, or class of persons, things or transactions,
 - (b) for the purpose of the regulation, define classes of persons,
 - (c) for the purpose of the regulation, define classes of things or transactions, and
 - (d) provide differently for different persons, things or transactions, or for different classes of persons, things or transactions.
- (3) The Lieutenant Governor in Council, by regulation, may delegate the discretion to make regulations under subsection (1) (b) or (c) or both (1) (b) and (c) to an authority or person specified in the regulation.
- (4) Each of the Provincial Secretary and Minister of Government Services, the Attorney General and the Public Gaming Control Branch is conclusively deemed to be, and to have been between May 27, 1986 and the end of March 31, 1987, and the British Columbia Gaming Commission is conclusively deemed to be, and to have been since March 31, 1987, an authority to which the discretion under subsection (1) (c) to prescribe fees respecting licences has been delegated by regulation under subsection (3).
- (5) Every licence fee or purported licence fee, in respect of a lottery scheme, imposed or purported to have been imposed by
- (a) the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch between May 27, 1986 and the end of March 31, 1987, or
 - (b) the British Columbia Gaming Commission, between March 31, 1987 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998*.

is conclusively deemed to have been validly imposed by regulation under this section on the date of the licence or purported licence to which the licence fee or purported licence fee pertains.

- (6) The *Regulations Act* does not apply, and, between May 27, 1986 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998* did not apply, in respect of
 - (a) the licence fees referred to in subsection (5), or
 - (b) a regulation referred to in subsection (5).
- (7) The *Regulations Act* applies to regulations under this Act that are made after the coming into force of this subsection by an authority or person to whom the Lieutenant Governor in Council delegates the regulation making authority under subsection (1) (b) or (c) or both (1) (b) and (c).

PART 8 – TRANSITIONAL

Licences validly issued

- 78 (1) Each of the Provincial Secretary and Minister of Government Services, the Attorney General and the Public Gaming Control Branch is conclusively deemed to be, and to have been between May 27, 1986 and the end of March 31, 1987, and the British Columbia Gaming Commission is conclusively deemed to be, and to have been since March 31, 1987, an authority to whom the discretion under section 2 (1) to license persons to conduct and manage gaming events in British Columbia has been delegated by order under section 2 (2).
- (2) A licence or purported licence is conclusively deemed to have been validly issued under section 2 (2) on the date of the licence or purported licence if the licence
- (a) was issued by
 - (i) the Provincial Secretary and Minister of Government Services, the Attorney General or the Public Gaming Control Branch between May 27, 1986 and the end of March 31, 1987, or
 - (ii) the British Columbia Gaming Commission between March 31, 1987 and the date of Royal Assent to the *Miscellaneous Statutes Amendment Act (No. 3), 1998*, and
 - (b) authorizes or authorized, or purports or purported to authorize, a person to conduct and manage a gaming event.

Acts to be given legal effect

- 79 (1) This section, the definitions in section 1 of "gaming event", "licence", "lottery scheme" and "person", sections 2, 77 (1) (b) and (c), (2) to (6), 78 and 83 must be applied to and must be given effect in every action or proceeding, whether commenced before, on or after the date this Act receives Royal Assent.
- (2) A provision of this Act must not be construed as lacking effect, whether retroactive or otherwise, in relation to any matter because of making no specific reference to that matter.

- (3) If any provision of this Act is held to be invalid, the provision must be severed from the remaining provisions, and the remainder have the same effect as if they had been originally enacted separately from the provision held to be invalid.

Consequential Amendments

Health Special Account Act

- 80 *Section 2 of the Health Special Account Act, R.S.B.C. 1996, c. 185, is amended by striking out "under section 8 of the Lottery Corporation Act" and substituting "under section 51 (2) of the Gaming Control Act".*

Lottery Act

- 81 *The Lottery Act, R.S.B.C. 1996, c. 278, is repealed.*

Lottery Corporation Act

- 82 *The Lottery Corporation Act, R.S.B.C. 1996, c. 279, is repealed.*

Commencement

- 83 The definitions in section 1 of "gaming event", "licence", "lottery scheme", and "person", sections 2, 77 (1) (b) and (c), (2) to (6) and 78 are deemed to have come into force on May 28, 1986 and are retroactive to the extent necessary to give them effect on and after that date.

Appendix C

J. Peter Meekison, *Relocation of and Changes to Existing Gaming Facilities in British Columbia: Review and Recommendations*, January 31, 2000.

**Report to the Honourable Joan Smallwood
Minister of Labour**

on

**RELOCATION OF AND CHANGES TO
EXISTING GAMING FACILITIES
IN BRITISH COLUMBIA:
Review and Recommendations**

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January 31, 2000

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RELOCATION OF AND CHANGES TO EXISTING GAMING FACILITIES IN BRITISH COLUMBIA: Review and Recommendations

1. INTRODUCTION

On June 17, 1999 the Honourable Mike Farnworth, Minister of Employment and Investment and the Minister Responsible for Gaming, announced an end to the expansion of gaming in British Columbia.ⁱ

Prior to that, in the mid'90s, the provincial government had outlined a number of policy statements whose purpose was the expansion of gaming in the province. The policy of expansion included, among other things, increasing the number of casinos through the introduction of "destination" casinos and permitting slot machines in casinos. In addition, other forms of electronic gaming such as "linked" bingo were added.ⁱⁱ The minister's announcement effectively brought to an end the policy of expansion, although the destination casinos which the provincial government had approved in principle were not affected by this decision. They were allowed to complete the final approval process.ⁱⁱⁱ

On June 17, 1999, the minister also announced that he would appoint "an independent adviser to recommend an arm's-length process for dealing with any proposed relocation of existing facilities." At that time, he stated that memoranda of agreement had been reached with the Union of British Columbia Municipalities (UBCM) and the British Columbia Association for Charitable Gaming (BCACG). The minister signed an agreement with the Charitable Bingo Association Committee of the Bingo Council of British Columbia (BCBC) on June 18, 1999.

On July 19, 1999, Minister Farnworth appointed Professor J. Peter Meekison to act as an independent gaming adviser and to recommend a process for the relocation of existing gaming facilities. However, the terms of reference were not yet finalized. A few days later, as a result of a cabinet reorganization, the Honourable Joan Smallwood replaced the Honourable Mike Farnworth as minister responsible for gaming. Minister Smallwood wanted to review and revise Professor Meekison's proposed terms of

reference. She released the terms of reference at a media conference on September 22, 1999.^{iv} (See Appendix 2 for the terms of reference.)

When the Honourable Joan Smallwood released the terms of reference, she also announced a freeze on any relocation or expansions, either planned or underway, of existing gaming facilities. Rather than making a series of ad hoc decisions, she decided to wait until the review was completed. At that time, she would reconsider the freeze in light of Professor Meekison's recommendations. Accordingly, there was a moratorium on relocation of or changes to existing gaming facilities (bingo halls, casinos and racetracks) until Professor Meekison submitted his report.

1.1 The Terms of Reference

The terms of reference of the review included a request for:

- 1) detailed recommendations for an evaluation process for gaming facilities (i.e., casinos, racetracks) seeking to be relocated;
- 2) detailed recommendations for an evaluation process for gaming facilities seeking any changes to their existing facilities within current government guidelines (e.g., increasing slot machines and/or gaming tables up to the maximum number allowed);
- 3) Detailed recommendations for the evaluation criteria that should be employed as part of the above evaluation process.

In summary, the focus of the mandate was to recommend processes for the relocation of and changes to existing gaming facilities and the criteria to be employed in these processes.

The terms of reference establish some criteria for and constraints to the recommendations. Two criteria are incorporated in the terms of reference. Recommendations are to be guided by the fact that:

- the evaluation process must be independent from direction or influence by elected provincial officials, and
- the evaluation process must be transparent, open and fair to all participants and the public.

The constraints to the recommendations are clear. The recommendations must be consistent with the memoranda of agreement signed with the UBCM, the BCACG and the BCBC. (For the three memoranda of agreement see Appendices 3 - 5.)

The terms of reference directed Professor Meekison to consult openly and fully with interested parties, including charities, operators and municipalities. The Honourable Joan Smallwood informed a large number of organizations and individuals about the review. She sent each one a letter along with the terms of reference encouraging them to meet with Professor Meekison. In addition, Professor Meekison sent out a letter saying he would welcome the opportunity to meet with persons or organizations who wished to share their views on the matters he was reviewing. The two letters resulted in a number of meetings and presentations in a variety of centres in the province. People were forthcoming in their views and welcomed the opportunity to share their ideas, concerns, apprehensions and policy recommendations. A few people wrote letters or telephoned to share their thoughts and concerns. A brief summary of the wide-ranging commentary is found later in this report.

1.2 Comment on the Terms of Reference

Although the terms of reference are reasonably clear, throughout the review, questions about their scope and intent inevitably arose. As a result, a brief comment on them appears necessary.

One way of beginning is to make it clear what was not included. Destination casinos, which the province approved as a result of the July 1997 *Request for Proposals* process, were excluded. The management of ticket lottery sales was not reviewed. The allocation of revenues generated from gaming was not considered. With the announced end to gaming expansion, the current government guidelines of a maximum of 30 tables and 300 slot machines was not reviewed. Policies with respect to the operation of casinos, such as the consumption of alcoholic beverages, was not considered.

Relocation is defined as a move either within the municipality in which the gaming facility is currently located or to a different municipality. It should also be recognized that relocation also includes moving a gaming facility to First Nations' lands.

The phrase "changes to their existing facilities" was not interpreted as a physical change such as a renovation but rather the addition of electronic or hand-held bingo equipment in the case of bingo facilities or an increase in the number of tables or slot machines in a casino up to the maximum of 30 tables and 300 slot machines. Change could also mean a decrease in the number of tables or

slot machines or the closing of a facility.

The terms of reference make it clear that the proposed evaluation process **must** be consistent with the memoranda of agreement already referred to. Accordingly, the relevant provisions of these memoranda form an integral part of the terms of reference. The recommendations which follow reflect this interpretation.

Before identifying some of the principal themes which emerged during the several meetings, it is important to give the reader some understanding of the context and some of the more salient policy issues which led to the appointment of the independent gaming adviser and to the review.

2. GAMING POLICY IN BRITISH COLUMBIA

Upon entering the policy world of gaming, one is immediately confronted with a bewildering number of acronyms, policy pronouncements and a veritable avalanche of previous studies. In order to make sense of this constantly changing landscape and to put this review's recommendations into context, a brief summary of recent gaming policy in British Columbia is imperative. This part of the review is divided into two sections and is essentially descriptive. The first section outlines the individual offices and agencies responsible for the administration of gaming policy. This section is followed by a listing of the major policy papers, studies and recommendations that the province has commissioned in the recent past.

Central to understanding provincial gaming policy is the legal framework for gaming in Canada. The *Criminal Code* makes it clear that gaming is illegal other than under permitted exceptions detailed in the *Criminal Code*. It is lawful for the provincial government "to conduct and manage a lottery scheme" in the province. Examples of other exceptions include pari-mutuel betting on horse-races and provincially-licensed charitable lotteries. The January 1999 *White Paper*, contains a useful and detailed summary of the legal framework for gaming in Canada and British Columbia.^v

2.1 The Administration of Gaming

As a result of both the *Criminal Code* provisions and its own sphere of legislative jurisdiction, the provincial government holds primary responsibility for the administration of gaming. Policy is contained in provincial legislation, orders-in-council, ministerial statements and memoranda of agreement. Some municipalities have also developed policies on gaming, such as the City of Vancouver's prohibition of slot machines within its boundaries. Thus, in examining the legal framework of gaming policy, one must be aware of federal, provincial and municipal legislation, bylaws and regulations.

Given the primary role of the provincial government with respect to gaming, a logical starting place is identification of the individuals and agencies responsible for policy, regulation and administration of gaming. In British Columbia, the Premier has assigned responsibility for gaming to a member of the cabinet who combines that responsibility with other ministerial responsibilities. For example, at the moment, responsibility for gaming rests with the Minister of Labour. Formerly it was the responsibility of the Minister of Employment and Investment; before that it was the

Minister of Government Services. It would appear that gaming policy is not formally identified with any particular ministry, policy area or individual. Other ministries with a direct interest in gaming policy include the Attorney General, Children and Families (Adult Addiction Services—Problem Gambling), and Finance and Corporate Relations.

There are five primary government bodies, apart from the Minister, involved in the regulation and administration of gaming policy. These are:

- the Gaming Policy Secretariat (GPS)
- the British Columbia Gaming Commission (BCGC)
- the British Columbia Lottery Corporation (BCLC)
- the Gaming Audit and Investigation Office (GAIO)
- the British Columbia Racing Commission (BCRC)

2.1.a. The Gaming Policy Secretariat (GPS)

The Gaming Policy Secretariat (GPS) is an administrative unit that co-ordinates the implementation of government policy on gaming. It also provides policy advice to the minister responsible for gaming. The Gaming Policy Secretariat works closely with the other provincial agencies involved with gaming for the purpose of establishing policies and practices that are comprehensive, consistent and enforceable. The GPS also works closely with a number of external agencies, organizations and special interest groups including the Union of British Columbia Municipalities, individual municipalities, First Nations, licensed charities, bingo operators, casino operators and law enforcement agencies. It is the smallest of the various provincial agencies. Given the constantly changing and increasingly complex world of gaming, its policy co-ordination role is essential. The GPS reports to the minister through the department for which the minister has responsibility.

2.1.b The British Columbia Gaming Commission (BCGC)

The province established the British Columbia Gaming Commission (BCGC or the Gaming Commission) by order in council in April 1987. The Gaming Commission operates at arm's length from government. The Board of Commissioners consists of up to seven members from across the province appointed by the Lieutenant Governor in Council.

Pursuant to the *Lottery Act*,^{vi} as amended by the *Miscellaneous Statutes Amendment Act (No. 3), 1998*,^{vii} the Gaming Commission is solely responsible for the licensing of charities, charitable bingo associations, social occasion casinos, charitable ticket raffles and gaming at fairs and exhibitions. The Gaming Commission establishes the terms and conditions for charitable gaming and access to gaming revenue that govern the licensing and distribution of charitable gaming revenue within the context of the government's strategic directions for public gaming.

The Gaming Commission applies explicit criteria in deciding which groups are eligible for access to gaming revenue, the dollar amount of access, and whether charitable licensees and/or direct charitable access recipients are using gaming revenue for purposes approved by the Commission in an acceptable manner.

At the moment, approximately 4,900 charitable or religious organizations participate in charitable gaming in the province. In 1998/99, approximately \$161 million was distributed to or generated by these charitable organizations.

Until June 1998, the Gaming Commission was also responsible for licensing and regulating charitable casinos, at which time the government transferred responsibility to the British Columbia Lottery Corporation. The decision was part of the government's interim gaming framework that was intended to address certain legal questions surrounding conduct and management of casinos. The net effect of this decision was to establish a clear separation between the provincial agency responsible for the conduct and management of casinos and the agency responsible for charitable gaming. The separation was intended to ensure compliance with provisions of the *Criminal Code*. It should be noted that, up to this point, it was the Gaming Commission that received, reviewed and decided on relocation of casinos. It continues to have the authority to make decisions on the relocation of bingo facilities.

2.1.c The British Columbia Lottery Corporation (BCLC)

The British Columbia Lottery Corporation was incorporated in 1984 and is continued under the *Lottery Corporation Act* of 1985. Its original mandate was to conduct and manage ticket lotteries. The Lottery Corporation's legislative mandate is contained in the *Lottery Corporation Act*.^{viii} The Act requires that net profits of the corporation are to be paid into the provincial consolidated revenue fund. The Act also specifies that the corporation is for all purposes an agent of the

government. The other key point is that one of the objects of the corporation is to develop, undertake, organize, conduct and manage lottery schemes on behalf of the government. The corporation is controlled by a board of not more than nine directors appointed by the Lieutenant Governor in Council.

With the advent of electronic and linked bingo and the introduction of slot machines into the province in 1997, the government expanded the mandate of the Lottery Corporation to include this equipment to ensure that the province was not in contravention of the *Criminal Code*. As was previously mentioned, the Lottery Corporation assumed responsibility for charitable casinos around this same time. The government made these administrative or organizational decisions in 1997/98 as an interim measure until it submitted comprehensive gaming legislation to the Legislature for its consideration. Essentially, two discrete but interrelated policy decisions are in play here. The first is an expansion of gaming activity and the second is a reorganization of the administration of gaming activity.

The mission statement of the Lottery Corporation is included in its *1997/98 Annual Report*. It reads as follows:

As the major advocate on gaming policies and the principal operational agency of commercial gaming within the jurisdiction of British Columbia, the Corporation will contribute significantly to government revenues and economic growth through providing top-quality gaming entertainment to the public in a socially responsible manner.^{ix}

Among the six corporate objectives identified in the *Annual Report*, the first is "to maximize gaming revenue to the Province of British Columbia." The link between the mission statement and this objective is fairly obvious. In 1997/98 the Corporation transferred \$283.4 million to the provincial government.^x

2.1.d The Gaming Audit and Investigation Office (GAIO)

The Gaming Audit and Investigation office was established in 1995 as a result of recommendations contained in the 1994 *Report of the Gaming Policy Review*.^{xi} That review recommended that monitoring and enforcement of gaming activities be separated from those organizations responsible for the delivery of gaming programs, specifically the Gaming Commission and the Lottery Corporation. As a result of this "separation concept," GAIO was located within the Ministry of the

Attorney General.

The 1999 *White Paper* indicated that the formal mandate of GAIO, as authorized by the Attorney General, is to:

- register individuals and companies involved in lawful gaming in British Columbia;
- investigate any occurrence which may be of a criminal nature or bring into disrepute lawful gaming under either s. 207 of the *Criminal Code* or provincial enactments; and
- audit and review gaming operations and organizations against standards established by provincial legislation and policy.^{xii}

2.1.d.i. Registration Program

Companies providing goods and services to the gaming industry are required to undergo due diligence investigation to prove the integrity of the key persons—directors, officers, shareholders and associates—by way of criminal record checks, credit checks and other checks appropriate to the application. The corporate entity is similarly vetted for corporate governance, finances and compliance history. These due diligence investigations frequently require travel to other jurisdictions in Canada and elsewhere and liaison with police forces, regulators and the financial communities in those jurisdictions. The applicant pays the out-of-pocket costs of these investigations. Each corporate registrant is monitored during the registration period for significant corporate changes affecting personnel, financing, corporate structure, corporate governance and regulatory compliance worldwide.

Individuals working at gaming sites in the province are cleared by GAIO after pertinent criminal record checks and financial checks have been conducted. Once scrutinized, such individuals are issued identification cards which must be worn while working at a gaming site.

Other due diligence work is conducted on gaming supplies, particularly electronic gaming supplies. These are tested to ensure the product performs according to specifications and government requirements. Supplies having monetary value, such as chips, are tested and checked for security features to prevent counterfeiting. The owner of gaming sites may differ from the gaming service provider who is the tenant. Where the ownership differs, the owner of the site is investigated to ensure that government and the public interest are protected.

2.1.d.ii Investigation Program

GAIO conducts investigations of alleged *Criminal Code* gaming-related offenses occurring at gaming sites. These investigations may be specific to the operation, to a person within the operation or to the use of gaming funds by the charity recipient. As well, investigations are conducted where serious or complex regulatory breach is determined or suspected to have occurred. Investigations are conducted on suppliers and service providers where allegations of misconduct or illegal conduct are alleged. Investigations may also be conducted into illegal gaming activities in conjunction with those police agencies with jurisdictional responsibility.

2.1.d.iii Audit Program

GAIO conducts operational audits to determine compliance with the Terms and Conditions of License issued by the Gaming Commission, including uses of net gaming proceeds or compliance with Standard Operating Procedures established by the Gaming Commission or the Lottery Corporation. Audits are a proactive program designed to monitor for the ongoing integrity of gaming operations and to determine any control weaknesses that may need to be brought to the attention of either the Lottery Corporation or the Gaming Commission.

As noted in the *White Paper*, neither the *Lottery Act* nor the *Lottery Corporation Act* includes specific provisions for GAIO's enforcement activities. GAIO has entered into memoranda of understanding with both the Lottery Corporation and the Gaming Commission, identifying the roles and responsibilities of each and what each organization will communicate to the other. To give some appreciation of the different roles and responsibilities, the Memorandum of Understanding between GAIO and the Lottery Corporation is attached as Appendix 6.

2.1.e The British Columbia Racing Commission

Horse racing is regulated under the gaming and betting part of the *Criminal Code* and is outlined in its own section, Section 204. Some view racing as a sport and as a part of the agricultural industry. While this view is correct, it is equally correct to see horse racing as one sector of the gaming industry in the province. Until recently, the tendency was to consider horse racing separately from other forms of gaming. There are, however, zones of convergence such as the Lottery Corporation's offering certain programs at racetracks and suggestions that slot machines be permitted at racetracks. One distinction between horse racing and other forms of gaming is that the

former is regulated by both the federal and provincial governments.

In British Columbia, racing is regulated by the British Columbia Racing Commission. The Racing Commission is established by statute, the *Horse Racing Act*.^{xiii} Essentially the Racing Commission regulates the operation of all horse racing sites and training centres. It is also the licensing authority for racing. Finally, it is the sole and absolute authority to assign racing days. A "race day" is a day assigned to an association by the Racing Commission on which the association may carry on horse racing.

2.2 Recent Studies and Reports

Over the past few years there has been a steady stream of policy papers, studies and pronouncements on gaming of which this review is the most recent. Because the various documents are referred to frequently in this review, it seemed useful to list them to give a better understanding of what has preceded this report. Several of the themes or ideas in these materials have been of great assistance in formulating recommendations in this report. Many of these reports are based on wide consultation and background studies prepared specifically for that particular assignment.

The documents include:

- 1) ***Report of the Gaming Policy Review*** released in October 1994. This report announced a number of decisions reached by the provincial government Among others: there would be no Las Vegas style casinos ("major casinos"); the 1987 moratorium on new charitable casinos would be lifted; a moderate number of video lottery terminals would be introduced; and electronic bingo would be introduced. There would be gaming legislation to strengthen regulation and enforcement and policies would be put in place to deal with problem gambling.

- 2) ***Gaming Review: Expansion Options and Implications*** released in March 1997. This study outlines a variety of options for expanding gaming in the province. The information in the report is based on a study prepared by KPMG. After examining the report, the government released it and announced a new gaming policy. For example, it reaffirmed the earlier decision to prohibit major casinos and indicated, at the same time, that video lottery terminals would not be allowed in bars and pubs. The policy announcement also indicated that destination casinos and new charity casinos and bingo halls would require local government

support. A few days later there was a more specific announcement on destination casinos.

3) ***Request for Proposals: Destination and Charitable Gaming Facilities*** released in July 1997.

This document, otherwise referred to as RFP, set out the detailed guidelines for those wishing to submit proposals. The acknowledged purposes of the RFP were:

- to evaluate proposals for relocations, across municipal boundaries, of existing gaming facilities;
- to solicit proposals for the development of new gaming facilities in B.C.^{xiv}

The objectives of the RFP were to have the government "consider a moderate, measured and co-ordinated expansion of gaming opportunities in B.C."^{xv}

4) **Gaming Policy Recommendations** released in March 1998. This report arises from a January

1998 court decision upholding a challenge to the province's authority to determine, by regulation, the distribution of proceeds from charitable gaming.^{xvi} As noted in the report, the court decision "did render invalid certain aspects of the administrative and regulatory structure put in place to implement [the gaming policy objectives of government]." The January 1998 court decision came right after an earlier court decision upholding Vancouver's bylaw prohibiting slot machines in charitable casinos.^{xvii}

5) ***Bingo Review: Options for a Revitalized Bingo Gaming Sector*** released in February 1999.

This study gives an overview of bingo in the province. In April 1998, Minister Farnworth announced an interim gaming policy in light of recent developments arising from the successful court challenges. He included the *Bingo Review* as part of this policy package.

6) ***Report on Gaming Legislation and Regulation in British Columbia*** released in February

1999. Minister Farnworth released this document, commonly referred to as the *White Paper*, at the same time as he released the *Bingo Review*. There was consultation with various groups and individuals in the preparation of both papers. As one would expect, the *White Paper* generated additional debate on gaming policy. As noted in the *White Paper*:

This initiative followed several years of policy review and implementation of gaming expansion and diversification in the province. It also followed unprecedented levels of court activity involving the province, various municipalities, several charity groups, and government and commercial operators. Legal challenges, court decisions and appeals have required some changes to government's originally intended program of moderate gaming

expansion. They also resulted in implementation of an "interim" regime defining the structure and roles of participants in government and charitable gaming. While the interim regime has served to bridge the period and circumstances of uncertainty, many of the current issues now in dispute or doubt will be resolved only with a set of clear policy decisions and the introduction of enabling provincial legislation.^{xviii}

- 7) **Horse Racing Review** released in September 1999. This review is the final study of the different gaming sectors in the province. The report is a broad review of the horse racing sector and includes a considerable amount of data comparing horse racing to other forms of gaming in the province. The assessment of the consultations following the release of the review has yet to be released.

The June 17, 1999 announcement of this review also included a policy statement terminating gaming expansion in the province. The interim policy continues in effect as modified by the June 17, 1999 statement.

3. FINDINGS OF THE REVIEW—THE FAULTLINES

At the outset of the review, it was by no means certain what would result from the various meetings, discussions and presentations. By the end of the review, however, certain themes had become clearly evident. In assessing these themes, one must recognize that there is an element of self-interest in the views expressed and articulated by those offering comment. Discounting this element of bias, specific comments, concerns, apprehensions and desires do stand out. Their frequency, coming as they did from very diverse interests, also make them worth repeating.

Perhaps the single most important theme is the recognition, but not necessarily acceptance, that the status of gaming in British Columbia today is fundamentally different from what it was just a few years ago. The obvious manifestation of this change is the expansion of gaming through the addition of slot machines, an increase in the number of casinos as a result of the RFP process, and changes to betting limits and hours of operation. At the very centre of this expansion is the provincial government orchestrating and overseeing this transformation.

Government has gone from being primarily a regulator of gaming to being both regulator and chief promoter. This new role is reflected in the *1997/1998 Annual Report* of the Lottery Corporation and in a number of the policy papers referred to in the previous section. The new role is probably the primary distinction between the earlier period (which for the purposes of argument can be referred to as the pre-slot machine period) and the current situation (or post-slot machine period). What has happened in British Columbia parallels a similar phenomenon in other provinces. One could argue that the transformation took place much earlier when governments became involved in lottery schemes. Whichever date one chooses to select, the introduction of slot machines in British Columbia has had a profound and, to some, disturbing effect on the gaming sector.

The second theme is a direct result of this transformation and the new role of government in gaming. This second theme, for want of a better term, can best be described as the development of faultlines. With faultlines come tension and stress.

The various faultlines are as follows:

1. gaming proponents and opponents,
2. provincial and municipal governments,

3. casino operators and the Lottery Corporation,
4. bingo and casinos,
5. racing and casinos.

One would expect to encounter some of these faultlines such as the division of opinion between those favouring and opposing gaming and its expansion or the ongoing differences between the provincial and municipal orders of government. The others appear more directly linked to government's new role as promoter. While these faultlines may be well known to those directly involved in the gaming industry, to the casual observer they are not as obvious. Each faultline requires a brief comment because the recommendations which follow are based largely upon them.

3.1 Gaming Proponents and Opponents

For every action there is a reaction, and gaming is no exception. The province, through its various studies and reports, has been the key architect and promoter of gaming expansion. The January 1997 *Gaming Review: Expansion Options and Implications* set the stage for this debate. While the status quo is presented as an option, the thrust of the report is the presentation of a number of alternatives for expanding gaming in the province. This possibility led to criticism, and segments of the public organizing and mobilizing public opinion in opposition. One example is "CAGE," Citizens Against Gambling Expansion. Opposition was found at several municipal councils, including Vancouver, Surrey, Richmond and Victoria, which approved policies prohibiting slot machines within their respective municipal boundaries. It should be noted that these four municipalities account for a significant percentage of the provincial population.

Arguments for expansion usually focus on economic benefits, and range from significant increases in provincial revenues to increases in employment, economic development and tourism. Critics of expansion often focus on social and moral arguments and view gaming as a tax on the poor leading to an increase in crime and problem gambling.^{xix} While critics view government's involvement in gaming with both distaste and a certain degree of cynicism, some also recognize that government withdrawal is unlikely.

3.2 Provincial and Municipal Governments

The issue here is the nature of the relationship between the two orders of government. Section 92 of the Constitution Act, 1867 gives provincial legislatures exclusive legislative jurisdiction over

municipal governments. This authority is generally manifested through legislation such as the *Municipal Act*. That said, municipal governments have at their disposal a wide range of policy areas over which they exercise considerable control including land use, business licensing, building permits and the provision of local services. Accordingly, when it comes to gaming policy, municipal governments have a very real role to play with respect to what occurs within their boundaries. As already noted, a number of municipalities have passed bylaws or resolutions prohibiting the installation of slot machines within their boundaries.

Recognition of some municipal role is reflected in a number of the recently released provincial position papers. For example, the July, 1997 *Request for Proposals: Destination and Charitable Gaming Facilities*, makes it clear that any proposal must have demonstrable "host" local government support in the form of a resolution. Without that support, the provincial government would not consider the proposal. In addition, proponents were to secure the views of adjacent local governments. The other policy which warrants attention is that "host" local governments would receive one-sixth of the net gaming income from the destination gaming facility, an inducement to encourage local support.^{xx}

The *Request for Proposals* (RFP) process which contemplated an expansion to gaming in the province set in place a new dynamic, the right of local governments to approve **new** gaming facilities within their boundaries. But what about existing facilities? The expectation on the part of the province was that slot machines would go into existing casinos, prompting some local governments to challenge this assumption and to go to court to have their position affirmed. In October 1999, the British Columbia Court of Appeal struck down the Surrey bylaw prohibiting slot machines.^{xxi}

The January, 1999 *White Paper* on gaming legislation contained a detailed commentary on the role of local governments. The draft legislation conferred authority on local governments to approve new facilities within their boundaries, reflecting the commitments contained in the RFP document. The draft legislation also included a section which authorized the minister to override a municipal limitation on gaming with respect to pre-existing facilities. In short, the question of where paramountcy rested with respect to the introduction of slot machines in the existing charitable casinos was resolved by this section. Provincial policy would be paramount.^{xxii} It goes without saying that this proposal was criticized by both the Union of British Columbia Municipalities (UBCM) and those local governments that had adopted bylaws prohibiting the introduction of slot

machines within their boundaries. The UBCM had recommended that "the right of local governments to determine the extent and type of gaming in their communities be recognized in the *Gaming Act.*"^{xxiii} The province and local governments were on a collision course.

The June 17, 1999 Memorandum of Agreement (MOA) with the UBCM resolved the policy dispute, with the municipalities achieving their major objectives. These include the right of local governments to approve the introduction of slot machines, a share (10 percent) of the proceeds from gaming within their boundaries and affirmation of their land use (zoning) authority. To the UBCM, the MOA was recognition and vindication of their position and demonstrates the link between gaming and community interests. To critics, the MOA is an abdication by the province of its overall responsibility for gaming policy.

While it appears that the faultline between the province and municipalities has disappeared, it may be only temporary because the Lottery Corporation may cause municipalities to review their policies governing slot machines. If a particular municipality does not want slot machines within its boundaries, the Lottery Corporation, in fulfilling its mandate to maximize revenues for the provincial government, believes it has an obligation to pursue the relocation of casinos to municipalities that are more receptive to the idea. This carrot and stick position may lead to further strains between the province and individual municipalities.

3.3 Casino Operators and the British Columbia Lottery Corporation

On March 13, 1997, the government announced its new gaming policy. Among other things, it authorized charitable casinos to introduce slot machines "to allow them to compete with casinos in other jurisdictions, particularly those in Washington state."^{xxiv} The government released the *Request for Proposals* (RFP) document in July 1997. Having ruled out Las Vegas style casinos on March 13, it set the maximum size of a casino at 30 tables and 300 slot machines.^{xxv} There were 17 charitable casinos that offered table games only in operation in British Columbia. Appendix 7 gives a listing of the 17 existing casinos and the three destination casinos that have received final approval. At that time, slot machines had not been introduced in the province and the Gaming Commission regulated the existing charitable casinos.

The RFP document envisaged two types of casinos, the existing charitable casinos and the new

destination casinos.^{xxvi} As noted previously, the 1999 draft legislation reflected this duality. The Lottery Corporation would be responsible for new destination casinos, while the existing charitable casinos, even though they were now in a position to introduce slot machines, would continue to be regulated by the Gaming Commission,. In April 1998, the government announced a change in this regulatory structure. As part of its interim gaming policy, the government transferred responsibility for all casino operations to the Lottery Corporation "in compliance with Canada's *Criminal Code*, which only allows electronic gaming to be conducted by the provincial government or its agent."^{xxvii} The actual transfer of responsibility for casinos took place in June 1998, just after the government announced approval in principle for the first three destination casinos.^{xxviii}

Assuming responsibility for all casino operations represented a major shift in focus and mandate for the Lottery Corporation. While the Lottery Corporation had extensive experience in managing lotteries, it had no experience in supervising casinos. When it acquired its new mandate, it was faced with two tasks. One was to negotiate the various agreements with those destination casinos receiving approval in principle. The other was to develop a working relationship with the existing casino operators, otherwise known as service providers. Obviously the two tasks had to be conducted concurrently and it is here that faultlines began to appear.

As an interim measure, the Lottery Corporation entered into two-year contracts with the existing casino operators. By contrast, the RFP document specified that successful proponents for the new destination casinos would be given 10-year contracts with a 10-year renewal option.^{xxix} To existing casino operators, there is an apparent double standard in terms of their treatment by the Lottery Corporation. They are worried and uncertain about their future.

The first destination casino to receive final approval and to begin operation was the Royal City Star Riverboat Casino in New Westminster.^{xxx} The new facility set a new casino industry standard for space, surveillance and other amenities. It is a standard which the Lottery Corporation believes the existing casino operations must meet now or in the immediate future. Because of this new standard, relocation becomes a distinct alternative, for the simple reason that many of the existing premises either do not have the space necessary to meet this new standard or are thought to be in the wrong location to attract customers. As part of its gaming policy the City of Vancouver has placed square footage limits on casino operations, which adds a further complication.

The Lottery Corporation has placed its own employees in the casinos. Their function is to service the slot machines that are the property of the Lottery Corporation. The corporation also has in the casino an individual who acts as the Corporation's supervisor. With two different personnel groups, the possibility of conflict and confusion over who is ultimately in charge increases. Existing operators feel they possess far greater knowledge about casino operations than does the Lottery Corporation. On the other hand, the Lottery Corporation feels that some of the operators are uncooperative and have not adjusted well to the new administrative structure.

British Columbia, unlike some other provinces, has adopted a model for casinos being operated by the private sector or First Nations. This approach is certainly reflected in the RFP document which invited proposals from individuals, consortia, companies and First Nations. The link between the Lottery Corporation and the operator or service provider is by contract. In the case of destination casinos, the Lottery Corporation and the intended service provider negotiate the 10-year contract. When these negotiations are concluded, the minister (now the deputy minister) reviews the contract and decides whether or not to give final approval, ending the RFP process. Final approval is contingent on successful contract negotiations.

The situation for existing casinos is different in that they are already in operation and their contracts extend only until May 31, 2000. What the operators seek is some degree of certainty about their future. They are unlikely to invest money in an upgraded or relocated facility if there is no guarantee that their investment will be given comparable treatment to that offered to the destination casinos. The nagging question is, what happens if the Lottery Corporation and an existing operator are unable to reach an agreement? Is the casino operating permit forfeit? Is it transferable to another existing operator or to a new operator through competition? Should there be a procedure for reconciliation of differences? If so, who or what body would exercise this responsibility? These issues need to be addressed in light of the very real probability of a number of requests for relocation.

3.4 Bingo versus Casinos: The Changing World of Gaming

There are two complementary issues associated with this faultline. The first is the desire on the part of bingo operators to reverse the gradual decline in bingo receipts and bring in new players. The second is that the government, in the form of the Lottery Corporation, is perceived as a competitor to bingo. This second theme arises from the expansion of gaming in the province, the

vagaries of the *Criminal Code* and the Lottery Corporation's new mandate.

In April 1998, Minister Farnworth announced he would undertake a strategic analysis of British Columbia's bingo sector.^{xxxii} In the same news release, he guaranteed charity gaming revenues of \$125 million in 1998/99. This policy decision was a direct result of a successful court challenge by the Nanaimo Community Bingo Association with respect to the government's revenue distribution model contained in the *Gaming Proceeds Distribution Regulation*.^{xxxiii} The Minister released the *Bingo Review* and the *White Paper* at the same time.^{xxxiv} The June 1999 agreements with the BC Association for Charitable Gaming and the Charitable Bingo Association Committee of the Bingo Council of British Columbia signal the end to the revenue distribution controversy. Since the two agreements are identical, the possibility of a future dispute over which of the two groups speaks for charities should not be overlooked.

The *Bingo Review* provides one with a useful overview of the state of bingo in the province. Some of the findings are relevant to this review and have certainly surfaced in the meetings held. The following quotations from the *Bingo Review* are particularly germane.

Bingo revenue has now leveled out and recently has begun to decline.

This phenomenon is not unique to British Columbia. It is apparent in most other bingo jurisdictions and appears to have occurred even without full-scale competition from other forms of gaming. This trend was evident in British Columbia before the introduction of enhancements to charity casinos, and is evident even in communities without casinos. (p. 5)

In order to comply with the requirements of the *Criminal Code*, electronic and linked bingo were offered, when approved, as government bingo, not charitable bingo. To ensure that there was no question respecting their legality, they were introduced under section 207.1(a) of the *Criminal Code* and conducted and managed by the Lottery Corporation as agent of government. This resulted in a bingo framework that had the potential to generate competition between government bingo and charitable bingo within the same facility. (p. 7)

Throughout most of North America, as in British Columbia, bingo is currently a static or declining form of gaming. The primary exceptions to this trend are jurisdictions that have limited competing forms of gaming.

Other jurisdictions have introduced technologically enhanced forms of bingo in an effort to enhance the sector. These efforts have produced mixed results. The following represent the three primary technological enhancements available in the bingo sector.

- "Linked" halls

- Hand-held devices
- Console-based devices

Each of these enhancements has produced positive results in some jurisdictions. Of these, linked halls and hand-held devices appear to provide the greatest potential benefits in a highly competitive market. Few jurisdictions have introduced console-based devices....

Regardless of the technological enhancement, paper bingo remains the foundation of a successful bingo operation. (p. 11)

Bingo players in British Columbia tend to be older and less affluent than lottery, casino or horse racing patrons. They also tend to play their preferred game more often than patrons of other forms of gaming. There appear to be two distinct groups of bingo players: a core group of dedicated players and a larger group of casual players.

For bingo to remain viable on an ongoing basis, efforts must be made to attract new players. Increased marketing efforts focused on existing core players are unlikely to achieve much growth, while similar efforts focused on casual players may achieve limited growth. The key to ensuring the ongoing viability of the sector, however, is attracting a broader player base.

Some members of the general public indicate that there are no initiatives that would immediately encourage them to play bingo more often, or at all. Some of those individuals will likely never play bingo. Some, however, may be attracted over time, as long-term efforts to improve bingo facilities and offerings result in a gradual change in the public's view of bingo. Some jurisdictions have found that greater public exposure to bingo can be achieved through locating bingo halls in facilities that also offer other forms of entertainment.

The success of any such initiatives will be measured by the degree to which they enhance the public's perception of bingo and contribute to an expanded player base. (p. 12)

The two memoranda of agreement commit the government to seeking amendments to the *Criminal Code* "to provide greater legal certainty" and "to permit the broad use of technology in bingo by licensed charities." Because the *Criminal Code* applies nation-wide, it will probably be necessary to get other provinces on side before these amendments are given serious consideration. Until such amendments are enacted by Parliament, the Lottery Corporation retains the legal authority.

In particular, the *Bingo Review* underlines the competitive nature of gaming. The largest promoter of gaming in the province is the Lottery Corporation which, because of the *Criminal Code* provisions, has responsibility for electronic gaming including electronic bingo and linked bingo. In addition, the paper used in bingo is currently supplied by the Lottery Corporation.

If the future success of bingo is partially dependent on technology or new kinds of paper bingo, it is the Lottery Corporation which has final authority over when, where and what will be introduced. Under the memorandum of agreement with the Union of British Columbia Municipalities, local governments can now define the type of bingo gaming permitted within their boundaries which further complicates matters. In a competitive market, there is certainly room for bingo operators to perceive an apparent conflict of interest in decisions of the Lottery Corporation. Under the memoranda of agreement with the BC Association for Charitable Gaming and the Bingo Council of British Columbia, the province,

reaffirms its commitment to the existing charitable guarantee of a minimum \$125 million annually, indexed annually at the rate of Vancouver CPI, with a formula that ensures charity entitlement to an amount, after accounting for retained bingo revenues, equal to 1/3 of ongoing net community casino gaming revenue.^{xxxiv}

This provision is a reminder that the existing (non destination) casinos were initially charity casinos and ties bingo revenue to casino revenues. The pressure on the province to continue this level of funding is considerable.

3.5 Horse Racing versus Casinos: The Changing World of Gaming

Attendance at live horse racing has been in decline over the past few years. As stated in the *1997-1998 Annual Report* of the British Columbia Racing Commission,

Most industry analysts agree that live wagering and attendance have been affected to some degree by the introduction of live teletheatre outlets and by an increasing number of gambling alternatives. Other reasons for the decline include the need for new marketing approaches and changing demographics.^{xxxv}

The horse racing sector is experiencing problems similar to those facing the bingo sector—competing forms of gaming, changing demographics and a need for new marketing approaches. In some jurisdictions racetracks are closing.

What has maintained the overall level of wagering on horse racing is the introduction of simulcasting. Simulcast wagering takes two forms: people in the province wagering on live race events in other jurisdictions and the reverse, where people outside the province wager on British Columbia racing events. The dilemma is that the long term future of the sector is dependent on attendance at live racing. As noted in the *Horse Racing Review*, "While simulcasting has helped many horse racing jurisdictions maintain and even increase their total handle, it has not directly

benefited local live racing in these same jurisdictions. More local benefits are created when gaming customers wager on local, live races.^{xxxvi}

The dilemma facing the industry is how to increase its player base. One of the conclusions of the *Horse Racing Review* is: "From the results of the surveys, it is evident that the current market potential of the horse racing sector could be increased in the future."^{xxxvii} In searching for solutions to increase attendance and revenues, the *Review* suggests introducing slot machines at racetracks. (This proposal is discussed elsewhere in this report.) This idea serves to highlight the increasing interdependence of the various sectors of the gaming industry. It also means that the Racing Commission and the Lottery Corporation would need to develop a close working relationship.

4. RECOMMENDATIONS

This part of the report is divided into seven sections:

1. General
2. Relocation
3. Changes to existing facilities
4. The evaluation criteria
5. Horse racing
6. Destination casinos
7. The interim period.

4.1 General

To put the following recommendations in context, one must consider the terms of reference of the review. A second consideration is the content of the three memoranda of agreement the province signed on June 17, 1999 with the UBCM and the BCACG and on June 18 with the BCBC. The third factor one needs to reflect on is that the recommendations contained in this review are only one component, although an important one, of a new and comprehensive policy framework.

In this respect there are two overarching recommendations. The first is the immediate need for legislation to provide both a secure legal foundation for gaming policy and activities and to set out in a clear and unequivocal manner the regulatory authority for gaming in British Columbia. The second is the need for a comprehensive process by which applications for relocation or changes to existing facilities are evaluated.

From the various discussions and presentations associated with this review there appears to be nearly universal recognition that legislation is essential. Moreover, if some of the central objectives of public policy are certainty, stability and predictability in the gaming sector, legislation must be enacted now. While it is reasonable to assume that the legislative calendar is crowded, the number of individuals, communities, local governments, other organizations and agencies of the provincial government with an interest in this subject is too large to ignore. When the government announced its interim gaming policy in April 1998, the expectation was that legislation would soon follow. This did not happen. Policy development through ministerial announcements or judicial interpretation is not a substitute for carefully thought-out legislation.

For the past few years, there have been a number of statements from the government that gaming legislation is imminent, especially after the release of the 1999 *White Paper* which included a draft of a gaming act.^{xxxviii} Given the response to both the *White Paper* and the three memoranda of agreement the province signed last June, it is evident that the legislation proposed last year needs to be reconsidered. The three memoranda of agreement include clauses that require the province to "consult in a meaningful way with local government [and charities] regarding the form and content of legislation before it is introduced into the Legislature." In turn, the organizations with which the government signed the agreements have undertaken "to actively and cooperatively work with the Province in the development of comprehensive gaming legislation."

Recommendation 1: That the minister responsible for gaming introduce gaming legislation in the next session of the Legislature.

Recommendation 2: That the province fulfill the requirements of the three memoranda of agreement on gaming policy to consult in a meaningful way with local governments and charities before introducing gaming legislation.

The past few years have seen an expansion in gaming activity in the province and continuing uncertainty about the regulatory framework within which gaming policy has evolved and continues to operate. One example was the decision to transfer responsibility for charitable casinos to the Lottery Corporation. Another is the use of agreements between GAIO and the Lottery Corporation outlining their respective roles when it comes to enforcement. Another is the lack of clearly defined processes and procedures for decisions regarding relocation of existing casinos. Other examples can be selected but the point is that the development of the regulatory framework has been more reactive than proactive.

In the course of this review it became evident that the existing structure for regulating gaming in the province needs to be reconsidered and modified. The principal agency for developing and promoting gaming in the province, apart from the provincial government itself, is the Lottery Corporation. The gradual emergence and identification of this role, particularly since the province

embarked on its policy of expansion, has given the Lottery Corporation considerable authority in policy-making. There is no corresponding check and balance to this authority. It has been argued that this role and responsibility is a direct result of the vagaries of the *Criminal Code* that requires the Lottery Corporation to be the "operating mind." There is nothing in the *Criminal Code* to prevent an independent provincial body from regulating certain activities of the Lottery Corporation. While rulings or decisions of such a regulatory body may limit the scope of the Lottery Corporation's authority, the proposed agency would not directly conduct or manage the gaming industry but would certainly regulate aspects of that industry. Regulation and operation are fundamentally different spheres of policy activity. Just as the Canadian Radio-television and Telecommunications Commission does not provide broadcasting services, the proposed agency would not provide gaming services. A more detailed comment is developed after the procedures for relocation and change have been addressed.

4.2 Relocation

The question of relocation is potentially the most contentious matter addressed in this review. The terms of reference call for "detailed recommendations for an evaluation process for gaming facilities seeking to be relocated." The terms of reference also state that the recommendations should be guided by the following criteria.

- The evaluation process must be independent from direction or influence by elected provincial officials.
- The evaluation process must be transparent, open and fair to all participants and the public.

What is involved in relocation? The word relocate means to move to a new location. While the meaning and intent of relocation is clear, the evaluation process by which a relocation is accomplished must be developed. The process is developed in this section.

A request to relocate a gaming facility can result from a variety of causes. Examples include lease expiration, insufficient space to accommodate expansion, deterioration of premises, loss of premises due to accident, changing demographics in the surrounding community, changes in zoning, inadequate parking, poor public transportation, expressions of concern by local government and expressions of concern by the surrounding community. These reasons would apply equally to casinos, bingo halls and racetracks.

A decision to relocate is seen by those involved in the gaming industry as primarily a business decision. Seen from their perspective, this view is understandable. However, individuals, communities, local governments and others potentially affected by the decision may see relocation through a different lens. As a consequence of these fundamentally different perspectives, the process developed to review and decide upon relocation requests is of paramount importance.

Relocation proposals can vary from a move across the street, to elsewhere within the same municipality, or to a different municipality. In the case of proposals to move across municipal boundaries, the relocation conceivably could be to a neighbouring municipality (e.g. Vancouver to Burnaby) or to a different region within the province (e.g. Vancouver Island to the Lower Mainland). The possibility of trans-municipal boundary relocation requests is certainly a possibility and may be partially dependent on whether or not a particular local government permits or prohibits slot machines within its boundaries. Either a service provider or the Lottery Corporation may determine that enhancement of revenues warrants a trans-boundary move. A similar situation could arise with some bingo halls if municipalities limit the forms of electronic bingo or if better opportunities are seen elsewhere.

What is the current relocation process? Up to the point when the Lottery Corporation assumed responsibility for charitable casinos in June 1998, the same procedures for relocation were in place for both bingo halls and casinos. They remain in place for the bingo halls which are still under the jurisdiction of the Gaming Commission. The Lottery Corporation inherited this process and is currently reviewing these procedures as part of an overall review of the location of casinos. From the time it assumed responsibility for casinos, the Lottery Corporation's experience with relocation has been relatively limited. With the freeze currently in place, all relocation applications or considerations are being held in abeyance.

When relocating charitable bingo halls, the Gaming Commission uses the following procedure and conducts its review in three stages:

- the preliminary review,
- the evaluation process,
- approval to proceed and final inspection.

In the preliminary review, the Gaming Commission staff reviews the proposal. The local government and local police force are notified and asked to express their views, as is GAIO. A

review panel of the Gaming Commission meets to decide if the request should go the next stage—evaluation.

In the evaluation stage the review panel assesses responses from the local government, the local police force, GAIO and the Gaming Commission staff along with any other relevant information. In addition, the review panel may call for a public hearing before reaching its decision. Recent practice has been for the Gaming Commission to hold public hearings. When a public hearing is used, the applicant, the local government, interested parties and the media are notified. Written comments are requested from interested parties which could be neighbourhood organizations, surrounding communities, individuals, charities, local businesses and competitors. Those who wish to make verbal presentations are asked to indicate their interest. If there is to be a public hearing, the Gaming Commission staff present their report at that time. In short, the public hearing process is an opportunity for broad public input and for Commissioners to gauge the extent of local support and opposition to a specific relocation proposal.

If the review panel gives approval, the successful applicant can then proceed. Before the Gaming Commission gives a licence, it inspects the premises and ensures that the applicant has secured all necessary local approvals and permits. At that point, final approval is given. The complete procedures, as found in the Gaming Commission's Charitable Bingo Association Governance Manual, are found in Appendix 8. From all accounts the relocation process has been seen to be reasonable, workable and fair.

The *Request for Proposals* (RFP) document included a detailed process for the submission of proposals which is also helpful in identifying different facets and factors which may enter into or need to be considered in the relocation process.^{xxxix} It is recognized that the RFP process and the proposed relocation process are very different in terms of their objective and intent. As will be seen below, the relevant parts of the RFP document deserve consideration, especially the application process and evaluation criteria. For example, some of the information requested in the applications under the RFP process is equally relevant to a request for relocation. These are:

- Market assessment including the potential impact on existing gaming facilities in the same market,
- Description and design of proposed facility,
- Description of the number and mix of table games and the number of slot machines,
- A business plan including the financing of the relocation, and

- A complete list and description of individuals, companies or other entity involved in the project.

4.2.a Establishment of an Independent Agency

The terms of reference for this review, as already noted, set out some but by no means all the parameters for a relocation evaluation process. These parameters include the following:

- independence from direction or influence by elected provincial officials,
- consistency with the memoranda of agreement on gaming issues,
- transparency, openness and fairness to all participants and the public, and
- evaluation criteria, unspecified, but possibly inclusive of socioeconomic indicators.

In assessing the foregoing, certain requirements for the evaluation process are patently obvious. At the provincial level, if final approval is to be independent from direction or influence by elected provincial officials, it stands to reason that either a new, reconstituted or existing agency should exercise that responsibility. Of existing agencies, the logical candidates are the Gaming Commission and the Lottery Corporation. Given the mandate of the Lottery Corporation to maximize revenues for the province and its obvious role in promoting its activities, the twin issues of fairness and neutrality become salient. The public must have confidence in the evaluation process. A process where the Lottery Corporation is both an advocate or stakeholder and the final approving authority could undermine that confidence and is inappropriate in such a sensitive area of public policy.

Essentially the choices come down to reconstituting the Gaming Commission, establishing a new body to regulate the Lottery Corporation or establishing a new body to regulate specified decisions of both the Gaming Commission and the Lottery Corporation. The memoranda of agreement between the province and the B.C. Association for Charitable Gaming and the Bingo Council of British Columbia "affirms that the Gaming Commission is the sole licensing authority for charitable gaming." Accordingly, this responsibility would not change. It makes little sense to create an agency for the sole purpose of regulating the Lottery Corporation. That leaves the other two alternatives, reconstituting the Gaming Commission or creating a new agency.

There are advantages and disadvantages to both alternatives. Is a new agency necessary? Would an additional body lead to inefficiencies? How would appeals of Gaming Commission decisions

concerning bingo be resolved? Is there a possibility of bias on the part of Gaming Commission and hence the potential for conflict?

On balance it appears that a new agency regulating both the Lottery Corporation and the Gaming Commission is the best alternative. There is no overlap of responsibilities. The element of bias disappears. There is a clearly defined route for an appeals process, a need stressed in the 1994 *Gaming Policy Review*. The new agency should be called the **British Columbia Gaming Control Commission**. To avoid confusion, the British Columbia Gaming Commission should be renamed the British Columbia Charitable Gaming Commission.

The Gaming Control Commission would be designated as an agent of the Crown and as the prime regulator of gaming in the province. There would need to be a Gaming Control Commission Board appointed by the Lieutenant Governor in Council. The legislation must spell out clearly the exact duties and scope of authority for the new agency.

Given the faultlines already identified, disputes may arise between the Lottery Corporation and service providers or between individual charities, bingo associations and the renamed Charitable Gaming Commission over policy matters. The legislation should make it clear that the Gaming Control Commission has the authority to mediate or otherwise settle disputes between the different gaming sectors. There may be occasion for the Gaming Control Commission to act as a facilitator in resolving disputes between local governments over the location or relocation of gaming facilities. It should also be authorized to hear appeals on certain matters. Given the importance of relocation of facilities or changes to them including their closure, either temporarily or permanently, the legislation should confer authority on the Gaming Control Commission to make such decisions.

Recommendation 3: That the gaming legislation establish a Gaming Control Commission.

Recommendation 4: That the gaming legislation confer authority on the Gaming Control Commission to receive, review and decide on relocation requests; to approve changes to existing facilities such as increases/decreases in the number of table games or slot machines and to resolve disputes and other matters as assigned by the minister.

One further aspect of the regulatory function should also be considered at this point—the location of GAIO. To include its activities within the Gaming Control Commission could conceivably be perceived as undermining its independence and ability to enforce operational compliance of gaming activities. It should continue to be part of the Ministry of the Attorney General. This differentiation of function is found in draft legislation contained in the 1999 *White Paper* and should be reflected in the new legislation. Rather than relying on interagency memoranda of agreement, the proposed legislation should outline the responsibilities of GAIO, the Gaming Control Commission, the Charitable Gaming Commission and the Lottery Corporation with respect to enforcement and penalties for breaches of rules and regulations.

Recommendation 5: That the Gaming Audit and Investigation Office continue as part of the Ministry of the Attorney General.

Recommendation 6: That the gaming legislation identify the roles and responsibilities with respect to enforcement of gaming policy and penalties for breaches of these policies.

Establishing an independent Gaming Control Commission does not mean that the government has divested itself of setting general policy for gaming. For example, it is reasonable that the government retain the authority and responsibility for determining the overall number of casinos in the province, the maximum number of table games and slot machines permitted in a casino, maximum betting limits and whether or not slot machines should be introduced at racetracks

(subject to the limitations of the MOA with the UBCM). The gaming legislation should make clear that the Gaming Control Commission is independent but that government continues to be responsible for general policy.

Examples of this bifurcation of responsibility can be found in various statutes. The *Liquor Control and Licensing Act* contains the following provision. "The general manager must, subject to the orders and direction of the minister on matters of general policy, (a) administer this Act...."^{xli}

Another example of bifurcation is the *Broadcasting Act* which includes a provision where the "Governor in Council may, by order, issue to the Commission [the Canadian Radio-television and Telecommunications Commission] directions of general application on broad policy matters with respect to any of the objectives of the broadcasting policy set out ... or any of the objectives of the regulatory policy set out...."^{xlii} The *Broadcasting Act* makes it clear that no order can be made with respect to the "issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence" or to any "licensing matter pending before the Commission...." Copies of orders have to be tabled in both houses of Parliament, are to be referred to the appropriate parliamentary committees and are published in the *Canada Gazette*. The minister is required to consult with the Commission before issuing such an order. In summary, the government retains the right and the responsibility to set broad policy directions for broadcasting but must do so within clearly defined checks and balances.

Recommendation 7: That the gaming legislation should establish the independence of the Gaming Control Commission while making it clear that the Lieutenant Governor in Council continues to exercise responsibility for general policy direction.

A closely related matter is a situation where the minister or the Lieutenant Governor in Council can ask the Gaming Commission to undertake specific assignments. The Manitoba Gaming Control Commission has, among other things, the following duties:

- a) at the request of the Minister, to provide advice and recommendations as to gaming activity;
- b) at the request of the Minister, to conduct public meetings or hearings for the purpose of clause (a)...;
- d) at the request of the Lieutenant governor in council, to conduct public inquiries into matters of gaming activity.^{xlii}

These provisions allow the Manitoba government to utilize the experience of its independent gaming commission without compromising its independence. Gaming is constantly changing. Before governments embark on policy changes, some process for public input and participation in policy development is necessary if public confidence is to be restored and maintained.

Recommendation 8: That the gaming legislation incorporate provisions authorizing the minister or the Lieutenant Governor in Council to ask the Gaming Control Commission to undertake special public hearings or inquiries.

Accountability of independent agencies is essential if they are to sustain public confidence in their operations. The legislation should include a provision requiring the Gaming Control Commission to prepare an annual report to the minister detailing its activities. The legislation should also require that the report be tabled in the Legislature.

Recommendation 9: That the legislation include a requirement for an annual report from the Gaming Control Commission and that the report be tabled in the Legislature.

4.2.b A Recommended Process for Relocation

A relocation essentially involves five different stages:

- 1) preparation and submission of the application,
- 2) preliminary review and interim approval,
- 3) local government review and decision,
- 4) final review, and
- 5) final approval.

As will be seen, each stage may have several phases. It should be recognized at the outset that applications for relocation may be delayed or rejected at several of the stages.

4.2.b.i Stage 1—Preparation and Submission of the Application

One of the first tasks the new Gaming Control Commission is to determine what information is required in a relocation application. It must also decide who has standing to initiate a relocation application. In the case of casinos this is particularly relevant in that a relocation could conceivably be initiated by either the service provider or the Lottery Corporation separately or jointly with the service provider. As previously mentioned, much of the information required in the RFP process would also be required in a relocation application.

The following types of information should be included in the application for relocation:

- Name of applicant,
- Reason for the relocation application,
- Proposed location—municipality/regional district, site specifics and description of surrounding communities within a one kilometre radius (note: the radius may vary depending upon population density),
- Market assessment, including the potential impact on existing gaming facilities in the same market,
- Description and design of proposed facility, including capital costs,
- Description of the number and mix of table games and the number of slot machines,
- A business plan including the financing of the relocation as well as,
 - Corporate information,
 - Corporate and staff organizational charts,
 - Description of marketing plans,
 - Financial projections and detailed operating budgets,
 - Staffing plans and costs,
- A complete list and description of individuals, companies or other entity involved in the relocation project, including financial participation,
- Proposed method for community consultation.

As previously mentioned, the Lottery Corporation in trying to maximize revenues for the province may pursue a policy of relocation of existing casinos from municipalities opposed to slot machines to municipalities more favourably disposed to this aspect of gaming. In pursuing this policy, the Lottery Corporation first needs to assess the total provincial market and identify municipalities

interested in expanding gaming within their boundaries. It is currently considering developing its own version of a request for proposals from interested municipalities. Depending upon the response, several potential relocations of existing casinos could be identified.

Recommendation 10: That the Gaming Control Commission adopt a series of policy guidelines detailing the information to be included in relocation applications.

4.2.b ii Stage 2—Preliminary Review and Interim Approval

Upon receipt of the relocation application, the Gaming Control Commission staff will examine the application to ensure that it is complete. Following this initial examination, the application is sent to GAIO for its review and assessment. If the relocation request is for a casino and the Lottery Corporation is a party to the relocation application, there is no need for it to be informed. If not, the application must be sent to the Lottery Corporation for its review and comment. For bingo facilities the views of the Charitable Gaming Commission (currently the Gaming Commission) are requested. As a general rule both the Lottery Corporation and the Charitable Gaming Commission should be apprised of any relocation request for the simple reason that the decision may have implications for facilities within their mandate.

At the same time, the Gaming Control Commission should inform the local governments and police forces affected by the proposed relocation. If the relocation is within the same municipality, normally only that municipality would be informed. If the relocation is across municipal boundaries, the municipality which will lose the facility and the one to gain the facility should both be informed. It may well be that either or both municipalities are aware of the relocation application. Advance notice ensures that the local government where the relocation will take place is alerted to the possibility and can begin to consider its own review and approval process. In addition, if the relocation is close to the municipal boundary, adjacent local governments should be notified of the relocation application.

Following receipt of the GAIO review and any comments from the Lottery Corporation or the Charitable Gaming Commission or others, the staff of the Gaming Control Commission makes a recommendation to the Commission itself. The recommendation is to be based on its assessment of the application, the GAIO review and other comments received. At the preliminary review

stage for relocation, it should be a requirement that both the service provider and, depending upon the specific facility, either the Lottery Corporation or the Charitable Gaming Commission present their views on the proposed relocation. In some instances, both the Lottery Corporation and the Charitable Gaming Commission may need to make presentations. On some occasions it may be necessary and appropriate for the Gaming Control Commission to mediate differences between the various parties.

Either the full Commission or a panel selected by the Chair will meet to make an interim decision. The Commission has several choices available to it. At this stage the Commission may:

- Give interim approval and forward the matter to the relevant local government for its review and decision,
- Reject the application in light of the GAIO review,
- Reject the application because it finds the relocation request unwarranted or the proposed location unacceptable,
- Request more information before reaching a decision, or
- Defer a decision pending resolution of specific concerns.

4.2.b.iii Stage 3—Local Government Review and Decision

The preliminary review stage is essentially a closed process. The local government review stage becomes the first opportunity for public input and participation. If a relocation application involves a zoning decision, the *Municipal Act* requires a public hearing.^{xliii} However, if there is an official community plan for the area in question and the proposed bylaw is consistent with that plan, the local government can waive the holding of a public hearing. If the local government does not hold a public hearing, the Gaming Control Commission must ensure that the next stage (the final review) includes a public hearing. To ensure an open process, at some stage there must be an opportunity for the public to express its views. It should also be made perfectly clear at the outset that if a local government rejects an application for relocation, the process terminates.

The Memorandum of Agreement (MOA) with the Union of British Columbia Municipalities contains a number of provisions which have a direct bearing on relocation decisions and processes. In the memorandum of agreement, among other things, the province:

- affirms the jurisdiction of local governments, specifically with respect to their land use and bylaw making powers;

- affirms the ability of local governments to make decisions as to whether or not new facilities or re-located facilities will be permitted within their boundaries;
- affirms the ability of local governments to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries. It also affirms the ability of local government to decide if slot machines or other similar devices could be placed within their boundaries; and
- will ensure that there is a legislative mechanism for consultation/ mediation with adjacent communities.

The MOA affirms the authority of local government on a number of important policy matters. An affirmation of municipal authority represents a confirmation that these decisions are of critical interest at the local level. Local government approval has, therefore, become a necessary condition for relocation within or across municipal boundaries. The MOA could not make that reality more clear. Decisions can be made through zoning powers or a general bylaw which restricts gaming activity, e.g., the prohibition of slot machines. Thus, important components in the overall assessment of a relocation are the processes and procedures in place at the municipal level, particularly with respect to land use or zoning.

Recommendation 11: That the gaming legislation reflect and confirm the provisions of the Memorandum of Agreement between the province and the Union of British Columbia Municipalities concerning:

- 1) jurisdiction of local government, with respect to land use and bylaw-making powers;
- 2) the ability of local governments to make decisions as to whether or not new or relocated facilities will be permitted within their boundaries;
- 3) the ability of local governments to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries; and
- 4) the ability of local governments to decide if slot machines or other similar devices could be placed within their boundaries.

The public hearing provisions of the *Municipal Act* are certainly relevant to the terms of the

memorandum of agreement with the UBCM. Under sec. 892, the local government must give notice of the hearing. The notice is to include the following:

- the time and date of hearing;
- the place of the hearing;
- in general terms, the purpose of the bylaw;
- the land or lands that are the subject of the bylaw;
- the place where and the times and dates when copies of the bylaw may be inspected.

To inform the public, "The notice is to be published in at least 2 consecutive issues of a newspaper, the last publication to appear not less than 3 and not more than 10 days before the public hearing." This same section also requires that if a bylaw alters the permitted use of an area, owners "within a distance specified by bylaw" are to be notified by mail "at least 10 days before the public hearing." For example, the City of Vancouver uses the same notification guidelines for liquor licensing as for casinos. The specified distance is a 1,000 foot radius in the downtown area and a 2,000 foot radius for facilities outside the downtown area. The relevant provisions of the *Municipal Act* are included in Appendix 9.

While the provisions of the *Municipal Act* are straightforward and provide for public input, the question remains as to whether or not local governments should go beyond its provisions for public consultation. As a result of the memorandum of agreement, the province has acknowledged a major role for local governments in the decision-making process with respect to relocation. It would now be difficult for the province to stipulate, beyond the requirements of the *Municipal Act*, what process local governments must follow in reaching their decisions. That said, there is nothing to prevent the province from working with the UBCM to develop one or more models which local governments might choose to follow. During the meeting with the Gaming Committee of UBCM, it was suggested that a one-size-fits-all policy would be inadvisable given the significant differences in size and staff resources of local governments across the province.

