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THE LONG AND WINDING ROAD...

TOWARDS NORMS AND STANDARDS FOR THE GAMBLING INDUSTRY?

On 23 May 2014 the Minister of Trade and Industry published the first draft of a document entitled "National Gambling Norms and Standards" for public information and comment. A key aim of the document is described as being to ensure that "a clear approach will be mapped" regarding the formulation and implementation of norms and standards for the gambling industry in the country and to "identify current problems that disturb coordination and uniformity" in this regard.

To date, the road towards the identification and the proper implementation of appropriate and enforceable norms and standards for the gambling industry in South Africa has been a long one with many twists and turns, and one to which no end is yet in sight. The difficult nature of this road finds its origin in two unchangeable facts. The first of these is the constitutional dispensation which applies to all legislation regarding gambling in South Africa, while the second is the sequence in which such legislation has been brought into effect and the matters with which it has dealt.

When the Wiehahn Commission released its Final Report on Gambling in South Africa in 1995, the Interim Constitution of the Republic of South Africa, Act 200 of 1993, was in force and provided for concurrent legislative competence as between the national and provincial legislatures in respect of casinos, racing, gambling and wagering. This remained unaltered with the adoption of the Final Constitution, Act 108 of 1996. This inalterable reality provides the very foundation upon which the need for uniformity is premised. Recognising the potential for concurrent legislative competence to open the door to vastly different approaches to the task of gambling regulation throughout the country, resulting in the absence of any cohesive national policy, the Wiehahn Commission recommended that –

"for the sake of uniformity among all provinces, certain prescriptions and guidelines should be provided by central government in order also to protect the national interest as well as that of the provinces ...

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DISPELLING THE MYTH ABOUT CASINO OPERATORS AND IRRESPONSIBLE GAMBLING



I recently had the pleasure of attending the Gaming Regulators Africa Forum's ("GRAF") 10th Annual Conference from the 12 to 14 May 2014 in Polokwane, Limpopo.

The conference was attended by delegates from Tanzania, Uganda, Namibia, Zimbabwe, Mozambique, Botswana, Ghana, Swaziland, Lesotho, Nigeria and all South African gambling regulators, to discuss pertinent issues relating to the regulation of gambling on the African continent.

CASA was given an opportunity to address delegates about the regulatory impact on responsible gambling and public education.

My presentation focussed on dispelling the myth which seems to be widely held by policy makers that 'casino operators cherish and thrive on customers who gamble irresponsibly'. This was necessary as most regulatory interventions/measures on the subject of responsible gambling and public education appear to be premised on this myth.

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DISPELLING THE MYTH ABOUT CASINO OPERATORS AND IRRESPONSIBLE GAMBLING

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I pointed out that like any business, casino operators have to be sustainable and to achieve sustainability, they could ill afford to encourage and/or tolerate irresponsible gambling by their customers simply because a customer that gambles irresponsibly is more likely to be bankrupt and a bankrupt customer is not good for the sustainability of the casino operator.

I also submitted that casino operators had always understood that irresponsible gambling and business sustainability do not mix as evidenced by the fact that even prior to the National Responsible Gambling Programme ("NRGP"), they had their own individual responsible gambling programmes which included the counselling service and continue to voluntarily fund the NRGP to date. The result is the consistently low prevalence of irresponsible gambling in South Africa.

Furthermore, I urged gambling regulators and other policy makers to take cognisance of the following facts as they formulate regulatory interventions/measures aimed at promoting responsible gambling and public education namely, that it is a minute percentage of gambling customers that gamble irresponsibly. Thus measures aimed at protecting the minute irresponsible gambling customers should not chase away the majority of responsible gambling customers and secondly, people are not obligated to gamble. Gambling is a voluntary form of entertainment and if additional interventions/measures are implemented which are and/or are perceived to be onerous by the responsible gambling customers; they will simply cease to gamble.

The unfortunate consequence of less gambling by the majority of responsible gambling customers is the reduction of corporate, local and gambling taxes payable to government, loss of jobs and other socio-economic benefits which are derived from the gambling industry.



