

Our Ref:

Your Ref:

Mr J Feil
Executive Director
National Competition Council
GPO Box 250B
MELBOURNE VIC 3001

Attention: Mr David Owens

Dear Mr Feil

**RE: NATIONAL COMPETITION POLICY (NCP) REVIEW OF THE
NORTHERN TERRITORY'S GAMING LEGISLATION**

In order to assist with the Council's assessment, the NCP review reports of the Northern Territory's gaming legislation is attached covering the *Gaming Control Act* and the *Gaming Machine Act*.

The review was conducted by an independent consultant in accordance with National Competition Council endorsed guidelines.

On 29 September 2003, Cabinet considered the review report and:

- noted the Review Report recommendations and took decisions in respect of all recommendations as set out in Attachment A;
- approved the drafting of legislative amendments to give effect to the approved recommendations;
- approved the implementation timetable (as set out in this letter); and
- approved the release of the review report to the National Competition Council and to interested parties on request.

The main recommendations of the review of gaming legislation include:

- adoption of revised legislative objectives and an updated and ; consolidated regulatory framework, which focus on probity provisions for gaming operators and mitigation of problem gambling;
- continuance of strong licensing requirements for all industry participants, but with increased standardisation and simplification of licensing arrangements where possible;
- consideration regarding the establishment of a discrete gambling regulator;
- introduction of common licensing requirements for staff employed by different types of gaming operators;
- removal of exclusivity provisions currently contained in casino licences on expiry of such licences;



- retention of venue caps restrictions on community gaming machines but modify anti-competitive restriction on access to gaming machines by hotels;
- simplification of machine gaming model approvals;
- simplification of minor lottery operations through pre-approval of lottery activities according to defined standards;
- introduction of more transparent and accountable arrangements for the distribution of funds to community organisations raised through gaming machine levies and strengthening of licensed Clubs' accountability for community amenity contribution;
- the introduction of a prescriptive gaming code of conduct for gaming operators, aimed at minimising problem gambling.

In considering the findings, the Territory Government has formally committed to a reform timetable, as detailed below:

10 October 2003	NCP Review Report, together with details of Cabinet's response and approved implementation plan, to be released to the NCC.
Oct 2003 – Feb 2004	Amendments to implement the approved changes are drafted.
March 2004	Cabinet to consider draft amendments
March/April 2004 sittings	Bill introduced in the Legislative Assembly
May 2004 sittings	Debate and passage of Bills

Therefore, it is expected that the Northern Territory will have met all of the outstanding commitments with regard to gaming legislation by May 2004.

Yours sincerely

JENNIFER PRINCE
Under Treasurer

October 2003

NCP REVIEW REPORT RECOMMENDATIONS	ENDORSED GOVERNMENT POSITION
<p><i>Regulatory Directions</i></p> <ul style="list-style-type: none"> • The following regulatory principles be adopted as the basis for regulation of the Gaming Industry: <ul style="list-style-type: none"> - Minimum regulatory intervention by Government - Maximum co-regulation between Industry and Government - Performance based/ risk management controls - Proactive and Competitive Industry Positioning - Long-term viability of the Industry - A Balanced approach to Problem Gambling 	Accept
<p><i>Regulatory Objectives</i></p> <ul style="list-style-type: none"> • The following objectives be adopted as the basis for the revised legislative framework to be developed to cover Gaming activity: <ul style="list-style-type: none"> - to promote probity and integrity in Gaming activity; - to maintain the probity and integrity of participants in the Gaming Industry; - to promote fairness, integrity and efficiency in the delivery of Gaming services to the public; - to promote a balanced contribution by the Gaming Industry to general community benefit and amenity; and - to reduce the adverse social and economic impacts of Gambling 	Accept
<p><i>Legislative Arrangements</i></p> <ul style="list-style-type: none"> • The legislative structure be further reviewed with the view to development of a new legislative framework, based on two principal sets of legislation - one covering the licensing and operations of the industry itself and the other covering the gambling control aspects. 	Accept

<p><i>Licensing Commission</i></p> <ul style="list-style-type: none"> • A detailed investigation into the current Regulatory control structure be conducted, to include consideration of the establishment of a Northern Territory Gambling Commission to assume responsibility for all gambling related activities presently controlled by the Racing Commission and Licensing Commission. • The composition of members for the controlling regulatory body be established under minimum criteria for appointment based on a prescribed balance of regulatory, commercial and specific industry expertise. 	<p>Accept recommendation to investigate further</p> <p>Accept subject to investigation noted above</p>
<p><i>Exclusive Licences</i></p> <ul style="list-style-type: none"> • Existing casino licensing arrangements continue for the duration of current licences, unless removal of anti-competitive restrictions can be effected without significant penalty to Government. • Exclusive lottery licensing conditions in arrangements with Tattersalls be removed by negotiation with the Company. • Regular review be undertaken of exclusive licensing arrangements, in the light of Territory economic growth and market expansion, with the view to negotiated removal as sufficient net public benefits become available. 	<p>Accept</p> <p>Strictly speaking, there is no exclusivity associated with the existing lottery licence (or proposed extension to licence) although it is acknowledged that a monopoly-like position exists due to the practical problems faced by any other market entrants seeking to provide rival products due to the market strength of the existing licensee.</p> <p>Accept</p>
<p><i>Licensing Structure</i></p> <ul style="list-style-type: none"> • No change be made to the basic positive licensing approach for industry participants. • All future gaming licences be issued as <u>perpetual</u> business licences. • Standard ancillary licence operational conditions and conditions relating to operational matters in underlying Agreements, now incorporated in specific licences and specific Agreements, be set out in legislative regulations. • Uniform probity requirements and checking procedures be adopted for all types of gaming operations. 	<p>Accept</p> <p>Accept “in principle” but need to consider continuing fixed term licence arrangements where substantive regulatory and taxation requirements are set out in an agreement with the licensee</p> <p>Accept</p> <p>Accept</p>