In considering the role of local government in the approval process, a comparison with an equally sensitive location policy is useful. A helpful example for purposes of comparison is the process that the Liquor Control and Licensing Branch has developed for the approval of neighbourhood pubs. Community input is part of the application process and the local government is responsible for determining community opinion. Of particular interest is the provision that the council must state by resolution whether it "considers the majority of residents to be (in favour/not in favour) of the licence being granted." This requirement leaves no room for ambiguity on the part of the council.

In the same resolution, the local government is required to give its views on various social factors including proximity to other public buildings, e.g. schools or social facilities which would include churches. The resolution is also to address questions of traffic, parking, noise, and any other local issue considered relevant. In reaching a final decision, the general manager of the Liquor Control and Licensing Branch is required to take into consideration the information in this resolution. The entire process is designed and intended to encourage and reflect community concerns.

The relevance and applicability of liquor laws to both the legislative provisions and the regulations for gaming facilities seeking relocation is fairly evident. The overall approach that the Liquor Control and Licensing Branch uses for neighbourhood pubs is certainly in accord with a transparent, open and fair process. Of particular interest here are the processes for public consultation.^{xliv}

While a public process is required for establishment of a neighbourhood pub, the fact that the pub is located in or adjacent to a residential area has generated a very specific approval process, one where social considerations become more prominent. While it is highly improbable that a casino would elect, or be given approval, to relocate to a residential area, the question of adjacency or proximity to residential areas cannot be overlooked. With this possibility in mind, procedures beyond the requirements of the *Municipal Act* should be examined jointly by the new Gaming Control Commission and the UBCM. Whether or not a more detailed process should be developed for the relocation of bingo facilities should at least be examined by the Gaming Control Commission, bearing in mind that many bingos already take place in community-based facilities.

While destination casinos are not included in the terms of reference of this review, the RFP process required a demonstration of "host" local government approval. The experience gained from the RFP process may be helpful in developing processes at the local level for relocation.

For example, to ascertain the level of public support for gaming expansion, the City of New Westminster undertook a comprehensive public consultation process. They sponsored a public forum with panelists holding a variety of views, both for and against gaming expansion. They engaged a national polling firm to conduct a telephone survey to canvass public opinion. The third component was to solicit public input through a notice in the newspaper. The notice invited public input by letter, e-mail or telephone. People were also invited to attend a Council meeting to express their opinion. Before the public consultation process was complete, the City Council

passed a resolution indicating it was prepared to consider additional gaming facilities in the City, subject to certain conditions being met and an evaluation of the public consultation process. In Penticton, the City required the proponents to submit their proposal to a referendum. Each of these techniques is equally appropriate as a means of gauging public opinion on a relocation application.

Recommendation 12: That the Gaming Control Commission and the Union of British Columbia Municipalities jointly examine existing practices and procedures for public consultation on gaming matters, such as relocation, with the view to developing a set of guidelines available for the use of individual local governments.

4.2.b.iv Stage 4—Gaming Control Commission Final Review

After the local government has made a decision with respect to a relocation application, it informs the Gaming Control Commission of its decision. As part of its report, the local government should also indicate what process of public consultation they used to assist them in reaching their decision. In addition, they should indicate whether or not they sought the views of adjacent municipalities and if these municipalities had raised any concerns. If concerns had been expressed what were they and were they addressed?

The local government has essentially three options. It can:

- approve the application,
- approve the application with conditions, or
- reject the application.

If the local government approves the application without condition, has held public hearings and indicates there are no unresolved disputes with other municipalities, the final review should be reasonably straight-forward and the Gaming Control Commission can give approval in principle.

If municipal approval is conditional, the Gaming Control Commission must review the conditions with the service provider and either the Lottery Corporation or the Charitable Gaming Commission to ascertain their views and whether or not they wish to proceed with the relocation. The Commission must also satisfy itself that the conditions conform to their policies and overall provincial policy. If the several parties are satisfied and indicate no objection to the conditions,

the Gaming Control Commission can proceed with its final review.

If an applicant raises objections to the conditions, the choices are that the Gaming Control Commission can ignore the objections, recommend the application be abandoned, send it back to the local government for reconsideration or see if some compromise is possible. If the Gaming Control Commission believes the conditions contravene their policies or provincial policies, they inform the local government and attempt to resolve the differences.

If the local government has approved a relocation application, but has not held any public consultations, the Gaming Control Commission must, at this stage, hold a public hearing. The procedures the Commission uses should be either those contained in the *Municipal Act* or ones it has developed jointly with the UBCM. At the conclusion of the public consultation process, the Gaming Control Commission makes its decision, which is either to approve or to reject the relocation application.

If the local government rejects the relocation application, that terminates the process. There is, however, one policy question that arises from a negative decision. The list of possible reasons for refusal is long and may range from a technical or procedural problem to fundamental opposition to the site selected. Whatever the reason for rejection, the question of reapplication inevitably arises. Obviously a decision to reapply will not be entered into lightly, given the costs and uncertainty associated with the application process. Nevertheless, the Gaming Control Commission should develop some guidelines on reasonable time limits between an unsuccessful application and a reapplication. One example would be a three-year moratorium, meaning that the reapplication would be considered after the next municipal election.

Recommendation 13: That the Gaming Control Commission, in consultation with the Union of British Columbia Municipalities, develop guidelines for time limits for resubmission of an unsuccessful relocation application.

Although highly unlikely, disputes may arise between two or more municipalities over a relocation application. This possibility is reflected in the memorandum of agreement with the UBCM which calls for a consultation/mediation section in the new gaming legislation. It is difficult to predict at what point in the approval process a dispute might arise. If the Commission is aware of a potential

conflict or senses that one may develop, it may decide at what stage it wishes to review the matter or it may prefer to wait and see if a disagreement surfaces. In some instances, it may be preferable to address the dispute before the local government approval; in others, after. The final review stage provides the last opportunity for resolution of such differences.

For example, conflict could arise when a proposal is to relocate a facility very close to a municipal boundary and an adjacent local government believes that it will be adversely effected. Disputes may also arise over the need to extend municipal services such as road access. Whatever the basis for the dispute, the final review stage provides an opportunity for the Commission and the several interested and concerned parties to resolve the conflict. The *Municipal Act* contains a dispute resolution process when differences arise over regional growth strategy. The processes include a peer panel, final proposal arbitration or full arbitration.^{xlv} Two potential sources of conflict which the Gaming Control Commission should not be expected to mediate are trans-boundary relocations, where one municipality is losing a facility and its share of the revenues and another is gaining them, and competition between municipalities for relocation of the same facility.

Recommendation 14: That the legislation contain provisions for a dispute resolution process between two or more local governments with regard to the relocation or location of gaming facilities. The Gaming Control Commission, or its delegate, should be authorized to perform this responsibility.

4.2.b.v Stage 5—Final Approval

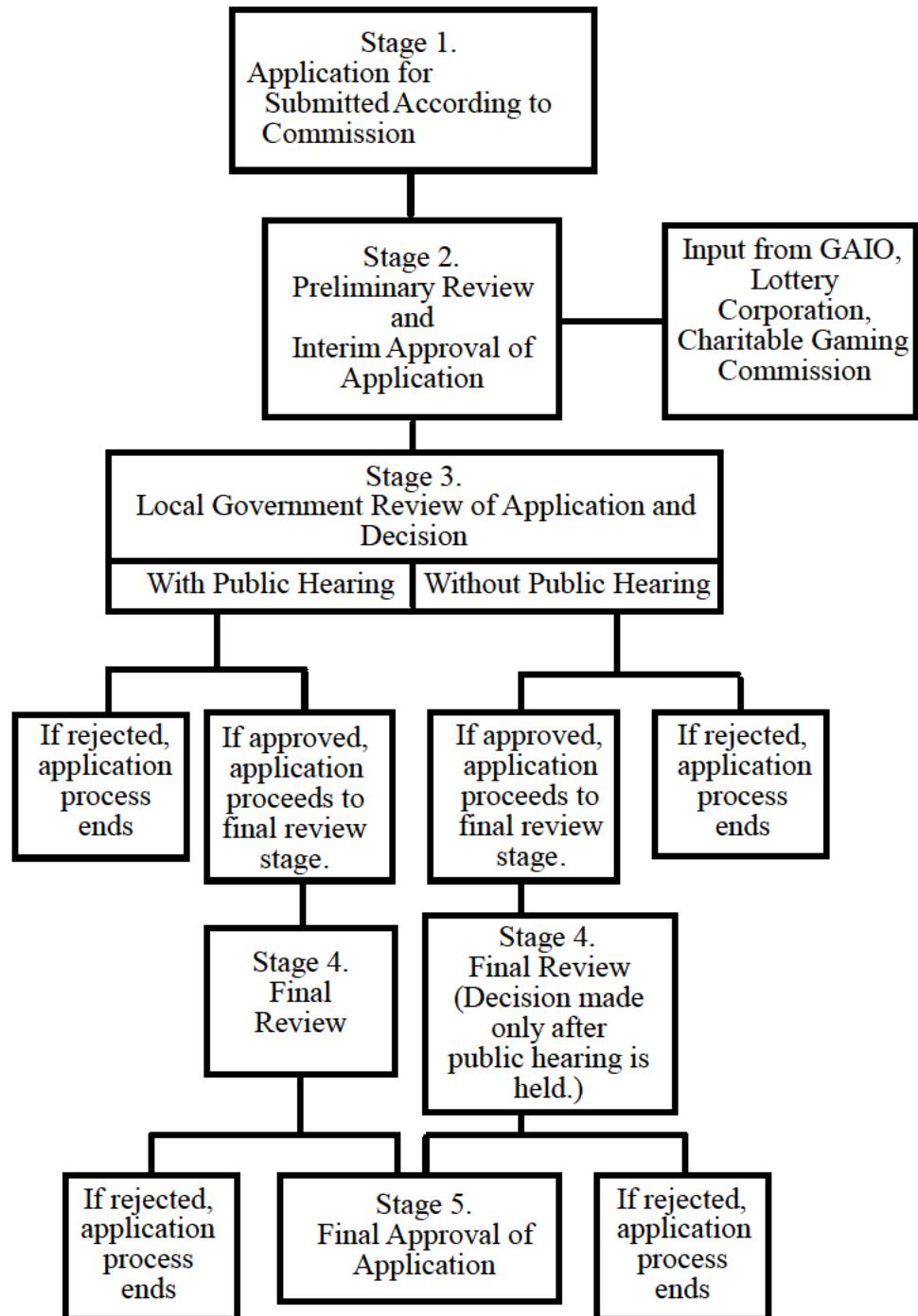
The Gaming Control Commission gives final approval for the relocation when the applicant has fulfilled any conditions; secured the necessary municipal approvals, permits and licences; secured the approval of the Lottery Corporation or the Charitable Gaming Commission and passed a final inspection. Since GAIO gave its evaluation earlier, further review by them is not necessary at this stage unless there has been a change in financing or some other aspect of the operation which may require their input. Once the Gaming Control Commission has given final approval, the relocated facility can begin operation.

One final policy question requires exploration—the term of the agreement. By way of comparison, the *Request for Proposals* document for destination casinos guaranteed successful applicants an

initial 10-year operating agreement with a renewal option for a further 10 years. Renewal is contingent on operators exercising their right of renewal and not breaching the terms or conditions of the agreement during the initial 10 years. Operators of existing casinos do not have a similar guarantee. Indeed, when the Lottery Corporation assumed responsibility for casinos in June 1998, it entered into two-year contracts with all service providers. These contracts end in May 2000.

Flow Chart #1

Chart 1. Recommended Process for Relocation of Existing Gaming Facilities



The issue at this point is an appropriate term for a relocation. In terms of fairness to the proponents of the relocation application, the initial term should be equivalent to the term for destination casinos—10 years. Before the end of the 10-year contract and before the agreement is renewed for another 10 years, the Gaming Control Commission should conduct a review. The purpose of the review is for the Gaming Control Commission to satisfy itself that all commitments have been met and that concerns raised by any interested parties during the first 10-year agreement have been addressed. Expressed another way, approval of a relocation does not mean an indefinite term. Instead it should be for a fixed term of reasonable length and renewal should be dependent on a satisfactory review. The expectation is that, as problems or concerns arise, whether it be over traffic congestion or changing demographics, one can be reasonably confident that those involved with the operation of the facility will endeavour to rectify or deal with the situation.

Recommendation 15: That final approval for relocations be given for a 10-year period with an option for renewal for a further 10 years following a satisfactory review conducted by the Gaming Control Commission.

4.3 Changes to Existing Facilities

The second term of reference of this review is the development of "detailed recommendations for an evaluation process for gaming facilities seeking any changes to their existing facilities within current government guidelines...." The new evaluation process for changes is subject to the same criteria as the relocation process namely, independent from direction or influence by elected provincial officials and transparent, open and fair to all participants and the public. The terms of reference give one example of a potential change, "adding additional slot machines and gaming tables up to the maximum number allowed." The current government guideline is 300 slot machines and 30 table games, excluding poker tables. The Lottery Corporation will allow an additional four poker tables beyond the 30 table game maximum upon written request of the service provider. The above example indicates the type of change contemplated by the terms of reference.

The provisions of the memorandum of agreement with the Union of British Columbia Municipalities also apply to changes to existing facilities. Local governments can "direct and

define the extent, scope and type of casino and bingo gaming permitted within their boundaries."

Before addressing the evaluation process, a better understanding of what constitutes "change" warrants consideration. Changes can be considered major or minor in nature. Major changes would include closing the facility temporarily or permanently, adding to the number of table games or slot machines, introduction of new table games such as craps, a significant increase in seating capacity in bingo halls and introduction of electronic bingo to a particular bingo hall. Examples of minor changes might include new paper bingo games or a change in the mix of current table games within a casino. Obviously there will be differences of opinion as to what constitutes major and minor change. The evaluation process which follows is based on drawing a distinction between major and minor changes.

The recommended evaluation process for changes to existing facilities is similar to the evaluation process recommended for relocation. The differences reflect the fact that zoning is unlikely to be an issue and that change can be either major or minor. In the latter instance, a procedure for shortening the process should be available to the parties. The evaluation process would consist of four or five stages. The number of stages depends on the classification of the change as being of a major or minor nature. The five stages are:

- 1) preparation and submission of the application,
- 2) preliminary review and interim approval,
- 3) local government review and decision,
- 4) final review, and
- 5) final approval.

4.3. a Change Applications

The following types of information should be included in the application for changes to an existing facility:

- Name of applicant;
- Reason for the change application;
- Particulars of the change proposal, including an assessment of possible effects on the surrounding community;
- Is the change applied for considered to be major or minor in nature? (with an accompanying explanation);
- Market assessment, including the potential impact on existing gaming facilities in the same market;
- Description, design and costs of any renovations to the existing facility;
- A business plan including the financing of the change as well as,
 - Corporate information,
 - Corporate and staff organizational charts,
 - Description of marketing plans,
 - Financial projections and detailed operating budgets,
 - Staffing plans and costs;
- A complete list and description of individuals, companies or other entity involved in the relocation project, including financial participation;
- Proposals for community consultation.

4.3.b Preliminary Review, Interim Approval and Major Changes

Upon receipt of the change application, the Gaming Control Commission staff reviews the application. If the application concerns casinos or electronic bingo and the Lottery Corporation is not a party, the Corporation should nevertheless be notified of the change request. As with relocation, a standing operating procedure should be that both the Lottery Corporation and the Charitable Gaming Commission are notified of all change applications and their comments requested. GAIO should be notified and its views solicited on all change requests. The municipality directly affected by the proposed change should also be notified at this time. To expedite the evaluation process, the Commission staff should ask the local government to indicate whether or not it considers the change proposal to be of a major or minor nature. The local

government may decide to refrain from classifying the change as major or minor until the Commission has ruled on the matter. If they elect not to express an opinion, this stage continues without their input. After receipt and assessment of the views of the Lottery Corporation, the Charitable Gaming Commission, GAIO and the decision of the local government directly affected, the staff makes a recommendation to the Commission.

The next phase of the preliminary review stage is that the Gaming Control Commission convenes a meeting of interested parties, which may include the concerned local government. If the change involves bingo, the Commission should request input from both the BC Association for Charitable Gaming and the Charitable Bingo Association Committee of the Bingo Council of British Columbia. At this meeting, the Commission staff present their recommendations on both the merits of the application and their classification of the change as being major or minor in nature. If the various parties disagree on the classification or if the local government has not expressed its position, the Commission must still reach a decision.

At this stage, the Commission may give interim approval, ask for additional information or vary or turn down the application. The Commission must rule on whether or not the application is major or minor. Since changes to existing facilities may have consequences for other gaming facilities, charities dependent upon a certain revenue stream, traffic patterns, parking or noise levels, this decision is of considerable importance. If the Commission classifies the application as major, the remainder of the steps for relocation are to be followed, including a public hearing at either the local government or final review stage.

4.3.c Procedures Where the Commission Classifies Changes as Minor

Where the Commission rules that the change is minor, the following procedure is recommended. If the Commission, the applicant and the municipality directly affected are in agreement that the proposed change is minor in nature, and if the Commission staff so recommend, the Commission should have the option at this point of moving directly to the final review stage. In the event that the local government has not expressed an opinion on classification, the Commission would inform the local government of its decision. If the local government concurs with the Commission's classification, it may recommend that the process go to the final review stage immediately. At this time or at the final review stage, the local government must identify any municipal permits, licences or other approvals required before the Commission gives final approval.

The local government may disagree with the Commission's classification. In this situation, the remaining stages of the relocation procedure are automatically triggered. It is also possible that the local government may agree with the Commission's classification but still elect to use all stages of the relocation process. What should be clear is that, even if all the parties are in agreement that the change is minor, either the Commission or the local government may still require that all five stages of the process be completed.

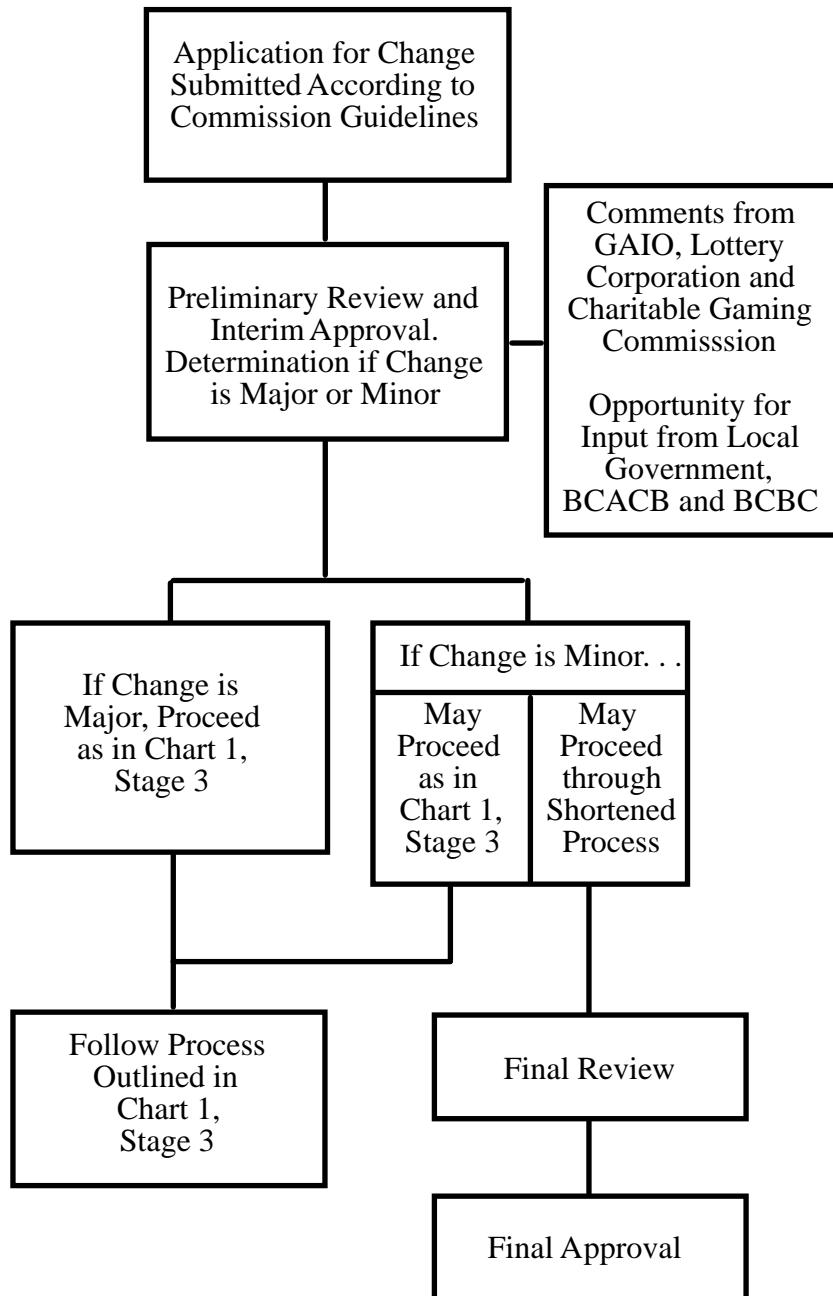
Recommendation 16: That requests for changes to existing gaming facilities be classified as being of a major or minor nature. Both the Gaming Control Commission and local governments have an equal say in determining the classification of the change to existing facilities.

Recommendation 17: That if either the Gaming Control Commission or the local government classify the changes to existing facilities as major, the process for relocation is to be followed.

Recommendation 18: That if the Gaming Control Commission and the local government classify the changes to existing facilities as minor, and if both agree that the public interest is served by shortening the process, the final review stage can immediately follow the interim approval stage.

Chart #2

Chart 2. Recommended Process for Changes to Existing Gaming Facilities



Recommendation 19: That the Gaming Control Commission and the Union of British Columbia Municipalities develop guidelines for classifying major and minor changes to existing facilities. In developing these guidelines, they should consult with the Lottery Corporation, the Charitable Gaming Commission, the BC Association for Charitable Gaming and the Bingo Council of British Columbia.

4.4 The Evaluation Criteria

The terms of reference for this review call for detailed recommendations on the evaluation criteria employed in the evaluation process. To a considerable extent, the detailed requirements of the evaluation process include, either directly or by implication, the evaluation criteria. Evaluation means to judge, to measure or to assess. Whatever the means used, evaluation requires weighing, balancing and assessing a number of different factors or variables, some of which are quantifiable. At the end of the deliberative or assessment stage comes the decision itself. For local governments, decisions are based on the votes of individual members of council. Accordingly, decisions are an exercise in both individual and collective judgment where the view of the majority prevails.

In determining criteria for the location of gaming facilities, some obvious ones come to mind. The first is the location itself. The location must be economically viable and socially responsible. Proponents of a relocation will make their decision for site selection based on economic considerations, such as the cost of the site and a market assessment. Social issues arise in terms of the proximity of a gaming facility to residential areas, schools, churches or community centres. Social issues also arise from concerns about increased traffic, inadequate parking, proximity to public transportation, alcohol consumption, increase in crime, additional policing and problem gambling.

A second consideration is the potential impact of a relocation or expansion on other gaming facilities in the same market. The faultlines addressed earlier indicate that there are tensions and competition among the different gaming sectors. There is also competition between casinos for customers, so location is of primary importance. The application process requires an assessment of this factor.

The local government review in both the relocation process and in the change to existing facilities is of great importance since their approval is a necessary condition. In addition, they are also in a position to determine the extent, scope and type of gaming within their boundaries. If a local government makes a blanket prohibition of slot machines within its boundaries, it has established an evaluation criteria. If a local government uses its zoning authority to restrict different kinds of gaming facilities to specific areas within its boundaries or limits the size of the facility, its has established evaluation criteria.

A relocation application would include a description of surrounding communities within a one (1) kilometre radius. Depending upon population density, this distance may be increased or decreased. The purpose of this requirement is to identify clearly the demographics and nature of the neighbouring communities. In addition, data on population trends, unemployment and crime should be included. Other factors to consider, given the increasingly multi-cultural nature of the province, are the languages spoken by local residents. They may have a bearing on which newspapers carry a public notice or how other information is conveyed. Is the area residential, commercial, entertainment, industrial or mixed? All this information is relevant to the final decision.

A relocation application would also include a proposed process for community consultation. This process may consist of the requirements of the *Municipal Act* only. Depending upon its assessment of demographics and population density, at the interim approval stage, the Gaming Control Commission might propose additional processes.

The results or assessment of the public consultation process are also part of the evaluation criteria. Some approaches are quantifiable such as the results of a referendum. In other instances, such as a telephone survey, the information may be considered statistically reliable. The sentiments expressed at public forums are more difficult to assess because the speaker may not live in the community directly affected. In terms of reaching a final decision, local governments must factor in their assessment of the degree of public support. This determination is a requirement under the neighbourhood pub approval process. The weight the local government attaches to this factor compared to other factors remains their responsibility.

Other factors local governments are likely to address include traffic, road access, parking and policing. There may be additional considerations such as the relationship of a proposal to

economic development or tourism. The purpose of the various stages of the review is to explore fully all these questions, to modify as appropriate specifics of the proposal, to assess community opinion and, in the final analysis, to reach an informed decision.

To assist it and others involved with or concerned with gaming, the legislation should authorize the Gaming Control Commission to undertake research into various aspects of gaming. In Manitoba the legislation authorizes its Commission to "conduct independent or joint research projects."^{xlvi} The comparable legislation in Nova Scotia assigns similar, but more specific, duties to its Commission. In Nova Scotia the Commission shall:

- (c) carry on a continuous study of the operation and administration of casinos, other lottery schemes and gaming control laws in effect in other jurisdictions, including the *Criminal Code* (Canada), that may affect the operation and administration of casinos or other lottery schemes in the Province;
- (d) carry on a continuous study of the public interest and reaction of residents of the Province to existing and potential features of casinos, other lottery schemes and games of chance;
- (e) carry on a continuous study of the social, health, justice, economic and environmental impact of casinos and other lottery schemes.^{xlvii}

The new gaming legislation should include a research provision. Whether or not it needs to be as specific as the provisions of the Nova Scotia legislation is a question of detail. One could also argue that some of this activity is better carried out by the Gaming Policy Secretariat. Whatever the final division of labour, the Gaming Control Commission should be legislatively mandated to conduct independent research.

If the Gaming Control Commission undertakes research, its regulatory activities will be informed by that research. The information it acquires should be made readily available to the public, leading to a more informed public debate. It also ensures that the Gaming Control Commission has the capacity to remain abreast of changes to gaming policies elsewhere. Given the types of concerns expressed about gaming expansion and its socioeconomic impact, research into its consequences, both positive and negative, is a desirable policy objective. Research projects can be independent, joint or sponsored.

Recommendation 20: That the gaming legislation include, as part of the Gaming Control Commission's duties, the authority to conduct independent research or joint research or to sponsor research.

4.4.a Problem Gambling

One issue which emerged in some meetings and presentations is the issue of problem gambling. Critics and supporters of gaming may differ over the size of the population that is or that has the potential to become problem gamblers. However, nobody denies that there are problem gamblers and that policies to address this addiction are necessary.

In the summer of 1999, the Lottery Corporation, as part of its program of dealing with problem gambling, developed a voluntary self-exclusion policy. Under this program, individuals sign a consent form which authorizes casinos to deny them entry to the premises. To date, 108 individuals are participating in this program.

Applications for relocation of existing facilities or for making changes should include a description of how the particular facility addresses the question of problem gambling. Is literature available and readily displayed? Where is the number for the 24-hour toll-free gambling help line displayed? What practices are in place at the existing facility to deal with this matter?

Recommendation 21: That applications for relocation of existing casinos or for changes to existing facilities include a statement by the proponent on current and future practices with respect to problem gambling.

Recommendation 22: That the province, as a result of the recent changes to gaming policy, confirm its commitment to its problem gambling program and review the program to ensure it is achieving its objectives.

4.5 Horse Racing

To this point, the primary focus of this review has been on existing casinos and bingo with little mention of horse racing. This omission is not an oversight but a result of the release of the *Horse Racing Review* in September 1999.^{xlviii} The release of the *Horse Racing Review* came two days after the release of the terms of reference for this review. When the Honourable Joan Smallwood released the *Horse Racing Review* she called for public input into its findings, "before our government considers the recommendations dealing with gaming...." That process of consultation went on simultaneously with this review. It seemed inappropriate to prejudge the outcome of the *Horse Racing Review* consultations in advance of the completion of the public input phase

Nevertheless, the "Summary of Findings" at the end of the *Horse Racing Review* contains a number of policy conclusions which relate directly to this review and its recommendations.^{xlix} As a result, some comment is warranted to highlight zones of convergence in approach. It should be noted that the only direct reference to horse racing in the terms of reference of this review is in the relocation of racetracks.

In the conclusion, "Industry Overview," one finds the following statement: "Horse racing should be viewed as a sector of the entire gaming industry, which includes lotteries, bingo, electronic gaming devices and casinos. All gaming sectors should be treated in a consistent manner in terms of applicable rules and regulations...."^l This uniform approach makes sense and is particularly relevant to relocation applications for existing racetracks. If horse racing is a sector of the entire gaming industry, it stands to reason that the processes and procedures established for relocation of existing facilities should apply across all sectors. Since the Gaming Control Commission is to approve all relocation applications for casinos and charitable bingo halls, its mandate could readily be expanded to include racetracks. The Gaming Control Commission should also exercise a similar regulatory authority over any proposal to build new racetracks.

Recommendation 23: That the government establish a uniform policy for consideration of relocation applications across the entire gaming sector.

Recommendation 24: That the Gaming Control Commission, in light of Recommendation 23, assume responsibility for applications to relocate existing racetracks. Given its overall responsibility for the regulation of gaming in the province, the Gaming Control Commission's authority should also include approving applications for the development of new racetracks.

A second conclusion of the *Horse Racing Review* which has a direct bearing on this review is contained in the section entitled, "Organizational Review." The particular reference is to GAIO and builds on the already stated principle that horse racing is a sector of the gaming industry. The following excerpt is particularly relevant in the context of Recommendation 6.

[S]ince the horse racing sector is part of the entire gaming industry ..., there should be a role for the Province's main gaming regulator, the Gaming Audit and Investigation Office ("GAIO").... GAIO is involved in all other sectors in the gaming industry. GAIO's mandate is to ensure that gaming in the Province is conducted with honesty and integrity through the registration of individuals and companies involved in lawful gaming. As well, GAIO reviews all gaming operations and organizations against standards established through Provincial legislation and policy. This would ensure that all gaming sectors are treated equally and are subject to the same standards.^{lii}

The justification for a single enforcement agency's applying standards across the entire gaming industry is particularly difficult to ignore. It makes sense and is the inevitable result of the continuing interaction of the different sectors of the gaming industry. If GAIO's mandate is expanded, that expansion must be accompanied by a corresponding increase in resources.

Recommendation 25: That the government give consideration to expanding the mandate of the Gaming Audit and Investigation Office to include horse racing.

The third conclusion of direct relevance to this review is contained in the section entitled, "Economic Environment," and advances the idea of introducing slot machines at racetracks. As noted in the *Horse Racing Review*: "A number of jurisdictions have responded to the decline in their horse racing sector by introducing slot machines to both increase attendance at racetracks and generate revenue to supplement purses. The success of this initiative is difficult to fully evaluate."^{liii} When Minister Smallwood released the *Horse Racing Review*, she categorically

rejected this suggestion. She said, "Our government ended gaming expansion. That policy change means racetracks won't get the go-ahead to install slot machines."^{lvi}

There is a further consideration. The two largest racetracks in the province, Hastings Park and Fraser Downs, are located on land leased from the City of Vancouver and City of Surrey respectively. Both municipalities have taken a very strong position in opposition to the introduction of slot machines within their boundaries, a position now strengthened by the provisions of the Memorandum of Agreement with the Union of British Columbia Municipalities. The terms of the lease for both racetracks restricts gaming activities to horse racing. As noted in the *Horse Racing Review*,

In order for slot machines to be installed at the racetracks, the land leases need to be amended or the racetracks need to be relocated. These two options both have difficulties. Relocation involves extreme costs and since the two cities are adamantly opposed to the installation of slot machines in their jurisdictions, amending the leases to include slot machines is unlikely.^{lvii}

This understatement, combined with the minister's statement, would suggest that adding slot machines to racetracks is not an option. There is, however, another alternative which was not addressed in the *Horse Racing Review*—the relocation of an existing casino to a racetrack. Obviously the prohibition against slot machines would remain in place in both the City of Vancouver and the City of Surrey. The recommended procedures for the relocation of casinos require approval of the municipality, so the local government concerned would have to be in agreement.

Relocating a casino to a racetrack is a major policy decision and the province must address the principle. This question falls into the category of general policy referred to in Recommendation 7. If the province gives general approval to such relocations, it can authorize the Gaming Control Commission to process any applications it may receive. It should be understood that the policy of the municipality in which the racetrack is located will determine whether or not slot machines will be permitted.

Recommendation 26: That the minister, on behalf of the province, declare whether or not the province gives general approval to the relocation of casinos to racetracks.

The final question at this point is whether or not the government should add the regulation of horse racing to the mandate of the Gaming Control Commission. The preceding discussion of viewing all gaming as a single industry would point in that direction. Until the assessment of the *Horse Racing Review* is completed, however, any recommendation in this report is premature.

4.6 Destination Casinos

As indicated in the introduction to this report, destination casinos were specifically excluded from this review. As the review progressed, it was difficult to ignore their existence, particularly when comparisons were frequently made between them and existing casinos. The processes and policies in the *Request for Proposals* document were helpful in developing benchmarks for the processes developed in this review. On a few occasions, the subject of destination casinos came up in the context of a general discussion of relocation. The underlying implication was difficult to miss. There was an assumption or expectation that a destination casino, which had received approval in principle, could apply to relocate to another part of the province. To avoid any future misunderstanding, the minister should indicate that this assumption is false and that destination casinos are site specific.

Recommendation 27: That the minister communicate with the successful destination casino applicants which have not yet received final approval indicating that the approval in principle is based on the site indicated in the original proposal. Any other assumptions are false.

4.7 The Interim Period

As was stated at the outset of this report, the Honourable Joan Smallwood announced a freeze on relocations and changes to existing facilities until this review was completed. With the completion of the review, it becomes necessary to reconsider that decision and establish an interim bridging policy that reflects the content of this report. The bridging policy would cover the period between receipt of this report and the proclamation of new legislation, reinforcing further the need for the government to introduce legislation at the next session of the Legislature.

The bridging policy on relocations would become another component of the interim policy

announced in April 1998. From comments received in the course of this review, it is evident that a number of relocation requests for existing casinos will be forthcoming. Although the freeze was partially lifted for bingo operations in December, the government should also anticipate that bingo operators will submit requests for relocation of or changes to existing facilities.

The two principal distinctions between current practice and what is proposed in this report are the consolidation of regulatory authority in a new agency for casinos and bingo and a more central role for local governments in the decisions. The current policies of both the Lottery Corporation and the Gaming Commission concerning relocation of charitable casinos and bingo facilities already provide for local government input. Thus the bridging policy should not be too difficult to implement. To avoid uncertainty and to maintain the spirit of cooperation reflected in the three memoranda of agreement, consultation with the three organizations is essential.

Recommendation 28: That the minister announce an interim bridging policy with respect to relocation of and changes to existing facilities. The bridging policy should consist of the following components:

- 1) The minister should issue a statement indicating that the freeze is lifted and the date when this becomes effective;
- 2) The minister should issue a statement that the government remains committed to the specifics of the three memoranda of agreement signed in June 1999 with the Union of British Columbia Municipalities, the BC Association for Charitable Gaming and the Charitable Bingo Association Committee of the Bingo Council of British Columbia;
- 3) The minister, while affirming the independence of the Gaming Commission for decisions with respect to specific bingo facilities, should direct the Gaming Commission to review its current processes and procedures for relocation of and changes to existing facilities to bring them in line with the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in this report;
- 4) The minister, while affirming the independence of the Lottery Corporation for decisions with respect to specific casinos, should direct the Lottery Corporation to review its current processes and procedures for relocation of and changes to existing facilities to bring them in line with the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in this report;
- 5) Since the freeze may have had different effects on individual service providers, especially with regard to outstanding applications for relocation or other changes, both the

Gaming Commission and the Lottery Corporation should have the discretion to act expeditiously to process these applications. This process should respect the spirit and intent of the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in this report;

6) To facilitate the transition, and in keeping with the memoranda of understanding referred to in (2) above, the minister or her delegate should meet with the Union of British Columbia Municipalities, the

BC Association for Charitable Gaming and the Charitable Bingo Association Committee of the Bingo Council of British Columbia to brief them on the interim policy.

Recommendation 29: That in the event legislation is delayed for any reason, the Lieutenant Governor in Council establish the proposed Gaming Control Commission by regulation and transfer responsibility for approving relocation of existing facilities or changes to existing facilities from both the Lottery Corporation and the Gaming Commission to the Gaming Control Commission.

5. CONCLUDING OBSERVATIONS

In the past few years, gaming policy in British Columbia has been in a constant state of flux. There have been consultations, studies, policy papers, policy announcements, policy reversals, court challenges, minor legislation and new regulatory and policy agencies. The constant change is primarily a result of the province's embarking on a policy of gaming expansion. That other jurisdictions may be experiencing similar challenges is small comfort.

The expansion policy has led to conflict which has manifested itself in many ways. There has been conflict between the province and a number of municipalities, between charities and the province and between agencies of the province. Citizens' groups such as Citizens Against Gambling Expansion (CAGE) have been formed to challenge the government's position and remain ever-vigilant. The vagaries of the wording of the *Criminal Code* have further complicated matters. The role of the province has changed from being primarily a regulator to being the chief promoter and largest provider of gaming activities through the Lottery Corporation. To say that the net effect of this constant roller coaster ride has been to undermine public confidence in gaming policy is an understatement. It is time to put the brakes on and reflect.

Gaming "products" are constantly changing. Technological advances have led to different forms of gaming being introduced such as linked bingo and simulcasting. Technology makes it possible to turn slot machines on and off from a central location at Kamloops. Technology is also creating new issues such as internet gaming. Change, due to technological advances, and its consequences will continue to have a major effect on gaming policy and its regulation.

Despite a policy of expansion, some gaming sectors, notably bingo and horse racing are concerned about their future. This, in turn, creates considerable anxiety among charities who rely on this source of revenue and to the people who are employed in the horse racing industry.^{lv} These sectors are being forced to examine what they do and how they do it. Change and adaptation are essential if they are to remain viable. That is the essence of the conclusions of both the bingo and horse racing reviews.

The terms of reference of this review were fairly narrow in scope. Nevertheless they provided a window on the state of gaming in the province. In such a sensitive area of public policy, one would expect to find conflict and tension. What was not expected was the level of anxiety uncertainty has produced. Constant change has led to a perception of instability. One has tended to fuel the other, the net result being the escalation of conflict.

One senses that the policy decision to enter into agreements with the Union of British Columbia Municipalities, the BC Association for Charitable Gaming and the Bingo Council of British Columbia has reduced tension and is leading to a more constructive relationship. The decision to bring an end to gaming expansion appears to have had a similar effect on public discourse. Despite any misgivings and regardless of why they were signed, these agreements reflect a fundamental change in the province's approach to gaming policy. But suspicions and anxiety remain below the surface.

The focus of this report has been on existing facilities, and its recommendations have reflected the spirit of the memoranda of agreement with the Union of British Columbia Municipalities, the Association for Charitable Gaming and the Bingo Council of British Columbia. The focus in the memoranda on local involvement and consultation forms a strong foundation for policy development. The challenge to government is to restore public confidence. The answer, in a word, is legislation. Legislation provides certainty which policy announcements, no matter how well intentioned, can never achieve. If there was one central message received in the various meetings and presentations it was the need for stability and certainty. To restore public confidence, the government must introduce legislation which reflects the policy decisions and agreements of June 1999, establishes an independent regulatory agency and provides for consultation and public input into developing changes to gaming legislation.

6. NOTES

- i. Ministry of Employment and Investment, *News Release*, 059, June 17, 1999. See Appendix 1 for the text.
- ii. A destination casino is a casino developed in conjunction with other facilities and amenities such as a hotel, dining facilities, bars and lounges, entertainment, recreation and retail operations. In linked bingo, several facilities are linked to each other via telephone circuits, thus allowing for substantially increased prize levels through greater game attendance potential.
- iii. As of January 31, 2000, three destination casinos had received final approval: The Royal City Star, New Westminster (May 1999); Lake Cities Casinos Ltd., Penticton (June 1999); and Casino of the Rockies, Cranbrook (November 1999).

- iv. Ministry of Labour, *News Release*, Ref. No.:09-17-99, September 24, 1999.
- v. British Columbia, *Report on Gaming Legislation and Regulation in British Columbia*, Victoria: Ministry of Employment and Investment, January 1999. See Part 1, Chapters 2 and 3, pp. 7-106. This document will be referred to as the *White Paper*. See also: *Canada's Gambling Regulatory Patchwork: A Handbook*, Calgary: Canada West Foundation, 1999.
- vi. RSBC 1996, c. 278.
- vii. SBC 1998, c.37.
- viii.RSBC 1996, c. 279.
- ix. British Columbia Lottery Corporation, *1997/98 Annual Report*, British Columbia Lottery Corporation: 1998, p. 4.
- x. Lottery Corporation, *1997/98 Annual Report*, p. 6.
- xi. Ministry of Government Services, *Report of the Gaming Policy Review*, Victoria: October 1994, p. 20.
- xii. *White Paper*, p. 180.
- xiii. *Horse Racing Act*, RSBC 1996, Chapter 198.
- xiv. *Request for Proposals*, p. 3.
- xv. *Request for Proposals*, p. 3.
- xvi. *Nanaimo Community Bingo Association v. Attorney General of British Columbia* (January 14, 1998) Victoria 97/4779 (B.C.S.C.).
- xvii. *British Columbia Lottery Corporation v. Vancouver (City)* (December 19, 1997) Vancouver A972911 (B.C.S.C.).
- xviii. *White Paper*, p. i.
- xix. See for example Garry Smith and Harold Wynne, *Gambling and Crime in Western Canada: Exploring Myth and Reality*, Calgary: Canada West Foundation, September, 1999.
- xx. See *Request for Proposals* pp. 11-13 for the details. On July 31 and August 1, 1997 Peter Clark, Chair of the now defunct Lotteries Advisory Committee sent out letters to all municipalities, regional districts and First Nations informing them of the RFP process and local government involvement.
- xxi. *Great Canadian Casino Company Limited v. Surrey (City) et al.* (October 19, 1999) Vancouver, 99/619 (B.C.C.A.).
- xxii. See the *White Paper* pp. 193-229 for a discussion of the municipal role. Secs. 47 and 52 of the 1999 draft legislation are the sections referred to.
- xxiii. *White Paper*, p. 212.
- xxiv. Ministry of Employment and Investment, *News Release* 020, March 13, 1997.

- xxv. Ministry of Employment and Investment, *News Release* 094, July 31, 1997.
- xxvi. See RFP, "definitions and terms."
- xxvii. Ministry of Employment and Investment, *News Release* 031, April 9, 1998.
- xxviii. Ministry of Employment and Investment, *News Release*, 035, May 14, 1998.
- xxix. RFP, p. 21.
- xxx. Ministry of Employment and Investment, *News Release* 046, May 4, 1999.
- xxxi. Ministry of Employment and Investment, *News Release* 031, April 19, 1998.
- xxxii. *Nanaimo Community Bingo Association v. British Columbia (Attorney General)* (January 14, 1998) Victoria 97/4779 (B.C.S.C.).
- xxxiii. Ministry of Employment and Investment, Gaming Policy Secretariat, *Bingo Review: Options for a Revitalized Bingo Gaming Sector*, Victoria: Ministry of Employment and Investment, January, 1999. See also Ministry of Employment and Investment, *News Release* 008, February 2, 1999. This document is referred to as the *Bingo Review*.
- xxxiv. See Frank A. Rhodes, *Gaming Policy Recommendations: Report to the Honourable Mike Farnworth*, Victoria: Ministry of Employment and Investment, February 1998. The \$125 million indexed to the Vancouver CPI is Recommendation 4, p. 38.
- xxxv. British Columbia Racing Commission, *1997-1998 Annual Report*, p.7.
- xxxvi. Gaming Policy Secretariat, *Province of British Columbia: Horse Racing Review*, Victoria: September 1999, p. 76. The Review consists of two volumes. PricewaterhouseCoopers prepared the Review at the request of the Gaming Policy Secretariat. This document is referred to as the *Horse Racing Review*.
- xxxvii. *Horse Racing Review*, p. 72.
- xxxviii. The following *News Releases* contain references to new legislation: 020, March 13, 1997; 031, April 9, 1998; 060, July 17, 1998; 008, February 2, 1999; 026, March 10, 1999; 038, April 16, 1999.
- xxxix. See RFP, pp. 22- 39.
- xl. RSBC Chap. 267, sec. 3.
- xli. *Broadcasting Act*, B-9.01 (1991) sec. 7.
- xlii. Manitoba, *Gaming Control and Consequential Amendments Act*, 1996, sec. 4.
- xliii. RSBC, Chap. 323, sec. 890-894.
- xliv. Ministry of the Attorney General, Liquor Control and Licencing Branch, *Role of Local Government in the Provincial Liquor Licensing Process*, Victoria: 1997.
- xlv. *Municipal Act*, sec. 860-862.

- xlvi. Manitoba, *Gaming Control and Consequential Amendments Act*, 1996, sec. 4 (c).
- xlvii. Nova Scotia, *Gaming Control Act*, Chapter 4, 1994-95, sec. 56 (c) - (e).
- xlviii. Ministry of Labour, *News Release* 09-18-99, September 24, 1999.
- xlix. *Horse Racing Review*, pp. 74-77.
- l. *Horse Racing Review*, p. 74.
 - li. *Horse Racing Review*, p. 75.
 - lii. *Horse Racing Review*, p. 77.
- liii. *News Release*, 09-18-99, September 24, 1999.
- liv. *Horse Racing Review*, p.70.
- lv. See Loleen Youngman Berdahl, *The Impact of Gaming Upon Canadian Non-Profits: A 1999 Survey of Gaming Grant Recipients*, Calgary: Canada West Foundation, July, 1999.

7. SUMMARY OF RECOMMENDATIONS

Recommendation 1: That the minister responsible for gaming introduce gaming legislation in the next session of the Legislature.

Recommendation 2: That the province fulfill the requirements of the three memoranda of agreement on gaming policy to consult in a meaningful way with local governments and charities before introducing gaming legislation.

Recommendation 3: That the gaming legislation establish a Gaming Control Commission.

Recommendation 4: That the gaming legislation confer authority on the Gaming Control Commission to receive, review and decide on relocation requests; to approve changes to existing facilities such as increases/decreases in the number of table games or slot machines and to resolve disputes and other matters as assigned by the minister.

Recommendation 5: That the Gaming Audit and Investigation Office continue as part of the Ministry of the Attorney General.

Recommendation 6: That the gaming legislation identify the roles and responsibilities with respect to enforcement of gaming policy and penalties for breaches of these policies.

Recommendation 7: That the gaming legislation should establish the independence of the Gaming Control Commission while making it clear that the Lieutenant Governor in Council continues to exercise responsibility for general policy direction.

Recommendation 8: That the gaming legislation incorporate provisions authorizing the minister or the Lieutenant Governor in Council to ask the Gaming Control Commission to undertake special public hearings or inquiries.

Recommendation 9: That the legislation include a requirement for an annual report from the Gaming Control Commission and that the report be tabled in the Legislature.

Recommendation 10: That the Gaming Control Commission adopt a series of policy guidelines detailing the information to be included in relocation applications.

Recommendation 11: That the gaming legislation reflect and confirm the provisions of the Memorandum of Agreement between the province and the Union of British Columbia Municipalities concerning:

- 1) jurisdiction of local government, with respect to land use and bylaw-making powers;
- 2) the ability of local governments to make decision as to whether or not new or relocated facilities will be permitted within their boundaries;
- 3) the ability of local governments to direct and define the extent, scope and type of casino and bingo gaming permitted within their boundaries; and
- 4) the ability of local governments to decide if slot machines or other similar devices could be placed within their boundaries.

Recommendation 12: That the Gaming Control Commission and the Union of British Columbia Municipalities jointly examine existing practices and procedures for public consultation on gaming matters, such as relocation, with the view to developing a set of guidelines available for the use of individual local governments.

Recommendation 13: That the Gaming Control Commission, in consultation with the Union of British Columbia Municipalities, develop guidelines for time limits for resubmission of an unsuccessful relocation application.

Recommendation 14: That the legislation contain provisions for a dispute resolution process between two or more local governments with regard to the relocation or location of gaming facilities. The Gaming Control Commission, or its delegate, should be authorized to perform this responsibility.

Recommendation 15: That final approval for relocations be given for a 10-year period with an option for renewal for a further 10 years following a satisfactory review conducted by the Gaming Control Commission.

Recommendation 16: That requests for changes to existing gaming facilities be classified as being of a major or minor nature. Both the Gaming Control Commission and local governments have an equal say in determining the classification of the change to existing facilities.

Recommendation 17: That if either the Gaming Control Commission or the local government classify the changes to existing facilities as major, the process for relocation is to be followed.

Recommendation 18: That if the Gaming Control Commission and the local government classify the changes to existing facilities as minor, and if both agree that the public interest is served by shortening the process, the final review stage can immediately follow the interim approval stage.

Recommendation 19: That the Gaming Control Commission and the Union of British Columbia Municipalities develop guidelines for classifying major and minor changes to existing facilities. In developing these guidelines, they should consult with the Lottery Corporation, the Charitable Gaming Commission, the BC Association for Charitable Gaming and the Bingo Council of British Columbia.

Recommendation 20: That the gaming legislation include, as part of the Gaming Control Commission's duties, the authority to conduct independent research or joint research or to sponsor research.

Recommendation 21: That applications for relocation of existing casinos or for changes to existing facilities include a statement by the proponent on current and future practices with respect to problem gambling.

Recommendation 22: That the province, as a result of the recent changes to gaming policy, confirm its commitment to its problem gambling program and review the program to ensure it is achieving its objectives.

Recommendation 23: That the government establish a uniform policy for consideration of relocation applications across the entire gaming sector.

Recommendation 24: That the Gaming Control Commission, in light of Recommendation 23, assume responsibility for applications to relocate existing racetracks. Given its overall responsibility for the regulation of gaming in the province, the Gaming Control Commission's authority should also include approving applications for the development of new racetracks.

Recommendation 25: That the government give consideration to expanding the mandate of the Gaming Audit and Investigation Office to include horse racing.

Recommendation 26: That the minister, on behalf of the province, declare whether or not the province gives general approval to the relocation of casinos to racetracks.

Recommendation 27: That the minister communicate with the successful destination casino applicants which have not yet received final approval indicating that the approval in principle is based on the site indicated in the original proposal. Any other assumptions are false.

Recommendation 28: That the minister announce an interim bridging policy with respect to relocation of and changes to existing facilities. The bridging policy should consist of the following components:

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- 3) The minister, while affirming the independence of the Gaming Commission for decisions with respect to specific bingo facilities, should direct the Gaming Commission to review its current processes and procedures for relocation of and changes to existing facilities to bring them in line with the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in his report;
- 4) The minister, while affirming the independence of the Lottery Corporation for decisions with respect to specific casinos, should direct the Lottery Corporation to review its current processes and procedures for relocation of and changes to existing facilities to bring them in line with the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in this report;
- 5) Since the freeze may have had different effects on individual service providers, especially with regard to outstanding applications for relocation or other changes, both the Gaming Commission and the Lottery Corporation should have the discretion to act expeditiously to process these applications. This process should respect the spirit and intent of the Memorandum of Agreement with the Union of British Columbia Municipalities and the processes outlined in this report;
- 6) To facilitate the transition, and in keeping with the memoranda of understanding referred to in (2) above, the minister or her delegate should meet with the Union of British Columbia Municipalities, the BC Association for Charitable Gaming and the Charitable

Bingo Association Committee of the Bingo Council of British Columbia to brief them on the interim policy.

Recommendation 29: That in the event legislation is delayed for any reason, the Lieutenant Governor in Council establish the proposed Gaming Control Commission by regulation and transfer responsibility for approving relocation of existing facilities or changes to existing facilities from both the Lottery Corporation and the Gaming Commission to the Gaming Control Commission.

ⁱ Ministry of Employment and Investment, *News Release*, 059, June 17, 1999. See Appendix 1 for the text.

ⁱⁱ A destination casino is a casino developed in conjunction with other facilities and amenities such as a hotel, dining facilities, bars and lounges, entertainment, recreation and retail operations. In linked bingo, several facilities are linked to each other via telephone circuits, thus allowing for substantially increased prize levels through greater game attendance potential.

ⁱⁱⁱ As of January 31, 2000, three destination casinos had received final approval: The Royal City Star, New Westminster (May 1999); Lake Cities Casinos Ltd., Penticton (June 1999); and Casino of the Rockies, Cranbrook (November 1999).

^{iv} Ministry of Labour, *News Release*, Ref. No.:09-17-99, September 24, 1999.

^v British Columbia, *Report on Gaming Legislation and Regulation in British Columbia*, Victoria: Ministry of Employment and Investment, January 1999. See Part 1, Chapters 2 and 3, pp. 7-106. This document will be referred to as the *White Paper*. See also: *Canada's Gambling Regulatory Patchwork: A Handbook*, Calgary: Canada West Foundation, 1999.

^{vi} RSBC 1996, c. 278.

^{vii} SBC 1998, c.37.

^{viii} RSBC 1996, c. 279.

^{ix} British Columbia Lottery Corporation, *1997/98 Annual Report*, British Columbia Lottery Corporation: 1998, p. 4.

^x Lottery Corporation, *1997/98 Annual Report*, p. 6.

^{xi} Ministry of Government Services, *Report of the Gaming Policy Review*, Victoria: October 1994, p. 20.

^{xii} *White Paper*, p. 180.

^{xiii} *Horse Racing Act*, RSBC 1996, Chapter 198.

^{xiv} *Request for Proposals*, p. 3.

^{xv} *Request for Proposals*, p. 3.

^{xvi} *Nanaimo Community Bingo Association v. Attorney General of British Columbia* (January 14, 1998) Victoria 97/4779 (B.C.S.C.).

^{xvii} *British Columbia Lottery Corporation v. Vancouver (City)* (December 19, 1997) Vancouver A972911 (B.C.S.C.).

^{xviii} *White Paper*, p. i.

^{xix} See for example Garry Smith and Harold Wynne, *Gambling and Crime in Western Canada: Exploring Myth and Reality*, Calgary: Canada West Foundation, September, 1999.

^{xx} See *Request for Proposals* pp. 11-13 for the details. On July 31 and August 1, 1997 Peter Clark, Chair of the now defunct Lotteries Advisory Committee sent out letters to all municipalities, regional districts and First Nations informing them of the RFP process and local government involvement.

^{xxi} *Great Canadian Casino Company Limited v. Surrey (City) et al.* (October 19, 1999) Vancouver, 99/619 (B.C.C.A.).

^{xxii} See the *White Paper* pp. 193-229 for a discussion of the municipal role. Secs. 47 and 52 of the 1999 draft legislation are the sections referred to.

^{xxiii} *White Paper*, p. 212.

^{xxiv} Ministry of Employment and Investment, *News Release* 020, March 13, 1997.

^{xxv} Ministry of Employment and Investment, *News Release* 094, July 31, 1997.

^{xxvi} See RFP, "definitions and terms."

^{xxvii} Ministry of Employment and Investment, *News Release* 031, April 9, 1998.

^{xxviii} Ministry of Employment and Investment, *News Release*, 035, May 14, 1998.

^{xxix} RFP, p. 21.

^{xxx} Ministry of Employment and Investment, *News Release* 046, May 4, 1999.

^{xxxi} Ministry of Employment and Investment, *News Release* 031, April 19, 1998.

^{xxxii} *Nanaimo Community Bingo Association v. British Columbia (Attorney General)* (January 14, 1998) Victoria 97/4779 (B.C.S.C.).

^{xxxiii} Ministry of Employment and Investment, Gaming Policy Secretariat, *Bingo Review: Options for a Revitalized Bingo Gaming Sector*, Victoria: Ministry of Employment and Investment, January, 1999. See also Ministry of Employment and Investment, *News Release* 008, February 2, 1999. This document is referred to as the *Bingo Review*.

^{xxxiv} See Frank A. Rhodes, *Gaming Policy Recommendations: Report to the Honourable Mike Farnworth*, Victoria: Ministry of Employment and Investment, February 1998. The \$125 million indexed to the Vancouver CPI is Recommendation 4, p. 38.

^{xxxv} British Columbia Racing Commission, *1997-1998 Annual Report*, p.7.

^{xxxvi} Gaming Policy Secretariat, *Province of British Columbia: Horse Racing Review*, Victoria: September 1999, p. 76. The Review consists of two volumes. PricewaterhouseCoopers prepared the Review at the request of the Gaming Policy Secretariat. This document is referred to as the *Horse Racing Review*.

^{xxxvii} *Horse Racing Review*, p. 72.

^{xxxviii} The following *News Releases* contain references to new legislation: 020, March 13, 1997; 031, April 9, 1998; 060, July 17, 1998; 008, February 2, 1999; 026, March 10, 1999; 038, April 16, 1999.

^{xxxix} See *RFP*, pp. 22- 39.

^{xl} RSBC Chap. 267, sec. 3.

^{xli} *Broadcasting Act*, B-9.01 (1991) sec. 7.

^{xlii} Manitoba, *Gaming Control and Consequential Amendments Act*, 1996, sec. 4.

^{xliii} RSBC, Chap. 323, sec. 890-894.

⁴³Ministry of the Attorney General, Liquor Control and Licencing Branch, *Role of Local Government in the Provincial Liquor Licensing Process*, Victoria: 1997.

^{xlv} *Municipal Act*, sec. 860-862.

^{xlivi} Manitoba, *Gaming Control and Consequential Amendments Act*, 1996, sec. 4 (c).

^{xlvii} Nova Scotia, *Gaming Control Act*, Chapter 4, 1994-95, sec. 56 (c) - (e).

^{xlviii} Ministry of Labour, *News Release* 09-18-99, September 24, 1999.

^{xlix} *Horse Racing Review*, pp. 74-77.

ⁱ *Horse Racing Review*, p. 74.

ⁱⁱ *Horse Racing Review*, p. 75.

ⁱⁱⁱ *Horse Racing Review*, p. 77.

ⁱⁱⁱⁱ *News Release*, 09-18-99, September 24, 1999.

^{liv} *Horse Racing Review*, p.70.

^{lv} See Loleen Youngman Berdahl, *The Impact of Gaming Upon Canadian Non-Profits: A 1999 Survey of Gaming Grant Recipients*, Calgary: Canada West Foundation, July, 1999.

Appendix D

Office of the Auditor General of British Columbia, *Keeping the Decks Clean: Managing Gaming Integrity Risks in Casinos*, July 2005.



OFFICE OF THE
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**Keeping the Decks Clean:
Managing Gaming Integrity
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OFFICE OF THE
Auditor General
of British Columbia

Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria, British Columbia
V8V 1X4

Dear Sir:

I have the honour to transmit herewith to the Legislative Assembly of British Columbia my 2005/2006 Report 5 Keeping the Decks Clean: Managing Gaming Integrity Risks in Casinos.

Wayne Strelcuff, FCA
Auditor General

Victoria, British Columbia
July 2005

copy: Mr. E. George MacMinn, Q.C.
Clerk of the Legislative Assembly

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Acknowledgements

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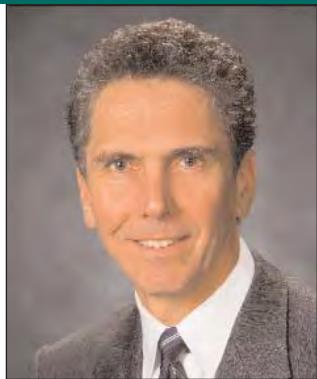
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Auditor General's Comments



Wayne Strelioff, FCA
Auditor General

Commercial gaming—including lotteries, casinos and bingos—is a significant industry in British Columbia. The provincial gaming industry employs thousands of citizens and in the 2005/06 fiscal year it will provide more than \$800 million to the province and municipalities. In recent years, growth in casino gaming has outpaced other forms of gaming and this trend is projected to continue.

In British Columbia, government has the challenging task of ensuring gaming integrity in casinos is maintained (that is, that error, criminal exploitation and employee dishonesty in casinos is minimized). Responsibility for ensuring gaming integrity in casinos rests with two government organizations. The British Columbia Lottery Corporation (BCLC) is charged with managing and conducting casino gaming, which it does through a partnership with private sector companies. These companies provide day-to-day facility and operational services in compliance with BCLC's requirements. The Gaming Policy and Enforcement Branch (GPEB) in the Ministry of Public Safety and Solicitor General is responsible for regulating casino gaming.

Three potentially significant consequences exist for government if it fails to adequately ensure gaming integrity in casinos:

- Unsavoury elements (e.g., organized crime and dishonest individuals) may become involved in the industry posing a threat to patrons and increasing the level of crime.
- A large number of patrons may lose confidence in the industry and stop visiting casinos leading to a significant reduction in government revenues.
- Government may not receive all the revenue to which it is entitled.

The purpose of our audit was to assess whether the government is adequately managing gaming integrity risks in casinos. Specifically, we wanted to know if government is adequately ensuring that:

- casino industry participants meet high standards of honesty,
- casino gaming equipment operates fairly,
- casino gaming activities are conducted honestly, and

Auditor General's Comments

- government is receiving its correct share of casino gaming revenue.

Our audit was carried out between September 2004 and January 2005. We focused on the casinos in operation during that time period. We did not examine community gaming centres that have recently started to include slot machines as part of their operations. The quantitative information we provide was drawn from various British Columbia Lottery Corporation and Gaming Policy and Enforcement Branch sources indicated in the text. Although we checked the information for reasonableness, we did not audit it.

Our examination was performed in accordance with assurance standards established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures we considered necessary in the circumstances.

Overall Conclusion

We concluded that government is adequately managing gaming integrity risks in casinos. We found that adequate steps are taken to ensure that:

- casino industry participants meet high standards of honesty;
- gaming equipment operates fairly according to approved standards;
- gaming activities are conducted honestly; and
- government receives its correct share of casino revenue.

Nevertheless, we think that the British Columbia Lottery Corporation should improve the reporting it provides to its Board of Directors on the results of its operational gaming audit program and should strengthen surveillance in casinos. We also think that the Gaming Policy and Enforcement Branch should improve its casino-related processes, including participant registration, casino equipment certification, audit and compliance and public reporting. And, government should confirm that the highest priority of the General Manager of GPEB is ensuring the integrity of gaming in the province.

Auditor General's Comments

Key Findings

Government adequately ensures that those who work in, or provide services to, the casino gaming industry meet high standards of honesty

GPEB ensures that the right people work in the casino industry by:

- implementing adequate processes for assessing gaming worker and corporate applicants wishing to participate in the casino industry; and
- monitoring to ensure that, on an ongoing basis, those working in and providing services to casinos continue to meet high standards of honesty.

To improve, we think that GPEB should:

- require that its key employees and those of the BCLC have their backgrounds rechecked every three to five years as is currently the case for gaming workers and service providers; and
- require that all BCLC employees who help to ensure gaming integrity in casinos be registered by GPEB.

Government adequately ensures that gaming equipment operates fairly in casinos

Equipment is purchased from only approved suppliers and is only used in casinos after it has been independently tested against approved technical standards. Nevertheless, we think that GPEB could strengthen the process by obtaining additional assurance to support its reliance on independent test facilities and the BCLC Casino Quality Assurance Department.

Government adequately ensures that gaming activities are conducted honestly

The BCLC has implemented adequate policies and procedures to help ensure honest casino gaming activities. Also, adequate mechanisms are in place to ensure that the policies and procedures are consistently followed including BCLC supervisory staff stationed in casinos, BCLC ongoing casino audits, surveillance operations, GPEB annual audits of each casino and GPEB investigation of incidents posing a threat to gaming integrity. Areas where BCLC can improve include ensuring that:

- its Board of Directors is informed regularly of the results of its Operational Gaming Audit Program, focusing on casinos;

Auditor General's Comments

- surveillance personnel meet minimum standards of proficiency by implementing a certification program; and
- all casinos have approved surveillance system component plans in place.

We also think that GPEB should:

- produce more timely audit reports; and
- formally evaluate the key BCLC automated casino reporting systems and operational audit activities it relies on when conducting its annual casino audits.

Finally, government should confirm that ensuring the integrity of gaming in the province is the highest priority of GPEB's General Manager.

Government adequately ensures that it receives its correct share of casino revenue

BCLC has implemented adequate processes to ensure that government's share of casino revenue is complete, accurate and received. Among these processes:

- all casino gaming activities are recorded;
- cash is safeguarded at all times;
- casino gaming revenue is accurately recorded in its accounting records; and
- government's share of casino gaming revenue is collected from service providers.

GPEB accountability reporting needs strengthening

The primary responsibility of GPEB is to ensure the overall integrity of gaming in British Columbia. We found, however, that GPEB provides no accountability information on the state of gaming integrity. Given the growth of casino gaming in the province and the significant provincial revenue it generates, we think that the Legislative Assembly and public would benefit by receiving information on GPEB's assessment of the overall state of gaming integrity in provincial casinos.



Summary of Recommendations

Registration of industry participants

We recommend that:

1. key employees of GPEB and BCLC have their backgrounds rechecked every three to five years as is currently the case for gaming workers and service providers.
2. all BCLC employees who help to ensure gaming integrity in casinos be registered by GPEB.

Certification of gaming equipment

We recommend that:

3. GPEB ensure that technical standards specific to British Columbia be developed and adopted to govern the functioning of gaming equipment in provincial casinos.
4. GPEB obtain additional evidence to support its reliance on independent test facilities to evaluate BCLC gaming equipment.
5. GPEB periodically review the work of the BCLC Casino Quality Assurance group to support the branch's reliance on gaming equipment tests carried out by the group.

