

**Kerzner International UK Gaming Division Submission to the Joint Committee on the Draft Gambling Bill. December 2003**

DGB-34

Kerzner International UK Gaming Division is supportive of the general direction and content of the proposed Bill.

We are in full support of a well-regulated environment that encompasses stringent licensing criteria, effective protection of the vulnerable, and the maintenance of a crime free industry. The Draft Bill has gone to great lengths in this regard.

The company has been working with various officials within the Department of Culture Media and Sport, as well as contributing to various industry discussions regarding the proposed draft legislation and preceding position papers.

Given this and the request for brevity we will therefore restrict comments in this submission to new or substantive issues raised in The Draft Gaming Bill and The Policy, with specific reference to Casinos.

**1. *Licensing Gambling Premises –  
Item 3.71 in The Policy and Clause 168 in The Draft Bill:***

*The Policy states “There will be a route of appeal to the courts where an applicant – or another local business or resident – disagrees with an authority’s decision to grant or refuse a licence or with the conditions on it. Rights of appeal will be available with respect to all licensing authority decisions.”*

We are concerned that allowing any person/company (potentially a rival casino operator) who makes representations to the Local Authority Gaming Committee, the right to appeal against a decision to grant a casino licence, would inevitably slow down the licensing and development process significantly.

Currently the only person/body who can object to the grant of a gaming licence is the Gaming Board.

**2. *Regional Planning Bodies –  
Item 5.16 in The Policy:***

*The Policy states “The Government proposes, therefore, that Regional Planning Bodies will set out planning policies for leisure developments of regional significance, including casinos, which identify suitable locations within the region that would optimise their contribution to tourism and regeneration”.*

We are concerned that although Regional Planning Bodies will set out the planning policies for such developments they do not have the authority to grant permission for them and Local Authorities are not bound by their decisions. This means that there is potential for conflicting strategies between Regional Planning and Local Authority levels.

**3. Controlling the evolution of gambling opportunities; Small and Large Casinos-  
Item 4.12 and 5.13 in The Policy and Clause 140 in The Draft Bill**

The Policy states *“There will be two types of categories of casino premises: “Small” with a total gaming area (excluding other gaming facilities such as betting, bingo and gaming machines) of between 5,000 and 10,000 sq ft) and; “Large” (above 10,000sq ft).”*

Although there is a lot of talk of “Resort” casinos, these are not referred to in the Bill, nor are they defined in the Policy other than reference in Item 5.15 to the *“... the construction of major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities.”*

“Large” Casinos as defined with a table gaming area of 10,000 sq ft and more than 40 tables do not constitute major multi-purpose leisure developments per se. This really begs the questions: Are all “large “ casinos considered multi-purpose leisure developments? Are all “large “ casinos of regional significance (refer Item 5.16 of The Policy)?

**4. Controlling the evolution of gambling opportunities; number of gaming machines -  
Item 4.13 and 5.13 in The Policy and Clause 140 in The Draft Bill**

The Policy states *“Under our proposals the new “small” casinos – along with casinos now in operation that are below the new minimum size requirement – should be able to install up to three no-limit machines for each gaming table which is available for use...By contrast casinos in the large category will, if they also have more than 40 gaming tables, be entitled to offer an unlimited number of gaming machines”*

We support clause 140 section 4, of The Draft bill with regard to machines in Casinos.

We believe the increase to 3 machines per table (Category A) will allow most existing “small” casinos a significant increase over the existing number of machines permitted as well as allowing higher machine stakes and prizes into this environment.

We concur with the view that any increase in this ratio will lead to an increased incentive to operate at this end of the market and a greater proliferation of smaller casinos and by consequence less “major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities”. These are most likely to be small/medium-sized operations in rented premises, without the regeneration investment and job creation levels envisaged.

Allowing large “resort” casinos with over 40 tables to have unlimited machine numbers is essential in facilitating the extensive investments envisaged in “major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities” and supporting

infrastructure. Any limits placed on large casinos with regard to machine numbers will have a direct impact on the levels of investment affordable.

**5. *Controlling the evolution of gambling opportunities; machine linkage – Item 4.14 and 4.15, 5.13 and 5.15 in The Policy and Clause 201 in The Draft Bill:***

*The Policy states “ Linking (gaming machines) between premises would undercut effective controls over the availability of machines which evidence from overseas suggests importantly influence the incidence of problem gambling.” ... “These arrangements would enable large casinos to make very substantial jackpots available through linking machines on-site”*

We concur that linking gaming machines between premises would lead to further proliferation in the number of small casinos, the number of machines and mega jackpots potentially available there and consequently have a negative impact on the level of investment in “major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities”.

