



## SA's gambling dispensation has delivered significant benefits, but concern remains about illegal and informal gambling



*South Africa's gambling dispensation 15 years on has achieved significantly what it set out to do. This has been due to a carefully thought through regulatory environment which has meant that legalisation has brought significant economic benefits and social costs have been effectively mitigated, says Professor William R Eadington, Professor of Economics at the College of Business Administration and Director of the Institute of the Study of Gambling and Commercial Gambling, University of Nevada at Reno, USA.*

"In 1997 during one of my first visits to South Africa, I recommended that the country adopt a gaming industry which, on balance, will be viewed in a positive light ten years after opening. The country has introduced restricted casino licenses, along with transparent bidding processes encouraging bidders to sweeten their tenders with public benefit projects and Black Economic Empowerment. These seem to have been very successful, with public benefit projects such as the International Convention Centre in Cape Town and the Apartheid Museum in Johannesburg and other local amenities and visitor attractions integrated into casino projects.

"The South African government has also succeeded in keeping tax rates at realistic levels to encourage resort developments with adequate non-gaming amenities and assets – integrated resorts as opposed to gambling-only facilities. They have also ensured limited availability of casino-style gaming to the general public, and citizens have to make a commitment to go gambling,

rather than having it always immediately available. This has made it easier to impose constraints to protect the vulnerable (under-age or problem gamblers).

"The public-private sector partnership in the form of the National Responsible Gambling Programme has also worked particularly well and problem gambling levels have been kept within international norms, with no growth in the problem over recent years.

"Ultimately, good regulation means that the casino industry is often more transparent than industry as a whole."

However, Eadington said that some issues of concern in South Africa remain the existence of illegal gambling, particularly in certain provinces and the growing role of unregulated gaming devices, especially in Gauteng. "This essentially violates the implicit contract with companies which won gaming licenses through a bidding process and which made commitments to provide public sector capital investments."

He said that South Africa had the challenge of providing gaming as entertainment to those segments of the population who can afford to gamble, but not making it so

available that the poor were at risk. This it largely has done given the price of casino access, but informal gambling in South Africa may continue to be a risk for the poor.

"South Africa may also need to look at rationalizing and streamlining the regulatory bodies given that compared to other jurisdictions, regulatory bodies are more pervasive and larger than may be necessary. There is a need for clear delineation of responsibilities and authority and concern for the efficacy of regulatory processes."

With respect to the unintended adverse social impacts associated with excessive and problematic gambling, Eadington said that the industry and academic community were gaining greater understanding into the science of - and therefore proper strategies to deal with – problem and pathological gambling. Recent trends have seen increases in private sector and government funding for treatment, research and education. South Africa is one of the few places in the world where all three critical components are integrated within the NRGP, which has been a cornerstone of its success to date.

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# Gambling review awaited with keen interest

The long and impressive list of benefits brought about by the legalised gaming industry in South Africa cannot be lost on Trade Minister Rob Davies. And, as the Gambling Review Commission appointed by the Minister late last year prepares to table its report to Parliament this month, it will be interesting to see how the Minister reacts to the Commission's recommendations.

It is a well-known fact that Minister Davies does not particularly approve of legalised gambling, and has on occasion voiced his concern over the effects of some forms of gaming, particularly the national lottery, which he believes is far too accessible for those that can least afford to gamble. The minister believes there is a danger that the country may have over-stimulated the latent demand for gambling, and faced with advances in technology that have enabled internet and online gambling, he has been forced to relook current gambling legislation with a view to assessing the impact of the industry on society and economy, and the wisdom in allowing any further forms of gambling.

And, while the Minister wrestles with the perceived perils of gambling versus its good works, he will clearly also be aware that the country's legalised casino industry has created tens of thousands of jobs, mainly from previously disadvantaged communities, pours vast amounts of money into provincial tax coffers which could be used to ease the plight of the poor, while at the same time self-policing and addressing the thorny issue of problem gambling. Taking this into account, the minister will also have to weigh the current gaming landscape and whether any further forms of pure gaming activity can be justified by the tax revenue they will generate.

