

本局檔號 OUR REF : HAB/CR/1/17/93 Pt. 36
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URGENT BY FAX

24 October, 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 the meeting on 20 July 2001

Thank you for your letter dated 20 July 2001. Our response to the points raised therein is set out below.

Items (a) and (d): The use of the term “promote” in section 9 and the proposed section 16E

Some Members have expressed concerns over the use of the word “promote” in both section 9 of the existing Ordinance and the proposed section 16E of the Bill but with a different meaning. There were suggestions to delete the word “promote” in section 9 and revise the one in section 16E. Indeed, it is not uncommon for an English word to be used in different contexts to denote different meanings. In the present case, the word “promote” in section 9 and section 16E deals with two different types of activities, i.e. the launching, planning and organization of an unlawful lottery in section 9 and the publicity and advertisement of

cross-border gambling activities in section 16E. Under section 16E, the meaning of “promote” is defined and restricted by listing out the activities to be regarded as “promoting or facilitating bookmaking/betting with bookmaker” (see section 16E(1A) of the proposed CSAs). On the other hand, deleting the word “promote” from section 9 may be interpreted as a deliberate attempt by the legislature to narrow down the scope of the section, implying that it would no longer be an offence to promote (e.g. to plan) an unlawful lottery in the absence of evidence of the organizing, conducting, managing or otherwise controlling. This is certainly not the intention of the Bill. We therefore suggest that the present formulation be retained.

Item (b): section 7(1A)

In response to concerns raised at the last meeting about whether bookmaking on animal races other than horse, pony or dog races will be covered by “any horse, pony or dog race or any competition, race, event or contest” in section 7(1A)(a)(ii) (as amended by the latest CSAs), we have examined carefully the relevant wording of the CSAs. The object of the Gambling Ordinance is clear, i.e. to make gambling unlawful save in certain specified circumstances, mainly gambling authorized by the Government or exempted due to its social nature. Should there be other animal race than horse, pony or dog race on which bookmaking is conducted, we believe that the court would construe it as “any competition, race, event or contest” and the bookmaking activities thereon will be considered illegal.

Item (c): Exemption under section 16E

There was a suggestion at the last meeting that section 16E should include an exemption similar to the one provided under section 16D(5)(c), which seeks to exempt broadcast of news from the application of section 16D. The exemption in section 16D is necessary because the section deals specifically with the broadcast of certain types of *information* (forecast, hint, odds and tip relating to an unauthorized horse or dog race), and there is a remote possibility that such information *may* be covered by normal news broadcast for legitimate purposes. On the other hand, section 16E deals with activities “promoting or facilitating bookmaking/betting”, which refers to the list of activities specified under section 16E(1A) (i.e. dissemination of advertisements to promote betting and provision of betting-related services). News broadcast normally will not be caught by the section 16E(1A) activities. We do not therefore

consider the inclusion of an exemption similar to section 16D(5)(c) necessary for section 16E.

I should be grateful if you would kindly convey the above information to Members. The officers attending the meeting of the Bills Committee on 26 October 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),
Mr. Tsang Wai-hung	Chief Superintendent of Police (OCTB),
Mr. Gavin Shiu	Senior Government Counsel, Prosecutions Division,
Mr. Llewellyn Mui	Senior Government Counsel, Legal Policy 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
Mr. Gavin Shiu
Mr. Llewellyn Mui
Ms. Mabel Cheung)
C of P (Attn.: Mr. Andy Tsang)