Themba Ngobese
Chief Executive Officer

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The Board recommend that Provincial Legislature[s] be requested not to promulgate any legislation until these prescriptions and guidelines have been determined in the proposed national statute."¹ [Emphasis added]

Accordingly, the Wiehahn Report foresaw the need for a co-ordinated process in which the powers of the various legislatures would be exercised in a specific chronological sequence, with national legislation preceding its provincial counterparts, and laying down a bedrock of uniform norms and standards with which provincial legislation should comply. However, when it was eventually enacted, the National Gambling Act, No 33 of 1996, failed significantly to create any substantive norms and standards for the regulation of the gambling industry, but rather conferred general powers on the National Gambling Board (and other role-players) to develop these on an ongoing basis. Consequently, the solid platform which had been envisaged for the enactment of uniform and harmonious provincial legislation on the subject of gambling was not established. This was exacerbated by the fact that in the interim, the provincial legislatures, which were understandably keen to leverage for their individual provinces the social and economic benefits expected to flow from the licensing and regulation of gambling, had begun developing their own legislation, which in many cases, drew on a range of diverse sources from around the world, given the widespread absence of local knowledge regarding the subject at the time.

Against this backdrop, the development and enforcement of binding norms and standards regarding the licensing and regulation of gambling was doomed to failure from the

start. With the passage time, provincial licensing authorities ("PLAs") continued adding additional layers to their individual legislative and regulatory dispensations, while the National Gambling Act provided no meaningful mechanisms to halt or to standardise these developments, until 2004, when it was next amended. The amendments enacted sought to delineate more clearly the areas of jurisdiction of the various regulatory bodies, to co-ordinate the exercise of concurrent legislative competence, and to establish norms and standards applicable throughout the country. However, the lack of uniformity which the amended National Gambling Act sought to address had already become firmly entrenched.

Against this historical backdrop, the Gambling Review Commission ("GRC") subsequently noted in 2010 that "*a clearer delineation of the roles of national and provincial government needs to occur*" and that "*current mechanisms aimed at ensuring uniformity ... are not effective and need to be reconsidered*".

The picture which emerges from the above is of an industry which is regulated in a parochial, fragmented and uncoordinated manner which will be difficult to unravel. It is clear that decisive and effective measures will be required to develop, implement and enforce norms and standards for the regulation of the industry. Accepting that this is the case, it is important to ensure that the starting point for such measures is the correct one. This can be done only if a clear understanding is achieved from the outset as to what is meant by "norms and standards", and therefore also the subject matter which such norms and standards should cover.

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¹ Final Report of the Wiehahn Commission, at Paragraph 11, page 9.



It is clear from the National Gambling Act that norms and standards are required to govern the licensing, regulation and control of gambling activities in such a manner as to secure the social and economic well-being of the country, the protection of the public and to ensure transparency and fairness in the allocation of licences. It is noteworthy that the functions in respect of which norms and standards are required to be developed, are all functions with which the relevant PLAs have been entrusted by their enabling legislation.

From this, it follows that norms and standards are intended to set nationally applicable benchmarks for the execution by regulators of their licensing and regulatory functions. As such, a norm can be described as a uniform minimum procedure or practice to be adhered to by regulators in the exercise of their licensing and regulatory functions, while a standard would be the agreed quantitative and/or qualitative benchmark or yardstick for the performance of those normative functions by the various regulators.

Accordingly, norms and standards should be developed where there is scope for broad agreement, at a policy level, regarding an appropriate set of requirements for the exercise by regulators of any particular approach, process or procedure in the conduct of their licensing and regulatory functions. This would involve focusing the application of the energies of PLAs, in the context of licensing and regulation, towards mutually agreed goals in a uniform, consistent and predictable manner. This will contribute to the creation of a stable industry in which the use of resources and the costs of compliance and regulation are appropriately controlled and there is complete clarity regarding core substantive and procedural requirements, from both an operational and a regulatory point of view.