Renowned gambling expert, Professor William R Eadington believes that the country's gambling dispensation - 15 years after its implementation - has significantly achieved what it set out to do as a result of a carefully thought out regulatory environment coupled with public benefit projects, Black Economic Empowerment and a purview



to mitigate social repercussions. Prof. Eadington believes that the government has been successful in ensuring the limited availability of casino-style gaming to the general public through resort-style casinos with adequate non-gaming activities and barriers to easy access such as the cost of casino entry. This, he believes, has not made casino-style gambling easily accessible and adequately allowed for the protection of the vulnerable, such as under-age and problem gamblers.

"The public-private partnership in the form of the National Responsible Gambling Programme (NRGP) has worked particularly well and problem gambling levels have been kept within international norms, with no growth in the problem over recent years," he says. "Ultimately, good regulation means that the casino industry is

often more transparent than industry as a whole."

We can only speculate as to what recommendations the final report will contain, and while it may be safe to say that the current legalized casino industry, as a well-regulated gambling sector is creating a legacy of legitimacy, the caution with which the government is pondering new forms of gambling that may not bring about the same social benefits as the casino industry, can be understood.

When the report is tabled, we may see government expediency result in some forms of planned gambling, such as dog-racing and the further roll-out of large numbers of (LPM) Limited Payout Machine slots, being sacrificed on the altar of altruism in favour of the tax revenue to be had from legalising and regulating internet gambling. While the government will be keen to curtail further forms of gambling that it may find potentially harmful through ease of access to the poorer segment of society, casinos and internet gambling which by their nature requires relative means to participate in, may not be affected detrimentally by the commission's recommendations. In fact, it is widely believed that the Commission will recommend the legislation and taxation of internet gaming for terrestrial-licensed operators in South Africa. Adding credence to this belief is the recent clampdown by regulators on internet gambling sites advertising their gambling sites to South African players via local media.

*Steve Church*

# TSOGO SUN RANKED IN TOP 10 BEST COMPANIES TO WORK FOR

**Gaming and leisure giant, the Tsogo Sun Group, has been ranked Number 8 in the overall Top 10 Best Employers in South Africa for 2010/2011 by the CRF Institute in its annual Best Employers awards, as well as being Number 1 in the Hotels & Gaming Sector, Number 4 Best Large-Sized Employer and Number 5 Best Empowered Employer.**

The Best Employers ranking is a unique international HR policy and practice benchmarking project conducted by the CRF Institute.

From its position in the Top 10 Large Companies to Work For in 2009/2010, the Tsogo Sun Group jumped into the overall Top 10 Companies to Work For, achieving a position of 8th best employer in South Africa.

The overall top ten was: SAP South Africa (Pty) Ltd; Accenture (South Africa) (Pty) Ltd; MTN South Africa, Coca-Cola South Africa; ENS; Vodacom Group Limited; Dimension Data; Tsogo Sun Group; British American Tobacco South Africa; and Becton Dickinson (Pty) Ltd (BD SA).

The Best Employers ranking is the culmination of months of rigorous research and all findings are also independently audited by Grant Thornton. Organisations are rated in the following areas: Organisation Strategy; The HR Function; Communication; Diversity Management; Corporate Social Responsibility; Knowledge Management; Talent Management and Engagement; Performance Management; and Rewards and Recognition. A total of 55 organisations have achieved certification in 2010.

The latest Best Employers research also revealed some interesting trends in the South African labour market - one of the key findings is that 71% of organisations in South Africa report a shortage of professionals in the talent pool and 38% say this critical skills shortage is constraining the execution of their business strategies.

According to Samantha Crous, CRF's General Manager, the significance of the Best Employers campaign is that it recognises that in a competitive labour market like South Africa, success lies more than ever in an organisation's ability to differentiate itself by establishing and promoting excellent HR strategies that can attract, retain and engage the right kind of talent.

"The organisations that have ranked successfully in this campaign are paving the way for other organisations in the country with regards to their forward-thinking HR strategies and employee intelligence - they show just how valuable HR excellence and high employee engagement are, particularly in tough economic times," she said.

"The organisations certified this year are of particularly high quality. They have risen to the challenge common to most during economic turbulence and have been able

to address the pressures that are inevitably part of working life. In recent years, particular emphasis has been placed on the importance of work/life balance. Indeed, with stresses mounting in an unstable economic environment, the value of interventions such as counselling services, financial advisory services, concierge services and on-site wellness facilities cannot be underestimated," says Steven Veenendaal, CEO of the CRF Institute.

"When measures such as these are in place they serve to forge a deep connection between employer and employee - employees become truly inspired to work towards the company's objectives," said Veenendaal.

