APPROVED Minutes
Gaming Study Commission
Meeting: Tuesday, February 16, 2010

Commissioners present: Joe Foster, Vice Chair; Jim Craig, Tom Ferrini, Bob Odell, David Bailey, Lew Feldstein, Michelline Dufort, Maggie Pritchard, Ned Densmore, Mary Heath; present via teleconference: Andy Lietz, Chairman; Bonnie Newman, Karen Pollard

Commissioners Absent/Excused: David Babson, Mark MacKenzie

Staff Present: Gail Wolek

Commission Vice Chair Joe Foster called the meeting to order at 1:00 p.m.

Vice Chairman Foster asked Gail Wolek to conduct the roll call. A quorum being present, Vice Chairman Foster then asked for a motion to approve the minutes of the January 19, 2010 meeting. Commissioner Ferrini motioned for the minutes to be approved, seconded by Commissioner Densmore. Vice Chairman Foster called for a vote to approve the minutes. The minutes were unanimously approved.

The Center for Public Policy requested that they be allowed to cede their time to the presenters on regulatory issues. Given the importance of the topic, Vice Chairman Foster, with the support of the commissioners, approved the request and asked that commissioners provide their comments on the model matrix which has been provided to them directly to Steve Norton at the Center.

Mr. Jean Major, Chief Executive Officer and Registrar for the Alcohol and Gaming Commission of Ontario, Canada, gave a presentation relative to the “Ontario model” (see separate PowerPoint presentation). Discussion points include:

- Charitable gaming began in 1970 but eventually the province had to curtail the growth of the activity by setting a limit on the number of organizations allowed to participate; otherwise, it would grow beyond the government’s ability to regulate it.
- Horse racing brings in about the same amount of money as charitable gaming ($1.2 billion).
- Mr. Major believes Ontario has reached market saturation within the province and with gaming facilities located in the border states of Michigan and New York, although the degree of cannibalization is difficult to quantify. The worldwide economic downturn has also impacted gaming revenues.
- Three provinces are currently participating in Internet gaming; Mr. Major said he has no doubt that Ontario will follow suit eventually.
- Because of the country’s criminal code, pure private sector casino gaming model is not possible in Canada.
- Of the revenues generated, after the distribution formula has been applied, there is very little left in terms of net profit to the government; the government does still collect, however, the win tax revenue.
- 2% of revenues, currently equaling about $36 million, go to programs that help people and communities dealing with addictive behaviors and other social costs impacted by gambling activities. Mr. Major indicated that this is one of the highest percentages in the industry committed to these types of programs.
- A strong police presence “buys” integrity and leverages the reputation of the gaming facility in a positive way.
- Issues related to “responsible gaming” are dealt with as health problems, not as criminal problems.
- Ontario imposes severe consequences on operators who continue to sell alcohol to impaired gamblers.
- Ontario’s regulatory agency is structured by function, not by type of gambling activity (see organizational chart in PowerPoint presentation).
- Mr. Major believes the public perception is that government involvement in running casinos builds in greater protection from social issues. He does agree that the further removed government is from regulation and oversight, the higher the chance for problems.
- Ontario’s model would be applicable to a small state like New Hampshire, which is contemplating maybe one casino and a few slots facilities; however; as the revenue picture changes, operators will

look to adjust their business models and states will need to stay on top of how those changes will be determined and regulated. In Ontario's case, the government, not the regulatory agency, makes the business decisions.

- Any concerns about potential criminal elements associated with gambling facilities were eased with integration of law enforcement under the regulatory agency. Mr. Major noted that any industry involving cash is susceptible to criminal problems. Ontario views helping people with gambling problems as a government responsibility.
- Ontario is experiencing the industry average of 1% to 3% problem gamblers. Mr. Major said that while a substantial amount of money is generated to help these people, very few come forward seeking help.
- Evaluating an applicant should include the makeup of the operator's senior management, including: extensive background checks; what investments the operator proposes to make in the community; quality of long-term commitments to the business and community; assessment of honesty and integrity of applicant, operator, business model, community citizenship, etc.
- Mitigation resources are shared among public health agencies to include pathological gambling, substance abuse, etc.
- While the private operators provide all the construction, buildings, and other infrastructure, the province owns the machines and does provide some capital funding.
- As a regulator, Mr. Major doesn't necessarily see any disadvantages to provincial ownership but he pointed out that there is significant liability in the government ownership of gambling interests because of both the perception and the reality that the government is in conflict with itself. Being both owner and regulator of the business creates an inherent conflict that must be dealt with from time-to-time. It is perhaps a loose argument that government can do a better job via ownership and arguably that advantage can be gained through regulation rather than outright ownership.

