

Submission by American Express International

Proposed Amendments to the Gambling Ordinance

Introduction

American Express International, Inc. (“Amex” or “American Express”) appreciates the invitation by the Honourable Andrew Cheng to offer our views on the proposed amendments to the Gambling Ordinance. Amex issues a range of American Express charge and credit cards in Hong Kong. Amex also acts as a merchant acquirer by entering into agreements with merchants to accept American Express card products as a means of payment (the “merchant agreement”).

General Comments

American Express supports the efforts of the Legislative Council to strengthen Hong Kong’s Gambling Ordinance, with a view to curbing internet gambling.

American Express has a worldwide policy that prohibits card acceptance by gambling institutions. Additionally, our merchant agreement expressly prohibits merchants from accepting an American Express card for “gambling goods or services”, whether the charge is made over the internet or in person.

American Express enforces this policy and the specific clause of our agreement with merchants when we become aware that a merchant is accepting the card for gambling in violation of our policy. We cannot be held responsible should an institution purposely misrepresent itself or the nature of its business. It is also possible for an internet merchant to change its site quickly, so that a merchant who initially appeared to be engaged in a legitimate retail business when it applied to us, changes its site to a gambling site. In cases where we discover any such misrepresentation or changes, we will terminate the merchant agreement. On the internet, there are also payment aggregators who accept the card on behalf of several merchants at once. While payment aggregators are also subject to the same prohibitions against acceptance of cards for gambling, American Express should not be held responsible should an aggregator accept the card, in violation of our agreement. As with our other merchants, if we are made aware of such an affiliation, we will consult with the aggregator and if they are unwilling to suspend their affiliation with the site in question, we will terminate the agreement with the aggregator.

American Express believes that its current policies are consistent with and support the Hong Kong Gambling Ordinance. Amex will continue to maintain and implement stringent policies prohibiting card acceptance for gambling institutions. However, in the case where a gambling institution is inadvertently signed up as a merchant, or where a merchant accepts a charge to an American Express Card for

gambling in violation of its contractual obligations with American Express, it would be unfair to hold Amex accountable. Therefore, Amex respectfully requests clarification on how the term “facilitation” of gambling will be defined and/or implemented by the Hong Kong government under the terms of the Gambling Ordinance.

### Specific Comments

Further to the general comments above, the Bills Committee might consider it prudent to include a clause under “facilitation” that specifically exempts various service providers, such as telephone system operators, financial institutions and payment card systems from liability under the amended ordinance.

We will be pleased to elaborate on such an exemption at the consultation scheduled on June 5, 2001.