Conducting gaming activities

We recommend that:

6. BCLC update the public information it provides on its website pertaining to the odds of winning at slot machines.
7. BCLC report regularly to its Board of Directors on the results of the Operational Gaming Audit Program and each casino's state of compliance with prescribed policies and procedures.
8. BCLC implement the Surveillance Certification Program at the earliest possible date.
9. BCLC ensure that all casinos have approved Surveillance System Component Plans in place.
10. GPEB's Audit and Compliance group produce more timely audit reports.

Summary of Recommendations

11. GPEB's Audit and Compliance group obtain direct evidence to support its reliance on BCCLC's automated casino reporting systems.
12. the integrity of gaming be confirmed as the primary responsibility of GPEB's General Manager.
13. GPEB report annually to the Legislative Assembly on the state of gaming integrity in provincial casinos.

Collecting gaming revenue

No recommendations made.



Detailed Report

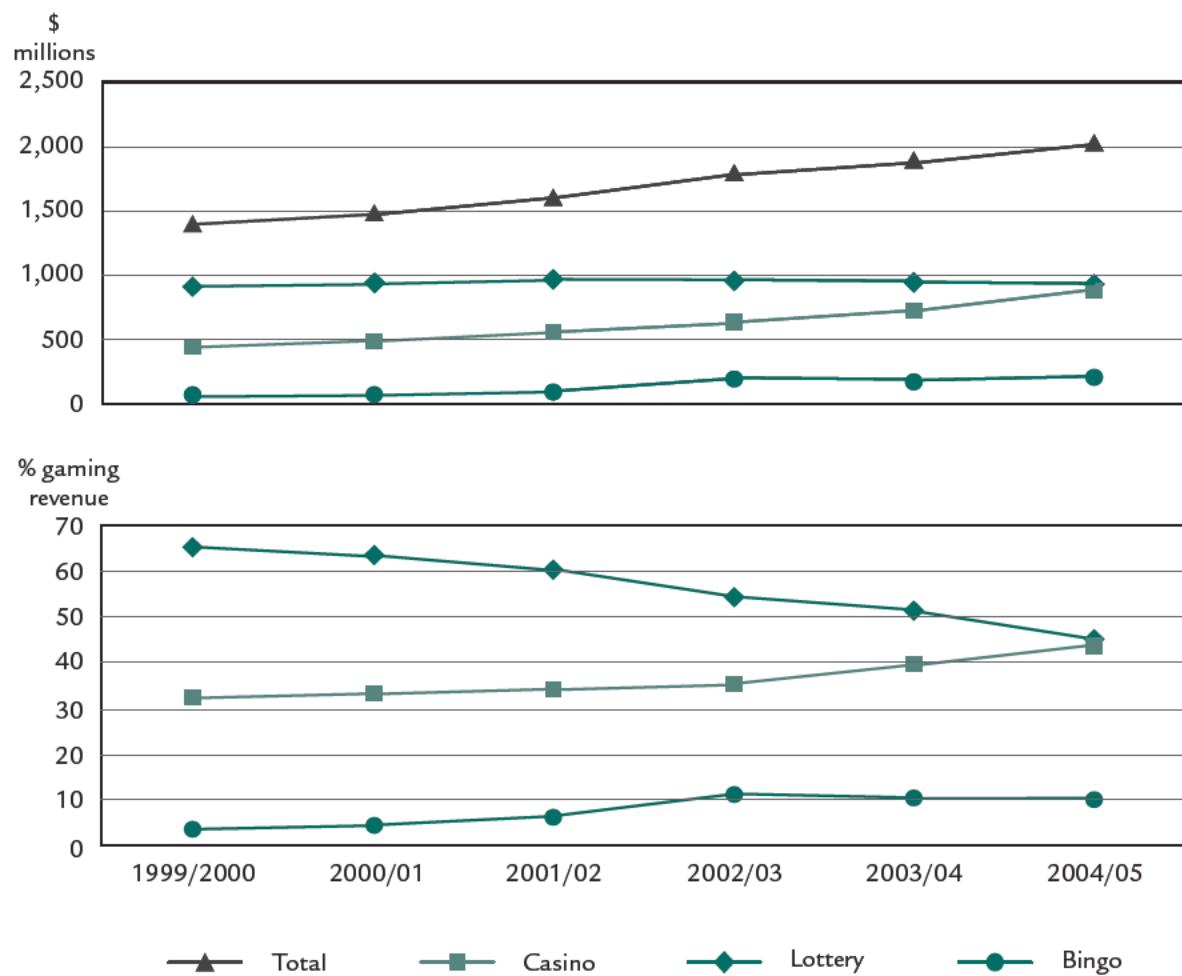
Background

Commercial gaming in British Columbia

Commercial gaming—including lotteries, casinos and bingos—is a significant industry in British Columbia. British Columbia Lottery Corporation (BCLC) estimates that the provincial gaming industry is responsible for more than 8,500 direct jobs and more than 5,000 indirect jobs within the province. Total revenue from BCLC's commercial gaming activities have grown from \$1.4 billion in fiscal 1999/00 to about \$2 billion in fiscal 2004/05 (Exhibit 1). At the same time, the provincial government's share of commercial gaming has also increased from \$525 million in fiscal 1999/00 to \$811 million in fiscal 2004/05 (Exhibit 2).

Exhibit 1

British Columbia Lottery Corporation gaming revenue, 1999/00–2004/05



Source: British Columbia Lottery Corporation

Background

Exhibit 2

Provincial government's share of gaming revenue, 1999/00–2004/05



Source: British Columbia Lottery Corporation

Casino gaming in British Columbia

Casino gaming is a significant component of commercial gaming in British Columbia consisting of up to 22 casinos. During fiscal 2004/05, 21 casinos operated (Exhibit 3).

Casinos generate a significant amount of economic activity and the trend is increasing. Casino revenue (after prize payouts) in fiscal year 2004/05 was \$893 million (Exhibit 1). This amount has increased steadily since fiscal year 1999/00, as has casino revenue as a percentage of total gaming revenue (Exhibit 1).

The nature of casino gaming is also changing. While the number of table games has remained relatively unchanged over recent years, the number of slot machines has grown significantly (Exhibit 4). Recently, the game of craps has been introduced in some casinos to meet patron demand, and patron interest in poker has increased concurrent with the televised broadcast of international poker tournaments in recent years.

Background

Exhibit 3

**British Columbia Lottery Corporation casino revenue by source and location
for the fiscal year ended March 31, 2005**

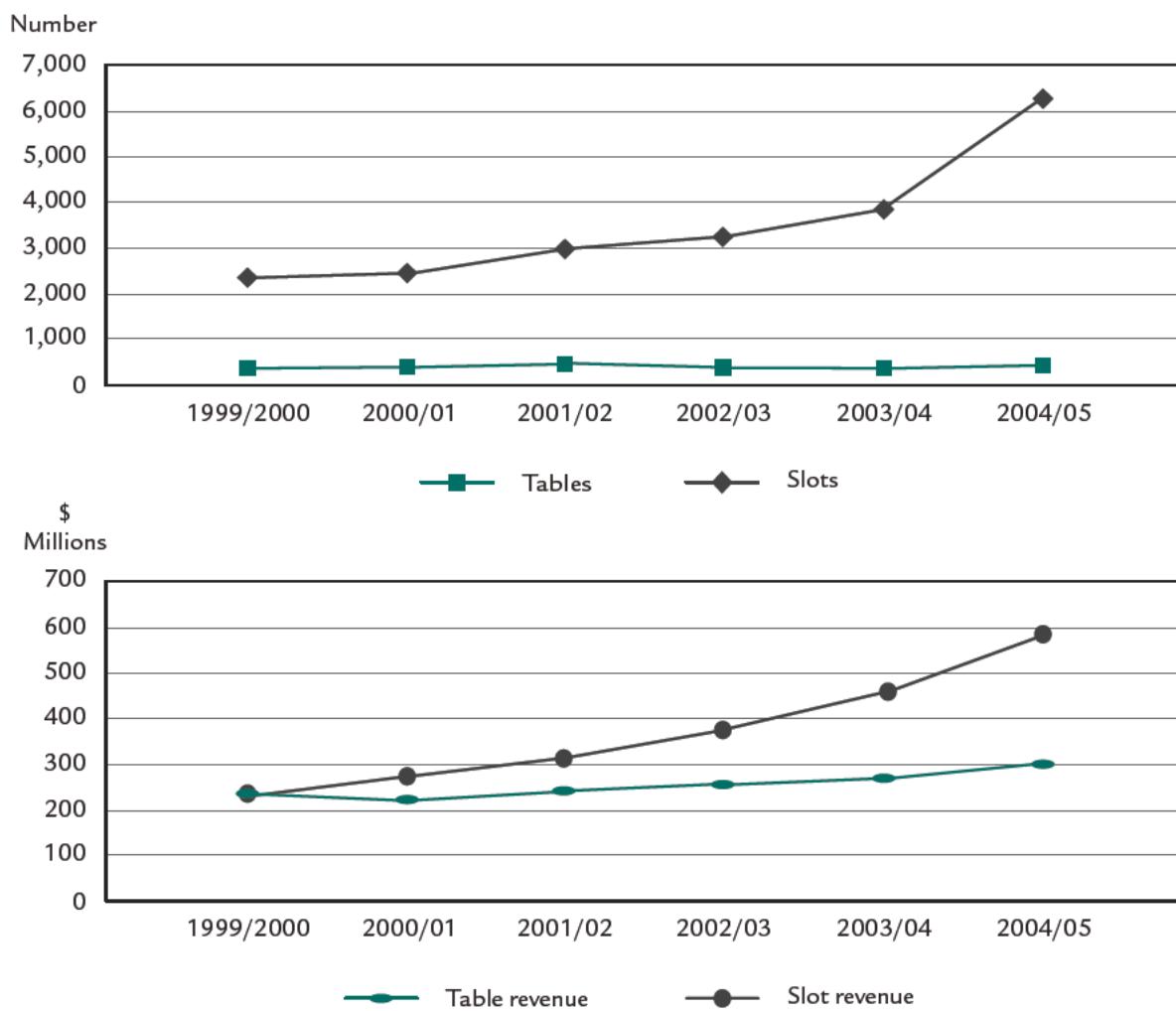
Casino	Location	Slot machine revenue \$	Slot machines #	Table game revenue \$	Tables #	Combined casino revenue, March 31, 2005 \$	Combined casino revenue, March 31, 2004 \$
Great Canadian Casino	Richmond	77,574	1,000	110,524	80	188,098	56,279
Gateway Casino	Burnaby	88,361	679	43,915	33	132,276	129,851
Gateway Casino Royal Towers	New Westminster	16,343	169	12,286	24	28,629	35,953
Royal City Star Casino	New Westminster	26,902	352	8,115	20	35,017	49,178
Great Canadian Casino	Coquitlam	80,085	450	39,371	31	119,456	118,460
Grand Casino	Vancouver	—	—	12,141	30	12,141	23,158
Great Canadian Casino Holiday Inn	Vancouver	—	—	26,295	37	26,295	31,970
Great Canadian Casino Renaissance	Vancouver	—	—	1,241	22	1,241	7,691
Gateway Casino Mandarin Centre	Vancouver	—	—	16,158	32	16,158	17,937
Edgewater	Vancouver	5,780	600	4,836	44	10,616	—
Fraser Downs	Surrey	38,037	410	864	1	38,901	—
Great Canadian Casino	Nanaimo	41,330	380	4,780	12	46,110	42,322
Great Canadian Casino	View Royal	55,662	436	10,119	24	65,781	60,111
Lake City Casino	Kamloops	28,998	300	2,468	8	31,466	30,128
Lake City Casino	Kelowna	36,022	311	4,579	11	40,601	37,883
Lake City Casino	Vernon	23,462	210	1,447	8	24,909	23,824
Lake City Casino	Penticton	19,996	224	1,439	10	21,435	20,026
Casino of the Rockies	Cranbrook	10,806	224	965	9	11,771	11,381
Casino Hollywood	Prince George	29,818	359	2,337	12	32,155	27,201
Billy Barker Casino	Quesnel	9,339	140	414	5	9,753	9,873
Jack o' Clubs	Wells	71	80	—	—	71	259
TOTAL		588,586	6,324	304,294	453	892,880	733,485
% of TOTAL		66%		34%		100%	

Source: British Columbia Lottery Corporation

Background

Exhibit 4

British Columbia Lottery Corporation casino revenue, 1999/00–2004/05



Source: British Columbia Lottery Corporation

Background

Casino gaming activities are spread throughout all regions of the province, but most heavily concentrated in the Lower Mainland. (Exhibit 3). A local government's approval is needed before a gaming facility may be located or relocated within its boundaries. Host governments are entitled to receive a portion of gaming revenues from any casinos located within their boundaries—10% of net revenue from community casinos, and one-sixth of net revenues from destination casinos. In fiscal year 2004/05, host local governments' share of casino revenue totalled \$53 million (Exhibit 5). The balance of provincial casino revenue is used to help fund provincial government programs.

Some differences in British Columbia's casino gaming compared with other provinces

Casino gaming in British Columbia differs in several important ways from that in most other provinces. For example:

- Casinos in British Columbia are generally smaller than in most other provinces.
- British Columbia doesn't allow slot machines in hotels, taverns and restaurants as in most other provinces.
- The maximum bet at a table game in British Columbia is \$2,500 whereas Ontario's large casinos allow a maximum \$5,000 bet.

Source: Gaming Policy and Enforcement Branch

Background

Exhibit 5

Host local governments' share of casino revenue for the fiscal year ended March 31, 2005

Local Government	Casino	2004/05 (\$000)	2003/04 (\$000)
Burnaby	Gateway Casino	7,550	7,523
Coquitlam	Great Canadian Casino	6,840	6,863
Kamloops	Lake City Casino	1,900	1,847
Kelowna	Lake City Casino	2,436	2,297
Surrey	Fraser Downs Casino	2,524	—
Ktunaxa/Kinbasket Tribal Council Society	Casino of the Rockies	1,112	1,009
Nanaimo	Great Canadian Casino	2,735	2,531
New Westminster	Gateway Casino Royal Towers	1,574	2,034
New Westminster	Royal City Star Casino	3,156	4,651
New Westminster Total		4,730	6,685
Penticton	Lake City Casino	2,166	2,047
Prince George	Casino Hollywood	1,932	1,663
Quesnel	Billy Barker Casino	600	607
Richmond	Great Canadian Casino	9,891	2,793
Vancouver	Grand Casino	587	1,128
Vancouver	Great Canadian Casino Holiday Inn	1,248	1,559
Vancouver	Gateway Casino Mandarin Centre	778	875
Vancouver	Great Canadian Casino Renaissance	61	372
Vancouver	Edgewater Casino	550	—
Vancouver Total		3,224	3,934
Vernon	Lake City Casino	1,514	1,477
View Royal	Great Canadian Casino	3,859	3,547
Wells	Jack o' Clubs	7	27
TOTAL		53,020	44,850

Source: British Columbia Lottery Corporation

Background

Roles and responsibilities

The key legislation for gaming in British Columbia is the Gaming Control Act and the Gaming Control Regulation. The legislation describes the roles and responsibilities of two key organizations in the British Columbia gaming industry: the Gaming Policy and Enforcement Branch (GPEB) in the Ministry of Public Safety and Solicitor General, and the British Columbia Lottery Corporation (BCLC).

Gaming Policy and Enforcement Branch

As the regulator of the British Columbia gaming industry, GPEB works to implement and enforce the legislation to help achieve government's gaming objectives. The branch has 117 staff who deal with all forms of gaming in the province, including casinos. GPEB's key responsibilities in relation to casino gaming include:

- ensuring the overall integrity of gaming;
- developing and managing gaming policy, legislation and standards;
- regulating all aspects of the gaming industry;
- registering gaming service providers and gaming workers, and certifying gaming equipment and lottery schemes;
- conducting audits of charitable and commercial gaming activities to ensure compliance; and
- investigating all alleged contraventions of BC's Gaming Control Act and investigating, in cooperation with law enforcement, all alleged contraventions of relevant sections of Canada's Criminal Code.

Background

British Columbia Lottery Corporation

BCLC was incorporated on October 25, 1984. As an agent of the Crown, the Province designated BCLC as the sole authority to conduct and manage casino gaming within British Columbia. In 1997, BCLC was given responsibility over slot machines when they were introduced in the province as part of government's change in gaming policy. A year later, BCLC was given responsibility to conduct and manage all casino gaming. BCLC's responsibilities under the Gaming Control Act, include:

- making sure commercial gaming facilities operate according to government policy and corporation standards, policies and procedures;
- setting operational rules of play in all gaming facilities;
- managing contracts with gaming service providers and ensuring compliance;
- transferring net proceeds from commercial gaming to the province;
- ensuring there are problem gambling programs in gaming facilities; and
- locating, relocating or making substantial changes to gaming facilities.

The corporation is responsible to the Minister of Public Safety and Solicitor General, through a Board of Directors appointed by the provincial government. Its headquarters are in Kamloops and it has a sales and marketing office in Richmond. In all, it employs about 560 staff. This includes employees who are based in the above two offices, as well as lottery, casino and bingo support staff in gaming operations throughout the province.

BCLC has partnered with eight private sector casino service companies to provide, under contract, both casino facilities and day-to-day operational services (including casino staffing) for a service fee based on revenue generated. According to BCLC, one of its core values is to ensure that the gaming they offer and the way they conduct business is fair, honest and trustworthy.

Our expectations

The provincial government has the challenging task of ensuring that gaming integrity is maintained in casinos—that is, that error, criminal exploitation and employee dishonesty in casinos is minimized. There are three potentially significant consequences for government if it fails to adequately ensure gaming integrity in casinos:

- unsavoury elements may become involved in the industry posing a threat to patrons and increasing the level of crime;
- a large number of patrons may stop visiting the casinos, leading to a significant reduction in government revenues; and
- government may not receive all the revenue to which it is entitled.

The key approaches used in other major jurisdictions to ensure gaming integrity include screening gaming industry applicants to ensure those providing services are honest; checking gaming equipment before installation to ensure that it operates fairly; and monitoring casino operations to ensure that gaming related activities are conducted honestly.

We therefore set out to learn whether the provincial government is adequately ensuring that:

- casino industry participants meet high standards of honesty,
- casino gaming equipment operates fairly,
- casino gaming related activities are conducted honestly, and
- government is receiving its correct share of casino gaming revenue.



Does government adequately ensure that casino industry participants meet high standards of honesty?

The Gaming Control Act and Regulation makes the Gaming Policy and Enforcement Branch (GPEB) the regulator of the casino industry in British Columbia. The legislation requires that corporations and individuals who intend to provide gaming services to casinos in British Columbia be registered by GPEB.

The Gaming Control Act defines gaming services to mean any that are related to the activities of operating a casino. The legislation also gives GPEB the authority to refuse to issue or renew the registration of a gaming worker or gaming service provider if it determines that the applicant fails to meet high standards of honesty.

“Gaming workers” are those who are paid to assist in the conduct, management or operation of a casino (e.g., card dealers, floor security). “Gaming service providers” are corporations or people who provide gaming services, gaming workers, gaming supplies, or a facility for casino gaming. GPEB estimates that about 7,200 gaming workers and key employees are employed in casinos in British Columbia and about 1,000 are employed in organizations that supply ancillary services to casinos. Also, there are 115 companies—55 casino equipment suppliers and 60 ancillary service providers—involved in the province’s gaming industry. And each year, GPEB processes new and renewal applications from about 5,000 casino gaming worker applicants, 50 casino service provider applicants and 130 key corporate personnel applicants.

Having the right people working in, and providing services to, the province’s casino industry is central to maintaining gaming integrity because it helps to:

- minimize criminal influence and exploitation;
- protect patrons from fraudulent activities by operators and their employees; and
- safeguard an increasingly important source of government revenue.

To ensure that only the right people and organizations participate in the casino industry, we expected to find adequate registration processes in place, including:

- well-designed mechanisms to collect the information needed to assess applicants;
- adequate guidelines to help investigators make appropriate suitability assessments;

Does government adequately ensure that casino industry participants meet high standards of honesty?



A typical group of slot machines in a B.C. casino

Courtesy of Gaming Policy and Enforcement Branch

- adequate review of applicant information by independent, qualified investigators using reliable sources of information; and
- ongoing monitoring to ensure that those working in, and providing services to, casinos continue to meet high standards of honesty.

We concluded that the government has established all those processes and is therefore adequately ensuring that those who participate in the casino gaming industry meet high standards of honesty.

There is still some room for improvement. We think that GPEB should:

- require that key employees of GPEB and BCLC have their backgrounds rechecked using similar timeframe criteria as are currently used for gaming workers and service providers; and
- require that all BCLC employees who help to ensure gaming integrity in casinos be registered by GPEB.

Does government adequately ensure that casino industry participants meet high standards of honesty?

GPEB has implemented well-designed processes to collect the information needed to assess applicant suitability

We noted that GPEB has developed application forms specific to gaming workers and companies. We reviewed the application forms and found them to be clearly designed to collect the critical pieces of information needed to allow the branch's investigators to make reliable applicant suitability assessments.

Gaming workers

For gaming worker applicants, we found that GPEB requires information to establish the true identity of the individual, such as recent passport photos, a letter from the applicant's prospective employer offering employment, personal identification including photo identification (e.g. driver's licence); and a copy of the applicant's landed immigration papers for applicants who are not Canadian citizens.

Corporate applicants

GPEB requires that corporations intending to provide goods or services to casinos be registered. This includes corporations planning to provide casino services, gaming supplies or equipment, security or surveillance services, gaming premises, and regular building maintenance, janitorial services or concession services at a gaming facility.

Key information required by GPEB from corporate applicants includes:

- information to establish the legal identity of the organization, such as other names by which it is or has been known, its corporate tax account number, articles of incorporation or partnership agreement, and financial institutions dealt with during the past year;
- business history and a list of other provinces or jurisdictions where it operates;
- a list of all businesses in which the applicant has a financial, organizational or managerial interest;
- financial statements, press releases and filings to the securities and/or exchange commission in the company's jurisdiction for the previous 12 months;

Does government adequately ensure that casino industry participants meet high standards of honesty?

- a list of all persons with a legal or equitable interest, directors, officers, shareholders, family members working in the business, and key employees, including their full names, home addresses and dates of birth;
- a description of the share structure and the percentage of share holdings of each of the directors, officers or voting shareholders holding 5% or more of shares;
- criminal investigations, indictments and records of conviction, civil actions, judgments or decrees;
- consent to release of corporate information; and
- sworn statement and deposition.

Extensive personal background information must also be provided by the following key individuals of the corporation: directors and officers of a gaming service provider, gaming equipment supplier or manufacturer; every shareholder or investor who owns or controls shares or has a 5% or greater financial interest in the applicant company; and influential employees of the applicant corporation such as casino managers, security or surveillance managers, and personnel managers.

GPEB also has the authority to require background information from outside directors of an applicant company or from organizations and individuals providing services to the applicant company.

GPEB provides adequate guidance to investigators for assessing applications

During the course of a typical year, registration investigators assess new and renewal applications for almost 5,000 gaming workers, about 50 corporate applicants, and about 130 corporate personnel applicants. We found that the branch has provided clear guidance to its investigators to assist them in assessing gaming workers corporate applications for registration.

According to GPEB's criteria, it may reject a gaming worker applicant if:

- he or she has been convicted or is subject to pending criminal charges in any country, province, state or territory;

Does government adequately ensure that casino industry participants meet high standards of honesty?

- a successful civil claim has been brought, or there is a civil claim pending, against the applicant and such claim is based in whole or in part on fraud, theft, misrepresentation or similar conduct; and
- his or her behavior is considered to be a detriment to the integrity or lawful conduct or management of gaming.

Also, if a gaming worker applicant fails to disclose important information or his or her answers are not correct, the application will likely be denied. And even after gaming workers are registered, their employment can be cancelled or suspended by GPEB if it is found that they failed to comply with the terms of their registration or provided incomplete or incorrect answers on their original application.

Overall, in 2003/04, GPEB denied 31 applicants, cancelled 17 registrations and suspended three, and issued seven warnings.

GPEB's registration policies and procedures for corporate applicants and key corporate personnel applicants also provide clear direction to investigators on when an application may be rejected. Applicants may be found ineligible for registration under the same criteria as those for rejecting a gaming worker.

As well, GPEB investigators determine whether any past conviction makes an applicant ineligible for registration. They assess:

- the behaviour for which the charges were laid (if repeated, would it pose a threat to the integrity of the gaming industry?);
- the circumstances of the charge, particulars of the offence involved, and sentence imposed;
- the length of time that has elapsed between the charge and the application;
- other activities the applicant has been engaged in since the date of the charge;
- any indication of tendencies by the applicant to repeat the kind of behaviour from which the charges arose; and
- whether the applicant has failed to show a firm intention to rehabilitate.

Does government adequately ensure that casino industry participants meet high standards of honesty?

As with a gaming worker application, if a corporate or key corporate personnel applicant misrepresents facts or fails to reveal information requested, their application may be denied. And, later discovery of an omission or misrepresentation made in the application may be grounds for withdrawing the registration. Each year, GPEB needs to investigate a few cases where the integrity of a corporate registrant comes into question. At the time of our audit, the branch was investigating one gaming service supplier and considering cancellation of their registration.

Applications are adequately assessed by independent, qualified investigators using appropriate sources of information

GPEB employs 10 registration investigators and a director who oversees the registration division.

Independence

A critical requirement for GPEB registration investigators is that they have the ability to make impartial assessments of gaming worker and service provider applications. We found that under the Gaming Control Act, GPEB is independent of both casino gaming service providers and BCLC. Members of the Registration Branch also told us that they have been allowed to perform their work without interference.

Investigator qualifications

We found that GPEB registration investigators have adequate training and experience to carry out in-depth assessments of gaming worker and service provider applications. The 10 investigators and director have extensive training and experience in areas such as policing (RCMP), provincial gaming and auditing. A recent resignation has left the branch without an investigator with a professional accounting designation, and staff from the Comptroller General's Office are temporarily filling that gap.

We reviewed a sample of gaming worker and corporate applications and found that all had been background-checked by GPEB registration staff using appropriate sources of information to make their assessments.

Does government adequately ensure that casino industry participants meet high standards of honesty?

Ensuring the right people work in British Columbia's casinos

Denying a gaming worker application

A gaming worker applicant answered “no” to the following application questions:

Have you in the last 10 years, in any jurisdiction, been:

- arrested?
- stopped or detained (such as for shoplifting or impaired driving)?
- charged with any criminal offence, whether found guilty or not?
- provided alternate justice (e.g., performing community service) for offences such as theft, shoplifting?
- convicted of any criminal offence, regardless of the sentence?
- investigated or had a claim made against you by anyone (based in whole or in part on fraud, deceit, misrepresentation, breach of trust or similar conduct)?

Background investigation by GPEB determined that the individual had never been charged and taken to court, but had, in the previous three years, been arrested and held in police cells approximately 15 times for alcohol, drug and violence-related incidents. And the most recent incident had occurred just days before the individual applied for gaming worker registration. When called to appear for an interview with GPEB investigators, the individual became aware that GPEB knew of his failure to disclose key information in his application and did not appear. As a result, GPEB denied him registration based on his failure to disclose key information and failure to cooperate in the background investigation.

Cancelling a gaming worker registration

As a result of a home invasion on premises housing a marijuana grow operation, an individual at the home received life threatening injuries. He was taken to hospital by a casino gaming worker who was in a relationship with him. After some time, the police learned that the house was in the name of the casino worker and leased to unknown parties through the injured individual, and also that the gaming worker had been in the house on a weekly basis over a considerable period of time. The injured person was also known to police as an identified criminal with a drug past. Before long, the worker was also found to have, in past, participated in moving large sums of cash for profit. None of this information was disclosed on the gaming worker’s original application and, as a result, their registration was cancelled by GPEB.

Warning a gaming worker for not complying with the terms of registration

A patron of a casino was observed conducting loan sharking activities in the facility and, as a result, a British Columbia Lottery Corporation investigator served the person with a provincial suspension notice. A senior member of the casino, who should have reported this activity immediately to GPEB under Section 86 of the Gaming Control Act, failed to do so until 23 days after the initial incident and not until the person was provincially barred from entering casinos. As a result, GPEB issued a written warning to the casino employee for failure to abide by the provisions of the Act.

Source: Gaming Policy and Enforcement Branch

Does government adequately ensure that casino industry participants meet high standards of honesty?

In the case of gaming workers, background checks included information sources such as credit history, criminal records and local infractions. The Canadian Police Information Centre database records were queried for the disposition of all charges for which a person had been fingerprinted (indicating they have a criminal record) and all outstanding charges currently before the courts. Local infraction checking was also conducted through the RCMP Personal Information Retrieval System database and any other city, municipal, provincial, federal, state, county, sheriffs, FBI or other police databases in Canada or the USA that GPEB deemed appropriate.

For corporate applications, we found that GPEB investigators had reviewed the application information and evaluated the financial, business and criminal history of the corporation. Sources of information used included:

- international, national, provincial, state, county or municipal law enforcement or security agencies;
- police services and sheriff's offices;
- government ministries or regulatory agencies;
- banks, trust companies, brokerage houses, credit bureaus;
- professional or industry associations, licensing bodies or regulators; and
- former or current customers.

The databases used by GPEB record all complaints the respective police departments investigate and also include information related to non-convictions.

In our opinion, this feature of GPEB checking helps to keep the entrance standard into the provincial casino gaming industry at a high level. Gaming service providers and BC Lottery representatives we met reported satisfaction with the effectiveness of the GPEB registration process. Another indication of the effectiveness of GPEB's registration process is that it denies, cancels, suspends or warns many applicants and registrants each year (85 in 2004), yet it has experienced few appeals and reversals of its original decisions (five decisions were appealed in 2004 and only one reversed).

Does government adequately ensure that casino industry participants meet high standards of honesty?

There is adequate ongoing monitoring to ensure participants in the casino industry continue to meet high standards of honesty

Preventing undesirable participants getting into provincial casino gaming is key to ensuring integrity of the industry, but watching that a registrant stays honest over time is also critical. We found that GPEB uses several processes to monitor that only honest registrants continue to participate in the casino industry. A key requirement is that gaming workers and service providers periodically reapply to be licensed. Gaming worker registrations are valid for three years or until the worker ceases employment in the industry. Corporate registrations are valid for a period of five years. Once the registration period ends the gaming worker or service provider must reapply and be reassessed by GPEB.

We found that GPEB maintains current registers of both gaming workers and service providers to monitor that registrations remain valid, and carries out renewals in compliance with legal requirements.

Gaming workers

Under the terms and conditions of registration, gaming workers must regularly report to GPEB any circumstances that bring into question their suitability to continue being involved in the casino industry. For example, gaming workers must report when they are under criminal investigation or are charged in a criminal, regulatory or statutory matter, or when a civil suit involving allegations of fraud, theft, deceit, misrepresentation or similar conduct is brought against them. Failure to report either situation could result in GPEB's Director of Registration canceling their registration. We found that during 2004, GPEB suspended four gaming workers and issued seven warnings over non-compliance with registration terms and conditions.

Overall, we believe that GPEB's self-reporting requirements for gaming workers and the associated penalties for not reporting help ensure that if the suitability of a gaming worker changes, GPEB is likely to be made aware of it.

Does government adequately ensure that casino industry participants meet high standards of honesty?

Corporate gaming service providers

Similar to those requirements noted above for gaming workers, GPEB requires gaming service providers to keep the branch informed about any changes in their operations (see sidebar).

As with gaming workers, failure to comply with the terms and conditions of registration could result in GPEB's Director of Registration canceling a corporate service registration. Loss of their registration in British Columbia could have significant repercussions on their operations. Many also operate in other gaming jurisdictions that may, depending on the circumstances, choose to investigate and cancel the company's registration as well.

GPEB registration investigators monitor corporate compliance with the above requirements. During 2004, this involved monitoring 115 service providers and senior officials associated with those organizations. We reviewed a number of corporate files and found that the investigators were regularly reviewing a variety of information sources (e.g., websites and news media) for items of interest, including indicators of non-compliance with the licence terms. We found that significant items are followed up (e.g., contacts made with the organization or regulators in other jurisdictions as required to confirm facts) in order to assess whether the organization continues to be compliant

Ongoing reporting by gaming service providers

The terms and conditions of corporate registrants require that they immediately notify GPEB of the following:

- any change in ownership structure;
- any conduct or activity at or near a gaming facility in British Columbia that is or may be contrary to the Criminal Code, the Gaming Control Act or the regulations under the Act;
- any suspected or alleged criminal activity that involves the service provider or a registered gaming employee;
- release of annual financial statements; and
- filings with securities or exchange commissions in their jurisdiction.

Individuals registered by GPEB to provide gaming goods or services must immediately notify GPEB if:

- there is any change in their involvement in the gaming industry; and
- they are under criminal investigation or are charged in a criminal, regulatory or statutory matter or are the subject of a civil claim based on fraud, theft, misrepresentation or similar conduct.

Source: Gaming Policy and Enforcement Branch

Does government adequately ensure that casino industry participants meet high standards of honesty?

with their registration requirements in British Columbia. One of our samples involved a corporate registrant that failed to disclose essential information at the time of registration. Another sample implicated a corporate registrant for improperly dealing with loan sharking activities. Both examples were relatively recent and, at the time of our review, GPEB was in the process of deciding the disciplinary actions that would be taken. Overall, we believe that GPEB adequately monitors to ensure that only trustworthy corporate registrants continue to be involved in the British Columbia gaming industry.

GPEB and BCCLC employees

The Gaming Control Act requires that key employees of GPEB and BCCLC undergo background checks to ascertain their suitability for employment. We reviewed a sample of GPEB and BCCLC files and found that background checks had been carried out in all instances. We also noted that, unlike gaming workers and key corporate personnel who are rechecked after three years and five years, respectively, GPEB and BCCLC key employees are not rechecked.

We recommend that key employees of GPEB and BCCLC have their backgrounds rechecked every three to five years as is currently the case for gaming workers and service providers.

We also noted that GPEB's policy is to perform background checks on BCCLC employees, only if they are expected to need regular access to casinos. As a result, some BCCLC employees who help to ensure gaming integrity in casinos but do not spend much time there (this includes, for example, quality assurance staff involved in the certification of gaming equipment) are not registered by GPEB. We also noted that a background check of one senior official of BCCLC had not taken place as required by the Gaming Control Act.

We recommend that all of BCCLC's senior employees and any other BCCLC employees who help to ensure gaming integrity in casinos be registered by GPEB.



Does government adequately ensure that casino gaming equipment operates fairly?

The Gaming Control Act requires that only gaming equipment approved by GPEB be used in casinos. The Act also requires that GPEB issue its approval only if satisfied that the gaming equipment will be fair according to standards approved by GPEB. Key steps in helping GPEB meet its gaming equipment responsibilities include ensuring that:

- gaming equipment is purchased from only approved suppliers;
- approved technical standards for assessing the fairness of gaming equipment have been implemented; and
- gaming equipment is adequately tested against the standards before use in casinos (note that ongoing monitoring of the operation of gaming equipment in casinos is covered in the next section of this report).

We concluded that the government is adequately ensuring that gaming equipment operates fairly. Equipment is purchased from only approved suppliers and is only used in casinos after it has been independently tested against approved standards. Nevertheless, we think that GPEB can improve the process by obtaining additional assurance to support its reliance on independent test facilities and the BCCLC Casino Quality Assurance Department when certifying new equipment.

GPEB ensures that gaming equipment is purchased from only approved suppliers

The Gaming Control Act requires that a supplier of gaming equipment be registered by GPEB. When BCCLC requests approval of a particular piece of gaming equipment, GPEB ensures that the supplier is listed on its register and in good standing. We found the process for registering gaming equipment suppliers (discussed in the previous section of this report) was found to be working effectively.

With GPEB having control of both the equipment supplier registration process and the gaming equipment certification process—and given the relatively small number of equipment suppliers—the branch is in a strong position to ensure that gaming equipment is purchased from only approved suppliers. We reviewed a sample of gaming equipment approved for use in British Columbia casinos and found that all had been supplied by companies registered and in good standing with GPEB.

Does government adequately ensure that casino gaming equipment operates fairly?



Courtesy of Gaming Policy and Enforcement Branch

B.C. Gold: a connected group of slot machines offering a randomly won prize

Adequate technical standards governing the functioning of gaming equipment have been implemented

Technical standards for gaming equipment operations are an important part of ensuring gaming integrity, because they provide a benchmark against which gaming equipment can be evaluated.

We found that the technical standards that exist were developed by an independent game testing facility using standards adopted by numerous major gaming jurisdictions around the world. We think that using the technical standards developed by the independent test facility is a reasonable choice for several reasons:

- The organization is a recognized leader in the testing of gaming equipment and provides game testing services for many other gaming jurisdictions both in Canada and elsewhere.
- The standards specifically address game fairness.
- The test facility has a policy to update its standards as often as possible to reflect changes in technology, testing methods and cheating methods. With technology changing frequently, it is a major challenge for individual jurisdictions to incorporate new technology quickly enough into existing standards.

Does government adequately ensure that casino gaming equipment operates fairly?

Mitigating gaming equipment risks

Technical integrity standards address the following key risks:

Hardware

- Machine enables illegal access to cash or critical operating components.
- Game results are affected by outside influences (e.g., electro interference, temperature, humidity, power surges or dips, power supply access).
- Machine loses critical memory needed to identify and correct malfunctions.
- Machine fails to generate error conditions when operating improperly or when there is an attempt to interfere with the machine's proper operation.
- Video monitors/touch screens operate inaccurately.
- Machine fails to process patron credits accurately.
- Machine with bill acceptor:
 - lacks security needed to prevent illegal access to cash;
 - fails to identify and prevent the use of counterfeit currency and other currency cheating methods;
 - operates inaccurately or is affected by outside influences (e.g., electro interference, temperature, humidity, power surges or dips, power supply access);
 - fails to maintain sufficient electronic metering information; and
 - is incapable of detecting and displaying error conditions.

Software

- Critical player information, such as rules of the game and the awards that will be paid, are not clearly and accurately displayed.
- All combinations and outcomes that produce wins and losses are not available to the player for random selection.
- Random selection process is influenced by associated equipment communicating with the gaming device.
- Random number generator that determines game outcomes fails to operate randomly.
- Prescribed payout percentages are not met.
- Extra credits wagered during bonus games are processed inaccurately.
- Player-related electronic metering within the machine operates inaccurately.
- Game-play data prior to interruption (e.g., power failure) is not properly recovered.
- Alarms to detect access to machine doors (e.g., external doors, drop box door, bill acceptor door) do not function properly.
- Data for the last five games played is not retrievable.
- Independent integrity check of the device's software from an outside source to identify and validate the program does not function properly.

Source: Prepared by the Office of the Auditor General of British Columbia based on Standards for Gaming Devices in Casinos developed by Gaming Laboratories International

Does government adequately ensure that casino gaming equipment operates fairly?

That said, we think that, given the size and growth of the gaming industry in the province over recent years, GPEB and BCLC should formulate standards specific to British Columbia to ensure that all their requirements are met. GPEB informed us that it is taking this step already, along with BCLC and an independent game testing facility.

We recommend that GPEB ensure that technical standards specific to British Columbia are developed and approved to govern the functioning of gaming equipment in provincial casinos.

Gaming equipment is adequately tested against approved technical standards before use in casinos

The Gaming Control Act requires that GPEB approve all casino equipment before it is used on the gaming floor in any of British Columbia's casinos. We found that GPEB's ability to meet its responsibility is made easier by the fact that all gaming equipment is owned and maintained by BCLC. This means that GPEB deals with only one organization—BCLC—rather than each casino service provider, and this makes it possible to have only one clearly defined gaming equipment approval process.

If BCLC wishes to employ a new piece of gaming equipment (e.g., a new slot machine model), it asks the independent test facility to provide test results for that piece of gaming equipment against the technical integrity standards currently accepted by British Columbia. At the same time that the independent test facility conducts its tests, BCLC's Casino Quality Assurance Department conducts tests on the same equipment to ensure that it communicates properly with BCLC's central monitoring and control systems. If the independent tests and BCLC's tests are positive, then the results are sent to GPEB. Staff at the branch review the results of both BCLC and the independent test facility and, if satisfied, issue a Certificate of Technical Integrity, clearing the way for the equipment's use in the province's casinos.

We reviewed a sample of equipment certification requests and found that the process was working well. All requests included test results from both BCLC and the independent test facility. We also found that staff of GPEB and BCLC were well acquainted with the process and reported no concerns.

Does government adequately ensure that casino gaming equipment operates fairly?

Nevertheless, we think that there's room for strengthening the process. In making its decision to certify or not, GPEB relies on the work done by the independent test facility and on BCLC's Casino Quality Assurance Department. GPEB told us that it places reliance on the test reports of the independent test facility for several reasons:

- The facility has been registered as an approved supplier of gaming services by GPEB Corporate Registration Division;
- The facility has a good reputation in the industry and is registered with many jurisdictions; and
- GPEB has no reason to believe that the facility's work is unreliable —the branch regularly communicates with other jurisdictions (some that do their own testing and some that rely on this facility) and has not been made aware of any significant issues.

In our view, the above reasons provide plausible but insufficient evidence to support GPEB's relying on the independent test facility, especially in view of the importance of the work to gaming integrity. GPEB's investigations are aimed primarily at ensuring that the organization under review and its key personnel meet high standards of honesty, but do not include a review of the standards to which the testing companies perform their tests nor an assessment of the qualifications and competence of its staff. Also, relying on the experience of other jurisdictions provides only limited assurance because they do not necessarily use the same equipment as British Columbia.

We acknowledge that British Columbia has had no reported instances calling into question the work of the independent test facility, but we believe that GPEB should have better evidence to support its reliance. Possible options for gathering that evidence include:

- determining if the test facility has been certified by a reputable agency under international standards (e.g., ISO) and reviewing the certification report;
- contacting other jurisdictions to determine if they have directly assessed the test facility, and if so, performing sufficient due diligence to warrant relying on the work of that jurisdiction; and

Does government adequately ensure that casino gaming equipment operates fairly?

- engaging an external consultant to undertake a separate review of the procedures used by the testing facilities and of the professional qualifications and competence of its staff.

We recommend that GPEB obtain additional evidence to support its reliance on independent test facilities to evaluate BCLC gaming equipment.

As we noted above, GPEB relies on BCLC's Casino Quality Assurance Department tests of gaming equipment in the certification process. We found that although GPEB places reliance in BCLC's tests, it has not formally reviewed the standards to which BCLC carries out its tests nor has it assessed the qualifications and competence of the staff doing the work.

We found that the primary purpose of the Casino Quality Assurance Department work is checking that the gaming equipment communicates properly with the corporation's accounting and control systems. We regard the work as an important step in ensuring gaming integrity in casinos. The Quality Assurance Department group has developed its own set of standard tests that reflect the unique communication requirements of its casino and accounting systems; and it keeps records of its detailed testing procedures for future reference to ensure that it is being consistent in the checks it performs. We believe that the department's tests adequately cover key aspects of gaming integrity, ensuring, for example, that:

- slot machines can only be enabled by BCLC headquarters after being disabled to perform maintenance;
- slot machines properly cash out patron credits when shut down;
- slot machines allow BCLC headquarters to perform daily electronic checking that is designed to ensure that the game contains the correct computer game chip;
- all jackpots and fills (the restocking of a machine with money) are properly recorded on the slot machine's internal meters, that the information reports properly through BCLC's casino and accounting systems, and that the cashier is properly notified;

Does government adequately ensure that casino gaming equipment operates fairly?

- slot machines correctly report different currency bills and coins played and won to BCLC's casino and accounting systems;
- slot machine alarms built into each machine (e.g., door open, power on/off, chip removed) properly operate and communicate through BCLC's casino and accounting systems so that action can be taken;
- slot machines properly capture and report through BCLC's casino and accounting systems the internal meter readings before being reset to zero (e.g., when a machine is being serviced);
- slot machines correctly report meter readings each day through BCLC's casino and accounting systems; and
- slot machines, that are linked with other machines to increase the potential jackpot, correctly calculate the jackpot amount and report the information through BCLC's casino and accounting systems.

The Quality Assurance Department group informed us that, in a few instances, they have contacted a game manufacturer to resolve communication difficulties between the games and BCLC's casino and accounting systems, but normally the games perform properly when first checked. We believe that the group has the independence needed to perform their work and ensure that the games function properly before being made operational.

We recommend that GPEB periodically review the work of the BCLC Casino Quality Assurance group to support the branch's reliance on gaming equipment tests carried out by the group.



Does government adequately ensure that casino gaming activities are conducted honestly?

The Gaming Control Act makes BCLC responsible for conducting and managing casino gaming in the province. In meeting its mandate under the Gaming Control Act, BCLC contracts with independent commercial third parties for the provision of day-to-day operational services under BCLC's direction using gaming equipment and systems owned by BCLC. BCLC's reliance on third parties for this service increases the risk that a service provider might be tempted to conduct gaming activities dishonestly (i.e., unfairly or unlawfully) to increase its share of gaming revenue.

To manage this risk, we therefore expected the government to have implemented:

- adequate policies and procedures to help ensure that casino gaming activities are conducted honestly; and
- adequate mechanisms to ensure that those policies and procedures are consistently followed.

We concluded that government is adequately ensuring that gaming activities are conducted honestly. Sound policies and procedures governing key casino operations are in place to ensure the honest conduct of gaming activities. And strong mechanisms exist to ensure that the policies and procedures are consistently followed including BCLC supervisory staff stationed in casinos, BCLC ongoing casino audits, surveillance operations, GPEB annual audits of each casino and GPEB investigation of incidents posing a threat to gaming integrity.

To improve, we think that BCLC should ensure that:

- surveillance personnel meet minimum standards of proficiency, as demonstrated through a certification program;
- casinos have approved surveillance system component plans in place;
- its website information pertaining to slot machines and the odds of winning is updated; and
- its Board of Directors is informed regularly of the results of its Operational Gaming Audit Program focusing on casinos.

Does government adequately ensure that casino gaming activities are conducted honestly?

We also think that GPEB should:

- formally evaluate key BCLC systems that the branch's Audit and Compliance group relies upon when doing its annual casino audits;
- work to produce more timely audit reports; and
- report annually to the Legislative Assembly on the state of gaming integrity in provincial casinos.

Also, government should confirm that the highest priority of the General Manager of GPEB is ensuring the integrity of gaming in the province.

Approved policies and procedures have been implemented governing key casino operations to help ensure honest gaming activities

The provincial government's policies and procedures governing the conduct of gaming in casinos include BCLC casino standards, policies and procedures; the Gaming Control Act and Regulation; and GPEB standards, policies and directives.

Together these policies and procedures guide day-to-day casino gaming operations and aim to assure the general public and the provincial government that casino gaming is being conducted in an honest manner. We found them to adequately address those facets of casino operations critical to ensuring honest gaming activities. Key aspects covered by the policies and procedures are summarized below.

Restricted access

Specific areas of the casino must be set aside to provide security over casino assets such as the card room, cash cage, chip room, count room and a vault. Other sensitive areas include the surveillance room and gaming pits. Policies and procedures require that only on-duty authorized gaming workers be permitted access to restricted casino areas. BCLC representatives generally have unlimited access to these areas when accompanied by a registered gaming employee. Policies and procedures also address key issues such as chip inventory, vault reconciliation, disbursements, bank deposits, daily reporting, and data entry into BCLC accounting and control systems. All of these requirements help to prevent unauthorized access to key areas that could lead to assets being tampered with or stolen.

Does government adequately ensure that casino gaming activities are conducted honestly?

Slot machines

Extensive policies and procedures cover slot machines. The BCLC Casino Site Operations Manager or Gaming Systems Coordinator in each casino is responsible for performing repairs and preventative maintenance on slot machines. Other critical activities covered include opening and closing machines, filling slots with cash, removing cash, processing jackpots, servicing jammed machines and correcting malfunctions. The aim is to prevent unauthorized access to, and alteration of, gaming equipment that could lead to dishonest gaming activities and the loss of cash.

Table games

As for slot machines, extensive policies and procedures cover table games, including opening and closing procedures, chip counts and fills, player buy-ins, cash removal, play procedures and data entry into BCLC accounting and control systems. Policies and procedures also cover minimum dimensions of gaming tables and pit areas. All of this helps to ensure honest table game activities and the safe and secure handling of casino assets.

Casino staffing requirements

The BCLC Director of Casino Operations has discretion in determining whether a casino is sufficiently staffed for all positions. This helps to ensure that there is adequate staffing to properly monitor gaming activities for fairness. Also, policies and procedures restrict the number of family members working in the same casino and prohibit gaming workers playing at any gaming facility owned or operated by their employer. This helps to prevent gaming workers from colluding with fellow workers to conduct dishonest gaming activities or steal assets.

Gaming worker identification

All gaming workers must be registered by GPEB and must wear their GPEB identification tag when on duty. Policies and procedures also clearly address lost or stolen GPEB tags. Service providers must give the BCLC Manager and the Casino Security and Surveillance group access to a list of all current employees' GPEB tag numbers and expiry dates. This helps to ensure that only gaming workers who have been properly checked and registered by GPEB Registrations group are providing gaming services.

Does government adequately ensure that casino gaming activities are conducted honestly?

Gaming equipment

Policies and procedures require that BCLC can be the only owner and supplier of casino gaming equipment used in the province's gaming facilities. As we noted in the previous section of this report, gaming equipment purchasing and testing are closely regulated. This helps to ensure that all gaming equipment is supplied by approved equipment suppliers and has been independently tested and certified by GPEB.

Surveillance requirements

The surveillance function is often characterized as the casino's "last line of defense" against errors and irregularities. When other controls have failed to prevent or detect a misdeed, surveillance monitoring and tapes can often provide the evidence needed to isolate the problem or fix responsibility with a particular individual. As a result, BCLC has placed significant emphasis on the surveillance function.

The BCLC Manager of the Casino Security and Surveillance group:

- determines the surveillance standards, policies and procedures to be followed by all service providers and surveillance personnel;
- has authority to determine whether a casino is sufficiently staffed with surveillance and security personnel; and
- may require a service provider to include additional areas to be monitored by the surveillance system, to ensure gaming integrity.

The Surveillance Manager must not report directly to any other on-site manager, including the Casino Manager and must act independently, without interference from any other areas. The service provider must submit to the BCLC Manager, Casino Security and Surveillance for approval, a written Surveillance System Component Plan (e.g., equipment type and location, maintenance and replacement plan) and a Surveillance Personnel List. BCLC will only approve the plan after it has conducted a visual audit under conditions of a simulated gaming day.

Does government adequately ensure that casino gaming activities are conducted honestly?

The surveillance cameras must monitor, on an ongoing basis, all key parts of the casino, including:

- count room
- cash cage
- card and chip banks
- table games
- slot machines
- high limit rooms
- entrances and exits
- surveillance room
- key cabinets

The above requirements help to ensure that each casino has an effective surveillance function that is a strong deterrent to dishonest activities, yet—when such activities do occur—is also capable of detecting breaches in all aspects of casino operations.

Money laundering

All casinos in British Columbia are required, under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations, to report to BCLC's Security and Surveillance group any information they obtain about a patron who engages in suspicious transactions. A significant transaction might be one in which a customer:

- exchanges foreign currency equivalent to \$3,000 or more in a single operating day;
- buys in for \$10,000 or more in a single operating day;
- cashes out for \$10,000 or more in a single operating day;
- wins a jackpot of \$10,000 or more in a single operating day; and
- buys in with a large amount of small denomination bills or buys in for \$3,000 or more and, after minimal play, cashes out.

Casino gaming service providers are required to collect personal information, including photo identification, from the patron involved in a large cash transaction. All such transactions must be submitted to the federal government, which maintains a database of the transactions for potential use in subsequent investigations.

The above requirements help to ensure that money laundering activities do not take place in casinos.

Does government adequately ensure that casino gaming activities are conducted honestly?



Courtesy of Gaming Policy and Enforcement Branch

A variety of table games (e.g., blackjack, poker, roulette, craps) are played in B.C. casinos

Counterfeit currency

Service providers are responsible for detecting and reporting incidents of known or suspected counterfeiting. They must ensure that all casino employees who handle cash are trained in counterfeit bill detection, and ensure that all casino areas receiving cash assets from the public (including the cash cage and count room and slot machines) are equipped with counterfeit detection devices. All counterfeit cash must be secured in the vault room and verified daily until it is transferred to the police or BCLC Casino Security Investigator and signed for. Documentation of the incident must be forwarded to BCLC's on-site representative. The policies and procedures also require that the service provider video record the patron who presented the counterfeit bills and monitor and record all subsequent activities relating to the patron. Surveillance recordings must be kept for future investigation.

The above requirements help to ensure that counterfeit currency is not used in casinos where it can result in a loss of gaming revenue.

Does government adequately ensure that casino gaming activities are conducted honestly?

Occurrence and incident reporting

Service providers must submit occurrence reports to BCCLC's on-site representative and BCCLC's Manager of Casino Security detailing any event where gaming integrity was compromised. Such incidents include:

- breaches of policies and procedures;
- theft, cheating at play, or other criminal code violations; and
- variances of cash, chips or anything of monetary value of \$50 or more.

The service provider also has a legal obligation to prepare and send a "Section 86 Gaming Control Act Report" to GPEB's Investigations Division immediately after any of the following real or suspected activities or incidents occur that could affect the integrity of gaming at a casino:

- thefts;
- all forms of fraud, including cheating at play and the passing of counterfeit currency;
- money laundering;
- loan sharking;
- robbery;
- assault;
- threats against, or intimidation of, gaming employees;
- unauthorized gaming activities;
- persons prohibited for known or suspected criminal activity;
- unregistered gaming workers;
- unregistered gaming service providers; and
- offences occurring outside a legal gaming venue if it involves a registered gaming service provider or registered gaming worker.

The above requirements help to ensure that unusual activities that might impact gaming integrity are reported, investigated and prosecuted, when appropriate.

Player fairness issues

Player fairness encompasses issues such as the composition of gaming services in a casino and communication of game rules and the odds of winning. To help ensure player fairness, the BCCLC is actively involved in determining the mix, type, variety and

Does government adequately ensure that casino gaming activities are conducted honestly?

location of table games and slot machines offered for play in each casino. It also determines the allowable rules of play for table games and includes them, along with dispute resolution procedures, in the BCLC Policies and Procedures manual to direct service providers.

BCLC also requires, in accordance with GPEB's Advertising and Marketing Standards for the B.C. Gambling Industry, that service providers have brochures or signage posted, outlining the rules for all table games offered at the particular location. For slot machines, the rules of games are displayed in the artwork or in game information menus that can be accessed by players.

We found that BCLC also has, on its website, a slot machine game profile. The profile describes the odds to win any prize and states the top prize for each of the slot machines deployed in British Columbia casinos. That information, however, was last updated in February 2003. BCLC told us it is currently redesigning this communication feature. BCLC also noted that information on the odds of winning at various table games is not provided because that information is available in books and over the internet. Also, the odds of winning at table games varies depending upon player decisions during play.

We recommend that BCLC update the public information it provides on its website pertaining to the odds of winning at slot machines.

The more than 700 pages of policies and procedures compiled by BCLC (with input from service providers) are highly prescriptive. We think this approach is both appropriate to the casino gaming industry in British Columbia and consistent with that in other jurisdictions with a large casino industry. A key benefit of detailed policies and procedures is that they assist supervisors and surveillance staff members in readily detecting gaming worker activities that are outside the norm. Such instances need to be investigated immediately because they potentially indicate dishonest activities.

Given their importance in helping to keep gaming activities honest, BCLC policies and procedures need to be kept up-to-date. Gaming service providers we interviewed told us that they have, in the past, had some concerns that the policies and procedures were not always current or communicated to them in a timely

Does government adequately ensure that casino gaming activities are conducted honestly?

manner. However, those issues have since dissipated and service providers now feel that BCLC is doing an adequate job in this area.

Adequate mechanisms help to ensure that government's policies and procedures are consistently followed

As described above, having adequate policies and procedures to guide service providers and BCLC casino staff is important, but steps must be taken to ensure that they are consistently followed. The government has put several mechanisms in place to help ensure compliance with policies and procedures. Among those mechanisms are:

- BCLC staff stationed at casinos,
- BCLC's ongoing compliance audits,
- the casino surveillance function,
- GPEB's annual casino audits, and
- GPEB's investigations.

BCLC casino staff

BCLC has representatives—Casino Site Operations Managers (CSOMs) and Gaming Systems Coordinators—stationed at casinos during operating hours. They represent BCLC in the management and conduct of all casino gaming activities and are responsible for:

- working in conjunction with the service provider to ensure that the casino provides gaming entertainment to the public in a socially responsible manner;
- monitoring all activities of the service provider for compliance with BCLC's policies and procedures;
- performing specified audit procedures and providing daily documentation and data on slot performance and anomalies;
- reporting exceptions or issues to BCLC management;
- performing repairs and preventative maintenance on slot machines and associated gaming equipment within a given casino;
- providing training and support to the casino service provider on the proper methods and techniques of slot machine handling and operation; and
- maintaining and upholding BCLC's customer service standards.

Does government adequately ensure that casino gaming activities are conducted honestly?

We found that BCLC's on-site representatives clearly understood their roles and responsibilities and were able to readily demonstrate the key standardized checks they must perform and the corrective actions they must take each day to ensure that policies and procedures are followed. Overall, we concluded that they are an effective mechanism for helping to ensure that service providers comply with policies and procedures aimed at ensuring gaming activities are conducted honestly.

BCLC ongoing compliance audits

A significant responsibility of BCLC's Operational Gaming Audit group is to conduct periodic assessments of the state of compliance with BCLC's policies and procedures in casinos. We found that the group was doing an effective job in meeting its responsibilities. Factors we considered in making this assessment are discussed below:

Competent staff—Staff are a mix of qualified accountants, auditors and people with training and experience in the gaming industry.

Independent reporting relationship—The group is responsible to BCLC's, Director of Corporate Security and Surveillance who is independent of casino operations.

Adequate audit programs—BCLC audit programs cover all of the key BCLC policies and procedures discussed earlier in this report.

Adequate frequency of audits—Over the course of a year, BCLC auditors carry out a series of quarterly, semi-annual, annual and random audits in every casino. During 2004, 925 audits were conducted in casinos, focusing on the key BCLC policy and procedure requirements discussed earlier in this report.

Adequate reporting of audit results—A copy of each audit report is provided to:

- BCLC's Director, Corporate Security and Surveillance
- BCLC's Casino Site Operations Manager at the audited location
- Casino Manager at the audited location
- corporate headquarters of the service provider.

Does government adequately ensure that casino gaming activities are conducted honestly?



Courtesy of Gaming Policy and Enforcement Branch

A typical roulette table game in a B.C. casino

Adequate monitoring of audit findings—BCLC reviews the audit results with the service provider and corrective actions are formulated. BCLC's Audit group monitors to ensure that the corrective actions are taken.

Overall audit results—Each audit generally finds areas of non-compliance by the service provider, but the trend has been towards increasingly better results. Notwithstanding the specific instances of non-compliance, we believe that, overall, the service providers are compliant with prescribed policies and procedures.

One area we think should be improved, however, is communication of the overall results of the casino audit program to BCLC's Board of Directors. As noted above, we believe that the Operational Gaming Audit programs carried out in casinos are focusing on the key operational activities that are critical to ensuring honest gaming activities. That information, we think, should be regularly presented to BCLC's Board of Directors. In our opinion, the board would benefit not only from being formally apprised of the overall results of the audits on a regular basis, but also from receiving an assessment of each casino's state of compliance with prescribed policies and procedures.

Does government adequately ensure that casino gaming activities are conducted honestly?

We recommend that BCLC report regularly to its Board of Directors on the results of the Operational Gaming Audit program and each casino's state of compliance with prescribed policies and procedures.

Casino surveillance

An effective casino surveillance department helps to ensure honest gaming by detecting, documenting and reporting:

- violations of policies, procedures and regulatory requirements;
- deviations from systems of internal control; and
- cheating at play and other criminal or illegal activity.

In British Columbia, because casino surveillance departments are staffed by service provider employees, this increases the risk that performance may not meet government's expectations. For example, a service provider may place less importance on the function than government desires, interfere with the department's operations, or suppress the reporting of breaches of policies and procedures to BCLC and GPEB.

BCLC recognizes these risks and is, we believe, adequately managing them through a number of actions:

- It has set the minimum standards for key aspects of the surveillance function.
- It has set the policies and procedures for the surveillance function.
- It conducts regular audits of the surveillance function.

We found that the minimum standards, policies and procedures established by BCLC for the surveillance function adequately address those aspects that are critical to ensuring honest gaming activities, for example:

- Surveillance systems must meet strict requirements and equipment capabilities.
- Camera coverage exists throughout a casino.
- Casino alarms (e.g., for slot machine access and jackpots) must be monitored.
- Surveillance equipment is regularly tested and maintained.
- Surveillance logs, forms and reports must be maintained.

Does government adequately ensure that casino gaming activities are conducted honestly?

- Suspicious incidents taking place in the casino must be reported.
- Access to the surveillance area is restricted.
- Surveillance personnel are independent of other casino staff.
- Surveillance staff must be trained and certified.

We noted, however, that while policies and procedures require that surveillance staff be certified under the BCLC Surveillance Certification Program, the program has not yet been fully implemented. BCLC has been working with the Justice Institute to develop the program, but work is still underway to determine how it can best be delivered.

We recommend that BCLC implement the Surveillance Certification Program at the earliest possible date.

We also noted that seven casinos did not yet have current Surveillance System Component Plans (described earlier in this report) approved by BCLC, as required by the policies and procedures. BCLC is working with those casinos to ensure that approved plans are in place as soon as possible.

We recommend that BCLC ensure that all casinos have approved Surveillance System Component Plans in place.

GPEB's annual casino audits

GPEB is mandated to ensure the overall integrity of gaming in British Columbia. To help meet its responsibilities, the branch relies upon BCLC's casino audits and, to ensure that reliance is warranted, conducts its own audit of each casino once per year. GPEB takes the position that, if its audit results are positive, then it is reasonable to conclude that BCLC has been effective in conducting and managing casino gaming with integrity.

We considered a number of criteria to assess the quality and reliability of GPEB's audit work. Those criteria and our observations are summarized below.

Competent staff—GPEB's Audit and Compliance group has competent staff that includes professional auditors and individuals with several years of experience doing casino compliance audits.

Independent reporting relationship—The group is responsible to the General Manager of GPEB who is independent of both BCLC and casino operations.

Does government adequately ensure that casino gaming activities are conducted honestly?

Adequate audit programs—GPEB audit programs cover the key policy and procedure requirements designed to ensure gaming integrity (as discussed previously). Each GPEB audit involves:

- a review of service provider records of equipment, suppliers and gaming workers for comparison against GPEB registration records;
- a review of incident and occurrence reporting for the prior year; and
- a review of operations for a full gaming cycle (i.e., a one-year period), including:
 - vault (cash cage, count room, and cash and chip safekeeping);
 - table games (opening, closing and table administration);
 - slot operations (procedures and gaming asset controls);
 - surveillance (administration, procedures and equipment); and
 - security (procedures, premises and gaming asset controls).

Adequate frequency of audits—GPEB conducts a full audit of each casino once a year. We think this frequency is reasonable. At the time of our work, GPEB had carried out its annual audits of all casinos.

Adequate reporting of audit results—Audit results are reported to BCLC's Director of Corporate Security for review and follow-up with the service provider.

Adequate monitoring of audit findings—A standard audit procedure is to review the status of exceptions identified in the previous year's GPEB audit. We found it evident that BCLC and service providers worked diligently to deal with the deficiencies reported by GPEB.

We also found that GPEB's audit reports normally include several findings of non-compliance with policies and procedures, but none of these have been considered material deviations. Overall, GPEB concludes that casinos are compliant.

At the time of our work, seven audit reports had been finalized and 12 were drafted and being reviewed by BCLC. Draft reports (usually about five pages long) are generally dated about three months after completion of the audit fieldwork. As a result,

Does government adequately ensure that casino gaming activities are conducted honestly?

we think there is scope to improve the timely issuance of GPEB's audit reports to ensure that gaming integrity deficiencies are dealt with promptly.

We recommend that GPEB produce more timely audit reports.

In the course of doing its audit work, GPEB's Audit and Compliance group relies on BCLC systems used in casinos such as the Casino Management and Casinolink systems, but it does not directly assess whether such reliance is warranted. We think that obtaining such evidence directly would strengthen GPEB's audit process.

We recommend that GPEB's Audit and Compliance group obtain direct evidence to support its reliance on BCLC systems.

Overall, we think that the work of the GPEB Audit and Compliance group is both an efficient and reasonable approach to help the branch meet its mandate. GPEB audits provide independent evidence that the policies and procedures that are designed to ensure gaming integrity are actually in effect and working.

GPEB investigations

Given the size of the casino industry in British Columbia it is reasonable to expect that some activities will pose a threat to gaming integrity. As a result, the government needs to ensure that when such activities occur, there is an effective mechanism in place to investigate and take appropriate actions. In British Columbia, this responsibility resides with the GPEB Investigations group.

We found that the GPEB Investigations group was doing an effective job in meeting its responsibilities. Factors we considered in making our assessment are discussed below.

Clear reporting requirements—As we noted earlier, BCLC policies and procedures require that incidents having a potential impact on gaming integrity be reported to GPEB Investigations (Section 86 reports). Both BCLC and GPEB audit processes indicate that service providers are meeting this requirement.

Does government adequately ensure that casino gaming activities are conducted honestly?

Competent staff—The Director of Investigations has been able to recruit a highly trained staff. Many have police backgrounds and some have specialty training (e.g., serious crime investigation, forensic accounting, homicide, polygraph).

