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Dear Angus

Regulation of Limit D Developments and Enhancements: Discussion Document

Thank you for the opportunity to comment on the Department's proposals concerning costs associated with venue developments and enhancements. We also thank you for taking time to discuss the issues with NZCT staff on 5 February.

In principle, NZCT supports the Department's aim to limit costs associated with the gambling operation at venues and to ensure that capital expenditure is treated consistently by societies and capable of being monitored. However, we believe the proposed approach is unnecessarily complex and will discourage venue operators from being involved in class 4 gambling. The reality is few venue operators are able to or willing to fund "developments or enhancements" of the gambling room, which are not to their enduring benefit.

As an initial observation, NZCT considers the current costs regime is complex and results in significant and unnecessary compliance costs. The burden falls on venue operators and societies alike and we believe the community benefit of such a prescriptive and complex process is questionable. The reality is, class 4 gambling is a legal activity, which provides some \$350 million of community funding per year nationally. The more complex the regime, the less attractive the activity will be to venue operators, which will inevitably lead to a reduction of funding available to the community. NZCT suggests a commission-based model is the best solution to the venue payments issue.

NZCT takes the view that how societies spend their money is a matter for trustees to consider, having regard to their fiduciary obligations and the requirements of the Gambling Act and other relevant legislation. This includes the obligation to use capital to minimise costs, in line with best business practice. We acknowledge the Department's power under section 116 to limit or exclude costs. However, this should be done in such a way as not to increase the compliance burden.

NZCT believes the society-wide 16% cap provided by way of Limit D and the requirement that expenditure be reasonable and necessary, should be sufficient to regulate expenditure on venue developments and enhancements. We therefore question the value of imposing Limit C, which further constrains development and enhancement expenditure at an individual venue level.



NZCT would prefer that reference in clause 4(xi) *Gazette* notice, to “developments and enhancements” be deleted. The *Gazette* notice consistently refers to “operating costs”, which suggests costs involved in the day-to-day operation that are not capital items. The inclusion in Limit C of “developments and enhancements” is inconsistent with the notion of operating costs, just as “security costs” in (x) would not include CCTV systems, which are capital items depreciated in the usual way.

That would leave all capital costs outside the *Gazette* notice where they could be assessed solely on the basis of whether they are reasonable and necessary for the purposes of class 4 gaming.

NZCT considers the Department’s interpretation of which chattels and other capital items are not integral to gambling operations is restrictive and does not reflect reality.

The following capital items are, in our view, integral to the gambling operation and therefore should remain outside the costs which the *Gazette* notice is intended to limit:

- CCTV systems
- Air conditioners
- Carpet
- Partitions (assets) that are removable and those which are required to ensure that the gambling venue complies with the requirements of the Act , including access.

CCTV systems are essential to the gaming operation, in that they enable monitoring of the gaming lounge as required for the purposes of meeting the Gambling Act’s harm minimisation objectives. This is acknowledged in a recent Department decision in relation to Tomo’s Sports Bar, Gisborne (GMV1351), 28 January 2010.

CCTV systems have an integral and important role in protecting both the society’s assets and patrons from theft, damage and harm. They allow remote and real time monitoring of activities within the gaming area. Such resources assist in meeting the Act’s objectives in relation to harm minimisation, facilitating responsible gambling and limiting opportunities for crime or dishonesty associated with gambling.

These assets are able to be removed by the Society when the venue agreement expired and would therefore be of no enduring benefit to the venue owner. It is critical to the gambling operations and hence an appropriate capital expense for the society which should fall outside the *Gazette* notice.

NZCT sees the other items listed above similarly as belonging outside the notice; they are chattels that can be removed by the society and of no enduring benefit to the venue operator. Air conditioners serve an important health and safety purpose at gaming venues, having regard to the enclosed nature of the gambling area, and the heat generated by the machines, LCD and jackpot screens, lighting and human bodies. As such they should be viewed as a reasonable and necessary cost to the society. They are also removable at the end of the contract period and as such remain an asset to the society.

NZCT regards the laying of carpet at the venue a reasonable and necessary expense, being fundamental to the gambling venue infrastructure. The gambling room is a distinct and separate area within the venue operator’s premises. We acknowledge the Department’s view that money spent on “theming” (beyond what is reasonable to maintain high standards of operation) is not a reasonable or necessary cost, but we also note the Department’s comments that gambling areas should not be the “dark and unhealthy” gambling areas of the past. Hence NZCT sees it reasonable

and necessary to the creation of an acceptable gambling environment to allow societies to cover the cost of carpeting venues and maintaining that asset for the duration of the venue agreement. There is no enduring benefit for the venue operator; at the end of the agreement period the gambling machines and stools are removed from the venue, leaving in many cases, holes where equipment has been affixed. The venue operator receives no enduring benefit in having the carpet laid. NZCT has introduced carpet tiles as gambling equipment which can be removed and taken away at the expiry of the agreement; they remain an asset capable of reflecting the standards of the society, not the venue. They also facilitate a cost-efficient means of replacing worn areas during the life of the venue agreement.

Where internal walls and partitions are installed by societies for the purposes of meeting the Act's access requirements, these are also assets that are integral to the gambling operation commencing and arguably should not be captured by the *Gazette* notice.

NZCT sees costs being dealt with as follows:

Capital costs integral to gambling: The society pays – constrained only by AR & N and depreciated on society's books according to IRD depreciation rates.

Capital costs not integral to gambling eg painting: The society pays – constrained by Limit D but spread over 12 months.

Summary

In summary, NZCT recommends that:

- (a) Limit C costs be restricted to operational expenses only ;
- (b) The reference in clause 4(xi) to developments and enhancements be deleted; and
- (c) The Department accepts that items such as CCTV, air conditioners, certain partitions and, to a lesser extent, carpet, are "reasonable and necessary" as being integral to the gambling operation and outside Limit D calculations.

Yours sincerely



Mike Knell
Chief Executive