

本局檔號 OUR REF : HAB/CR/1/17/93 Pt. 35
來函檔號 YOUR REF :
電 話 TEL NO. : 2835 1484
圖文傳真 FAXLINE : 2591 6002

URGENT BY FAX

19 June, 2001

Miss Flora Tai
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Tai,

**Bills Committee on
Gambling (Amendment) Bill 2000**

Follow-up to Meeting on 11 June 2001

Thank you for your letter dated 14 June 2001. Our response to the points raised therein is set out below.

Item (a): Letter from the American Express International Inc. to the Administration on section 16E

We have consulted the American Express International Inc., which has no objection to passing its letter dated 7 June 2001 addressed to the Deputy Secretary of Home Affairs to Members of the Bills Committee.
— A copy of the letter is enclosed.

Items (b): Reasons for criminalizing unauthorized gambling activities rather than regulating them

The Government's long-established policy is to restrict gambling opportunities to a limited number of authorized outlets only. Allowing commercial gambling to be conducted in an uncontrolled or unregulated manner will give rise to a host of social and law and order problems. Prohibiting unauthorized gambling activities is a principle embodied in the laws of most other jurisdictions, with varying degrees of application in terms of the types and number of authorized outlets. Members may wish to refer to Annex A to our letter to the Bills Committee dated 11 May 2000 in which we have discussed in detail why unauthorized cross-border gambling should be tackled.

Regarding a Member's suggestion to "regulate" (which, as we understand it, means "authorize" or "license") unauthorized gambling activities rather than criminalizing them, we should emphasize that the Government hitherto adopts a cautious and restricted approach in expanding the scope of authorized gambling activities. Licensing unauthorized bookmakers, which are huge in number and provide a wide range of betting options and non-stop gambling opportunities, would result in a drastic expansion in the authorized gambling opportunities available in Hong Kong. Also, licensing offshore bookmakers which are based outside Hong Kong would present considerable regulatory difficulties. Even if the proposal is to license a limited number of offshore bookmakers, it would still be a controversial proposition which requires extensive public consultation. In other words, we are of the view that whether or not the Government should authorize additional bookmakers (offshore or otherwise) should be dealt with separately and outside the context of the current legislative exercise, which aims at plugging existing loopholes in the law to tackle *unauthorized* cross-border gambling activities.

Item (d): Blocking access to gambling websites

A Member has suggested that we should provide a general enabling provision to empower local Internet service providers to block local access to gambling websites. Indeed, we have examined this proposal in Annex A to our letter to the Bills Committee dated 11 May 2001. To recapitulate, we do not intend to impose a legal obligation on

Internet service providers to block gambling websites because (a) this may give rise to freedom of information and censorship concerns; (b) the existence of a large number of gambling websites makes comprehensive blocking rather difficult; and (c) an Internet gambling operator can easily evade the blockage by moving to a new address. As such, we do not consider an enabling provision desirable and necessary at this stage. We would nonetheless work closely with the industry to see how the measure can be implemented without causing freedom of information and censorship concerns.

Item (e): Exempting certain offshore betting activities

A Member has suggested that we should exempt some cross-border betting activities from the application of the amended section 8 of the Bill. Indeed, a number of proposals for exempting different categories of cross-border betting have been thoroughly examined in our letter to the Bills Committee on 4 January 2001. In short, any such exemption would be difficult to justify as it would inevitably involve arbitrary provisions stipulating who can bet and who cannot, or with whom a bettor can bet and with whom he/she cannot. Allowing people in Hong Kong to bet with unauthorized bookmakers (albeit offshore) would also represent a departure from our established gambling policy.

Item (c), (f), (g), (h): Section 16E

In view of some Members' concern about the original formulation of section 16E ("promoting or facilitating bookmaking") even with the subsequent addition of the word "knowingly" to the section, we are prepared to move further Committee Stage Amendments (CSAs) which contain a revised formulation of section 16E. We trust this would address Members' concerns. These and the other CSAs which we have proposed earlier are enclosed for Members' reference and consideration.

I should be grateful if you would kindly convey the above information to Members. The officers attending the meeting of the Bills Committee on 20 June 2001 will be as follows:

Mrs. Betty Fung

Deputy Secretary for Home Affairs
(2),

Mr. Stephen Wong	Deputy Solicitor General (Advisory),
Mr. J. D. Scott	Senior Assistant Law Draftsman,
Mr. Francis Lo	Principal Assistant Secretary for Home Affairs (5),
Ms. Anthea Pang	Senior Government Counsel, Prosecutions Division,
Ms. Mabel Cheung	Government Counsel, Bilingual Drafting Unit, Law Drafting Division, and
Mr. Vic Yau	Assistant Secretary for Home Affairs (5)1.

Yours sincerely,

(Francis Lo)
for Secretary for Home Affairs

cc D of J (Attn.: Mr. Stephen Wong
Mr. J D Scott
Ms. Anthea Pang
Mr. Llewellyn Mui
Ms. Mabel Cheung)

GAMBLING (AMENDMENT) BILL 2000

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
4	In proposed new section 7(1A) (a) (ii), by deleting "other event" and substituting "any competition, race, event or contest".
5	In proposed new section 8 (2) (a) (ii), by deleting "other event" and substituting "any competition, race, event or contest".
8	(a) In proposed new section 16C (2) (a) and (b), by deleting "\$5,000,000" in both places and substituting "\$500,000".
	(b) In proposed new section 16E -
	(i) by deleting subsection (1) and substituting -
	"(1) Any person who knowingly -
	(a) advertises, distributes or disseminates by any means; or
	(b) causes to be advertised,

distributed or disseminated by any means,

any advertisement or other information for the purposes of -

- (i) bookmaking;
- (ii) promoting bookmaking; or
- (iii) promoting betting by any person with a bookmaker,

commits an offence.

(2) Any person who knowingly -

- (a) gives notice of any offer or inducement; or
- (b) causes the giving of any notice of any offer or inducement, for the purposes of -
 - (i) bookmaking;
 - (ii) promoting bookmaking; or
 - (iii) promoting betting by any person with a bookmaker,

commits an offence.

(3) Any person who knowingly -

- (a) provides services; or
- (b) causes the provision of any services, for the purposes of -
 - (i) bookmaking;

(ii) facilitating bookmaking; or

(iii) facilitating betting by any person with a bookmaker,

commits an offence.

(4) For the purposes of subsection (3), the expression "provides services" includes -

(a) the provision of a service for the receipt of a bet;

(b) the provision of a service for the receipt of a deposit;

(c) the provision of a service for the transmission of winnings;

(d) the provision of any other service whatsoever for the purposes of -

(i) bookmaking;

(ii) facilitating bookmaking; or

(iii) facilitating betting by any person with a

bookmaker.

- (5) Any person who commits an offence under this section is liable -
 - (a) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or
 - (b) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.";
- (ii) in subsection (2) -
 - (A) by renumbering it as "(6)";
 - (B) by deleting "subsection (1)" and substituting "subsections (1) to (4)";
 - (C) in subsection (a) (ii), by deleting "other event" and substituting "any competition, race, event or contest";
- (iii) in subsection (3) -
 - (A) by renumbering it as "(7)";
 - (B) by deleting "subsection (1)" and substituting "this section".