Adequate authority—The group has the powers needed to take the appropriate actions. GPEB appoints investigators under section 81 of the Gaming Control Act. GPEB Investigations Division Investigators are also appointed as Special Provincial Constables under Section 9 of the Police Act. This gives the Investigations Division the authority to investigate Gaming Control Act offenses and some offenses under the Criminal Code.

Independence—The Director, Investigations reports to GPEB's General Manager who is independent of casino activities. The General Manager has the power under the Gaming Control Act to impose fines and penalties for various infractions of the Act. For example, registration and licenses can be withdrawn and monetary fines imposed. In addition, the Act creates offences under the Offence Act that, upon conviction, could result in penalties up to \$200,000, 12 months in prison or both.

Under the Gaming Control Act, the responsibility of the General Manager, and the Branch, is to ensure the integrity of gaming in the province through regulatory and enforcement activities. We note that the General Manager also has non-statutory responsibilities that include advising the government on broad policy, standards and regulatory issues. Some matters on which advice is given might affect the achievement of the government's economic and fiscal policy priorities for gaming. In our view, it is possible that, in some circumstances, it might be difficult for the General Manager to take strong enforcement actions having potentially negative consequences on government's economic and fiscal priorities for gaming.

We believe that good management practices call for a separation of incompatible functions. This principle is plainly demonstrated in government's decision to separate the responsibility for conducting and managing gaming (British Columbia Lottery Corporation's mandate) from the responsibility for regulating gaming (Gaming Policy and Enforcement Branch's mandate).

Does government adequately ensure that casino gaming activities are conducted honestly?

We recommend that the integrity of gaming should be confirmed as the primary responsibility of GPEB's General Manager.

Investigations results—GPEB Investigations group reported that it opened a total of 2,649 investigation files during 2004 involving activities such as:

- money laundering,
- loan sharking,
- theft,
- counterfeit currency, and
- post registration investigations.

All files are investigated and a course of action is determined. Some files require little additional work by the Investigations group; others add to a body of evidence collected by the group (“intelligence” information) that may help in a future investigation. A limited number of files involve extensive work that leads to significant actions (e.g., criminal charges, barring individuals from entering casinos, sanctions being levied by GPEB against gaming workers or service providers).

The Investigations unit is also in the process of working to establish a special RCMP task force in British Columbia. The primary mandate of the RCMP Integrated Illegal Gaming Enforcement Team (IIGET) is enforcement of laws pertaining to illegal gaming activities. In accordance with the present mandate of IIGET, it will only investigate unlawful activity in casinos in isolated incidents when requested by police of the jurisdiction.

GPEB reporting to the Legislative Assembly on the state of gaming integrity is inadequate

The primary responsibility of GPEB is to ensure the overall integrity of gaming in British Columbia. We found, however, that the annual report of the Ministry of Public Safety and Solicitor General provides no accountability information on the state of gaming integrity. Given the growth of casino gaming in the

Does government adequately ensure that casino gaming activities are conducted honestly?

province and the significant provincial revenue it generates, we think that the Legislative Assembly and public would benefit by receiving regular information on:

- the risks to gaming integrity in the province and the activities undertaken to address those risks; and
- the measures used by GPEB to assess the overall state of gaming integrity in British Columbia and its current assessment.

We recommend that GPEB report annually to the Legislative Assembly on the state of gaming integrity in provincial casinos.



Does government adequately ensure that it receives its correct share of casino gaming revenue?

In most businesses there are risks associated with unrecorded sales and cash theft. To help mitigate these risks, successful businesses keep written evidence of each item sold. Periodic reconciliation between sales and inventory records then allows them to detect and control unrecorded sales. Cash theft in many businesses is also managed through the use of cash registers and locking devices to limit unauthorized access.

Casinos present unique risks because, unlike most businesses, they involve high volumes of cash and it is impractical to record each bet made. As a result, the casino industry relies on accounting in aggregate (i.e., the revenue generated by a slot machine or gaming table is accumulated for a period of time such as an entire day and then that total amount is recorded in the accounting records). The accuracy of this form of accounting relies heavily on access, documentation and personnel controls to prevent and detect errors and irregularities.

Access controls in the casino industry involve physical safeguards such as locking devices to prevent unauthorized access to cash, game chips and business records. Also, sensitive areas of a casino are typically under continuous camera monitoring by surveillance staff. Documentation controls involve maintaining systems that allow gaming activities to be documented, reviewed, authorized and verified as required. These controls involve having casino employees document work they have performed in order to verify the casino's financial activity. Personnel controls involve a chain of command for the approval of, and accountability for, transactions. Personnel controls include gaming staff supervision, secondary review and approval of transactions, and segregation of job duties so that gaming activity recording, custody, and accountability for casino assets are performed independently. The casino industry normally incorporates combinations of access, documentation and personnel controls to minimize revenue and cash risks.

To ensure that government receives its correct share of casino revenue, we expected to find access, documentation and personnel controls implemented to ensure that:

- all casino gaming activities are recorded;
- cash is safeguarded at all times;

Does government adequately ensure that it receives its correct share of casino gaming revenue?

- gaming revenue is accurately recorded in BCLC's accounting records; and
- government's share of casino revenue is collected.

We concluded that government is adequately ensuring that it receives its correct share of casino revenue. Controls have been implemented to ensure that gaming activities are recorded, cash is safeguarded at all times, gaming revenue is accurately recorded in BCLC's accounting records and government's share of casino revenue is collected.

BCLC adequately ensures that casino gaming activities are recorded

We found that BCLC has implemented a number of controls to minimize the risk of unrecorded gaming activities. The controls used are described below.

Recording table game activities

Typically, the greatest risk of unrecorded revenue in casinos is with table games because they involve substantial wagers and considerable human interaction—for example, dealers handle gaming chips and cash, patrons buy chips at the gaming tables, the tables need to be restocked with chips, and the accumulated cash needs to be removed for counting and depositing. All of these activities present opportunities for errors to be made or for a dishonest employee to underestimate revenue to conceal cash theft.

To mitigate the risks inherent in table games, we found that BCLC installed the Casino Management System (CMS) in all casinos during 2004. CMS has an improved ability to document table activities. Previously, these activities were documented manually by a table game supervisor and used subsequently to help account for table game revenue.

CMS includes a computer touch screen at each gaming table, on which data is entered to keep track of the opening and closing balance of chips at a table, chip requests from the vault, player headcount and cash deposited into the cash ("drop) box. This provides BCLC and casino management with direct documentation about table game activities in advance of the drop box being counted. The result is that any errors or irregularities can be detected in a timely manner.

Does government adequately ensure that it receives its correct share of casino gaming revenue?

CMS also employs personnel controls so that, for example, a supervisor cannot enter data that should be entered by a dealer and vice versa. Since some staff fulfill more than one job (e.g., dealer and cash counter), the system requires them to decide, at the start of a shift, the job they are doing that day. They are then prevented from changing that information for 24 hours. This control prevents an employee from acting, for example, as a dealer and then being able to count the cash—a situation that would provide a dishonest employee with the opportunity to understate revenue to conceal cash theft. Personnel controls are also used extensively to monitor table game activities (including patron wagers, chip purchases, and winner payouts) to ensure that errors and irregularities do not occur. Other examples of personnel controls include dual verification of the opening and closing balances of chips at a table, chip requests from the vault and acceptance of the chips when they are delivered to the table.

As well, CMS also uses access controls. For example, a table game supervisor has to sign into the system to open a table game and then a dealer must sign in before play can start. Other examples of access controls at table games include keeping playing chips in locked chip trays with key access restricted to authorized staff. And table games include drop boxes that are used to store cash received from patrons until it is removed, counted and recorded in the financial records.

Recording slot machine activities

A key documentation control used to ensure that slot machine activities are completely and accurately recorded is that all machines are equipped with internal meters that aggregate the cash deposited by patrons, patron winnings, and the amount that should be in the machine's drop box. All slot machines in the province are electronically linked to BCLC's headquarters in Kamloops through a system called Casinolink. This allows BCLC to capture meter readings electronically from all slot machines so that it can calculate, in advance, the revenue that should be reported by the service provider each day.

Another important documentation control related to slot machines is that a slot door opening register must be kept inside each slot machine. Anyone opening any slot door must record the event on the register. The register provides information to prove compliance with established policies and procedures.

Does government adequately ensure that it receives its correct share of casino gaming revenue?

Personnel controls related to slot machines include supervisory staff who continuously observe activities. Also, only authorized service provider personnel, BCLC Gaming Systems Coordinators, BCLC Casino Site Operations Managers and BCLC Operational Gaming Auditors are authorized to open a slot machine door. Another personnel control feature is that any service provider or BCLC employee who needs to put his or her hands inside a machine must be accompanied by a second registered employee. These controls help to ensure that a dishonest employee is not given the opportunity to alter the machines in any way that might affect the recording of gaming activities.

A variety of access controls protect the integrity of the meter information. For example, the meters are in a locked part of the machine that is accessible only by BCLC staff using a key that is kept under locked storage in a secure area of the casino. All slot machine activities and key storage are under continuous monitoring by surveillance staff. As with table games, all slot machines include drop boxes that are used to store cash received from patrons until it is removed, counted and recorded in the financial records.

BCLC adequately ensures that cash is processed securely and accurately

Throughout each day, the cash accumulated at gaming tables and slot machines must be removed and transported to the casino count room where it is counted, recorded and prepared for deposit. All of these activities present opportunities for errors to be made or for a dishonest employee to steal cash. A variety of controls mitigate these risks.

Removing cash from gaming equipment

An important access control related to cash processing is that every table game and slot machine has a locked drop box that is used to store cash until it is removed. To avoid theft, drop boxes are secured with locks and the keys are kept under strict control. Gaming workers who remove drop boxes from gaming equipment (the “drop team”) are required to wear coveralls without pockets to minimize the chance of theft.

Personnel controls related to cash drops require that access to drop boxes be limited to only authorized service provider staff

Does government adequately ensure that it receives its correct share of casino gaming revenue?

who are independent of gaming activities, and the accounting department that records the cash receipts. Cash drops are carried out by a drop team consisting of a minimum of two staff members, one a supervisor and the other a security officer. These controls help to maintain an appropriate segregation of job functions as well as secondary review of drop box activities. There are also strict rules limiting access by unauthorized individuals to areas of the casino while cash drops are underway. All cash drops are monitored by the surveillance staff.

Documentation controls related to cash processing include the requirement for cash drops to be performed on a scheduled basis as approved by BCLC. Also, there must be a plan detailing the order in which the machines will be emptied, and a copy of the plan must be provided to surveillance and BCLC so that they can prepare to monitor the activities.

Cash counting and depositing

Once the drop boxes are removed from the gaming equipment, they are taken to a count room for counting and deposit preparation. A number of controls are in effect to help minimize the risk of cash theft at this stage of processing.

Access controls in the count room include restricted access to authorized personnel only, door locks and continuous monitoring by surveillance. Gaming workers counting cash are also required to wear coveralls without pockets to minimize the chance of theft.

Documentation controls require that all movements of cash into the count room be fully verified and documented. Also, the cash cage or drop team supervisor and a second registered employee must verify and sign the bank deposit. This helps to establish a record of cash movement as it moves through the various processes.

Personnel controls require that, during the count, there must be a minimum of two people present, one of whom may be the drop team supervisor. Once the cash has been counted, a deposit is prepared. The cash cage or drop team supervisor is also responsible for the bank deposit and a second registered employee must be present at all times when the bank deposit is being prepared. When the bank deposit is picked up a security officer must witness the procedure. This establishes a series of secondary reviews of activities to ensure that all cash is properly accounted for.

Does government adequately ensure that it receives its correct share of casino gaming revenue?

BCLC adequately ensures that gaming revenue is accurately recorded in its accounting records

After the cash from slot machines and gaming tables is counted, the service provider enters the results into BCLC's financial control system. An electronic comparison is then made with the data collected by BCLC's Casinolink and CMS systems. System access controls prevent the service provider from adjusting its figures after they have been entered.

We believe that this represents a significant documentation control feature because two independent sources of information about revenue (i.e., Casinolink and CMS system readings and the service providers physical cash counts) must be in agreement. Any discrepancies must be investigated and explained, though variances are typically small. Larger variances that do occur are usually the result of incorrect data entry and are quickly resolved (e.g., when a dealer inadvertently enters \$200 as \$2000).

Personnel controls are also used to help detect errors or irregularities in the recording of revenue in BCLC's records. Both BCLC's on-site staff and its Casino Finance staff in Kamloops provide an independent review of service provider reconciliations. Once satisfied as to the integrity of the revenue data, the Casino Finance group records it as the permanent data upon which it determines government's share of casino gaming revenue.

As an additional check of the completeness of casino revenue, Casino Finance also tracks table game, slot machine and total revenue in a number of different ways, including:

- this week versus last week;
- this week versus budget;
- this week versus the five-week average;
- this year to date versus budget year to date; and
- this year to date versus last year to date.

Does government adequately ensure that it receives its correct share of casino gaming revenue?

BCLC adequately ensures that it receives government's share of casino gaming revenue

Table game and slot machine revenues are accumulated daily by Casino Finance and a calculation is made of the service provider's share (i.e., 40% of table game revenues and 25% of slot machine revenues). Service providers are also credited with a Facility Development Fee (3% of total net win for each table game and slot machine) and 1% of table revenue for supplies purchased on behalf of their casinos. The residual balance is the amount owing to BCLC.

We found that calculations and adjustments are reviewed by a BCLC supervisor who makes a number of checks against casino reports in order to ensure that the amounts are balanced and reconciled. The amount is recorded as an account receivable and the casinos are invoiced each Monday. BCLC is then able to "sweep" the amount from the service provider's bank account (i.e., BCLC has access to the accounts and is able to withdraw the government's portion each week). Checks are made to ensure that the balances have been correctly transferred to BCLC's account.



Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

Introduction

This response to The Office of the Auditor General of British Columbia was prepared by the Gaming Policy and Enforcement Branch (GPEB), on behalf of the Ministry of Public Safety and Solicitor General, Province of British Columbia, and the British Columbia Lottery Corporation (BCLC).

The contents of this response were confirmed with David Morhart, Deputy Solicitor General.

General Response

GPEB and BCLC are pleased to provide a formal response to the Office of the Auditor General's review entitled "Keeping the Decks Clean: Managing Gaming Integrity Risks in Casinos."

It is the strong consensus of both GPEB and BCLC that the report was positive, factually accurate and supportive of the directions the Province of British Columbia has taken in casino gaming over the past few years.

The Branch is committed to ensuring the overall integrity of gaming in British Columbia. As acknowledged in this report, on behalf of the Province, GPEB has taken many steps to mitigate the risk to this integrity through our thorough registration processes, investigative services and auditing procedures.

Similarly, BCLC is committed to ensuring the effective conduct and management of casino gaming in BC. The Corporation has made many significant improvements to the operating circumstances of BC's casinos since assuming responsibility for conduct and management of casinos and responds as necessary to the regulatory directions of GPEB.

The Key Findings section clearly shows the efforts have been worthwhile. The Auditor General notes that government is adequately ensuring:

- *Those who work in, or provide services to, the casino gaming industry meet high standards of honesty;*
- *That gaming equipment operates fairly in casinos;*
- *That gaming activities are conducted honestly; and*
- *That it receives its correct share of casino revenue.*

Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

These findings by the Office of the Auditor General are a substantial endorsement of the framework that the Province has implemented to ensure the patrons of casino gaming, the assets of government, and the associated revenue are well protected.

Responses to Specific Recommendations

The Office of the Auditor General provided a number of specific, and generally technical, recommendations which GPEB and BCLC will use as a guide to improve certain aspects of the regulation, conduct and management of BC's gaming industry. The responses and comments of GPEB and BCLC to the recommendations follow.

Recommendations Regarding Registration of Industry Participants

(Recommendations 1 and 2, which both pertain to GPEB)

Recommendation 1: Key employees of GPEB and BCLC have their backgrounds rechecked every three to five years as is currently the case for gaming workers and service providers.

Ministry's action: GPEB will adjust its current clearance procedures and implement a five-year renewal process with conditions for senior staff in GPEB and BCLC.

Recommendation 2: All BCLC employees who help to ensure gaming integrity in casinos be registered by GPEB.

Ministry's action: GPEB agrees that all BCLC employees that help to ensure integrity in all forms of gaming in which BCLC is involved (including, but not limited to, casinos) should be registered by GPEB. GPEB will work with BCLC to identify which positions affect integrity and will implement a full registration process for all such BCLC employees.

Recommendations Regarding Certification of Gaming Equipment

(Recommendations 3 through 5, which all pertain to GPEB)

Recommendation 3: GPEB ensure that technical standards specific to British Columbia be developed and adopted to govern the function of gaming equipment in provincial casinos.

Ministry's action: This issue is currently being addressed as GPEB drafts a Technical Standards Document (TSD) for gaming equipment, gaming control systems, and lottery schemes offered via the Internet, which will be specific to British Columbia. These standards will be in place later this year.

Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

Recommendation 4: GPEB obtain additional evidence to support its reliance on independent test facilities to evaluate BCLC gaming equipment.

Ministry's action: GPEB strongly believes the current level of standards and cross jurisdictional testing required of a facility is substantial. However, GPEB will investigate if any higher level of certification is achievable for testing facilities and if so will pursue that level of certification.

Recommendation 5: GPEB periodically review the work of BCLC Casino Quality Assurance group to support the branch's reliance on gaming equipment tests carried out by the group.

Ministry's action: GPEB agrees and will implement a review process in the near future. This process will include utilizing some independent testing laboratories that are able to provide the technical expertise necessary to assess BCLC's testing processes.

Recommendations Regarding the Conduct of Gaming Activities

(Recommendations 6 through 9, which all pertain to BCLC, and recommendations 10 through 13, which all pertain to GPEB)

Recommendation 6: BCLC update the public information it provides on its website pertaining to the odds of winning at slot machines.

BCLC Action: BCLC is currently preparing an updated gaming guide that will contain odds of winning at slot machines in British Columbia by denomination. The information will be easier to understand by the player and can be more efficiently kept up to date than the current guide. The guide will contain information regarding the functionality of slot machines, responsible gaming information including the Provincial Problem Gambling help line and other information pertaining to slot machine play. This guide will be designed in such a manner that the odds can be easily updated and maintained and kept current on a frequent basis. The guide will be available at all Casinos and Community Gaming Centers in British Columbia that offer slot machine play. This information will also be available on the BCLC website. The pamphlet and website will be completed by August 31, 2005.

Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

Recommendation 7: BCLC report regularly to its Board of Directors on the results of the Operational Gaming Audit Program and each casino's state of compliance with prescribed policies and procedures.

BCLC Action: BCLC will report quarterly to BCLC'S Board of Directors. The status of individual casino compliance in relation to BCLC's Casino Standards Policies and Procedures will be provided to the Board.

Recommendation 8: BCLC implement the Surveillance Certification Program at the earliest possible date.

BCLC Action: BCLC has provided surveillance table game and slot training manuals to Service Providers outlining various table game procedures and slot machine functionality. The development of a complete training program curriculum is currently underway with the Justice Institute of British Columbia. The training will include a comprehensive curriculum which standardizes training covering all aspects of casino gaming operations. The training will cover all aspects of casino gaming including game protection which consists of slot machine and table game play, procedure auditing, staff and patron monitoring, security and usage of equipment, back of house procedures and observations, reporting procedures to BCLC and GPEB, evidence identification and handling, self exclusion and facial recognition, access controls, financial reporting to Financial Transactions and Reports Analysis Center of Canada (Fintrac), emergency procedures and financial verification procedures. At the completion of the curriculum development, a suitable delivery methodology will be undertaken. BCLC recognizes the surveillance department in casinos as being the major control center of a casino gaming operation and an extensive standardized surveillance training is required in order to effectively protect casino patrons, staff and assets. BCLC is committed to have a comprehensive surveillance operator training and certification program in place in British Columbia. The course development will be completed by March 31, 2006

Recommendation 9: BCLC insure that all casinos have approved Surveillance System Component Plans in place.

BCLC Action: BCLC is presently finalizing the approval of the remaining four Surveillance System Component Plans of the 20 casino style gaming facilities in British Columbia. Sixteen of the Surveillance System Component Plans have already been finalized and approved, and it is expected the remainder will be finalized by September 30th, 2005.

Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

Recommendation 10: GPEB's Audit and Compliance group produce more timely audit reports.

Ministry's action: GPEB agrees with the recommendation. During the Auditor General's field work, GPEB staff raised this issue as one which needed attention and has already implemented some changes to address it. For instance, draft audit reports are now issued within 30 days of completion. In addition, GPEB aims to reduce the amount of time necessary for responses to draft reports by implementing changes such as; on-site post-audit de-briefing sessions with BCCLC and casino management staff to ensure all parties understand the audit findings and issues needing to be addressed.

The GPEB audit procedures, which establish reliance on BCCLC's conduct and management of casino gaming, include some replication of auditing procedures performed by BCCLC. This agreed replication is necessary to provide independent validation that the control procedures said to be in place are functioning as intended.

Recommendation 11: GPEB's Audit and Compliance group obtain direct evidence to support its reliance on BCCLC's automated casino reporting systems.

Ministry's action: GPEB agrees with this recommendation. The Audit and Compliance field work plan for 2005/06 includes a full review of the systems BCCLC has in place in casinos to capture and manage processes and information. These systems include the Casinolink (slot machine management) system, the Integrated Voucher System (slot machine ticketing), the Casino Management System (table management) and the Casino Reporting System.

Recommendation 12: The integrity of gaming should be confirmed as the primary responsibility of GPEB's General Manager.

Ministry's action: No action is necessary, although GPEB would like to comment on this recommendation.

The primary purpose of the General Manager and GPEB, established in the Gaming Control Act, is to ensure the integrity of gaming and horse racing. This purpose is paramount to all other functions. The Act requires the General Manager to fulfill this role, at the expense of all other purposes. This role is, and remains, the position's primary purpose.

Response by the Gaming Policy and Enforcement Branch and the British Columbia Lottery Corporation

The responsibilities of the General Manager are broad, and include both controlling gaming in the province (through regulatory and enforcement activities) and advising the government on broad policy, standards and regulatory issues (of which some issues may affect government's economic and fiscal policies for gaming). Under law, these responsibilities cannot conflict.

Recommendation 13: GPEB report annually to the Legislative Assembly on the state of gaming integrity in provincial casinos.

Ministry's action: GPEB agrees with this recommendation and will implement an annual reporting process through the Solicitor General.

*Derek Sturko
Assistant Deputy Minister & General Manager
Gaming Policy and Enforcement*

*Vic Poleschuk
President and CEO
British Columbia Lottery Corporation*



Appendices

Appendix A: Office of the Auditor General: risk auditing objectives and methodology

The Office has three lines of business:

- Attesting to the reliability of government financial statements;
- Assessing the quality of government service plan reports;
- Examining how government manages its key risks.

Each of these lines of business have certain objectives that are expected to be achieved, and each employs a particular methodology to reach those objectives. The following is a brief outline of the objectives and methodology applied by the Office for assessing the management of risk within government programs and services, that is, risk auditing.

Risk Auditing

What are Risk Audits?

Risk audits (also known as performance or value-for-money audits) examine whether money is being spent wisely by government—whether value is received for the money spent. Specifically, they look at the organizational and program elements of government performance, whether government is achieving something that needs doing at a reasonable cost, and consider whether government managers are:

- making the best use of public funds; and
- adequately accounting for the prudent and effective management of the resources entrusted to them.

The aim of these audits is to provide the Legislature with independent assessments about whether government programs are implemented and administered economically, efficiently and effectively, and whether Members of the Legislative Assembly and the public are being provided with fair, reliable accountability information with respect to organizational and program performance.

In completing these audits, we collect and analyze information about how resources are managed; that is, how they are acquired and how they are used. We also assess whether legislators and the public have been given an adequate explanation

Appendix A: Office of the Auditor General: risk auditing objectives and methodology

of what has been accomplished with the resources provided to government managers.

Focus of Our Work

A risk audit has been described as:

...the independent, objective assessment of the fairness of management's representations on organizational and program performance, or the assessment of management performance, against criteria, reported to a governing body or others with similar responsibilities.

This definition recognizes that there are two forms of reporting used in risk auditing. The first—referred to as attestation reporting—is the provision of audit opinions as to the fairness of management's publicly reported accountability information on matters of economy, efficiency and effectiveness. This approach has been used to a very limited degree in British Columbia because the organizations we audit do not yet provide comprehensive accountability reports on their organizational and program performance.

We believe that government reporting along with independent audit is the best way of meeting accountability responsibilities. Consequently, we have been encouraging the use of this model in the British Columbia public sector, and will apply it where comprehensive accountability information on performance is made available by management.

As the risk audits conducted in British Columbia use the second form of reporting—direct reporting—the description that follows explains that model.

Our “direct reporting” risk audits are not designed to question whether government policies are appropriate and effective (that is achieve their intended outcomes). Rather, as directed by the Auditor General Act, these audits assess whether the programs implemented to achieve government policies are being administered economically and efficiently. They also evaluate whether Members of the Legislative Assembly and the public are being provided with appropriate accountability information about government programs.

Appendix A: Office of the Auditor General: risk auditing objectives and methodology

When undertaking risk audits, we look for information about results to determine whether government organizations and programs actually provide value for money. If they do not, or if we are unable to assess results directly, we then examine management's processes to determine what problems exist or whether the processes are capable of ensuring that value is received for money spent.

Selecting Audits

All of government, including Crown corporations and other government organizations, are included in the universe we consider when selecting audits. We also may undertake reviews of provincial participation in organizations outside of government if they carry on significant government programs and receive substantial provincial funding.

When selecting the audit subjects we will examine, we base our decision on the significance and interest of an area or topic to our primary clients, the Members of the Legislative Assembly and the public. We consider both the significance and risk in our evaluation. We aim to provide fair, independent assessments of the quality of government administration and to identify opportunities to improve the performance of government. Therefore, we do not focus exclusively on areas of high risk or known problems.

We select for audit either programs or functions administered by a specific ministry or government organization, or cross-government programs or functions that apply to many government entities. A large number of such programs and functions exist throughout government. We examine the larger and more significant of these on a cyclical basis.

Our view is that, in the absence of comprehensive accountability information being made available by government, risk audits using the direct reporting approach should be undertaken on a five- to six- year cycle so that Members of the Legislative Assembly and the public receive assessments of all significant government operations over a reasonable time period. We strive to achieve this schedule, but it is affected by the availability of time and resources.

Appendix A: Office of the Auditor General: risk auditing objectives and methodology

Planning and Conducting Audits

A risk audit comprises four phases—preliminary study, planning, conducting and reporting. The core values of the Office—*independence, due care and public trust*—are inherent in all aspects of the audit work.

Preliminary Study

Before an audit starts, we undertake a preliminary study to identify issues and gather sufficient information to decide whether an audit is warranted.

At this time, we also determine the audit team. The audit team must be made up of individuals who have the knowledge and competence necessary to carry out the particular audit. In most cases, we use our own professionals, who have training and experience in a variety of fields. As well, we often supplement the knowledge and competence of our staff by engaging one or more consultants to be part of the audit team.

In examining a particular aspect of an organization to audit, auditors can look either at results, to assess whether value for money is actually achieved, or at management's processes, to determine whether those processes should ensure that value is received for money spent. Neither approach alone can answer all the questions of legislators and the public, particularly if problems are found during the audit. We therefore try to combine both approaches wherever we can. However, because acceptable results-oriented information and criteria are often not available, our risk audits frequently concentrate on management's processes for achieving value for money.

If a preliminary study does not lead to an audit, the results of the study may still be reported to the Legislature.

Planning

In the planning phase, the key tasks are to develop audit criteria—"standards of performance"—and an audit plan outlining how the audit team will obtain the information necessary to assess the organization's performance against the criteria. In establishing the criteria, we do not expect theoretical perfection from public sector managers; rather, we reflect what we believe to be the reasonable expectations of legislators and the public.

Appendix A: Office of the Auditor General: risk auditing objectives and methodology

Conducting

The conducting phase of the audit involves gathering, analyzing and synthesizing information to assess the organization's performance against the audit criteria. We use a variety of techniques to obtain such information, including surveys, and questionnaires, interviews and document reviews.

Reporting Audits

We discuss the draft report with the organization's representatives and consider their comments before the report is formally issued to the Legislative Assembly. In writing the audit report, we ensure that recommendations are significant, practical and specific, but not so specific as to infringe on management's responsibility for managing. The final report is tabled in the Legislative Assembly and referred to the Public Accounts Committee, where it serves as a basis for the Committee's deliberations.

Reports on risk audits are published throughout the year as they are completed, and tabled in the Legislature at the earliest opportunity. We report our audit findings in two parts: an Auditor General's Comments section and a more detailed report. The overall conclusion constitutes the Auditor General's independent assessment of how well the organization has met performance expectations. The more detailed report provides background information and a description of what we found. When appropriate, we also make recommendations as to how the issues identified may be remedied.

It takes time to implement the recommendations that arise from risk audits. Consequently, when management first responds to an audit report, it is often only able to indicate its intention to resolve the matters raised, rather than to describe exactly what it plans to do.

Without further information, however, legislators and the public would not be aware of the nature, extent, and results of management's remedial actions. Therefore, we publish updates of management's responses to the risk audits. In addition, when it is useful to do so, we will conduct follow-up audits. The results of these are also reported to the Legislature.



Appendix B: Office of the Auditor General: 2005/2006 reports Issued to date

Report 1 – April 2005

Follow-up of the Recommendations of the Select Standing Committee on Public Accounts contained in its Fourth Report of the 3rd Session of the 36th Parliament: Earthquake; Performance Audit

Report 2 – May 2005

Joint Follow-up of 2001/2002: Report 1 Managing Interface Fire Risks and Firestorm 2003 Provincial Review

Report 3 – June 2005

Audit of the Government's Corporate Accounting System: Part 1

Report 4 – July 2005

Building Better Reports: Our Assessment of the 2003/04 Annual Service Plan Reports of Government

Report 5 – July 2005

Keeping the Decks Clean:
Managing Gaming Integrity Risks in Casinos

This report and others are available on our website at
<http://www.bcauditor.com>



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Victoria 2005



Appendix D

Appendix E

Province of British Columbia, *Summary Review: Anti-Money Laundering Measures at BC Gaming Facilities*, February 2011.

PROVINCE OF BRITISH COLUMBIA

Summary Review

Anti-Money Laundering Measures at BC Gaming Facilities

February 2011

EXECUTIVE SUMMARY

In early January 2011, a series of news reports ran on cash transactions occurring at gaming facilities in British Columbia. Media stories focused on a number of large cash transactions involving small denomination Canadian currency, typically \$20 bills, that occurred over the summer of 2010. In the course of these reports, media raised questions about how well gaming in the province was protected from money laundering.

Gaming in British Columbia is operated and managed by the British Columbia Lottery Corporation (BCLC). BCLC is a Crown corporation responsible for implementing and managing anti-money laundering measures at gaming facilities throughout the province. Gaming is regulated by government through the Gaming Policy and Enforcement Branch (GPEB). The branch's mandate includes oversight of BCLC's activities, including its anti-money laundering regime.

In January 2011, the Minister of Public Safety and Solicitor General ordered a review of anti-money laundering strategies employed at B.C.'s gaming facilities. The review, conducted at a high level, was intended to determine what anti-money laundering policies, practices and strategies were in place. Additionally, the review was to identify any opportunities to strengthen the existing anti-money laundering regime.

The review found that BCLC and its operators, with oversight and guidance from GPEB, employ standard and appropriate anti-money laundering strategies. Notwithstanding these measures, opportunities to further strengthen anti-money laundering efforts were identified.

The review found four specific steps BCLC could take to improve its anti-money laundering regime.

1. BCLC, in consultation with GPEB, should revise its buy-in/cash-out policy to allow for cash-outs to be paid by cheque, where cash-out cheques clearly and unequivocally indicate that the funds are not from gaming winnings.
2. BCLC should enhance training and corporate policy to help ensure gaming staff do not draw conclusions about the ultimate origin of funds based solely on the identification of a patron and his or her pattern of play. Training and business practices should result in gaming staff having a clear understanding that the duty to diligently scrutinize all buy-ins for suspicious transactions applies whether or not a patron is considered to be known to BCLC or the facility operator.
3. BCLC holds the view that gaming losses on the part of a patron provide evidence that the patron is not involved in money laundering or other related criminal activity. This interpretation of money laundering is not consistent with that of law enforcement or regulatory authorities. BCLC should better align its corporate view and staff training on what constitutes money laundering with that of enforcement agencies and the provisions of the relevant statutes.
4. Gaming is almost entirely a cash business in B.C. This presents opportunities for organized crime. Transition from cash transactions to electronic funds transfer would strengthen the anti-money laundering regime. BCLC, in consultation with GPEB, should take the steps necessary to develop electronic funds transfer systems that maximize service delivery, create marketing opportunities, and are compliant with anti-money laundering requirements.

The review identified opportunities available to GPEB to strengthen its oversight role. The following actions would move the branch further into the realm of oversight best practices.

1. Adopting the perspective that registration, audit and enforcement/investigations lie on a compliance continuum and making sure the branch structure, including reporting relationships, supports this integrated approach.
-

2. Developing an annual unified registration, audit and investigations plan that sets out and co-ordinates compliance objectives and priorities for each year.
3. Formally involving the police agencies of jurisdiction, including those with specific anti-money laundering and organized crime mandates, in annual enforcement objective and priority planning.
4. Establishing more formal contacts and relationships with governance and enforcement agencies and associations in jurisdictions with large, long-standing gaming industries.

The review was conducted at a high level. More detailed information on the effectiveness of the anti-money laundering regime in place may be useful in terms of improving gaming integrity going forward. To more fully and accurately assess and address the potential future risk of money laundering and associated criminal activities to gaming, the Province should consider the following initiatives.

1. Engaging an independent firm with expertise in establishing electronic funds transfer processes and procedures to assist with the creation of an electronic funds transfer system that delivers a high degree of service to patrons, is marketable, and is fully compliant with anti-money laundering standards found in the financial sector. This firm should also be utilized to assist with ensuring the structure and conduct of future anti-money laundering reviews not only measure conformity with anti-money laundering legislation and regulations, but also help BCLC and GPEB to go beyond regulatory compliance to meet financial sector best practices.
2. Creating a cross agency task force to investigate and gather intelligence on suspicious activities and transactions at B.C. gaming facilities. The task force would report out on the types and magnitude of any criminal activity it found occurring in relation to gaming facilities in B.C. This information would help guide any additional actions that may be required.

1. BACKGROUND

Gaming in B.C. is regulated under the provincial *Gaming Control Act*, introduced in 2002, and by the *Criminal Code of Canada*. GPEB is an office of government established under the *Gaming Control Act*. GPEB's mandate is to regulate and provide oversight of gaming in British Columbia. Its responsibilities include ensuring the integrity of gaming operators, staff and equipment, generally through the development of gaming policy, as well as monitoring BCLC and investigating regulatory and criminal offences connected to gaming facilities. Additionally, GPEB is accountable for managing grants derived from gaming funds and responsible gaming programs.

GPEB monitors anti-money laundering strategies and other efforts to protect gaming from organized crime, primarily through its audit and investigative functions. Registration operations at GPEB also provide preventative and protective measures.

BCLC is incorporated as a Crown corporation under the *Gaming Control Act*. On behalf of the Government of B.C., it conducts, manages and operates lotteries, casino gaming, community gaming and, more recently, electronic gaming offered over the Internet. The directors and chair of BCLC are appointed by the Lieutenant Governor in Council. The corporation's mission is to deliver a player-focused, high-quality, profitable gaming experience in a socially responsible manner. BCLC publicly commits to building and maintaining public trust through the values of integrity, social responsibility and respect.

Gaming services at casinos are delivered on behalf of BCLC by gaming operators under contract. BCLC bears the responsibility for implementing and managing anti-money laundering strategies at gaming facilities. This includes responsibility for reporting requirements under the *Gaming Control Act*, and the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

2. EMERGING CONCERNS

In early January 2011, a series of news stories emerged about cash transactions at B.C. gaming facilities. The stories focused on a number of large cash transactions involving small denomination Canadian currency, typically \$20 bills that occurred over the summer of 2010. While the stories acknowledged that BCLC was meeting all reporting requirements, questions arose in the media around the adequacy of anti-money laundering efforts and other measures intended to protect B.C. gaming facilities from criminal activity. Ultimately, the Minister responsible for gaming ordered a review of the anti-money laundering strategies employed at B.C.'s gaming facilities.

3. PURPOSE AND SCOPE OF REVIEW

The purpose of the review is to advise the Minister on specific issues related to gaming integrity in the province.

The Minister directed that a review be undertaken of the measures employed by BCLC and GPEB aimed at protecting gaming facilities from organized criminal activity. The review was conducted at a high level and was intended to determine what policies, practices and strategies were in place. Opportunities for improvement were to be identified. The scope of the review was not intended to provide an in-depth analysis of the extent to which existing policies and procedures were adhered to by BCLC or GPEB, or the robustness of GPEB's monitoring of BCLC's efforts aimed at preventing criminal activity at gaming facilities.

4. METHOD

Interviews were conducted with selected executive members and staff at BCLC. Documentation provided by BCLC germane to the review was examined. Interviews were conducted with senior government officials from GPEB, including those with overall responsibility for audit, investigations and policy. Documentation provided by GPEB was also reviewed.

A comprehensive site tour was conducted at a large gaming facility. The visit included an opportunity to discuss anti-money laundering efforts, compliance, and business impacts with two different gaming facility operators.

Senior members of the RCMP responsible for investigations involving money laundering, terrorist financing and other financial crimes were interviewed. A senior municipal police official with expertise in money laundering and organized crime investigations was consulted. Input was sought from an official from FINTRAC. An interview was conducted with an independent consultant with expertise in anti-money laundering compliance and forensic auditing in both the Canadian and international financial services sectors.

Literature on anti-money laundering strategies was reviewed as were the proceedings from a recent Canadian symposium on money laundering and the relatively recent reports prepared by the ombudsman and Deloitte & Touche LLP on the B.C. lottery system.

Recent media reports on large cash transactions at B.C. gaming facilities were collected and reviewed.

5. SUMMARY OF FINDINGS

BCLC

This review was met with an approach on the part of BCLC that was open, helpful and straightforward. Those interviewed at BCLC were clearly focused on ensuring that gaming services were delivered in a manner that protected the integrity of gaming in the province. It was evident that BCLC understands its mandate in regard to the delivery and management of gaming. Moreover, BCLC is fully aware of its responsibility to make sure gaming is delivered in a manner that is compliant with anti-money laundering requirements and that appropriately balances gaming revenue objectives with strategies to minimize the risk of criminal activity at gaming facilities.

BCLC and its operators employ standard and appropriate anti-money laundering strategies. These measures include, among other things:

- mandatory training for all staff delivering gaming services;
- policies and procedures dealing with identifying and knowing a client;
- tracking all play that falls within reporting requirements;
- segregating and verifying gaming wins from the cash-out of funds brought into a gaming facility to buy-in;
- policies prohibiting customers from exchanging small denomination bills for large denomination bills;
- restricting the movement of gaming chips between players and gaming facilities;
- issuing cheques only in relation to verified gaming wins; and,
- reporting large or suspicious cash transactions.

While BCLC has standard anti-money laundering measures in place, opportunities exist to further strengthen current efforts.

Player Buy-ins

When a player buys in with a large number of small denomination bills (usually \$20 bills), BCLC advises that its practice is to pay cash-outs in the same denominations. For example, a player buying in with \$10,000 in \$20 bills, after playing and losing \$2,000, would receive \$8,000 in \$20 bills when cashing out. This practice is intended to prevent placing proceeds of crime into the legitimate economy, and it effectively achieves that purpose.

A change in policy that would enable BCLC to cash out a patron with a cheque that clearly and unequivocally identifies funds as not being winnings would have two advantages over the current practice. First, when a cash-out cheque from BCLC is negotiated, it would give any subsequent investigator an audit trail to follow that is not currently available under the existing practice. Second, cheque issuance would reduce the security risks and vulnerabilities associated with clients leaving a casino with large sums of cash. Clearly marking cheques “not gaming winnings” would thwart any future attempts to claim the funds were derived from legal gaming activity.

While this policy change could potentially allow a money launderer to place funds in the legitimate economy, the subsequent audit trail and reduced risks associated with carrying large amounts of cash, would provide benefits that outweigh the potential negative aspects of allowing the placement.

Reporting Obligations

BCLC's obligation is primarily a duty to report. These reporting obligations do not extend to a duty to investigate and confirm the exact provenance of cash used to buy-in. Detailed inquiries and investigation into legitimate or illegitimate sources of cash appropriately fall to various law enforcement and regulatory authorities.

BCLC takes the position that a patron is “known” when picture identification is produced, the patron states an occupation in general terms, and the patron establishes a pattern of play at a B.C. gaming facility. Where these criteria are met, BCLC concludes that cash used by the patron to buy-in at a gaming facility is legitimate and not criminally tainted. Vigilance is warranted when assessing any large cash transaction, and is particularly important in regard to transactions involving large volumes of small denomination bills.

Drawing the conclusion that a large cash transaction involves funds from legitimate sources based only upon patron identification and playing history is not consistent with best anti-money laundering practices. Conclusions and statements as to the ultimate legitimacy of cash should only be made where there is detailed, independent information verifying the source of the funds and should only be made by the enforcement agencies with a mandate to conduct these types of inquiries. BCLC’s anti-money laundering efforts could be improved by ensuring gaming staff do not draw conclusions about the ultimate origin of funds based solely on the identification of a patron and his or her pattern of play. Training and business practices should result in gaming staff having a clear understanding that the duty to diligently scrutinize all buy-ins for suspicious transactions applies whether or not a patron is “known” to BCLC or the facility operator.

Gaming Losses

BCLC views gaming losses on the part of a patron as evidence that the patron is not involved in money laundering or other related criminal activity. BCLC's rationale is that where a patron puts significant funds at risk through gaming and loses, the loss demonstrates laundering was not occurring because the patron did not achieve a financial gain or retain a significant portion of his or her initial buy-in. This view of money laundering is much narrower than the definition found in the *Criminal Code* and is not in accord with the opinion of police or regulators as to what constitutes money laundering. Moreover, this view does not recognize the inherent value, irrespective of outcome, of gaming services to a gambler. BCLC's anti-money laundering practices would be strengthened by better aligning its corporate view and staff training on what constitutes money laundering with that of enforcement agencies and the provisions of the relevant statutes.

Electronic Funds Transfer

Today, gaming is almost entirely a cash business in B.C. This presents opportunities for organized crime. Transition from cash transactions to electronic funds transfer would present the opportunity to improve both anti-money laundering efforts and patron safety. However, implementation of electronic funds transfer presents challenges for both BCLC and GPEB.

In consultation with GPEB, BCLC introduced a Patron Gaming Fund Account program in 2010, allowing players to transfer funds from a Canadian banking institution to a gaming account for play at a gaming facility. Very few players have chosen to establish accounts. Of the accounts set up, many are dormant or have never been used. BCLC believes that the combination of a cumbersome application process, overly strict account

controls, and a perceived desire for a high degree of privacy among higher-stakes gamblers has created barriers to moving to electronic funds transfer.

While electronic funds transfer presents opportunities to strengthen anti-money laundering efforts, it can also create money laundering vulnerabilities if appropriate account controls are not put in place. With the appropriate controls, electronic funds transfer provides a better level of protection than cash transactions. While account controls are necessary to protect the integrity of gaming, it is not possible to completely eliminate any chance of money laundering and associated criminal activity. The establishment of electronic funds transfer processes should be approached through a risk-based framework under which risk is effectively managed, but beyond that, as much flexibility as possible is retained to ensure the service is useful and marketable to patrons.

A reassessment of the Patron Gaming Fund Account program from a risk-based context by BCLC and GPEB may be warranted. This work would benefit from independent advice from an expert from the financial services sector, where there is extensive experience and expertise in developing electronic funds transfer processes that maximize service delivery and marketing objectives while ensuring full anti-money laundering compliance.

GPEB

Senior management at GPEB demonstrated a professional and informed approach to gaming integrity. They have a strong understanding of their roles and responsibilities as regulator, but at the same time remain attuned to the legitimate goals and interests of the industry and stakeholders. GPEB's approach to this review was open and fully cooperative. They brought forward a number of suggestions and showed a keen commitment to improving gaming integrity on a continuing basis.

A number of organizational and policy changes at GPEB have been implemented since 2007 in response to a report of the B.C. ombudsman and an audit conducted by Deloitte & Touche on the retail lottery systems. While these reports focused on lotteries, as opposed to casino operations, there were changes that benefited all of GPEB's operations and improved gaming integrity generally. Nonetheless, areas remain where further gains can be made.

There is a strong sense of investigative independence on the part of the Investigations Division within GPEB. This helps to maintain the required degree of separation between policy and enforcement functions in the branch. Having said this, the Investigations Division's perspective on independence may be overly broad. The Investigations Division exhibits some reluctance in participating in branch corporate functions, such as strategic planning and setting annual business objectives, due to concerns that participation in these activities may unduly influence its enforcement role. GPEB's oversight role, including investigations, and its ability to prevent, detect and respond to money laundering concerns may be further optimized by:

1. Adopting the perspective that registration, audit and enforcement/investigations lie on a compliance continuum and making sure the branch structure, including reporting relationships, supports this integrated approach.
2. Strengthening gaming oversight by developing an annual unified registration, audit and investigations plan that sets out and co-ordinates compliance objectives and priorities for the year.
3. Formally involving the police agencies of jurisdiction, including those with specific anti-money laundering and organized crime mandates, in annual enforcement objective and priority planning.

GPEB is a member of the Canadian Partnership for Responsible Gaming, the Canadian Association of Gaming Regulators, and the North American Horse Racing Association. GPEB's anti-money laundering efforts would benefit from and be strengthened through more extensive and formal contact with gaming regulatory, enforcement and governance bodies from other jurisdictions, especially those from outside of Canada with long-standing gaming industries. Establishing formal contacts, relationships and partnerships with governance and enforcement agencies in jurisdictions with large gaming industries would be of particular benefit in keeping informed of developing trends and best practices.

POLICE

As is the case with most areas of enforcement, multiple layers of jurisdiction and responsibility exist when it comes to the investigation and prosecution of offences at gaming facilities. Investigation of money laundering offences is primarily a federal responsibility falling to the RCMP Proceeds of Crime sections, whereas gaming operations and oversight are provincial matters. Additionally, criminal activity not directly related to money laundering is the responsibility of both GPEB and the police agency of jurisdiction where a gaming facility is located. GPEB's authority and mandate to investigate criminal offences is more limited than that of police agencies. For instance, GPEB does not have the authorities required to conduct investigations that necessitate the carrying of firearms, require surveillance to be conducted, or call for the interception of private communications. Investigations involving these requirements and techniques must be led by police agencies.

Currently there are no formal links between the GPEB Investigations Division, the RCMP Proceeds of Crime Section or police agencies of jurisdiction. However, the Investigations Division does enjoy strong informal links with police. Despite this, it will remain difficult to assure an appropriate level of response to, and investigation of,

criminal offences related to gaming, including money laundering, without a formal agreement or arrangement of some form between the province (GPEB) and the police agencies with jurisdiction. Without these changes, money laundering and other serious criminal activity suspected at gaming facilities will rarely rise sufficiently in priority to warrant police investigation.

6. CONCLUSIONS AND FUTURE DIRECTIONS

Circumstances set out by BCLC in a series of Section 86 (of the *Gaming Control Act*) Reports, Large Cash Transaction Reports, and Suspicious Transaction Reports completed between May and September 2010, and reported upon in the media, have given rise to questions about cash transactions occurring at B.C. gaming facilities. This review involved a high-level look at those transactions and the anti-money laundering policies, practices, and strategies in place at B.C. gaming facilities. The review found that BCLC, in terms of policies and procedures, has a robust anti-money laundering regime in place. Further, it was determined that GPEB has the required level of anti-money laundering expertise and is capable of discharging its responsibility to provide oversight as it relates to anti-money laundering and associated criminal activities at gaming facilities. Despite the strength and adequacy of the current measures, opportunities to close gaps, further minimize vulnerabilities and strengthen anti-money laundering strategies exist, and have been identified above.

In looking to the future, additional measures, particularly in regard to electronic funds transfer, provide the potential to move BCLC and GPEB further into the realm of best practices. The following steps will contribute to strengthening and maintaining gaming integrity in the province on a continuing basis:

1. Engaging an independent firm with expertise in establishing electronic funds transfer processes and procedures to assist with the creation of an electronic funds transfer system that will provide a high level of service quality, marketability, and ease of access, while meeting anti-money laundering standards found in the financial sector. This firm should also be utilized to assist with ensuring the structure and conduct of future anti-money laundering reviews not only measure conformity with anti-money laundering legislation and regulations, but also help BCLC and GPEB to go beyond regulatory compliance to meet and maintain financial sector best practices.
2. Creating a cross-agency task force to investigate and gather intelligence on suspicious activities and transactions at B.C. gaming facilities. The task force would report out on the types and magnitude of any criminal activity it found occurring in relation to gaming facilities in B.C. This information would help to guide any additional future action.

Appendix F

Deloitte & Touche LLP, *Independent Review: Anti-Money Laundering and Anti-Terrorist Financing Program: British Columbia Lottery Corporation*, March 4, 2011.

Deloitte.

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Private and Confidential

March 04, 2011

Mr. Bill McCrea
Gaming Policy and Enforcement Branch
Ministry of Housing and Social Development
PO Box 9311, Stn Provincial Government
Victoria, BC V8W 9N1

Dear Mr. McCrea,

Re: Anti-Money Laundering (AML) and Anti-Terrorist Financing (ATF) Compliance Review

Please find enclosed a copy of our report for your review. If you should have any questions or require further clarification of the foregoing, please contact myself directly at (416) 601-6629 or Jervis Rodrigues at (604) 418-6727.

Yours truly,



Ivan Zasarsky, MSc, CAMS
Associate Partner
Deloitte & Touche LLP



Independent Review:
Anti-Money Laundering
and Anti-Terrorist
Financing Program
British Columbia Lottery
Corporation

March 04, 2011
Private and confidential

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1 Executive Summary

Deloitte & Touche LLP ("Deloitte") was engaged by the Gaming Policy and Enforcement Branch of British Columbia ("GPEB") to conduct an independent review and assessment of the British Columbia Lottery Corporation's ("BCLC") anti-money laundering ("AML") and anti-terrorist financing ("ATF") program. In particular, Deloitte was to review and assess the BCLC AML / ATF program capacity to support its obligations under the "Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations" (Act). Deloitte was to present its findings of risk of non-compliance with the Act and/or observed operational inefficiencies that could expose BCLC to compliance risk. Deloitte was also to present any recommendations for remediation in a comprehensive report.

Compliance risk may arise from an organization's failure to enact sufficient or appropriate policies, procedures, practices or controls to ensure it conforms to laws, regulations, contractual arrangements, and other legally binding agreements and requirements.

1.1 Our Approach

We conducted our review primarily through the months of August 2010 through to November 2010. In conducting our review, we performed interviews with members of BCLC management. This included those responsible for the design, implementation and ongoing maintenance of BCLC's compliance program. We also reviewed documentation representative of BCLC AML / ATF program. These included job descriptions, policies and procedures, operational methodologies and frameworks. We conducted selected site visits, interviews and samples of customer files at casinos under BCLC's jurisdiction to assess BCLC's AML/ATF compliance program in the field.

1.2 Our Assessment

In conducting our review of the BCLC AML / ATF program, we have found it to be substantially compliant with the Act and regulations amending the Act under Bill C-25 that have come into effect since June 23 2008. Furthermore, BCLC was able to demonstrate its commitment to complying with the Act as evidenced by the creation and continuous improvement of an AML / ATF program supported by a dedicated compliance team. As required by the Act, BCLC has appointed a Chief Anti-Money Laundering Officer ("CAMLO"). The CAMLO is supported by a dedicated team of professionals (including ex-RCMP officers and experienced legal counsel), as endorsed by the BCLC Executive and Board.

Deloitte observed that the BCLC implemented AML / ATF program in support of the Act included record keeping, training, reporting, and documentation of AML / ATF policies and procedures. The BCLC AML / ATF program had all essential components; however, Deloitte observed a number of opportunities for BCLC to improve their AML / ATF program and further mitigate AML / ATF compliance risk.

Initial feedback from BCLC compliance personnel during secondary interviews confirmed that there are ongoing opportunities for improvement. BCLC is currently working on a number of initiatives designed to improve the organization's AML/ATF program.

In conducting our assessment of BCLC's AML / ATF program, we identified four compliance findings related to BCLC's ability to meet its obligations under the Act (PCMLTFA) as follows:

1. Policies and Procedures

Terrorist Property - Our review of relevant BCLC policies and procedures found that there was no guidance on how to identify and report incidents where BCLC and/or the Operators are holding property that is known to be owned or controlled by or on behalf of a terrorist or terrorist group.

BCLC has informed Deloitte that, subsequent to conducting our review, they have remediated this issue. (Deloitte has not yet verified or tested this remediation).

- 2. Training** - Upon inspection of BCLC's training log and through discussions with various personnel, we found that not all casino employees are completing their training prior to commencing work in the casinos. This may be due, in part, to the fact that the existing contracts between BCLC and the Operators do not specify that their employees are required to undertake initial and annualized training before they begin to deal with patrons.

BCLC has informed Deloitte that, subsequent to conducting our review, they have remediated this issue. (Deloitte has not yet verified or tested this remediation).

- 3. Independent Review** – While BCLC is diligent in engaging an independent consultant to conduct frequent reviews of its AML/ATF program, the compliance program does not document a formal follow-up plan in response to the consultant's findings including why BCLC has chosen not to adopt the recommendations.

BCLC has informed Deloitte that, subsequent to conducting our review, they have remediated this issue. (Deloitte has not yet verified or tested this remediation).

- 4. Risk-Based Assessment** – While BCLC has conducted a risk assessment to identify and analyze potential threats and vulnerabilities to which the organization is exposed, it is not well integrated with BCLC policies and procedures. Further, the current risk assessment focuses primarily on generic risks associated with casino operations and does not focus on specific scenarios/schemes inherent to BCLC and its stakeholders as required by federal regulations.

BCLC has informed Deloitte that, subsequent to conducting our review, they are taking steps to address this issue. (Deloitte has not yet verified or tested this remediation).

For each of our findings, we have provided recommendations to mitigate BCLC's AML / ATF compliance risk and meet its obligations under the Act (PCMLTFA). Detailed findings and recommendations related to these compliance findings can be found in Section 7 of this report.

In addition to the four compliance findings noted above, we have identified opportunities for BCLC to make improvements to its AML/ATF program to further mitigate residual AML / ATF compliance risk. We have made a total of eleven observations where BCLC has met its material AML / ATF program obligations under the Act (PCMLTFA) but it still faces residual AML / ATF compliance risk. These observations and associated recommendations (found in Appendix A), if addressed, may result in improving the operational efficiency and effectiveness of BCLC's AML / ATF compliance program while further mitigating compliance risk within the organization.

2 Compliance Risk – Impact

Non-compliance with Part 1 of the PCMLTFA may result in administrative or criminal penalties. Administrative monetary penalties are determined based on the violation classification "Minor", "Serious" or "Very Serious" and also the harm caused by the violation, compliance history of the reporting entity and non-punitive nature of an administrative penalty:

1. Minor (individual/entity) penalty \$1 to \$1,000.
2. Serious (individual/entity) penalty \$1 to \$100,000.
3. Very Serious (individual) penalty \$1 to \$100,000.
4. Very Serious (entity) penalty \$1 to \$500,000.

Criminal penalties include:

1. Failure to report suspicious transactions - up to \$2 million and/or 5 years imprisonment.
2. Failure to report a large cash transaction or an electronic funds transfer - up to \$500,000 for the first offence, \$1 million for subsequent offences.
3. Failure to meet record keeping requirements - up to \$500,000 and/or 5 years imprisonment.
4. Failure to provide assistance or provide information during compliance examination – up to \$500,000 and/or 5 years imprisonment.
5. Disclosing the fact that a suspicious transaction report was made, or disclosing the contents of such a report, with the intent to prejudice a criminal investigation - up to 2 years imprisonment.

The Criminal Code makes it an offence to engage in transactions with the knowledge that the proceeds are derived from illegal activity. A money laundering prosecution can be based on a wide variety of crimes from drug trafficking and terrorism to fraud and political corruption. Knowledge can be based on the concept of willful blindness or recklessness, e.g., failure to make inquiries when presented with red flag indications of possible illegal activity. There is no need to establish that a person knew the specific nature of the underlying illegal activity. Both the casino business and the employee(s) involved can be liable for a money laundering offence. Conviction can result in fines and imprisonment.

3 Restrictions

Our function is to report to GPEB the findings of our AML and ATF compliance review.

Our work was not designed to identify circumstances of fraud or other irregularity.

Our review was heavily dependent on the completeness and integrity of the documentation and statements provided by BCCLC. For the purposes of this report, save where we have been able to corroborate information, we have had to assume that the documents or other information disclosed to us are reliable and complete.

Our report is confidential and is prepared at the request of GPEB for an assessment regarding BCCLC's compliance to AML and ATF regulatory requirements as identified within the scope of our review.

This report is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance. We do not assume any responsibility or liability for losses incurred by GPEB and/or BCCLC, their directors, officers, employees and customers or by any other parties, as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

This report is based on information in our possession as at the date of this report. We reserve the right to review all findings and conclusions included or referred to in our report and, if we consider it necessary, to revise our report if any information is provided subsequent to the date of our report.

4 Scope of Review

Deloitte was retained to perform the procedures described below and to report the results of our findings to GPEB.

- **Review the FINTRAC Report:** Review the "Notice of Violation" issued to BCLC by FINTRAC on June 15, 2010 to determine our overall scope of work.
- **Perform a Gap Analysis:** Conduct a reconciliation of BCLC's AML/ ATF policies, procedures and training materials to FINTRAC's standards and regulations in order to identify any gaps.
- **Conduct a High Level Review of the Program:** Perform a high-level review of BCLC's AML/ATF compliance program to identify areas where weaknesses in people, processes or technology may result in a failure to comply with regulation.
- **Perform Sample Testing:** Perform testing in order to determine if BCLC's AML/ ATF policies and procedures have been implemented and are operating as documented/described.

The overall objective of the engagement was to identify any weaknesses in the existing compliance program and/or the operations that supported it which may expose BCLC and its stakeholders to AML / ATF compliance risk. Where any weaknesses existed, we were to provide GPEB and BCLC with recommendations on how to improve the effectiveness and efficiency of the program.

Recommendations have been made considering industry practices. We have, in so far as possible, considered the impact of these recommendations on the technological, human, and organizational dimensions of BCLC. This also included consideration of the application of practicable improvements to the program given BCLC's resource constraints and organizational support structure.

The scope of our review and assessment focused primarily on five key areas of BCLC's compliance program:

1. **New Client Acceptance/ Adoption Policy:**
 - a. Client Identification Program (CIP)
 - b. Know Your Customer (KYC)
 - c. Recordkeeping
2. **Detecting Suspicious Activities and Terrorist Financing:**
 - a. BCLC's definition of suspicious activity (completed or attempted) and terrorist financing and appropriate application thereof.
 - b. BCLC's process of reporting suspicious (completed or attempted) and terrorist property reports to FINTRAC.
3. **Reporting Obligations:**
 - a. The current AML/ATF policies and procedures regarding regulatory reporting as defined under PCMLTFA and further described by FINTRAC Guidelines.
 - b. The current processes, procedures and systems used to compose, manage and transmit the reports relating to:
 - Suspicious transactions;
 - Terrorist property;

- Large cash transactions;
- Electronic funds transfers; and
- Casino disbursements.

4. Employee Training and Awareness:

- a. The appropriateness of employee training and awareness programs relating to AML and ATF including:
 - The annual training course on AML and ATF;
 - New employee training on AML and ATF;
 - Casino specific training (i.e. – cage, table, slots, etc.);
 - Annual or bi-annual sign off of training completion by all employees; and
 - Communication of new or changes to regulations and policies.

5. Organizational Culture and Compliance Regime:

- a. The design of BCLC's organizational structure to ensure best practices and efficiency concerning AML and ATF requirements, including:
 - The compliance structure;
 - Clarity of reporting lines; and
 - Existence of early warning mechanisms.

5 Approach

This section summarizes the approach we undertook to conduct our AML/ATF compliance review. The following research and procedures were conducted when evaluating BCLC's compliance program:

1. We reviewed the "Notice of Violation" issued to BCLC by FINTRAC on June 15, 2010 as well as correspondence provided by BCLC related to this Notice.
2. We conducted site visits at the BCLC offices in Richmond, BC and Kamloops, BC over the period August 16, 2010 to August 31, 2010, with the objective of gaining an understanding of BCLC's reporting process to FINTRAC. We also interviewed key personnel at these locations to gain an understanding of BCLC's AML/ ATF compliance program, and how it is supported by the organization's resources, systems and organizational support structure.
3. We conducted site visits for three casino properties to obtain an understanding of their AML/ATF reporting process. We also interviewed key personnel at each of these three properties to determine if these individuals understood their roles and responsibilities within the overall compliance program. The specific properties that we attended and the date of our visits are as follows:
 - a) River Rock Casino Resort in Richmond , BC on August 25, 2010;
 - b) Starlight Casino in New Westminster, BC on August 25, 2010; and
 - c) Lake City Casino in Kamloops, BC on September 3, 2010.
4. We inspected relevant policy and procedural documentation provided by BCLC, River Rock Casino, Starlight Casino and Lake City Casino. We also reviewed BCLC's AML/ATF training materials and employee training log as at September 3, 2010. A list of all documents reviewed is provided in Appendix B.
5. We selected and reviewed a sample of 15 Player Gaming Fund account files (out of a population of 44 new accounts that had been opened within the past 12 months) to evaluate the casino operators' (the "Operators") account opening procedures, client identification and record keeping requirements at three sites:
 - a) River Rock Casino Resort in Richmond, BC;
 - b) Starlight Casino in New Westminster, BC; and
 - c) Grand Villa Casino in Burnaby, BC.
6. We selected and reviewed a sample of 75 large cash transaction reports ("LCTR") to evaluate the Operators' account opening procedures, client identification and record keeping requirements. Our testing also evaluated whether sufficient and appropriate patron information was captured by casino personnel on the hard copy LCTR form and whether that information was subsequently transmitted to FINTRAC in a complete, accurate and timely manner. The sample was selected, at random, from the LCTRs that had been submitted from the following three casinos from April 2010 through August 2010:
 - a) River Rock Casino Resort in Richmond, BC;
 - b) Starlight Casino in New Westminster, BC; and
 - c) Grand Villa Casino in Burnaby, BC.

6 Introduction

6.1 The Canadian AML/ATF Regime

The Canadian AML / ATF regime is a federal regime having its roots in the Criminal Code and PCMLTFA. The specification of entities who are Reporting Entities ("RE") includes Casinos. The criteria are set out by the PCMLTFA, its regulations, and additional specification and guidance by way of FINTRAC guidelines.

The Financial Action Task Force (FATF) is an international body that makes recommendations for the creation and improvement of international money laundering regimes amongst its member countries including Canada. In response to the FATF's prior assessment, Canada has embodied the FATF precepts within a legal and operational framework – the PCMLTFA – which resulted in the creation of a number of intelligence entities including FINTRAC (the federal organization responsible for collecting, analyzing and disclosing financial intelligence on suspected money laundering, terrorist financing and threats to the security of Canada).

The regulatory infrastructure within which BCLC operates is influenced and subject to several regulatory bodies (both federal and provincial). It is with these entities in mind that considerations of leading practices related to the mitigation of money laundering and terrorist financing can be framed.

The roles and needs of all stakeholders within such a complex infrastructure need to be carefully considered as we have seen many examples of over-coverage and cross-coverage which can reduce the ability of an AML/ATF program to respond to key issues, adapt to changes in the nature of threats, and respond to changes in needs of program coverage in instances where an organization's operations change or where stakeholders roles and responsibilities within the infrastructure change.

6.2 The Role of GPEB

The registration and oversight of BC casino operators (the "Operators") is strictly a provincial matter that resides with GPEB and, as a result, GPEB is able to play a significant role in the Province to ensure that both BCLC and the Operators comply with the PCMLTFA. The intersection of common interests to mitigate crime and safeguard Canadians is an exceptional opportunity for GPEB to enhance its current role in the oversight of BCLC and the Operators. This may include establishing standards and conditions requisite to the granting or continuance of granted contracts within British Columbia.

Canadian precedent exists to support an expanded role in line with all compliance and inspection programs under GPEB's mandate. Provincial jurisdictional examples provided by the financial services industry include the specialized licensing and training programs for broker/dealers and insurance agents. GPEB may consider the leveraging of its resources according to a risk-based approach to mitigate and manage AML /ATF compliance risk in the BC gaming industry.

FINTRAC has established guidelines that a RE must adopt for an effective AML/ATF program; however how the RE individual program is structured and executed could be further defined, and audited by GPEB. This may include having GPEB establish the required training criteria and curricula related to individuals working or intending to work in BC casinos. Further, GPEB may want to conduct independent reviews of existing Operator contracts and provide greater direction on the development and implementation of current and future BCLC AML/ATF policies and

procedures relating to key areas such as training, reporting systems and reporting methodologies prescribed by BCCLC.

We suggest that GPEB consider its oversight/regulatory role and work directly with BCCLC to establish opportunities to improve BCCLC's current reporting requirements. We also suggest that GPEB seek counsel in establishing key criteria and programs that may enhance the overall regime and provide benefit to BCCLC and its Operators. GPEB, as a key stakeholder, could leverage the results of their audit reports to enhance their involvement with BCCLC to remedy any deficiencies and ensure improved and ongoing compliance with FINTRAC.

