

## Tasmanian Gaming Commission

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Committee Secretariat  
Joint Select Committee on Gambling Reform  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Sir/Madam

### **INQUIRY INTO INTERACTIVE AND ONLINE GAMBLING AND GAMBLING ADVERTISING**

I refer to correspondence received on 29 August 2011 from Ms Lyn Beverley, Secretary of the Joint Select Committee on Gambling Reform, relating to the inquiry into interactive and online gambling and gambling advertising being undertaken by the Committee.

The correspondence seeks information which could provide an understanding of the role of gambling regulators particularly in relation to complaints about online gambling providers. The response to the Committee's request is provided in the enclosed attachment.

Yours sincerely

Peter Hault  
**CHAIRMAN**

16 September 2011

Contact:  
Phone:  
Our Ref: DJ/LA 11/133136

## **ATTACHMENT**

### **Information Response to Joint Select Committee on Gambling Reform – Inquiry into interactive and online gambling and gambling advertising.**

Online gambling in Tasmania is conducted under “Part 4A – Gaming and wagering under Tasmanian gaming licence” of the *Gaming Control Act 1993*. There are a number of different types of endorsements that can be operated under a Tasmanian Gaming Licence (TGL) including Sports Betting, Race Wagering, Major Lottery, Simulated Gaming, Totalizator and Betting Exchange operations.

Betfair Pty Ltd and Tote Tasmania Pty Ltd are both the holders of a Tasmanian Gaming Licence and are therefore authorised to conduct online gambling operations in Tasmania in accordance with the provisions of the Act.

### **How many complaints about online/interactive gambling providers have been referred to the regulator over the past five years.**

2006–07:	14
2007–08:	8
2008–09:	31
2009–10:	21
2010-11:	36

### **What is the nature of these complaints.**

These complaints are broadly categorised into three areas:

- disputes about the outcome/settlement of an event/market offered by the provider;
- disputes about the quality of the service of the provider (in particular, website outages and technical failures); and
- disputes about the fees charged by the provider.

### **What percentage of complaints about online gambling providers reach the regulator (ie what percentage are dealt with and resolved by the provider).**

The Gaming Control Act places the onus on operators to resolve complaints and only where a complaint cannot be satisfactorily resolved does it escalate to the Tasmanian Gaming Commission.

As a result, online gambling providers in Tasmania are not required to advise the Tasmanian Gaming Commission of the number of complaints they receive and resolve. We are, therefore, unable to provide the percentage that reach the Tasmanian Gaming Commission.

**How long do the complaints generally take to resolve.**

The Commission has specific requirements regarding complaints about TGL holders under section 76ZN of the Act. Depending on the complexity and nature of the dispute, and the length of time of the investigative process, complaints can take anywhere between a couple of hours to a number of months to resolve.

**What proportion of complaints are about offshore providers versus onshore providers.**

We do not receive complaints about off-shore providers (the Tasmanian Gaming Commission is concerned with the regulation of gambling providers located within Tasmania only).

**Where complaints about offshore providers are referred.**

The Tasmanian Gaming Commission is concerned with the regulation of gambling providers located within Tasmania only.

**The number of current complaints you are dealing with.**

Two

**How requests for exclusion by a third party are handled.**

Subdivision 2 of Part 4A of the Act provides for the exclusion of persons from wagering with a TGL holder.

Specifically, section 76ZNC of the Act provides for third party exclusions from wagering with a TGL holder.

A person with a close personal interest in the welfare of another may apply to the Tasmanian Gaming Commission for an order to prevent the person they have an interest in (affected person), from gambling with a TGL holder.

*Third party exclusion process*

Liquor and Gaming Branch staff are available to give information to people interested in applying for a third party exclusion. In particular they discuss the:

- rights and responsibilities of affected person; and
- consequences of a third party exclusion.

Upon receipt of an application for a third party exclusion, a Liquor and Gaming Branch staff member will prepare a report to the Tasmanian Gaming Commission. If the affected person is undergoing counselling, their counsellor can also contribute to the application. The affected person is invited to make a submission to the Commission.

When the Commission receives the application it will provide both the applicant and the affected person with a written notice. The Commission will:

- consider the report and may invite one or more parties to report to it in person;

- assess the effects of the gambling behaviour on the affected person and those with a close personal interest in them;
- assess the nature and extent of the gambling activity; and
- need to be satisfied that the exclusion is in the best interest of the affected person and in the public interest.

After considering the representations made by the applicant and the affected person, the Commission will, if satisfied it is in the public interest and the interest of the affected person to do so, make an order (called a “TGL exclusion order”) prohibiting the affected person from wagering with a TGL holder(s).

The Commission will then provide a copy of the TGL exclusion order to the applicant, the affected person and the TGL holder.

As soon as practicable (and in any event no later than three days) after receiving a copy of a TGL exclusion order from the Commission, the TGL holder must ensure that all of its staff are aware of the order and remove the affected person from its register of players.

