

National Amendment Bill 2019

ORAL SUBMISSION

General Comment

I would urge all spheres of government to take note of the significance of robust competitors in every sector of the industry and the PLA being in agreement on the concerns raised here today.

We do not support the splitting up of the Bill into separate amendments of the Act. The draft National Gambling Bill is a very important amendment. The development of the Bill was started with the establishment of the Gambling Review Commission in 2009. Almost 10 years later, we seem to be intent on rushing through a small proportion of the Bill. This makes absolutely no sense and one cannot help but wonder as to the motivation behind this late development.

NCEMS Comments

National Gambling Amendment Bill was developed from the National Gambling Policy which was approved by cabinet on 17th February 2016.

- The finalising of the National Gambling Policy was a flawed process.
- In the Executive summary of the Draft National Gambling policy published for public consultation on 15 May 2015 it stated the following:
 - “The draft National Gambling Policy Review Document(policy) outlines the policy proposals that intend to review the gambling landscape in South Africa. The policy proposals are premised partly on the Gambling Review Commission (GRC) Report, reports from Parliament on the GRC Report, stakeholder engagements, benchmarks and excursion conducted.”
- The Gambling Review Commission report made no recommendations regarding extending the NCEMS to other sectors of the industry.
- There is also no suggestion that the regulators were having any problems receiving revenue data from operators as has subsequently been alleged.
- Of great concern in terms of the integrity of the process is that the Draft National Gambling Policy published in May 2015 contained no proposal or clause to extend the NCEMS to other sectors of the industry.
- This is problematic because the DTI stakeholder engagements that took place up to September 2015, did not include any engagements regarding this new and fundamental initiative.
- The first time the industry was aware of the proposal to extend the NCEMS to other sectors of the industry was when the final National Gambling Policy was published on 1 April 2016.
- Therefore, stakeholders were not consulted during this process regarding the proposal to extend the NCEMS to other sectors of the industry.

- The DTI has never explained how such a major initiative as this one suddenly appeared in the final policy without going through any public or stakeholder consultation process.
- It was a similar story with the Draft Bill that contained no reference to the extension of the NCEMS to other sectors of the industry.
- Once again, after stakeholder engagements on the Bill were concluded, the extension of the NCEMS to other sectors makes a very conspicuous for the first time in Bill 27 of 2018 placed before Parliament. It is now the central feature of the “re-focused” version of the Bill, i.e. of Bill 27B which is now before the NCOP.
-

Current Systems

- Bingo and Casino Operators already use state of the art monitoring systems at each site. These systems are tested to South African National Technical Standard 1718, exactly the same testing standard to which the current CEMS is tested.
- These systems allow the operator to manage their business effectively and ensure comprehensive revenue reports including those required by all provincial gambling boards to ensure amongst other information, significant events are recorded and gambling levies are calculated, reported and paid.
- These systems represent a significant investment by the operators not only in the upfront capital cost but the annual maintenance and enhancements.
- If the NGB want access to this information, operators can allow them access in the same way that the PLA's access the systems. That is a simple case of providing appropriate login privileges.

Status

- It is the PLA's that licence, regulate, audit, confirm numbers of gaming devices for play, confirm RTP% for player protection and collect gaming taxes.
- The NGB do not get involved in any of the above, this is the mandate of the PLA's and as worked well since the commencement of legalized gambling in 1998.
- The NGB require statistics for annual reports on the status of gambling in South Africa which is obtainable from the PLAs as required.
- The CEMS costs the LPM operators 6% of GGR. The NGB pay a third party an unknown fee to provide and manage the CEMS..
- As this 6% fee is split between the NGB and the third party who provide and manage the system, we are unaware what the NGB actually do for their share of this income. The NGB do not regulate or police the actual LPM gambling sites and play no role in the collecting of provincial gambling levies.

Motivation

- In the Final National Gambling Policy clause 4.2.7 it is indicated that the reason for extending the NCEMS is “PLAs struggle to collect information from other gambling modes which operate their own CEMS”

- It has also been suggested in DTI responses to stakeholder written submissions that the primary reason for the imposition of the NCEMS was “protection of the player”. I have a question for the DTI or NGB. How will a NCEMS provide for protection of the player?
- We do not believe that the PLA’s struggle to collect information and the DTI are questioning the integrity of the PLA’s who have significant powers to enforce any non-compliance by licensees in this regard.
- Today’s briefing indicates that the motivation for imposition of the NCEMS is to
 - Consolidate information
 - Provide for regulatory oversight
 - Continue to work as a central repository
 - Supply, PLA’s Manufacturers and Operators with valuable intelligence
 - National statistics
 - Determination of taxes and levies

So what’s it really about?

- It is all about revenue generation for the NGB. The DTI itself states that the NCEMS will create a “self funding revenue stream for the NGB”
- The NGB/DTI primarily see this amendment bill as an opportunity to raise revenue for self funding at the expense of the operators, by trying to introduce a duplicate system for which there is no rational justification.

Summary

- The imposition of a NCEMS on the entire industry is irrational and has been incorporated into the Bill without the most basic research, consideration or consultation.
- Licensees throughout the country generally regard the South African gambling industry as over-regulated and imposition of an NCEMS will add yet another regulatory layer.
- In terms of the extension of the NCEMS to other modes of gambling, this clearly will have a significant negative impact on the viability of a great number of gambling operations.
- This will be particularly hard on the more rural operations where the loss of jobs, capital and social investment and gambling levies will be the most severe and can be least afforded.
- It is sad to see government so keen to take advantage of legal operators and impose what amounts to nothing more than an additional and very costly national tax.
- On the other hand, tackling illegal operators that continue to operate with impunity is tough. The provisions to tackle illegal operators as contained in the Bill do not go anything like far enough and are costing the industry and government dearly.

Quorum for the meetings of the NGPC

- We do not think that this clause is appropriate in its current format. As drafted, the clause undermines the important principle of a provincial majority established by these sections of the Act.
- If a meeting is inquorate, rather than leave the decisions to those who attend, we propose that decisions are taken on a round robin basis so that all provinces are included in the decision-making process.