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**Report of the Bills Committee
on Betting Duty (Amendment) Bill 2006**

Purpose

This paper reports on the deliberations of the Bills Committee on Betting Duty (Amendment) Bill 2006.

Background

2. Under the existing Betting Duty Ordinance (the Ordinance), the Hong Kong Jockey Club (HKJC) is the only authorised conductor to conduct betting on horse races in Hong Kong. At present, HKJC is conducting horse race betting on a pari-mutuel basis, with the dividends of each pool calculated after deducting the betting duty for the Government and the commission for HKJC from the total betting turnover. These deductions from the betting proceeds are referred to as the “take-out”.

3. The existing take-out rate for “standard” bets (i.e. a win bet, a place bet, a quinella bet, a forecast bet or a quinella place bet as defined in the Ordinance) is 17.5%, comprising betting duty at 12% and commission for HKJC at 5.5% of betting turnover. The take-out rate for any other bet types is 25%, comprising betting duty at 20% and commission for HKJC at 5% of betting turnover. If bets are accepted at an overseas venue authorised by HKJC and approved by the Secretary for Home Affairs (SHA), the bets are subject to betting duty at half of the rates set out above. This duty concession was introduced in 1995 as an incentive for overseas host governments so as to entice them to cooperate with HKJC in making arrangements for bets on HKJC’s horse races to be accepted outside Hong Kong.

4. The turnover on horse race betting conducted by HKJC has been declining in recent years. The turnover was \$92.4 billion in 1996-97 compared to \$62.7 billion in 2004-05, representing a reduction of about 32%. The Government revenue from betting duty on horse race betting has correspondingly fallen. The revenue was \$12.3 billion in 1996-97 compared to \$8.4 billion in 2004-05, representing a reduction of 31.7%.

5. According to HKJC, the decline in betting turnover is due largely to structural factors which have led to the shrinking share of authorised horse race betting in the overall gambling market. HKJC's assessment is that the major structural problem is the growing illegal gambling market based on Hong Kong's horse races. HKJC also claims that it is facing stiff competition from offshore bookmakers who conduct betting on both Hong Kong and overseas horse races on the Internet, alongside other forms of betting activities. HKJC considers that the existing duty system under which betting duty is charged on the basis of turnover on standard and other bets provides very little flexibility for it to adjust the take-out rates for different bet types, or adjust the odds in response to the changing market conditions so as to divert bettors to the authorised channel.

The Bill

6. The Bill seeks to reform the betting duty system for horse race betting. The major proposals are as follows –

- (a) betting duty on horse race bets be converted from turnover-based to a tax on net stake receipts. A single set of duty rates shall be applied to the net stake receipts irrespective of bet types. A progressive marginal duty system shall be adopted, with duty to be charged at 72.5% of the net stake receipts up to \$11 billion, increasing by half of a percentage point for increases of every \$1 billion in the receipts up to \$15 billion, and at 75% for the receipts exceeding \$15 billion;
- (b) a discount be provided for the betting duty charged on overseas bets designated by SHA (qualified bets). The discount shall be no more than 50% of the lowest marginal rate for local bets;
- (c) a guaranteed amount of betting duty of no less than \$8 billion plus the amount of duty on qualified bets be paid by the first licensee for each of the first three years upon implementation of the reformed betting duty system; and
- (d) the regulatory regime of horse race betting be rationalised to bring it broadly in line with the authorised football betting and lotteries.

The Bills Committee

7. At the House Committee meeting on 28 April 2006, Members formed a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

8. Under the chairmanship of Hon Mrs Selina CHOW LIANG Shuk-yee, the Bills Committee has held six meetings with the Administration. The Bills Committee also met with HKJC, 15 organisations and three individuals. A list of the organisations and individuals which have given views to the Bills Committee is in **Appendix II**.

Deliberations of the Bills Committee

Need for the reform

Gambling policy

9. The main reason put forth by the Administration for introducing the proposed reform is to enhance the competitiveness of HKJC vis-à-vis the illegal bookmakers. Hon Andrew CHENG and Dr Hon Fernando CHEUNG have reservations about such an approach taken by the Administration to arrest the decline in the turnover on horse race betting. They are of the view that the Government's policy should not encourage gambling. Instead of enhancing the competitiveness of HKJC, the Administration should step up enforcement against illegal bookmaking activities.

10. The Administration has explained that the Government's gambling policy is to restrict gambling opportunities to a limited number of authorised and regulated outlets only. The purpose of the reform is to better equip HKJC to combat the increasingly rampant illegal gambling on horse races. Illegal gambling is associated with other illegal activities, such as loan sharking and debt collection. It is also one of the major sources of funding for organised and serious criminal activities. The proposed reform could help combat illegal horse race betting and stem the source of income to members of triad societies, thereby alleviating the law and order problem.

