

**The Gambling and Gaming Industry in Trinidad and Tobago:
Establishment of a Legal and Regulatory Framework**

In the 2013 Budget Presentation, specific mention was made of measures that are to be put into place to govern the local gaming industry, with specific reference to the longer term objective of introducing a comprehensive framework for the governance of the industry.

Subsequently, Cabinet, at the request of the Minister of Finance and the Economy, agreed to the establishment of a new legal and regulatory framework for the gaming industry in Trinidad and Tobago.

For many years, Government has been seeking to put in place a regulatory framework to address the social concerns arising out of the proliferation of private member clubs providing casino-style games to club members.

Notwithstanding the many legitimate issues of public policy concerns which are attached to gambling in all forms there has been a growth in unlicensed and unregulated gaming. Gambling is not like any other commercial transaction: it has the potential to lead to crime as well as devastating consequences for a small minority of customers, including minors and problem and compulsive gamblers.

For sound public policy reasons, avoidance of crime, player protection, protection of minors and the promotion of fair treatment for the customer must be integral to the process. The growth in gambling however, would suggest that there is a public demand for gaming services which is gaining momentum consequent on the access of the public to the internet for gaming and gambling purposes.

The existing legal framework within which gambling takes place in Trinidad and Tobago indicates quite clearly that casinos were not specifically authorized under the law.

The absence of public policy with respect to the legalization of the operations left the industry without the prescription of specific operating conditions and requirements for gaming. The existing statutes remained unenforced and the emerging casino-type activities unregulated.

There was always a major dilemma to be resolved: *should gambling be regulated with emphasis on tourism, on enhancing public revenue, on protecting the consumer or player, on protecting the vulnerable including children and problem gamblers and preventing crime including money laundering or should it be banned?*

The Minister of Finance and the Economy has given due consideration to the public policy considerations relating to gaming and gambling. The primary goal therefore, is to ensure that clearly stated public policy objectives are attained to the maximum extent possible through effective compliance and regulation as well as to ensure public confidence through effective operations and regulations.

In summary all casino operations conducted by self-styled *private members' clubs* and all gaming machine operations excluding the amusement prize categories wherever located, in recreational clubs, in pubs, in arcades and in shopping malls are illegal activities under the current legislative framework prevailing in Trinidad and Tobago.

If I were to refer to the international compliance standards and practices, *The Financial Action Task Force* has **forty (40)** regulations with several relating to money laundering and casinos; and at a minimum:

- *casinos* should be licensed;
- *competent authorities* should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino; and
- *competent authorities* should ensure that casinos are effectively supervised for compliance with requirements to combat money laundering and terrorist financing.

One Industry Stakeholder, the *Association of Members Clubs*, has stated their view that there is a strong requirement for oversight of gambling activities. They have expressed the view that the continuation of the *status quo* leaves unaddressed a number of social problems, including fraud, money laundering, under-aged gambling, criminal activities and unscrupulous operators. Regulation would, on balance, benefit the society with a reduction in social concerns, maintaining employment which at present amounts to approximately **7,000** individuals with an associated weekly wage bill of **\$6.7**

million and increased tax revenue from corporation taxes, bearing in mind that in **2012** excise taxes amounted to **\$28.0 million**; and

These are cogent arguments to support the establishment of a strong regulatory and legal structure for the gaming and gambling industry in Trinidad and Tobago.

In so doing, the Government would seek to balance the public interest relating to the need for market supervision for the gaming industry as well as the public interest relating to the need for addressing the moral and social concerns relating to gaming and gambling in particular problem and compulsive gamblers.

In the context of the above considerations, there are that **four (4)** principles which should be incorporated in new legislation:

- (a) *Regulatory and legal structures* should be established and be politically stable, thereby creating a respected and stable gaming industry;
- (b) *an appropriate balance* is required to be struck as to the extent to which gaming should be present in society;
- (c) *the economic benefits* generated must be directed in a purposeful and socially acceptable manner; and

- (d) *the unintended negative social consequence* from gaming should be mitigated in so far as it is possible.

Specific to the Trinidad and Tobago context, the precise form of regulation, would be subject to extensive national debate. *As a result, the Minister of Finance and the Economy supports the design and implementation over a reasonable period, of a well-conceptualized and delivered communication programme to alert and to inform the national community as to the public policy agenda for regulating the gaming and gambling industry.*

The *purpose of regulation* as informed by the **four (4)** principles will address the following **five (5)** public policy objectives:

- i. *the consumer* ie. the player would be protected;
- ii. *the vulnerable* including children and problem gamblers would be protected;
- iii. *general crime* including money laundering would be prevented;
- iv. *revenue* due to proper audit trails would be protected; and
- v. *a future* for gaming as an industry through appropriate regulations would be ensured.

The proposed regulatory system will set out the types and classes of gaming permitted, the nature of the games permitted, the location of such games and gaming machines as well as other criteria

The type of regulation should generally include:

- (a) licensing of operators, manufacturers and others;
- (b) procedures for operating any gaming establishment;
- (c) day-to-day regulations for each type of gaming;
- (d) technical standards for games and systems;
- (e) independent testing of machines, games and systems; and
- (f) controls for movement of machines and games.

A proper system of regulation therefore, requires a Regulatory Authority with independently-appointed members to administer and to supervise the gaming and gambling industry as well as to promote social responsibility in all matters pertaining to gaming and gambling including, the transparency of prizes, costs and proceeds for good causes and for the Consolidated Fund.

The Minister of Finance and the Economy has proposed a regulatory model which would need to be refined and to that end, a Cabinet appointed Working Group has been established with technical and legal advisory

services provided by an internationally-recognized consultant who, working in conjunction with the Working Group, would be mandated to prepare draft legislation which is appropriate to the small scale of the casino and gaming market in Trinidad and Tobago;

The Working Group is supported by a small group of representatives from civil society who would provide social-impact services relating to gambling.

The Minister of Finance and the Economy recommends that from a modern regulatory perspective and in the interest of effectiveness, transparency, accountability and consistency and based on the experience of other jurisdictions, the regulatory system should be responsible for the regulation and licensing of **all** gaming including gaming machines and that:

- (i) *a Regulatory Commission* should be created and should have **all** licensing and inspection powers including the powers to impose a range of administrative and criminal penalties; but appeals would be possible as of right to the High Court; and
- (ii) *a restrictive Licensing Regime* would be adopted with the Regulatory Commission having the power under a **strict** regime to license premises, operators, suppliers and key employees and that principle would meet the criteria for strict regulation as well as for providing the flexibility to respond to developments and to meet public and local concerns.

Cabinet is advised that the Gaming Commission would fall under the remit of the Ministry of Finance and the Economy and the Supervisory Authority for all financial institutions and listed businesses.

The new regulatory environment would provide for a modern and effective system of gaming through legislation which would protect consumers, would protect the vulnerable including minors and problem gamblers and would keep criminal and subversive elements from infiltrating the industry.

The unsatisfactory legal structure of the **1955 Act** would give way to a robust governance structure with strict licensing and enforcement arrangements which would achieve the public policy objectives.

Gambling is emerging as a substantial industry in Trinidad and Tobago and with regulation, including a stable tax and business environment, good IT infrastructure and global networks, would continue to create employment opportunities and good quality jobs. Such a development would be consistent with the public policy agenda for creating jobs with high-skill levels.