

1. Response to the submission by the Macau Jockey Club (MJC) on 28 December 2000 [Paper No: CB(2)596/00-01(01)]
 - (a) The MJC claims that it adopts the same mode of operation as that of the Hong Kong Jockey Club (HKJC) and, having been approved by the Hong Kong Government, is in compliance with the laws of Hong Kong. In fact, unlike the authorized operators in Hong Kong, the MJC has never been granted any approval by the Government under the Betting Duty Ordinance to take bets from people in Hong Kong
 - (b) The MJC is of the view that Macau should not be regarded as an "offshore" jurisdiction, and should be granted exemption from the application of the Bill or treated with flexibility. We are of the opinion that Hong Kong and Macau have long been considered as two separate jurisdictions and tariff regions. It would violate the principle of fairness if Macau bookmakers are to enjoy special exemption from the application of the Bill. Besides, gambling operators in other jurisdictions may also ask for similar treatment. This would put the Hong Kong SAR Government in a dilemma.
 - (c) The MJC considers that Hong Kong people bet on horse and dog races in Macau because legal gambling outlets in Hong Kong is inadequate to meet the local demand. As such, the Government should consider implementing "cross betting" to allow Hong Kong people to bet on Macau races and regulate these races. The MJC also points out that the HKJC also simulcasts and takes bets on some overseas races. In our view, the fact that a small number of Hong Kong people place bets on a certain type of unauthorized gambling activities should by no means imply that the Government must legalize such activities. In addition, the proposal of "cross betting" will drastically increase the legal gambling opportunities on horse racing in Hong Kong and will have far-reaching implications. We therefore have to carefully consider a number of factors, including the public demand for betting on horse racing (in particular MJC racing), regulatory problems and impacts on the society in various aspects. Besides, it is up to the HKJC to select which overseas races to simulcast and to take bets on, and to seek necessary approval from the Government. At present, a

maximum of ten overseas races are permitted to be simulcast within a racing season. All of them are prestigious international racing events.

- (d) The MJC criticizes that the Gambling (Amendment) Bill 2000 is targetted at the MJC, while soccer betting and Internet gambling are not covered. As we have repeatedly pointed out, the Bill is not targetted at any individual offshore bookmakers. Indeed, the Bill covers all offshore gambling operators taking bets placed from Hong Kong including offshore institutions offering betting on soccer, Internet gambling or other gambling activities (please refer to the proposed amendments to sections 7 and 8 of the Gambling Ordinance as contained in the Bill). As one of these offshore bookmakers, the MJC will inevitably be affected, but we have to reiterate that this Bill was not designed to target the MJC.
- (e) According to the MJC, if the Bill is passed, local television and radio stations will have to "make inquires or consult the Government to ascertain whether their programmes would contravene the law before broadcasting and therefore the freedom of information would be interfered." In fact, section 16D proposed in the Bill clearly stipulates the specific types of gambling information that will be prohibited and the specific circumstances where the prohibition will apply, thereby providing clear guidelines to broadcasting institutions.
- (f) The MJC asks for an explanation on why section 16D proposed in the Bill only covers betting information on horse or dog races broadcast via television or radio. As we have explained before, in devising this proposal, we are mindful of the need to strike a balance among the different policy objectives of combating unauthorized gambling activities, preserving the freedom of expression and maintaining a liberal broadcasting and telecommunications policy. Therefore, the prohibition is confined to broadcast of betting information on horse and dog races which is already in existence, and to the most direct and pervasive broadcasting media, i.e. television and radio broadcasts. We consider this prohibition justifiable and proportionate to the problem. Nevertheless, we will listen to the views of the Bills Committee and decide whether it is necessary to expand or narrow the scope of the proposed section 16D.

- (g) The MJC asks if the Hong Kong SAR Government will consider allowing MJC telebet account holders to bet on Macau horse races in Hong Kong, following the Mainland's practice of allowing the setting up of Customer Input Terminal Service Centres for HKJC telebet account holders to place bets in Beijing and Guangzhou. It should be noted that at present, HKJC telebet accounts can only be opened in Hong Kong for Hong Kong residents who have a local address and a Hong Kong bank account. Only these telebet account holders can use the Customer Input Terminal Service Centres in Beijing and Guangzhou. As we understand it, any persons, including Hong Kong residents, can register in Hong Kong for a MJC telebet account and use the telebet service. Approving the MJC's proposal is tantamount to opening up new gambling outlets in Hong Kong. As such, we will not consider the proposal at the moment.
- (h) The MJC enquires why the Bill was introduced into the LegCo without extensive consultation, when the Hong Kong Government plans to consult the public on "legalisation of betting on soccer". We should reiterate that the purpose of the Bill is to prevent the proliferation of cross-border gambling activities in Hong Kong, uphold the long-established gambling policy and plug the identified legislative loopholes. The Bill therefore needs to be introduced into the LegCo as soon as possible. Otherwise, there will be more and more offshore bookmakers exploiting such loopholes to promote their business in Hong Kong and entice Hong Kong people to bet with them. The Bill is currently being examined by the LegCo. On the other hand, the question of whether legal outlets for betting on soccer should be provided is a separate and independent issue, on which there are divergent views in the society. Before a decision is made on the necessity to provide such legal outlets, we consider it necessary to conduct in-depth study and extensive consultation. In fact, whether legal outlets for betting on soccer will be provided in future will not affect the presently proposed amendments to the Gambling Ordinance, as the purpose of the amendments is to expressly include unauthorized cross-border gambling activities in the coverage of the law. This is independent of whether or not new authorized gambling outlets should be provided in Hong Kong.