6.3 Centralized versus Decentralized Reporting Model

We have been asked to comment on the appropriateness of adopting a centralized reporting model versus a decentralized reporting model. Either model is appropriate provided that stakeholders are aware of the challenges associated with each model, take steps to ensure that the challenges are addressed and ensure that the key elements of the program are managed efficiently and effectively.

AML/ATF reporting models available to organizations under the Act are limited and are the responsibility of the RE. The reporting obligation falls to the RE itself being the Provincial authority BCCLC. Canadian Casino RE have adopted both centralized and decentralized approaches to acquisition of information required to report in an accurate and timely manner under the Act; in meeting its responsibilities to FINTRAC, a Reporting Entity ("RE") may have a reporting model that uses components from both.

We have observed centralized, de-centralized and hybrid reporting models in a number of Canadian and international jurisdictions. Regardless of the model chosen, many REs find it challenging to design and implement a model that is both efficient and effective as management must consider both the impact the program will have on the RE and other stakeholders and the likelihood that the model will be supported and upheld by those stakeholders.

In Canada, both centralized and decentralized reporting models exist and are considered appropriate so long as the RE's AML/ATF program is comprised of the mandatory elements, as prescribed by FINTRAC under Guidelines 3 and 6, (developed in response to PCMLTFA and its regulations). It is to these elements that we look when we assess the effectiveness of an RE's reporting program rather than whether the model is a centralized or decentralized structure. Our review and assessment focus primarily on the combined weight of each of the five pillars of an AML/ATF program being: the appointment of a Chief Anti-Money Laundering Officer ("CAMLO"), record keeping, training, reporting and documentary policies and procedures. In conducting our assessments, we review whether the RE has adopted each of these pillars to ensure compliance with the regulatory requirements as well as assess how effectively these elements are being managed to ensure that compliance risk is mitigated within a sustainable AML / ATF program.

The typical model is to have the responsibility of reporting reside with the RE regardless of where the operational management and/or delivery of the AML/ATF program are situated. The responsibility of reporting resides solely with the RE and this is typical of a centralized model (as is the case with BCCLC). Adopting such a model may result in the RE undertaking a significant operational workload; however, the delegation of specific responsibilities and duties associated with the reporting process to its stakeholders may be an appropriate measure to reduce the workload faced by a RE. Furthermore, under the centralized model, the RE may have better control over the consistency, quality and timeliness of reporting which would ultimately reduce the risk of non-compliance due to a stakeholder failing to meet FINTRAC's reporting requirements. The majority of Canadian REs in the casino sector have adopted a decentralized model of reporting.

The study of leading practices, corresponding to AML regulatory compliance, have shown that most REs adopt a centralized model to establish generally accepted standards and to provide stakeholders of the AML / ATF regime with a single point of authority. In fact, many industries that once had decentralized models are now migrating to ones that are more centralized.

For example, we have recently seen extensive centralization in the financial services sector, where all Canadian banks, as federally regulated financial institutions ("FRFI"), have adopted similar operating structures and reporting models. In the Canadian banking sector, multiple lines of business and, in some cases thousands of branches spread across the entire geography of Canada, are unified by way of a centralized AML reporting model. This includes adopting centralized standards and reporting regimes which are supported and executed by people, processes and technologies.

And it's not just FRFIs. We have observed the existence of centralized models throughout the financial services sector including a number of high-profile securities brokers/dealers, life insurance firms, real-estate agencies, and credit unions. Internationally covered entities in the United States of America are also, for the most part, largely aligned in a similar manner as are REs operating within the European Union ("EU") member states.

In the Canadian insurance sector, we have seen life insurers having to manage not only their own in-house programs but also be responsible for the training and input/reporting of transactions executed by their agents. While the insurance sector has traditionally been aligned with a decentralized reporting model, many have found that, the input/reporting of transactions, on behalf of their agents, allows the RE to ensure that the information collected in accordance with the RE's standards is complete, accurate and submitted to FINTRAC in a timely manner; furthermore, control over the input and reporting of transactions allows the RE to compile and analyze the information, collected by its agents, to improve operational efficiency.

The standardization and centralization of information collection, aggregation, processing and analysis is becoming an attractive benefit of adopting a centralized reporting model as the RE can help ensure regulatory compliance while also using the same information for its own performance enhancement. Other sectors are now seeking to have a similar multilateral relationship with a customer and their transactions as they have recognized the benefit of adopting a centralized model and thus have nearly identical structures when it comes to operation and management of their AML/ATF programs.

In the EU, the member states adhere to a singular set of directives related to AML and also implement their own national regimes according to law and in alignment with the EU directives. In Germany for example, the federation of 16 individual states (Bundeslander) defines the participation in state regulated licensing and activity of casinos, lottery and gaming (including i-gaming). This sector is becoming centralized due to several rulings of the EU court and the need to comply with EU and Federal laws. In fact, for most EU REs, we have observed movement from a decentralized model to a centralized model, in part, due to the operational efficiencies such a model provides and the REs' ever-increasing aversion to the risk of non-compliance. We have also observed that the sustainability of a robust AML / ATF program depends on efficient and effective operating and managerial models. Overall we have observed a number of REs move to a centralized model as a way to cope with aggregation of information in an accurate and timely manner especially when challenged with large degrees of size and complexity of interdependent entities.

In conclusion, centralized models, if appropriately designed and implemented, can provide an operationally risk adverse structure for the RE. The risk of non-compliance may be reduced through the centralized application and management of controls related to the application of policies and procedures, training, analysis of transactions and the aggregation and reporting of information in a timely manner. Once a centralized model is implemented, further enhancements may be made to improve the overall performance of the organization by ensuring that the AML / ATF program is sufficiently and appropriately integrated with operational processes.

The centralized model, currently maintained by BCLC, is in line with leading RE practices both in Canada and Casino reporting entities under similar AML / ATF regimes abroad.

The forthcoming discussion in this report identifies measures to assist BCLC improving the existing AML/ATF program and the centralized reporting model it has adopted.

6.4 BCLC

The Province of British Columbia has designated BCLC as the authority to conduct and manage lottery schemes within B.C. through the BC Gaming Control Act and, as a result, BCLC has the following responsibilities:

- a) Conduct, manage and operate lottery gaming, including the marketing of nationwide and regional lottery games in association with other Provinces of Canada;
- b) Conduct, manage and operate casino gaming;
- c) Conduct, manage and operate commercial bingo gaming; and
- d) Conduct, manage and operate e-gaming.

According to FINTRAC, under the PCMLTFA, BCLC is classified as a Casino and required to comply with all regulatory requirements for this industry.

On June 15, 2010 BCLC received a notice of violation as a follow up to an on-site examination performed from November 30, 2009 to December 30, 2009. BCLC was assessed on six separate violations of these regulations and assessed an administrative monetary penalty ("AMP") of \$695,750.

7 Regulatory Findings

7.1 New Client Acceptance / Adoption Policy

7.1.1 Regulatory Requirements

Regulatory Requirements	PCMLTFA	PCMLTF Regulations
Client Identification, Ascertaining Identity and Third Party Determination	Section 6.1, 9.2, 9.3	Sections 8, 9, 10, 11.1, 53, 59, 63, 64, 64.1, 65, 66, 67, 67.2

When accepting new clients (which BCLC defines as players or "patrons"), FINTRAC requires the reporting entity to develop and apply policies and procedures requiring specific client information to be collected and kept up to date. The policies and procedures should also include the organization's customer information program ("CIP") and know your customer ("KYC") practices. Moreover, sufficient and appropriate policies and procedures should be in place to guide employees on when the client "patron" and beneficial owner of transactions (if they are not one and the same) should be identified, the minimum amount of patron information that should be collected, and how frequently the patron account information should be updated to ensure that it remains complete and accurate.

BCLC, according to the Act is required to take reasonable measures to determine whether a person who initiates or is the beneficiary of an electronic funds transfer of \$100,000 or more is a Politically Exposed Foreign person (PEFP). Guidance should also be provided as it relates to identifying and reporting incidents where BCLC and/or the Operators are holding property that is known to be owned or controlled by or on behalf of a terrorist or terrorist group.

7.1.2 Observations

In conducting our review of BCLC's Customer Information Program (CIP) and Know Your Customer (KYC) practices, we observed the following:

1. BCLC has documented policies and procedures outlining its CIP and KYC practices. The information required to be obtained and maintained as prescribed in BCLC policies and procedures is aligned to the requirements issued by FINTRAC.
2. Upon inspection of a sample of 15 Player Gaming Fund account files, we found that the Casino Operators (Operators) had met the standards set out in BCLC's policies and procedures as they related to the information that was required to be collected to have a Player Gaming Fund account opened.
3. Upon inspection of a sample of 75 LCTRs, we found that the Operators were compliant with BCLC's CIP and KYC practices.
4. In conducting our inspection of BCLC's AML/ATF training materials, we found that the materials included guidance on BCLC's CIP and KYC practices and the minimum mandatory amount of patron information that had to be collected for various types of transactions.

7.1.3 Findings

1. Our review of relevant BCLC policies and procedures found that no guidance was provided on how to identify and report incidents where BCLC and/or the Operators are holding property that is known to be owned or controlled by or on behalf of a terrorist or terrorist group.

7.1.4 Recommendations

1. Update policies and procedures to include guidance on the information to be obtained, the records that need to be maintained and the length of time the records must be retained for Terrorist Property. Further, incorporate the updated policies, procedures and practices as they relate to Terrorist Property into BCLC's training materials.

7.2 Reporting Obligations

7.2.1 Regulatory Requirements

Regulatory Requirements	PCMLTFA	PCMLTF Suspicious Transaction Reporting Regulations	PCMLTF Regulations
EFT	Section 9(1), 9.5		Sections 2, 3, 4, 5(1), 28, Schedules 2, 3, 5, 6
LCTR	Section 9(1)		Sections 2, 3, 4, 5(2), 28, Schedule 1
STR	Section 7	Sections 9, 11, 12(1)(2) Schedule 1	Sections 53.1
TP	Section 7.1	Sections 10, 11, 12(3) Schedule 2	

FINTRAC has provided organizations with prescribed reporting procedures to ensure that the information is reported completely and accurately and that receipt by FINTRAC is confirmed. Failure to report to FINTRAC within a specified period of time may result in a determination by FINTRAC that the organization has failed to comply with regulations. To ensure that reports are received in a complete, accurate and timely manner, the organization must possess the adequate technical capabilities to do so, understand the prescribed reporting requirements and deadlines as well as have effective response protocols in place to ensure that reporting failures are identified, investigated and resolved in a timely manner. FINTRAC requires that casinos report the following:

- Suspicious transactions ("STR");
- Terrorist property ("TP");
- Large cash transactions ("LCTR");
- Electronic funds transfers ("EFT"); and
- Other casino disbursements.

In addition, FINTRAC requires casinos to determine if, under specific circumstances, a patron is a politically exposed foreign person ("PEFP"). If it is determined that a particular patron is a PEFP, BCLC is required to keep a record of the office or position of the person, whether they have been identified as the person initiating the transaction or the beneficiary, the source of the funds used for the transaction, the date the person was determined to be a PEFP, the name of the member of senior management who reviewed the transaction and the date the transaction was reviewed. According to FINTRAC, a PEFP is an individual who holds or has held one of the following offices or positions in or on behalf of a foreign state (including prescribed family members):

- Head of state or head of government;
- Member of the executive council of government or member of a legislature;
- Deputy minister or equivalent rank;
- Ambassador or attaché or counselor of an ambassador;
- Military officer with a rank of general or above;
- President of a state-owned company or a state-owned bank;
- Head of a government agency;
- Judge; or
- Leader or president of a political party represented in a legislature.

7.2.2 Observations

We assessed BCLC's ability to meet its reporting obligations and found the following:

1. In conducting our interviews with BCLC personnel, we noted that each person interviewed understood the reporting requirements prescribed by FINTRAC;
2. Our inspection of relevant BCLC policies and procedures found that BCLC's reporting policies and procedures substantively met the FINTRAC reporting guidelines;
3. In conducting our interviews with casino Operator personnel, we noted that each person interviewed understood the reporting requirements prescribed by FINTRAC;
4. In testing a random sample of 75 LCTR's, we found that all 75 LCTR's had been reported to FINTRAC within the prescribed time frame.

7.2.3 Findings

None.

7.3 Record Keeping and Retention of Records

7.3.1 Regulatory Requirements

Regulatory Requirements	PCMLTFA	PCMLTF Suspicious Transaction Reporting Regulations	PCMLTF Regulations
Record Keeping and Retention	Section 6	12.1, 12.2, 12.3	Sections 8, 9, 10, 11.1, 29, 30, 31, 32, 52(2), 68, 69, 70

FINTRAC has developed a number of regulations related to record keeping and the retention of records. As a casino, BCLC is required to keep the following records:

- Large cash transaction records;
- Casino disbursement report records;
- Records to be kept when opening an account;
- Extension of credit records;
- Foreign currency exchange transaction tickets;

- Records about certain fund transfers; and
- Suspicious transaction report records.

For each item listed above, the specific information that must be retained and the prescribed length of time the organization must retain it for varies.

7.3.2 Observations

In conducting our review and assessment of BCLC's record keeping and retention practices, we noted the following:

1. BCLC has documented policies and procedures in place that require record keeping and the retention of records. The information required to be obtained and maintained, as well as the document retention period prescribed in BCLC policies and procedures, is in accordance with requirements issued by FINTRAC.
2. Upon review of a sample of 15 Player Gaming Fund account files, we found that the Operators were substantively compliant with FINTRAC record keeping and retention of record requirements (in particular as to records to be kept when opening an account and the extension of credit records).
3. Upon inspection of a sample of 75 LCTR, we found that the Operators were substantively compliant with FINTRAC record keeping and retention of record requirements as they relate to the records to be kept when opening an account and large cash transaction records.

7.3.3 Findings

None.

7.4 Compliance Program

7.4.1 Regulatory Requirements

Regulatory Requirements	PCMLTFA	PCMLTF Regulations
Compliance Program	Section 9.6	Section 71, 71.1

FINTRAC Guidelines identify the following five pillars of an effective compliance program:

- The appointment of a Compliance Officer responsible for the design, implementation and ongoing management of the organization's compliance regime;
- Sufficient and appropriate policies and procedures to demonstrate the organization's commitment to prevent, detect and address non-compliance as well as to guide all program participants and stakeholders on the identification and reporting of suspected AML/ATF activity;
- A comprehensive training program to ensure that all relevant personnel understand the reporting, client identification, and record keeping requirements.
- An independent review, conducted every two years, to evaluate the ongoing effectiveness of the organization's policies and procedures.
- A risk based approach to identify and analyze potential threats and vulnerabilities to which the organization is exposed followed by the design and implementation of controls or other activities to mitigate and/or manage these risks.

7.4.2 Observations

In conducting our review of BCLC's compliance program, we noted the following:

1. BCLC has implemented a compliance program which includes the five pillars noted above.
2. BCLC has appointed a Compliance Officer who is responsible for the organization's compliance regime. Further, through our inspection of BCLC's organizational charts there is a documented formal reporting structure with key roles/responsibilities identified.
3. BCLC documented policies and procedures are in place. The policies and procedures are provided to the Operators. Further, contracts with the Operators state that BCLC policies and procedures are the minimum standard to which the Operators and their employees must adhere to.
4. BCLC has developed a comprehensive training program which BCLC employees administer to the Operators.
5. BCLC engaged IPSA International, to conduct an independent review and assessment of BCLC's AML/ATF program. We reviewed IPSA's report dated November 18, 2009 associated with the last independent review conducted on BCLC's compliance program.
6. BCLC has conducted a risk assessment to identify and analyze potential threats and vulnerabilities to which the organization is exposed.

7.4.3 Findings

None.

7.5 Training

7.5.1 Regulatory Requirements

Regulatory Requirements	PCMLTFA	PCMLTF Regulations
Compliance Program	Section 9.6	Section 71, 71.1

According to FINTRAC, BCLC's compliance program must include ongoing training provided to all who have contact with patrons, observe patron transaction activity, handle cash or funds in any way, or who are responsible for implementing or overseeing the compliance program. The training is to help ensure that "front line" employees as well as senior management understand the reporting, client identification and record keeping requirements. In addition, others who have responsibilities under BCLC's compliance regime, such as information technology and other staff responsible for designing and implementing electronic or manual internal controls, should receive training. The training materials should be documented in writing and updated in response to any operational or regulatory changes.

FINTRAC requires all new employees to be trained before they begin to deal with clients. All employees should be periodically informed of any changes in anti-money laundering or anti-terrorism legislation, policies and procedures, as well as current developments and changes in money laundering or terrorist activity financing schemes particular to their jobs.

7.5.2 Observations

In conducting our assessment of BCLC's AML/ATF training program, we noted the following:

1. BCLC has developed and documented training materials that are substantively compliant with the regulatory requirements for training.

2. Training is delivered by BCLC investigators at workshops throughout the year. Further, the training can also be delivered over the internet.
3. BCLC's policies and procedures require all new employees to undergo training as soon as they are hired, and a refresher training session is provided to all employees every two years.
4. BCLC maintains a training log identifying all employees who are required to receive training and the last time each employee had received AML/ATF training.
5. All of the casino employees that we interviewed stated that they received AML/ATF training within the past 24 months.

7.5.3 Findings

1. Upon inspection of BCLC's training log and through discussions with various personnel, we found that not all casino employees are completing their training prior to commencing work in the casinos. This may be due, in part, to the fact that the existing contracts between BCLC and the Operators do not specify that their employees are required to undertake initial (and annualized) training before they begin to deal with patrons.

7.5.4 Recommendations

1. Amend the existing contracts between BCLC and the Operators to include clauses requiring every casino employee to successfully complete training prior to commencing duties. Further, provide ongoing monitoring to ensure that Operators are 100% compliant with this requirement.

7.6 Independent Review

7.6.1 Regulatory Requirements

Regulatory Requirements	PCNLTA	PCMLTF Regulations
Compliance Program	Section 9.6	Section 71, 71.1

Another component of a comprehensive compliance regime is a review of the organization's compliance policies and procedures to test their effectiveness. FINTRAC requires a review to be conducted every two years and must cover the organization's policies and procedures, assessment of risks related to money laundering, and training program to ensure that they are still designed appropriately given any changes in AML/ATF regulations and/or changes in the organization's products, services and operations.

The ultimate goal is to help the organization evaluate the need to modify existing policies and procedures or to implement new ones. The scope of the review should be documented and depends on the nature, size and complexity of the organization's operations. The review process should be well documented and should identify and note weaknesses in policies and procedures. The results of the review should also be documented, along with corrective measures and follow-up actions.

7.6.2 Observations

In conducting our assessment, we found the following:

1. Through inspection of the documents provided by BCLC, we found that BCLC uses IPSA International (an independent professional services firm) to conduct independent reviews of the organization's compliance program.

2. IPSA International conducted an independent review and subsequently issued a report on March 24, 2008. IPSA International then conducted a follow up review and performed a risk assessment of the compliance program on November 18, 2009.

Both reports issued by IPSA International provided a number of recommendations. Through our interviews with members of BCLC's compliance function, we confirmed that some of the recommendations provided by IPSA International were taken under advisement while others were addressed through remediation.

7.6.3 Findings

1. While BCLC is diligent in engaging an independent consultant to conduct frequent reviews of its AML/ATF program, the compliance program does not document a formal follow-up plan in response to the consultant's findings including why BCLC has chosen not to adopt the recommendations.

7.6.4 Recommendations

1. Have BCLC Management formally document their assessment of the IPSA recommendations, as well as the specific corrective measures and follow-up actions to be undertaken (if any) should management agree with the independent assessment. If management does not agree, this too should be documented explaining why the recommendation was not undertaken. Formalize this activity to ensure that it is carried out for all subsequent reviews of BCLC's compliance program.

7.7 Risk Based Approach

7.7.1 Regulatory Findings

Regulatory Requirements	PCMLTF	PCMLTF Regulations
Compliance Program	Section 9.6	Section 71, 71.1

FINTRAC requires an organization's compliance regime to include an assessment and documentation of risks related to money laundering and terrorist financing. FINTRAC identifies a risk based approach ("RBA") as "a process that allows you to identify potential high risks of money laundering and terrorist financing and develop strategies to mitigate them".

According to FINTRAC, an appropriate RBA considers the risks associated with the following three factors:

- The organization's products or services;
- The geographical regions where the organization operates; and
- The relationships it has with its clients.

An effective RBA will allow an organization to focus its resources where they are most needed. The RBA should drive the design and implementation of policies, procedures and controls to ensure that an organization has sufficient and appropriate practices in place for the prevention, detection and deterrence of money laundering and terrorist financing. According to FINTRAC, an RBA is a process that encompasses the following:

- A risk assessment;
- Risk mitigation through the implementation of appropriate policies, procedures and controls to address each risk;
- The keeping of patron identification and beneficial ownership information up to date; and
- The ongoing monitoring of financial transactions which pose higher risks.

7.7.2 Observations

Through our interviews with members of the compliance program responsible for BCLC's risk assessment materials as well as through the inspection of BCLC's risk management documentation, we noted the following:

1. BCLC has conducted a comprehensive AML / ATF risk based assessment that includes the risks associated with each of the Operator properties in the Province of BC. The risk assessment also provides significant consideration of risks associated with the geographical regions in which the casinos operate;
2. Our testing of a sample of 75 patron accounts found that BCLC was keeping patron identification and beneficial ownership information up to date;
3. BCLC performs frequent monitoring and analysis of a number of high risk transactions and behavior.

7.7.3 Findings

1. While BCLC has conducted a risk assessment to identify and analyze potential threats and vulnerabilities to which the organization is exposed, it is not well integrated with BCLC policies and procedures. Further, the current risk assessment focuses primarily on generic risks associated with casino operations and does not focus on specific scenarios/schemes inherent to BCLC and its stakeholders as required by federal regulations. Specifically:
 - a. The current risk assessment has not been updated to include additions to BCLC's products/services. For example, we found that BCLC's risk assessment had not been updated to include the AML/ATF risks associated with its i-gaming services provided by PlayNow.com; and
 - b. The current risk assessment has not been updated to include the documentation of risks associated with the relationship that BCLC (or the Operators) have with their clients.

7.7.4 Recommendations

1. Frequently monitor the AML/ATF risk assessment document and implement a formalized process to ensure that it is updated to incorporate all changes in BCLC's products and services, operations, geographical reach, and client relationships. Further, align the risk assessment to BCLC's policies and procedures to ensure that they too are updated for changes in BCLC's products and services, operations, geographical reach, and client relationships. This alignment may assist in ensuring that there are sufficient policies, procedures and controls in place to mitigate or manage all risks to a level deemed appropriate by BCLC.
2. Also, conduct a walkthrough of the AML/ATF program in greater detail to identify weaknesses/deficiencies in the program that expose BCLC to risk. Any unmitigated risks that remain will be identified to allow management to identify practical solutions to address each risk considering BCLC resource constraints and infrastructure. The solutions should be prioritized to allow BCLC to build a road map to guide leadership on the order in which remedial action will take place and the timing in which each action will be undertaken.

8 Other Program Considerations

8.1 Organizational Culture

Organizational culture refers to how well the organization's compliance program is supported by management and integrated as a part of daily operations. While not a regulatory requirement, the organizational culture refers to the actions, values and management behavior that influence and ultimately set the tone of the organization's dedication to its compliance program.

8.1.1 Observations

Through our interviews with BCLC management and members of the compliance function as well as through our evaluation of the overall compliance regime, we noted the following:

1. Management disclosed that they took compliance with AML/ATF compliance seriously and were committed to doing the "right thing".
2. Members of the compliance function interviewed stated that they felt that the function received sufficient support from BCLC management.
3. Management is in the process of enhancing BCLC's AML/ATF program demonstrating their commitment to performance improvement.
4. There is significant integration and collaboration between BCLC's compliance function and the Operational Gaming Audit ("OGA") function. OGA conducts frequent audits at Operator properties to ensure ongoing compliance with BCLC's AML/ATF program. Exceptions and recommendations for improvement are identified and formally presented to the compliance function on a bi-annual basis.
5. Changes in AML/ATF regulations and reporting requirements are identified and evaluated by a dedicated resource in the compliance function. This resource then sends a notice, via email, to all Operator General Managers/Executives one month prior to implementation. A subsequent email is sent out by BCLC to the same individuals on the distribution list with updated policies and procedures to reflect the change in AML/ATF regulations and reporting requirements.
6. BCLC frequently obtains an external and independent legal opinion on the current state and proposed changes to the organization's AML/ATF compliance program.
7. BCLC's compliance function consists of a number of professionals with significant experience in AML/ATF compliance programs. Further, their investigations team has a number of experienced professionals including ex-RCMP personnel.

8.1.2 Findings

None.

8.2 Regulator Approach

GPEB regulates all gaming in British Columbia, including the operations of BCCLC, which conducts and manages commercial gaming in the Province. In its role as the regulator, GPEB is responsible for:

- Developing and managing gaming policy, legislation and standards;
- Regulating all aspects of the gaming industry;
- Overseeing horse racing events;
- Licensing charitable gaming events and horse racing;
- Registering gaming service providers, gaming workers and gaming equipment;
- Conducting charitable and commercial audits to ensure compliance;
- Investigating allegations of wrongdoing in all gaming sectors;
- Managing the distribution of government's gaming proceeds, including grants;
- Administering the province's Responsible Gambling Program and related initiatives; and
- Ensuring a comprehensive approach to risk management for GPEB operations and the gaming industry at large within the Province of British Columbia.

8.2.1 Observations

1. In its role as a regulator, GPEB intends to expand its current role to provide greater oversight over BCCLC without appearing redundant in relation to the expectations and oversight provided at the federal level by FINTRAC.

8.2.2 Findings

None.

9 Appendix A: Improvement Opportunities

In conducting our independent assessment, we identified eleven opportunities for BCLC's AML / ATF program that, if addressed, may result in improving the operational efficiency and effectiveness while further mitigating compliance risk. Our observations and related recommendations to improve BCLC's AML/ ATF program are as follows:

9.1 Reporting Obligations

9.1.1 Observations

1. In conducting our interviews with BCLC compliance personnel as well as through conducting our walkthrough of the existing reporting process, we noted that there was a lack of a centralized management system and associated automation in place for the monitoring, detection, investigation and reporting of money laundering and terrorist financing. Not having a centralized management system and sophisticated automation of transaction monitoring could result in limited collaboration between the compliance function and other risk management professionals across the organization (including internal audit and IT).
2. Moreover complexities and vulnerabilities related to the aggregation of transaction information across multiple sites and operators into a centralized reporting environment may not be identified and addressed. Individual reports had to be accessed and reviewed independently of others resulting in limitations of BCLC to identify unusual and potentially suspicious activity. In conducting our interviews with BCLC compliance personnel and BCLC's IT function, we found that the organization did not have a formalized LCTR systems reconciliation framework in place to ensure that all reports are made in a complete, accurate and timely manner and that weaknesses within the reporting process are identified, investigated and remediated. BCLC has made modifications to its electronic reporting structure in response to it receiving the AMP, further improvements to the AML IT infrastructure could provide an additional degree of support for the organization's reporting program based on its size and complexity of operation.

9.1.2 Recommendations

1. BCLC requires a comprehensive framework focused on the alert and escalation process in the event of a failure in the acquisition, aggregation, transmission and acknowledgement of transactions by FINTRAC. Elements of this framework currently exist; however, it is important for BCLC to enhance its overall systems reconciliation framework.

To do this formalize and conduct frequent evaluations of the reporting and reconciliation systems and processes to identify ways to improve the processes and mitigate the risk of reporting failures. Compliance should work closely with IT to determine how current systems can be enhanced to improve the overall reporting process. Both groups should work to establish a formalized reporting framework which is formally documented and frequently evaluated to ensure that every report that is capable of being filed is transmitted and subsequently reconciled between the transmission and confirmation of receipt.

Further, document and evaluate BCLC's exception management process to identify weaknesses and opportunities for enhancement should exceptions or failures in the reporting systems and processes be realized. This would include developing fall back mechanisms to ensure BCLC's ability to report errors of omission, content, transmission or system failures that occur within the reporting process and to subsequently provide timely remediation to remain compliant.

Once the systems reconciliation framework has been designed and implemented, conduct ongoing independent evaluations of the reporting and reconciliation framework to ensure that BCLC's reporting obligations and objectives are met.

Implement an improved centralized management system, which is owned and directed by BCLC's compliance function, for the detection, investigation and reporting of: suspicious transactions and attempted suspicious transactions; LCTR – including the single threshold as well as LCTR aggregates which meet the thresholds within a 24 hour period; Electronic Funds Transfer Reports ("EFTR"); and casino disbursements.

9.2 Compliance Program

9.2.1 Observations

1. Upon review of all relevant BCLC policies and procedures we noted that the current documents are not well integrated and/or harmonized with other program elements. Specifically, we found that:
 - a. BCLC's documented policies and procedures are relevant to the overall compliance regime; however, upon review of each of BCLC's current AML/ATF policies and procedures, they do not appear to be integrated with each other. This may appear confusing to a regulator when evaluating the program as a whole;
 - b. BCLC policies and procedures are inconsistently represented within the policies and procedures of the three casino operators (the "Operators"). In review of Operator policies and procedures, in relation to those of BCLC, we noted that there were significant differences in the level of detail provided. Further, Operators do not always have access to the most current version of BCLC policies and procedures.
 - c. Policies, procedures and controls are not mapped to BCLC's risk assessment thereby enabling BCLC to demonstrate that each risk has been sufficiently mitigated or managed.

BCLC's risk based assessment is linked with its policies and procedures; however, upon review of the documentary assets on their own, it may appear, to an independent auditor, that these documents are not linked. In particular, when reconciling the policies and procedures, we found that some risks were not supported by policies and procedures; furthermore, we found that some risks were not addressed in BCLC's policies and procedures. This included the risk of system failures that could result in a missed reporting deadline. Although the risk has been identified, it is not managed through the adoption of documentary policies and procedures.

This would include identifying how a system failure is identified, who is responsible for identifying, investigating and resolving the failure in a timely manner, and how BCLC remediates any deficiencies that caused the failure. While it was clear that processes were in place to manage risks, they were not necessarily documented in the risk based assessment and/or the policies and procedures.

As a result, BCLC may receive a qualified opinion on a compliance audit should the scope of the audit be limited to a review of the organization's documentary assets.

9.2.2 Recommendations

1. Reconcile policies and procedures to each other as well as to BCLC's risk based assessment to help ensure consistency among the program's organizational process assets. On an

ongoing basis, develop policies and procedures as an outgrowth of the risk assessment in that each policy and procedure should be traceable to specific gaps with a priority based on the risk assessment. The risk assessment should be comprehensive enough to help manage policy and procedure development. Policies and procedures should be updated in response to changes in the types and severity of BCLC specific risks faced by the organization.

2. BCLC should consider the establishment of an overarching AML / ATF framework and unifying policy, applicable to all Operators. This would unify all relevant policies and procedures relating to BCLC's AML / ATF program and set out mandatory AML / ATF according to BCLC's AML / ATF program. The policy would be implemented in daily operations according to a risk based approach. Moreover this would include the establishment of site-specific and Operator-specific procedures in support of the unified policy.

9.3 Training

9.3.1 Observations

1. The same training materials are provided to every employee regardless of their level, language or tenure.

9.3.2 Recommendations

1. Develop and provide mandatory specialized training for high risk programs and operations (such as the cash cage).

9.4 Risk Based Approach

9.4.1 Observations

1. Through our interviews with various BCLC personnel, we confirmed that BCLC's risk based approach was not continuously monitored and updated to proactively drive the compliance function's risk management strategy.
2. Through our interviews with BCLC investigators, we confirmed that ongoing monitoring of financial transactions which pose higher risks does exist; however, we were advised that the monitoring process is primarily manual. BCLC currently uses data analytics, but to a limited extent. Given the current size and scale of operations, the volume of transactions and the various methods in which they can be executed, BCLC may experience difficulty in identifying and investigating those transactions that appear suspicious.

9.4.2 Recommendations

1. Use BCLC's risk assessment to drive improvements to the existing compliance program including making modifications to operations, processes, and information and reporting systems to ensure ongoing regulatory compliance. For example, this may include providing specialized training for IT personnel and third party service providers.
2. Enhance the use of analytical tools to discern characteristics and/or relationships among transactions that would not otherwise have been identified using traditional detective methodologies and tools. This would help BCLC proactively identify and monitor high-risk transactions.

In the interest of mitigating compliance risk and as a further consideration of the risk based approach associated with Player Gaming Fund accounts and their associated transactions, BCLC should consider an update its AML / ATF policies and procedures to include guidance for the identification of PEFPs. According to FATF PEFP represent a heightened risk related to AML / ATF.

9.5 Organizational Culture

9.5.1 Observations

1. There was insufficient involvement/integration between the compliance group and other key BCLC groups (such as Internal Audit and Information Technology) that could provide assistance with enhancing the compliance function. BCLC has IT resources dedicated to the organization's reporting systems and regular meetings are held between compliance and IT. However, more could be done to automate many of the manual processes, activities and controls currently in place. In our discussions with various IT personnel, it was noted that IT does not understand BCLC's reporting requirements and operating needs. We found that, although compliance personnel met with IT, it was only when compliance was reacting to a challenge it was experiencing with the current IT infrastructure rather than proactively determining how the overall process could be improved.
2. This observation was similar for Internal Audit. BCLC's Internal Audit function is strong and has the capabilities to provide independent evaluations of the organization's AML/ATF program. However, to do this effectively, Internal Audit must better understand BCLC's compliance and reporting needs. This can only be done through improved integration and collaboration between the two groups.
3. There is no formal framework in place to manage changes to the compliance program. Specifically, there is no documented procedure for how changes in AML/ATF regulations and reporting requirements are identified, how it will be determined what organizational process assets will be affected by the change, how changes are made uniformly across all organizational process assets, and how BCLC gains assurance that the new documentation is updated and received by the appropriate stakeholders in a timely manner. For instance, although changes are emailed out on an email distribution list, some of the recipients no longer work for the Operators.
4. As a result, changes may not be made in a timely manner, changes may not be received by the appropriate stakeholders, or the changes may not be sufficiently and appropriately integrated with other AML/ATF organizational process assets.

9.5.2 Recommendations

1. Formally document the reporting lines, including key roles and responsibilities, beyond the compliance function to clearly define how the compliance program fits into BCLC's overall operations and how it is supported by personnel outside the compliance department (i.e. Management, Internal Audit and IT).
2. Provide specialized training for BCLC's IT function to help them understand BCLC's reporting requirements, thus empowering them to better support the compliance function by enhancing BCLC's electronic reporting and reconciliation systems/processes.
3. Furthermore, provide specialized training for BCLC's internal audit function to help them support the program by conducting independent assessments of the AML/ATF program, assessing the design and operating effectiveness of BCLC's internal controls as they relate to the compliance program, and assisting with the identification of risks faced by the organization as they relate to BCLC's level of compliance with AML/ATF regulations and legislation.
4. Document and adhere to a formal framework designed to manage changes to the compliance regime. This would include identifying who is responsible for updating the risk assessment, policies and procedures, and training materials.

9.6 Regulator Approach

9.6.1 Observations

1. While the enforcement of PCMLTFA resides with FINTRAC, the registration and oversight of BC casino operators (the "Operators") is strictly a provincial matter that resides with GPEB and, as a result, GPEB is able to play a significant role in the Province to ensure that both BCLC and the Operators comply with the PCMLTFA.
2. The intersection of common interests to mitigate crime and safeguard Canadians is an exceptional opportunity for GPEB to enhance its current role in the oversight of BCLC and the Operators. This may include establishing standards and conditions requisite to the granting or continuance of granted contracts within British Columbia.

9.6.2 Recommendations

1. GPEB should leverage its authority, as the regulator of gaming in BC, to establish a stronger and more formal role in ensuring BCLC compliance with the PCMLTFA.
2. GPEB should actively follow up on GPEB/FINTRAC audit recommendations as well as the action plans developed by BCLC in response to these independent reviews. The regulator can apply a level of persuasion that will work to achieve compliance success with the PCMLTFA.

10 Appendix B: Interviews & Discussions

Name	Position	Date
Bill McCrea	GPEB, Executive Director, Internal Compliance and Risk Management	Various
Michael Graydon	CEO	Various
Terry Towns	VP Corporate Security & Compliance	August 13, 2010
Doug Morrison	Manager Casino Security & Surveillance	August 16, 2010
Gordon Freisen	Assistant Manager Casino Security & Surveillance	August 16, 2010
Gurmit Aujla	Director, Internal Audit	August 24, 2010
Cathy Anastasio	Trend Analyst	September 3, 2010
Denise Francoeur	Senior Systems Analyst	September 3, 2010
Chad Russet	Systems Analyst (iTrack)	September 3, 2010
Kevin Sweeney	Manager, Operational Gaming Audit	September 20, 2010
Various Gaming staff (River Rock casino)	<ul style="list-style-type: none"> • BCCL site investigator • Casino operations manager • Pit boss • Floor manager • Dealer • Cash cage attendant • Cash cage supervisor • Surveillance personnel • Slot attendant/manager 	August 25, 2010
Various Gaming staff (Starlight casino)	<ul style="list-style-type: none"> • BCCL site investigator • Casino operations manager • Pit boss • Floor manager • Dealer • Cash cage attendant • Cash cage supervisor • Surveillance personnel • Slot attendant/manager 	August 25, 2010
Various Gaming staff (Kamloops casino)	<ul style="list-style-type: none"> • Casino operations manager • Pit boss • Floor manager • Dealer • Cash cage attendant • Cash cage supervisor • Surveillance personnel • Slot attendant/manager 	September 3, 2010

11 Appendix C: Key Documents Reviewed

Ref.	Document Name	Document Description
1	FATF RBA Guidance for Casinos - October 23, 2008	Risk based approach guidance issued by the Financial Action Task force
2	FATF Report - Vulnerabilities of casinos and gaming sector march 2009	An update on recent activities, trends, and new vulnerabilities in the casino and gaming sectors.
3	FINTRAC – Guideline 1	Provides a background on the legislation and what is proceeds of crime and terrorist financing act
4	FINTRAC – Guideline 2	Provides guidelines on how to handle suspicious transactions, what are suspicious transactions, and who must report
5	FINTRAC – Guideline 3a	Provides guidance on how to submit suspicious transaction reports to FINTRAC electronically
6	FINTRAC – Guideline 4	Provides guidelines on what a compliance regime is, who has to implement a regime and using a risk based approach
7	FINTRAC – Guideline 6F	Provides guidance on record keeping requirements and client identification requirements in casinos
8	FINTRAC – Guideline 7a	Provides guidance submitting large cash transaction reports to FINTRAC electronically
9	FINTRAC – Guideline 8a	Provides guidance on submitting non-SWIFT EFT reports to FINTRAC electronically
10	FINTRAC – Guideline 10a	Provides guidance on submitting casino disbursement reports to FINTRAC electronically
11	BCLC 1-1.2 General - FINTRAC and Anti-Money Laundering Monitoring - INTERNAL Aug 11, 2010 – PBC	BCLC's general internal policy on FINTRAC and anti-money laundering
12	BCLC 1-4.1 General - Customer Service Standards and Expectations v.2-PBC	BCLC's general internal policy on how to deal with customers, signage, rules of play
13	BCLC 3-8.1 Cage - Large Cash Transactions with revisions July 2 2010 (casino) - PBC	BCLC's internal policy on how to deal with large cash transactions, what records to retain, personal information collected, suspicious transactions, foreign exchange, buy-in amounts, cash outs, patron tracking, and filing LCTs / foreign exchange and cash outs.
14	BCLC 3-8.4 Cage - Patron Gaming Funds accounts v.2 – PBC	BCLC's internal policy on player gaming fund accounts which include: subsequent deposit requirements, requirements for setting up an account, acceptable forms of identification, record keeping requirements, withdrawals, and how to deal with dormant accounts

15	BCLC 3-9.1 Cage - Foreign Currency v.2 – PBC	BCLC's internal policy on how to deal with foreign exchange, patron buy-back, and rates used
16	BCLC 3-9.3 Cage - Service Provider's Cheques v.2 - PBC	BCLC's internal policy on how to deal with traveler cheques
17	BCLC 4-3.1 BCLC Operational Gaming Auditor - Large Cash Transaction Reports Audit - INTERNAL - PBC	BCLC's internal policy on what the operational gaming auditor tests
18	BCLC 4-6.3 Slots - Jackpots and Large Cancelled Credits v.2 - PBC	BCLC's internal policies and procedures on how to deal with jackpots and large cancelled credits
19	BCLC CGC - 3-8.1 Cage - Large Cash Transactions - revised for July 2 2010 - PBC	BCLC's internal policies for community gaming centers on LCTs, identification requirements, foreign exchange, buy-ins and cash outs, and patron tracking
20	Risk assessment Geographical Locations - March 25, 2010 - PBC	BCLC's risk assessment performed on March 25 by geography
21	Action Plan related to BCLC reporting to FINTRAC - March 25, 2009 UPDATED - PBC	BCLC Management responses to FINTRAC findings
22	CS and Compliance Chart-PBC	BCLC's corporate security and compliance organization chart
23	Exec org chart - PBC	BCLC's executive organizational chart
24	GPEB_General Service Agreement_August_6_2010 - PBC	Statement of work and service agreement between GPEB and Deloitte
25	FINTRAC Advanced Refresher Module - May 2010-PBC	BCLC's training slide deck on FINTRAC and AML used for the service providers
26	Patron Risk Decision Tree - PBC	BCLC's internal patron risk decision tree
27	LCTR and LCD Violations document - July 2010	Listing of BCLC's violation from FINTRAC
28	Outline - FINTRAC Board Presentation - July 23, 2010 – PBC	Presentation notes from Alison Manzer on AML and FINTRAC
29	Section 1 - FINTRACs View of Casinos and AML-ATF – PBC	Scanned versions of FINTRACs view of casinos for AML purposes
30	Section 2 - Director Responsibilities - For a FINTRAC reporting entity - PBC	Scanned versions of guideline 4 – director responsibilities
31	Section 3 - FATFs View of Casinos and AML-ATF - The Tactics they are Seeking to Control – PBC	Excerpts from March 2009 vulnerabilities of casinos
32	Section 4 - Backgrounder - What is Anti-Money Laundering – PBC	Board presentation on what money laundering is, excerpts from Alison Manzer's book
33	Section 5 - Backgrounder - What is needed for Compliance A – PBC	Notes on compliance A, excerpts from Alison Manzer's book
34	Section 5 - Backgrounder - What is needed for Compliance B – PBC	Notes on compliance B, excerpts from Alison Manzer's book

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Appendix G

Gaming Policy and Enforcement Branch, *Anti-Money Laundering in BC Gaming: Measuring Performance Progress*, May 29, 2013



Know your limit, play within it.

Anti-Money Laundering in BC Gaming

Measuring Performance Progress

Gaming Policy and Enforcement Branch

Anti-Money Laundering in BC Gaming

Measuring Performance Progress

Executive Summary

As a result of concern that British Columbia gaming facilities could be targeted for the purposes of money laundering the Gaming Policy and Enforcement Branch (GPEB) and the British Columbia Lottery Corporation (BCLC) embarked on an initiative to prevent this activity. The strategy statement, which has framed the anti-money laundering (AML) activities, is that:

The gaming industry will prevent money laundering in gaming by moving from a cash based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gambling practices and the health of the industry.

The approach to achieving the AML goal is for the industry to develop and implement tiers of scrutiny and control over the acceptance of funds into gaming facilities. The plan is designed to progress through three phases, with defined timeframes. The regulator, the operator and industry service providers are working to provide alternatives to outside cash, market the solutions to patrons, conduct analysis of high volume buy-ins and take appropriate action to meet the goal.

Both GPEB and BCLC have initiated working groups to create solutions for this industry challenge. Alternatives to carrying cash into gaming facilities have been developed and implemented, in Fiscal Year 2012/13. Progress has been made with new enhancements being introduced to the industry that allow patrons to safely obtain gaming funds inside the facilities. These funds are transferred from the financial institutions sector and rely on the required degree of AML diligence maintained there.

The results over the first three quarters of Fiscal Year 2012/13 are encouraging. Good progress has been made with customers using funds from the Patron Gaming Fund account, making debit withdrawals at the cage, and utilizing ATM's and other electronic withdrawals within the gaming facilities. The trend for use of the new enhancements shows a strong increase in the latest quarter.

Even with the progress that has been made, through alternative cash initiatives, there have been increased levels of suspicious currency transactions during the same time period. Although increased reporting diligence has to be considered in the explanation of this trend, suspicious currency is entering at an increased level and the perception of undesirable funds is increasing.

This report provides discussion of the existing success in AML initiatives and the challenges of outside cash that continues to enter gaming facilities. It describes the next planned enhancements for availability of funds inside facilities. And, it sets out a phased approach to accelerate the strategy through the next fiscal year.

BACKGROUND

In 2011, the Province conducted a review "Anti-Money Laundering Efforts at BC Gaming Facilities" to determine what anti-money laundering (AML) policies, practices and strategies were currently in place and to identify opportunities to strengthen the existing anti-money laundering regime. The published review included recommendations to both the British Columbia Lottery Corporation (BCLC) and the Gaming Policy and Enforcement Branch (GPEB) for opportunities to further strengthen anti-money laundering efforts.

Following this report, GPEB and BCLC developed a comprehensive anti-money laundering strategy to implement changes in the cash based business. Prior to establishing the new AML strategy funds for gaming have been available inside the facilities, through limited options. Beyond those options cash had to be brought into gaming venues from outside the facilities. The focus of the AML strategy is a phased approach of prevention, through providing alternatives to bringing in cash from outside gaming facilities, and, working to prevent suspicious currency that is typical of, or could be perceived to be, money laundering or the use of proceeds of crime to gamble.

BCLC and GPEB created a formal information sharing agreement between BCLC and British Columbia police agencies, to enhance the ability to identify and ban persons with known criminal activities from BC gaming facilities. Since the 2011 report was released 7 individuals with known criminal activities have been banned.

An anti-money laundering cross-divisional working group (AML x-dwg) was established in GPEB to develop AML solutions and assess proposals from BCLC and the industry. At the outset GPEB's Assistant Deputy Minister met with Service Provider CEO's and the President & CEO of the BC Lottery Corporation to set an approach for this initiative. BCLC established an industry working group, which included themselves as the operator of gaming, service providers who manage and run the gaming facilities and GPEB as the regulator of gaming. The industry AML working group meets regularly to review progress and develop new strategies.

GPEB's strategy statement was developed, which has framed activities of the AML x-dwg and the industry working group.

The gaming industry will prevent money laundering in gaming by moving from a cash based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gambling practices and the health of the industry.

This anti-money laundering strategy provides a framework for stakeholders in the gaming industry to align with each other in achieving mutual objectives to prevent money laundering, and the perception of money laundering, in the British Columbia gaming industry. Through creating innovative solutions and implementing these with rigorous policies and procedures the goal will be achieved.

AML PERFORMANCE MEASURES

The performance measure established for the Ministry 2013/14 - 2015/16 Service Plan is to "Enhance access to funds in gaming facilities." The measure tracks the strategy of providing a suite of options to access funds within casinos and Community Gaming Centers. This has a baseline of two options in 2011/12, to obtain funds inside gaming facilities, and expands on that in future years. The performance measure also commits to producing this AML effectiveness evaluation report and to adjust the strategy/implementation as appropriate to the success of the initiative.

This report provides discussion and measurements of the progress being made to achieve the goals set out in the Service Plan and in examining trends in suspicious currency transactions (SCT's). The baseline for the new options began April 1, 2012.

FINANCIAL BACKGROUND

The context for conducting financial analysis is the gross revenue of casinos and community gaming centres, and total gaming industry revenue in the province. The revenue figures for the past two fiscal years are.

	FY 2010/11	FY 2011/12
Casino	\$1,339,272,000	\$1,350,749,000
Community Gaming	\$277,036,000	\$289,286,000
CASINO & COMMUNITY REVENUE	\$1,616,308,000	\$1,640,035,000
TOTAL GAMING REVENUE	\$2,678,700,000	\$2,701,400,000

2011/12 AML Measures Baseline

Before engaging in new initiatives the two options available to obtain funds inside gaming facilities were Automated Teller Machines (ATM's) and the Patron Gaming Fund account.

ATM's have been utilized in gaming facilities for many years. They are widely used by patrons to obtain funds but are limited in the amount of money that a player can obtain on any given day. Even with this limitation ATM's continue to be utilized by gaming patrons who withdraw hundreds of millions of dollars each year inside BC gaming locations.

The **Patron Gaming Fund** account (PGF) was introduced to BC gaming players late in December 2009. This option allows patrons to transfer funds electronically from approved deposit-taking institutions into a PGF account, held at a BC casino, for play while at the facility. The PGF account was established to provide an option to players having to carry large amounts of cash into gaming facilities. It also ensured that AML diligence had already been done for these funds. GPEB initially approved this innovative option with relatively strict controls, to conduct a pilot program that would allow us to manage the money laundering risk. With the controls in place, and the PGF account being a pilot program it received limited acceptance through the first two years.

2012/13 AML Enhancements

The new emphasis on AML opened up expanded options for increased use of the PGF by a larger number of players, and for larger volumes of gaming funds. The commitment for Fiscal Year 2012/13 is to introduce three new options to either enhance existing AML strategies or to develop new strategies. Working with BCLC and casino service providers GPEB has approved new options, with resulting increases in funds being available inside gaming facilities. These new options have required new BCLC policies and procedures and the necessary changes in gaming facility operations. Thus adoption has been staggered throughout the year.

The following describes the 2012/13 enhancements and new strategies.

Patron Gaming Fund

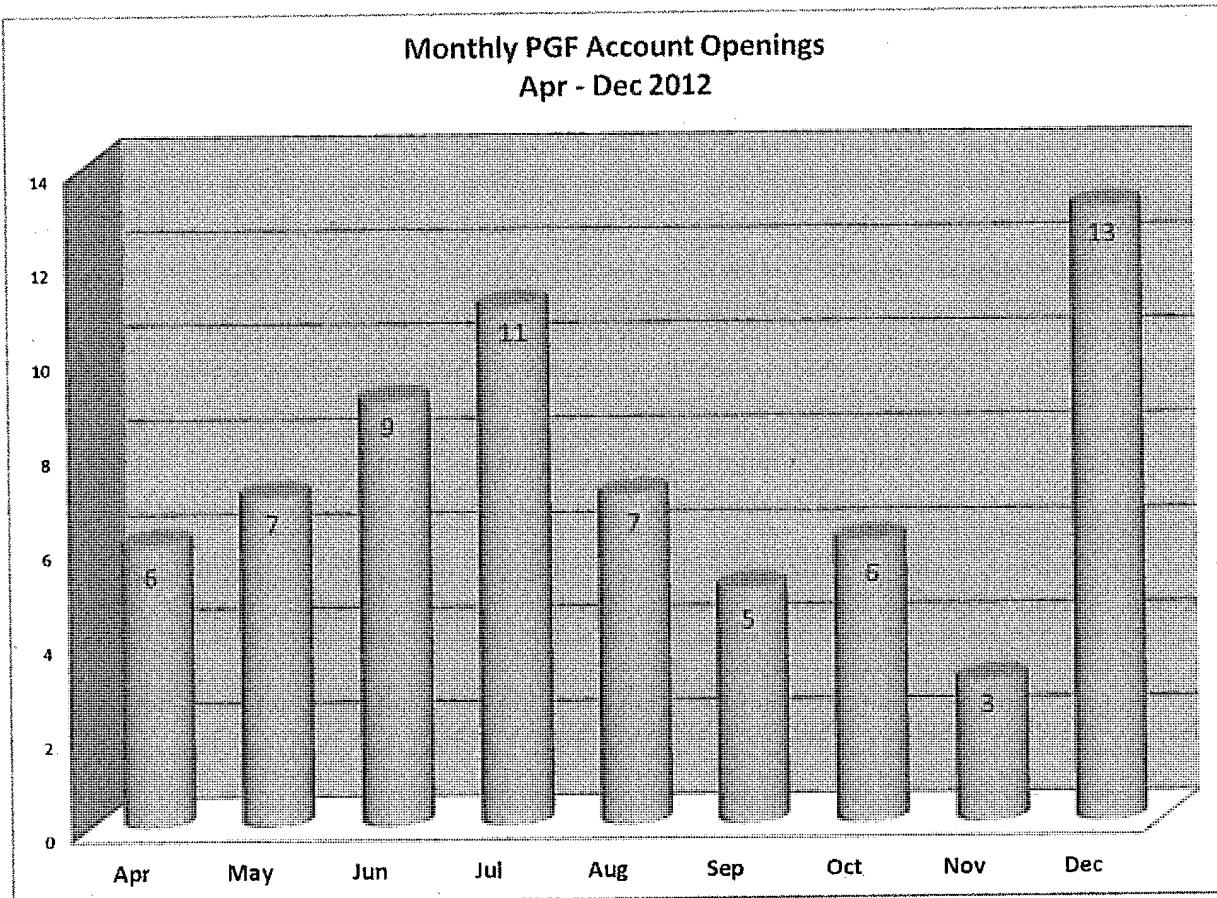
Through this current fiscal year, several enhancements have been made to the PGF accounts program. There has been a positive increase in funds being deposited into PGF accounts and used for gaming in the casinos. The enhancements are:

- the list of acceptable financial institutions, for transfer of funds into the PGF, has been expanded to include Schedule II Canadian deposit taking institutions.
- for customer convenience, PGF accounts can now be linked to two financial institution accounts. Only individual bank accounts are allowed, with no third party, joint or business accounts to be used in funding PGF funds.

- PGF accounts can now be funded with an expanded list of financial instruments. These are:
 - certified cheques
 - bank drafts
 - verified win cheques
 - cheques issued by Canadian casinos, to the PGF account holder

Through work done at the industry working group, the PGF account has been more actively promoted in BC gaming facilities. Frequent, and high volume, players are being identified. Service providers are engaging these individuals to sign more players into the program and to encourage increased use of the program.

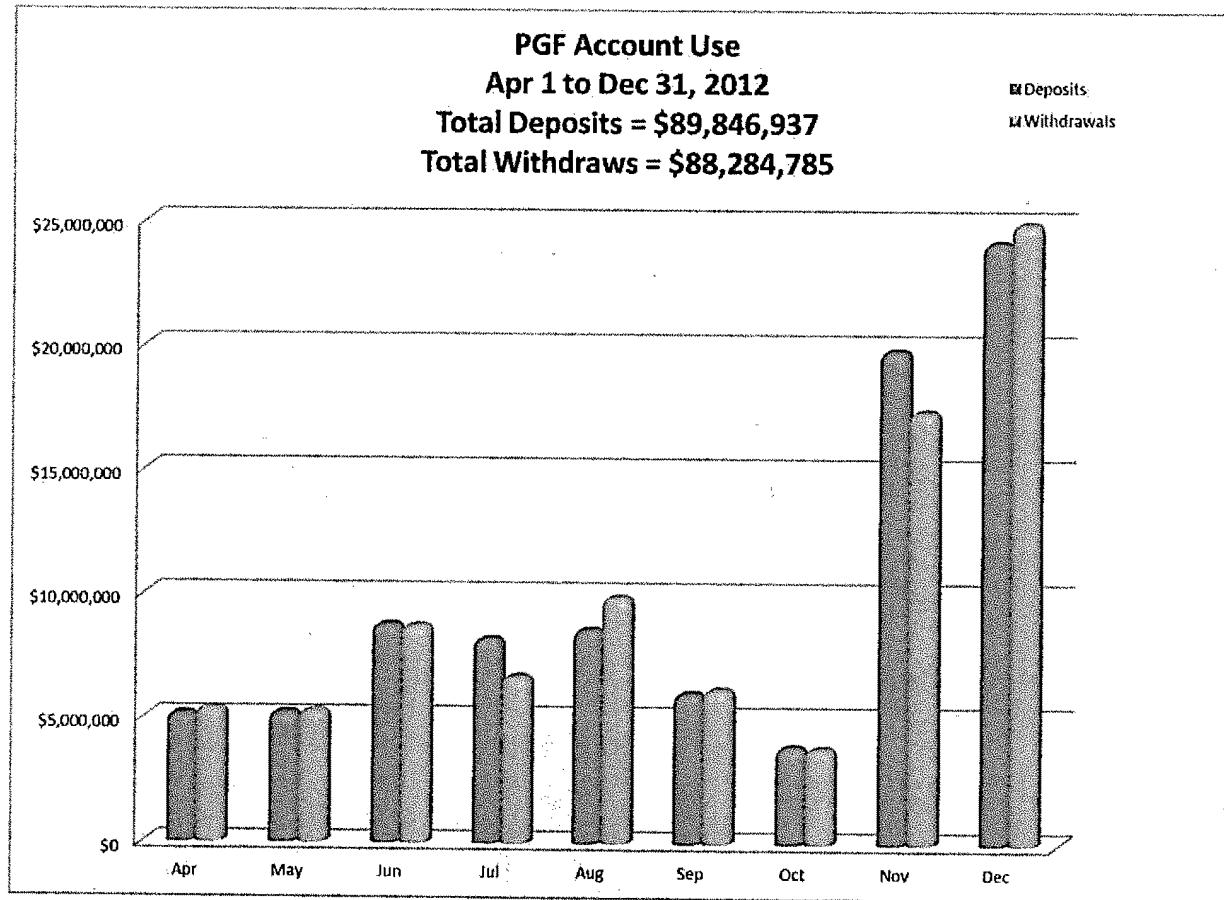
The chart below indicates the number of new PGF accounts that have been opened in the current fiscal year.



The total number of PGF accounts opened since the December 2009 inception of the program is 305. The 67 new PGF accounts, in the first nine months of the current fiscal year, is an increase of 28% over the previous total.

Although the current activity of new accounts is encouraging it should be noted that 152 of the total PGF accounts have been closed, subsequent to being opened. The primary reason for casino service providers to close accounts is due to inactivity for a 12 month period. This leaves 153 PGF accounts open as at December 31, 2012.

The chart below documents the amount of money deposited into PGF accounts and withdrawn for gaming use in the first three quarters of FY2012/13. It is significant to note the increase in usage during the third quarter, over the total usage in the prior two quarters. This measure is encouraging in that it supports the increased momentum of the AML strategy, by service providers and gaming patrons.



Analysis of PGF momentum:

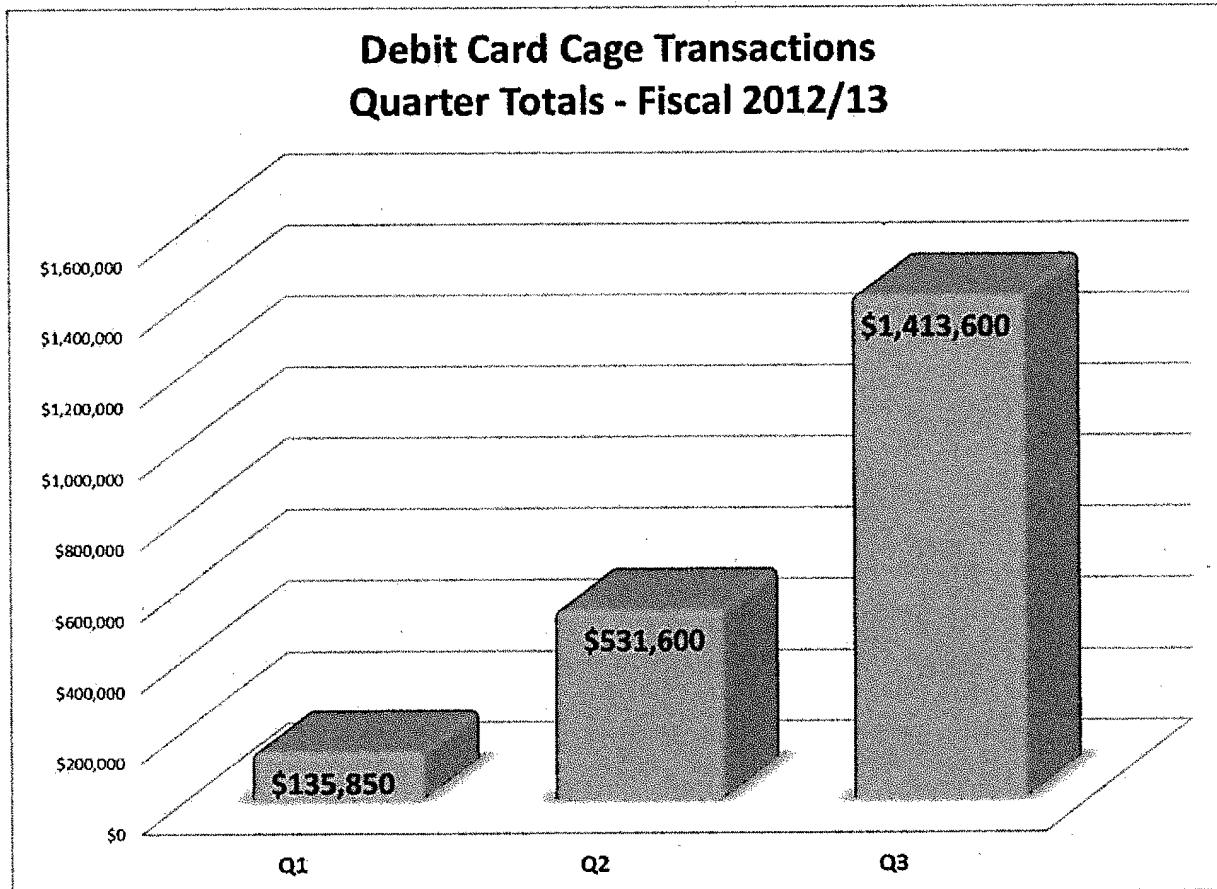
Timeframe	Total Deposits	Total Withdrawals
April 1 – September 30, 2012 (Q 1&2)	\$41,943,982	\$42,098,380
April 1 – December 31, 2012 (Q 1, 2 & 3)	\$89,846,937	\$88,284,785
Increase September 30 – December 31, 2012 (Q3 only)	\$47,902,955	\$46,186,405
% Q3 Increase over Q 1&2 Total	114%	110%

Note, there is clarifying discussion concerning tracking of the total deposits and withdrawals. Some adjustments will have to be made due to fine tuning of the accounting entries at source. The variance may represent a reduction of less than ½ of one percent, leaving the total deposits at approximately \$89.4 million.

Debit Card

As of April 1, 2012 gaming patrons were able to withdraw funds from their financial institutions using their debit card, at the cash cage. This new enhancement is intended for transactions in amounts above ATM limits. As the year has progressed new facilities have added this option for their patrons. There are currently nine gaming locations that offer debit withdrawal at the cash cage.

The total withdrawn, as at December 31, 2012, is \$2,080,050. With the addition of new properties the third quarter has shown a dramatic increase in use of this method for people to obtain gaming funds, within the gaming facilities.



- Total of \$2,080,050 for the current fiscal year
- This option is in use at the following properties: Boulevard, Cascades, Fraser Downs, Edgewater, Grand Villa, River Rock, Starlight, Treasure Cove, View Royal

Cheque Hold

The Cheque Hold process involves preapproving patrons to conduct casino gaming while a cheque (the security) that they have provided the casino is held uncashed. Once the patron has finished their gaming this cheque must be reconciled to either pay the amount owing, in the event of net losses, or the casino will payout the net winnings if that is the case. This mechanism is used for high net worth patrons, who have the proven ability to cover the value of the held cheque.

Participating Casinos for the Cheque Hold Option are listed below with approval dates. As of December 31, 2012 this option has yet to be utilized at any British Columbia gaming facilities.

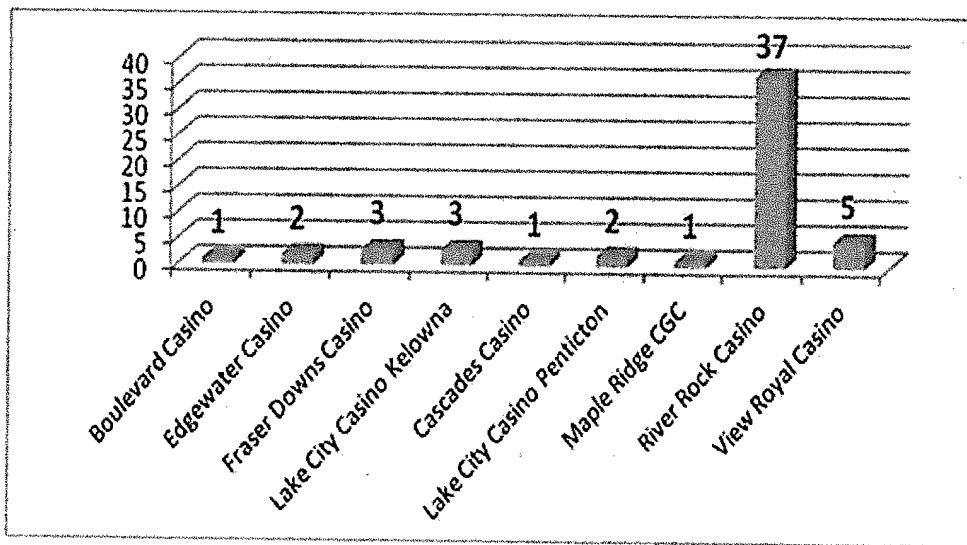
Casino Property	Cheque Hold Approved
Edgewater	April 10, 2012
Starlight	May 13, 2012
Grand Villa	May 24, 2012
River Rock	July 20, 2012

There is an element of risk to the casino in supporting Cheque Hold programs. Currently the only other Canadian gaming facility utilizing Cheque Hold is the casino in Montreal, Quebec. This has been in place there for over three years. As this is a new enhancement in British Columbia we expected a slow start to adopting the program.

Customer Convenience Cheque

Service providers are now permitted to issue cheques to patrons for the return of buy-in funds, up to one \$8,000 cheque per week. These cheques are clearly marked "Return of Funds – Not Gaming Winnings". This option enhances security for patrons who do not wish to exit the gaming facility with large quantities of cash. AML diligence is enhanced as customer information is recorded and all transactions are monitored and reported. This policy does not provide cheques to every patron, as it is limited to one \$8,000 cheque per week.

