

**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY AND ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Honourable David Eby, Attorney General

**ISSUE:** Meeting with the Horse Council of BC and issues raised about Great Canadian Gaming Corporation's (GCGC) operation of British Columbia's two main horse racetracks

**SUMMARY:**

- The horse racing industry across North America has been in decline for the past two decades. Direct government support currently accounts for 39 per cent of total income to the industry.
- The General Manager of the Gaming Policy and Enforcement Branch (GPEB) has statutory authority for regulating horse racing. Management of *non-racing* related operations of horse racetracks in B.C. does not fall within these authorities.
- Unlike other types of commercial gambling, the conduct and management of horse racing is done by the private sector. As such, GPEB's authorities related to horse racing extend to the integrity and safety of horse racing.
- Horse racing is regulated under a separate section of the *Criminal Code* and is the only gambling sector that is regulated by both the federal and provincial governments.
- The British Columbia Lottery Corporation (BCLC) has no statutory authority related to horse racing.

**BACKGROUND:**

- On November 7, 2017, Ministerial Assistant to Minister David Eby, Sam Godfrey and five members of GPEB Executive staff met with the Horse Council of BC (HCBC).<sup>1</sup>
- The views of HCBC are not necessarily reflective of all participants in the horse racing industry or of the Horse Racing Industry Management Committee, which brings together the breed associations and the track operator with a mandate to revitalize the industry.
- At the November 7<sup>th</sup> meeting, the HCBC raised the following five key points:
  - Number of months of live racing is a significant problem and is negatively impacting the financial well-being of the industry (currently 60-days of live racing while optimally needing 8-10 months);

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<sup>1</sup> The Horse Council of BC is a not-for-profit association representing the interests of the entire equine industry in B.C. The organization represents all horse related disciplines such as show jumping, dressage, and hunting. See: <http://www.hcbc.ca/>

s.13

- In Alberta, Horse Racing Alberta, a crown corporation established by the *Horse Racing Alberta Act*, regulates, conducts and manages the horse racing industry.<sup>3</sup> Horse Racing Alberta also issues all licenses required for horse racing and distributes all funding provided to the industry.<sup>4</sup> In 2017/18 Horse Racing Alberta is forecasted to collect \$35 million in gambling revenues from slot machines to support their mandate.
- The regulation of horse racing across Canada varies between the provinces. Six provinces have dedicated regulators for horse racing (Alberta, Manitoba, and the four Maritime Provinces share a single regulator). In the remaining four provinces (B.C., Saskatchewan, Ontario and Quebec), the provincial gambling regulators also regulate horse racing. Ontario is the most comparable province to B.C. in terms of how their industry is regulated and operated. See Appendix A for how horse racing is regulated and operated across Canada.

*Legal Context of Horse Racing in B.C.*

s.14

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s.13

<sup>3</sup> The corporation's mandate is: (a) to govern, direct, control, regulate, manage, market and promote horse racing in any or all of its forms; (b) to protect the health, safety and welfare of race horses and, with respect to horse racing, the safety and welfare of racing participants and racing officials; (c) to safeguard the interests of the general public in horse racing.

<sup>4</sup> For Horse Racing Alberta's most recent annual report, see; <http://thehorses.com/files/HRA2016ReportWeb.pdf>

<sup>5</sup> Association is exhaustively defined in s. 204(11): Association means an association incorporated by or pursuant to an Act of Parliament or of the legislature of a province that owns or leases a race-course and conducts horse-races in the ordinary course of its business and, to the extent that the applicable legislation requires that the purposes of the association be expressly stated in its constating instrument the organization's charter or mandate), having as one of its purposes the conduct of horse-races.

<sup>6</sup> Section 44(1)(a) of the *Gaming Control Act* requires a horse racetrack to be licensed to operate. GPEB considers the successful completion of an operator's corporate registration to be a licence.

- As horse racing is regulated under a separate section of the *Criminal Code*, it is the only gambling sector that is regulated by both the federal and provincial governments. The Canadian Pari-Mutuel Agency (CPMA) is a special federal agency operating within Agriculture and Agri-Food Canada that regulates and supervises pari-mutuel betting in Canada on horse races.
- GPEB is responsible for the overall integrity of horse racing under Section 27 of the *Gaming Control Act*. The General Manager has extensive authorities related to the regulation of horse racing such as issuing licences to hold a horse race or to manage or operate a race track. The Act states the General Manager must not conduct and manage horse racing.
  - For example, GPEB judges/stewards may cancel a horse race if they believe the track conditions are unsafe in order to protect the integrity of that race. The unsafe track conditions may be due to poor track maintenance. Therefore, while GPEB may cancel a race due to poor track maintenance, GPEB cannot in turn require maintenance be done on the track.
- BCLC has no statutory authority related to horse racing. BCLC has a conduct and management role with respect to casino gambling and/or slot machines located at racetracks.<sup>7</sup>
- Repealed in 2010, section 7(1)(b) of the *Gaming Control Act* granted the Minister authority to direct BCLC to manage horse racing on behalf of government. That authority was never exercised. The section was repealed as BCLC was never intended to have a role in horse racing and the Horse Racing Industry Management Committee (HRIMC) was being established.<sup>8</sup> Additionally, for the Minister to direct BCLC in such a way would have required further amendments to the Act to add horse racing into BCLC's mandate.

#### *Horse Racing in B.C.*

- Historically, horse racing was the first legal form of commercial gambling permitted in Canada and, as such, did not have to compete for a share of the gambling market. Horse racing was also viewed as unique from other forms of gambling, due to its "sporting nature" and agricultural roots.
- In 1960, the British Columbia Racing Commission (BCRC) was established by the provincial *Horse Racing Act*, with a mandate to govern, direct, control and regulate horse racing. The Act and the BCRC was repealed and replaced by the *Gaming Control Act* in 2002. The *Gaming Control Act* amended government's role in horse racing to protecting the overall integrity of horse racing.
- There are only two horse racetracks currently conducting regular live racing in B.C.; Fraser Downs Racetrack in Surrey (exclusively Standardbred racing) and Hastings Racecourse in Vancouver (exclusively Thoroughbred racing). Both tracks have co-located casino gambling and/or slot machines.<sup>9</sup>

<sup>7</sup> GCGC acts as BCLC's service provider for the casino gambling/slot machine co-located at Elements and Hastings. The current operating service agreement (OSA) for each facility expires in 2027. The OSAs do not consider the horse racing side of the business as BCLC has no authority related to horse racing.

<sup>8</sup> Also repealed in 2010, all mention of horse racing in section 7, Lottery Corporations Mandate. See May 27, 2010 Hansard Debate found: <https://www.leg.bc.ca/content/Hansard/39th2nd/H0527am-01.pdf>

<sup>9</sup> Fraser Downs/Elements has both slots and table games. Hastings Racecourse has slot machines.