Commenting on the award, Rob Collins, Managing Director of Tsogo Sun Gaming, says, "We have a firm philosophy of 'growing people to greatness', which is entrenched in our company credo - The Tsogo Way. Two of the foremost principles of The Tsogo Way are that of attracting and developing gifted people, and providing a great place to work, and we're delighted that our achievements in this regard have been recognised through this prestigious award."



## SELF AND THIRD-PARTY EXCLUSION PROCESSES IN SOUTH AFRICA: CLOSING THE DOOR TO PROBLEM GAMBLERS OR OPENING THE DOOR TO PROBLEMS?

In a recent spate of cases around the world, self-confessed problem gamblers who had previously excluded themselves from participation in gambling have sought damages and/or the reimbursement of gambling losses incurred by them from gambling operators, as a result of the alleged failure of the applicable voluntary self-exclusion programmes. In the bulk of these cases, the excluded persons managed to evade the existing detection processes, in violation of the exclusion protocol, and engaged in gambling.

As policy makers around the world continue to search for an exclusion regime which will comprehensively address these challenges, the institution of these court actions prompts reflection on whether the exclusion processes currently in place in South Africa are appropriate, accessible and effective.

The National Gambling Act, 2004, provides for two types of exclusion, namely self-exclusion, which is initiated by the problem gambler himself or herself, and third party exclusion, which can be ordered by a court upon application by a third party having some kind of connection, sufficient to constitute a compelling interest, to the alleged problem gambler. The Act provides for the establishment of a register of excluded persons, on which the identifying details of excluded persons are to be captured. To date, however, the national register has not yet been formally established.

It is manifestly in the interests of casino operators to ensure that persons, who on their own admission are problem gamblers, are effectively excluded from

participation in licensed gambling and do not access casinos. In the absence of the national register of excluded persons, casino operators make use of their internal processes to effect the exclusion of patrons wishing to bar themselves from participation in casino gambling and circulate the information to the relevant provincial licensing authorities for further dissemination to other licensees in the relevant province. However, once the national register of excluded persons has been formally established, the self-exclusion procedures contemplated in the Act will take effect. The accessibility and effectiveness of these procedures will therefore become of significant importance in the years to come.

The self-exclusion procedure put in place by the Act and the Regulations made in terms thereof is likely to be difficult to administer in practice. In effect, a person wishing to register as an excluded person is required to apply for registration. The application process requires completion of a prescribed form, known as Form NGB1/1. Although it is clear from the Regulations that the Form must be completed in an interview situation, it is not stipulated who the interviewing party should be. On the face of it, Form NGB1/1 requires the interviewing party firstly, to "establish whether the applicant (for exclusion) understands English, and if not, to establish the applicant's preferred language and arrange for an interpreter, which, in many cases, is likely to signal the end of the interview for the time being. In the event that the applicant is able to understand English, the interviewing party is then required to "establish whether the applicant is presently

under the influence of any alcoholic beverages, controlled substances or prescription medication that would prevent her/him from making a rational and informed decision regarding whether or not to execute the application". It is noted on the Form that if the applicant, when questioned on this aspect, responds in the affirmative, the interviewing party must terminate and reschedule the interview. In addition, assuming the latter hurdle has been met, the interviewing party is required to "establish whether the applicant is completing the form in her/his own free will". Again, a negative answer from the applicant terminates the interview.

There are a number of significant difficulties with the above procedure, which may ultimately impact upon both its effectiveness and accessibility. In the first instance, it would appear impossible, in most cases, for the interviewing party to "establish", as required by the Form, whether the applicant is indeed under the influence of alcohol, controlled substances or prescription medication, in the absence of an indication from the applicant that this was the case. Similarly, even if the applicant admitted to having consumed any of the substances in question at the time of the interview, it would ordinarily be impossible for the interviewing party (or the applicant) to determine whether the consumption of those substances had in fact prevented the applicant from making an informed decision regarding his/her proposed exclusion. As such, it is immediately apparent that the applicant's responses to the questions of the interviewing



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"Worldwide, scientific knowledge is expanding because of growing institutional financial support for basic research at centres like the National Center for Responsible Gambling in the US, the Alberta Gambling Research Institute and the Ontario Problem Gambling Research Centre.

"There is growing evidence that addictions are due to medical (neurological) factors, which makes it important that a distinction between excessive gambling (i.e. bingeing) and true pathological behavior must be made.

