

Comment and recommendation  
to the Gambling (Amendment) Bill  
2000

to

Honorable Mr. Andrew Cheng  
Chairman of the  
Bills Committee,  
Legislative Council, HKSAR

by

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Gambling is one of the common social problems for most developed cities in the world. The problem has been growing for the past few years. The level of seriousness could be anticipated by the coverage of gambling information on various media, mostly newspapers and websites.

The Hong Kong Internet Service Providers Association (HKISPA) is concerned about this trend. This trend could well be targeting the internet, being the most reachable medium in the world, to facilitate online illegal gambling by the criminals. In this regards, HKISPA is supportive on the government's initiatives to tighten the control on illegal gambling. However, concerns are raised on the enforcement of the bill. I am very sure that there are "bad guys" out there, but this is where we have to be careful on not over-killing the freedom of choice. Local ISPs could play several important roles in this area.

### **Criminal investigation and assistance from local ISPs**

Illegal online gambling should not be treated differently than any other illegal activities. They all should be carefully monitored and controlled when necessary. Local ISPs bear the social obligation to assist law enforcement in investigating on criminal activities whenever possible. Careful investigation must be done by respected parties of the law enforcement to clearly verify the activities and parties involved.

Many websites provide detailed information such as game dates, participants and even gambling odds on betting activities. Unless they are actually taking part in any form of betting activities, as defined as bookmaking in the Gambling Ordinance, they should not be criminalized. They could be simply providing their customers such information as a service. Whether or not such service is chargeable, they are not facilitating any gambling activities in particular. Whether or not their customers will still be "interested" in such service should not be the concern of this legislation. The market will determine its course. The key here is to efficiently and effectively identify and verify the suspicious organization's involvement in illegal gambling activities. If the website is located and operated in Hong Kong, local ISP would have technical information about the organizations as to the content being stored at the ISP. Such information could also be used as effective court evidence to prosecute these suspects. However, judicial scrutiny must be used to justify the request of any such actions in order to protect the innocence.

The "take-down" approach was also suggested as an option to address the problem of illegal online gambling. It runs into the same problem with using such approach against other "cybercrimes", such as pornography. Unless sufficient protection is granted to the ISP, the ISP assisting this investigation could be put in serious legal battle with its client.

Solution to tackle the problem of off-shore bookmaking and cross-border gambling activities should come locally. The association supports the amendment that the whole process of unauthorized gambling made illegal, including the initiation of a betting activity with overseas bookmakers. By criminalizing the gambler, the bill becomes a strong deterrent for local people to participate in any unauthorized gambling activities in any part of the world. Making it an illegal activity would also suggest that credit card issuing banks could be involved in illegal activities if their cards are used as payment medium. If all banks stop opening merchant accounts to companies involved in the bookmaking activities, and do not authorize transactions by their card holders to such transactions, these bookmakers would not be able to collect the bets. Although other means of transferring money still exist, but it would be too troublesome for the individuals to make a bet.

These would be much more effective methods than blocking or filtering off-shore gambling sites. Using filtering tools or blocking gambling sites have several deficiencies. First, it is extremely difficult for a content filtering tool to determine from the transmission that something is fishy related to illegal gambling. A graphics file containing a picture of a horse would not constitute gambling, provided that the program could tell the picture is a horse in the first place. If we have specific information about an overseas site involved in illegal bookmaking, we can block the site with its IP addresses or domain name. Unfortunately, these sites change their hosting server IP addresses and names from time to time. Blocking access to the site would not be effective. On the other hand, local ISPs could help to identify the individual or organization involved in the illegal gambling activities and their relevant usage logs. A possible cooperating model is suggested in the next section.

### **Collaboration between HKISPA, Home Affairs Bureau, and Hong Kong Police**

The association would suggest to create collaborative channels between all three parties, namely the HKISPA, HAB, and HKP. This is a self regulating regime that ISPA would act as one of the parties receiving complaints for sites or ISPs involved in illegal bookmaking activities. As the representing body of over 80% local internet service providers, the HKISPA could act as the collaborating body among for the industry to tackle this problem. The same regime is operating with success for the COIAO regarding the indecent and obscene materials on the internet.

In that regime, HKISPA works closely with TELA and Hong Kong Police to monitor the local situation of posting indecent materials to the internet by local residents or organizations. By forming such collaboration, the identification and investigation of these cases could be streamlined in a significant scale. HKISPA will be pleased to work with the other two organizations to combat this growing concern.

## **Liability of an ISP**

Many criminal activities related to illegal gambling come from the traditional side of Gambling Ordinance. Local ISPs should not be held liable for unknowingly hosting or providing internet services to a suspect of illegal gambling. Due to the technical difficulties, ISP should act on complain with regards to its clients possibly involved in illegal online gambling activities. The ISP could not made responsible in doing surveillance on its customers for any criminal activities. The ISP should help, however, with the investigation wherever possible criminal activity is identified.

## **Summary**

It is in the common interest of HKISPA and its members to assist local enforcement in enhancing the security of the cyberspace. This is a group effort where the ISPs and relevant government agencies to keep the cyberspace as crime free as possible. Illegal gambling is an unique social problem, and it is a growing problem. It has many similarities with other criminal activities and should be treated indifferently. The danger of it being “migrated” to the internet is valid, and it should be closely monitored. As the infrastructure provider of all online businesses, our members are in the position and capable to provide assistance whenever possible.

As a socially responsible association we would like to warn the government to be careful in addressing this issue. Uncontrollable gambling activities facilitated by of-shore bookmakers should be stopped. However, legalizing more gambling activities is also not the solution. Although legalized gambling brings to the Hong Kong Government and local charities many financial benefits, gambling should not be promoted. Much of the social problems are identified to be resulted from excessive gambling. We should not explicit the concept to Hong Kong citizens that gambling is fine as long as it is legal.

If our association could be of any further assistance or clarification on this matter, please feel free to contact the undersigned anytime.

Thanks and regards,



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