- Both tracks are located on land that is owned by their respective cities and are leased to subsidiaries of GCGC<sup>10</sup> for the operation of the racetracks and co-located casinos. The lease with the City of Surrey expires in April 2024. The lease with the City of Vancouver has been extended multiple times; in 2012, 2014, and 2016. The current term expires in November, 2019. These leases permit GCGC to conduct horse racing at the respective tracks while GPEB licenses authorize it.
- Small seasonal horse racetracks are located throughout B.C.<sup>11</sup> Those tracks are operated by volunteer associations for one-off events. In recent years, there has not been adequate support within these volunteer organizations to operate races in these locations.
- There is also simulcast wagering on horse racing in B.C., where races from other jurisdictions are 'imported' at teletheatres throughout the province (there are currently 19 teletheatres in B.C.). Simulcast wagering accounts for 95 per cent of total money wagered on horse racing in B.C.
- Similar to most jurisdictions, there is a minimum number of live race days that are required in order to operate a teletheatre. In B.C., the minimum number of race days is 10 per year as established by section 90(1)(a) of the federal *Pari-Mutuel Betting Supervision Regulations*.
- Horse racing has been in decline across North America for the past two decades. Horse racing had failed to modernize and remain relevant while other forms of legal gambling (ie lotteries and casino) became available in B.C.
- The horse racing industry in B.C. began receiving direct government funding in 1980. The 'horse racing improvement fund' drew 2 per cent of total handle (total amount of money wagered) to the owners and breeders.<sup>12</sup>
- Government agreed to renewed requests from the horse racing industry for a share of government gambling revenues to support their industry as the popularity of commercial gambling grew through the 2000's. The horse racing industry successfully argued that government had encroached on their business. In 2004, government approved the installation of slot machines at Hastings Racecourse and Fraser Downs. It was agreed that 15.5 per cent of net revenues from slot machines at the tracks be allocated to the industry in order to fund purses, enhance live racing and bolster the province's agricultural sector.
- Revenues from the racetrack slots were lower than anticipated. The Province agreed to top-up the slot machine revenues with an additional \$4 million in each of 2011 and 2012, making a total annual grant in those years \$10 million.
- In the late 2000's, the horse racing industry had declined s.<sup>13</sup>  
s.13 The horse population was plummeting, which meant the ability to conduct racing was at risk and wagering was in steep

<sup>10</sup> GCGC acquired these leases in 2004 and 2005 respectively.

<sup>11</sup> Other tracks that have operated in the past 5 years include Desert Park in Osoyoos, Sunflower Downs in Princeton, and Kin Park in Vernon.

<sup>12</sup> *Province of British Columbia Horse Racing Review*, 1999. Prepared by PricewaterhouseCoopers for the Gaming Policy Secretariat.

decline (wagering on live horse racing in B.C. fell from \$100 million in 1997 to \$29 million in 2007).

- The racing industry went to then-Minister responsible for gaming, Rich Coleman, to request assistance.
- In 2009 the Horse Racing Industry Management Committee (HRIMC) was formed to bring the industry together under a single team to work towards the revitalization and sustainability of the declining industry. The Committee deals with the overall financial<sup>13</sup> and operational aspects of the industry and provides the strategic direction for the horse racing in B.C. This role is founded in a Memorandum of Agreement (MOA) between member organizations. While the HRIMC is not, and has never been, a government body, the involvement of Minister Coleman and GPEB in the creation and early days of the Committee leads many to believe that it is.
- From inception until 2014, the General Manager acted as the HRIMC Chairman. In 2014, given advice from Legal Service Branch (LSB), s.14  
s.14 Today, its membership consists of representatives of both the Standardbred and Thoroughbred horse racing sectors as well as the track operator, GCGC, and an independent member, currently the CEO of BCLC. GPEB's Director of Racing sits as an observer on the committee.
- The HRIMC spent many of its early years disentangling and simplifying a hugely complex financial situation with a goal of having industry partners share risks and opportunities in order to stabilize and sustain the industry. This resulted in the cancellation of unprofitable race days and cost cutting.
- In late 2012, the Province agreed to a request from the HRIMC to increase the industry's share of net slot machine revenues at the two racetracks to 25 per cent (from 15.5 per cent), effectively replacing the top-up grants while keeping the level of funding at approximately \$10 million per year going forward. There is no formal agreement between government and the industry, beyond public statements from government officials, to provide these funds. Overall, government support for the industry has risen from \$4.2 million in 2005/06, to \$11.7 million in 2016/17. During the same timeframe, wagering on live horse racing in B.C. dropped from \$29 million to \$8.1 million annually.
- The industry has directly received over \$100 million in net slot machine revenue since 2004.

#### *Recent complaints related to Fraser Downs*

- Complaints have been received since 2013 from participants from both the Standardbred and Thoroughbred sectors regarding concerns about GCGC's operation of the tracks. These complaints coincide with the start of significant cuts to race days at both tracks.
- In 2015, GCGC invested \$11 million in renovating the casino at Fraser Downs Racetrack and renamed the entire facility Elements Casino. The horse racing industry has reflected

<sup>13</sup> The HRIMC is responsible for distributing all revenues earned from horse racing. The distribution of funds is determined through an agreement between the breed associations and GCGC. The current funding agreement expires Dec. 31, 2018 and distributes funding as follows: 43.2% to GCGC, 33.635% to the Thoroughbred sector, and 23.165% to the Standardbred sector.  
s.14

that it was not consulted during the renovations, resulting in Elements Casino adding screens to their windows obscuring viewing of horse racing. Since the renovation and re-branding, complaints from the Standardbred sector have escalated as members suggest GCGC is only interested in investing in the casino side of the business and is neglecting the horse racing side.

- GPEB also received an increase in complaints from the Standardbred sector in the winter of 2017 after nine race days were cancelled at Fraser Downs after heavy snowfall and cold temperatures caused the track conditions to deteriorate. There was public criticism of GCGC for failing to immediately rectify the situation and the sub-optimal track and facility conditions. One day was rescheduled in early January and additional four days were added in October 2017 to make up for the lost days.
- Any amendment to the model for horse racing operations in B.C. would require legislative changes to the *Gaming Control Act* as well as action by the two municipal governments that hold the leases for the two race tracks.  
s.13,s.16

**Prepared by:**  
Rachel DeMott  
Senior Policy Analyst  
Strategic Policy and Projects Division  
Gaming Policy and Enforcement Branch  
s.17

**Approved by:**  
Michele Jaggi-Smith  
Executive Director  
Strategic Policy and Projects Division  
Gaming Policy and Enforcement Branch  
s.17

**Approved by:**  
John Mazure  
Assistant Deputy Minister  
Gaming Policy and Enforcement Branch  
s.17

**Attachment:** Appendix A: Horse Racing Regulation & Operation Across Canada

## Appendix A:

**Horse Racing Regulation & Operation Across Canada**

Province	Regulator	Conduct/Manage/ Operate	Government Support	Number of Active Tracks (Thoroughbred & Standardbred)
British Columbia	Gaming Policy and Enforcement Branch (Ministry of Attorney General)	Horse Racing Industry Management Committee (Private sector – industry assoc.)	25% of net slot revenue from co-located casino	2
Alberta	Horse Racing Alberta (Crown Corp)	Horse Racing Alberta (Crown Corp)	51 <sup>2/3</sup> % (to be reduced to 40% by 2018/19) of net slot revenue at co-located casinos	4
Saskatchewan	Saskatchewan Liquor and Gaming Authority (SLGA) (Crown Corp)	Saskatchewan Liquor and Gaming Authority (Crown Corp)	Grant from SLGA	1 (+5 rural tracks w/ 2-6 race days per year)
Manitoba	Manitoba Horse Racing Commission (Crown Corp)	Manitoba Horse Racing Commission (Crown Corp)	Grant from Dept. of Agriculture, Food and Rural development	1
Ontario*	Alcohol and Gaming Commission of Ontario (Crown Corp)	Ontario Racing Association (Private sector – industry assoc.) Ontario Lottery and Gaming (Crown Corp)	25% of net slot revenue from co-located casinos	14
Quebec	Régis des alcools, des courses et des jeux (Ministère de la Sécurité publique)	Industry association (private entity – industry association)	Receives government support (unknown what mechanism)	1

New Brunswick	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Horse Racing New Brunswick (Private entity – industry assoc.)	No financial support from the provincial government	2
Newfoundland and Labrador	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	St. John's Racing and Entertainment Centre Incorporated (private entity)**	N/A**	0**
Nova Scotia	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Unknown	Grant from provincial government	3
Prince Edward Island	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Affiliate of Atlantic Lottery Corporation (Crown Corp)	Grant from provincial government	2

\* On April 1, 2016, the Ontario Racing Commission ceased operations and on that date, as mandated by the *Horse Racing Licence Act, 2015*, the regulatory responsibilities for horse racing were transferred to the Alcohol and Gaming Commission of Ontario (AGCO). Non-regulatory functions were transferred to other organizations. See <https://www.agco.ca/horse-racing/horse-racing-ontario-who-does-what> for more information.