Michael Pollock, Managing Director, and Steven Ingis, Director of Legal and Regulatory Services of Spectrum Gaming Group, read a statement of prepared testimony (see separate attachment). Subsequent key points include:

- When gambling activities are approved, it is important to understand the government is essentially granting a "monopoly" to those interests.
- There are risks and benefits to the state attempting to control how much gambling facilities advertise in order to avoid overwhelming the state's own brand. Doing so limits the casino's ability to market itself and therefore limits its profits, which will affect revenues to the state. Less profitability also means less investment in the business, resulting in fewer available jobs. However, the state could use how a casino proposes to advertise as a criterion in developing a business model that contributes to the state's tourism model. Spectrum has seen this in other states concerned about their image.
- Commissioner Ferrini noted that while the industry debate so far has been focused on revenues, it seems very clear that regulation should come first. Mr. Pollock and Mr. Ingis agreed that regulation must be a primary concern. Mr. Ingis emphasized that regulation and the regulatory structure must be embedded in the public policy debate.
- When asked about what state might have the best model, Mr. Pollock and Mr. Ingis cited the New Jersey Casino Control Act, which they said has stood the test of time (over 30 years). The Act, which can be viewed at: http://www.state.nj.us/casinos/actreg/, has strict regulation that is critical to keeping out unsavory influences; strong law enforcement component a must for criminal background checks, investigations, enforcement of consequences, etc.
- Social problems generally include underage gaming, keeping minors out of gambling facilities and compulsive gambling. An applicant and the approving authority must affirmatively and comprehensively address social cost issues as part of the application/approval process.
- When setting tax revenue rates, it is important to look at various statutory requirements including: attracting capital investment; creating jobs; and assessing what tax revenue sources will be created in the broadest sense. By definition, the higher the tax rate, the less money is available for investment. Setting the tax rate is an "essential question" that affects the quality and quantity of potential bidders. It is never too early to think about the tax rate because everything else depends on it (i.e., who will bid, quality of the facility, capital investment, job creation, etc.).
- Subsequent tinkering with the tax rate creates a "ripple of risk" with which developers would have to contend, creating a burden on operators to respond with business model changes, etc.

- It is important to remember that the optimal tax rate may not be the highest, nor the lowest, tax rate. Rather, it may be of value to set a floor on the tax rate before requesting applications and let operators make their proposals from there.
- It is difficult to create a competitive bidding process when owners of facilities (i.e., racetracks) are already in place. This creates a huge problem in that factoring in a track might result in losing the ability to attract competing bids. The state could still require that the track owners have a plan that addresses public policy goals, tourism branding, etc.
- The key is to create public policy goals, to review existing legislation for requisite oversight protections, and to create a regulatory structure that broadly encompasses protections of the state's interests.
- Holding operators responsible for meeting public policy benchmarks is very important. Regulators must also be held accountable with a mandate to enforce public policy benchmarks.
- Regarding licensing fees, more and more the model is to set a minimum licensing fee and weigh that as a factor in evaluating applications.
- Mr. Major said that in Ontario, the regulator has the statutory authority to collect all costs of enforcement from the operators.
- Important distinction between licensing fees (which provide revenues to the state) and application fees (which cover the costs of receiving, evaluating, investigating, and approving applications).
- It is very important to put the burden on the operator to include its approach to managing social costs as part of its proposal. Where the impacts may occur is likely to depend on the type and location of the of the facility. Social cost implications extend far beyond the local communities; they are usually regional issues, not just local issues. Therefore, revenues earned must be allocated in proportion to where the costs have been identified. One model recommended for study would be the Singapore model (see regulatory information provided by Spectrum Gaming Group)….

Spectrum Regulatory Overview.pdf

- Mr. Major pointed out that there is a lack of empirical analysis relative to displacement and social costs. Existing data is shallow in terms of impartial, defensible analysis. It is important to look at what has and hasn't worked well. There needs to be a continuing vigilance and dedication to regulatory commitment on the part of the state. Also, the independence of the regulatory agency is very important to assure unbiased enforcement authority. Government ownership does result in susceptibility to government constraints, restraints, and revenue allocations—again part of the inherent conflict when government both owns and regulates the business.

Chairman Lietz wrapped up the meeting with the following four points that he believed were the main takeaways from this meeting:

1) Establishing the regulatory and oversight framework is essential from the outset.

2) Government does have a key role, but its best role may not be as operators of the business.

3) Revenue optimization – rather than too much focus on tax rates and licensing fees -- is an essential ingredient.

4) A competitive process is important from the beginning to assure a high quality pool of applicants.

Vice Chairman Joe Foster concluded by reminding commissioners that the next meeting is scheduled for March 2nd and will include presentations on topics relative to workforce housing, community planning, and community impact studies. The meeting was adjourned at 3:55 p.m.

NEXT MEETING: TUESDAY, March 2, 2010, 1:00 P.M., NHHEAF

Respectfully submitted: Gail A. Wolek, Executive Director