"The prevalence rates for pathological gambling have remained fairly consistent in different countries, including South Africa, with different amounts of available gambling (0.5% to 1.0%). This suggests that a change in availability does not change the prevalence of problem gambling. There is

also an increasing acceptance of constraints on selected customers who cannot gamble responsibly including self-banning and involuntary exclusion."

Professor Eadington said that amongst the global casino industry trends was the continued expansion and proliferation of legal casino-style gambling, especially in North America and Asia and the growing legal presence of internet gambling, but with ongoing legal challenges and controversies in many countries.

"In North America, the trend is currently to permit only one or a few casinos into particular markets, with limited licenses and bidding processes. However, we are also seeing the growth of 'grey gambling' – electronic bingo machines in Alabama and internet sweepstake cafes, internet poker, sports betting and fantasy sports.

"However, we have had significantly adverse effects on the industry during the Great Recession, including the collapse of real estate and commercial values in Las Vegas and write downs. Commitments to major projects or to leveraged buy-outs created substantial debt loads and cash flows have been inadequate to cover interest payments. In 2009, Harrah's, MGM, Las Vegas Sands and Boyd were all near bankruptcy in 2009, while both Station Casinos and Trump declared bankruptcy.

"In Asia, the effects of the Great Recession were briefer given the propensity of Asians to gamble being much stronger than Westerners'. Taiwan and Japan are moving towards legalization and it is likely they will adopt the South African or Australian models of limited licences with contributions to the public benefit via conditions on gaming licenses through competitive bidding process.

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party must be taken on face value, and that, from the perspective of a responsible interviewing party, any positive response by the applicant to these questions must terminate the interview. The termination of the interview for any reason is a material bar to the accessibility of the procedure, not only because it would require the prospective applicant again to visit the interviewing location (which in most cases is likely to be the casino itself), but also because it provides the prospective applicant with ample opportunity not to implement the decision. Furthermore, it is clear that, in terms of the efficacy of the procedure, it would be difficult, if not impossible, to rebut a subsequent allegation by an excluded person that the exclusion was invalid, because he or she had been unable to make a rational decision as a result of having been under the influence of alcohol or other substances, or had not been party to the interview of his or her own free will, but had failed to inform the interviewing party accordingly.

Similarly, the third party exclusion procedure contemplated in the Act requires the applicant (being a person other than the problem gambler in question) to approach a court for an order to this effect. The expense involved in such a procedure is likely to prove a deterrent to its utilisation in practice, and therefore ultimately to its efficacy.

Perhaps the most striking feature of the exclusion process put in place by the Act, however, is the relative ease with which a self-exclusion may be reversed. An excluded person may apply for the removal of his or her name from the national register of excluded persons at any time, by completing a prescribed form (Form NGB1/2) for this purpose. Although, on the face of it, Form NGB1/2 provides that documentary proof must be attached that the excluded person has "complied with any requirements of rehabilitation programmes developed for [him/her]", neither the Act nor the Regulations

place any obligation on excluded persons to submit to any such programme. In addition, there is no provision in the legislation for the refusal of such an application, or, correspondingly, the grounds upon which an application may be refused.

In order to serve their purpose effectively, exclusion procedures must be both accessible and readily enforceable. In addition, as recent international developments have highlighted, they should proceed from the recognition that problem gambling behavior is often likely to recur, even where patrons have voluntarily excluded themselves, and that therefore the absence of adequate procedural controls in the exclusion process itself may ultimately have the unintended effect of contributing to problem gambling behaviour, rather than curbing it. From this perspective, there is certainly room for improvement in the South African model.



# The latest research findings about problem

On September 17 of this year, the research team of the South African National Responsible Gambling programme was pleased to be able to present an overview of work completed, as well as current projects, to an audience consisting of regulators, industry and other NRGP representatives.

Our recent and current activity has consisted primarily of the following four studies:

## 1. National urban prevalence study (2008)

- This was successfully completed, and the full report is available from the NRGP website. Some key findings include the following:
- That problem gambling (PG) in South Africa is mainly associated with gambling in informal settings (e.g. shebeens).
- PG is not a significant problem among the very poor or the very well off - it mainly afflicts middle-to-lower income groups.
- Gambling in formal casinos is negatively associated with PG. In other words, problem gamblers are less likely to be found in formal casinos than in other gambling settings, other things being equal.