\*\* There is currently no racing in Newfoundland. The final race occurred in 2016.



**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY AND ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General

**ISSUE:**

Online gambling service providers offer services to British Columbians outside of the Province's regulatory framework, impacting the integrity of gambling and creating a public safety risk for people who access these sites.

**RECOMMENDATION:**

Implement **Option 6**.<sup>s.13</sup>

s.13,s.14

Invest further policy and legal resources to explore:

- **Option 1**:<sup>s.13,s.14</sup>  
s.13

- **Option 1A**:<sup>s.13</sup>

**SUMMARY:**

- On December 6, 2017 the Gaming Policy and Enforcement Branch (GPEB) and the Legal Services Branch (LSB) briefed the Attorney General on unregulated online gambling.

- s.13,s.14

- GPEB and LSB have developed six main options, some of which target unregulated online gambling service providers while others target players. Several of these options are not mutually exclusive and could be pursued together:

1. <sup>s.13,s.14</sup>  
<sup>s.13,s.14</sup> advertising gambling services or otherwise conducting gambling business in B.C. and provide sanctions for contravention;

2. <sup>s.13,s.14</sup>

- 3.

- 4.

- 5.

- 6.

- Options 1 through 5 require significant additional policy and legal analysis.

**BACKGROUND:**

- The *Criminal Code* prohibits gambling except when the provincial government or its agent conducts and manages commercial gambling in that province (monopoly model). In B.C., only the British Columbia Lottery Corporation (BCLC), as an agent of the Crown, can conduct and manage commercial gambling.
- BCLC operates PlayNow.com, the only regulated online gambling website in B.C.
- GPEB estimates that there are approximately 2,200 unregulated online gambling websites that offer services to British Columbians. These websites pose public safety risks, including risk of fraud, identity theft, theft, and money laundering, predatory behaviour such as odds changing throughout gameplay, unclear and unfair rules of play, lack of responsible gambling features and connections to problem gambling services, and access by minors.
- Unregulated online gambling could be most easily addressed at the federal level because of the broad prohibition on gambling in the *Criminal Code*. There was an FPT Working Group exploring Internet gambling and modernization of the gambling provisions in the *Criminal Code*. A sub-working group was also exploring whether there should be an amendment to the *Criminal Code* to permit provinces to implement a licensing model. s.13,s.16  
s.13,s.16
- GPEB is working with other Canadian gambling regulators to raise concerns about the advertisement of unregulated online gambling websites with the Advertising Standards Council (ASC) of Canada.
- In addition, GPEB is currently pursuing research with BC Stats to measure the size and scope of the online gambling market in B.C. This research will support analysis of which model could be most effective at both protecting citizens and generating revenue for the province.
- GPEB and LSB briefed the Attorney General on the issue of unregulated online gambling in December 2017. The Attorney General asked GPEB and LSB to develop options that could be taken by the Province.

**DISCUSSION / OPTIONS:**

- GPEB and LSB have developed six main options, which are described in more detail in Appendix A. These options are intended to be opportunities for further exploration. Options 1 through 5 require significant additional policy and legal, including constitutional, analysis.




s.12,s.13,s.14


4. s.12,s.13,s.14

5. s.12,s.13,s.14

6. s.12,s.13,s.14,s.16

  
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Richard J. M. Fyfe, QC  
Deputy Attorney General s.13

OPTION ☒ APPROVED

  
\_\_\_\_\_  
David Eby, QC  
Attorney General

DATE:  
JAN 30 2018

DATE:  
April 11, 2018

**Prepared by:**  
Rachel DeMott  
Senior Policy Analyst  
Gaming Policy and Enforcement Branch  
s.17

**Prepared by:**  
Jillian Hazel  
Director, Policy and Communications  
Gaming Policy and Enforcement Branch  
s.17

**Approved by:**  
Michele Jaggi-Smith  
Executive Director, Strategic Policy  
Gaming Policy and Enforcement Branch  
s.17

**Approved by:**  
John Mazure  
Assistant Deputy Minister  
Gaming Policy and Enforcement Branch  
s.17

**Attachment:**  
Appendix A

Page 14 to/à Page 19

Withheld pursuant to/removed as

s.12;s.14;s.13

**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY AND ENFORCEMENT BRANCH  
INFORMATION NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General

**ISSUE:** Local Government Information Package on the Public Health Risks of Gambling

**SUMMARY:**

- The Gaming Policy and Enforcement Branch (GPEB) led the development of an information package for local governments to help inform them about the public health risks of gambling.
- This package fulfills a Government commitment made in the 2015 *Plan for Public Health and Gambling in B.C.*<sup>1</sup> in response to the Provincial Health Officer's (PHO) report titled *Lower the Stakes: A Public Health Approach to Gambling in British Columbia*<sup>2</sup>.
- GPEB intends to post the package online and to advise local governments that currently host, or are interested in hosting, a gambling facility about the availability of the package.

**BACKGROUND:**

- In 2013, the B.C. PHO released *Lower the Stakes*, a report that examined gambling in B.C. and recommended strategies to minimize the negative effects of gambling on public health.
- In February 2015, government published *A Plan for Public Health and Gambling in B.C.* The Plan was the product of collaborative work by a cross-ministry working group from the Ministry of Finance, Ministry of Health, Ministry of Education, and B.C. Lottery Corporation (BCLC). The Plan focuses on responsible and problem gambling in B.C., and takes into consideration the PHO report recommendations, the findings from the 2014 Problem Gambling Prevalence Study<sup>3</sup>, and other relevant research and policy related to gambling, health, and education.
- The plan included 21 commitments<sup>4</sup> aimed at delivering gambling in a socially responsible way. One of the 21 commitments was to:

*“... develop a standardized package of information outlining the public health risks of gambling. It will be offered to municipalities to assist decision makers in their analysis of gaming expansion and ensure that they have a full understanding of the risks and benefits of expanding gambling in their communities. The package will include information about problem gambling prevalence, availability of alcohol, high-risk games, and revenue generated from problem gamblers.”*

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<sup>1</sup> [Responsible and Problem Gambling in British Columbia A Plan for Public Health and Gambling in British Columbia](#)

<sup>2</sup> [Lower the Stakes – A Public Health Approach to Gambling in British Columbia](#)

<sup>3</sup> [2014 British Columbia Problem Gambling Prevalence Study](#)

<sup>4</sup> Of the 21 commitments, 11 have been completed and 10 are underway (GPEB is working on two items, BCLC four items, and there are four joint commitments).

- Local governments receive a significant amount of information from BCLC and gambling facility service providers about the benefits of hosting a gambling facility, including 10% of net revenue from the gambling facility in their community. The commitment was intended to provide local governments with a comprehensive and easy-to-access package that would provide balanced information about the public health risks of gambling, helping them to make a more informed decision about whether to host a gambling facility.
- To fulfill this commitment, GPEB has created the attached information package for local governments in B.C., outlining the risks associated with problem gambling, the programs and strategies in place to minimize harm, and steps local governments can take to mitigate risks. The package also includes information on:
  - Problem gambling prevalence;
  - Revenue generated from problem gamblers;
  - High-risk games; and
  - The availability of alcohol and the impact of alcohol on gambling.
- GPEB worked closely with BCLC, the Ministry of Health, and the Centre for Gambling Research at UBC on the development of the package. All contributors have agreed to have their organization's logo included on the cover page of the package.

#### **DISCUSSION:**

- Once approved, GPEB intends to make the package available to the public from GPEB's website. Assistant Deputy Minister (ADM) and GPEB General Manager, John Mazure, will send a letter to all local governments and First Nations that host, or are adjacent to a community that hosts, a casino or community gaming centre, advising of the availability of the package.
- GPEB will work with BCLC to send the letter to all communities that are currently involved in a BCLC expression of interest process to become a host of a future gambling facility (i.e. City of Victoria, Corporation of Delta, City of North Vancouver, and Tsleil-Waututh Nation).
- In the future, BCLC will send the information package to all local governments that are involved in future expressions of interest for gambling facilities.
- Additionally, ADM John Mazure may include remarks about the information package in his speech at BCLC's New Horizons in Responsible Gambling Conference in Vancouver in mid-February 2018.