Diversion of bets from illegal to authorised channel

11. Hon Andrew CHENG and Dr Hon Fernando CHEUNG have expressed concern that even with the implementation of the proposed reform to the betting duty system, HKJC will still not be in a position to compete with the illegal bookmakers who could offer credit to bettors. They have queried the Administration's assumption that bets will be diverted from the illegal bookmakers to the authorised channel after the reform. In their view, the decline in turnover on horse race betting is due to the authorisation of football betting in 2003, rather than the growing illegal gambling market.

12. The Administration has pointed out that there may be some switch of betting money from horse racing to football betting. This is not considered to be a major factor, since the turnover on horse race betting has already declined by some 23%

in the six years before the authorisation of football betting in 2003. The Administration has pointed out that the football betting turnover increased from \$9.6 billion in 2003-04 to \$27.4 billion in 2005-06. The “Study on Hong Kong People’s Participation in Gambling Activities” conducted by the University of Hong Kong in 2005 shows an overall decline in illegal gambling activities as compared with the findings of a similar study conducted in 2001. The Administration therefore infers that part of the illegal betting must have been diverted to the authorised outlet. The possible reasons are that some bettors prefer to bet lawfully if an authorised outlet is available, and betting with the illegal bookmakers will have risk as they may go bust. The Administration thus believes that with the flexibility given to HKJC to set and adjust payout rates for different bet types and provide rebates, the profit margin of the illegal bookmakers for operation will get narrower and some illegal bets will be diverted to the authorised channel.

Enforcement against illegal bookmaking activities

13. According to HKJC’s assessment, the estimated size of the illegal market in horse race betting is about \$50 billion to \$60 billion per year. This amount is comparable to the authorised horse race betting turnover of \$62.7 billion in 2004-05. Hon Andrew CHENG and Dr Hon Fernando CHEUNG have serious doubts about the estimated size of the illegal gambling market. The Bills Committee has sought information on how the size of the illegal gambling market in horse racing is estimated.

14. The Administration has responded that it is not possible to estimate accurately the size of the illegal market in horse race betting, given its covert nature. The respective increases in duty rates on horse race betting in 1996-97, 1999-2000 and 2003-04 provide the illegal bookmakers with a large margin for operation. According to HKJC’s intelligence, illegal bookmakers have increasingly been adopting a “supermarket” approach by offering betting opportunities on horse racing, football and other sports at the same time to attract customers. The size of the illegal gambling market in horse racing has been estimated on the basis of a number of factors, including law enforcement statistics, studies on Hong Kong people’s participation in gambling activities, intelligence, anecdotal and corroborating evidence from persons familiar with the illegal market and some working assumptions.

15. Members note that the total amount of cash and betting slips seized from the illegal bookmakers of horse racing is only \$2.6 million in 2004. They have pointed out that the amount is extremely small, if the estimated size of the illegal gambling market in horse racing is accurate. Members have queried why enforcement against illegal bookmaking activities has been so feeble.

16. The Administration has explained to the Bills Committee the difficulties encountered by the Police in combating illegal bookmaking activities. The main difficulties are their sophisticated mode of operations and the extensive use of internet technology to evade police actions. Bookmakers do not remain in one location to receive bets, but move around to evade detection. Bookmakers use internet technology to operate outside Hong Kong. Servers holding important betting records are normally located outside Hong Kong, and in the event of successful raids by the Police, betting records seized onsite from computer hard-disks constitute only fragments of the total bets received.

17. The Administration has assured members that illegal bookmaking activities have long been an enforcement target of the Police. To target their operations and sources of income, the subject has been included in the Commissioner of Police's Operational Targets and the Police management has been coordinating strategies and enforcement actions against the activities. A three-tiered enforcement structure involving the Police Headquarters, Regions and Districts has been adopted to counter the illegal activities. In tackling bookmaking activities based outside Hong Kong, the Police will continue to cultivate and exchange intelligence and liaise with overseas law enforcement agencies.

18. The Administration has also clarified that 265 and 327 raids have been mounted in 2004 and 2005 respectively to combat illegal gambling activities, of which 71 and 68 are successful. The total amounts of cash involved in successful raids against illegal horse race betting, football betting and betting of mixed products were \$40.3 million and \$45 million respectively in 2004 and 2005. Since 1998, financial investigations in 25 bookmaking cases have been conducted, resulting in conviction of bookmaking related money laundering charges in courts. The aggregate amount involved is about \$2.5 billion.

