

Hon. Sin Chung Kai
Legislative Councillor
Room 601,
6/F Citibank Tower
3 Garden Road
Central
Hong Kong

10th October 2001

Dear Mr. Sin,

Re: Gambling (Amendment) Bill 2000

Thank you for your letter of 12 July 2001 on the above subject. By reference, Hong Kong CSL Limited wishes to submit the following views on the proposed legislative amendment.

1. Regarding sub-section 21(1)(a) whereby a telecommunications service provider is required to disconnect any telephone service to the premises used in or in connection with the commission of the offence specified in the order, we would like to emphasise that mobile telecommunications service is provided to a wireless terminal and not to a fixed location. The objective of this sub-section is however achieved through sub-section 21(1)(b).
2. Regarding sub-section 21(1)(b) whereby the telecommunications service provider is required to disconnect other telephone services to the offender :

Insofar as **post-paid** mobile services are concerned, this can be accomplished provided that:

- a) where the offender is an individual, the order made by the court includes sufficient information to identify the offending person's registered accounts, such information necessarily including the person's name and Hong Kong Identification Card (HKID) number; and
- b) where the offender is a corporate entity, the order made by the court includes sufficient information to identify the offending company's registered accounts, such information necessarily including the company name and business registration number.

Insofar as **pre-paid** mobile services are concerned (where the mobile telecommunications service is provided solely through the use of pre-paid SIM cards and the identity of the customer is neither registered nor recorded), the termination of a specific service can be accomplished only if the order made by the court includes sufficient information in reference to the service itself, such information necessarily including either of (i) the mobile telephone number or (ii) the SIM card serial number which is physically printed on the card.

Consequently, the obligation of the telecommunications service provider to fulfil the actions specified in section 21 should be limited to the extent that post-paid mobile services are denied to the specific individual's name and HKID card number or company's name and business registration number (as the case may be and), and pre-paid mobile services are denied to the specific mobile telephone number or SIM card serial number.

3. Regarding sub-section 21(1)(c) whereby the telecommunications service provider is prohibited from providing further telephone services to the offender, the (future) withholding of post-paid mobile services is unproblematic. However, the withholding of pre-paid mobile services can **not** be accomplished as the sale of prepaid SIM cards is conducted "over-the-counter" through various retail outlets (including convenient stores, e.g. 7-11) and the purchase thereof does not require the purchasers to establish proof of identity at the time of purchase. As such, it is not possible to withhold pre-paid mobile telecommunications services from persons or companies as ordered.
4. It should be recognised that the ability of telecommunication services providers to implement the enforcement of such actions may be dependent on certain modifications being made to their customer management systems and procedures. Accordingly, it is recommended that a reasonable period of time following the enactment of the subject legislation be afforded to such providers to enable them to implement the required changes to their systems and procedures.
5. The above comments are, to the best of our knowledge, relevant to all mobile telecommunication services providers presently operating within Hong Kong. We are unable to comment adequately on the effect which actions currently being undertaken by the Telecommunications Authority in respect to the licensing of 3G mobile services, and more particularly in respect to licensing of various forms of MVNO, may have on the specific wording or enforceability of the proposed legislative amendment.

Whilst we welcome the government's efforts to ensure that the legislative intent of the Gambling Ordinance is not lost to technical developments, given the limitations identified in paragraphs 2 and 3, we would recommend that:

- a) mobile telecommunication services be specifically excluded from the proposed legislative amendment to subsection 21(1)(a);
- b) disconnection of pre-paid mobile service is required only on the condition that the requisite service details referred to in paragraph 2 above have been provided to the mobile operator; and
- c) mobile telecommunication services provided through the use of pre-paid SIM cards be specifically excluded from the proposed legislative amendment to sub-section 21(1)(c).

Hong Kong CSL Limited appreciates the opportunity to comment on the proposed legislative amendment, and would further appreciate your office keeping us informed of future developments in respect thereof.

Should you have any questions on the above comments or desire further discussion on other aspects of the proposed legislative amendment, please contact the undersigned at your convenience.

Yours faithfully,

Richard Midgett
Director of International Development
Hong Kong CSL Limited