**Prepared by:**

Jeff Henderson  
Senior Policy Analyst  
Gaming Policy and Enforcement Branch  
778 698-2986

**Approved by:**

Michele Jaggi-Smith  
Executive Director  
Gaming Policy and Enforcement Branch  
778 698-2640



**Approved by:**

John Mazure  
Assistant Deputy Minister  
Gaming Policy and Enforcement Branch  
s.17

**Attachments:**

1. Letter to host local governments from John Mazure, ADM and GM, GPEB
2. Hosting a Gambling Facility – A Local Government Information Package on the Public Health Risks of Gambling



*Know your limit, play within it.*

Dear municipal official/representative,

I am writing to you as a representative of a local government that currently hosts or is adjacent to a community that hosts a gambling facility, or is considering hosting a gambling facility in the future, to make you aware of an information package that is now available online.

The Gaming Policy and Enforcement Branch (GPEB) is responsible for the integrity of gambling in B.C. This includes regulatory oversight of commercial gambling conducted and managed by the British Columbia Lottery Corporation (BCLC), B.C.'s horse racing industry, and licensed charitable gambling events.

GPEB also delivers responsible and problem gambling programs that provide prevention, intervention, and treatment services.

GPEB has fulfilled a commitment, made in A Plan for Public Health and Gambling in BC (2015), to develop a standardized package of information that outlines the public health risks of gambling for communities that host a gambling facility. It was authored by GPEB, in consultation with BCLC, the B.C. Ministry of Health, and the Centre for Gambling Research at UBC.

Hosting a gambling facility brings both opportunities and challenges for local governments to consider. A local government that is considering whether to host a gambling facility may wish to look at a number of factors, including: economic, social, public health, and urban planning.

The online information package focuses on one factor, the public health risks associated with gambling, and includes information about problem gambling prevalence, the revenue generated from problem gamblers, high-risk games, and the impact of alcohol on gambling.

We are also including information about the tools that are available to help minimize harm of problem gambling on at-risk people in your community.

The information package is available on GPEB's website: [link TBC]

Sincerely,

John Mazure  
Assistant Deputy Minister/General Manager of Gaming

**Attachment 2 - Hosting a Gambling Facility – A Local Government Information Package on the Public Health Risks of Gambling**

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**HOSTING A GAMBLING FACILITY**

A Local Government Information Package  
on the Public Health Risks of Gambling



Ministry of  
Attorney General  
Ministry of  
Health



**CENTRE for  
GAMBLING  
RESEARCH  
at UBC**

**MINISTRY OF ATTORNEY GENERAL  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General

**ISSUE:**

Meeting with the Law Society of British Columbia: Law Society regulation and guidance for lawyers practicing commercial and real estate law.

**SUMMARY:**

- The Attorney General is meeting with the Law Society of British Columbia ("Law Society") on Thursday March 15, 2018, to discuss issues raised in correspondence received by the Attorney General from s.22
- In his correspondence, s.22 outlined his concern that the Law Society has insufficient procedures in place to regulate its members when dealing with offshore buyers of real estate and the receipt of offshore funds. s.22 suggests that there should be no doubt as to the standard to be met as it applies to real estate transactions or other matters involving off-shore money and that this requires practice directives, advisories and rules.
- In response to correspondence from the Attorney General, the Law Society advised that the Law Society takes seriously its responsibilities to ensure lawyers do not engage in the conduct raised and does, in fact, have rules in place. Also, the Law Society advised that there are a number of initiatives that have been underway at the national and provincial level, regarding limitations on cash transactions, client identification requirements and the appropriate use of trust accounts.

**BACKGROUND:**

- On January 29, 2018, s.22 raising his concerns regarding what he views as insufficient Law Society procedures for regulating the legal profession's dealings with offshore buyers of real estate and the receipt of offshore funds (Appendix A).
- s.22
- In his letter, s.22 published reports and anecdotal evidences indicates that the "robust" regulations of its members by the Law Society has not been applied to lawyer involvement in real estate transactions that have an offshore component.

- He also states that the Law Society has not issued any practice directive, advisory or rule to provide guidance to the legal profession as to the best practices in handling transactions involving the receipt of offshore funds, and that there have not been any published conduct reviews or citations involving off-shore funding of real estate transactions.
- s.22 writes that members of the legal profession have varying views as to the due diligence necessary in dealing with off-shore parties and off-shore funding, and that there should be no doubt as to the standard to be met as it applies to real estate transaction or other matters involving off-shore money.
- With his letter, s.22 s.22
- s.22 state that the panel's decision is based in part on commentary notes to a rule contained in the Code of Professional Conduct for British Columbia, which states that, if a lawyer has suspicions or doubts about whether he or she might be assisting a client in any dishonesty, crime or fraud, the lawyer should make reasonable inquiries to obtain information about the client and about the subject matter and objectives of the retainer.
- The "Comments of the Respondent" state that the work required to make reasonable inquiries would be time consuming, expensive and may prove to be impossible in some circumstances. Also, that it will be a judgment call by lawyers as to whether sufficient inquiries have been made, with a risk that the Law Society may not agree, given the absence of any specific guidelines.
- On February 26, 2018, the Attorney General responded to s.22, indicating that he agrees that the issues raised are serious and that he has asked the Law Society to consider these topics at an upcoming meeting of the benchers (Appendix B).
- The Attorney General subsequently wrote Mr. Don Avison, the Executive Director and Chief Executive Officer of the Law Society requesting that these issues be addressed at a meeting of the benchers (Appendix C).
- On March 2, 2018, Mr. Avison responded, indicating that the Law Society does have rules about lawyers accepting cash, together with rules requiring lawyers to identify their clients when providing legal services and to verify their clients' identification when providing legal services in respect of a financial transaction (Appendix D).
- Mr. Avison also stated that, at their March 2, 2018, meeting, benchers were briefed regarding a number of initiatives that have been underway at the national and provincial level, for some time, regarding limitations on cash transactions, client identification requirements and the appropriate use of trust accounts.

- Mr. Avison indicated that he would be pleased to discuss these initiatives and rules, together with the information the Law Society has provided to the profession relating to its rules and enforcement processes.

**Prepared by:**

Andrea Buzbuzian  
Legal Counsel  
Justice Services Branch  
s.17

**Approved by:**

Julie Williams  
Executive Director  
Justice Services Branch  
s.17

**Approved by:**

Kurt Sandstrom, QC  
Assistant Deputy Minister  
Justice Services Branch  
s.17

**Attachment(s)**

Appendix A – s.22  
Appendix B –  
Appendix C –  
Appendix D –

Page 28 to/à Page 32

Withheld pursuant to/removed as

s.22



THE CANADIAN  
BAR ASSOCIATION  
British Columbia Branch

## On our doorsteps: Money laundering in Canadian real estate

April 24, 2017 Adam Ross, White Label Insights

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Page 34 to/à Page 39

Withheld pursuant to/removed as

Copyright

s.22

Dear s.22

Thank you for your letter of January 29, 2018, regarding issues related to the Law Society of British Columbia's s.22

In your letter, s.22 a number of issues raised and adjudicated upon in this matter have implications for lawyers who practice in the area of commercial and real estate law. In particular, you raise a concern that, s.22 the Law Society does not have sufficient procedures in place to regulate its members when dealing with offshore buyers of real estate and the receipt of offshore funds. I also note your assertion that the Law Society has not issued any practice directive, advisory or rule to provide guidance to the legal profession as to best practices in handling transactions involving the receipt of offshore funds.

I agree that these are serious issues, and I have asked the Law Society to consider these topics at an upcoming meeting of the benchers.