TGL holders are prohibited from accepting wagers from excluded persons or soliciting excluded persons to wager whether by direct advertisement, inducement or other direct means.

A third party exclusion approved under section 76ZNC of the Act lasts until revoked by the Commission. Application to revoke the exclusion may be made to the Commission in accordance with section 76ZND of the Act.

#### **How many such requests have been received.**

No requests for a third party exclusion have been made with respect to online gambling only.

The Tasmanian Gaming Commission has, however, expanded one of the terrestrial third party exclusions to include both of the current Tasmanian Gaming Licence holders Boffair and Tote.

#### **What proportion of complaints come from non-Australians using websites licensed in your jurisdiction and whether they would have the same recourse to appeals processes available to Australians.**

It is estimated that between 5-10 per cent of all complaints come from overseas residents.

Complaints from customers of a Tasmanian Gaming Licence holder, regardless of whether they are situated in Australia or overseas, are handled in the same manner.

#### **The rationale and rules for licensees around the issuing of credit.**

Section 76ZM of the Act states that a TGL holder must not provide credit to a person who wagers with the TGL holder – Heavy penalties apply.

However, section 76ZZAA of the Act does allow for the use of Trading Accounts and states that Trading Accounts may be established with the holder of a Tasmanian Gaming Licence endorsed with a betting exchange endorsement, race wagering endorsement, sports betting

endorsement or a totalisator endorsement and may be operated so as to have credit and debit balances.

A TGL holder must apply to the Tasmanian Gaming Commission for an authority to operate Trading Accounts and the authority (if granted) is subject to any conditions determined by the Commission and specified in the authority.

### **The rules around payment of commissions for third party referrals to gambling providers.**

There are no rules around the payment of commissions for third party referrals to gambling providers in the Gaming Control Act.

### **The rules around inducements to gamble.**

Inducements are covered under Section 2 of the Tasmanian Gaming Commission's *Responsible Gambling Mandatory Code of Practice for Tasmania*.

The Code was released on 7 September 2011 and comes into effect on 1 March 2012.

*Note: Prior to the introduction of the Code, there were no rules in place around inducements to gamble.*

Specifically, the Code will require that TGL holders must not enter into sponsorship arrangements where the level of sponsorship to be provided is linked to the patronage or use of a TGL holders product.

### **Independence of the Tasmanian Gaming Commission.**

In exercising its functions, the Tasmanian Gaming Commission is not performing its functions independently of the State, rather it is a vehicle through which the State operates to control and regulate gaming. The activities of the Commission are the activities of the State.

The Commission is subject to the direction of the Treasurer in the performance of its functions (under section 127 of the *Gaming Control Act 1993*), but directions cannot be given which interfere with the Commission's statutory functions such as the granting or cancellation of any licence.

The Department of Treasury and Finance has responsibility for the administration of the Gaming Control Act but is not responsible for any of the functions of the Tasmanian Gaming Commission. The Department's role is to ensure that the Commission is and remains properly constituted and otherwise able to carry out its statutory functions

The functions of the Commission are outlined in section 125 of the Gaming Control Act as follows:

- (a) *to regulate and control gaming to ensure that it is conducted honestly and free from criminal influence and exploitation.*

The Commission will ensure appropriate due diligence is undertaken to meet the requirements of the Act.

*(b) to investigate and make recommendations to the Minister on matters relating to gaming and other forms of wagering.*

The Commission will:

- be aware of contemporary gambling issues and new and emerging gambling industry trends
- take a proactive role in relation to the development and implementation of consumer protection and harm minimisation initiatives
- seek to advise the Treasurer on matters it deems to be pertinent to the current and ongoing development of gambling policy in Tasmania.

*(c) to research and investigate matters relating to the control of gaming and other forms of wagering including the probity and financial security of persons involved in the management of gaming and other wagering operations.*

The Commission will ensure that there are appropriate operational policies and procedures in place for the control of gambling.

*(d) to liaise with authorities or persons responsible for the regulation and control of the conduct of gaming and other forms of wagering.*

The Commission will regularly liaise with identified key stakeholders responsible for the regulation and control of the conduct of gaming and wagering.

*(e) to review and determine complaints relating to the conduct of gaming and other forms of wagering.*

The Commission will establish and promulgate a complaint procedure that meets the requirements of the Act and the Commission's obligations in relation to natural justice.

*(ea) to foster responsible gambling and minimise the harm from problem gambling.*

The Commission will encourage responsible gambling and ensure appropriate procedures are in place to minimise the harm from problem gambling.

*(f) to perform such other functions as are imposed on it by this Act or any other Act or as are prescribed.*

The Commission will undertake an annual strategic planning process that will ensure that the immediate and longer-term objectives and responsibilities of the Commission are fulfilled.