<p><i>Licence Conditions</i></p> <ul style="list-style-type: none"> • Permanent Operating Permits be issued for different classes of Gaming Activity • Existing restrictive licensing conditions continue for the duration of current licences, unless removal can be effected without significant penalty to Government and sufficient net public benefits become available. • Future gaming licences not contain anti-competitive or restrictive provisions, in respect of limitations on the business activity of competitive operators, unless clear net public benefit can be demonstrated. • Restrictive conditions requiring that a take-away liquor licence be held by a hotel as a condition for the operation of gaming machines, be removed. 	<p>Accept “in principle”.</p> <p>Accept</p> <p>Accept “in principle”</p> <p>Accept “in principle, but need clear criteria established to determine which category of outlets can apply for gaming machines</p>
<p><i>Employee Licensing</i></p> <ul style="list-style-type: none"> • A standard licensing approach be adopted for defined employees of Gaming operators. 	<p>Accept</p>
<p><i>License Appeals</i></p> <ul style="list-style-type: none"> • A Public Appeal mechanism be introduced for all licence issue. 	<p>Consider further. Currently there are some appeal mechanisms through Licensing Commission</p>
<p><i>Licence Fees</i></p> <ul style="list-style-type: none"> • Revised fee refund procedures be introduced. 	<p>Accept</p>
<p><i>Gaming Machine Global Limits</i></p> <ul style="list-style-type: none"> • Current gaming machine density control criteria to continue to apply. • Community gaming machine global cap be fully defined in regulatory provisions. 	<p>Accept</p> <p>Accept but requires further consideration of the appropriate density criteria</p>
<p><i>Gaming Machine Venue Limits</i></p> <ul style="list-style-type: none"> • Differential gaming machine allocation limits for community gaming venue types (Hotels and Clubs) to continue. 	<p>Accept</p>
<p><i>Gaming Machine Model Approvals</i></p> <ul style="list-style-type: none"> • Subject to compliance with any specific operating criteria applicable to the Territory, gaming machine models approved for use in major Australian jurisdictions be automatically approved for use in the Territory. 	<p>Accept</p>

<p><i>Community Benefit and Amenity</i></p> <ul style="list-style-type: none"> • Following a reasonable settling in period (say 2 years) for the recent changes approved for machine allocation between venues and other operating provisions for gaming machines, a further review be undertaken into the development of a wider, more transparent and uniform approach to community benefit and amenity contributions from the various industry sectors. • In addition to previously agreed measures to include prescriptive requirements for community amenity contribution from clubs, the accountability process be further expanded to include specific targets for community support contributions. 	<p>Accept and already substantially progressed</p> <p>Accept and already being progressed</p>
<p><i>Responsible Gambling and Problem Gambling</i></p> <ul style="list-style-type: none"> • A prescriptive Industry Code of Conduct relevant to gaming activities, now under development, be completed and introduced as soon as possible. This should include requirements for clear information provision to consumers at “point of gaming”. • Future legislation contains clear and specific harm minimisation objectives and required practice. 	<p>Accept and already being progressed. Responsible Gambling Code of Practice released in April 2003. Implementation is underway.</p> <p>Accept</p>
<p><i>Unlawful Gambling</i></p> <ul style="list-style-type: none"> • Revised consolidated legislation be drafted to cover unlawful gambling, including gaming and wagering. 	<p>Accept</p>
<p><i>Secrecy</i></p> <ul style="list-style-type: none"> • Legislation be introduced to provide for uniform disclosure standards, consistent with other Australian jurisdictions. 	<p>Accept</p>
<p><i>Other Forms of Gaming</i></p> <ul style="list-style-type: none"> • Future legislation be structured to ensure there are no inhibitors which impose generic barriers to adoption of new gaming products or services; • New gaming products and services be considered on their merits, subject to due consideration of all relevant probity and other public interest issues which apply: and 	<p>Accept “in principle”</p> <p>Accept</p>

<ul style="list-style-type: none"> • A Schedule of Prohibited Gaming Activity be implemented and rational for prohibition of specific generic types of activity be promulgated. 	<p>Do not accept. On first principles, all gambling activity is illegal unless appropriately authorised and regulated. The proliferation of new events should be filtered for approval rather than allowed to operate and later outlawed by a Declaration of Prohibited Events.</p>
<p><i>Minor Lotteries</i></p> <ul style="list-style-type: none"> • The licensing of minor lotteries be discontinued in favour of pre-approval for generic organisation types and purposes for the conduct of low-value lottery activity (raffles/sweeps/competitions/bingo/trade lotteries etc less than \$5,000 total prize value), under prescribed conditions. 	<p>Accept</p>
<p><i>Advertising and Promotion</i></p> <ul style="list-style-type: none"> • Uniform standards be introduced for advertising and promotion of lawful gambling activity, subject to satisfactory provisions to recognise problem gambling considerations and policies, to be defined in the proposed Code of Conduct. 	<p>Accept</p>