I appreciate your taking the time to raise these important issues.

Yours truly,

David Eby, QC  
Attorney General

546133

Mr. Don Avison  
Executive Director and Chief Executive Officer  
The Law Society of British Columbia  
845 Cambie Street  
Vanouwer BC V6B 4Z9

Dear Mr. Avison:

I am writing to you with respect to correspondence that I have received from a s.22  
s.22

In that correspondence, the s.22 has raised an issue which, in the view of the s.22  
s.22, has implications for lawyers who practice in the area of commercial and real estate law.  
In particular, the s.22 raised a concern that, in the s.22, the  
Law Society does not have sufficient procedures in place to regulate its members when dealing  
with offshore buyers of real estate and the receipt of offshore funds. The s.22 also  
asserted that the Law Society has not issued any practice directive, advisory or rule to provide  
guidance to the legal profession as to best practices in handling transactions involving the receipt  
of offshore funds.

I am now writing to you to request, as a benchner under the *Legal Profession Act*, that these issues  
be addressed at a meeting of the benchers.

I look forward to your response.

Yours truly,

David Eby, QC  
Attorney General

546133

# The Law Society of British Columbia



March 2, 2018

Honourable David Eby  
Attorney General  
Parliament Buildings  
Victoria, BC V8V 1X4

Dear Attorney General Eby,

Thank you for your letter of February 26, 2018, which we received March 1.

The Law Society takes seriously its responsibility to ensure lawyers do not engage in the conduct you raise in your letter.

Donald J. Avison

Executive Director/Chief Executive Officer

The Law Society does, in fact, have rules about lawyers accepting cash, together with rules requiring lawyers to identify their clients when providing legal services and to verify their clients' identification when providing legal services in respect of a financial transaction.

I also wish to inform you that, at their meeting of March 2, 2018, Benchers were briefed regarding a number of initiatives that have been underway at the national and provincial level, for some time, regarding limitations on cash transactions, client identification requirements and the appropriate use of trust accounts. I believe it is important for you also to know that, as always, we look to develop useful guidance to the profession focused on protecting the public.

We would be pleased to discuss these initiatives and rules, together with the information we have provided to the profession relating to the rules and our enforcement processes, with you. Given the importance of the matters you raise, we would suggest an early meeting so we can address any matters that may concern you.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Avison", is written over a horizontal line.

Don Avison

## INFORMATION NOTE

British Columbia Lottery Corporation

Date: March 15, 2018

# Cooper AML Story RE: VIP Host Deregistered

### KEY FACTS:

On February 15, 2018, Postmedia published a story as part of reporter Sam Cooper's series on allegations of money laundering and related illegal activities in B.C. casinos:

<http://vancouversun.com/news/local-news/river-rock-casinos-top-vip-hostess-no-longer-at-the-casino-following-de-registration>

In his article, Cooper outlines how and why a former River Rock Casino employee and VIP host had her GPEB registration revoked, despite her appeal and a recent review of the decision by GPEB. According to the article, the de-registration decision was upheld on February 2, 2018.

On December 4, 2017, Great Canadian Gaming Corporation informed BCLC that GPEB had revoked its gaming-worker registration from a River Rock Casino employee who had worked as a VIP Host there since 2012. The revocation followed an investigation into allegations of third-party cash buy-ins, which BCLC and GCGC had brought to GPEB's attention. BCLC is unaware of how Sam Cooper initially received information for this story. BCLC did not receive a request for comment regarding the February 15 story.

The article reports an investigation is ongoing into allegations against Gao:

*"Postmedia sources state Lisa Gao, the casino's former director of VIP guest relations, allegedly called a third party to arrange a cash delivery for a VIP gambler at the casino and that action violated anti-money-laundering regulations. As a result, Gao was investigated by B.C.'s Gaming Policy and Enforcement Branch in November 2017 and her registration was revoked. All gaming industry workers must be registered with the B.C. government."*

*The enforcement branch decision was reviewed and upheld, and on Feb. 2 River Rock Casino's general manager of operations Michael Kim sent a note to staff stating in part, 'This is to announce the departure of Lisa Gao, director VIP guest relations, River Rock Casino Resort'*

*The B.C. Ministry of Attorney General would not confirm whether Gao had been investigated, due to privacy reasons. The ministry did confirm that in early November the enforcement branch began investigating an employee at River Rock Casino, 'after it was alleged the employee acted in direct violation of B.C. Lottery Corp. and Fintrac (Canada's anti money-laundering agency) directives about third-party cash buy-ins.'"*

### BCLC Background:

- River Rock Casino Resort surveillance created the original incident file on September 13, 2017, citing a cash buy-in as an unusual financial transaction including \$200,000 in \$100 bills and suspicious source of the bills. In addition, a Section 86 report was sent to GPEB. The following morning, September 14, 2017, BCLC's AML Unit conducted a regular follow-up investigation that uncovered that the individual involved in the transaction had met with <sup>s.22</sup> prior to the buy-in and then left the casino with the \$200,000 in chips without playing.
- BCLC's investigation also uncovered that the person who made the unusual financial transaction was doing so on behalf of his employer, who was, and still is, barred from B.C. casinos and that it appeared <sup>s.22</sup> facilitated the transaction.

- BCLC's AML unit notified GPEB on September 14, 2017 of s.22 observed involvement in the transaction.
- GPEB subsequently commenced its own investigation on September 15, 2017.
- On December 4, 2017, Great Canadian Gaming Corporation informed BCLC that GPEB s.22 s.22
- On December 8, 2017, BCLC received formal notification from GPEB that s.22 s.22 on November 24, 2017. GPEB upheld this decision as part of an administrative review.
- Without gaming worker registration, s.22 is not permitted to work in any gaming role in B.C.
- BCLC submitted a report to FINTRAC detailing the circumstances of the transaction and parties involved. As per BCLC practice, BCLC also sent the report to the Joint Illegal Gaming Investigation Team (JIGIT).
- BCLC's AML Unit conducted in-depth due diligence inquiries and background checks of all the individuals believed to be involved or in any way associated to this occurrence.

The article concludes with information about BCLC's record casino profits in 2014, when concerns around VIP play and cash, and around the time s.22 was employed, also occurred:

*"Problems surrounding cash lenders and VIPs at River Rock have been raised with Great Canadian Gaming executives since at least 2014. In August, 2014, Business in Vancouver reported that Great Canadian had posted the highest quarterly revenue in its history, and the skyrocketing profits were due to a surge in gambling at River Rock Casino. The story stated River Rock's success was due to wealthy Asian visitors that also frequent Macau and Las Vegas casinos."*

#### **BCLC Background:**

- BCLC and Great Canadian Compliance departments noted the substantial increase in cash buy-ins through 2014. Both organizations began to monitor the circumstances closely and improve AML controls in response to the increase.
  - Beginning in early 2014, BCLC's AML Unit began interviewing VIP players to review their play history, specific incidents of concern, relationship with other players and knowledge of potential loan sharking or illegal gambling dens.
  - In June 2014, BCLC implemented an extreme-risk undesirable barring program by imposing five-year BCLC barrings from all B.C. gaming facilities to any individual identified as posing a public safety risk.
  - In April 2015, BCLC initiated its sourced-cash condition program in an effort to gather intelligence in relation to identified high-risk players, by requiring them to prove their cash was coming from a legitimate source. The program was instrumental in the downward trend of Large Cash Transactions (LCTs) in B.C. casinos.
  - During the introduction of the program, BCLC started more in-depth source of funds inquiries and started imposing cash conditions on a limited basis for highest-risk players bringing in large amounts of cash into Lower Mainland casinos, including those claiming their professions to be housewives and students. As part of the program, BCLC interviewed players and placed them on sourced-cash conditions if it was unable to source a player's funds but suspected they were coming from underground banking operations, or if BCLC received police information that funds were coming from people associated with criminal activity.
  - Sourced-cash conditions also resulted in a decline in Suspicious Transaction Reports (STR), triggered often by buy-ins with small denomination bills from unconfirmed sources.