2. Response to the submission by the Asia Television Ltd (ATV) [Paper No. CB(2)596/00-01(02)]

- The ATV considers that there is no difference in nature between the broadcast of betting information on HKJC races and on other races. That the Government only prohibits the broadcast of betting information on unauthorized races implies that it adopts double standards and supports the HKJC in monopolizing the gambling business. The ATV requests that the Government clearly explain its policy on this issue.
- Government's policy has always been to restrict gambling opportunities to authorized gambling outlets. All unauthorized gambling activities should be prohibited. The purpose of the Bill is to apply the spirit of the policy to cover unauthorized cross-border gambling activities. The aim of the restriction on the broadcast of betting information on unauthorized races as proposed in section 16D is to reduce the convenience of such gambling activities. In fact, legal provisions are in place in the United States and Canada to restrict the transmission of betting information on unauthorized races (please refer to the letter from the Home Affairs Bureau to the Clerk to Bills Committee dated 4 January 2001). We consider that the proposed restriction is necessary and appropriate (please refer to paragraphs 1(e) and (f) above).
- We consider that gambling is different from ordinary commercial activities. It is necessary to restrict the number of authorized gambling operators to avoid proliferation of gambling opportunities and the ensuing adverse competition. With this in mind, the Government has authorized only one operator each for horse racing and lottery involving cash prizes. This has nothing to do with "monopolization". On the contrary, imposing appropriate restrictions on gambling opportunities is in the interest of the society as a whole. Our proposed prohibition on the live TV and radio broadcast of betting information on unauthorized races aims to achieve the objectives of reducing the convenience of offshore bookmaking on the one hand, and safeguarding our revenue and charitable donations on the other.

3. Response to the submission by "a Citizen" [Paper No.: CB(2)596/00-01(03)]

- We have noted the proposals put forward by "a Citizen" on gambling. Regarding underage entry into off-course betting branches, so far the HKJC has strictly enforced the prohibition against the entry by those under the age of 18 into off-course betting branches. Such prohibition will continue to be rigorously enforced. We have not received any complaint on this subject in recent years.

4. Response to the submission by the Society for Truth and Light [Paper No.: CB(2)638/00-01(01)]

- The Society for Truth and Light considers that the Bill does not combat illegal betting on soccer and the publication of related betting information in newspapers, which suggests that the legislative amendments were formulated for economic reasons. It also gives the public the impression that the amendments were designed to attack Macau horse racing out of the pressure exerted by the HKJC. Besides, the Government has not conducted any large-scale studies of the impacts of gambling.
- As we have repeatedly pointed out, the aim of the Bill is to plug the loopholes of the existing legislation in order to combat cross-border gambling activities within reasonable and feasible limits, so that the existing policy of restricting gambling opportunities to authorized outlets can be more effectively upheld. The Bill does not just cover unauthorized betting on horse races. In fact, the proposed amendments to sections 7 and 8 of the Gambling Ordinance cover all cross-border gambling activities, including betting on soccer. Regarding why the proposed section 16D does not cover all the media and all the information relevant to illegal gambling, we have already given a detailed explanation in our reply dated 30 November 2000 (at Annex) to the "關注賭風蔓延聯盟", translated as "the League for the Concern for the Proliferation of Gambling" (The Society for Truth and Light is a member of the League).

- We agree that there is inadequate gambling-related studies in Hong Kong. We are now conducting a Gambling Review which will touch on this matter.

5. Response to Mr. Sunny Yam's letter dated 22 November 2000 to the Chairman of the Bills Committee

- Mr. Sunny Yam considers that foreign businessmen should not be prohibited from betting in Hong Kong on offshore racing events. He suggests that foreign passport holders be allowed under the Bill to bet with authorized offshore bookmakers, and enquires about how such bets could be made lawfully under the amended law as presently proposed.
- As explained above, we think that allowing offshore bookmakers to accept bets placed from Hong Kong would be in contravention with our prevailing gambling policy and would prejudice the interests of Hong Kong. It is therefore necessary to amend the current legislation to tackle such gambling activities to uphold the integrity of the policy and safeguard Government revenue and charity donations. We have considered the feasibility of making certain exemptions in this regard but as pointed out in our reply of 4 January 2001 to the Clerk to Bills Committee, such exemptions could be regarded as discriminatory (e.g. allowing foreign passport holders to bet with authorized offshore bookmakers).
- For a bettor to lawfully place a bet with an offshore bookmaker under the amended Gambling Ordinance, the bets must be placed outside Hong Kong and the bettor must be outside Hong Kong.