19. Members note that of the \$2.5 billion, only \$2.5 million has been confiscated. The Bills Committee has requested the Administration to review the Organized and Serious Crime Ordinance (Cap. 455) to facilitate confiscation of money/assets in connection with illegal bookmaking activities. Hon Albert CHAN suggests that the Administration and HKJC should consider providing financial incentives to encourage intelligence reports on illegal bookmaking activities.

Financial impact of the reform

20. The Bill provides that the first licensee shall pay a guaranteed amount of betting duty of no less than \$8 billion plus the amount of duty on qualified bets for each of the first three years upon implementation of the reformed betting duty system. Hon Andrew CHENG, Dr Hon Fernando CHEUNG and Hon TAM Heung-man are concerned whether the turnover on horse race betting will be increased to the extent sufficient for HKJC to pay the guaranteed amount. As the guaranteed period lasts for three years only, the betting duty on horse racing

receivable by the Government thereafter may be less than \$8 billion. Moreover, as HKJC will provide rebates, this may further reduce its gross profit margin, hence adversely affecting the Government revenue from betting duty under the reformed betting duty system.

21. The Administration has explained that if no action is taken to tackle the decline in betting turnover, the betting turnover may drop to \$45 billion by 2008-09, and the betting duty revenue will decrease correspondingly. Should the betting duty system be reformed, it is estimated that HKJC will be able to capture about 20% to 30% of the existing turnover of the illegal horse race betting market. Calculated on the basis that the turnover of the illegal market is about \$50 billion to \$60 billion per year, the estimated horse race betting turnover of HKJC will be increased to around \$65 billion to \$70 billion. Assuming that the gross profit margin is 15% to 18%, the annual gross profit will be approximately \$11 billion, and the betting duty revenue for the Government will be around \$8 billion to \$8.5 billion per year. The Administration stresses that it is difficult to make a precise estimation of the level of betting duty after the reform. The Administration has undertaken to conduct a review of the reform two years after its implementation.

22. As regards the impact of cancellation of race meetings on betting duty, the Administration has explained that under the Bill, a race meeting is taken as cancelled if the licensee is prevented from holding each of the races in a meeting by certain events beyond its control, such as a war, an act of or order by a government authority, or a quarantine problem. For every cancelled race meeting, \$100 million will be deducted from the guaranteed amount payable by the licensee. To be eligible for reduction of the guaranteed amount, all races, and not just one race in a meeting, have to be cancelled. The licensee may apply for a replaced race meeting if less than half of the races in a race meeting have been completed and subsequent races have been cancelled due to, say, weather changes. SHA will consider the application on a case-by-case basis. However, meetings cancelled in such circumstances will not be regarded as cancelled race meetings for the purpose of deduction of the guaranteed amount under the Bill. The Administration will specify the arrangements in the Code of Practice on horse race betting.

Provision of rebates

23. Members note that while the Bill makes reference to the provision of rebates by the licensee, it has not specified that rebates are paid to high-value bettors only as intended by the Administration. Members have examined the impact of provision of rebates and the monitoring mechanism in this regard.

24. According to the Administration, the provision of rebates by HKJC will enhance its competitiveness vis-à-vis the illegal bookmakers. It will have a positive effect of diverting illegal bets to the authorised betting channel, thereby increasing the betting turnover and hence, the betting duty to the Government.

The provision of rebates will also not affect the dividends payable to small-value bettors because the payout rates for winning bets will be set by HKJC, irrespective of whether rebates are paid.

25. As regards the monitoring mechanism, the Administration has explained that it has reached an understanding with HKJC that rebates of 10% would normally be available to high-value bettors who have placed a losing bet of \$10,000 or more. For exotic bets, HKJC may flexibly adjust the eligible amount for rebates. HKJC shall be required to ensure that rebates are paid to high-value bettors only.

26. The Administration has also pointed out that apart from the regulation under the licensing system, the existing functions of the Football Betting and Lotteries Commission will be expanded to include advising the Government on the regulation of the conduct of betting on horse racing, as well as compliance with the licensing conditions by the licensee. The Administration will assess the effectiveness of the initial operation of provision of rebates by HKJC and consider the need to set further guidelines in the Code of Practice.

27. Hon Andrew CHENG considers the monitoring measures inadequate. He is of the view that without specifying the criteria for provision of rebates in the Bill, HKJC may adjust downwards the amount of bets for entitlement to rebates or the rebate percentage in order to attract customers, hence encouraging gambling. Mr CHENG has indicated that he will propose a Committee Stage amendment (CSA) to new section 6GB to require that a formula or rule for determining the rebates payable be specified in the licence for the conduct of horse race betting.