For the nine month period April 1 – December 31 2012, a total of 55 convenience cheques were issued for a total amount of \$216,947. The breakdown, by gaming facility, is provided in the chart below.

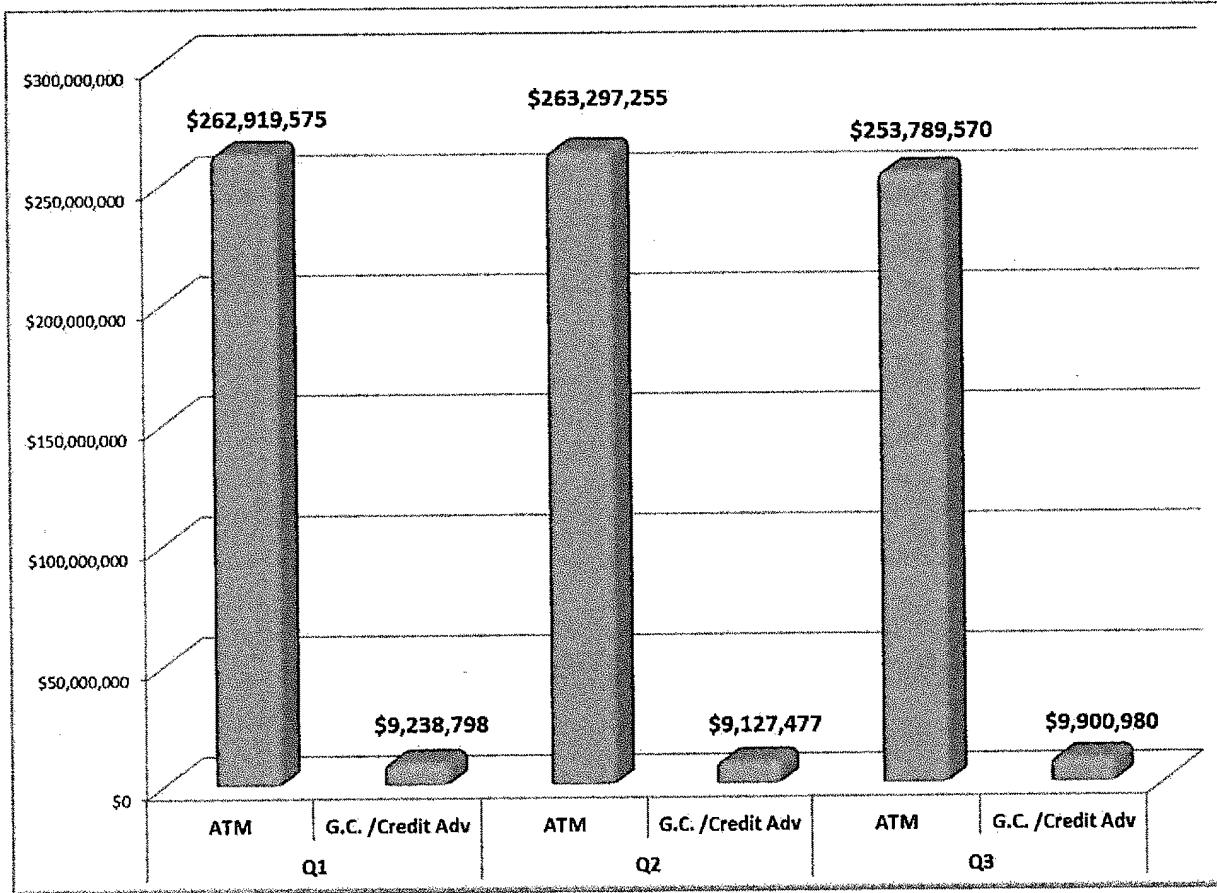


- Over the reported period 4 patrons have received more than one convenience cheque, provided within the policy parameters – each cheque was issued in different weeks.

Existing Methods of Reducing External Cash in Casinos

To fully understand the impact of funds obtained within gaming facilities versus those brought in from outside it is important to review methods that have already been in place. Casino service providers currently provide access to cash through ATM's and the Global Cash funds advance facility. The Global Cash Access company operates kiosks that allow patrons to make debit withdrawals or cash advance purchases for use in gaming. These kiosks are located outside of the gaming floor, usually in entertainment facility lobbies.

The table below provides the accounting for these existing methods for the first three quarters of the current fiscal year.



ATM/Global Cash/Credit Card Advances = \$808,273,655

Cash Transaction Monitoring and Reporting

Federal legislation requires casinos to report large cash transactions and suspicious transactions. In British Columbia BCLC is the legal reporting entity as a result of their role to conduct and manage gaming in the province. This reporting requirement is legally required by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). The reporting is provided to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). In the case of suspicious currency transaction reports, a Gaming Control Act Section 86 report (S.86) is provided to the Investigations and Regional Operations Division of GPEB.

Large cash transaction reports (LCT's) must be filed when reporting entities receive an amount of \$10,000 or more in cash in the course of a single transaction. An LCT must also be filed, in the case of casinos, when disbursements of \$10,000 or more are made in the course of a single transaction. As described in FINTRAC's Guideline 2: Suspicious Transactions, suspicious transaction reports (STR's) must be provided by reporting entities in the case of completed or attempted transactions if there are reasonable grounds to suspect that the transactions are related to the commission or attempted commission of a money laundering offence or a terrorist activity financing offence. The Guideline goes on to say that, ""Reasonable grounds to suspect" is determined by what is reasonable in your circumstances, including normal business practices and systems within your industry."

A measure used in understanding potential, or perceived, money laundering activity is suspicious transactions. By examining this activity we are able to derive information about the trends in cash entering casinos from outside of the premises. Identifying incidents of suspicious transactions and the filing of STR's has evolved over the past few years. In the summer of 2010 FINTRAC conducted an audit of BC casino filings under the PCMLTFA. Further, a study was conducted by government. The 'Anti-Money Laundering Measures at BC Gaming Facilities' report was released in 2011. As a result of the FINTRAC audit and the government study BCLC identified a need for greater diligence in recognizing and filing of casino buy-ins that required STR's.

Casino service provider training was upgraded early in 2010, and was branded as "Anti Money Laundering Training (AML)". Following the assessment of a FINTRAC administrative monetary penalty in June of 2010 BCLC Investigators were provided with an AML Compliance Manual, which clarified their duties and expectations with respect to AML monitoring and reporting. Through 2010 a new on-line AML course was developed for casino service providers and Community Gaming Centre staff. This was rolled out in March 2011. The AML Training course was updated, again, through 2012 and was made available to gaming workers in December 2012.

The upgraded level of patron buy-in diligence has contributed in increased filing of STR's by BCLC since 2010. This changing environment has to be considered in analyzing the statistics. The change in STR filing results has to be viewed in context of the new training and greater sensitivity to suspicious transaction situations since that time.

In addition to FINTRAC reporting, GPEB is responsible for the overall integrity of gaming in the Province as outlined in Section 23 of the Gaming Control Act (GCA). Section 86 of the GCA and Section 34 of the Gaming Control Regulation legally requires the Service Providers (Registrants) to immediately report to the Investigations and Regional Operations Division (Investigations) of GPEB any conduct or activity that is or may be contrary to the Criminal Code, the GCA or any Regulation under the Act and includes any activity or conduct that affects the integrity of gaming. These S.86 reports are categorized, and reported, as Suspicious Currency Transactions (SCT) by GPEB Investigations.

Statistics for filing S.86 Suspicious Currency Transactions to GPEB Investigations are:

SCT (S.86 GCA) Notifications	Year	Number of SCT Notifications
	2009	211
	2010	295
	2011	676
	2012	1175

In summary, BCCLC provides Large Cash Transaction (LCT) reports and Suspicious Transaction (STR) reports to FINTRAC. The casino service providers create Gaming Control Act Section 86 Suspicious Currency Transaction (S.86 SCT) reports for GPEB's Investigations and Regional Operations Division. The S.86 SCT reports are generated from information developed by casino surveillance staff, and these are sent to GPEB as soon as possible after the incident is observed. The STR reports that are provided to FINTRAC are generated from the same incident. GPEB does a reconciliation of the two reports to track that we have received all required S.86 SCT's. Thus factors affecting the rigor of STR identification and reporting also affect reporting of S.86 SCT reports to GPEB.

GPEB Investigations has provided more detailed analysis of key factors that they put forward to describe the changing conditions of cash being brought into BC casinos for cash cage buy-ins. This is done for two time periods, both covering twelve months. The first is August 31, 2010 – September 1, 2011. The second is the 2012 calendar year. Although the timeframes do not match, this comparison is useful for understanding trends. It should also be pointed out, as above, that the two time periods are across the changing environment of new training and increased diligence in identifying suspicious transactions.

Suspicious Currency Transaction (SCT/S.86 GCA) Analysis

	Aug 31, 2010 – Sept 1, 2011 (12 months)	Jan 1, 2012 – Dec 31, 2012 (12 months)
Total S.86 SCT Notifications	543	1175
Total \$ Amount	\$39,572,313	\$87,435,297
Patron Buy-Ins over \$100,000 (# of different patrons who have bought in at this level at least once)	80 patrons	88 patrons
Patron Buy-Ins over \$1,000,000 (# of different patrons who have bought in at this level at least once)	4 patrons	17 patrons

Supplemental information for 2012 is provided by GPEB Investigations. Their work in gaming facilities provides an assessment that Suspicious Currency Transaction buy-ins are increasing. Incidents of buy-ins at high levels (\$200,000 up to over \$500,000) with \$20 bills are increasing. This goes beyond being explained by the increased diligence of recognizing and reporting SCT's. Loan sharks were strongly deterred and continue to be deterred from entering and operating at casino premises in the province. However there is evidence that they continue to operate using creative ways of providing gaming patrons with cash, from outside of gaming premises.

The Investigations and Regional Operations Division has stated that they are satisfied that Service Provider reporting of S.86 Suspicious Currency Transactions to GPEB is, and has generally been, consistent and acceptable since 2010. This would keep these in alignment with the FINTRAC STR reporting. BCCLC oversight diligence has been enhanced over the past two years. The BCCLC AML program has been examined through risk assessment diligence and appropriate tracking is in place.

Analysis

2012/13 Enhancements

The enhancements documented in this report came into effect beginning April 1, 2012. In order for service providers to put these into operation they had to develop policies and procedures to comply with BCCLC requirements. The debit card option involved ordering and installing new equipment. In some cases this took time and thus the progress toward achieving results is reflected by a gradual startup period with greater momentum being achieved in the last quarter.

The industry working group met three times in 2012. The first meeting of the new year was February 7, 2013. The focus of these BCCLC led AML meetings is to review progress with service provider implementation of the enhancements, to share solutions and to develop new solutions for patrons to access funds inside the gaming facilities. The SCT activity has also been discussed in the meetings. This approach between all parties has resulted in positive progress. It has also created a good environment for building momentum for promoting the enhancements in BC gaming facilities.

The results over three quarters of FY 2012/13 are encouraging. Almost \$90 million has been used for gaming out of PGF accounts. Debit withdrawals, at the cage, are over \$2 million. With the policies, procedures and systems becoming entrenched in gaming facilities, the trend for both of these enhanced options is a strong increase in the third quarter. The existing ATM and Global Cash withdrawal options are relatively stable quarter over quarter, with over \$808 million being withdrawn inside of gaming facilities in the first three quarters. Customer convenience cheques have been provided to patrons for almost \$217,000. This has allowed people to leave safely with their money while strong AML diligence is achieved through recording of the customer data.

In total the cash managed through alternative means, versus bringing it in from outside of gaming facilities, has been over \$900 million in the first three quarters of the year. Ten percent of this is from new initiatives. This is encouraging.

Suspicious Currency Transactions

In analyzing the trends of suspicious transactions, despite a changing environment of training, identification and reporting, GPEB has still been able to draw conclusions from the data. More detailed analysis will continue by both BCCLC and GPEB to gain greater understanding of the underlying causes driving suspicious transaction reporting. Further analysis will be done as 2013 unfolds, given the more consistent environment between this year and 2012.

Suspicious Currency Transactions (SCT) in BC gaming facilities continue to significantly increase across the observed periods. Even taking into consideration the upgrading of training and the push for service providers to identify and report more, the evidence is that the amount of SCT's is dramatically larger in 2012. At over \$87 million this is more than double the reported SCT amount in the previous study period. While analysis in Phase 2 will provide a better understanding of the nature of suspicious transaction reporting, the benefits of reducing large cash activities in casinos are evident. Therefore actions to reduce large and suspicious cash from outside of gaming facilities will continue.

GPEB is responsible to respond when the integrity of gaming is impacted or threatened. The second phase of the AML plan will develop the analysis and investigation that will determine the necessary customer and source of funds information to understand the situation with respect to legitimate cash, potential money laundering and the potential use of proceeds of crime in BC gaming facilities. While this is being done we will continue to respond with prevention efforts to deal with this risk.

Conclusions and Recommendations

New Initiatives for 2013/14

Conclusions and Recommendations

The new initiatives of acquiring funds inside gaming facilities have grown well in the first nine months. Based on the performance measure, established for the Ministry Service Plan, the goal has been met for the current fiscal year.

While the progress is encouraging it is challenging to the AML initiative when we observe increases of Suspicious Currency Transaction cash being brought into casinos. The volume of gaming money acquired inside the facilities is considerable; with more gaming funds being acquired inside the venues than ever before. And, the trend is positive. As new initiatives are used more and more we are seeing momentum toward achieving the goal of the program. However, the increase in SCT cash, and the potential perception of money laundering, is a trend that must be turned around. While more gaming money is being obtained inside facilities more Suspicious Currency Transactions are being reported.

New Initiatives for 2013/14

AML Enhancements

The current suite of enhancements is still working into casino operations and will be promoted even more in 2013/14. GPEB has approved that the Patron Gaming Fund account can be opened at lower levels than the original pilot program required, which was \$10,000. We continue to encourage service providers to use this to grow the number of patrons using PGF accounts for gaming. We expect to see increasing results of funds being acquired inside gaming facilities.

Internet Banking Transfers (IBT) have been approved for moving funds into PGF accounts. This option will allow the transfer of money from a patron's bank account directly to the casino PGF account, similar to making a bill payment. The casino service providers are still working out the logistics of this, with banking institutions, and we expect to see this go live in 2013.

GPEB has approved the use of US bank accounts for putting funds into PGF accounts and for use in the Cheque Hold program. BCLC has developed policies and procedures for the US bank program, and we expect to have this in place in the near future.

A request has been made to allow patrons to access funds from foreign branch bank accounts of Canadian deposit taking institutions. This is under review and research is required, to inform if this proposal can be enabled and what constraints may be needed.

A BCLC marketing plan was discussed by the VP Communications and Public Relations at a previous industry working group meeting. This starts with marketing the cash free options with promotion materials and an approach for moving patrons into these options. Part of the plan will be to approach the limited number of high volume customers to review the enhancements and to help them to move into these and use them. The BCLC Casino group continues to work on this marketing plan in conjunction with casino service providers. We believe that this personal approach is integral to the long term success of moving high volume players into on-site access of their gaming funds.

New Initiatives for 2013/14 (continued)

PCMLTFA Regulations

As a result of new diligence required through the PCMLTF Act Regulations, reporting institutions will be applying enhanced Customer Due Diligence (CDD) requirements in the future. The Regulations changed in February 2013 and new procedures must be in place by February 2014. It is anticipated that this will require more engaged interactions with regular high volume customers and customers with large amounts of cash from outside of gaming facilities. The new Regulations describe enhanced monitoring of "high risk" persons and taking enhanced measures to mitigate risk when dealing with these high risk persons.

The industry is currently examining what processes and procedures will be needed to ensure that the new requirements are met. This is being led by BCLC in conjunction with service providers and GPEB. At this point we do not know exactly what effect this increased regulatory diligence will have on the interception and interruption of money laundering attempts. However, the expansion of PCMLTFA Regulations is a positive step toward achieving the desired AML results.

AML in BC Gaming – the Phased Plan

At the outset, in setting a strategy for preventing money laundering in BC casinos, it was decided that an incremental approach would be established. This was designed to progressively implement tiers of control over the acceptance of funds into gaming facilities. The level of suspicious currency would be tracked and analyzed so that the success of adoption of cash alternatives could be understood. The move from one phase to the next is done as a transition, overlapping from the previous state and adding enhanced diligence in the new phase.

The phased approach plan is:

Phases	Description	Timeframe
Phase 1 – Cash Alternatives (Service Provider intervention)	<p>GPEB, BCLC and the industry have provided alternative means to carrying in cash from outside of gaming facilities. By adopting these alternatives patrons are able to access gaming funds directly in the facilities, and with appropriate AML diligence.</p> <p>The first phase includes promotion of the program by casino service providers, especially to their high volume players. Service providers are working to make this phase a success. Support by BCLC and GPEB is ongoing.</p> <p>During Phase 1 BCLC has been working with service providers to help in developing the enhancements and the marketing of these to patrons. GPEB is involved in gathering more information on the nature of cash entering casinos and in developing analysis of these funds. Both of these activities will transition into Phase 2 for further development.</p>	April 1, 2012

The phased approach plan, continued:

Phases	Description	Timeframe
Phase 2 – Operator Intervention (BCLC)	<p>In this phase analysis by the regulator continues, to aid in the identification of issues of concern. This will provide a basis for advancing AML activity in targeted areas. Comprehensive investigation and analysis is required to identify the intention of the large cash buy-ins, especially to identify those that are typical of money laundering or the use of proceeds of crime for gambling.</p> <p>The second phase will involve BCCLC and service providers becoming more actively engaged in the promotion of the cash alternatives with the high volume customers. A customer relationship management approach will be developed and delivered as the phase unfolds.</p> <p>Enhanced Customer Due Diligence (CDD) will be introduced during this phase, and analysis capacity will be improved, to better inform AML activity in the industry.</p>	May 1, 2013
Phase 3 – Regulator Intervention (GPEB)	<p>In this final phase GPEB will undertake direct regulatory action as part of the administrative process in preventing money laundering in BC gaming.</p> <p>If required GPEB will respond to the remaining suspicious currency inflows.</p> <p>The final phase will result in achieving the goal of limiting suspicious currency, preventing money laundering and the perception of money laundering in BC gaming facilities.</p>	December 31, 2013

The gaming industry is working to prevent money laundering, and the perception of money laundering, in British Columbia gaming facilities. Through the coordinated efforts of the Gaming Policy and Enforcement Branch, the British Columbia Lottery Corporation and gaming service providers we are engaged in managing this activity through ensuring that alternatives to outside cash are available to gaming patrons. A tiered approach of intervention is in place to phase-in the solutions so that the safety of patrons is ensured and the overall health of the industry is respected.

This is the first report to measure the performance progress of the anti-money laundering initiative.

Appendix H

Malysh Associates Consulting Inc., *GPEB – AML Working Group: Client Due Diligence in BC Casinos*, September 15, 2014.

GPEB – AML WORKING GROUP

**Client Due Diligence in
BC Casinos**

September 15, 2014

Private & Confidential

M MALYSH ASSOCIATES
CONSULTING INC
INVESTIGATIVE & FORENSIC ACCOUNTING

GPEB – AML WORKING GROUP

Client Due Diligence in BC Casinos

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TERMINOLOGIES USED		
	AML	Anti-money laundering
	BMP	Best Management Practices
	Cash	Bank notes
	CDD	Client Due Diligence
	CO	Compliance Officer
	DTI	Deposit-taking Institution
	EDD	Enhanced Due Diligence
	EFT	Electronic Funds Transfer
	FATF	Financial Action Task Force
	FinCEN	Financial Crimes Enforcement Network
	FinTRAC	Financial Transaction and Reports Analysis Centre of Canada
	Fx	Foreign exchange
	GPEB	Gaming Policy & Enforcement Branch
	IIROC	Investment Industry Regulatory Organization of Canada
	LCTR	Large Cash Transaction Report
	MSB	Money Service Business
	OSFI	Office of the Superintendent of Financial Institutions

PCMLTFA

Proceeds of Crime (Money Laundering) and
Terrorist Financing Act and its
accompanying Regulations

STR

Suspicious Transactions Report

Private & Confidential

September 15, 2014

Page 2

Appendix H

GPEB – AML WORKING GROUP

Client Due Diligence in BC Casinos

1.0 INTRODUCTION

**1.1 Retainer of
Malysh
Associates
Consulting Inc**

Our firm was engaged by the Gaming Policy Enforcement Branch – AML Working Group to provide research of client due diligence standards used by financial institutions and other businesses when accepting cash deposits.

**1.2 Terms of
Engagement**

We were asked to develop information relating to the management practices used by deposit-taking institutions, money service businesses, brokerage firms and gaming businesses for cash deposit transactions.

Our report summarizes best practices based upon experiences of businesses that are required to maintain an AML compliance regime under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its Regulations*.

Additionally, we are to report on other AML compliance issues that we may encounter during our research to assist GPEB with conducting a gap analysis of their AML policies.

**1.3 Scope of This
Report &
Restriction
on Its Use**

This report is not intended for general circulation or publication. It is not intended to be reproduced or used for any purpose without our written permission in each specific instance. We do not assume any responsibility or liability for losses occasioned by any party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

This report is based on review of the documents as described in Section 1.4. In the event that further documents or other

information becomes available that could impact our findings, we reserve the right to review such records and reconsider and amend the findings set out in this report.

1.4 Documents Referenced

During the course of our research, we referred to various documents. These documents include:

- The Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its Regulations (“PCMLTFA”), Revised Federal Statute of Canada
- FinTRAC Guidelines, 1 through 9, for Casinos, Money Service Businesses, Foreign Exchange Dealers and other businesses
- Action Plan to Review AML Measures at BC Gaming Facilities, GPEB, August 22, 2011
- Audit & Compliance Division 5 Year Audit Plan, GPEB, June 24, 2013
- Key Regulatory Responsibilities of GPEB and Their Application to the British Columbia Lottery Corporation, GPEB, March 25, 2008
- Roles and Responsibilities of Participants in British Columbia’s Gaming Industry, GPEB, February 22, 2010
- Summary Review AML Measures at BC Gaming Facilities, Province of British Columbia, February 2011
- Follow the Money: Is Canada Making Progress in Combatting Money Laundering and Terrorist Financing? Not Really, Report of the Standing Senate Committee on Banking Trade and Commerce, March 2013
- Guideline for Detecting and Deterring Money Laundering & Terrorist Financing, OSFI, March 2008

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- AML Compliance Guideline, IIROC, October 2010
 - Vulnerabilities of Casinos & Gaming Sector, Asia Pacific Group, FATF, March 2009
 - Prevention of Money Laundering in Macau Casinos, Jorge Godinho, Gaming Law Review and Economics, Volume 17 Number 4, 2013
 - Remarks of FinCEN Director, Bank Secrecy Conference, American Gaming Association & UNLV International Gaming Institute, June 12, 2014
 - Suspicious Activity Reporting in the Gaming Industry, FinCEN, March 2012

1.5 Sources of Information

During the course of our research, we interviewed people employed in AML compliance functions at various businesses. Participation in discussions on industry practices was secured on a 'no-name basis'. Therefore, we generically provide a list of these confidential sources.

Information Source	Description
GPEB AML Working Group	Executive Directors of Audit, Investigation, Registration & Risk
BC Lottery Corporation	VP Corporate Security & Compliance, Manager AML & Operational Analytics Unit
Deposit Taking Institutions	AML Compliance Officers of Schedule I and II Banks & AML Compliance Officers of BC Credit Unions

Information Source	Description
Gaming Corporations	AML Compliance Officers of corporations who operate casinos in Canada and USA
Money Service Businesses & FX Dealers	AML compliance officers of MSB's in Canada and USA

1.6 Research Work Plan

Our work plan consisted of identifying potential sources of information, conducting interviews, and reviewing research papers relating to policy, procedures and management practices for client due diligence and the acceptance of cash.

We compiled written material from open sources and utilized our network of business contacts to solicit participation in our survey of AML compliance practices.

Survey questions were developed to generate discussion and determine the procedures adopted by businesses to manage client risk.

The high-lites of our research are summarized by participant categories of deposit taking institutions, money service businesses, gaming businesses and gaming regulators.

2.0 BACKGROUND INFORMATION

2.1 Suppression of ML

Since 1988, the Government of Canada has continually supported international efforts in the suppression of money laundering and terrorist financing activities. Using the FATF recommendations, Canada has developed its AML laws and regulations.

These laws protect the integrity of Canada's financial systems.

2.2 FIU Responsibility

The AML laws establish a financial intelligence unit, FinTRAC, to analyze financial transactions.

2.3 Police Responsibility

Using FinTRAC's technical analysis, the police will investigate suspected money laundering cases as well as other criminal offenses.

Unfortunately, the RCMP Proceeds of Crime Section responsible for investigating FinTRAC referrals has been disbanded. The RCMP has re-organized their federal resources and investigation sections. Money laundering investigations are now investigated by the Federal Organized Crime Section and are only a part of the larger criminal enterprise crime investigations.

FinTRAC referrals are now being sent to the local police agency where the suspected ML offense(s) have occurred. Usually, the local investigators do not have experience investigating ML offenses. According to our source, very little direct money laundering investigative cases are being undertaken by local police. However, FinTRAC referral reports are being used to further other criminal investigations.

2.4 Businesses & Compliance Regimes

Financial sector businesses and other designated businesses, such as casinos, provide reports of financial transactions to FinTRAC.

Businesses must maintain an AML compliance regime to deter ML and to ensure transactions are reported to FinTRAC. Further, these compliance programs are designed to mitigate the risks of MF/TF. Businesses are expected to know their clients and not transact with people or business entities who are attempting to launder the proceeds of crime.

Businesses do not have the resources or expertise to actually prove money laundering. They can only observe clients' behavior to determine whether a transaction is suspicious. Businesses use "indicators" of client behavior to form their suspicions. FinTRAC provides examples of these indicators in their AML Regulation Guidelines.

Businesses are required to report suspicious transactions to FinTRAC. The STR is filed after the client has left the business premise. Further, clients must not be informed or "tipped-off" that the STR is being filed.

But in order to obtain information for the STR which FinTRAC needs for analysis, businesses usually conduct the financial transaction in all but the most glaring circumstances.

It is not the role of business to prove money laundering as "indicators" are not evidence of ML. Their role is to identify and report suspicious transactions.

It is the role of FinTRAC and the police to examine the matter further and determine the link to ML/TF activities.

Businesses have legal obligations to not facilitate ML knowingly or by being willfully blind. If clients are too high a risk, financial institutions and businesses will exit the client relationship. In

practice, transactions will be completed until a behavior pattern is established that exceeds the risk tolerance set by the business.

2.5 Money Laundering Issues

The purpose of ML is to disguise the source of funds and conceal the ownership of funds. The goal is to make "dirty" money appear "clean". It never really gets clean – it just looks that way.

In our financial system, extensive records are maintained to document transactions and financial activity. Being constrained by the laws that govern the operation of the financial system, the money launderer must make concessions to the system while limiting his exposure and vulnerability to detection.

In fact, AML laws are written for the purpose of creating a paper trail for cash (bank notes) transactions.

From an investigative viewpoint, having verifiable and traceable monetary instruments is critical to successful ML prosecutions.

ML risks are assessed based upon the 3 phases of money laundering; placement, layering, and integration. ML methods must be understood and considered when formulating risk mitigation controls.

Examples of ML methods include the use of nominees, front people and businesses, or structuring transactions to avoid identification requirements.

The goal of the money laundering method is to avoid creating a paper trail and identifying the people who launder the proceeds of crime.

3.0 DEPOSIT TAKING INSTITUTIONS

Over the past decade, Canada's financial institutions have become increasingly more observant in not only complying with AML legislation but in exceeding the guidelines in order to protect their hard-won reputation as the conservative, dependable backbone of Canada's financial system.

We have summarized AML policies and discussed the management practices generally used by DTI's to mitigate risks for cash deposits and EFT's.

3.1 AML Experience

In countries not as well regulated, some banks have received large fines for non-compliance; however this has not happened in Canada.

Knowing the banks are compliant, FinTRAC will look to other cash handling businesses to ensure the same level of effort is being applied.

Compliance Departments have grown more quickly than any other facet of banking and every new product or system must be first vetted and approved by these new compliance regimes before integration.

New individual banking clients are identified using government issued photo identification documents. Usually, no other formal background verification is conducted.

High net worth, politically exposed, or persons without normal documentation are carefully vetted through the enhanced KYC/CDD processes. Background screening is conducted using databases, such as "Worldcheck", Credit Bureaus and verification inquiries with other financial institutions used by the client.

Business clients require a more thorough review prior to acceptance. Often, businesses with even the slightest connection to drug activity [REDACTED]

[REDACTED] endure close scrutiny of their AML compliance programs to ensure their client's bone fides are verified and present an acceptable risk to the DTI.

Mandatory on-line AML training and testing all line staff and management is delivered regularly in order to ensure consistent application of compliance procedures.

Banks used to allow their clients to deposit large quantities of cash without questioning its source. Since the enactment of AML laws, banks routinely conduct KYC/CDD inquiries to deter ML/TF activities. This includes asking clients the source of funds and making a record of the response. See Section 3.3 for further discussion on DTI practices for accepting cash deposits.

Sophisticated computer systems monitor account activity for unusual patterns. Anything of a suspicious nature is forwarded to Compliance or Corporate Security Departments for review and investigation. The slightest concerns tend to result in the closing of accounts as a proactive defense.

Most DTI's have adopted a policy to exit a client relationship if [REDACTED] Bank AML Compliance Officers will examine the STR narratives, KYC information and account transaction history in their decision-making process.

EFT's from foreign locations are only accepted from banks that are known to have strong AML processes in place, and a correspondent banking relationship has been established. Cheques and other monetary instruments are held until cleared, verified, or the client is well known and able to cover should there be a defect in the instrument.

3.2 AML Compliance Practices	<p>Federally licensed financial institutions are regulated by OSFI. ML/TF guidelines are issued by OSFI to ensure that financial entities develop robust systems and practices.</p>
	<p>Likewise at the provincial level, credit unions, trust companies, and other provincially regulated businesses have oversight agencies that issue guidelines to augment the federal AML regulations.</p>
	<p>The guidelines of the regulatory organizations are a public record of the commitment of an industry to deter ML/TF activities.</p>
3.3 Cash Acceptance	<p>In our discussions with AML compliance officers of deposit taking institutions, we were advised of the following best practices used to mitigate the risk of cash deposits. We have focused our discussion on the practices used to manage individual accounts to draw some comparisons to the gaming patron.</p>
	<ul style="list-style-type: none">a) Using a risk based approach, questions are directed to a potential new client to determine what financial services they will need and the approximate transaction volumes to be anticipated. Based on responses, or lack thereof, decisions are made as to whether to open the account, ask further questions to make a more accurate assessment, or decline the business. A risk based approach enables efforts to be focused on clients, transactions, and payment methods that pose the greatest risk for ML/TF.b) When cash over CAD \$10,000 is tendered, a supervisor will interview the client to determine the source of funds and other related questions to ensure the deposit is of non-criminal origin. Some DTI's require the client complete and sign a Source of Funds Declaration, which

is kept in the client account file. If suspicions arise, details are reported to the compliance department via a STR. The client's account is flagged for monitoring

- c) Enhanced due diligence is performed when account transactions do not make sense or conform to original account/client intentions. This includes interviewing the client, assessing their information, verify information from independent sources, and increasing the frequency of account transaction monitoring
- d) New client account opening procedures require the client produce government issued documents that bear the name and photograph of the individual. Accounts KYC forms are completed to record client information relating to various issues, such as resident address, employment and occupation, sources of income etc. High net worth clients are vetted for source of wealth and may be vetted through banker databases. New immigrants may have their financial information verified by the bank from the previous resident country.
- e) A hierarchy of referral and information sharing capability from front line staff to supervisors to head office compliance/security departments is established as part of the compliance culture. The account manager who brought the client onboard is responsible for making decisions to close the account based upon CDD information obtained from all sources within the DTI and advice from AML CO's.
- f) A graduated level of AML training is used as not everyone needs to be trained alike. Frontline staff require the knowledge to identify large or unusual/suspicious transactions and report them. Supervisors and account management personnel must be familiar with due diligence protocols and have the ability

to ask questions without offending the client. Head Office departments become more specialized in performing enhanced CDD and enter into relationships with regulators, police or other bank investigative sections to ensure business is conducted with legitimate clients handling legitimate funds.

Knowing the source of funds is helpful in that it makes up a component of the risk matrix evaluation.



The client's story must be verifiable and make economic sense to be believable.

While there is data that certain nationalities deal in cash more than others, they still must have the personal resources to account for it and answer questions relating to the source of funds to substantiate large cash deposits.

3.4 Electronic Funds Transfers

International EFT's are risky in that it is difficult to confirm the source of the funds being wired in.

Financial Institutions have developed trusted relationships with certain foreign banks – a correspondent banking relationship – and rely on these entities to conduct the same level of due diligence as done in Canada.

All international EFT's over CAD \$10,000 are reported to FINTRAC.

Banks will monitor EFT activity carefully. Transaction value thresholds are established to focus attention on higher risk transactions and to reduce compliance and surveillance costs.

3.5 Comment

Banks have an advantage over other businesses, such as casinos, as businesses cannot form these “banking” relationships that are key to client information sharing.

Businesses can leverage their banking partner’s relationships with other banks to provide a safe harbor for international EFT’s. While the funds may have come from a foreign jurisdiction, they have come through a trusted correspondent bank.

A prudent business practice is to only conduct EFT’s between domestic banks.

Banks do not hesitate to interview clients and demand economic reasons for any transaction. The results of the inquiries are documented in the client file.

Client risk is assessed based upon a risk matrix for various ML indicators. Conducting transactions, such as depositing cash, is only 1 of the ML risks, which may or may not affect the risk profile of the client.

Transactions are monitored and assessed against the stated purpose and intent of the client maintaining a bank account.

Banks will close out client accounts if sufficient and appropriate evidence indicates the risk is too great for the bank to continue the relationship.

4.0 BROKERAGE FIRMS

Brokerage firms are unique in that they are heavily regulated by provincial statutes and by the rules of IIROC. Their rules for KYC and CDD activities are onerous.

AML compliance is another layer in their management and practices of KYC programs.

4.1 AML Experience

In general, brokerage firms react to AML risk similar to banks. Their reputation for honesty and integrity is paramount to establish client trust.

As such, most firms do not want connections to clients who may be using their firm to conceal assets derived from ML/TF activity. A brokerage firm's ML risk is focused on the layering and integration phases.

4.2 Cash Acceptance

Most brokerage firms do not accept cash for deposit into client accounts. They do not want the ML/TF risk associated with cash.

Deposits to client accounts are made using other monetary instruments. For individual accounts, cheques and EFTs are the norm.

4.3 Electronic Funds Transfers

Rules vary for EFTs depending upon the client. Institutional clients have different rules than corporate and individual clients. The risk matrix is complex depending upon client net worth and market-knowledge sophistication.

For individuals, most brokerage firms will accept EFTs from domestic banks that are drawn on the client's personal bank account. There are exceptions for very wealthy clients depending upon the KYC/CDD inquiries that have been documented prior to the trade/transaction.

Each firm establishes its own risk tolerance for payment and settlement, in concert with their banking partners, to accept or reject international EFTs. Firms rely on the KYC program to assess client risk.

4.4 Comment

Brokerage firms are in a unique position. Their rules for KYC are extensive. Account managers continually interact with clients, discuss personal financial affairs and record results of discussions in the client file.

Their CDD is documented to protect the firm and broker(s) from any transaction liability, such as knowing their client's knowledge of markets or financial products, investor sophistication and investment risk tolerance, client's wealth and source of income, and client investment objectives.

5.0 MONEY SERVICE BUSINESSES

MSB's typically provide two types of services; currency/foreign exchange and remittance payments. Payment and settlement of the transaction is conducted either by cash or other monetary instruments.

In Canada, MSB's are required to maintain an AML compliance regime under the PCMLTFA. As such, the CDD and risk assessment practices are an integral part of their business operations.

Note: Currency exchange describes the buying and selling of bank notes, while Fx describes the buying and selling of foreign currencies using other monetary instruments (cheques, drafts, EFT) for payment and settlement.

MSB's have a bad reputation with banks because in the past, many engaged in ML. As a result, banks are hesitant to provide service for any but the very best AML compliant businesses.

Regular auditing of their AML compliance regimes and targeted questioning of EFT activity is the norm. Such a reputation is difficult to overcome and this exemplifies the need of the MSB to have a robust and strict compliance program.

Our discussion is based upon the BMP's generally followed by reputable MSB's.

5.1 Cash Acceptance

MSB's who provide currency exchange services transact almost exclusively in cash, as cash is the most used instrument of exchange.

The ML risk is that cash is anonymous. As such, AML regulations require currency exchange transactions greater than CAD \$3,000 to record client identification. Transactions greater than CAD \$10,000 require a report to FinTRAC.

Money launderers will avoid transactions where they have to identify themselves, or they will use nominees, also known as smurfs.

The compliance requirements to monitor transactions and risk assess clients has increased significantly since the February 2014 amendments came into force. Most MSB's had been performing this type of CDD work prior to the new regulations. KYC programs were established to satisfy the banks' maintenance rules for operating their bank accounts.

MSB's generally do not have an issue accepting cash in a transaction providing the client cooperates with the CDD inquiries and identification rules. If a client exhibits some 'red flag' indicators for ML risk, a Suspicious Transaction Report will be filed with FinTRAC. Some MSBs require the client to complete and sign a Source of Funds Declaration, which is kept on the client file.

Once an STR is filed, the client risk profile will be elevated for enhanced DD. The next time the client transacts, the MSB will interview the client to determine their ML risk. Judgments will be made by the AML compliance officer as to whether the MSB will continue with the client relationship. [REDACTED]

[REDACTED]

Some MSB's adopt a business model where they will not accept cash as payment for Fx. Their risk focus is on the layering and integration ML phases to assess client risk.

Effective KYC/CDD programs include 3rd party relationships and nominees to expand and mitigate ML risks, adding an additional level of complexity to CDD processes.

5.2 Electronic Funds Transfers	<p>MSB's who focus on being a payments company use EFT's to settle transactions. EFT services are offered in conjunction with a Fx transaction.</p>
	<p>The CDD practices used to mitigate ML risk center around the economic purpose of each transaction. KYC interviews are conducted to obtain stated purposes, values, and frequencies of transactions. This information is then compared to actual transaction history. Any changes in behavior will result in enhanced CDD being conducted. The MSB may ask the client to produce 3rd party documentation to support the need for Fx/EFT transactions. Further, the sender or ultimate beneficiary of the transaction will be identified and verified.</p>
	<p>Any remittance transaction greater than CAD \$1,000 requires the identification of the client. International EFT's greater than CAD \$10,000 require a report to FinTRAC. The information reported to FinTRAC is extensive as the original sender, intermediaries and ultimate beneficiaries must be recorded and reported.</p>
5.3 Comment	<p>Prior to the new February 2014 regulations, client transaction monitoring was not mandatory. Established MSB's did have account monitoring firmly established to provide assurances to their banking partners that they were mitigating ML/TF risks.</p>
	<p>Individual account KYC/CDD practices consist of recording the identification documents used to verify client identity. Source of wealth, source of funds inquiries are conducted when transaction values and frequency of transactions change, thus elevating the client risk.</p>
	<p>The new regulations have increased the compliance requirements for client risk management. EDD procedures to maintain higher-risk client accounts will require increased client interviews and more frequent transaction monitoring.</p>

Like banks, once a client account relationship is established, MSBs will conduct all transactions unless the behavior pattern of the individual is glaringly and suspiciously “indicating” ML.

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Appendix H

6.0 GAMING BUSINESSES

We surveyed AML compliance officers of casinos in Canada, Nevada, and Washington State. Some of the Nevada companies also had casino/resort operations in other countries.

There is a general acknowledgment that AML risk assessments of "VIP" clients have increased significantly over the last 5 years. The current US ML issue is to conduct CDD for determining source of wealth and source of funds.

Since September 2013, the Director of FinCEN has publicly stated that casinos need to do more CDD and track clients gaming transactions to monitor for ML activities.

In Ontario, casino operations have entered into a contractual relationship with the Ontario Provincial Police. The Chief Superintendent in charge reports to the OPP Deputy Commissioner of Investigations and Organized Crime for criminal matters and to the Registrar of Alcohol and Gaming (AGCO) on regulatory matters.

They work closely to devise strategies and policies to combat ML that are effective and viable from a resourcing perspective taking into account the unique nature of the industry.

From a practical perspective, a Police Inspector acts as the Director of the Gaming and Enforcement Branch and police officers are fully integrated into the AGCO . The Inspector is responsible for the Casino Enforcement Unit, the Corporate Investigations Unit, the Internet Gaming Unit and the Gaming Specialist Unit. The focus of their AML activity centres around the Casino Enforcement Units who provide 24/7 policing services to gaming venues. They are first responders to any criminal activity within each site and deal with any other offences that affect the integrity of the industry, or its stakeholders.

They also perform an intelligence role and share information quickly via their on-site personnel who are responsible for interviewing clients referred by the cash cage operators when large or suspicious cash is presented for deposit.

6.1 Cash Acceptance

Casinos generally do not have an issue with accepting cash from clients. US-AML COs reported that they do not place limits on the amount of cash that can be used for buy-in.

Their reasoning is that their KYC/CDD procedures provide the risk mitigation strategies to identify and confirm the individual as a legitimate gaming player. They also utilize investigative resources to research clients that pose higher risk.

Source of funds and source of wealth interviews are becoming normal procedures as FinCEN is developing policy initiatives to increase the KYC/CDD activities. But this policy is in its infancy and will take a few more years to be fully implemented industry wide.

Casinos in Ontario generally will not allow more than CAD \$10,000 – 15,000 cash/in. These large deposits trigger a CDD interview to learn the source of funds. This interview is usually conducted by the OPP police officer.

However, there are thresholds that trigger managers and concierge to identify and interview those clients. The threshold amount is based upon the risk tolerance for backing bets. Some casinos have thresholds starting at \$10,000 buy-ins while other set thresholds at \$100,000. CDD procedures are focused on betting patterns and betting amounts.

US AML CO's reported that compliance resources are focused on approximately 15% of the total client base for enhanced CDD. Statistically, the top 15% clients account for the majority of gaming revenue.

VIP clients are risk rated based upon the ease with which client information can be independently verified. In some cases, private investigators will be hired to conduct verification work, particularly if the client is not a US resident.

Cash/out policies generally set procedures for how disbursements are paid. Most casinos follow a policy of using the same instrument for cash/out as used for cash/in.

Some casinos will set maximums on the amount of cash returned with the remaining balance by cheque. The casinos want verifiable and traceable instruments to help law enforcement in ML investigations.

6.2 Electronic Funds Transfers

There is not a general consensus on the use of EFT's to fund player accounts.

Some casinos will allow international EFT's as well as domestic. Others will only accept domestic EFT. However, this may change depending upon future guidelines from FinCEN relating to CDD and client risk procedures. US-AML Co's reported that most casinos eventually will adopt a domestic only EFT to fund player accounts. Corporations who operate casino/resorts in other jurisdictions (domestic or international) reported that they will not allow inter-company transfers of player funds between casinos.

6.3 Best Management Practices

The industry standards used as BMPs are summarized as follows:

- AML compliance officers must be qualified and experienced. They must have direct reporting to the corporation CEO and to the corporate audit committee
- A compliance culture must be developed through all levels of casino staff. Line staff and managers must work cooperatively with surveillance and compliance staff

-
- Top 10 – 15% of revenue generating clients receive the most CDD. All clients in this category are interviewed by trained staff to determine source of wealth and source of funds. Client risk is based upon the ability to verify information.
 - KYC/CDD interviews are conducted based upon triggering thresholds of buy-ins. The threshold is determined by statistical analysis of buy-in and bets per hand at each casino
 - All clients who are identified either by loyalty reward programs or concierge services at minimum are background checked through a commercial database, such as Worldcheck
 - Information sharing arrangements with local police agencies are established to identify known criminal gang members and affiliates. Casinos do not want these associates on their premises
 - Clients who come from Asia-Pacific countries, especially PRC, are automatically classed as high-risk and require EDD
 - Player funded accounts are used to prevent loan-sharking. Players can only pay where they play and with funds on deposit or funds available through pre-approved credit lines
 - Cash/outs should mirror the cash/in instrument, ie, banknote to banknote, cheque to cheque, EFT to EFT etc.
 - Client wanting cash/out in cash are limited to 10% of cash/in or player account balance to a pre-set maximum. The remainder is paid by cheque or EFT to client's personal domestic account. This creates a traceable paper trail for investigation purposes. The returned cancelled cheque is investigated to verify bank account used to deposit the cheque

-
- Do not allow any bank-like transactions, such as transferring funds direct from off-shore accounts to casino bank accounts or vice versa, or allowing chip churning to occur without intervention interview by AML CO
 - EFTs are conducted from/to accounts held by domestic financial institutions. The account must be in the name of the client

6.4 Law Enforcement Partnerships

CO's reported that having police partnerships greatly assist with deterring criminal activities within the gaming industry including ML.

Some of the areas of police assistance specifically stated include:

- Sharing of information related to criminal gangs, their members and affiliates, and to criminal activity directed at the casino including ML
- Interdicting 'undesirable' persons and supporting local security personnel to evict potentially violent persons
- Providing a level of security for public safety in and around the casino
- Investigating and prosecuting criminal offenses directly related to gaming

7.0 GPEB

We were asked to comment on any gaps that we encountered that may assist GPEB in its role as regulator of the gaming industry.

7.1 AML Guidelines

We believe that GPEB could greatly enhance its leadership in AML compliance by creating an AML compliance regime regulation under the Gaming Control Act/Regulations. Additionally, a companion Guideline for Deterring and Detecting Money Laundering should be implemented to establish the policy expectations of the new regulation. Alternatively, a Public Interest Directive could be issued to establish GPEB's AML program.

The intention is to direct gaming industry businesses in their responsibility to develop and maintain robust AML compliance programs that meet GPEB's governance and control expectations.

The Guideline is not to replace the federal guidelines published by FinTRAC nor create any new requirements under federal legislation.

They are to establish the "tone at the top" and provide industry specific policy for AML compliance expectations.

As an example, if GPEB wants specific policy for the determination of source of funds, the policy expectation can be specified in the Guideline. Gaming businesses can determine the procedures required to comply with policy.

7.2 Intelligence & Analytical Unit

GPEB currently does not have resources dedicated to criminal intelligence and crime analysis relating to the gaming industry.

Further, the province does not have dedicated police officers responsible for gaming related investigations and prosecutions.

GPEB should consider establishing a police-accredited unit to provide policing services for the gaming industry, including but not limited to:

- criminal intelligence and risk analysis
- investigations and prosecutions
- liaison with police departments in communities that host casinos
- information sharing program between GPEB, the BC police community, FinTRAC and other law enforcement agencies
- assist GPEB's Special Provincial Constables with conducting intelligence inquiries
- annual reporting to GPEB executive on the overall risks to gaming
- subject-matter experts in gaming industry related issues

MALYSH ASSOCIATES CONSULTING INC

Jerome P Malysh

Per: Jerome Malysh, CPA CGA, CFE
Principal

**SUBJECT MATTER
EXPERTISE**

Jerome Malysh and John Paterson conducted the research for this report. Our bios are as follows:

John Paterson – in his 25 year professional banking career, he held senior management positions in Corporate Security and Compliance for HSBC Canada and for CIBC. He was responsible to develop the banks' AML compliance programs during the formative years of Canada's ML/TF legislation. He developed and wrote the AML policies, and trained employees in AML compliance and risk management. Following retirement from HSBC, John provides AML consulting services to the financial services industry. Prior to his banking career, John was a member of the RCMP in British Columbia specializing in economic crime investigations and drug enforcement.

Jerome Malysh, CPA CGA CFE – developed his money laundering expertise during his 20 year career in the RCMP Proceeds of Crime Section. Since retirement from the Force in 2000, he has built a risk management consulting practice helping financial service businesses develop their AML compliance programs. Jerome has provided AML consulting services to businesses in Canada, USA, Australia and New Zealand. Representative assignments consist of technical writing of AML policy and procedures, developing internal control and audit programs, assessing ML/TF risks and building mitigation strategies, training line staff and management in AML compliance, and conducting statutory reviews of AML compliance regimes. He has provided expert witness testimony in money laundering in the Supreme Court of British Columbia.

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Appendix I

Internal Audit and Advisory Services, *Review of: British Columbia Lottery Corporation*,
December 4, 2014.

Review of: British Columbia Lottery Corporation



**INTERNAL AUDIT
AND ADVISORY SERVICES**



**Ministry of
Finance**

**Review of the British Columbia Lottery Corporation
(BCLC)**

**Internal Audit & Advisory Services
Ministry of Finance**

Date of fieldwork completion: October 2014

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Abbreviations

AML	Anti-Money Laundering
B2B	Business-to-Business
BC	British Columbia
BCLC	British Columbia Lottery Corporation
BCM	Business Continuity Management
BCP	Business Continuity Plan
BT	Business Technology Division
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CGC	Community Gaming Centre
CIO	Chief Information Officer
Compensation Policy	Crown Corporation Executive Compensation Policy
DRP	Disaster Recovery Plan
FINTRAC	Financial Transactions and Reports Analysis Centre of Canada
FTE	Full Time Equivalent
GCA	Gaming Control Act
GLE	Government's Letter of Expectations
GMS	Gaming Management System
GPEB	Gaming Policy and Enforcement Branch
GSA	GameSense Advisor
HLG	Host Local Government
HR	Human Resources
IAAS	Internal Audit and Advisory Services

ICBC	Insurance Corporation of British Columbia
IPS	Information Privacy and Security
IT	Information Technology
OSA	Operational Service Agreement
PG	Problem Gambling
PHO	Provincial Health Officer
PSEC	Public Sector Employer's Council
RG	Responsible Gambling
VLT	Video Lottery Terminal
VP	Vice President
VSE	Voluntary Self-Exclusion

Executive Summary

British Columbia Lottery Corporation (BCLC) is a Crown corporation reporting to the Minister of Finance. It provides gaming entertainment for its patrons and generates net win of approximately \$2.1 billion annually with over 75% of the adult population participating in some form of gaming, including the purchase of a lottery ticket, in the past year. One of BCLC's key measures of success is net win, which is total gaming revenue after prizes are paid. Since fiscal 2008/09 net win has been relatively stable with little growth.

BCLC's head office is in Kamloops, with a corporate office in Vancouver, and employs approximately 900 people. In addition to the three gaming divisions (lottery, gaming facilities and eGaming), BCLC also has corporate activities that include marketing and distribution, finance, human resources and information technology (IT). These activities are integral in supporting gaming operations, as well as meeting BCLC's responsibilities as an employer and Crown corporation.

As part of government's commitment to review Crown corporations, Internal Audit and Advisory Services (IAAS) conducted a review of BCLC to ensure it is being well managed and adhering to government's mandate. IAAS, working with a Deputy Ministers' Committee, evaluated BCLC's gaming and financial operations, organizational governance, forecasting, cost mitigation and IT.

Lotteries

Lottery products include lotto draw games, instant win games and social games, sold through approximately 3,800 lottery retail locations. Net win from lotteries has remained stable and accounts for 21% of BCLC's total net win.

Overall, BCLC has strong oversight tools to manage lottery operations and continues to educate and monitor lottery retailers for compliance with prize payout best practices. The Lottery Division faces a number of challenges over the coming years to address its aging technology, as well as its concern about a declining customer base due to an aging demographic and a younger generation less interested in playing lottery games. A lottery optimization project was initiated to provide a long-term business strategy and plan to address these issues. The project is currently on hold due to other corporate priorities.

BCLC has expanded its retail network to include Signature stores, with the concept to enhance the player experience and attract the younger generation. Given the significantly higher capital investment than typical for a kiosk, and with no business case or formal evaluation criteria, it is difficult to determine if these stores are achieving their objectives. Results to date indicate minimal growth in sales over what it replaced.

Both BCLC and the Gaming Policy and Enforcement Branch (GPEB) conduct oversight of lottery retailers to help ensure that they meet their contractual and legal requirements. The primary emphasis of oversight is on prize payout procedures which are typically tested through secret shopper programs conducted by both BCLC and GPEB. Over the last two years, BCLC reported compliance of nearly 90%.

Gaming Facilities

Gaming facilities include 17 casinos, seven commercial bingo halls and 18 community gaming centres (which offer slot machines and bingo) all run by service providers. Net win from gaming facilities grew significantly until fiscal 2008/09 as more facilities were opened and since that time has stabilized. Currently, 76% of BCLC's net win is generated in gaming facilities with Host Local Governments receiving a 10% commission of the net gaming revenue of gaming facilities in their jurisdictions.

BCLC's relationship with service providers is similar to that of a franchisee in that franchisees are granted the right to provide services with controls regarding service standards. Service providers own or lease the gaming facility and are required to provide staff, as well as ensure the physical security of the building and equipment.

BCLC has a 10 year operational service agreement with each gaming facility service provider. These agreements currently lack performance standards, such as revenue targets or responsible gambling requirements, which would improve operational management and oversight and allow BCLC to better monitor the service providers' performance.

Gaming facilities received operating and facility commissions amounting to approximately \$630 million in fiscal 2013/14. Depending on the mix of games offered, the operating commissions typically range from 25% to 40% of net win. Facility commissions ranging from 3% to 5% of net win are also paid on eligible expenditures, to assist in capital investments by the service providers, in order to provide higher quality facilities and thereby increase player visits. These project based commissions are

payable upon substantial completion; however, this practice is not consistently followed and has resulted in gaming facilities receiving commissions at earlier stages. It has been nearly 20 years since the commission structure in British Columbia (BC) was created and BCLC is currently unable to clearly demonstrate the effectiveness of the commission structure.

Currently, BCLC does not have a clear set of criteria to differentiate between a conversion, relocation and a new gaming facility. When establishing a new facility, BCLC should ensure that a competitive process is used in keeping with the spirit and intent of government procurement policy.

BCLC is undergoing the implementation of a new gaming management system to replace its legacy casino applications at 35 gaming facilities across the province. The project is expected to be completed by March 2015 at a total cost of \$119 million and is generally progressing in scope, on schedule and under budget. However, current revenue projections suggest that estimated benefits will be approximately 32% lower from an initial \$515 million (over the first 10 years) to \$352 million, indicating a weakness in project planning that overstated the revenue projections.

eGaming

eGaming products consist of online lottery games, sports betting, bingo and other casino games. Over the last five years, eGaming net win grew from \$14.7 million to \$58.9 million and accounts for 3% of BCLC's total net win. To date, BCLC has not been able to accurately forecast its eGaming revenue growth, with actual net win consistently lower than its forecasted targets.

BCLC is the only legally authorized provider of online gaming, in BC, which is delivered through its web-based platform PlayNow.com. Games offered are certified to technical standards established by GPEB, and validated by a qualified third party laboratory.

Many online gaming sites are unregulated and players on these sites are at risk of fraud, cheating or other illegal acts. In 2012, BC residents spent an estimated \$125 million on unregulated online gaming sites.

BCLC commenced a Business-to-Business arrangement for other jurisdictions where BCLC provides the gaming platform, PlayNow.com, and operational support for a fee. Initial estimates for the Business-to-Business service predicted a level of profitability that has yet to be attained.

Responsible Gambling	<p>Responsible gambling commences with the provision of tools and information necessary for gamblers to make informed choices. Problem gambling develops when gambling becomes uncontrolled and the gambler develops behavioral issues which can negatively impact their lives, family, friends and place of employment.</p> <p>The lowest standard prevalence rates of problem gambling tend to occur in Europe, with intermediate rates in North America and Australia, and the highest rates in Asia. In Canada, somewhat higher than average prevalence rates have occurred in New Brunswick, Alberta and BC. Problem gambling prevalence studies were done in BC in 2007 and most recently in 2014, in a forthcoming report, which show a 28% decrease in problem gamblers, from 4.6% to 3.3% of the total population during that period.</p> <p>BCLC is responsible for retail, internet and facilities-based responsible gambling programs, while GPEB is responsible for provision of problem gambling services (including counselling and treatment), responsible gambling initiatives and managing gambling research.</p> <p>BCLC has a GameSense program providing responsible play information and the risks associated with gambling to players. BCLC also manages a Voluntary Self-Exclusion program where a person elects to exclude themselves, for a set period of time, from gambling activity (other than lotteries). Once made, this commitment cannot be revoked. The effectiveness of the Voluntary Self-Exclusion program has been challenged in court which found that the casinos' policies, surveillance and security systems were appropriate and reasonable.</p>
Gaming Protection	<p>BCLC is responsible for ensuring service provider and retailer compliance with legislation. This involves training, conducting compliance reviews and investigating issues related to federal and provincial regulations with lottery retailers and gaming operators.</p> <p>GPEB routinely audits BCLC gaming operations. In most cases, audits appropriately identified areas requiring improved controls, although some audit areas and findings were based on BCLC's policy and procedures, as opposed to a GPEB standard. Despite continued improvement in retailer compliance, there was no evidence of a plan to rationalize the number of inspections using a risk based approach.</p>

BCLC is required by federal legislation to report any suspicious transactions, as well as transactions greater than \$10,000, on behalf of service providers, including patron information. BCLC has implemented a number of anti-money laundering initiatives, including the increased use of electronic banking methods and proactively banning known criminals. In order to streamline reporting and better facilitate expanded federal requirements, BCLC is also implementing a new anti-money laundering IT system.

Regulatory Oversight

Gaming regulation and enforcement is important in ensuring the integrity of gaming. GPEB, reporting to the Minister of Finance, is the regulatory body overseeing the activities of BCLC in supporting the integrity of gaming, and investigating allegations of wrongdoing.

The work that BCLC and GPEB perform in managing and regulating the gaming industry in BC promotes fairness and game integrity. Better understanding and agreement of roles and responsibilities between BCLC and GPEB should increase the efficiency and effectiveness of both organizations.

The need for improved clarity of the roles has been identified by government, and BCLC has been directed to work with GPEB to jointly develop key principles that will inform their respective roles and responsibilities.

While GPEB has gaming standards, some of them are not sufficiently detailed and, in some areas, GPEB's work is not consistently risk based. Having robust policies, standards and procedures will allow GPEB to operate more efficiently and effectively.

BCLC conducts reviews of its service providers and lottery retailers to ensure service standards are met and, while not replacing the work of the regulator, GPEB could place reliance on the controls and audit work undertaken by BCLC to ensure the best use of limited resources.

Governance and Performance

BCLC receives its direction from government through a Government's Letter of Expectations, and BCLC's Service Plan has been consistently aligned with government's priorities. While the board fulfills its responsibilities by providing strategic direction for BCLC, there are opportunities for the board and executive to improve their communication, decision-making and oversight of the organization.

BCLC reports its performance using measures in each of its four corporate goals: Player, People, Public and Profit. Divisions within BCLC prepare a business plan aligned with these corporate goals; however, they do not include any performance measures in their plans to demonstrate performance over time and contribution to the achievement of the corporate goals.

Information Technology

BCLC is heavily reliant on IT to help sustain and grow its business and has invested more than \$197 million on IT-related capital projects over the past five years. The Business Technology Division effectively supports BCLC's lines of business and their IT requirements and has made a number of organizational changes to improve IT services and better align with BCLC business strategies. Opportunities still exist to enhance the maturity of some of the business processes; in particular, disaster recovery planning.

BCLC has an organization-wide privacy and information security function and has recently implemented a number of initiatives to enhance the security and privacy roles within BCLC. These can be further strengthened by enhancing incident tracking, data classification and data ownership, as well as by implementing the envisioned security and privacy requirements for service providers.

BCLC has reasonable security controls and procedures in place to ensure confidentiality and integrity of gaming systems and related data. Various automated tools are also used to monitor the IT environment for security issues.

Financial Management

Over the last few years, BCLC operating expenses have increased faster than net win, primarily as a result of increased salary and benefit costs. In order to reduce operating costs and meet financial targets, BCLC plans to reduce operating costs by \$20 million in fiscal 2014/15. At the mid-way point of the 2014/15 fiscal year, BCLC reports that it is on track to achieve its cost saving targets.

Government directed BCLC to manage their cost of operations to not exceed a cost ratio of 42.5% of total net win. Using one overall ratio creates the risk that cost containment is not prioritized as net win grows. A combination of measures such as divisional cost ratios, limiting expense types by ratios or fixed amounts could provide more effective cost containment results.

BCLC uses a project portfolio management approach to manage current or proposed projects and ensure their alignment with organizational objectives. The project portfolio management framework is not standardized across the organization, leading to inconsistent project management practices within divisions. In

addition, BCCLC compares the actual project cost against the final approved budget rather than the original baseline budget. This does not always provide an accurate financial assessment of the project as the final approved budget may encompass multiple changes.

BCLC prepares business cases for executive approval for major organizational or capital projects, including new IT systems. However, BCCLC has not established clear criteria for determining when a project requires a business case. BCCLC acknowledges deficiencies in its current business case process and is introducing new templates.

BCLC spends approximately \$230 million annually on goods and services using three types of procurement methods: competitive bid, direct award and corporate purchasing cards for low dollar value purchases. BCCLC used competitive processes for 88% of its purchases, with direct awards and corporate purchase cards accounting for the remaining 12%.

BCCLC's procurement policies and procedures generally align with government's procurement policy and provincial trade agreements. However, some of BCCLC's procurement practices could be improved by enhancing documentation practices and more clearly demonstrating value for money in procurement.

BCCLC spent approximately \$25 million on marketing, advertising and promotions in fiscal 2013/14. While individual campaigns in some areas are assessed for their impact, overall BCCLC cannot clearly demonstrate the return on its marketing and advertising expenditures.

Staffing and Compensation

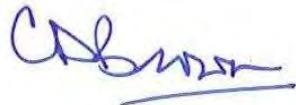
Over the last five years, the total number of Full Time Equivalents has increased by 25% to 919 with total compensation increasing by 43% to \$93.1 million in the same period. These increases are attributed by BCCLC to initiatives such as implementing recommendations from the 2007 Ombudsman's report and merit increases in pay. BCCLC's compensation was found to be generally comparable with other Crown corporations.

BCCLC, in following the new Crown Corporation Executive Compensation Policy eliminated perquisites and allowances and the bonus program. For executives, the changes made complied with this new policy. However, for some of the non-executive employees, the changes were more generous and contrary to the intent of the policy.

BCLC completed a staff restructuring in March 2014 as part of a larger \$20 million cost saving initiative. As a result of the larger than expected number of employees taking advantage of the early retirement and severance packages being offered, as well as involuntary terminations, the cost of the initiative was approximately \$25 million. With better internal planning and coordination, BCLC could have minimized the costs and staffing impact of this restructuring exercise.

* * *

We would like to thank the management and staff of BCLC, GPEB, as well as the other stakeholders who participated in and contributed to this review, for their cooperation and assistance.

A handwritten signature in blue ink, appearing to read "Chris D. Brown".

Chris D. Brown, CA, CIA
Assistant Deputy Minister
Internal Audit & Advisory Services
Ministry of Finance

December 4, 2014

Introduction

British Columbia Lottery Corporation (BCLC) is a Crown corporation reporting to the Minister of Finance. It provides gaming entertainment for its patrons and revenue for the Province of British Columbia, through its lottery, gaming facilities and eGaming divisions.

British Columbia (BC) started selling lottery products in 1974 after joining the three other western provinces in a partnership called the Western Canada Lottery Foundation. In 1985, the government established its own lottery corporation. In 1997, the government gave BCLC the responsibility to conduct and manage slot machines and, the following year, BCLC assumed responsibility for all casino gaming. In 2004, BCLC introduced eGaming through an internet lottery site called PlayNow.com.

Governed by the *Gaming Control Act (GCA)*, BCLC operates under the legislative, regulatory and policy framework established by the Province of British Columbia. Within this framework, BCLC has been directed to conduct and manage gaming in a socially responsible manner for the benefit of all British Columbians. The Gaming Policy and Enforcement Branch (GPEB) is the regulatory body overseeing the activities of BCLC in supporting the integrity of gaming, and reports to the Minister of Finance.

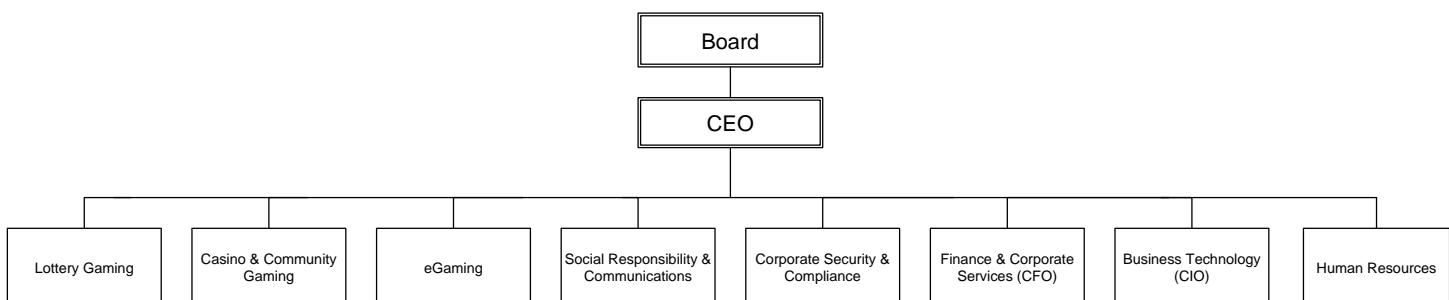
Gaming Operations

BCLC gaming operations includes lottery, gaming facilities (casinos, community gaming centers (CGC) and bingo halls) and eGaming. It generates approximately \$2.1 billion in annual net win, with over 75% of the adult population participating in some form of gaming, including the purchase of a lottery ticket, in the past year. Net win, which is the total gaming revenue after prizes have been paid, has been relatively stable since 2008/09. More than half of this is used to support social programs, health care and education. BCLC oversees lottery retailers and gaming facility service providers while directly delivering eGaming. Each of these business lines is managed through separate divisions in BCLC.