Proceeding from the above starting point, it will immediately be apparent that the draft National Gambling Norms and Standards ("draft NNS") published by the Minister contains no discernible norms or standards of any kind. Instead, the approach taken appears to proceed from the starting point that norms and standards are measures to be taken to harmonise conflicting policy issues, or as a means of implementing the recommendations of the GRC and/or the Portfolio Committee on Trade and Industry. To the extent that this is the case, the focus of the draft NNS is entirely misplaced and the implementation of the proposed measures cannot reasonably be expected to have the desired effect.

That the above is indeed the case is clear from the specific recommendations made in the draft NNS. The first of these is that the National Gambling Policy Council ("the Council") should be "*revamped*" in relation to "*its policy making powers*" and its composition, in such a manner as to make its decisions "*binding to all participants*". This recommendation loses sight of the fact that the role of the Council is to strive towards consensus on policy matters regarding gambling in the country. Consensus on policy matters is achieved by harmonising laws to the greatest extent possible, rather than by developing norms and standards for the exercise of their powers by regulators.

Instead, norms and standards are more appropriately developed in accordance with the provisions of section 87(1)(c) of the National Gambling Act, which empowers the Minister of Trade and Industry to make regulations regarding "*the determination of norms and standards that will apply generally throughout the Republic relating to any matter in terms of this Act*". Accordingly, national regulations would provide the most appropriate vehicle for the imposition of norms and standards.

The further recommendations contained in the draft NNS are similarly based on

a misconception regarding what the subject matter of norms and standards should be, as well as the manner in which these should be implemented and enforced. Thus, for example, the recommendation in the draft NNS that memoranda of understanding should be entered into between the National Gambling Board and the various PLAs as a means of ensuring compliance with agreed standards disregards the fact that norms and standards should be contained within laws of general application, which should be respected and applied by the bodies which they bind. The notion of having to resort to contractual vehicles or remedies to ensure compliance with the requirements of statute is misplaced and fundamentally undermines the rule of law itself.

Other specific recommendations in the draft NNS are that the National Responsible Gambling Programme ("NRGP") should be "*reconfigured*" so as "*to expand its operations and reach, by including other organisations that offer treatments, research and awareness services that are aligned to national priorities*". There seems to be little persuasive basis for redesigning what is widely acclaimed to be one of the most successful and effective responsible gambling programmes in the world. Moreover, this recommendation concerns itself with an issue of policy, rather than the development of any norm or standard. In a similar vein, the recommendation that "*legislation should be developed to create an enabling environment for national government and provinces to continuously conduct review studies on the numbers (sic) of casino licence (sic) in order to determine the desired thresholds per province*" not only misconstrues the legal position regarding the rights which have vested in the holders of casino operator licences in the country, but also cannot be regarded as a norm or a standard of any kind.

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What is clear is that the starting point from which the draft NNS proceeds is flawed at a fundamental level. In the same manner as the aim of ensuring uniformity in the licensing and regulation of gambling in the country was sacrificed by the failure to recognise the validity of the original recommendation of the Wiehahn Commission that the development of national norms and standards should precede the enactment of provincial legislation, the goal of achieving

uniformity will not be realised unless there is a clear understanding as to what norms and standards should cover and the manner in which they should be implemented.

As history and the status quo both demonstrate, the road towards the implementation of proper norms and standards for the gambling industry has been a long and winding one because the journey has never been properly understood or planned. What

has been overlooked in the past, as well as currently in the formulation of the draft NNS, is that the end result of any journey will depend on the starting point. In the words of Harry Emerson Fosdick, "he who chooses the beginning of the road chooses the place that it leads to". In the context of norms and standards, the starting point has been repeatedly misread, and the process will once again be doomed to failure if it is not thoughtfully reassessed.

EMERALD RESORT & CASINO, MAKING A DIFFERENCE

Emerald Resort & Casino, through its CSI Division the Emerald Foundation, continues to make a difference in the community through their ongoing support of various charities.

Emerald Foundation recently made a donation in the form of food hampers for three charity organisations in the Vaal region, namely Kanana Mental Care centre, Lapeng Home for the Aged and Thekganang Support group.

