

**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY AND ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General

**ISSUE:**  
Options for new regulator structure in response to Dr. German's recommendations.

**DECISION REQUIRED/RECOMMENDATION:**  
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**SUMMARY:**

- A decision is required by the Attorney General on whether to recommend to Cabinet that BC's gambling regulator become a Service Delivery Crown Corporation (SDCC) or remain within core government. This decision will inform broad amendments to the *Gaming Control Act* (GCA).
- Creating a SDCC will:

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- Creating a SDCC would involve an estimated incremental cost of annually and in start-up/transition costs.

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**BACKGROUND:**

- Several of Dr. German's recommendations on anti-money laundering (AML) are intended to ensure BC's regulator has the capacity and authority to regulate the gambling industry. A key recommendation (R. 27) is to "transition to an independent regulator in the form of a SDCC, with a board of directors and a CEO / Registrar".<sup>1</sup>
- The decision to adopt this recommendation and create a SDCC or to keep the gambling regulator within core government is dependent on several factors,

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- GCA amendments will be required to clarify the roles, responsibilities and authorities of the regulator, the BC Lottery Corporation (BCLC), and the Minister regardless of the regulator model. The Gaming Policy and Enforcement Branch (GPEB) is also

<sup>1</sup> German uses the terms "Registrar" and "CEO" to refer to the head of the regulator, as the current CEO of AGCO holds these titles. In this note, we will continue to use the current title used in BC, "General Manager" (GM).

engaged in a review of the GCA that will result in significant amendments to modernize the Act.

- The decision on the structure of the regulator is one of the first decisions that must be made as it is fundamental to the design of the legislation. For example, the GCA serves as the enabling statute for BCLC and GPEB.

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## DISCUSSION:

- **Option 1 – SDCC - BC's gambling regulator becomes a SDCC:**
  - Regulator would transition outside core government and become a SDCC;
  - Regulator reports to a different minister than BCLC;
  - Governance would be provided by a board, members being appointed by government through Orders in Council (OICs);
  - Board would appoint a CEO/GM who would be the statutory decision maker and responsible for the day-to-day operations of the regulator; and,
  - Regulator would have independent communications staff and legal counsel, (the latter is Recommendation 35).
- **Option 2 – Independent Office - BC's gambling regulator remains in core government, but steps are taken to ensure independence:**
  - Regulator remains in core government;
  - Regulator reports to different minister than BCLC;
  - GM would become a fixed term (e.g. five years) OIC appointment like the head of the Independent Investigations Office;
  - GM is not an assistant deputy minister (ADM);
  - GM reports directly to the Deputy Minister; and
  - Mandate focused solely on regulation and operational policy.
- **Option 3 - Regulator and BCLC report through different ministries:**
  - Regulator remains in core government;
  - GM is an OIC appointment, but not fixed term;
  - GM is an assistant deputy minister (ADM);
  - GM reports directly to the Deputy Minister; and
  - Mandate includes regulation and strategic and operational policy.

## Independent decision making

- Structuring BCLC and the gambling regulator to report through different ministries is an incremental step in regulatory independence. It ensures the regulator is focused on regulatory issues and

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- A significant amount of independence can be provided to the GM through amendments to the GCA regardless of the model. Providing the GM with

independent authority to make standards and issue directives<sup>2</sup> applicable to all industry participants, including BCLC, and providing sanctioning authority for non-compliance, would significantly increase regulatory independence and responsiveness.

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- The Organisation for Economic Co-operation and Development (OECD) published a 2014 report, setting out principles for the governance of regulators based on international best practices. The report identifies that regulatory decisions having a significant impact on government budget and service delivery are better made at arm's length and establishing an independent and structurally separate regulator addresses conflicts of interest.<sup>3</sup>
- BCLC delivered over \$1.4 billion in revenue to government in FY 2017/18, one of the BC government's highest non-tax revenue sources.<sup>4</sup> BC's gambling regulator must have the independence to make decisions about the integrity of gambling that could impact this revenue stream without discretion being fettered by government.
- The lack of independence afforded to GPEB in the past contributed to an inability to address money laundering. Redacted by BC - Public Interest Immunity  
Redacted by BC - Public Interest Immunity  
Redacted by BC - Public Interest The GM needs sufficient independent authority to make this type of decision to protect the integrity of gambling.

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<sup>2</sup> An amendment to the GCA empowering the GM to issue directives to BCLC without ministerial approval received Royal Assent on November 28, 2018. However, there is no sanction for non-compliance by BCLC.

<sup>3</sup> [OECD Best Practice Principles for Regulatory Policy: The Governance of Regulators](#) (see pages 45-53).

<sup>4</sup> Trails only Canada health / social transfers and MSP premiums (according to [Public Accounts 2017/18](#))

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## Public confidence in gaming

- Media reports of money laundering in BC's casinos, the release of a 2016 MNP report into suspicious cash transactions at River Rock Casino, and, more recently, federal prosecutors' decision to stay criminal charges related to the RCMP's E-Pirate investigation into money laundering in the Lower Mainland have eroded public confidence in BC's gambling industry.
- The implementation of Dr. German's interim recommendations and ongoing work to act on the issues identified in Dr. German's report, including recent amendments to the GCA, are beginning to restore confidence.

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## Financial implications

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## Best practices

- Dr. German recommends that BC consider combining the regulation of gambling, liquor and cannabis under a single regulator because they face many similar regulatory issues (e.g. licensing/registration and compliance).
- Seven of 10 provincial gambling regulators are also responsible for liquor with four of them also assuming responsibility for cannabis. Four of the combined regulators are crown corporations, including Ontario, Alberta, Saskatchewan and Manitoba.

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<sup>5</sup> Estimated incremental costs do not include potential implementation of Dr. German's other recommendations, such as the designated policing unit.

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**OTHER MINISTRIES CONSULTED:**

- Ministry of Finance: sought advice from Financial Institutions Commission, Crown Agencies and Board Resourcing Office and Treasury Board Staff

**DATE:**

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**DATE:**

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**APPENDIX A: Incremental costs of establishing a Service Delivery Crown Agency**

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**APPENDIX B – Options Analysis Matrix**

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