6. Response to the Macau Jockey Club's letter to the Clerk to Bills Committee dated 2 February 2001

- Regarding the MJC's views on the proposed section 16D of the Bill, please refer to our response to the submission by the ATV as stated above.
- The MJC argues that the various problems that would arise from exempting unauthorized offshore gambling, as suggested in our letter to the Clerk to Bills Committee dated 4 January 2001, including underage gambling and the doubted integrity of games,

does not apply to the MJC. We however consider that even if the MJC or other offshore bookmakers claimed to have adopted all appropriate measures, since they are not authorized by the Hong Kong SAR Government or subject to its regulation, the Hong Kong authorities would not be able to guarantee that the above problems would not occur, or to intervene when they do occur, if these offshore bookmakers were allowed to take bets placed from Hong Kong lawfully. Furthermore, whatever measures the offshore bookmakers may take, the problems of a drastic increase in unregulated gambling opportunities and drainage of tax revenue and charitable donations would remain unresolved.

- As to the MJC's suggestion to defer the consideration of the Bill, we have fully elucidated our position and the urgency to examine the Bill in our letters of 4 January and 8 February 2001 to the Clerk to Bills Committee.
- With regard to the other views expressed in the MJC's letter, we have also given our responses in the above paragraphs as well as in our earlier replies to the Clerk to Bills Committee.

**Home Affairs Bureau
May 2001**

政府總部民政事務局的信頭

附件

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梁博士：

謝謝「關注賭風蔓延聯盟」（以下簡稱「聯盟」）於十一月二十一日給我的來信，就《2000年賭博（修訂）條例草案》（條例草案）及賭博政策檢討提出意見。

禁止所有媒介提供任何非法賭博資訊

我們理解「聯盟」對有媒體發放與未經批准賭博活動有關的賭博資訊的關注。特區政府是決心打擊有境外成份的賭博活動，但與此同時，我們亦有責任確保法例的修訂不會損害其他重要的施政方針，包括維護表達及資訊自由。由於此等權利受到《基本法》及《人權法案條例》（人權法）的保障，除非有充份的理據，政府不能對此等權利施加限制。

條例草案建議禁止電視台及電台在任何未經批准的賽馬或賽狗賽事開賽前 12 小時內，廣播與賽事有關的賠率或提示。由於條文是針對有境外賭博公司透過本地電視及電台發放賽馬及賽狗賠率等資料，與及吸引港人跨境投注此等賽事的現存問題，所以我們認為有關限制是必需及合乎尺度的，並符合基本法及人權法內有關條文的規定。

至於是否應將所有媒體納入新增條文的範圍內，我們認為雖然有個別印刷媒體亦刊登一些未經批准賽事的賠率或

提示，但無可否認印刷媒體在即時傳送最新賠率方面，所起的作用有限；而即時的投注資料，對投注者下注相當重要。故此，我們的建議是將這罪行的適用範圍局限於電視台及電台廣播，因為它們是最直接、最有效及接觸普羅大眾層面最廣的播放賠率途徑。

至於資訊類別方面，我們在現階段對禁止發放所有非法賭博資訊的建議有所保留。首先，我們須清晰釐定何謂「非法賭博的資訊」。嚴格來說，除了賠率或提示以外，一事件的背景、過程及結果等資料，都可能與非法賭博活動有直接或間接的關係。如要禁止傳播媒體發放所有可能與非法賭博有關的資訊，可能違反基本法及人權法中保障表達及資訊自由的規定。事實上，我們亦曾考慮應否將禁止電視台或電台直播賠率及提示的建議，延展至所有體育競賽項目。然而，我們考慮到這些廣播尚未出現，若在此時將它們納入規管，可能缺乏充份的理據。綜合上述各點，我們認為現時建議的涵蓋範圍，在打擊現存未經批准的賭博活動與維護資訊及表達自由兩者之間取得了平衡，是合乎尺度和必需的。另一方面，如果將禁制的範圍擴大至包括所有非法賭博資訊，我們擔心會因欠缺充份理據而抵觸有關法律條文。

賭博政策檢討

政府在檢討賭博政策時，會詳細考慮各項與賭博有關的問題及與賭博對社會、經濟及文化等方面的影響；而政府稅收並非制定賭博政策最重要的考慮因素。目前有關檢討仍在進行中，我們計劃在適當時候，就檢討結果進行公眾諮詢，聽取各界意見。

謝謝你對條例草案及賭博政策檢討事宜的關注。

民政事務局局長
(馮程淑儀 代行)

二零零零年十一月三十日