These NGO's mostly care for elderly mentally ill patients and aspire to give them a life of dignity. They receive their funding every three months from the government but struggle to make ends meet in the interim months. Through this donation, these communities were provided with much needed provisions.

On the 12th of March, the Emerald Foundation, in conjunction with regional radio station OFM, joined forces to improve the lives of young children at the Tshepong Children's home. Tshepong is a non-profit organisation in Sebokeng that provides 24 hour care, 7 days a week for 13 live-in children who have been affected by HIV.

Groceries were donated by the Emerald Foundation to provide these children with wholesome meals over a two month period. OFM donated a school jersey to each child for the upcoming winter months.



The Business Assist Programme has been running successfully over the past two years yielding some exciting results and positively driving the growth of small businesses in the Vaal region. All participants have contributed massively to the economic growth of the Vaal region with over R37mil

combined turnover and 438 jobs created during the period!

Emerald Resorts & Casino remains fiercely committed to supporting growth of the small business community in the Vaal region.

Apartheid Museum enriching the understanding of Freedom Day

The Apartheid Museum encapsulates the story of an historic South African struggle, the struggle for freedom. South Africa commemorated its past and future on 27th April, Freedom Day.



The Apartheid Museum strives to facilitate an educational understanding and experience of the rise and fall of the apartheid regime. In 2011, Tsogo Sun and the Apartheid Museum initiated an educational programme in partnership with the Gauteng Department of Education, as part of the Grade 9 curriculum and educational framework by providing the opportunity for school students to visit the museum.

For some schools this visit is not always feasible due to learner and school budgets. The Tsogo Sun Learning Academy that forms part of the Group's CSI strategy, facilitates the selection of schools in Soweto with the Gauteng Department of Education, affording these students the opportunity to tour the museum for free, thus engaging in this part of their curriculum and visually experiencing a part of their heritage said Vusi Dlamini, Group HR Director of Tsogo Sun.

Every Wednesday of the school term, transport is arranged by the Tsogo Sun Learning Academy for 50 students and two teachers to participate in a guided tour of the museum. The guided tour is an emotional journey which includes 22 individual exhibits encompassing provocative film footage, photographs, text panels and artefacts illustrating the events and human stories that are part of the epic saga known as apartheid. The knowledge and imagery is often overwhelming and necessitates an introduction and debriefing by the guide to assist students in the understanding of apartheid.

Nwabisa Masenya, from Ikaneng Primary noted that the journey through the museum was overwhelming. South Africa was one of the worst places to live in during apartheid, but she is grateful for where we are today and for the progress the country has made. It was a combined decision between former

presidents, Nelson Mandela and F.W de Klerk that has led us here and it is these moments that makes her want to be an historian.

Mr Rhulani Justice Chabalala, Social Sciences teacher at Ikaneng Primary School teacher, comments on the benefits of the museum as a teaching tool, combined with the curriculum's theoretical teachings. The experience enriches the students' knowledge by adding a multimedia aspect to learning.

During the course of the year, close on 1 400 learners and 56 educators from 28 Soweto schools will have the opportunity to visit and experience the Apartheid Museum through this initiative.


TSOGO SUN

Restored youth to an old but familiar face Afrisun KZN Community Development Trust Celebrates R3 million Restoration for the Durban Association for the Aged (DAFTA) South Service Centre in Merebank

The Afrisun KZN Community Development Trust celebrated the opening of the recently renovated Merebank Regional Hall together with the R3 million that the Trust granted to DAFTA towards its restoration at a function hosted in the newly named Sibaya Auditorium.



The Honourable speaker of Legislature, Mrs Lydia Johnson, members of the board of the Afrisun KZN Trust, Mr Tristan Kaatze, Vivian Reddy and Judge Vuka Tshabalala, the KZN Gaming & Betting Board, DAFTA Chairman Mr Rajesh Naidoo and representatives of the Durban Association for the Aged (DAFTA) board and media were in attendance.