28. Hon Tommy CHEUNG, Hon Jeffrey LAM and Hon Abraham SHEK have indicated that they do not support Mr CHENG's proposed CSA. They consider that providing rebates to high-value bettors will not encourage gambling, and HKJC should be given flexibility in this regard in order to compete with the illegal bookmakers.

Handling of unclaimed dividends and rebates

29. Members note that the Bill proposes a change in the handling of unclaimed dividends. At present, if a dividend is not collected within 60 days after the date of the relevant race meeting, it will be forfeited. Any forfeited dividend shall be deemed to have been directed by the person entitled to such money to the HKJC Charities Trust as a charitable donation.

30. Under new section 6GF(1) of the Bill, unclaimed dividends and rebates will not be deducted in the calculation of net stake receipts, which means that these moneys will form part of HKJC's profits and Government revenue from betting duty. Hon Tommy CHEUNG considers it inappropriate to vary the present way of handling unclaimed dividends which have been a source of charitable donations. The Administration has agreed to move a CSA to amend the calculation of net stake

receipts such that unclaimed dividends and rebates will be excluded from the formula. All unclaimed dividends and rebates will continue to be donated to the HKJC Charities Trust, in line with the existing practice. The Administration will confirm this arrangement at the resumption of the Second Reading debate on the Bill.

Social impact of the reform

Public participation in gambling

31. Members note from the findings of two surveys conducted in 2001 and 2005 respectively an increase in the participation rate in gambling (both on the basis of a sample of some 2 000 respondents aged between 15 and 64). In 2001, 78% respondents (projected to be about 3.8 million) indicated that they had participated in gambling activities in the past year. In 2005, the figure increased to 81.1% (projected to be about 4.1 million). Pathological gamblers also increased from 1.8% (projected to be about 90 000) to 2.2% (projected to be about 110 000) in the corresponding period. Hon Andrew CHENG and Dr Hon Fernando CHEUNG consider that the increases are possibly due to the authorisation of football betting in 2003. They are concerned that with the proposed flexibility to HKJC to adjust the odds and provide rebates to attract gamblers and potential gamblers, public participation in gambling will increase and problem gambling will deteriorate.

32. The Administration's view is that based on the findings of the two surveys, the overall participation rate in gambling remains relatively stable. The slight increase may be due to the fact that more respondents are willing to admit having engaged in football betting after its authorisation. New section 6GB(4) already specifies certain conditions for issuance of the licence for horse race betting to prevent underage/excessive gambling and minimise the negative impact of authorised horse race betting. For instance, the authorised conductor shall not accept bets from juveniles, or allow access of juvenile to its betting premises.

Resources for addressing gambling-related problems

33. Members note that upon the authorisation of football betting in 2003, Ping Wo Fund was set up to finance preventive and remedial measures to address gambling-related problems. HKJC has undertaken to contribute \$12 million to \$15 million to the Fund each year until 2008. Members consider it necessary to increase the resources allocated to the Fund and expand the scope of services financed by the Fund.

34. The Administration informs the Bills Committee that HKJC, after discussion with the Administration, has agreed to contribute \$15 million per year to the Fund. The Administration has also undertaken to consider together with HKJC the need for further increasing resources in the light of the findings of the review of the effectiveness of the existing two gambling counselling and treatment centres

financed by the Fund.

Advertising on horse racing

35. Under new section 6GB(4), one of the conditions to be included in the licence for the conduct of horse race betting is that the authorised conductor shall not advertise the conduct of betting on horse races on television or radio between 4:30 pm and 10:30 pm on any day, except during broadcast of horse races. Members consider the prohibited hours for advertising the conduct of betting on horse races inadequate. They are of the view that as children and youngsters mostly watch television on Saturdays and Sundays, the prohibited hours for advertising on these days should be extended.

36. To address members' concern, the Administration has agreed to move a CSA to extend the prohibited hours for advertising to between 9:30 am and 10:30 pm on Saturdays and Sundays, except during broadcast of horse races. The Administration will also request television and radio stations to increase frequency of the "Announcement of Public Interests" against excessive gambling during broadcast of horse races. It will also discuss with HKJC and the television stations concerned the practical and appropriate ways to convey warnings against excessive gambling during broadcast of horse races.

37. Hon Andrew CHENG considers that it should be included in the licensing conditions that in conducting any advertising or promotional activities, the authorised horse race betting conductor shall display or carry notices that contain a warning of the seriousness of problems caused by excessive gambling and provide information on the services and facilities available to problem and pathological gamblers. Mr CHENG has indicated that he will propose a CSA to new section 6GB(4) to achieve the effect.