- In April 2015, BCLC requested GPEB approval of three cash-reduction initiatives: cash (sourced) deposits to Patron Gaming Fund (PGF) accounts\*, delimit to convenience cheques, and international electronic fund transfers. In July 2106, GPEB responded formally that BCLC does not require GPEB approval for the specific proposals. (\*Note: Any cash deposit to a PGF must be verified winnings, drafts or re-deposits. This ensures that when PGF funds are returned to a customer, the funds are sourced, therefore not suspicious in nature.)
- In October 2016, BCLC fully implemented its Source of Funds program by way of a directive, as well as a program to refuse cash buy-ins for dropped off cash. In any instance where it was determined that the cash was delivered, the buy-in was to be stopped, an incident file created and buy-in refused. BCLC's AML Unit was alerted real time and would conduct a follow up investigation by restricting player gaming play pending an interview with the player to determine source of cash details.
- During 2014, BCLC and Great Canadian identified a number of individuals involved in suspicious financial transactions of what appeared to be cash facilitation/loans to casino VIPs. In addition to tightening its own controls, BCLC and Great Canadian compliance officials met with both RCMP and GPEB to outline their concerns about the increases in large cash and suspicious transactions. Both organizations requested that the RCMP and GPEB investigate a number of identified individuals for suspected proceeds of crime money transactions.
  - BCLC met with CFSEU at RCMP headquarters in Surrey on April 16, 2014 to reiterate the concerns about Paul Jin (originally reported by BCLC to RCMP in 2012) and his associates as cash facilitators for casino VIPs, and to request that police investigate.
  - BCLC and Great Canadian hosted a meeting and tour of River Rock Casino for CFSEU on June 19, 2014 and as part of this identified to police Jin and his associates, and their typical habits related to cash facilitation.
  - BCLC met with RCMP FSOC and made a formal complaint in relation to Paul Jin on February 12, 2015. This resulted in BCLC placing ten players on cash conditions due to their associations with Jin. BCLC also conducted enhanced due diligence on these players, and monitored their activities more closely to ensure they did not use other players to circumvent their cash conditions.
  - On April 5, 2015, RCMP FSOC advised BCLC that it had started an investigation.
- BCLC informed GPEB of these developments. BCLC is not aware if GPEB commenced its own investigation, however, the RCMP started an investigation (E-Pirate) on April 29, 2015 and BCLC was of the understanding that GPEB was aware of this.

Program Area Contact:

Laura Piva-Babcock

T: 250-828-5576

## INFORMATION NOTE

**British Columbia Lottery Corporation**

**Date:** March 15, 2018

# Cooper AML Story RE: Jin Connections with Casino Staff

### KEY FACTS:

On February 24, 2018, Postmedia published a story as part of reporter Sam Cooper's series on allegations of money laundering and related illegal activities in B.C.

casinos: <http://vancouversun.com/news/local-news/police-probed-calls-made-from-burnaby-casino-to-e-pirate-suspect-paul-king-jin>

In his article, Cooper outlines allegations by an unnamed source that B.C. casino staff helped facilitate third-party transactions and other questionable practices, such as identifying high-level players for illegal loan sharks, primarily at the River Rock, but also Grand Villa and Starlight Casinos. Most of the allegations date back to 2010.

The article reports that, according to government documents, RCMP met to discuss casino staff members allegedly aiding Jin and his money-laundering network in 2015:

*"At an August 2015 'Jin file' meeting, members of RCMP's federal serious and organized crime unit reviewed information about several calls that were made to Jin from inside Grand Villa casino in June 2015, documents show. A Postmedia source with knowledge of the Jin file said investigators established the calls were made from a cellphone registered to the casino. The information raised concerns for investigators that a casino staffer might be involved in facilitating cash deliveries from Jin's network, the source said. After initial meetings on the calls made from the Burnaby casino to Jin's phone, it was unclear if investigators ever identified a suspect among casino staff, a source said.*

*"The documents also say that in multi-agency meetings about Jin, RCMP investigators expressed their perception that B.C. Lottery Corp. leadership seemed unwilling to tackle what police viewed as a clear problem of huge volumes of suspicious cash flooding B.C. casinos."*

### BCLC Background:

- As clarified in the article, Gateway Casinos & Entertainment – the Service Provider for Grand Villa and Starlight Casinos – contacted the RCMP directly and obtained confirmation that it was not in fact investigating alleged calls made to Jin from inside Grand Villa.
- RCMP has never communicated to BCLC its alleged concerns regarding a perception that BCLC was unwilling to address suspicious cash concerns.
- BCLC in fact alerted the RCMP to concerns regarding suspicious cash, and supported RCMP members with a presentation designed to encourage an investigation into the concerns.
- As part of its anti-money laundering program, BCLC works collaboratively with RCMP and GPEB by sharing all suspicious financial transaction reports submitted to FINTRAC. This practice has been in place since 2009.
- In 2014, resulting from new legislated requirements set out in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, BCLC increased its customer due diligence efforts to include more in-depth interviews with customers to determine their source of cash and source of wealth.
- In 2014, BCLC identified a number of suspicious cash transactions occurring at Lower Mainland casinos and reported those concerns to the Combined Forces Special Enforcement Unit (CFSEU), Financial Stability Oversight Council (FSOC) and GPEB, requesting that they investigate. BCLC also continued to implement additional anti-money laundering (AML) controls in response.



The article reports questionable behaviour amongst some VIP casino staff is not an isolated incident:

*"It is not uncommon for staff in BCLC casinos to be accused of inappropriate contact with illegal cash lenders, Postmedia's review of gaming enforcement branch reports shows. Most recently, prominent River Rock Casino VIP hostess Lisa Gao, who oversaw all high-limit betting operations, was de-registered and lost her job in February after an enforcement branch investigation into allegations that she 'acted in direct violation of BCLC and Fintrac directives about third party cash buy-ins.'"*

#### **BCLC Background:**

- BCLC submitted a report to FINTRAC detailing the circumstances of a suspicious financial transaction involving s.22 and others on Sept 13, 2017. As per BCLC practice, BCLC also sent a copy of the report to the Joint Illegal Gaming Investigation Team (JIGIT), GPEB and Criminal Intelligence Service of B.C.
- BCLC's AML unit notified GPEB of the circumstances surrounding the incident on Sept 14, 2017. GPEB registration subsequently commenced its own investigation and cancelled the gaming worker registration of s.22 on November 24, 2017, a decision that was upheld following a GPEB review.
- BCLC's AML Unit conducted in-depth due diligence inquiries and background checks of all the individuals believed to be involved or in any way associated to this occurrence, which involved a River Rock VIP host s.22 assisting an individual to purchase chips on behalf of his employer – not allegations of illegal cash lending as the reporter states.

Further in the article, Cooper reports specific cases of VIP staff investigations in 2010:

*"Documents obtained by Postmedia through freedom-of-information show that, since 2010, the enforcement branch has investigated a number of cases involving VIP staff at Metro Vancouver casinos.*

*"Another BCLC investigation report talks about 'allegations of improper activities by VIP hosts and allowing loan sharks to operate' at Vancouver's Edgewater Casino in June 2010. The case was not initially reported to police, the document says. BCLC has yet to respond to a request for information on the outcome of this case.*

*"Another BCLC investigation file says that in September 2010, at Burnaby's Grand Villa casino, suspects were involved in a third-party exchange of cash. One gambler cashed out \$110,000 worth of chips, but only pocketed \$10,000. Next, an unidentified person was observed 'placing the rest (of the money) into a bag, supplied by a VIP host, and carrying the money out of the casino.'*

*"The redacted document does not explain whether the VIP host was investigated in this suspicious large cash exchange transaction.*

*"Another September 2010 BCLC investigation file at the Burnaby casino alleges 'possible loan sharking activity in the VIP room.'*

*Police were not called initially in either case, BCLC documents show."*

#### **BCLC Background:**

- BCLC and its Service Providers noted the incidents described in this article and reported them to GPEB.
- During this period, BCLC, with reports from Great Canadian and Gateway, identified a number of individuals involved in what appeared to be cash facilitation and other suspicious financial transactions. In addition to tightening its own controls, BCLC and Service Provider officials met with both police and GPEB to outline concerns and request the police and GPEB investigate a number of identified individuals for suspected money-laundering transactions.