The Merebank Regional Hall was identified by DAFTA as a resource with rich potential for the community. The hall would provide much needed space to their clubs and care centres for the elderly, hosting projects that engage them physically like gardening, craft and a pilot fishery on the grounds. The

Durban South Service Centre could also be a resource for additional income to DAFTA and thus adding to their sustainability. 'Afrisun KZN Community Development Trust's generous and sterling contribution has added value to this community and hence preserved the assets of our country' said DAFTA Treasurer Krish Govender.

DAFTA's desire to provide quality support and service to the elderly, to enrich their quality of life and to encourage independent living in the community resonated with the Trust's objectives said Chairman of the Trust, and Divisional Director of Sun International, Tristan Kaatze. The Hall went from being a derelict, dilapidated building

to the smart, clean and inviting hall which is currently being enjoyed by the community. Over 1000 elderly will use this space regularly to meet, receive social support, health assessment and to learn in a mutual community.

To date the Afrisun KZN Community Development Trust has donated R51 million and Sibaya Casino & Entertainment Kingdom R25 million, with a combined total contribution of R76 million made since trading began. The financial figure is a remarkable measure of our commitment to community development said Vivian Reddy, Trustee of Afrisun Trust and Chairman of Sibaya Casino.

Montecasino's greening figures blossom

Montecasino recorded a great green year in 2013, reducing the precinct's overall carbon footprint by an average of 50% over the previous year's savings.

According to an independent waste management report, Montecasino's waste reduction figures show that in 2013 a total of 842,067 cubic metres of CO₂ was saved, against 2012's saving of 602,901 cubic metres – a close on 40% percentage increase. Water saving went up from 4,059,820 litres in 2012 to 7,090,820 litres in 2013, representing a percentage increase of almost 75%. Energy savings increased to 5,120,221 KW/h in 2013 from 4,254,990 KW/h in 2012 – a 20% increase – and 4,612 trees were saved in 2013 against 2,640 trees in 2012, again, a close 75% increase.

Glenn Joseph, General Manager of Montecasino believes that highlighting the big savings that Montecasino is achieving will inspire and encourage other businesses – in all industries and of any size – to implement their own greening initiatives and contribute collectively to a more sustainable future for the region and indeed the country.

In line with parent group Tsogo Sun's environmental management policies and other environmental and corporate social responsibility projects, Montecasino's Environmental Policy Statement extends across all sectors of our business and precinct, committing us to the ongoing greening of



Montecasino and the environment at large.

The whole Montecasino precinct, including its three hotels, are part of the precinct's commitment towards greater environmental friendliness, and together have established sustainable environmental management practices in areas such as procurement, resource and waste management.

Montecasino has an extensive water saving project, which includes irrigating the 38-hectare grounds and gardens with borehole water and rain water captured via a storm water system that flows into the onsite dam. Rain sensors have also been installed at all irrigation boxes, which automatically shut off the irrigation system when rainfall exceeds five millimetres. Energy saving measures include the installation of energy efficient lighting in all the covered parking areas and back-of-house areas.

Recycling has been implemented across all activities on the property with all tenants operating on a two-bin system (wet and dry waste bins) which assists in the sorting process in the waste area. Waste is recycled at a level of 75% of waste generated on the property. "These levels are increasing all the time," says Joseph. "We believe that education is key to the increasing success of the greening programme and we drive education and awareness through our policies and through constant reinforcement by way of posters and messaging across the precinct and the Montecasino Bird Gardens, highlighting the value of recycling, how tenants, suppliers and guests can contribute, and what difference it will make in the future."

A new food waste recycling initiative was introduced in 2012, called Bokashi Bin – bokashi is Japanese for 'organic fermented matter' and is wheat-bran inoculated with a mix of probiotic bacteria, yeast and fungi. This system involves recycling all pre-prepared foods, through a process of layering anaerobic digesters on food waste – including skins, peels, bones, seeds, pips, and excess food left on plates – with bokashi where a fermentation process occurs to produce compost. The compost is used in Montecasino's gardens and grounds.

Sibaya Casino tops up Wheelchair and Assistive Device Donation



Under the management of Sibaya Casino's Corporate Social Investment committee, R39 106.56 was donated to the Quad Para Association of KZN, in the form of Wheelchairs and Assistive Devices, assisting users in KZN to maintain posture and replace very old, broken or incorrectly fitted devices. This serves as a 'top up' with last year's Sibaya Casino donations totalling over R100 000 to this very special project.