38. Hon CHAN Yuen-han has indicated support for Mr CHENG's proposed CSA.

39. Hon WONG Ting-kwong considers that tackling gambling-related problems is an issue which is broader than the scope of the Bill, and display of warning notices against excessive gambling should not be imposed solely on HKJC.

40. Hon Abraham SHEK has indicated that he does not support Mr CHENG's proposed CSA. Mr SHEK considers that HKJC should be advised and not legally required to display warning notices.

Licensing authority

41. The Bill empowers SHA to issue a licence to authorise betting on horse racing with conditions. Hon Andrew CHENG considers that there is a lack of public participation in the regulatory framework. In his view, the Legislative

Council (LegCo) should be involved in regulating the conduct of betting on horse racing to prevent the licensee from devising measures which may encourage gambling. In this regard, Mr CHENG has indicated that he will propose a CSA to empower LegCo to amend, by resolution, the licensing conditions for horse race betting under section 6GB(4). He will also propose a CSA to section 6I to enable LegCo to amend, by resolution, the licensing conditions for football betting. The legal adviser of the Bills Committee has provided his view that subject to the President's ruling, the proposed CSA to section 6I may be outside the scope of the Bill.

42. Hon Abraham SHEK, Hon Tommy CHEUNG, Hon Jeffrey LAM and Hon WONG Ting-kwong have indicated that they do not support the proposed CSAs. These members are of the view that the proposed CSAs will create uncertainty for the licensee on the conduct of authorised betting. Mr WONG Ting-kwong also considers that the licensing authority for the conduct of authorised betting should be the Executive Authorities, and not LegCo.

Football Betting and Lotteries Commission

43. The Bill proposes to expand the functions of the Football Betting and Lotteries Commission to include advising SHA on the regulation of the conduct of betting on horse racing, as well as compliance with licensing conditions by the licensee, and renames it as Betting and Lotteries Commission. Dr Hon Fernando CHEUNG is of the view that the voting members of HKJC should not be appointed to the Betting and Lotteries Commission as they will have a conflict of interest.

44. The Administration does not agree that appointing voting members of HKJC to the Betting and Lotteries Commission will cause a conflict of interest. Nevertheless, the Administration agrees to take into account Dr CHEUNG's view when considering new appointments.

Committee Stage amendments

45. Apart from the CSAs discussed in paragraphs 30 and 36 above, the Administration has proposed other CSAs which are technical and textual in nature to improve the Bill. The Bills Committee supports the Administration's CSAs.

Follow-up actions

46. At the request of the Bills Committee, the Administration has agreed that in his speech to be delivered during resumption of the Second Reading debate on the Bill, SHA will confirm the arrangement that all unclaimed dividends and rebates will be donated to the HKJC Charities Trust.

47. The Bills Committee has agreed that issues concerning measures to address gambling-related problems and the scope of services financed by the Ping Wo Fund be referred to the Panel on Home Affairs for discussion in 2007.

Resumption of the Second Reading debate

48. The Bills Committee supports the resumption of the Second Reading debate on the Bill at the Council meeting on 12 July 2006.

Consultation with the House Committee

49. The Bills Committee consulted the House Committee on 23 June 2006 and obtained its support for the Second Reading debate on the Bill to be resumed.

Council Business Division 2
Legislative Council Secretariat
30 June 2006

Bills Committee on Betting Duty (Amendment) Bill 2006

Membership list

Chairman Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP

Members Hon CHAN Yuen-han, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
Hon TAM Heung-man

(Total : 19 Members)

Clerk Miss Odelia LEUNG

Legal Adviser Mr Stephen LAM Ping-man

**List of organisations and individuals which have given views
to the Bills Committee**

1. Hong Kong Gambling Watch
2. Hong Kong Jockey Club Association of Chinese Employees
3. Hong Kong Jockey Club Horse Training Staff Association
4. Hong Kong Jockey Club Staff Social Club
5. Hong Kong Jockey Club Staff Union
6. IEF Rehabilitation Centre for Problem Gamblers
7. Lee Kau Yan Memorial School
8. Min-Nam Chinese Christian Trinity Church
9. The Association of Hong Kong Racing Journalists
10. The Association of International Accountants – Hong Kong Branch
11. The Baptist Convention of Hong Kong
12. The Hong Kong Racehorse Owners Association Ltd.
13. The Society for Truth and Light
14. Zion Social Service
15. Zion Social Service – Mutual Support Group for Recovering Problem Gamblers
16. Mr Michael CHAN
17. Mr NG Kai-nam
18. Mr WONG Tang-ping