- BCLC met with CFSEU at RCMP headquarters in Surrey on April 16, 2014 to identify Jin and associates as cash facilitators for casino VIPs, and to request that police investigate.
- BCLC and Great Canadian hosted a meeting and tour of River Rock Casino for CFSEU on June 19, 2014 and as part of this identified to police Jin and his associates, and their typical habits related to cash facilitation.
- BCLC met with RCMP FSOC and made a formal complaint in relation to Jin on February 12, 2015.
- On April 5, 2015, RCMP FSOC advised BCLC that it had started an investigation.
- RCMP FSOC started an investigation (E-Pirate) on April 29, 2015.
- Regarding a reference that BCLC did not respond to the reporter's question related to an incident at Edgewater:
  - BCLC received a request from Sam Cooper on October 2, 2017 about the possibility that casino staff was bribed, between 2012 and 2015, to somehow facilitate the ability of VIP players to cash out in ways that would allow them to facilitate money-laundering activities.
  - BCLC responded to that request on October 10, 2017, noting that BCLC has no authority to conduct criminal or regulatory investigations; however if either of these circumstances were to occur and BCLC were to become aware, BCLC would immediately report to the police and to the Provincial Gaming Regulator (GPEB) to investigate.

Program Area Contact:

Laura Piva-Babcock

T: 250-828-5576



## **BRIEFING NOTE**

### **CLIFF #547413**

**Prepared for:** **Hon. David Eby, QC,**  
Attorney General and Minister Responsible for ICBC  
**FOR INFORMATION**

**Subject:** Material Damage Fraud Prevention

**Issue:** Aviva insurance in Ontario and CTV W5 have conducted an investigation into auto body repair shop fraud. ICBC is taking measures to combat fraud within the collision repair industry in British Columbia.

#### **Background:**

- On March 10, 2018, W5 aired the results of an investigation with Aviva Insurance across the Greater Toronto Area regarding the extent of auto body repair shop fraud in the insurance industry in Ontario.
- Aviva estimates auto repair fraud across Ontario to be as high as \$547 million annually, as high as \$91 million in Alberta, and that other provinces would likely have similar experiences.
- As part of the investigation, Aviva purchased 10 cars and crashed them on purpose, evaluated the damage and then placed the damaged vehicles on provincial highways.
- After the vehicle repairs were completed, W5 found that:
  - Nine out of the 10 scenarios contained evidence of auto body shop fraud;
  - On average, 57% of the repair work was fraudulent;
  - Deliberate additional damage was done to the vehicles;
  - In nine out of the 10 cases, they were billed for new parts when sub-standard parts were used, repairs to existing parts were done or the auto shop did not repair or replace the part at all;
  - Only one auto body shop provided an honest invoice for work;
  - Aviva was invoiced for towing and storage services that did not occur; and,
  - Consumer abuse carried out by tow truck operators included:
    - discouraging the use of Aviva's accredited auto body shops,
    - towing a vehicle without proper consent, and
    - requesting a driver sign a blank work order.

#### **Discussion:**

- Fraud is inherently difficult to quantify because its goal is to remain undetected. ICBC does not have a reliable estimate on the percent of auto body repair claims which contain an element of fraud or exaggeration; however, industry studies suggest that 10-20% of all property and casualty (P&C) claim costs have an element of fraud or exaggeration.

### *Key Differences between collision repair operating models in BC and Ontario*

- In BC, towing from accident scenes or from the side of the highway is generally controlled by RCMP and municipal police who select, on a rotational basis, tow companies that are ICBC suppliers. These controls are one factor in helping deter collusion between towers and collision repair facilities.
- In BC, towers remove damaged vehicles from the accident scene and transport them to a secure tow yard where the vehicle is typically stored until the vehicle customer reports an insurance claim to ICBC.
- ICBC's collision repair operating model ensures that the damaged vehicle is either towed to an ICBC facility for damage assessment or triaged by an ICBC estimator prior to being towed to a collision repair facility of the customer's choice.
- In Ontario, some tow truck drivers are paid a referral fee by auto body repair shops to have damaged vehicles towed to their facility. To recover these referral fees, tow truck drivers and vehicle repair or body shops may "pad" their invoices by inflating repair and towing costs.
- These tow truck drivers/companies that get referral fees in Ontario are referred to as 'Chasers' and are often controlled or owned by auto body repair shops who insurers may not typically conduct business with. Based on ICBC's business model, ICBC's customers' ability to choose their auto body shop and ICBC's front end controls, it is unlikely that this scheme would be happening in BC to the scale as it may be in Ontario.

### *ICBC auto body repair governance and controls*

- In BC, all estimates for ICBC claims are either written by ICBC or written by a contracted preferred supplier within the ICBC Express Repair Program.
- Estimates written by contracted preferred suppliers under the Express Repair Program must adhere to standards as set out in ICBC Policy and Procedures and Program Guides.
- Deviation from the contract could result in the supplier receiving escalating sanctions, such as removed marketing, reduced authorities and reduced labour rates. Continued non-compliance could result in removal from the program (contract termination).
- ICBC has a comprehensive material damage governance model which consists of monitoring and promoting the auto body shops' performance and compliance with ICBC's policies and standards; and, minimizing financial risks to ICBC through the use of appropriate front-end controls (estimate reviews, site visits) and back-end controls (key performance indicators, audits, performance reviews).
- ICBC also manages auto body repair shop risk through the use of predictive risk analytics, targeted risk-based audits, annual corporate audit leakage reviews and compliance report history.
- ICBC reviews and approves estimates and supplements (an addition to the

## ICBC BRIEFING NOTE

original estimate when additional damage is found after the original estimate) that exceed the supplier's earned authority, as an approved repair facility, before repairs can begin. s.15,s.17  
s.15,s.17

- ICBC estimating staff also initiate site visits which are either pre-arranged or unannounced at an Express Repair shop which enables potential issues, including inaccurate judgment times, poor parts choices, repair vs. replace decisions, and repairing unrelated damage, to be detected and addressed.
  - These site visits help mitigate the risk to the customer by ensuring safe, quality repairs while exercising financial controls to support claim cost management.
  - The regular physical presence of ICBC estimators at auto body shops also serves as a fraud deterrent, encourages shop compliance and building and improving relationships with industry.  
s.15,s.17
- 
- ICBC may initiate compliance audits for any shop based on specific triggers including: results of past compliance reviews; poor key performance indicator results; customer complaints; or, regularly scheduled audits. The purpose of an audit is to determine whether an Express Repair shop is complying with ICBC's policies and standards as stated in the applicable program guides.
  - While ICBC relies heavily on compliance audits, ICBC's Special Investigation Unit (SIU) also investigates body shops where fraud is suspected.  
s.15,s.17
- 
- ICBC employs a progressive discipline approach with escalating sanctions for repeat or significant misconduct. Sanctions can include loss of earned authority; removal from ICBC's Locate-a-Service tool on icbc.com; and, lower labour rates. Sanctions are imposed with the expectation that the shop strives to improve its overall performance before being terminated from the program.
  - Termination of a contract is administered through a submission to ICBC's Supplier Conduct Committee. Since 2012, ICBC has terminated 9 contracts, specifically:  
s.17

## ICBC BRIEFING NOTE

s.17

- Common issues identified which contributed to contracts being terminated include billing for labour not performed; billing for parts not supplied; billing for rental vehicles not provided; completing unsafe vehicle repairs; and, failure to meet minimum program requirements.