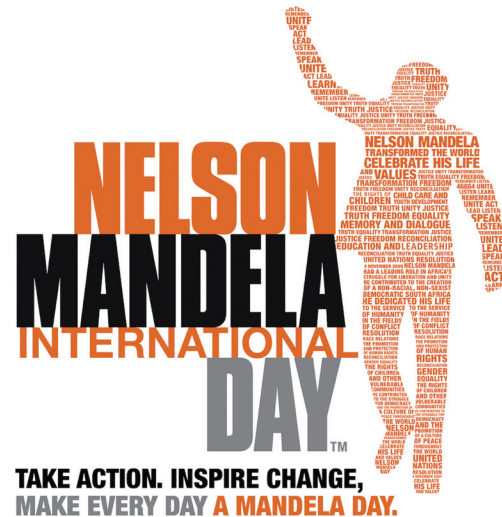
The QuadPara Association of KZN has been developing since 1993 and is responsible for all its own development, project and administrative funding. QAKZN's aim is to deliver life changing services to persons with sever mobility impairments in Kwa-Zulu Natal. The Wheelchair and Assistive Device Fund is established to ensure that every person who needs a device to maximise independence and prevent life threatening pressure sores.

MANDELA DAY 2014

On 19 July 2014, the Casino Association of South Africa (CASA) and over 60 volunteers heeded the call on Nelson Mandela International Day to scrape, paint and clean our way through 67 minutes of community investment in honour of the iconic statesman's birthday. Coordinated by the Zoleka Mandela Foundation, a wide variety of organisations, businesses and community members took action to inspire change and reaffirm the dignity of the Itsoeseng community by renovating Badisa Day Care in Cosmo City.

Blankets, mattresses, classroom equipment, and day-to-day amenities were generously donated to the day care centre which caters to the needs of over 55 children in the local community.

Working towards a healthier, more productive, sustainable country, CASA acknowledges and supports the powerful impact that non-profit organisations and community-based projects have on communities.



Education is the most powerful weapon which you can use to change the world” - Nelson Mandela



On Wednesday evening (July 16) these seven Peermont Education Trust (PET) scholarship recipients, who are all from the disadvantaged areas of Ekurhuleni, had plenty to celebrate after they were honoured at a passing out parade at Emperors Palace for graduating in various fields of study. The graduates, in the front James Timane (N.Dip Elec Eng), Skumbuzo Nkuta (B. Accounting Science), Cassius Sebigi (B. Accounting Science) and at the back, Fikile Zulu (B.Sc Construction Studies), Monwabisi Rauzela (B.Com Marketing), Mathapelo Kodisang (N.Dip Biomedical Technology) and Thabang Botha (B.Com Accounting) can now look forward to following their dreams thanks to the support of the Trust which has, since its inception in 2001 helped more than a 100 youngsters obtain a tertiary education at a cost of over R51-million.



Attitude, hard work and effort are some of the attributes that have helped these seven Ekurhuleni youngsters, in the front, Fikile Zulu of Katlehong, Skumbuzo Nkuta of Germiston, Mathapelo Kodisang of Vosloorus and at the back, James Timane, also of Katlehong, Cassius Sebigi of Tembisa, Monwabisi Rauzela of Tsakane and Thabang Botha, also from Katlehong, rise above their circumstances to obtain tertiary educations. Another is the assistance they received, in the form of full bursaries, from the Peermont Education Trust, a BBBEE initiative of Peermont Global and its flagship resort and casino, Emperors Palace. To celebrate and acknowledge their achievements – Fikile (B.SC Construction Studies), Skumbuzo (B. Accounting Science), Mathapelo (N.Dip Biomedical Technology), James (N.Dip Elec Eng), Cassius (B. Accounting Science), Monwabisi (B. Com Marketing) and Thabang (B. Com Accounting) - the Trust held a passing out parade in their honour at the Palace of Dreams on Wednesday evening, July 16.