

24 April 2001

The Secretary
Senate ECITA Legislation Committee
Parliament House
Canberra ACT

Interactive Gambling Bill 2001

This submission on the Interactive Gambling Bill is from Sky City Ltd (Sky City).

Sky City

Sky City is listed on both the New Zealand and Australian stock exchanges and is one of Australasia's leading gaming and entertainment companies.

Sky City, through its various subsidiaries, has the following interests in the Australasian entertainment and gaming industry:

- Owner of Sky City Casino Management Limited, operator of the Sky City Auckland and Sky Alpine Queenstown Casinos, and the proposed operator of Riverside Casino.
- Owner and operator of the Sky City Auckland complex (which includes three casino gaming areas, the 328 metre Sky Tower, a 344 room four-star plus hotel, six restaurants and four bars, a 700 seat theatre, a ball room and conference facilities that can host up to 1,000 people, and New Zealand's largest commercial carpark);
- Owner of Adelaide Casino Pty Ltd., the owner and operator of Skycity Adelaide. Skycity Adelaide employs in excess of 800 people, making it one of South Australia's top ten employers;
- 60% shareholder in Queenstown Casino Ltd., owner of Sky Alpine Queenstown Casino, Queenstown, New Zealand;
- 55% shareholder in Riverside Casino Ltd., which has a casino premises licence to establish a casino in Hamilton, New Zealand; and
- 22% shareholder in Canbet Ltd. (with an option to acquire an additional 11% shareholding), a Canberra-based online wagering company.

The Sky City group of companies employs 3,250 people across Australia and New Zealand.

Obviously our major interest in this Bill is related to our significant shareholding in Canbet Ltd, a company that would be significantly affected by the proposed legislation. Our interest, however, also relates to a substantial and important

investment in Australia for Sky City through our purchase of Adelaide Casino (now Skycity Adelaide) in June 2000.

General Position

Sky City is opposed to this Bill. In our view it will not achieve its objectives and will have unintended effects. It also sends an unfortunate message to the investment and business community (both domestic and international) about both Australia as an investment destination and the country's ability to adequately address the complex policy issues related to the continual development of the global E-economy.

The areas covered in our submission are:

- the impact that the Bill will have on local operators;
- the Bill's inability to achieve the social objectives on which it is based; and
- the message it will send to the investment and business community.

Local Operators

Given the structure and nature of the Bill, the Government has clearly accepted the value to the Australian economy that the export of interactive gaming services has the ability to deliver. It would appear, therefore, that an implied objective of the Bill is that it should not impede the ability of Australia to capture this value.

It is the submission of Sky City, however, that the Bill is inconsistent with achieving this objective.

If this Bill is enacted, obviously any responsible business would put in place systems and safeguards designed, to the greatest extent possible, to exclude those who may be present in Australia from accessing the service. The reality is, however, that no such systems can be 100% effective. A very real risk for businesses such as Canbet is that bets will inadvertently be accepted that will be deemed to be unlawful under the Act, exposing that business to the punitive systems of penalties.

One example of how this could occur is the hypothetical case of a New Zealander travelling to Australia. At Auckland Airport if they dialled through their Internet Service Provider (ISP) to an Australian site to place a bet, this bet would be entirely legal. However, if at Sydney Airport they again logged on through the same New Zealand ISP to place a bet the acceptance of this transaction would be in breach of the potential new Law. The ability of the Australian provider to identify and block the second wager would be extremely limited.

Clearly, any business would have to seriously consider whether they were prepared to expose themselves to this level of risk. The alternatives would be for that business to relocate off-shore or to cease operation.

Since the introduction of the moratorium Canbet has been considering the realistic options for relocation. Since the Government announced its intentions in relation to

the partial ban this work has intensified. As a major investor in Canbet Sky City supports this work and views it as prudent.

The reality is that should the Bill become law, Canbet (and more than likely a number of other businesses) will conclude that the business risk that the new Act creates is unable to be justified and the business will look to relocate.

It is the submission of Sky City, therefore, that the Bill will fail to achieve clearly implied, although not explicitly stated, objectives, in that any value to the Australian economy will be lost.

Problem Gambling

The clear and stated objective of the Government in introducing this Bill is to address the serious issue of problem gambling. This is an objective that Sky City strongly endorses, and if we were of the view that the Bill was an effective and efficient measure to advance harm minimisation we would support it. Unfortunately, it is our view that the opposite is in fact the case.

As demand for interactive gaming grows, as it undoubtedly will, Australians seeking to exercise consumer choice in this area will need to look outside Australia for opportunities to do so.

By preventing Australians from accessing highly regulated and responsible Australian sites the Government will also be foregoing the ability to regulate and manage the product they are consuming. Instead of increasing the Government's ability to manage the potential negative social impact of interactive gaming, this Bill will actually (and increasingly as demand grows) reduce it. Such a move would also remove the Government's ability to control the fairness of sites.

Message to the Business and Investment Communities

In the submission of Sky City the passage of this legislation will send a very unfortunate message to the investment and business communities.

If this Bill is passed it will demonstrate to investors that even if they invest, in good faith, in legitimate and licensed businesses they will still run the risk of subsequently having certain components of that business deemed illegal. It will also create the perception that fundamental elements of the operating environment are subject to change. At the very least these perceptions of risk are likely to be factored in to any future investment decision making processes.

The fundamental difference between the breadth of the moratorium as enacted and the ban legislation as introduced a matter of months later (i.e. that wagering was not captured by the moratorium but is included in the provisions of the Interactive Gambling Bill) will serve to exacerbate any perceived issues of lack of stability.

The emergence of E-commerce has created a range of extremely complex and difficult policy issues and has introduced entirely new paradigms to traditional policy frameworks and solutions. It is the view of Sky City that the Australian Government, through the application of considerable resource, has done an excellent job in beginning to address these emerging issues and changing parameters. On the issue of interactive gaming, however, the Government will be seen by many to be applying traditional policy approaches to issues where they are neither appropriate nor effective. Given the progress that has been made in responding to the challenges and opportunities of the growing information economy, this would be unfortunate.

Conclusion

Sky City has obvious interests in the legislation, including but extending beyond our shareholding in Canbet. It is for this reason that we have made this submission.

It is the view of Sky City that this Bill will not be successful in achieving its stated and implied objectives. It is therefore our strong recommendation that it does not proceed. Instead the Government should focus on establishing appropriate restrictions in the regulatory regime to ensure that problem gambling harm is minimised.

We would welcome an opportunity to appear before the committee to discuss the issues we have raised in more detail. To arrange a suitable time please contact our Manager-Government Affairs, James Bews-Hair, on +64 9 363 6175.

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