### Next Steps / Conclusion

- ICBC currently employs 226 Material Damage Estimators and is in the process of recruiting approximately 60 additional estimators – a more than 25% increase – in fiscal year 2018/19. This increase in estimators is intended to ensure appropriate staffing levels and increase ICBC's visible presence in auto body repair shops to help manage claims costs and reduce fraud.
- ICBC is committed to looking at its current SIU policies for conducting limited undercover operations with a view to broadening its use as an investigative tool.
- ICBC is working with collision repair shops and industry associations on changes that will modernize the current tiering of auto body suppliers. The redesign of these programs will help improve efficiencies, program governance and ensure customers receive the highest standards of vehicle repairs at the best market value.

#### ICBC Key Contact:

Chris Tupper  
Manager, Policy and Partnerships  
Phone: s.17  
Email: [chris.tupper@icbc.com](mailto:chris.tupper@icbc.com)

#### ICBC Business Area Contact:

John Wood  
Sr. Director, Strategic Support Services  
Phone: s.17  
Email: [john.wood@icbc.com](mailto:john.wood@icbc.com)

**Date: 12 March 2018**

#### APPROVALS

BUSINESS AREA CLT:	<u>John Wood, March 9, 2018</u>
DIR. COMMS & STKHDR GOV:	<u>Lindsay Matthews, March 9, 2018</u>
MGR. POLICY & PARTNERSHIPS:	<u>Chris Tupper, March 9, 2018</u>

**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY & ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Honourable David Eby, QC  
Attorney General

**ISSUE:**

On 28 February 2018 a complaint was received from a member of the public s.22 concerning a thoroughbred horse race in August 2017. It expresses concern that public money, through a prize purse, was paid in a race where a single owner was the beneficiary of all horses racing.

The race at issue was conducted within the rules and regulations governing horse racing. The issue and complaint at hand is how a race may be run, and prizes paid, where a single owner is responsible for all of the competitors.

**SUMMARY:**

A similar complaint about the same race (from a different complainant) was received on August 3, though that complaint alleged violation of racing rules. GPEB conducted an investigation into the August 2017 complaint using investigators and an auditor independent of the horse racing unit. The investigation conducted found that there had been no violation of the rules of racing, and that racing policy changes as to how many entrants are required to run a race, and when a race is guaranteed to proceed, had all occurred within the of competence of the industry associations.

The Horse Racing Industry Management Committee (HRIMC) is responsible for the financial administration of government support to the horse racing industry, approximately \$14.1 million annually. This comprises 39% of total revenue in the industry by current estimates. HRIMC disseminates funding to breed associations and the track operator. In turn, the breed associations in consultation with the track operator establish the policy in respect of racing and wagering thereon.

Although a change in policy was enacted by the relevant Thoroughbred association that permitted the running of the race and the payment of the prize purse, this change was found to be within the competence of the association in setting the policy.

In part, government financial support of the horse racing industry follows a Cabinet direction, last updated in late 2012. At that time, pursuant to a request from HRIMC, government support to the two breeds was increased to 25 per cent of slot machine net win at each of the two horse racing tracks.

In addition to the take from slot machine revenue, HRIMC is also provided a refund on all but \$1.9 million in horse racing betting fees collected each year.

As at the end of the 3<sup>rd</sup> quarter of fiscal year 2018, \$10.4 million has been paid to the industry. Currently GPEB forecasts a total return to the industry of approximately \$14 million for the year.

## **BACKGROUND:**

### *Regulatory Structure*

- Horse racing is regulated separately from lottery schemes under the *Criminal Code of Canada*. BCLC does not have authority over conduct and management of horse racing, and the federal government holds concurrent jurisdiction over betting on horse racing. The federal agency responsible is the Canadian Pari-Mutuel Agency (CPMA).
- The General Manager has statutory authority for regulating horse racing. Unlike other types of commercial gambling, the private sector is responsible for conduct and management of horse racing through breed associations. The General Manager has broad authority to set the rules of racing, license participants, govern the conduct of the breed associations, affect the distribution of prize purses and horses where ownership transfers as part of a race, and sanction participants for rule violations.
- In 2009, HRIMC was established to address overall financial management in the horse racing industry and work towards sustainability. HRIMC has authority over conduct and management of horse racing in BC. It is comprised of representatives from the Standardbred breed association, the Thoroughbred breed associations, the track operator (Great Canadian Gaming Corporation) and an independent member, currently Jim Lightbody, CEO of the British Columbia Lottery Corporation (BCLC). Mr. Lightbody's appointment is not *ex officio* of his role at BCLC. GPEB's Director of Horse Racing (Michael Brown) sits on the HRIMC as non-voting observer.

### *Financial Structure*

- Further to a direction of the then-Minister, GPEB distributes 25% of the net gaming income attributable to slot machines at the two racing facilities to the breed associations.
- GPEB also refunds all but \$1.9 million of revenue received from horse racing betting fees back to the breed associations.
- The total return to the breed associations in 2016/17 totaled \$14.1 million.
- By policy established by HRIMC, all revenue received by the industry is pooled, and allocated to the Thoroughbred association (33.6%), the Standardbred association (23.2%) and the track operator (43.2%). The track operator is a wholly captive entity of the Great Canadian Gaming Corporation.
- Purses in Thoroughbred racing are funded through both money received from HRIMC and fees paid by participants in the various types of races.
- Total wagering on live horse racing in British Columbia is now approximately \$8.1 million, reflecting an ongoing decline in the industry.
- Government financial support of the industry is at the discretion of Cabinet and not as a consequence of the *Gaming Control Act*.



### *August 2 Race*

- In material part, the GPEB investigation found that:
  - On or about 23 July 2017 the Thoroughbred associations met and formulated a policy change concerning Stakes races that would avoid the cancelation of races for insufficient entries. That policy was announced to the public on 1 August 2017 and the subject race was conducted the following day. All of the entries on the race were owned by a single owner, and prize money totaling \$25,000 was paid;
  - The Thoroughbred associations are permitted to adjust policy to the extent that there is no violation in the rules of racing as established by the General Manager. In this case the Stewards were aware of the policy change and determined the change did not amount to a breach of Thoroughbred racing rules.
  - The investigation noted that the rule change had not been communicated through the official channel as effectively as possible and recommended that the policy concerning racing when participants are of a single owner be reconsidered.
  - The rule change is generally consistent with the common desire of the industry, whether Thoroughbred or Standardbred, to have an opportunity to race horses in a way that supports the development of the animals. In the case of Thoroughbreds, the intention to race a horse must be declared early in the animal's life, necessitating long lead times (and therefore financial commitment) in order to be prepared for racing.

### *Authority to Regulate Horse Racing*

- GPEB is responsible for the overall integrity of horse racing under Section 27 of the Gaming Control Act, which also prohibits the Branch from engaging in conduct and management of horse racing. The General Manager has extensive authorities related to the regulation of horse racing such as issuing licences to hold a horse race or to manage or operate a race track.
- The Act also confers broad power on the General Manager to set rules respecting horse racing, including:
  - Specifying certain duties the associations (the breed associations in respect of this issue) must perform in relation to horse racing; and
  - [Making rules of racing] including the redistribution of purse money.
- The complaint under consideration concerns the distribution of the prize money and a lack of transparency in the process concerning racing policy.
- The General Manager could consider establishing a rule requiring the breed associations to make public the conditions under which purses may be paid where all participants have a single beneficial owner, and to periodically publicly report on the occasions where this occurs.
- To improve transparency, the General Manager could consider establishing a rule requiring the breed associations to establish communication protocols for the communication of racing policy. Such a rule could improve transparency in policy setting for the industry.

**Prepared by:**  
Dave Boychuk  
Director  
Operations Division  
s.17

**Approved by:**  
John Mazure  
Assistant Deputy Minister and General  
Manager  
Gaming Policy and Enforcement Branch  
s.17