- The poor don't significantly patronise formal casinos.
- PG in SA is strongly associated with other psychiatric problems, especially alcohol abuse and dependence.

## 2. Longitudinal (panel) study

This is a long-term project, which tracks a small group of subjects over a period of 18 months. Every 3 months, we administer various instruments in order to gather data around the extent to which their gambling behaviour and associated factors (for example, comorbidities such as alcohol abuse) is constant during that time. Two of the six waves of this project have been

completed, with the third wave currently in progress.

## 3. Poverty study

This study focused on a rural and peri-urban community sample in Kwazulu-Natal, and was intended to establish whether the findings of the main prevalence study would be replicated in a sample of poor South Africans. The findings of this study were consistent with the data from the main prevalence study, and members of the research team presented this study at an international conference on problem gambling in 2009.

## 4. Cognitive control study

This study involves trying to establish the neural correlates of problem gambling, by looking at the brains of gamblers and control subjects under fMRI (Functional Magnetic Resonance Imaging). Extensive pilot work has been



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# gambling in South Africa

completed, and work in the laboratory is now underway.

Other outputs and deliverables produced

- A leading international book on problem gambling (MIT Press)
- over a dozen conference presentations in SA, the US and the UK (including some by Postgraduate staff)
- large reports on gambling behaviour data to Board, Gauteng Government, Western Cape Government
- report on socio-economic status and casino use patterns in Cape Town as input to Western Cape casino policy deliberations in 2009-2010
- report on KZN gambling and poverty
- background research report on PG and co-morbid psychiatric disorders
- background report on methods for assessing impact of schools programme
- a battery of research instruments, translated into Afrikaans, isiZulu, isiXhosa and Sesotho, that can be used indefinitely into the future
- a half-dozen op-ed pieces in newspapers, plus radio interviews
- four papers in scholarly journals, five professional posters on research findings

## Future plans and pending deliverables

One of the immediate tasks on the agenda of the research team is to prepare various summaries and reports for popular consumption. These include:

- summary of urban prevalence study and poverty study for popular consumption
- report and popular summary on panel study
- report and popular summary on cognition study

Besides a forthcoming stream of scientific papers emerging from our research, and two PhD's by students registered at the University of Cape Town, we also hope to begin the design of an assessment for the Schools programme, if this project secures the necessary funding.

Given the extent and quality of the research produced by the NRGP, on a relatively limited budget, we are pleased to report that the research team continues to enjoy a strong international reputation, which allows it to continue to attract international collaborators. We also continue to contribute to significant capacity-building with respect to junior researchers on the team, through involving graduate students in our data-collection and subsequent analysis.

Quality control continues to be assured through the process of academic peer-review. Housing the research activities inside the institutional context of the university also allows for academic publications alongside reports prepared for a lay audience, and this possibility of academic publication is another factor which incentivises international collaborators to share their expertise with us, at minimal or no cost to the programme.

In short, we are pleased to have been able to contribute to the body of knowledge related to problem gambling in South Africa, and to have received the continued support of industry and government and regulators in doing so. We look forward to being able to continue contributing well into the future, through projects like the assessment of the schools programme, updating the prevalence data, and through conducting a possible study of gambling and youth in South Africa.







## IMPORTANT TRENDS IN GAMING INDUSTRIES: NORTH AMERICA

- Permitting only one or a few casinos into particular markets
  - Kansas, Pennsylvania, Maryland, Ohio => limited licenses with bidding processes
  - Limited adoption of the "Nevada model": unlimited gaming licenses within a particular geographic area (NV, AC, & MS)
- "Tipping Point" for legalizing gambling => driven by fiscal considerations and the presence of nearby legal gambling
  - Particularly important now in the Northeastern U.S.
- Trend toward capturing more economic rents via high tax rates
  - Pennsylvania (55%), Maryland (67%), New York (70%) vs. Nevada (7%), Atlantic City (8%), Mississippi (12%)
- Lessons from "racinos" in the United States
- Significant inter-regional competition
  - Declining revenues for Reno, Lake Tahoe, Atlantic City
- Canadian provinces introducing Internet poker
  - Recent launches by British Columbia, Ontario
- Growing presence of grey area gambling in many parts of America
  - Alabama and "electronic bingo machines"
  - Internet sweepstakes cafes
  - Internet poker, sports betting, fantasy sports