Lottery products include lotto draw games, instant win games and social games, sold through approximately 3,800 lottery retail locations. Gaming facilities include 17 casinos (two with racetracks), seven commercial bingo halls and 18 CGCs (which offer slot machines and bingo) all run by service providers. eGaming products consist of online lottery games, sports betting, bingo and other casino games, such as slots and poker, delivered through PlayNow.com.

Protection of Public and Gaming Industry	<p>In 2003, government established its Responsible Gambling Strategy to promote responsible gambling (RG) and effectively address problem gambling (PG). BCLC believes players and the public need to have information to make informed choices about gaming. They have developed a program for RG education, called GameSense, so players can learn about how games work, their odds of winning, when to stop and how to recognize PG.</p> <p>BCLC's Corporate Security & Compliance division protects the reputation, physical security and information of BCLC and ensures regulatory compliance through audits and training of lottery retailers and gaming operators. The division is also directed by government to take a leadership role in anti-money laundering (AML) initiatives.</p> <p>Gaming regulation and enforcement is important in ensuring the integrity of gaming. GPEB has regulatory oversight of BCLC's operations, the province's horseracing industry and licensed gaming events. GPEB is responsible for regulating gaming in BC, ensuring the integrity of gaming industry companies, people and equipment, and investigating allegations of wrongdoing.</p>
BCLC Operations	<p>BCLC's head office is in Kamloops, with a corporate office in Vancouver, and employs approximately 900 people. In addition to the three gaming divisions (lottery, gaming facilities and eGaming), BCLC also has corporate activities that include marketing and distribution, finance, human resources (HR), and information technology (IT). These activities are integral in supporting gaming operations, as well as meeting BCLC's responsibilities as an employer and Crown corporation.</p>

The following chart shows BCLC's board and executive structure.



Purpose and Objectives

This review examined BCLC's governance framework, operations, planning and forecasting, and financial performance.

The review evaluated and, as appropriate, made recommendations relating to the following:

1. The effectiveness of BCLC's governance framework, including strategic direction and alignment with government priorities.
2. BCLC's operations, including agreements and relationships with its service providers and lottery retailers and with GPEB.
3. BCLC's financial performance, including:
 - a) operating costs, administrative costs, and employee compensation and incentive programs;
 - b) forecasts, to help plan, budget and manage costs;
 - c) cost mitigation strategies, including the identification of potential operating efficiencies;
 - d) revenue generation and profit margins;
 - e) capital asset management and utilization; in particular, IT; and
 - f) progress and expenditures on BCLC's Gaming Management System (GMS) project.
4. The growth of gaming related products for lotteries, gaming facilities and eGaming in a socially responsible manner.
5. Examination of other matters that arose over the course of the review deemed appropriate by the review team.

Approach

Internal Audit and Advisory Services (IAAS) conducted a broad review of BCLC, working with an Executive Steering Committee. The approach included:

- conducting interviews with key management and staff across BCLC and related stakeholders;
- reviewing and analyzing legislation and policies;
- researching comparable information from other relevant organizations and other jurisdictions;
- reviewing and analyzing financial reports and variance reports; and
- reviewing and analyzing key operations, processes and IT systems.

During the course of the review, the Chief Executive Officer (CEO) of BCLC resigned. As a result, the Minister of Finance requested that IAAS conduct a separate review to determine whether the CEO had been in a potential conflict of interest.

While IAAS found that the former CEO had been in a conflict of interest during the two months prior to the time he left BCLC, no evidence was found that he or his new employer benefited from the conflict.

A copy of the full report can be found on the government's website at: <http://www.newsroom.gov.bc.ca/2014/07/report-on-resignation-of-former-bc-lottery-corporation-ceo.html>

Overall Conclusion

Gaming operations have been effective in generating a steady revenue stream for the province; however, there are opportunities for improvement. BCLC needs a plan to address challenges in the lottery division with aging equipment and IT systems, and a declining customer base. BCLC should review the effectiveness of the service provider commission structure, as well as institute performance standards that would allow for better monitoring of the service providers.

The protection of the public and the gaming industry appears effective, promoting Responsible Gambling, fairness and game integrity. However, better understanding and agreement of roles and responsibilities between BCLC and GPEB would increase the efficiency and effectiveness of both organizations. While BCLC conducts reviews of its service providers and lottery retailers, this does not replace the work of the regulator. GPEB could improve by having more robust policies and standards, and taking a risk based approach.

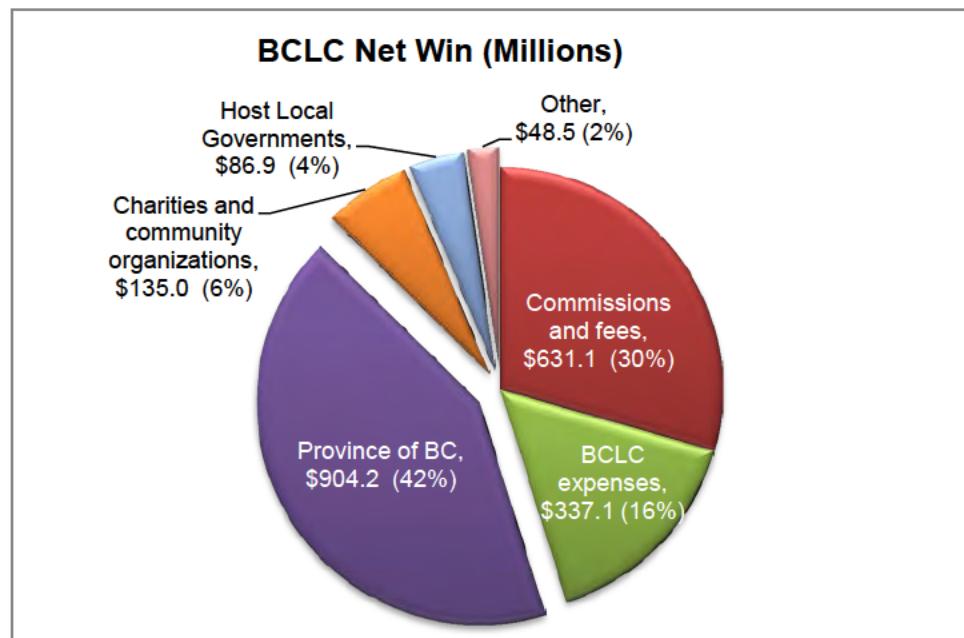
Overall BCLC's operations are aligned with government's priorities although there are opportunities for the board and executive to improve their communication, decision-making and oversight of the organization. BCLC could also improve the rigour in strategic and business planning to ensure that initiatives such as staff restructuring as well as capital and operating projects, receive the scrutiny required. In keeping with government's cost containment priority, BCLC should demonstrate greater value for money in procurement and develop a comprehensive framework of cost containment measures, such as divisional cost ratios, limiting expense types by ratios or fixed amounts, to provide more effective results.

1.0 Gaming Operations

1.1 Overview of Gaming Revenue

Of the \$2.1 billion BCLC generated in net win in fiscal 2013/14, 46% was paid to service providers for commissions and fees, and BCLC operations. Local governments that host casinos or CGCs received a percentage (4%) of net win generated by facilities in their community. These funds can be used for any purpose that benefits that community. The remaining 50% (\$1.1 billion) was primarily used to support social programs, healthcare and education.

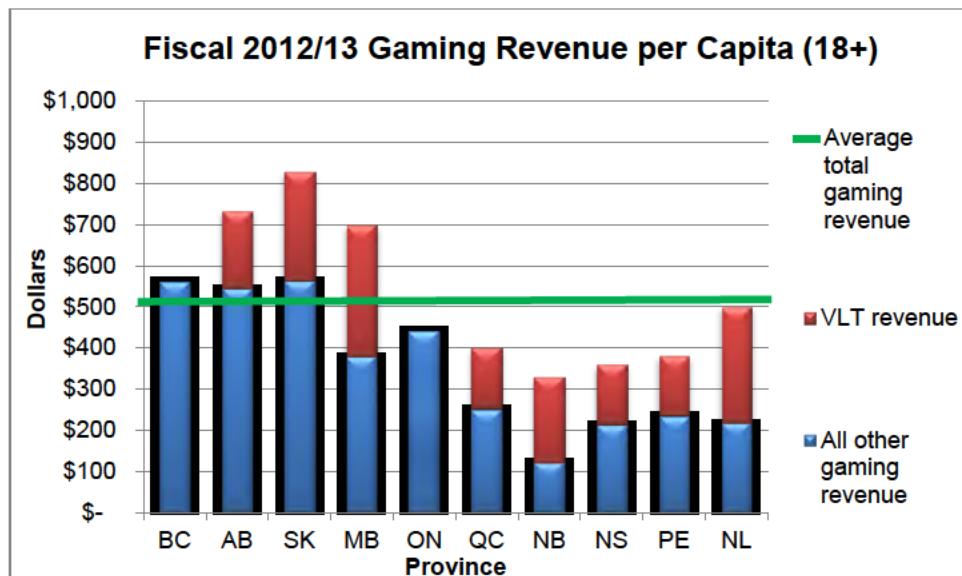
BCLC's fiscal 2013/2014 net win was distributed as follows:



Source: Data from BCLC Annual Service Plan Report 2013/14

Jurisdictional Comparison

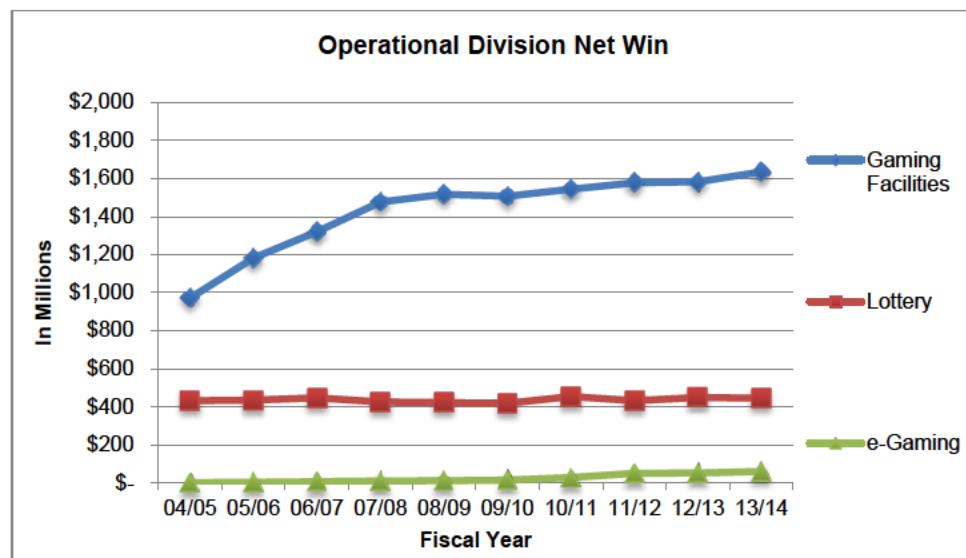
As shown in the following chart, BC was above the national per capita average revenue of \$524 in fiscal 2012/13. Alberta, Saskatchewan and Manitoba significantly exceeded the national average in part because they permit video lottery terminals (VLTs). A VLT refers to a slot-type machine used in licensed premises outside of traditional gaming facilities. BC and Ontario currently do not permit the use of VLTs.



Source: Data from Canadian Gambling Digest 2012/13

Net Win

One of BCLC's key measures of success is net win, which is total gaming revenue after prizes are paid. In fiscal 2013/14, 76% of BCLC's net win was generated in gaming facilities. The following graph shows that net win from gaming facilities grew significantly until fiscal 2008/09 as more facilities were opened. Since that time, net win has stabilized. Net win from lotteries has remained stable and, in fiscal 2013/14, accounted for 21% of BCLC's total net win. Net win from eGaming has grown; however, early projections have not been realized. In fiscal 2013/14, eGaming accounted for 3% of BCLC's total net win.



Source: Data from BCLC

1.2 Lotteries

BCLC has a wide variety of lottery products including:

- Lotto draw games: Lotto 6/49, BC/49, Extra, Lotto Max and Poker Lotto;
- Instant win games: Scratch and Win, pull tabs, Set for Life; and
- Social games: Keno, Sports Action, Pacific Hold'em and BC 50/50.

These lottery products generate over \$1 billion in sales each year. Some lotto games are national (Lotto 6/49, Lotto Max) and coordinated by the Interprovincial Lottery Corporation of which BCLC is a member.

Overall, BCLC has strong oversight tools to manage lottery operations and continues to educate and monitor lottery retailers for compliance with prize payout best practices. BCLC faces a number of challenges over the coming years to address its aging equipment and IT systems, as well as its concern about a declining customer base due to an aging demographic and a younger generation less interested in playing lottery games.

Provincial Comparisons	The lottery market across Canada is considered mature with revenues remaining relatively flat over the past five years. However, BC is faring better than other provinces, growing slightly while other provinces have declined.
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The table below shows that BC has a lottery outlet for every 973 adults and generates the third highest lottery revenue per capita across Canada.

	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL
People/lottery outlet	973	1,148	986	1,082	1,087	769	701	740	673	450
Lottery revenue/capita (18+):	\$ 135	\$ 130	\$ 114	\$ 109	\$ 139	\$ 129	\$ 119	\$ 119	\$ 124	\$ 215

Source: Data from Canadian Gambling Digest 2012/13

Locations BCLC delivers its lottery products to customers through a network of approximately 3,800 locations across the province:

1. Retail outlets such as gas stations, convenience, grocery and drug stores (71%);
2. Hospitality such as bars and pubs (24%); and
3. Kiosks and stores leased and maintained by BCLC but operated by independent contractors (5%).

Retailers receive a standard commission of 5% and, depending on the volume of sales, may receive performance triggered incentive bonuses.

In 2012, BCLC opened its first Lotto signature store, and opened a second store in 2014. The concept of these stores is to enhance the player experience and attract the younger generation.

Signature stores require a significantly higher capital investment than typical under the kiosk network. There was no business case done to establish the need for these stores and, without formal evaluation criteria, it is difficult to determine if these stores are achieving their objectives. Analysis of the 2012 store results to date indicates minimal growth in sales over what it replaced.

With the addition of stores, BCLC's kiosk program now has a broader range of leasing, set-up and maintenance costs. BCLC has no formal guidelines on the extent of the targeted costs or revenue per outlet. This creates the risk that the increased cost of new outlets will outstrip the related benefit.

Recommendation

- (1) BCLC should establish critical success factors for its lottery retailers in order to evaluate performance and report on results.**

New Retailers Retailers must be registered with BCLC before they are authorized to sell lottery products. Once registered, all employees selling lottery are expected to take online training within 60 days of being hired.

After BCLC performs a background check of a potential lottery retailer, GPEB conducts a criminal record check before approving the registration. BCLC and GPEB use separate databases in managing registrations which creates inefficiencies.

Retailer registration lasts for three years after which retailers must renew it by undergoing another criminal record check. The registration and renewal process appears excessive when compared with the lack of significant issues being identified and the GCA requirement of a five year renewal period.

Retailer Oversight

Both BCLC and GPEB conduct oversight of lottery retailers to help ensure that they meet their contractual and legal requirements. The primary emphasis of oversight is on prize payout procedures which are typically tested through secret shopper programs conducted by both BCLC and GPEB.

In 2007, the BC Ombudsman conducted a review of BCLC's prize payout procedures, and issued a report containing recommendations to strengthen its practices and improve the integrity with which lottery is conducted and managed in the province. In general, BCLC has addressed the concerns raised in the Ombudsman's report and continues to educate and monitor lottery retailers for compliance with prize payout best practices.

Over the six years since the Ombudsman report, retailers have shown continued improvement in following the prescribed prize payout procedures. Over the last two years, compliance reported by BCLC was nearly 90%.

Every retailer selling lottery products has a check-a-ticket terminal so that lottery customers can self-check their tickets to learn the results. When the retailer validates a customer's ticket, the lottery monitor displays whether that ticket is a winner, what amount was won, and plays a jingle.

For prize claims over \$1,000, BCLC creates a winner's record. For wins over \$3,000, BCLC takes steps to establish that the person claiming the win is the legitimate owner of the ticket before paying out the prize.

Lottery retail employees are not permitted to purchase lottery products at their place of work. Retailers are required to keep BCLC informed of all employees selling lottery products; not only to track whether employees have taken the required training, but also to enable BCLC to monitor retailer wins.

Other oversight includes testing whether retailers are selling lottery products to minors. GPEB uses minors to attempt to purchase lottery products from retailers. In a recent test, 40% of the retailers sold lottery products to a minor. In these instances, GPEB issued a warning or a violation ticket of \$288.

Complaint Handling

BCLC has both a retailer and a consumer complaint hotline where they document customer concerns. The retailer hotline helps retailers resolve equipment issues, report product theft and major wins. Similarly, the consumer complaint hotline addresses concerns raised by players. Calls are logged, and if necessary, assigned to the appropriate department for follow-up and resolution.

IT Environment

BCLC uses several systems to support lottery operations. The Lottery Central System is the key application used to sell and redeem lottery products. Other lottery systems are also used to provide customer relationship management, payment processing and financial services.

Overall, key security controls and procedures are in place to ensure confidentiality and integrity of the lottery systems and related data. Various automated tools are also used to monitor the Lottery IT environment for security issues.

Lottery systems have periodically been reviewed by BCLC Internal Audit, as well as by independent parties such as GPEB and external auditors. Opportunities to enhance the system controls have been identified over time and have been addressed by BCLC.

The Lottery Central System and other lottery supporting applications represent the majority of BCLC legacy systems. Although the lottery operations are primarily supported by aging systems, the related technology is stable with minimal unscheduled system downtime in the past three years.

Looking Ahead

Given the age of the core lottery systems, BCLC faces issues associated with a lack of flexibility to accommodate new business requirements and in some cases, progressively higher upgrade costs. BCLC owns all lottery terminals and these are expected to reach the end of their useful life within the next three to five years.

BCLC recognizes the issues associated with aging technology and initiated a Lottery Optimization project to provide a long-term business strategy for lottery operations, including a plan for the replacement of legacy systems. The Lottery Optimization project is currently on hold due to other corporate priorities.

These issues, combined with concerns over a declining player base, indicate that significant challenges exist in going forward.

1.3 Gaming Facilities

BCLC is currently responsible for 42 gaming facilities comprised of 17 casinos offering table games and slot machines, 18 CGCs and seven commercial bingo halls. Across BC, gaming facilities host more than 870 table games and 12,500 slot machines.

BCLC owns all gaming products and equipment used in gaming facilities including slot machines, table games, shufflers, cards, chips, etc. All gaming supplies and equipment used in gaming are pre-approved by GPEB and maintained by BCLC in accordance with the GCA and regulations.

Types of Player

Encore Rewards is BCLC's player loyalty program, collecting data primarily through slot machine use for projection and analysis of the player base. In fiscal 2013/14, an estimated 12.3% of BCLC's gaming facility patrons were active Encore members.

BCLC categorizes its estimated 2.1 million gaming patrons into four segments - casual, light, moderate and core, depending on the average number of visits per year. BCLC estimates that more than \$60 million in net win is generated by 45 high net-worth players.

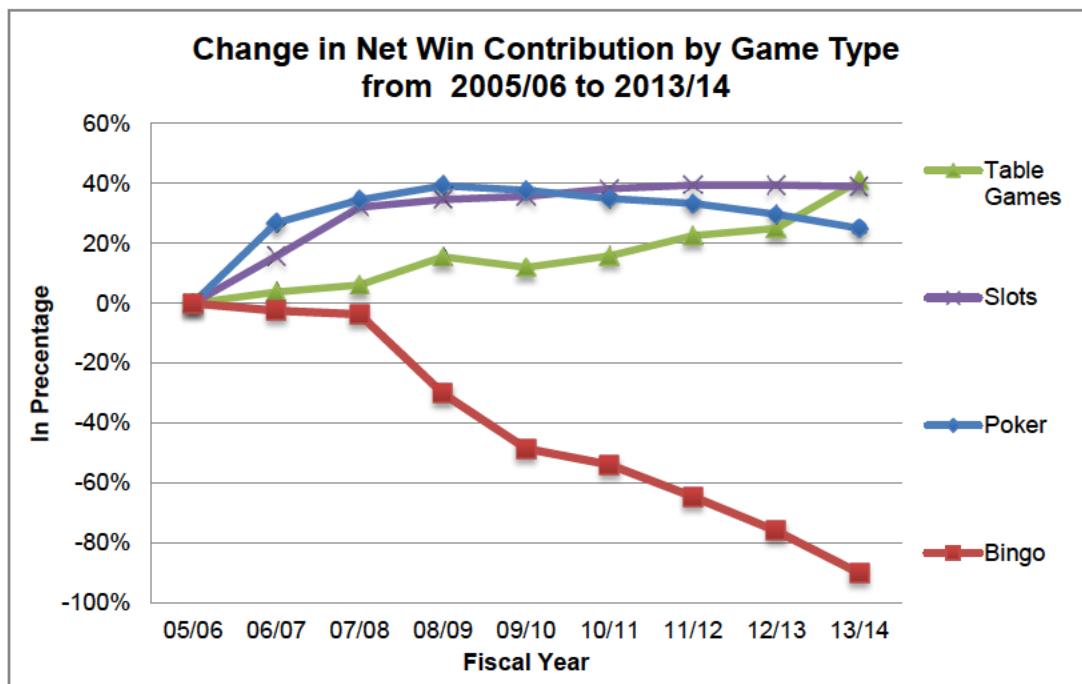
BCLC is focussing on growing casual and light player segments in order to increase the number of player visits through marketing campaigns and promoting gaming facilities as entertainment destinations. The following table shows segmented player data acquired through the approximately 260,000 Encore members, extrapolated by BCLC to the entire gaming population for fiscal 2013/14.

Player Segment:	Casual	Light	Moderate	Core
Average visits per year	2	12	52	104
% of Players	75.8%	18.2%	3.8%	2.2%
% of Gaming Facility Revenue	2.0%	6.0%	16.4%	75.6%

Source: Data from BCLC.

Gaming Mix

BC gaming facilities offer a variety of games including slot machines, table games, bingo and poker. The following graph demonstrates the change in contribution of each game type to the division's net win since fiscal 2005/06. The overall net win trend demonstrates a small growth in slots and table games over time, and a steady decrease in bingo due to a declining player base.



Source: Win By Game Type from BCLC's 5 year Pro-forma statements

Service Provider Oversight

BCLC's relationship with service providers is similar to that of a franchisee, in that franchisees are granted the right to provide services with controls regarding service standards. Service providers own or lease the gaming facility and are required to provide staff as well as ensure the physical security of the building and equipment.

BCLC facilitates regular planning sessions with individual service providers in order to align business strategies and share business and marketing plans.

BCLC enters into Operational Service Agreements (OSA) with service providers to establish operational services at their gaming facility.

OSAs are typically for 10 years with an option to extend the agreement in 10 year increments, with BCCLC approval. If a service provider does not fulfil their agreement, BCCLC can appoint itself or a third party to operate the facility until a solution is found. There have not been any instances where a renewal was denied or a replacement operator was appointed.

BCCLC monitors the performance of gaming facilities through financial and compliance measures, as well as on-site relationship management, but does not have performance standards, such as requiring revenue targets or RG goals, in their OSAs.

BCCLC recognises that the existing OSAs do not facilitate effective operational management of gaming facilities and, in 2014, BCCLC established a cross-functional working group to improve them. BCCLC is also in the early stages of developing risk management agreements to monitor the financial viability of service providers. As OSAs are renewed, risk management agreements are expected to be implemented to help address BCCLC's risk in the event that service providers encounter financial difficulty.

Recommendation

(2) BCCLC should ensure that agreements with service providers include comprehensive performance standards.

Operating Commissions

In 1997, government introduced the service provider payment and operating framework, currently administered by BCCLC. Service provider operating commissions are based on the types of games offered and include:

- 25% of slot machine and electronic games net win;
- 40% of the casino games net win, less 1% to reimburse BCCLC for gaming equipment and gaming supplies; and
- 60% of bingo revenue (after prizes are paid) on the first \$20,000; 40% of the next \$60,000; and 25% on revenue over \$80,000 per week.

Facility Development Commissions

In addition to operating commissions, service providers can also earn commissions of 3 to 5% of net win for capital projects and ongoing site development. This is intended to encourage capital investment that results in higher quality facilities which attract a broader player base. Eligible expenditures include land, building and improvements. Non-gaming related expenses such as planning submission costs, staff facilities and equipment are excluded.

OSAs outline the commission entitlement, and are generally consistent across similar-type facilities. Two agreements reviewed have alternate development commission structures, but still result in a similar net distribution as the other service providers.

Project-based commissions are payable to the service provider upon substantial completion of the project up to the lesser of the amount earned, or the cost of the project. BCLC has not consistently followed its policy in the administration of these commissions. For example:

- BCLC released commissions to service providers on receipt of individual expenses rather than on substantial completion of the whole project; and
- one gaming facility received commissions in advance of earning them.

In a separate instance, a gaming facility was permitted to accrue commissions on a project at an earlier stage than usual. The service provider will receive these commissions when construction begins, rather than upon substantial completion. BCLC advises that this was necessary to assist in the financing of high construction costs unique to the project.

While the intent of these commissions is to increase clientele and encourage an improved return, BCLC has not conducted a comprehensive analysis to determine how effective they have been.

Industry reports suggest that gaming industry profits exceed other hospitality industries in Canada. BC is the only province delivering gaming exclusively through contracted service providers, making the comparison to other provinces a challenge. It has been nearly 20 years since the commission structure in BC was created and BCLC, at this time, is unable to clearly demonstrate the effectiveness of the commission structure.

Recommendation

- (3) **BCLC and the Ministry of Finance should conduct a review of service provider commissions for gaming facilities to ensure an appropriate and effective structure.**

Gaming
Equipment and
Inventory

BCLC owns more than 12,500 slot machines which have proven to be very profitable, with a full return on investment to BCLC after an average of four months of use and an expected lifespan of eight years.

BCLC slot machine inventory is comprised of 79 different platforms from eight unique vendors. A platform is the internal mechanism of a slot machine with a unique combination of hardware, software and operating system.

Having a large quantity of platforms has resulted in increased inventory, training and maintenance costs. BCLC has not explored potential cost containment opportunities available through the reduction of vendors and platforms.

BCLC's inventory management system is unable to track current parts levels at gaming facilities. In fiscal 2013/14, BCLC wrote off obsolete slot machine parts inventory at BCLC and gaming facilities of approximately \$3.9 million.

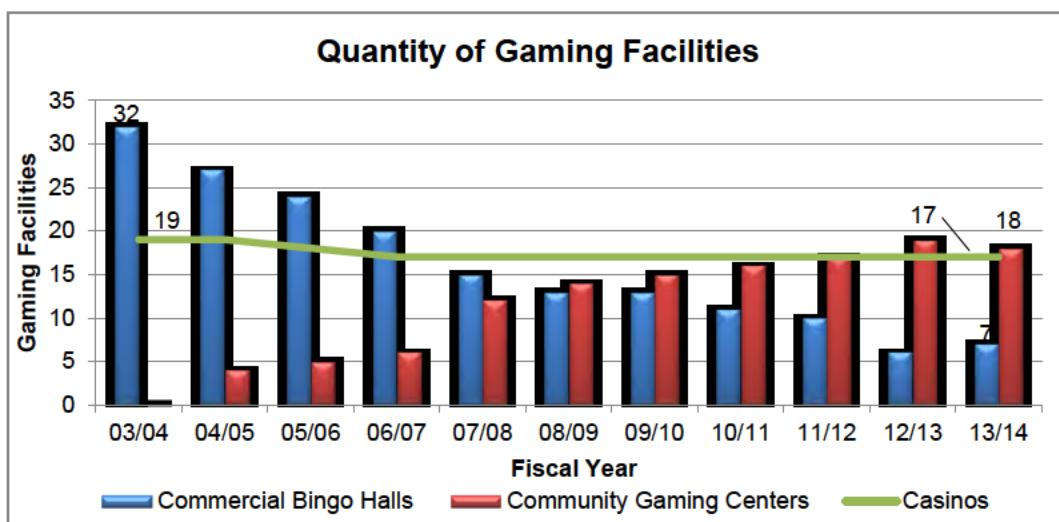
Recommendations

- (4) **BCLC should explore potential cost containment opportunities available through the reduction of vendors and platforms.**
- (5) **BCLC should evaluate options to improve inventory management systems.**

Locations

Historically, the Province of BC contracted with service providers to operate charitable gaming facilities. In 1998, BCLC assumed responsibility for these contracts.

Since 2003, the number of gaming facilities has decreased by nine, primarily through the conversion and consolidation of bingo halls to CGCs. The following graph illustrates the number of facilities by type over the past 11 years.



Source: Data provided by BCLC

BCLC has considered the changes in gaming facilities to be conversions or relocations and has given existing service providers the first right of refusal. Given that all but one of the changes have been within the same player area, and due to the relationship between service providers and their players, this generally appears reasonable.

Currently, BCLC does not have a clear set of criteria to differentiate between a conversion, a relocation and a new gaming facility. When establishing a new facility, BCLC should ensure that a competitive process is used in keeping with the spirit and intent of government procurement policy.

Recommendation

- (6) BCLC should develop a clear set of criteria for gaming facility procurement.**

Host Local Government	<p>Before establishing a facility in an area, BCLC uses a comprehensive process to ensure compliance with the legislation including Host Local Government (HLG) consultations and service provider business planning. HLG casino and gaming approval processes vary across the province, with some local governments having strict caps on the quantity of games.</p> <p>Through an agreement between a HLG and the Province of BC, HLGs are provided with a 10% commission of the net gaming revenue of the gaming facilities in their jurisdictions. Net gaming revenue is the net win of the hosted facility less BCLC's proportionate costs and service provider commissions.</p> <p>Distributions to HLGs across BC over the past five years were approximately \$418 million. In 2014, 31 of BC's local governments received gaming commissions totalling \$86.9 million, ranging from \$223,000 to \$17.3 million.</p>
IT Environment	<p>BCLC has multiple systems that manage casino operations, some of which are legacy systems with limited vendor support. This situation prompted BCLC to conduct an external benchmarking initiative in 2008 to determine whether these casino systems would continue to meet industry standards and support BCLC's future business needs. The assessment concluded that the legacy systems were at their end of life due to their increasing maintenance costs, inability to expand their product portfolio and a lack of vendor support.</p> <p>In late 2009, BCLC conducted a joint competitive process with Ontario Lottery and Gaming Corporation to select a new gaming management system (GMS) for both organizations. The system selected is expected to provide increased functionality and a better gaming experience for BCLC customers.</p>

BCLC is currently in the last fiscal year of the GMS implementation project which will replace the legacy casino systems in 35 gaming facilities in the province. As most of the major sites have already been converted, approximately 84% of the electronic gaming machines are now operating in the GMS environment.

Overall, reasonable security controls and procedures are in place to ensure data confidentiality and integrity of the casino systems, including the transition to the new GMS system.

Casino applications, including GMS have been periodically reviewed by BCLC's Internal Audit and Information Privacy and Security (IPS) departments, as well as by independent third parties such as GPEB, and external auditors. The GMS and related systems are stable with minimal unscheduled system downtime since its implementation.

GMS Project Management

The GMS project is a multi-year initiative that began in May 2012 and is scheduled to be completed by March 2015.

The transition to GMS involves replacing the software and infrastructure that operates slot machines and monitors table games at 35 gaming facilities across the province.

Overall, the GMS implementation has followed reasonable steps to support an effective implementation and meet time and budget commitments. The project is generally progressing in scope, on schedule and under budget. However, current revenue projections suggest that initially estimated benefits will be approximately 32% lower from an initial \$515 million (over the first 10 years) to \$352 million.

GMS Benefits

The GMS business case identified increased revenue from new marketing and business intelligence capabilities that intended to increase annual revenues in casino operations by \$64 million when fully implemented and utilized. In September 2012, BCLC revised its business case to reflect more current assumptions. Among these assumptions was incorporating the impact of the delayed roll-out of the campaign and marketing components on the implementation.

In December 2013, BCLC reassessed these key revenue assumptions and concluded that they were overstated. The impact of delayed implementation of project milestones, along with the changes to key assumptions, has reduced the projected benefits by \$163 million from the initial business case projection. This reduction is due to a decrease in revenue assumptions of \$106 million, indicating a weakness in project planning, with the remaining \$57 million a result of a delay in implementing campaign and marketing components.

BCLC established a formal risk management process in order to identify, monitor and mitigate GMS project risks. These risks were regularly reassessed for their likelihood and impact and newly emerging risks were added to the risk register, when identified.

The risk register formed part of the monthly project meetings and BCLC Internal Audit maintained oversight of risk management decisions through attendance at these meetings. GPEB added oversight by visiting converted gaming facilities to solicit feedback and otherwise keep informed about potential implementation concerns.

Timelines, Scope and Budget

The GMS project is divided into two phases of implementation. Phase 1 delivers system infrastructure upgrades with the core operational capabilities. Phase 2 includes campaign and marketing management software, as well as enhanced RG features which will allow players to manage their own accounts and set personal limits for spending and time on device.

While the initial rollout of the project started later than planned, BCLC reconfigured the overall project implementation schedule to finish on time. To date, there have been no significant scope reductions that would impact the strategic objectives of the project.

The total implementation cost of the GMS project is budgeted at \$124 million (plus a \$16 million contingency fund). The project is estimated to finish at \$119 million. Savings are as a result of efficiencies achieved in infrastructure costs through better server utilization, as well as efficiencies gained from reduced professional and contractor fees.

After some of the initial site conversions, BCLC implementation teams assessed the lessons learned in an effort to improve subsequent implementations. A final post-implementation review of the project is planned at the completion of the project, but it is unclear whether a detailed benefits realization will form part of this review.

Recommendation

- (7) **BCLC should conduct a comprehensive post-implementation review of the GMS project that includes benefits realization.**

1.4 eGaming

BCLC is the only legally authorized provider of online gaming in BC, which is delivered through its web-based platform PlayNow.com. In delivering eGaming, BCLC partners with developers and network-hosting contractors. The software suppliers are compensated through fixed or variable fees, or a combination of the two.

Many online gaming sites are unregulated and players on these sites are at risk of fraud, cheating or other illegal acts. In 2012, BC residents spent an estimated \$125 million on unregulated online gaming sites.

Games offered on PlayNow.com are certified to technical standards established by GPEB and validated by a qualified third party laboratory. Regulating the market helps ensure that games are played fairly, paid out as promised, and that gaming is not used for money laundering and other illegal purposes. It also restricts underage gamblers, ensures people with gambling problems have access to tools that limit their deposits, bets, overall play, or exclude themselves entirely.

To access PlayNow.com, players must be BC residents 19 years of age, or older. Players must be registered with PlayNow.com, and be physically located in BC at the time of play. This is in contrast to other regulated gaming activities (lottery, gaming facilities) where players do not have to be a BC resident.

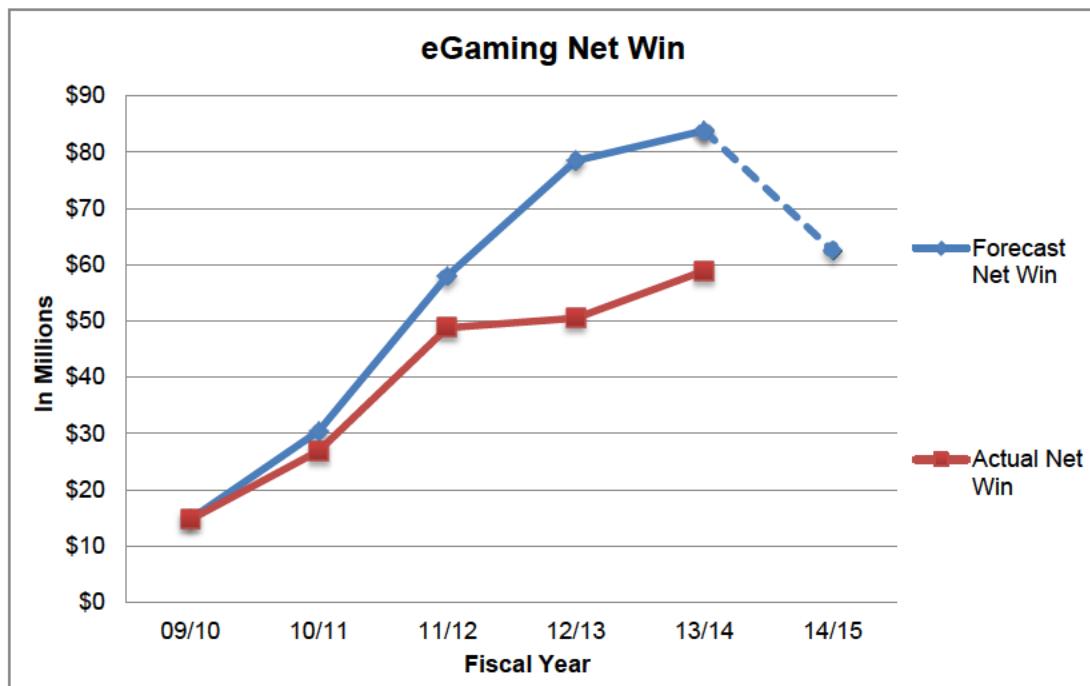
In July 2010, the system was temporarily shut down when BCLC determined that 134 player accounts were not properly protected. The problem was resolved and the Privacy Commissioner concluded that BCLC had taken reasonable steps in response to the breach.

Today, PlayNow.com has a selection of nearly 100 games including free games (played without wagering) for Casino and Poker, as well as offering Keno, Lottery, Sports and Bingo products.

Performance

Over the last five years, eGaming net win grew from \$14.7 million to \$58.9 million. After the first full year of operation, fiscal 2005/06, PlayNow.com had nearly 30,000 registered users, and by the end of 2013/14 had over 293,000 accounts. eGaming's growth is attributed to continued expansion of its casino and poker portfolios, and enhancements to sports betting and mobile gaming.

To date, BCLC has not been able to accurately forecast its eGaming revenue growth with actual net win consistently lower than its forecasted targets, as shown in the graph below:



Source: Proforma by BCLC business units

In fiscal 2013/14, the eGaming division adopted a zero-based budget methodology which, along with their experience over the last few years, is intended to produce more accurate revenue forecasts. In fiscal 2013/14, the majority of eGaming revenues came from casino games (48%), and Lotto (20%).

BCLC commenced a Business-to-Business (B2B) arrangement for other jurisdictions where BCLC provides the gaming platform, PlayNow.com, and operational support for a fee. Initial estimates for the B2B service predicted a level of profitability that has yet to be attained.

IT Environment

In delivering the current suite of games available, BCLC collaborates with several third party entities to support specific aspects of eGaming services. Some of the services include virtual slot games, ePoker system services and eSports games for odds setting, settlement and monitoring.

Overall, reasonable security controls and procedures are in place to ensure data integrity and confidentiality of the eGaming systems and related data. As a result of this review, BCLC is implementing additional controls for eGaming systems, which are expected to be completed by March 2015.

eGaming applications have been subject to periodic reviews conducted by BCLC Internal Audit and IPS, as well as by independent parties such as GPEB and external auditors. Opportunities to enhance the system controls were identified over time and have generally been addressed by BCLC.

As required by the GCA, any new gaming systems (or existing ones subject to changes) must receive a Certificate of Technical Integrity from GPEB before being permitted to operate in the live environment. eGaming technology has been reasonably stable with minimal unscheduled downtime during the past three years.

Looking Ahead

BCLC has identified a number of opportunities within eGaming that includes expanding betting options and increasing the accessibility of products.

Novelty betting (a bet which includes a selection for a novelty and/or non-sport/non-racing event such as a song contest, election results, etc.) has recently received approval and once implemented, will be added to the list of betting options.

Currently, federal legislation requires sports betting to be on a minimum of two sporting events. BCLC estimates that this requirement amounts to approximately \$20 million a year in lost revenue. There is currently a federal bill seeking to change this law and allow single event sport betting.

BCLC plans to pilot sports betting through PlayNow.com at select gaming facilities at the end of 2014, in an effort to attract a broader player base and drive revenue growth. This initiative will be assessed by BCLC for potential broader implementation.

To improve the accessibility of gaming products, BCLC also plans to develop a new mobile lottery application that will offer more attractive features than currently available.

2.0 Protection of Public and Gaming Industry

2.1 Responsible Gambling

The RG team at BCLC is responsible for education, compliance and program development. Gaming divisions are expected to consider RG implications in the development of their products.

RG commences with the provision of tools and information necessary for gamblers to make informed choices. Combining RG education, information about the games, and the risks associated with gambling allows adults to make educated decisions about their play.

PG develops when gambling becomes uncontrolled and the gambler develops behavioral issues which can negatively impact their lives, family, friends and place of employment. There are free, confidential, province-wide counselling and treatment services available through GPEB for problem gamblers and their families who seek help.

In October 2013, the Provincial Health Officer's (PHO) annual report "Lower the Stakes – A Public Health Approach to Gambling in British Columbia" was released. The report examined gambling trends in BC from a public health perspective and included 17 recommendations directed at the Ministries of Finance, Health, and Education to address PG from a public health perspective.

A cross-ministry working group, with representation from BCLC, is developing the government's Plan for Public Health and Gambling. Development of the plan is considering the PHO recommendations, findings from a forthcoming 2014 BC Problem Gambling Prevalence Study, other relevant research, and government policies related to the delivery of services in the education, health, and gaming sectors.

Roles and Responsibilities

The Government's Letter of Expectations (GLE) directs BCLC to "Operate the gaming business within the social policy framework established by Government...". This framework is not described in legislation, nor formally documented. It consists of a combination of legislation (e.g., GCA, Canada's *Criminal Code*), and Minister's or GPEB directives and strategies (e.g., BC's Responsible Gambling Strategy), that pertain to RG and PG.

GPEB, with input from BCLC, developed BC's Responsible Gambling Strategy which outlines key responsibilities:

- BCLC is responsible for the conduct and management of gaming in BC, which includes retail, internet and facilities-based RG programs.
- GPEB is responsible for provision of PG services (including counselling and treatment), RG initiatives and managing gambling research.

The strategy includes a three-year plan which details goals and initiatives, and assigns responsibilities. However, the plan expired at the end of fiscal 2013/14 and is currently being updated.

Corporate Culture

A RG culture is important to BCLC and, as such, it has a number of initiatives to promote RG, for example:

- developing and implementing RG programming;
- funding research on the social and behavioural aspects of gambling;
- managing operations for staffed and self-serve GameSense Information Centres; and
- managing a voluntary self-exclusion (VSE) program.

Corporate Social Responsibility Assessments are expected to be done on all new products prior to market release. In 2014, two products went to market without having these assessments completed, creating the risk that RG standards were not complied with. In these instances, BCLC determined retroactively that these products met the requirements.

GameSense

GameSense is a BCLC program combining responsible play information with information about the risks associated with gambling.

GameSense is available at all gaming facilities and lottery retailers, and online. The key objective is to provide people with the tools that they need to make informed choices on how to play responsibly. GameSense makes information available to players, including the odds of different games, the difference between games of chance and skill, commonly held myths about gambling, and tips for playing responsibly.

GameSense Advisors (GSA) staff the centres in casinos to provide personalized education on responsible play strategies. In fiscal 2013/14, GSAs recorded 54,656 interactions with players about RG. This represents an increase of 24% over the previous year, and BCLC advises that this was due to an increased awareness of the program.

Voluntary Self-Exclusion

In 1998, BCLC implemented its VSE program, where a person voluntarily elects to exclude themselves from gambling activity (other than lotteries). They may self-exclude for a period of six months to three years and, once made, this commitment cannot be revoked. Over the last three years, there has been an average of between 8,000 and 8,500 individuals enrolled in the VSE program at any one time.

To assist individuals that have signed up for the VSE program, BCLC and its service providers in gaming facilities use tools to identify the self-excluded individuals such as license plate scanning, facial recognition software and randomly checking identification as players enter facilities or while playing, should they manage to enter a venue and begin playing.

The VSE program does not provide a guarantee that a self-excluded individual will be identified and removed from a gaming facility. During 2013, staff at gaming facilities detected 5,876 violations with the majority of violations occurring in the five lower mainland casinos.

The effectiveness of the VSE program has been challenged in court and it was found that the casinos' policies, surveillance and security systems were appropriate and reasonable.

In 2010, the provincial legislature made changes to the GCA that allowed BCLC to withhold jackpots from VSE program participants. This has subsequently been upheld by the courts. Withheld jackpots are used to fund research into PG behaviours.

The VSE program has demonstrated some inconsistency in its implementation between gaming facilities and eGaming. When a player completes the VSE registration at a gaming facility, they are prohibited from entering all facilities and their PlayNow.com account is suspended for the self-exclusion period.

However, if the VSE registration is initiated through PlayNow.com, the individual is still permitted to enter a gaming facility, gamble and collect their winnings.

Recommendation

- (8) **BCLC should ensure a consistent approach to administering the VSE program across gaming facilities and eGaming.**

Prevalence of Problem Gambling

Between 1975 and 2012, there were over 200 studies done around the world that involved jurisdiction-wide adult prevalence surveys of PG. These results were standardized in 2012 in a report for the Ontario Gambling Research Centre, enabling comparisons between jurisdictions, as well as within the same jurisdiction over time.

According to this report, the lowest standardized prevalence rates of PG tend to occur in Europe, with intermediate rates in North America and Australia, and the highest rates in Asia.

In Canada, Quebec and Prince Edward Island have consistently low rates, while somewhat higher than average rates have occurred in Alberta, New Brunswick and BC.

In BC, PG prevalence studies were done in 2007 and most recently in 2014 in a forthcoming report. As described in the following table, the results of these two studies show that the prevalence of problem gamblers, as a percentage of the total population, has decreased by 28% from 2007 to 2014.

Year	Moderate Problem Gambling Prevalence	Severe Problem Gambling Prevalence	Total Prevalence of Problem Gamblers
2007	3.7%	0.9%	4.6%
2014	2.6%	0.7%	3.3%

Source: 2007 and 2014 BC Problem Gambling Prevalence Studies

Social Responsibility Metrics

BCLC determines the effectiveness of its RG efforts by tracking indicators in three areas: Player, People, Public. BCLC released its first separate Social Responsibility Report in 2013/14. Current performance measures include the following:

- employees who understand what social responsibility means to BCLC;
- number of stakeholder engagement sessions; and
- achieving re-certification at Level 4 of the World Lottery Association (WLA) Responsible Gambling framework. (This is the highest level of WLA certification).

These performance measures are somewhat limited and on their own are not sufficient to assess and demonstrate the effectiveness of the social responsibility program. More performance measures that are outcome based (e.g., prevalence rate) would be better indicators of program effectiveness.

Recommendation

- (9) BCLC should develop outcome based performance measures for responsible gambling.**

2.2 Gaming Protection

BCLC is responsible for ensuring service provider and retailer compliance with the GCA, the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and the related reporting requirements. This involves training, monitoring and investigating issues related to federal and provincial regulations with lottery retailers and gaming operators.

BCLC Compliance Investigations

BCLC conducts compliance reviews and investigations of its service providers and lottery retailers. This work includes:

- confirming compliance with BCLC policies and procedures, reviewing controls, and investigating customer complaints and criminal events in all gaming operations;
- supporting, training and ensuring BCLC and service provider compliance with provincial and federal legislated reporting;
- supporting the casino security information system that manages incident reporting; and
- overseeing the VSE program in gaming facilities.

Provincial legislation requires that BCLC and service providers report to GPEB any incident or activity that may be criminal, and/or contrary to the GCA. In fiscal 2013/14, BCLC and service providers reported approximately 17,000 incidents of which most were classified in three categories:

1. banned patrons;
2. potential criminal event; or
3. assistance to GPEB, police or other agencies.

GPEB Audits and Investigations

GPEB routinely audits BCLC gaming operations as part of its role in ensuring the integrity of gaming in BC. Gaming facilities, eGaming and lottery retailers receive regular compliance reviews to ensure that gaming in the province is conducted in accordance with gaming legislation, directives, policies, and procedures.

In most cases, GPEB's casino and eGaming audits appropriately identified areas requiring improved controls, although some audit areas and findings were based on BCLC's policies and procedures, as opposed to a GPEB standard.

Lottery retailer inspections included interviews regarding theft and fraud, and concerns about sales to minors. Despite continued improvement in retailer compliance, there was no evidence of a plan to rationalize the number of inspections based on a lower risk factor.

GPEB Investigators have Special Provincial Constable status which permits them greater access to law enforcement resources. GPEB reviews incident files received from various sources, including service providers, retailers, BCLC, police and the public.

Approximately 40% of incidents are related to violations of the VSE program. Of the non-VSE incidents, 36% of files were retained for evidence in related police or intelligence files, more than 30% could not be resolved due to insufficient information, and 1.1% of the cases investigated by GPEB resulted in a charge under the *Criminal Code* or *GCA*.

Anti-Money Laundering

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is a federal independent agency established to operate within the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. FINTRAC is responsible to aid in the detection of money laundering and terrorist activity in the Canadian financial system, including BC gaming facilities.

FINTRAC requires BCLC to report any suspicious transactions as well as individual or cumulative financial transactions greater than \$10,000 on behalf of service providers, including information regarding patron identity and their source of wealth, or the origin of their funds.

In fiscal 2013/14, BCLC reported approximately 86,000 large cash transactions and 1,000 unusual or suspicious financial transactions to FINTRAC. This is a significant increase over reports filed prior to a 2009 FINTRAC compliance review, although this represents a small percentage of the total number of reports filed in BC. BCLC advised this increase is primarily a result of improvements made in processes, systems and training as well as increased play.

In February 2014, FINTRAC expanded “Know Your Client” monitoring requirements. Transactions thought to be suspicious, such as proceeds of crime, terrorist financing, or money laundering require additional collection of data, increased monitoring, client risk analysis and further examination of clients’ business relationships.

In order to streamline reporting and better facilitate the new requirements, BCLC is implementing a new AML IT system in 2015. Expected results include increased capacity and improved accuracy, reporting and identification of high-risk persons, and patterns of activity using data analytics.

Government's 2014/15 Letter of Expectations requires that BCLC deliver enhanced AML programs, including continued implementation of measures to move the industry away from cash.

BCLC's current AML initiatives include options such as:

- expanded data sources for background checks;
- proactively banning known criminals or associates;
- internet banking transfers through Patron Gaming Fund Accounts offered at five lower mainland casinos;
- debit machines at the cash cage;
- convenience cheques (up to \$10,000) for the return of buy-in funds; and
- Public Automated Teller Machine (ATM), and global cash and credit card advances.

BCLC reported that there were \$1.2 billion in non-cash transactions in fiscal 2012/13 and \$1.5 billion in fiscal 2013/14. Of the total amounts brought into and/or played in BC gaming facilities each year, non-cash play represents approximately 20%.

Year	Amount Played*	Total Non-Cash	Total Cash
2012/13	\$6.37 billion	\$1.2 billion	\$5.17 billion
2013/14	\$6.66 billion	\$1.5 billion	\$5.16 billion

*Amount played is amounts collected at tables and deposited into slot machines and does not necessarily represent wagers.

Source: Data provided by BCLC

Efforts which have been implemented by GPEB and BCLC to improve AML monitoring have included:

- ongoing work and information sharing with jurisdictional law enforcement agencies; and
- a cross-agency AML task force to identify and address criminal activity in gaming facilities.

2.3 Regulatory Oversight

GPEB regulates gaming in BC, including the operations of BCLC, which conducts and manages gaming in the province.

While there is room for improvement in the clarity of roles and responsibilities between the two, the work that BCLC and GPEB perform in managing and regulating the gaming industry in BC promotes fairness and game integrity. Better understanding and agreement of roles and responsibilities between BCLC and GPEB should increase the efficiency and effectiveness of both organizations.

Legislation

Legislation applicable to gaming in BC includes: the GCA; *Gaming Control Regulation*; and Canada's *Criminal Code*.

The GCA requires:

1. GPEB to be responsible for the overall integrity of gaming and horse racing.
2. BCLC to be responsible for the conduct and management of gaming and may develop, undertake, organize, conduct, manage and operate provincial gaming on behalf of the government.

In general, the working relationship between BCLC and GPEB is strong, but has experienced its challenges; particularly in the execution of roles and responsibilities under the GCA.

Roles and Responsibilities

The need for improved clarity of the roles has been identified by government, and BCLC has been directed to work with GPEB to jointly develop key principles that will inform their respective roles and responsibilities.

BCLC provides gaming through the use of contracted services, with the exception of online gaming which is provided directly. The gaming facility contractors are similar to franchisees with established areas in which to provide gaming, while BCLC oversees their service delivery.

BCLC ensures its service providers and lottery retailers are meeting the customer service standards currently defined, as well as ensuring that any standards set by the regulator are met. Audits conducted by BCLC on its service providers represent sound business practice and good contract and performance management, but does not replace the work of the regulator.

Prior to forwarding incidents on to GPEB, BCLC typically performs investigations in a number of areas including potential criminal incidents, suspicious financial transactions and customer service issues. BCLC's stated intent is to ensure the reported incident is criminal in nature and appropriate to report to GPEB. BCLC's "preliminary" investigations can lead to delays in providing GPEB with appropriate information.

As the regulator, GPEB's responsibility is to ensure the integrity of gaming through clear and comprehensive standards, with appropriate audit and investigation work to ensure compliance.

While GPEB has gaming standards, some of them are not sufficiently detailed and, at times, GPEB uses BCLC's policies and procedures as standards to which they audit. Having robust policies, standards and procedures will allow GPEB to operate more efficiently and effectively through the following:

- establishing the appropriate level of acceptable risk to ensure the integrity of gaming; and
- providing consistency in decision making and activities undertaken by GPEB including the appropriate level of review of BCLC and their contracted service providers.

Ultimately, policy, standards and procedures provide a framework to promote the integrity of gaming and avoid the potential for misunderstanding between the regulator and BCLC.

Comprehensive audit and investigation practices ensure that appropriate objectives and acceptable levels of risk are determined in advance. They also ensure that there is coordination of work and standards between all parties.

In its role as regulator, GPEB performs audits of BCLC and its service providers, confirming gaming activities meet the standards expected. In some areas, GPEB's work is not consistently risk based. Where appropriate, GPEB could place reliance on the controls and audit work undertaken by BCLC, to ensure the best use of limited resources.

Under the GCA, GPEB is the only authority designated to conduct investigations related to gaming and, as such, should have an agreement with BCLC over what types of incidents should be clarified before reporting them to GPEB.

Recommendations

- (10) GPEB should develop comprehensive policies and standards to support the integrity of gaming.**
- (11) GPEB should implement a risk based approach to direct its activities in assessing compliance with gaming policies and standards.**

3.0 Internal Operations

3.1 Governance and Performance

BCLC receives its direction from government through a GLE and BCLC's Service Plan has been consistently aligned with government's priorities.

BCLC's board has provision for nine members, but currently consists of seven. BCLC is working with the Board Resourcing and Development Office in recruiting the two additional directors. Turnover of board members at BCLC is reasonable, allowing for new perspectives while retaining some experienced directors to ensure continuity.

A BCLC board self-evaluation completed in 2012 noted that the board was performing well, but identified a lack of IT experience. The current recruitment process intends to address this gap.

The board fulfills its responsibilities by providing strategic direction for BCLC, and ensures that risks are reviewed and discussed quarterly. However, there are opportunities to improve their decision-making and monitoring of BCLC.

BCLC conducts strategic planning that is informed by a market scan on opportunities and threats, as well as board direction. This results in a 3-year Annual Service Plan tabled in the Legislature.

Board Operations

BCLC's board meets six to eight times a year to oversee the corporate decisions of BCLC's management. Prior to each meeting, members receive a detailed package of materials for discussion at the meeting.

The packages sent to board members are extensive, including management reports, financial dashboards, divisional and project updates and other presentation materials. However, the material often lacked executive summaries of the key issues. Such summaries would help focus attention on key issues for discussion or decision by the board.

BCLC's board minutes are well documented and appropriately record the topics discussed and decisions made. Decisions made in-camera (closed board meetings) are documented in the regular minutes of the board, but there are no minutes or materials available from the in-camera portion of the meeting. To strengthen the continuity of information, minutes of in-camera sessions should be maintained.

The board believes it has a good working relationship with management and that management informs the board about major issues through reports, presentations, advice and recommendations. However, there have been instances where the board has not had sufficient, appropriate or timely information on which to base decisions or monitor the operations of BCLC such as the staff restructuring in fiscal 2013/14 and the introduction of Signature stores. As a result, the board has not always had the opportunity to challenge management on its actions or proposed actions.

Recommendation

- (12) **BCLC's board and executive should ensure that sufficient, appropriate and timely information is communicated and that strategies are appropriately challenged.**
- (13) **Government should reinforce the roles and responsibilities for board members and executive within Crown corporations.**

Performance Measurement

BCLC reports its performance using measures in each of its four corporate goals: Player, People, Public and Profit. There are 11 high-level measures, including player satisfaction, net win per capita and employee engagement.

Each business unit prepares a business plan aligned with these corporate goals; however, they do not include any performance measures or targets in their plans to demonstrate how each unit contributes to the achievement of these corporate goals.

While there is an executive dashboard and some of the business units have key performance indicators, these are limited and not sufficient to assess performance at the divisional level. Each business unit should have clear performance measures with targets that define areas of emphasis, measure the results achieved and align with BCLC corporate goals.

Recommendation

- (14) **BCLC should establish performance measures linked to corporate goals for each business unit.**

3.2 Information Technology

BCLC places a strong reliance on IT to help sustain and grow its business. Beginning in fiscal 2009/10, BCLC started to make more significant technology investments, concentrating on new initiatives to increase revenues, such as online gaming and the new Casino gaming management system. In the past five years, BCLC has invested over \$197 million (44% of BCLC's total capital spending) on IT-related capital projects.

The IT function in BCLC is largely represented by the Business Technology (BT) Division. BT is responsible for the technology and systems that support BCLC's operations, including enterprise architecture and the IT landscape related to gambling and back office systems. In fiscal 2014/15, BT had budgeted operating costs of \$36 million (21% of BCLC's total budgeted operating costs) and budgeted staff of 183 Full Time Equivalents (FTEs).

While the BT Division effectively supports BCLC's lines of business and their IT requirements, opportunities exist for BT to enhance the maturity of some of its business processes.

IT Governance

BT's various departments report to a Chief Information Officer (CIO) who has a direct reporting relationship to BCLC's CEO. The CIO has the appropriate authority, accountability and reporting relationship to lead the IT function.

Despite the sound leadership structure currently established within BT Division, no formal IT steering committee is in place with representation from key functional areas across BCLC to provide a senior oversight role over IT operations. The roles of an IT steering committee would include the assessment of BT performance, monitoring of IT Strategic Plan initiatives, as well as integration of IT projects across the organization.

BT's annual IT strategic planning process defines how BT will contribute to, and support, BCLC's strategic objectives. The IT Strategic Plan is appropriately driven by BCLC's strategic business priorities and considers an analysis of IT trends. However, attention is required to address aspects of the strategic planning process and related initiatives, as follows:

- a) BT strategies are not being consistently monitored and reported. These activities were supposed to be performed using a Balanced Score Card, which has not been implemented.
- b) BT's envisioned three-year resource plan to address the training and development needs for BT has yet to be created.
- c) Plans for the decommissioning and replacement of key legacy systems need to be developed.

Recommendations

- (15) BCLC should establish an IT Steering Committee with representation from key functional areas across the organization.**
- (16) BCLC should develop plans for the decommissioning and replacement of key legacy systems that are expected to be retired.**

Business
Continuity
Management

Since 2012, BCLC has undergone a number of initiatives to strengthen its Business Continuity Management (BCM) program, including the establishment of BCM policies, development of a 5-year roadmap to improve BCLC's response to business disruption, and implementation of emergency safety plans for the Vancouver and Kamloops office. While these initiatives have enhanced BCLC's state of preparedness, the BCM program is not yet fully mature as key aspects still need to be addressed, including the following:

- a) Business Continuity Plans (BCP) are an important element of the BCM program. Such plans are designed to minimize the impact of potential disruptions on key business areas. At the time of this review, BCPs were not in place for the business units. BCLC was conducting business impact assessments for some key areas which will support the development of the related BCPs.
- b) Disaster Recovery Plans (DRP) are also part of the BCM program. They are designed to ensure that IT processes and controls are in place to recover the IT systems of an organization in the event of a disruption. While BCLC has tested the recovery of some systems after a planned disruption in service, BCLC does not have formal DRPs for all of its critical systems. Without such plans, BCLC may still be able to recover its systems from a significant incident through ad-hoc recovery procedures and IT redundancy, but this is unlikely to occur within the desired recovery time.

Recommendation

- (17) BCLC should ensure that BCP and DRP plans are developed, implemented and periodically tested.**

Information Security and Privacy

BCLC has established an organization-wide information security function, which is under the responsibility of the IPS department. In early 2013, BCLC strengthened this function by integrating it with Information Privacy, Freedom of Information and Records Management.

IPS collaborates with other BCLC program areas and external parties as needed, to conduct information security reviews and privacy assessments on BCLC's information assets, coordinate response to security incidents, and monitor compliance with information security policies and legislation.

Under the new structure, IPS has implemented a number of initiatives to enhance the security and privacy roles within BCLC. Opportunities still exist for IPS to further strengthen related aspects, including incident and user account management, data classification and data ownership. As described below, a few initiatives are already in progress to address some of the internal control gaps identified.

IPS has an appropriate reporting relationship with its senior management. However, an information and privacy steering committee, with representation from key functional areas, is not in place. BCLC could benefit from establishing such a committee, which would provide governance oversight of the IPS functions and allow for formal participation from business units to collaborate on related topics.

As part of its initiative to strengthen security and privacy, IPS has drafted new service provider requirements that are currently under review and planned to be incorporated into the new OSAs.

IPS coordinates the response, investigation and reporting of information security incidents. While a formal process is in place to identify and handle security incidents within BCLC, there is a need to enhance its related policy, as well as incident tracking and reporting capabilities to ensure that information security events are properly reported, recorded and classified.

The review of access to BCLC core systems is coordinated by IPS on a regular basis. It requires the business owners responsible for the systems to ensure that the permissions assigned to the user accounts remain appropriate. IPS is strengthening its user account management practices, with outstanding initiatives expected to be completed in 2015.

BCLC's information security policy provides a summary description of the data classification levels (public, internal and confidential). However, BCLC corporate data is not currently classified. This situation undermines BCLC efforts to apply an appropriate level of information security controls, which should be based on the classification (e.g., criticality and sensitivity) of its corporate data. Part of IPS's strategic priorities includes the development and implementation of an organization-wide data classification framework, including the requirements for data protection according to data criticality and sensitivity.

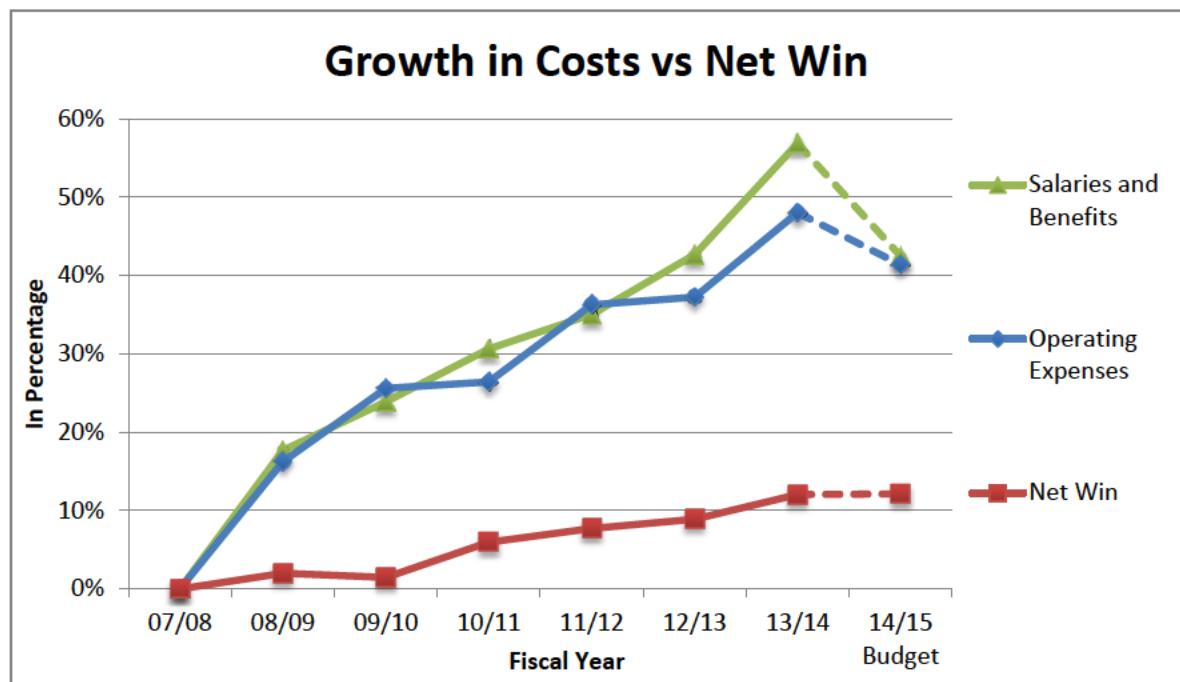
Data ownership is not fully inventoried and assigned across the organization. BCLC acknowledges the importance of creating an organization-wide data ownership inventory in order to clearly define the responsibility, ownership and accountability related to its corporate data. At this time, BCLC is focusing on key systems with implementation scheduled for March 2015.