**6. *Credit – Credit Cards***  
***Items 6.10 in The Policy and Clauses 16, 137-139 in The Draft Bill:***

*The Policy states “ Customers may also use credit cards to place bets, to gamble on the internet...and to withdraw cash from automatic tellers situated in casinos and other licenced premises. Credit cards may not, however, be used in gaming machines”.*

We agree that credit cards should not be used in gaming machines. However, we believe customers should be able to buy in at the casino cash desk with a credit card.

**7. *Inducements -***  
***Items 6.15 – 6.20 in The Policy and Clauses 16, 137-139 in The Draft Bill:***

*The Policy states “The Gambling Commission will also have power, through its licence conditions and its codes of practice, to place controls on the inducements to gamble that may be offered by gambling operators.”*

We take note of the concerns regarding various forms of inducements and the proposed control of these.

However, in respect of “major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities”, we believe consideration should be given to the specific inclusion of Hotel Accommodation (or discounted Hotel Accommodation) in the definition of permissible Hospitality, where such Hotel Accommodation is clearly an integrated component of the “Resort Casino” offering. In many instances a hotel room may be less of an inducement value than a complementary meal with wine/drinks, and may be a preferred option for some customers.

**8. *Protecting Children and Young Persons-  
Items 6.23 to 6.26 in The Policy and Clauses 33 to 35 of The Draft Bill***

We are committed to ensuring that children and young persons are not invited or permitted to gamble, however further consideration may need to be given to issues of advertising exposure and the definition of premises in a "major multi-purpose leisure development comprising, for example, casinos, hotels, restaurants, entertainment and other facilities".

**9. *Operating Licences; Initial duration-  
Item 3.18 of The Policy and Clause 87 of The Draft Bill***

The Policy states "*Licences will be issued for up to a maximum of 10 years duration, although the commission may determine different lesser periods*"

It is unclear why this is restricted to ten years and will have major implications for significant investment projects. The company making a major long-term investment has no security of licensure beyond ten years, indeed it may even be a lesser period. As these licences are subject to review (item 3.35 the Policy) there seems no reason to place a time limit on them. Furthermore it is inconsistent with premises licences which "will not be time limited"(item 3.66 of The Policy).

**10. *Operating Licences; Nature of Licence-  
Items 3.16 and 3.17 of The Policy and 51 of The Draft Bill***

In clause 51 (4) (b) of The Draft Bill states: "*The Secretary of State may by order amend subsection (2) so as to (a) add a class of operating licence, (b) remove a class of operating licence, or (c) vary a class of operating licence*"

We are concerned that The Secretary of State will have the right to "remove a class of operating licence" without consulting Parliament.

***Taxation and Duties-***

The Draft Bill and the policy are silent with regard to the fiscal regime to be applied to Casinos. Although it is clear that this is the domain of HM Treasury and HM Customs and Excise, two issues bear consideration by the committee.

Firstly the absence of any indication of the considered policies on taxes and duties to be applied to the new Casino industry make it very difficult to assess or plan business opportunities, and may well lead to significant delays or amendments to development initiatives. It has always been clear that the fiscal policy would follow the legal; given the advanced state of the Draft Gaming Bill and The Policy it would be most useful to have at least some time-table concerning this and preferably some indication of the policies under consideration.

Secondly the committee may wish to consider the impact of VAT legislation on the new Casino Industry. Machine income is currently subject to VAT

and consequently any VAT on what would be significant investment on construction, could be recovered from it, however if machine win were to be amalgamated with table win and attract gaming duty an operator would not be able to recover the VAT from the gaming activity.

This would be a very heavy burden for new investments and may lead to various distortions.

### *About the Company*

Kerzner International Limited is a leading international developer and operator of premier casinos, resorts and luxury hotels. The Company's flagship destination is Atlantis, a 2,317-room, ocean-themed resort located on Paradise Island, The Bahamas.

Atlantis is a unique destination casino resort featuring three interconnected hotel towers built around a 7-acre lagoon and a 34-acre marine environment that includes the world's largest open-air marine habitat. The Company also developed and receives certain income derived from Mohegan Sun in Uncasville, Connecticut. Following the completion of a \$1 billion expansion, the Native American-themed Mohegan Sun has become one of the premier casino resort destinations in the United States. In its luxury resort hotel business, the Company operates luxury resorts primarily under the One&Only brand. The Company manages nine resort hotels in The Bahamas, Mauritius, Dubai, the Maldives and Mexico and has entered into an agreement to develop and manage a tenth property in the Maldives. For more information concerning the Company and its operating subsidiaries visit [www.kerzner.com](http://www.kerzner.com)

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