Recommendations

- (18) BCLC should enhance its tracking and reporting of information security incidents, and communicate incident management policies to BCLC staff.**
- (19) BCLC should ensure that security and privacy requirements for the protection of player information are implemented and followed by service providers.**
- (20) BCLC should ensure that corporate data is classified and that data ownership is fully inventoried.**

3.3 Financial Management

Over the last few years, BCLC operating expenses have increased faster than net win, primarily as a result of increased salary and benefit costs. These costs are attributed by BCLC to initiatives such as implementing recommendations from the 2007 Ombudsman's report. The graph below compares growth of operating costs, which includes salaries and benefits, against net win since fiscal 2007/08.



Source: BCLC Data.

In order to reduce operating costs and meet financial targets, BCLC plans to reduce operating costs by \$20 million in fiscal 2014/15. It is planned that this will be achieved, in part, by reducing salary and benefit costs by \$6.6 million and advertising costs by \$6.2 million. (These planned reductions are included in the projected figures contained in the graph above). At the mid-way point of the 2014/15 fiscal year, BCLC reports that it is on track to achieve its cost saving targets.

Over the past five years, BCLC's short-term net income forecasts and actual results were consistently lower than the long-term forecasts made for the same period in earlier years. Such significant reductions to forecasts can impact government's ability to deliver a balanced budget. BCLC has acknowledged that long-term forecasting requires more rigour and is taking steps to implement improvements.

Comprehensive Cost Ratio

Government directed BCLC to manage their cost of operations to not exceed a cost to net win ratio of 42.5% in fiscal 2013/14. This comprehensive cost ratio is calculated by dividing total costs (before taxes) by total net win. This means that during periods of net win growth, BCLC is able to incur \$42.50 of additional costs for every \$100 of additional net win earned, regardless of whether these additional costs are attributed to the increase.

Using one overall cost containment ratio creates the risk that cost containment is not prioritized as net win grows. A combination of measures such as divisional cost ratios, limiting expense types by ratios or fixed amounts could provide more effective cost containment results.

Recommendation

(21) BCLC and the Ministry of Finance should develop a comprehensive cost containment framework.

Project Portfolio Management

Project portfolio management is a set of processes and business practices used to collectively manage current or proposed projects and ensure their alignment with organizational objectives. BCLC has enhanced the project portfolio management process in the IT division by implementing new procedures, basic project analytics and reports. Although progress has been made, the review identified the following areas for improvement:

- a) BCLC's project portfolio management framework is not standardized across the organization, leading to inconsistent project management practices within divisions.
- b) Performance indicators are not universally used to report out on the status of projects (e.g., percentage of projects on budget and on time, percentage of projects that meet/exceed project benefits).
- c) In order to determine whether a project is on budget, BCLC compares the actual project cost against the "final approved budget". This approach does not always provide an accurate assessment since the "final approved budget" may encompass multiple changes to the original baseline budget that was approved for the project.

Recommendations

(22) BCLC should standardize its project portfolio management framework including key performance indicators.

(23) BCLC should monitor project budget variance by comparing actual project cost to the baseline budget.

Business Cases	<p>Business cases assist organizations in assessing the merits and critical assumptions of projects or initiatives, and allow for a robust assessment of the expected costs and benefits.</p> <p>BCLC prepares business cases for executive approval for major organizational or capital projects, including new IT systems. However, BCLC has not established clear criteria for determining when a project (operational or capital) requires a business case. Some projects which did not have business cases prepared would have benefited from additional analysis, oversight and accountability.</p> <p>In addition, BCLC's business case template does not clearly demonstrate how benefits will be measured and monitored. Where information was included, the analysis was not always sufficiently rigorous, and for the GMS project, resulted in benefits being significantly overstated. This makes assessing whether the project achieved its goals difficult, if not impossible.</p> <p>BCLC acknowledges these areas for improvement in its current business case template and is introducing new templates in fiscal 2014/15.</p>
Procurement	<p>Recommendation</p> <p class="list-item-l1">(24) BCLC should ensure that the business case process is sufficiently rigorous to allow for fully informed decision making and accountability.</p> <p>BCLC spent approximately \$233 million on goods and services in fiscal 2013/14 and used three types of procurement methods: competitive bid, direct award and corporate purchasing cards for low dollar value purchases. BCLC used competitive processes for 88% of its purchases, with direct awards and corporate purchase cards accounting for the remaining 12%.</p> <p>BCLC's procurement policies and procedures generally align with government's procurement policy and provincial trade agreements. However, some of BCLC's procurement practices could be improved by enhancing documentation practices and more clearly demonstrating value for money in procurement.</p> <p>In fiscal 2013/14, BCLC direct awarded over \$27 million, of which \$12 million did not require a justification. Of the remaining \$15 million, 13 contracts were sampled; seven of which (\$1.2 million total value) did not have appropriately documented justification. There were also two contracts where the vendor delivered service prior to there being a signed contract between BCLC and the vendor.</p>

BCLC's competitive bid process generally assesses business and technical solutions before considering pricing. This approach may result in getting higher quality goods or services without demonstrating value for money. This may be appropriate for specialized purchases, but may be less suitable in cases where goods and services are widely available.

A sample of contracts found that required documentation was not always retained by BCLC. For example, bid files for a significant procurement project had been inadvertently destroyed. In addition, a large number of contract files sampled did not have key documentation such as conflict of interest forms, reference checks, and post-contract evaluations. This is contrary to BCLC's policies and procedures.

BCLC issues corporate purchasing cards to some employees for low value purchases. Approximately 30% of purchasing card transactions sampled were either without sufficient documentation or were not in compliance with policy. To address this issue, BCLC updated its purchasing card policy which now requires the completion of a purchasing expenditure form stating the business expense rationale and identifying the attendees for business expenses, such as meetings.

Recommendation

(25) BCLC should ensure its procurement practices support the achievement of value for money.

Advertising and Marketing

BCLC spent approximately \$25 million on marketing, advertising and promotions in fiscal 2013/14; 50% was spent on lottery, 21% for gaming facilities and 19% for eGaming. The remaining 10% was utilized for other advertising and marketing in areas such as social responsibility. All BCLC advertising must comply with GPEB advertising and marketing and RG standards to help ensure gaming activities are carried out in a socially responsible manner.

For lottery, sales are strongly linked to the size of jackpots and therefore BCLC increases its marketing efforts to attract the "jackpot chasers"; customers who typically purchase more tickets when the jackpot is larger. Gaming facility marketing initiatives include game promotions, Encore reward offers, and location-directed advertising. The eGaming marketing focuses on media and digital advertising plus a variety of contests and promotions run throughout the year with the intention to acquire new players while retaining existing ones.

While individual campaigns in some areas are assessed for their impact, overall BCCLC cannot clearly demonstrate the return on its overall marketing and advertising expenditures.

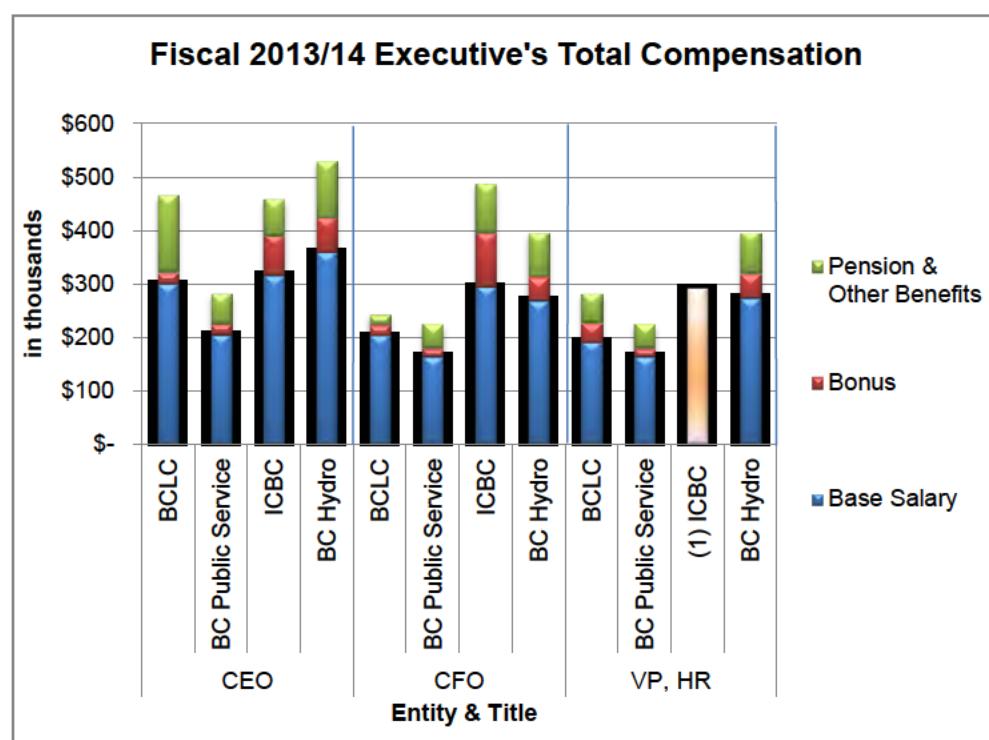
Recommendation

(26) BCCLC should be able to demonstrate the effectiveness of its overall marketing expenditures.

3.4 Staffing & Compensation

Over the last five years ending in fiscal 2013/14, the total number of FTEs at BCLC has increased by 25% to 919 with total compensation increasing by 43% to \$93.1 million in the same period. These increases are attributed by BCLC to initiatives such as implementing recommendations from the 2007 Ombudsman's report and merit increases in pay. While BCLC tracks FTE data by division, it was not able to provide a breakdown between management and non-management staff over the five year period due to limitations in its HR systems.

BCLC's compensation was found to be generally comparable with other Crown corporations. The graph below compares CEO, Chief Financial Officer and Vice President (VP) positions.



Source: Public Sector Executive Compensation Reporting Forms¹

¹ As BCLC's CEO departed in January 2014, the base salary of \$300,000 with total compensation capped at \$465,000 was used.

² (1) Breakdown of VP, HR of ICBC (Total Compensation for 2013 was \$292,025) is not available. Total Compensation was obtained from ICBC's Statements and Schedules of Financial Information, December 31, 2013.

Crown Corporation Executive Compensation Policy

In July 2012, the Public Sector Employer's Council (PSEC) issued the Crown Corporation Executive Compensation Policy (Compensation Policy) which included the following directives:

- a) salary freeze for executives;
- b) elimination of bonuses and implementation of salary holdbacks for executives; and
- c) elimination of perquisites and allowances.

BCLC, along with other Crown corporations, are required to comply with PSEC directives. As a result of this new compensation policy, BCLC eliminated perquisites and allowances and the employee bonus program. Approval was granted for both management and executive to transition to a salary holdback program effective April 1, 2013 and April 1, 2014 respectively. Professional and administrative employees changed to straight salary effective April 1, 2014.

For executive, the changes made complied with PSEC's policy. However, for some of the non-executive employees the changes were more generous, and contrary to the intent of the policy. Rather than adding each employee's four year average bonus to the employee's base salary, BCLC used a standard percentage or their actual, whichever was higher.

Constructive Dismissal

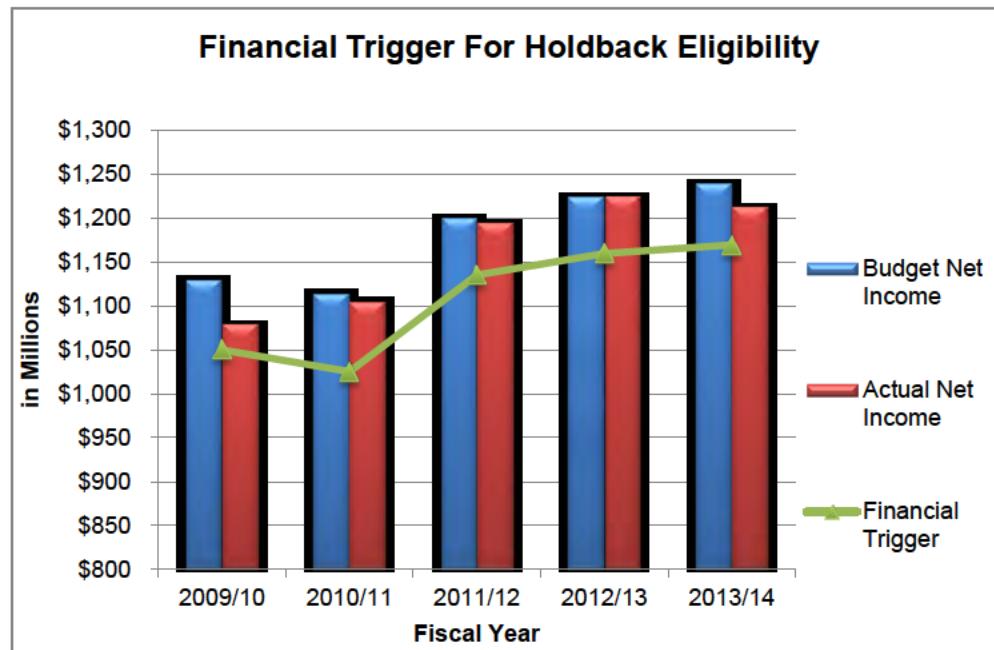
As a result of BCLC's changes to the compensation policy, four senior employees claimed constructive dismissal because of the salary freeze, reduction of potential bonus and elimination of \$12,000 in annual perquisites.

BCLC settled these claims by offering the employees 18 months of severance by way of salary continuance. This cost BCLC approximately \$1.2 million. The four employees were given working notice of up to nine months in addition to 18 months of severance. Working notice would normally be a reduction to the amount of severance paid. The intent of PSEC's policy changes was that working notice would be used to transition to the new policy and that no severance would be paid.

In September 2014, PSEC issued additional guidance for Executive and Excluded compensation, to provide clarity on working notice and severance payments.

Bonuses

BCLC used a corporate financial threshold to trigger the overall eligibility for employee bonuses. In the last five years, the trigger has ranged between 92% and 95% of budgeted net income, as illustrated in the graph below. As a result BCLC employees were eligible to receive bonuses even when BCLC did not meet its budgeted net income.



Source: Data provided by BCLC

¹ In fiscal 2012, the financial trigger changed from net income to net income before taxes.

Once eligible, employees could receive bonuses based on corporate and individual performance. Corporate performance consists of net income before tax and net win. Individual performance requires at least two individual job-related goals. In the past five years performance targets may not have been sufficiently challenging as more than 95% of staff received a bonus each year.

Effective in fiscal 2014/15, with the new compensation policy, bonuses are no longer paid and only management and executive staff are eligible for holdbacks. Additional non-financial performance measures combined with a more challenging financial trigger would help to ensure that the holdback program is sufficiently rigorous.

Recommendation

- (27) **BCLC should develop more challenging and comprehensive holdback measures.**

Other Incentives	<p>Other incentives available to employees include signing and retention bonuses, employee referral bonuses and recognition awards:</p> <ul style="list-style-type: none"> • BCLC pays signing and retention bonuses to attract new employees or retain key staff. In fiscal 2013/14, BCLC paid out \$17,000 as signing and retention bonuses. • BCLC pays a referral bonus of \$500 or \$1,000 to employees for referring a successful candidate on a BCLC job posting. These rewards apply to any BCLC position and are not targeted at critical roles. In fiscal 2013/14, \$14,500 was paid in referral bonuses. • In addition to meeting and team building expenses, BCLC spent approximately \$217,000 in fiscal 2013/14, on an employee recognition program that consists of giving cash, gift cards and merchandise to employees.
2013/14 Restructuring	<p>BCLC completed a restructuring exercise in March 2014 as part of a strategy to reduce fiscal 2014/15 operating costs by \$20 million. The plan anticipated the elimination of 68 positions, saving approximately \$6.6 million. As part of the restructuring exercise, BCLC offered early retirement and severance packages to employees, aged 50 and older, to reduce the impact of involuntary terminations.</p> <p>The restructuring resulted in 142 employees leaving BCLC and cost approximately \$25 million, consisting of \$11.6 million in severance payments and \$13.5 million in pension and other costs. During this restructuring, all senior manager-level employees and above received 18 months' severance regardless of their length of service with BCLC. Pension costs were significantly higher than initially forecast and then increased further because of higher than expected voluntary exits.</p> <p>These restructuring costs were recognized in fiscal 2013/14 and caused BCLC to exceed the Treasury Board directive to manage operating costs within 42.5% of net win. With better internal planning and coordination, BCLC could have minimized the costs and staffing impact of this restructuring exercise.</p>

Recommendation

(²⁸) BCLC should improve planning and oversight over staffing and compensation initiatives.

Appendix 1 – Summary of Recommendations

1	BCLC should establish critical success factors for its lottery retailers in order to evaluate performance and report on results.
2	BCLC should ensure that agreements with service providers include comprehensive performance standards.
3	BCLC and the Ministry of Finance should conduct a review of service provider commissions for gaming facilities to ensure an appropriate and effective structure.
4	BCLC should explore potential cost containment opportunities available through the reduction of vendors and platforms.
5	BCLC should evaluate options to improve inventory management systems.
6	BCLC should develop a clear set of criteria for gaming facility procurement.
7	BCLC should conduct a comprehensive post-implementation review of the GMS project that includes benefits realization.
8	BCLC should ensure a consistent approach to administering the VSE program across gaming facilities and eGaming.
9	BCLC should develop outcome based performance measures for responsible gambling.
10	GPEB should develop comprehensive policies and standards to support the integrity of gaming.
11	GPEB should implement a risk based approach to direct its activities in assessing compliance with gaming policies and standards.
12	BCLC's board and executive should ensure that sufficient, appropriate and timely information is communicated and that strategies are appropriately challenged.
13	Government should reinforce the roles and responsibilities for board members and executive within Crown corporations.
14	BCLC should establish performance measures linked to corporate goals for each business unit.
15	BCLC should establish an IT Steering Committee with representation from key functional areas across the organization.
16	BCLC should develop plans for the decommissioning and replacement of key legacy systems that are expected to be retired.
17	BCLC should ensure that BCP and DRP plans are developed, implemented and periodically tested.

18	BCLC should enhance its tracking and reporting of information security incidents, and communicate incident management policies to BCCLC staff.
19	BCLC should ensure that security and privacy requirements for the protection of player information are implemented and followed by service providers.
20	BCLC should ensure that corporate data is classified and that data ownership is fully inventoried.
21	BCLC and the Ministry of Finance should develop a comprehensive cost containment framework.
22	BCLC should standardize its project portfolio management framework including key performance indicators.
23	BCLC should monitor project budget variance by comparing actual project cost to the baseline budget.
24	BCLC should ensure that the business case process is sufficiently rigorous to allow for fully informed decision making and accountability.
25	BCLC should ensure its procurement practices support the achievement of value for money.
26	BCLC should be able to demonstrate the effectiveness of its overall marketing expenditures.
27	BCLC should develop more challenging and comprehensive holdback measures.
28	BCLC should improve planning and oversight over staffing and compensation initiatives.

Appendix J

MNP LLP, *British Columbia Gaming Policy Enforcement Branch: AML Report*, July 26, 2016

British Columbia Gaming Policy Enforcement Branch

AML Report

Private & Confidential

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DATE: July 26, 2016

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1.0 TERMS OF REFERENCE

- 1.1 MNP was engaged by British Columbia's ("BC") Gaming Policy and Enforcement Branch ("GPEB") on September 8, 2015. MNP was directed to work directly with senior GPEB managers to:
- a. Analyze current practices in respect of source of funds, source of wealth, handling of cash, use of cash alternatives and overall Customer Due Diligence ("CDD") in gaming facilities compared to financial institutions;
 - b. Analyze best practices in the gaming sector in relation to 'know your customer' frameworks, particularly in respect of the regulatory framework in British Columbia, as set out in the Gaming Control Act [S.BC 2002, c. 14];
 - c. Assess British Columbia Lottery Corporation ("BCLC's") Customer Due Diligence ("CDD") regime and overall compliance with the above-noted practices;
 - d. Receive information from the General Manager (as defined in the *Gaming Control Act*) or delegate regarding certain transactions, and assess this information in the context of compliance with a, and b above;
 - e. Identify immediate near term actions to be taken in order to address any gaps and provide recommendations on longer term new solutions or enhancements to current practices; and
 - f. Provide any other recommendations to address any gaps identified in the above-described analysis.
- 1.2 This engagement is not an audit and did not include any control testing. The findings and recommendations are based on information obtained through interviews as well as observations made at the River Rock Casino Resort ("RRCR" or "River Rock") and at BCLC.
- 1.3 We have not independently verified the information provided to us from any source. We reserve the right to review all information included or referred to in our report and, if we consider it necessary, to revise our report in light of any new information which becomes known to us after the date of the report.
- 1.4 Our findings and recommendations are based upon our observations and understanding as at the completion of our field work on January 22, 2016. Actions taken by GPEB, BCLC, or any other party to respond to matters described in our report have not been assessed by MNP.
- 1.5 Our Report is intended to be read in its entirety. We caution against drawing conclusions from any part of our Report in isolation. Our findings are based on procedures performed and information available to us as of the completion of our field work. Instruction to proceed with further analysis and information received subsequent to this date may significantly alter our findings.
- 1.6 The field work, interviews and the corresponding report was prepared independently and objectively by the authors.

2.0 BACKGROUND

- 2.1 The Gaming Policy and Enforcement Branch ("GPEB") Compliance Division compiled a document which identified approximately \$13.5 million in \$20 bills being accepted at RRCR in Richmond during July 2015. Information provided to MNP, containing synopsis details indicated as being sourced from the iTrak system by GPEB, indicated unsourced cash from unknown persons or persons believed to be connected to or participating in illicit activity, was dropped off at the casino or "just-off" casino property for patrons at unusual times, generally late at night. This information caused increased concern and prompted action to be taken by GPEB to review the current practices regarding large volumes of unsourced cash being accepted at RRCR.
- 2.2 Law enforcement intelligence has indicated that this currency may be the direct proceeds of crime. The majority of this cash is being presented by persons commonly referred to as high roller Asian VIP clients. Single cash buy-ins in excess of \$500,000 with no known source of funds have been accepted at RRCR.
- 2.3 GPEB considers the regulatory requirements imposed by the *Gaming Control Act* and the *Federal Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("PCMLTFA") and its associated regulations to be a minimum standard of conduct. GPEB is mindful of its responsibility for the integrity of gaming including mitigating the risks of money laundering in gaming facilities.
- 2.4 In addition to the regulatory reporting obligations imposed on BCLC by the PCMLTFA in its operation of the casinos in British Columbia ("BC"), GPEB has an interest in reducing the influx of unsourced cash into gaming facilities in BC to protect the integrity of gaming in BC. In our view, this can only be accomplished through the acknowledgement, from all parties, that the proceeds of crime may be being injected into the gaming system despite the controls in place. The reduction of unsourced cash and the expulsion of high risk patrons will contribute to the goal of maintaining the integrity of the gaming system.
- 2.5 In conducting our review we identified that there are three distinct entities in the casino gaming model in BC:
 - The Gaming Policy and Enforcement Branch;
 - The British Columbia Lottery Corporation; and
 - The Facility Operator/Service Provider.
- 2.6 GPEB¹ regulates all legal gaming in BC. It ensures the integrity of gaming industry companies, people and equipment, and investigates allegations of wrongdoing. This mandate includes regulatory oversight of BCLC (which conducts and manages lotteries, casinos, community gaming centres and commercial bingo halls), all gaming services providers and gaming workers, BC's horse racing industry and licensed gaming events.

¹ <https://www.gaming.gov.bc.ca/legislation-policies/>

2.7 In addition, GPEB is responsible for the following:

- Conducting audits of charitable and commercial gaming activities to ensure compliance;
- Investigating regulatory offences and providing support to police of local jurisdiction for the investigation of criminal offences connected to gaming facilities²;
- Managing the Province's Responsible Gambling Strategy including the Problem Gambling Program, in order to minimize harm and promote responsible gambling practices; and
- Distributing gaming funds to community organizations.

2.8 According to the BCCLC website³, BCCLC is a Crown Corporation, owned by the Province of BC it was established to meet the requirements of the Criminal Code of Canada, and balance the need for revenue generation with a commitment to social responsibility and integrity. In 1998, the Province added casino gambling to this mandate and made BCCLC responsible for the operation of the casino industry in BC.

2.9 BCCLC is responsible for managing the following:

- Setting and overseeing operating standards;
- Creating policies and procedures for all gambling facilities, including security and surveillance;
- Monitoring private sector Service Providers to ensure they conform to policies and procedures, to legislation, regulations and federal anti-money laundering laws; and
- Improving security systems, procedures and employee training programs.

2.10 According the BCCLC website, Service Providers⁴ are the companies who own and operate BC gambling facilities. They own or lease gambling facilities like casinos and community gaming centers and maintain the facility operations on a day-to-day basis. With respect to gaming, Service Providers enter into operational service agreements with BCCLC and earn commissions based on gambling revenues. They must operate in strict adherence to the rules and regulations set out by both BCCLC and GPEB.

2.11 Service Providers are responsible for:

- Complying with terms of registration and reporting matters as required under the *Gaming Control Act* and *Gaming Control Regulations*;
- Providing and maintaining facilities;
- Hiring qualified staff;

² <https://www.gaming.gov.bc.ca/legislation-policies/docs/regulatory-responsibility-gpeb-bclc.pdf>

³ <http://corporate.bclc.com/what-we-do/casinos/our-role.html>

⁴ <http://corporate.bclc.com/what-we-do/casinos/service-providers.html>

- Following BCCLC gambling standards, policies and procedures;
 - Implementing the anti-money laundering program as prescribed by BCCLC;
 - Providing and operating surveillance equipment;
 - Managing slot machines, table games and bingo games;
 - Providing accounting and financial management; and
 - Participating in compliance reviews and audits.
- 2.12 Service Providers are paid a commission based on the net gambling revenue for providing day-to-day services in casinos, community gaming centres and bingo halls. There are two different kinds of commissions:
- An operating commission for operating the facility; and
 - A facility development commission which provides incentive for Service Providers to develop high quality facilities.
- 2.13 The Service Provider implements procedures in response to BCCLC's policies, however, as the profit of the operator would be adversely impacted by implementing any control procedures that may reduce revenue, there is an inherent risk that the implemented procedures are designed to meet minimum regulatory requirements. Any guidance from the Province on the reduction of bulk cash will need to be implemented through additional policy from BCCLC.

3.0 SCOPE OF REVIEW, APPROACH AND LIMITATIONS

- 3.1 MNP relied on the following documents and information sources for reference throughout the engagement:
- Background documents provided by GPEB related to the subject matter;
 - BCCL organizational charts (November 2015);
 - RRCR organizational charts (November 26, 2015);
 - BCCL Policies and Procedures (2015);
 - BCCL internal procedure documents (2015);
 - Data extracts regarding regulatory reports filed between September 1, 2013 and August 31, 2015;
 - Website information from BCCL;
 - *Gaming Control Act BC*; and
 - *PCMLTFA and Regulations*.
- 3.2 To obtain independent information on the current regime and the prevalence of bulk cash, MNP conducted a total of 23 interviews with employees and management of both RRCR and BCCL. These interviews, with the exception of one conducted with senior management of BCCL, were all done in conjunction with a GPEB Compliance Division auditor assigned by GPEB. Some interviews and operational walkthroughs at RRCR were also observed by a second member of the GPEB Compliance Division. MNP also conducted onsite observations at RRCR which included process walkthroughs for activities relating to acceptance of bulk cash, record keeping and regulatory reporting. MNP also conducted limited statistical analysis of cash transactions related to VIP patron activity at the RRCR.
- 3.3 Information was gathered through 11 interviews with management level staff from a number of relevant areas of the operations at RRCR including table games, slots, cash cage, VIP Hosts, surveillance and security. Senior Management was interviewed to obtain insight into the operations and policies of accepting large amounts of unsourced cash from patrons. In addition to the interviews, we observed operations on the gaming floor and in the cash cages on both the main gaming floor and VIP gaming areas (Salon Privé and Salon Phoenix) asking questions of staff to confirm documented policies and confirm information provided through the interview process.
- 3.4 12 interviews were conducted at BCCL to provide staff and management an opportunity to provide feedback, clarify policies and procedures and gain insight into the issues at hand.
- 3.5 Data regarding reportable cash transactions or play records was provided by BCCL for trending analysis. The period of data used for trending was September 1, 2013 to August 31, 2015. The data was used to identify trends and correlations between the frequencies of Large Cash Transaction Reports ("LCTR"s), the filing of Suspicious Transaction Reports ("STR"s) and the ultimate banning of some players due in part to large and frequent play with unsourced cash.

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- 3.6 During our analysis an error in the statistical reporting was identified and communicated to BCLC. This error related to the over reporting of non-cash transactions deposited to Patron Gaming Fund Accounts ("PGF") and the redeposit of funds from cashed out chips back into the PGF. BCLC advised they were aware of the issue and was in the process of obtaining a Policy Interpretation from the Financial Transactions and Analysis Centre of Canada ("FINTRAC"). This error resulted in significant over reporting of non-cash transactions to FINTRAC. As a result of the over reporting being included in the produced statistical play records, MNP was unable to determine the actual number and amounts of large cash transactions and as such this limited our ability to obtain reliable results from our data analytics. Due to the complexity of the reporting issue, it is not possible to segregate and remove duplicate transactions. There is no identifier to confirm new cash to the facility versus funds previously played and retained in the PGF for future game-play.
- 3.7 This report does not represent a comprehensive review of all aspects of the existing AML compliance processes. As such, we are not expressing an opinion regarding the adequacy, completeness or effectiveness of existing compliance activities as they relate to anti-money laundering or anti-terrorist financing activities. This engagement was not designed to nor does this report provide any analysis about whether money laundering or terrorist financing is actually occurring, nor does it provide any analysis about the potential that money laundering or terrorist financing will occur through the organization in the future.

4.0 SUMMARY OF FINDINGS/RECOMMENDATIONS

GPEB:

- 4.1 Regulatory regimes for gaming typically seek to balance revenue generation with risk mitigation. Contemplated changes to the gaming regulatory regime must recognize the unique role of each of the main participants, as these roles may create conflicting mandates. Specifically:
- GPEB is the regulator, primarily responsible for ensuring that gaming is conducted with integrity;
 - BCLC is the manager of gaming, primarily responsible to the Province for revenue generation and risk management and responsible to FINTRAC for regulatory compliance; and
 - The Service Providers are the gaming operators, and, via contract with BCLC, are primarily responsible for revenue generation for both the Province and the companies that own the casinos.
- 4.2 Currently, casinos are only required to report LCTRs after they have accepted the cash transaction. GPEB should consider implementing a policy requirement that Service Providers refuse unsourced cash deposits exceeding an established dollar threshold or to refuse frequent unsourced cash deposits exceeding an established threshold and time period until the source of the cash can be determined and validated.
- 4.3 GPEB should continue to work with BCLC to support cash-alternatives for Service Providers to receive funds, strengthening the overall compliance regime with minimal impact on revenue generation.
- 4.4 GPEB, BCLC, and to some extent the Service Providers should jointly evaluate the resourcing and functioning of existing investigative units. Effective multi-agency units would promote the sharing of information and resources.

BCLC:

- 4.5 If GPEB implements a policy regarding the refusal of large or frequent unsourced cash deposits, BCLC's procedures to address the policy should include refresher training to Service Providers pertaining to BCLC's reporting requirements of attempted transactions to ensure reports are appropriately identified.
- 4.6 Although a specific compliance effectiveness review of gaming operations was not within the scope of this review, MNP did review a number of processes and did not observe anything material to suggest that the compliance program in effect at BCLC and RRCR is not functionally suitable to meet obligations under the PCMLTFA and implementing regulations.

- 4.7 BCCLC's CDD process meets Federal regulatory requirements for standard risk patrons. However, the process could be enhanced from both a risk management and revenue generation perspective with modifications and additional resources to meet Enhanced Due Diligence ("EDD") expectations for high risk patrons. This may include confirmation or verification of key customer data including: source of wealth; source of cash; and occupation by the Service Provider or BCCLC for higher risk patrons. The gathering of this additional information may assist the Service Provider in providing enhanced service to high valued patrons.
- 4.8 BCCLC should consider whether its risk assessment process adequately reflects current thinking around money laundering and terrorist financing risk. The risks associated to specific facilities should be evaluated, rather than simply drawing geographic boundaries for risk.
- 4.9 BCCLC should review its EDD process to ensure it appropriately mitigates identified risks. Additional resources may be required to clear the current backlog and support timely completion of the EDD process as required. BCCLC should also identify reliable sources of information for persons and businesses based outside of Canada.
- 4.10 BCCLC should prioritize and appropriately resource the ongoing SAS implementation project to improve the quality of the data used for ongoing risk assessment and compliance monitoring and reporting. Data from other sources, particularly slot machine play, should be incorporated into the process. Improved data will support province-wide monitoring of activities posing compliance risks.
- 4.11 BCCLC should ensure that reporting forms used by the facilities are up to date and include valuable information fields for mandatory completion for unsourced or high volume cash transactions such as source of funds, source of wealth and purpose and intended nature of relationship information. Facility staff should be regularly trained on the completion of the forms. This will encourage consistent and appropriate reporting across the Province.
- 4.12 BCCLC's anti-money laundering training programs should be evaluated for up-to-date content and effectiveness. Emphasis should be placed on behavioural red flags, as facility staff have the direct customer interaction. Training should be provided in the primary language of the candidate.
- 4.13 MNP identified instances where non-cash transactions processed to RRCR's PGFs were over-reported to FINTRAC, and instances where mandatory fields in LCTRs were left blank. Both issues are contrary to the PCMLTFA and require remediation and disclosure to FINTRAC. BCCLC advised they were aware of the over-reporting issue and were working with FINTRAC to obtain a Policy Interpretation and determine action to be taken regarding the issue.
- 4.14 While generally consistent with the regulatory requirements, the Know Your Patron ("KYP") framework at River Rock is a task-driven compliance activity rather than a risk management activity. Given the Service Provider's inherent motivation to maximize revenue, it should not be expected to lead compliance and risk management efforts within the gaming industry. BCCLC should provide further guidance as the manager and responsible entity for AML regulatory obligations to enhance and enforce appropriate KYP measures.

5.0 DETAILED FINDINGS/RECOMMENDATIONS

Staffing Observations

BCLC:

- 5.1 Operating levels for BCLC Investigators may need to be reviewed as the current staffing levels assigned to River Rock do not appear to be sufficient to address the volume of reports and incidents on a timely basis. In interviews with BCLC, investigators have self-assessed that approximately 95% of their time is focused on AML reporting activities. Non-compliance tasks which used to be completed by investigators located at RRCR are now being assigned to other investigators with the Lower Mainland region. Additional duties included in the mandates of the investigators at RRCR may not be being completed or may not be adequately completed to manage the risk associated with the activity at River Rock.

Service Provider:

- 5.2 Experienced managers and supervisory staff who are fully engaged and fully executing on their entire position mandate are able to identify risks within their areas of supervision and apply reasonable assessments and measures to address activity which may be considered unusual. This becomes a first line of defense when identifying potential compliance issues. However, due to high turnover at the Service Provider, management level positions are held by incumbents who have been in the positions less than one year. When asked about issues and risks related to large volumes of unsourced cash being accepted, they advise they are still learning the positions, and feel they are meeting all requirements associated with AML compliance.
- 5.3 Positions with recent turnover at RRCR include: Interim Chief Compliance Officer, Table Games Manager, Cage Manager, Slot Director, and the Manager of Player Relations. RRCR has undergone significant turn over in staff including three terminations which further resulted in four additional resignations in table games supervision. At the time of the onsite interviews eight of ten Relief Gaming Manager positions were staffed.
- 5.4 RRCR employs VIP hosts who report to the manager of Marketing. VIP Hosts are responsible for managing the client experience, which includes managing the amounts of complementary items and services given to players (commonly referred to as player comps), and providing custom gaming experiences with the intention of maximizing patron play. VIP hosts have the most significant interaction and knowledge of the VIPs and ability to flag instances of receipt and use of unsourced cash for suspicious transaction reporting. Due to the reporting structure, we would expect that the VIP Hosts have a primary responsibility for revenue generation rather than regulatory compliance or a social responsibility to reduce illicit cash flow. Consideration should be given to cross functional reporting lines to the Director, Table Games for a consistent approach to compliance across all table game points of access susceptible to the acceptance of unsourced cash.

- 5.5 It was noted on the Service Provider Organizational Chart, dated November 26, 2015 that the Manager, Player Relations did not have a direct reporting relationship to Senior Management. The Director, Surveillance does not show a reporting line to Senior Management. A VP Compliance position reporting to the President and CEO also did not exist on the Chart.

Compliance Program observations

GPEB:

- 5.6 GPEB should define its accepted level of risk for unsourced cash and then develop clear roles and responsibilities for:
- GPEB – Regulator, Enforcement
 - BCLC – Manage gaming and reporting entity
 - Service Provider – Risk identification

BCLC:

- 5.7 BCLC is the reporting entity for the purpose of compliance with PCMLTFR obligations to FINTRAC. AML programs were the responsibility of the Casino Investigations Unit up to 2013. The AML unit was created in 2013 and at that time took over responsibility for all aspects of the AML Program.

Enhanced Due Diligence (“EDD”)

BCLC:

- 5.8 Through iTrak, BCLC has access to all Know You Patron/Player (“KYP”) due diligence, activity records and incident reports including Unusual Financial Transactions (“UFTs”), Suspicious Transaction Reports (“STRs”), and Section 86 reports submitted to GPEB regardless of the facility of play. This allows BCLC to identify patrons at a provincial level who represent higher risks and then perform EDD, risk assessment and ongoing monitoring of these patrons.
- 5.9 BCLC has identified two segments of patrons who have been assessed as requiring EDD to manage the risk of the frequency and value of play. The first segment is comprised of the Top 100 players by volume. The second list, known as the Conditions List, relates to known associates of a high risk player who has been identified by law enforcement to be involved in the provision of large volumes of unsourced bulk cash to VIP patrons. In some instances, the lists overlap. For example, at the time of the review, 36 patrons identified on the Conditions List also appear on the Top 100 list.
- 5.10 All EDD efforts undertaken by BCLC are manual investigations. At the current time, systems do not identify higher risk patterns through an automated alert system. iTrak does not have capabilities for business analytics.
- 5.11 The EDD or “Deep Dive Dossiers” are created using open source information to identify owned properties and business ownership. The one file reviewed during the interviews with BCLC did not include key information such as a synopsis of overall activity, play value or frequency, determined or verified source of funds or wealth information, or an indication of whether the player was cleared for play or had restrictions in place. The file did not present any negative findings, however, the player was indicated as being “on watch.”

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- 5.12 There is limited open source information available for Chinese Nationals, which comprise the majority of the identified high risk demographic at RRCR. As, most of the VIP patrons are Asian and many are recent immigrants to Canada or Chinese Nationals there is limited Canadian open source information on which to base risk assessment determinations.
 - 5.13 Based on staffing levels and time required to complete an EDD file in the current manner there is a considerable backlog of files to be completed which may increase the risk to all stakeholders as appropriate actions may not be taken in a timely manner. It is anticipated that the volume of patrons requiring ongoing EDD will increase over time.
 - 5.14 The Service Provider facilitates gaming through slot machines as well as table games. As at the time of the review, we were not made aware of any EDD on business relationships created due to slot play. In addition there is no review or analytics on slot play including ongoing review of Cash Disbursement Reports ("CDRs") to identify possible anomalies which require further investigation.
 - 5.15 BCLC's EDD program for high risk patrons was reviewed to identify if improvements are warranted. EDD measures could be more qualitative, and a formal response to specified risk ratings, similar to other jurisdictions such as Alberta, could be created.
 - 5.16 Outsourcing the EDD process for higher risk patrons should be considered to clear the current backlog.

Service Provider:

- 5.17 The Service Provider gathers required information from patrons at particular trigger events during play. This would include when a patron reaches the threshold for the reporting of large cash transactions, which is \$10,000. The Service Provider is responsible for requesting that an acceptable identification document be produced and then recording the type, number and place of issuance as well as gathering mandatory information required for BCLC to file regulatory reports with FINTRAC. Information includes name, address, occupation and date of birth. Policy indicates that the ID document is scanned into the iTrak system. Information gathered at the facility, other than the ID document, is not verified by the Service Provider.
- 5.18 The iTrak system is universal to all facilities under BCLC's supervision. User access controls limit the amount of KYP information visible to individuals at the Service Provider level. This means that a Service Provider is unable to see the full picture of a patron's activity across all BC casinos to assess the risk a player brings to a particular facility.

Investigative Capabilities

GPEB:

- 5.19 The establishment of a dedicated, cooperative inter-agency AML investigations unit comprised of GPEB and BCLC investigators would delineate the roles between operational and AML investigations and regulatory compliance investigations. This would allow for improved tracking of activities related to regulatory compliance and ensure that employees tasked with compliance and risk management are suitably resourced.

BCLC:

- 5.20 BCLC has three onsite investigators at RRCR. This was a result of the recognition of the increased risk at the facility as well as the volume of play that requires ongoing BCLC oversight. These investigators have access to iTrak and the facility's surveillance recordings which allow for prompt investigations. AML compliance investigations are supposed to be a component of the investigators duties as defined by BCLC procedures, however the significant volume of reportable transactions at RRCR and the required reporting due diligence are consuming upwards of 95-100% of investigators' time. Regional investigators not assigned to RRCR are now being regularly assigned all non AML duties at RRCR such as theft or patron complaint investigations as the local investigators do not have time to deal with non-regulatory matters.
- 5.21 BCLC investigators regularly provide information to law enforcement on ongoing investigations.

Redacted
- RCMP

**Redacted -
RCMP**

- 5.22 BCLC has entered into an information sharing agreement with the RCMP that allows both parties to share intelligence on ongoing investigations and high risk patron activity.

Service Provider:

- 5.23 MNP has significant experience working with gaming operators and as such has observed numerous surveillance operations including infrastructure and investigative methodologies and procedures. The RRCR's infrastructure is comparable to other large Canadian casino surveillance operations such as Casino Montreal or Manitoba's combined provincial facility. The operators and supervisors have significant experience in surveillance operations and utilize iTrak to monitor and report all suspicious activity. iTrak is the most common investigative and operations management software utilized by Canadian Casinos.

iTrak**Systems and Data****BCLC:**

- 5.24 BCLC identified a growing need for enhanced capabilities in relation to analytics and the ability to conduct meaningful analysis on the data in its custody. As a result, the AML Operational Analysis Group was formed in 2013 with the mandate to perform statistical analysis of patron transaction data as well as to identify high risk patrons and perform enhanced due diligence on those individuals. With the hire of an AML data analyst in February 2014 it was determined that the data analytics capabilities of iTrak were limited and that exporting the data and using third party tools such as Excel were the preferred method. These limitations led to the identified need for a formal analytics solution and an RFP was issued. SAS was selected as the vendor. The implementation of this software tool is ongoing and has been subject to numerous delays and a work stoppage to clarify scope and estimate over runs. We understand that SAS is scheduled for roll out in the fall of 2016. This is 18 months later than initially anticipated. The successful implementation of this tool should be a priority for BCLC as the current processes are contributing to delays in effectively conducting transactional analysis.
- 5.25 Despite the limitations of the current tools, **Redacted - RCMP**
Redacted - RCMP This information was then shared with law enforcement agencies for the purpose of investigating criminal activity related to the large volumes of unsourced cash. After several attempts by BCLC to refer information, law enforcement undertook an investigation into the activities identified through the BCLC analytics. **Redacted - RCMP** This is a positive effort by BCLC to detect and report suspicious activity with the intent of reducing unsourced cash from entering the gaming facilities.
- 5.26 BCLC provided data to MNP for the period September 1, 2013 to August 31, 2015 ("the Period") to analyze transactional data regarding the volumes of unsourced cash being accepted at River Rock. The analysis would also address efforts taken by BCLC and the Service Provider to gather Know Your Player ("KYP") or CDD information and perform EDD where appropriate; file STRs; and where appropriate impose bans on high risk patrons for participating in suspicious activity. After conducting significant analytical work it was determined, and confirmed by BCLC, that the data was not accurate and included significant numbers over-reported LCTRs and CDRs making trending analysis unreliable. For further details on the reporting issue, refer to 5.32. We were able to make the following limited observations:
- Play with significant volumes of cash was being conducted by patrons with non-Canadian addresses and identification, primarily Chinese; and
 - While significant volumes of LCTRs were filed during the Period the number of STRs filed was relatively small and the number of bans for potential money laundering activity was few.
 - 41,187 LCTRS filed during the period;

- 1,194 STRs filed during the period⁵;
 - 1,209 BCLC Prohibition Bans⁶.
- 5.27 The limitations of the current analytics tools and the time required to manually process transactions diminishes the effectiveness of a monitoring program for slot disbursements. The risk of money laundering is significantly lower with slots than with table games, due to the limits on how much money can be fed into a machine in one session as well as the limits on single payouts for Ticket In Ticket out ("TITO") ticket redemption at Ticket Redemption Kiosk ("TRK") machines. Although the risk is lower than table games, due diligence on large volumes of slot CDRs should be monitored for suspicious activity.
- 5.28 Completion of the SAS implementation should remain a high priority for BCLC. Improved data analytics and systems for transaction monitoring and reporting will allow for the early detection of potential money laundering or high risk transactions.
- 5.29 The analytic capability of the iTrak system limits BCLC's AML Operational Analysis group in its ability to identify suspicious activity. The reporting is primarily restricted to the identification of thresholds that aid in the identification of mandatory record keeping or reporting. BCLC has made significant investments in advanced analytics in the proposed SAS solution. The continued development and rollout of this product needs to be a priority for BCLC to allow it to conduct meaningful assessment of the data collected in iTrak.

Reporting

BCLC:

- 5.30 Casinos are required to file the following reports with FINTRAC:
- Large Cash Transaction Reports;
 - Casino Disbursement Reports;
 - Suspicious Transaction Reports; and
 - Terrorist Property Reports.
- 5.31 MNP did not conduct an audit of the processes surrounding reporting requirements, nor of the accuracy or timeliness of the reports submitted to FINTRAC. Through interviews and observation MNP is able to make summary comments on the reporting requirements at the Service Provider and by BCLC, who is responsible for filing the reports from information provided by the facility operators.

⁵ STRs identified by incident number which could relate to multiple people.

⁶ Bans are also based on incident numbers and could relate to multiple people and include site bans.

- 5.32 Observed processes appear to be in place to track instances where cash transactions require the completion and filing of reports. This may be done through buy-ins at the table or through transactions at the cash cage. However, it was ascertained that funds credited to a player's PGF, regardless of the source of funds (Cash, drafts or EFTs from a Canadian bank) are being over-reported as cash. This is resulting in a significant number of unnecessary LCTR and CDR reports. In addition, withdrawals from the PGF account for play are being reported as CDRs and appear to be re-reported as cash based on table buy-ins. Review of the transaction and reporting process for all PGF enabled facilities should be done immediately to stop the number of unnecessary and incorrect reports. This over reporting has been disclosed to FINTRAC.
- 5.33 During our interviews with the Service Provider, BCCLC, and GPEB, there was ongoing reference to a historical undocumented threshold of \$50,000 which was the trigger value to consider a transaction suspicious at the Service Provider location. The issue of the threshold preceded this report. FINTRAC guidelines confirm there is no minimum dollar value related to the filing of an STR. Suspicious transactions are financial transactions where there is reasonable grounds to suspect they are related to the commission of a money laundering offence. This includes transactions that you have reasonable grounds to suspect are related to the attempted commission of a money laundering offence. As a result, BCCLC has undertaken a review of LCTR transactions to determine if STR transactions had been overlooked. BCCLC made a self-disclosure to FINTRAC regarding the issue in December 2015.
- 5.34 BCCLC's Internal Audit group conducts a Quality Assurance ("QA") of STR and unfiled UFTs. Audit conducts a review regarding timeliness of filings on LCTRs. The BCCLC Investigations group also has a process and procedure in place to verify reports for mandatory information. It was noted through our data analysis of the data provided by BCCLC that 385 (0.1%) of LCTRs did not contain one of the mandatory fields such as address, occupation or a unique identifier. Of the 41,187 reports contained in the data file:
- 297 addresses were reported as Null
 - 49 occupations were reported as Null
 - 39 reports contained no unique identification number, but rather a generic BCDL or similar descriptor.
- 5.35 A review of the BCCLC policy and procedure documents allows for Service Provider staff to accept cash transactions at the cash cage and submit files with certain missing mandatory occupation information if the patron declines to provide full information⁷. Currently casinos are only required to report LCTRs after they have accepted the cash transaction. A directive from GPEB may support BCCLC in the creation of a policy which would mandate the Service Provider to decline a transaction or issue a stop play when mandatory occupation data is not provided on the casino floor or at the cash cage. Submitting reports with missing mandatory information is contrary to the PCMLTFA and Regulations.

⁷ Reference to BCCLC Casino and Community Gaming Centre Standards, Policies and Procedures section 1-2.3.

- 5.36 BCLC should review all of the FINTRAC reporting (LCTR/CDR) for non-cash for all facilities which offer PGF accounts due to over-reporting of LCTRs and CDRs in relation to churn⁸ within the patron gaming accounts.

- 5.37 Review of Terrorist Property reports was out of scope for the review.

Identification and Reporting of UFTs

BCLC:

- 5.38 BCLC is the reporting entity for gaming activities in BC and is responsible for filing all required reports with FINTRAC. BCLC operates at an arm's length from the facility and relies heavily on the Service Provider to identify instances where UFTs should be submitted for further review and decision making regarding suspicious activity that would require filing. As the Service Provider only has visibility to the patron's activity at its own facility (or facilities) within the iTrak system it may under- or over-report based on restricted intelligence.
- 5.39 BCLC Internal Audit provided feedback that UFT/STR reports are inconsistent in the assessment approach and narrative format from the Service Providers which may lead to valid UFTs not being reported by BCLC.
- 5.40 The BCLC investigators assigned to gaming facilities are currently reviewing 10-15% of LCTRs to determine if STR reports should be filed. This method of review does not appear to be effective as it did not identify the existence of the ongoing practice of only reporting transactions above an undocumented \$50,000 threshold.
- 5.41 BCLC has access to complete patron activity records, however does not conduct facility or province-wide monitoring and analytics due to system capability restrictions and resourcing.
- 5.42 BCLC's and the Service Provider's monitoring and reporting activities did identify the issue of large volumes of unsourced and unusual cash activity in October 2014, which resulted in an ongoing law enforcement investigation and the 60+ high risk patron registry.
- 5.43 Other industries, such as Money Service Businesses ("MSBs") have similar reporting models. The reporting entity (BCLC) with access to full data information should be conducting the bulk of the comprehensive monitoring and identifying transactions for review based on analytical indicators. The Service Provider should be responsible for filing UFTs that involve behavioural information or indicators for money laundering activity to BCLC. In many instances, the behavioural red flag information will supplement the data report which will provide valuable and wholesome information to FINTRAC when submitted by BCLC.
- 5.44 BCLC should create a template for UFT reports to ensure that all required information is included and to create consistency in the quality of submissions between facilities.

⁸ Churn is the terminology where a patron buys in with the same cash which they previously played with and cashed out. As a result, an active player can appear to be bringing in and cashing out large amounts of cash, which the iTRAK system records as new and separate funds for each transaction.

Service Provider:

- 5.45 From observations and interviews conducted with RRCR staff, the majority of UFTs are identified by surveillance rather than floor staff who have direct interaction with the patron. Employees (floor staff) are not required to document UFT interactions or provide narratives. Relying only on Surveillance observations increases the risk of missing behavioral red flags from direct interactions.
- 5.46 UFT witness narratives (form/document) are not completed by floor staff. Floor staff should have more active involvement in the reporting process as surveillance only has limited information based on video surveillance.
- 5.47 The Service Provider indicated that additional guidance on UFT reporting would be beneficial to meet the needs and expectations of BCCLC and would make the process more effective for both entities. Additional on-site training was provided by BCCLC in December 2015. Review of the training materials for the on-site training was not in the scope of the current engagement.

Risk Based Approach**BCCLC:**

- 5.48 As the FINTRAC reporting entity, BCCLC is required to take on the role of conducting facility risk assessments. This is consistent with other Canadian jurisdictions. BCCLC has developed its risk assessments by region. RRCR is included in the Lower Mainland risk assessment. This is not consistent with other jurisdictions in Canada who conduct their reviews by facility. As facilities are not operated by a single vendor they have inherent differences in their internal procedures. The patron base varies by facility as well, including a wide variance in the number of VIP patrons and their volume of play. We recommend that these risk assessments include factors specific to the facility. RRCR, for example is unique in its VIP play and warrants specific attention to its risks and the ongoing mitigation measures.
- 5.49 We also observed that the risk register is not as granular as other jurisdictions we have reviewed. We recommend that BCCLC consider if the risk register reflects the current environment.

Know Your Patron (KYP) or standard CDD

- 5.50 Understanding the patrons using BC's gaming facilities is a line of defense against the use of illicit funds. KYP goes beyond recognizing a frequent player or knowing the time of day that they come into play and details about their family. It is about understanding the potential money laundering risk the patron poses to the facility and managing that risk accordingly.
- 5.51 PCMLTF Regulations⁹ require the identification of business relationships, ongoing monitoring and risk assessment of the business relationships as well as the implementation of appropriate special measures to mitigate high risk relationships. One measure is the gathering and verification of source of funds and source of wealth information.

⁹ Reference PCMLTFR 71.1

GPEB:

- 5.52 GPEB, at the direction of the Minister responsible for gaming, should consider issuing a directive pertaining to the rejection of funds where the source of cash cannot be determined or verified at specific thresholds. This would then provide specific guidance for BCLC to create policies and procedures for compliance by all operators.

BCLC:

- 5.53 BCLC investigators do not investigate to confirm the source of funds or source of wealth unless specifically requested at the time an EDD file is created.
- 5.54 BCLC AML manuals and training content appears to be sufficient, however additional training for employees in the VIP area focused specifically on suspicious indicators and required actions to improve independent thinking would be beneficial.
- 5.55 It was observed that most of the employees in the high limits rooms at RRCR speak Cantonese or Mandarin as a first language. Although the game play must be conducted in English, the language of general communication amongst the employees was not English. The mastery of a technical subject as defined in the BCLC Anti Money Laundering online training may be impacted by the presentation of the materials solely in English. BCLC should consider providing training in the primary language of its high risk exposed employees.
- 5.56 Based on the results of GPEB and the Minister responsible for gaming's risk assessment and risk threshold for large unsourced cash transactions, BCLC should revise policies regarding tolerance of high risk play and consequences of unacceptable high risk activity.

Service Provider:

- 5.57 From interviews and observations at the Service Provider, it is determined that source of funds and/or source of wealth information is not gathered for high risk, high volume cash players. Customer profiles do not require this information for continued play except when opening a PGF.
- 5.58 KYP at the Service Provider is based on repetitive observation of high limit player behaviour (no information is verified), and the expectation that BCLC is responsible for all due diligence activities. Additional information on the player is not shared with the Service Provider and is maintained in the iTrak system, to which only BCLC has full access. This process, and the associated accountability gaps, may have contributed to an organizational de-sensitization to cash through continued exposure to high volume bulk cash, especially in the VIP areas.

Business Relationship Risk**BCLC:**

- 5.59 BCLC is in the process of fully implementing the Business Relationship requirements and has identified a list of 670+ high risk patrons. This list is in addition to the previously referenced Top 100 list and the Conditions list which currently includes 75 patrons. The AML and Operational Analysis team is in the process of doing deep dives, however there is a considerable backlog.

- 5.60 At the time of the review, the Top 100 list contained 36 names also appearing on the Conditions list of 75 patrons. Of the 36 names, only 13 had received a comprehensive EDD review. Of all the patrons appearing on Top 100 list, a total of 34 files had received Comprehensive EDD review.
- 5.61 BCLC is working on enhancements to their loyalty program, "Encore" which is intended to increase the amount of carded play which will provide additional KYP for analytics especially for slot play.
- 5.62 As a result of the BCLC's identification of patrons associated to the criminal investigation of unsourced cash utilization, 60+ individuals associated with the activity have been identified for EDD, restricted play and interviews with the BCLC's staff.

Industry Practice

- 5.63 The objectives of the PCMLTFA include:

"to implement specific measures to detect and deter money laundering...," "to respond to the threat posed by organized crime by providing law enforcement officials with the information they need to investigate and prosecute money laundering or terrorist financing offences" and "to assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering..."

The PCMLTFA does not specifically legislate the requirements of an entity in relation to how it handles high risk transactions outside of record keeping and reporting obligations.

- 5.64 It is difficult to compare best practices for the management of AML/ATF risk to other industries. We do not believe that the banking sector is a good comparison as there is a significant difference in how banks handle account based risk when compared to transient casino play that is often anonymous. Where reportable transactions do occur, the Casino often only has limited information on which to base its risk assessment. Due to the significant volume of cash and the transient nature of its patrons Casinos are most similar to MSBs in their AML/ATF risk management models. In the absence of specific guidance, other industries regulated under the Act have developed controls and measures to reduce or eliminate the risk associated to the receipt of unsourced bulk cash.

- 5.65 The implementation of controls around bulk cash vary by industry:

- MSBs – Money Services Businesses place limits on the amount of bulk cash accepted from clients. This practice forces alternative funding such as bank drafts, certified cheques or wire transfers.
- Financial Institutions – Although most financial institutions will not refuse a cash deposit they will close client accounts that exceed their defined risk thresholds. Account based relationships also offer greater monitoring capabilities which aid in managing risk.
- Security Dealers – The majority of Securities Dealers place outright bans on cash deposits. This is impractical in the gaming industry.

- 5.66 In gaming models where casinos are provincially operated, the ability to implement revenue impacting, socially guided controls and restrictions is simplified in that the revenue of the private operator is not a consideration. Implementing cash controls on private operated facilities requires a greater assessment of revenue impact and how best to ensure the operators remain reasonably compensated.

Cash Alternatives

GPEB:

- 5.67 BCCLC's mandate of revenue generation, and GPEB's mandate to ensure the overall integrity of gambling in the province requires a balanced approach to support a restriction or significant reduction in the amount of cash accepted at the casino facilities. The review of proposed cash alternative solutions and the impact of these solutions should remain a priority for both entities to promote gaming integrity and reduce the amount of unsourced cash being used in game play.
- 5.68 We understand that a concept document addressing extension of credit to VIP patrons has been put before GPEB. This concept has not yet been approved or denied as additional information is required by GPEB. Once the information is provided by BCCLC, it should be a priority for GPEB to determine feasibility and the implementation criteria.
- 5.69 GPEB and BCCLC should undertake a review of large cash transactions to determine if a bulk cash limit can be reasonably set for transactions where no source of funds can be determined. Currently patrons who have not been placed on a watch list can buy in with unlimited cash until flagged for an interview by BCCLC.

BCCLC:

- 5.70 BCCLC has staffed a position to investigate the viability of a number of cash alternative options which need GPEB's approval to move forward. Considerations in developing cash alternative programs and products should include:
- The ability for non-Canadian players to fund PGF accounts if they are subject to cash restrictions in their home country (i.e. China)
 - The ability for non-Canadian player to repay credit extended at facilities if they are subject to cash restriction in their home country (i.e. China)
 - Allocating how defaults on repayments will be determined.(i.e. between BCCLC and Service Provider and potentially the tax payer)

- 5.71 It is understood that any controls placed on the acceptance of bulk cash may reduce the volume of play and subsequently the revenue generated for both the operator and the province. BCCLC reports that high limit play is a small part of BCCLC revenue. As such, it will marginally impact BCCLC revenues overall. However these controls may have a significant impact on revenue for the RRCR operator, Great Canadian Gaming Corporation. The level of acceptable risk, impact on revenue generation and reducing the facilitation of layering of bulk cash must all be considered when determining adequate controls.

5.72 The implementation of cash alternatives is likely to bring the greatest reduction in unsolicited cash while having the least impact on overall level of play for VIP patrons. Although we cannot recommend specific options without additional analysis we do acknowledge that the most common options are:

- Domestic and international wires to fund PGFs;
- The ability to transfer funds between PGFs;
- Specified limits on chip passing amounts;
- Front Money accounts and the extension of credit;
- Removing the current limits for Convenience Cheques for non-verified wins and return of funds.

5.73 The Cheque Hold program has been approved, developed and implemented as a cash alternative. However, there has been no utilization to date by Service Providers due to the risk of non-payments.

5.74 A verifiable source of funds determination for cash amounts above a defined threshold to be obtained prior to game play should be mandated by GPEB and implemented by BCCLC. In our opinion, the only way to verify funds is to obtain documentation for the withdrawal of cash from a financial institution (bank) or entity covered under the PCMLTFA such as a MSB.

Environmental Factors

5.75 The issue of casinos, RRCR in particular, accepting large volumes of cash has been a growing issue in the province for a number of years. The source of the cash is now in question, and social and moral responsibility around the unsourced cash has resulted in negative media around gaming operations in BC. A number of factors within the regulatory and guidance documents can be identified as the root cause of the issue.

- There are inherent conflicts between the mandates of GPEB and BCCLC and the Service Provider. GPEB is responsible for regulation and the integrity of the gaming industry in BC. BCCLC has statutory obligations under the *Gaming Control Act* to GPEB, is accountable to the Province for revenue generation, manages the Service Providers, and responsible to FINTRAC for regulatory compliance. Service Providers, are not covered entities under the PCMLTFA and therefore have limited regulatory obligations and exposure, instead focusing on revenue generation.
- From discussion with staff and management, examples provided by both GPEB and BCCLC identify a cultural difference regarding unsourced cash and the potential AML activity occurring within BC casinos which undermines collaboration and the sharing of ideas and information. This has contributed to an increased risk of compliance short-falls, misaligned priorities for implementing cash alternatives, and gaps in the oversight of day-to-day processes.

5.76 The PCMLTFA and implementing regulations require that reporting entities report prescribed transactions and identify suspicious transactions. There is no provision within the regulation that requires that funds which may be associated with a predicate offense to be rejected by a reporting entity.

- 5.77 The ongoing investigation by law enforcement into the potential use of proceeds of crime to fund VIP gaming activities prompted BCCLC to implement a list of patrons who would be restricted from playing using unsourced cash.
- 5.78 In other industries, such as banking, securities dealers and MSBs, internal policies and procedures are developed based on the entity's risk based approach to determine when transactions should be rejected. Through review of policies and procedures at GPEB, BCCLC and the Service Provider, it was noted that there has been no directives made to reject funds where the source of the cash cannot be determined and verified.
- 5.79 Reasonable grounds to suspect Money Laundering activity through the use of unsourced funds has been confirmed by the Service Providers and BCCLC through the EDD processes. Interviews have confirmed that players are indeed wealthy non-residents, or business persons with interests both in Vancouver and China, coming to Vancouver to gamble. While the patron may be bona fide, the unsourced cash being accepted by the casino may be associated with criminal activity and poses significant regulatory, business and reputational risk.
- 5.80 The use of possible underground banking operations using large volumes of unsourced cash have become increasingly common and accepted as a convenience feature for VIP players who may not be able to send funds to Canada due to currency restrictions in their own country. The funding arrangements have been confirmed through interviews conducted by BCCLC investigators with targeted patrons. The patron advises that they are provided with a contact in Vancouver, either locally or prior to arriving in Vancouver. The contact the person via phone for cash delivery. The funds are later repaid through cash holdings in China. This transaction flow forms an underground or unregistered Hawala type operation using unsourced cash into the casino.
- 5.81 River Rock staffs have fostered a culture accepting of large bulk cash transactions. Through interviews and conversations with facility staff, there is a false reliance of the KYP process, which is developed through the frequency of transactions dealing with large cash values rather than any verified information. This has resulted in a desensitization to the inherent AML risks associated to cash transactions. This was identified by a number of staff at various levels in GPEB, BCCLC and the Service Providers.
- 5.82 BCCLC's current systems and technology do not allow for analytics or system alerts for activity which is deemed to be suspicious or excessive. There is a reliance on the Operator to file UFTs which may prompt the need for EDD. The implementation of SAS has been significantly delayed due to vendor customization issues which has hindered BCCLC's ability to perform efficient and effective monitoring.
- 5.83 Staffing levels do not allow for EDD or deep dive investigations to be completed in a timely manner which allows activity to continue at the facility supporting the apathy to large cash transactions.
- The EDD process should be reviewed to ensure that data collected and information gleaned from various sources provide a clear picture of the risks and profile of the patron for risk assessment and mitigation purposes.

- 5.84 EDD "Deep dives" have indicated that the players who have been subject of UTFS are themselves not directly associated with criminal activity. Further actions or reporting is then not deemed suspicious based on reasonable grounds to suspect ML/TF activity. The use of bulk unsourced cash, and the possible use of proceeds of criminal activity, is not clearly identified in the BCCLC Risk Assessment.

6.0 RESTRICTIONS AND LIMITATIONS

- 6.1 This report is private and confidential. It is not intended for general circulation or publication. For certainty, this report may not be disclosed, copied, quoted, or referred to in whole or in part, whether for the purposes of litigation, disciplinary proceedings or otherwise, without our prior written consent in each specific instance. It is not to be distributed to any other persons without the prior express written consent of MNP. Such consent, if given, may be on conditions, including without limitation an indemnity against any claims by third parties arising from release of any part of our documents or reports. We do not and will not assume any responsibility or liability for losses incurred by the Gaming Policy Enforcement Branch or their employees or by any other parties as a result of the circulation, publication, reproduction, use of, or reliance upon any reports or documents contrary to the provisions of this paragraph. Further, we understand that this Report may be the subject of a request under the Freedom of Information and Protection of Privacy Act. Should a request be made, MNP will work with GPEB to fulfill the request in accordance with the Act.
- 6.2 Comments in any document or report we produce in the course of this engagement shall not be interpreted to be legal advice or opinion.
- 6.3 BCCLC remains solely responsible at all times for adherence with all its compliance obligations.

Yours truly,

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