

CALIFORNIA GAMBLING CONTROL COMMISSION

**Third-Party Providers of Proposition Player Services and Gambling Businesses
Regulation Workshop
August 27, 2013**

Meeting Notes

AGENDA

Introductory Comments

Roll Call of Commissioners was not taken, but Chairman Richard Lopes and Commissioners Lauren Hammond and Richard Schuetz were present.

Executive Director Tina Littleton indicated that Commission staff would use this roundtable to provide the opportunity for everyone to express concerns on what they want added, amended, or deleted in the regulations related to Third-Party Providers of Proposition Player Services (TPPPS). The discussions will focus on two regulation phases: (1) Contracts, and (2) Accounting and Financial Reporting Requirements, with the goal to use the comments presented to begin drafting regulation language. Executive Director Littleton invited stakeholders to present comments on each category.

Chairman Lopes welcomed everyone to the roundtable discussion.

- He anticipates differences of opinion as we go through this process.
- He respects differences of opinion but wants to make sure that this is a respectful and thoughtful process.
- Part of this process is hearing from different stakeholders and ensuring whatever we promulgate, we can all live with.

TPPPS Contracts

Executive Director Littleton introduced the topic by informing everyone that copies of the current regulations were available for reference and to aid in comments or questions on the proposed concepts.

Services and Equipment

- Concern was expressed that by reimbursing a gambling establishment for equipment, the TPPPS is sharing in the costs of the game like they were a gambling establishment and that this becomes a banking game. The statute does not specifically authorize the TPPPS to reimburse the house. The regulation should prohibit the reimbursement of TPPPS to the house or provide much more guidance. (Tribe)

- The amount of the investment by the cardroom is significant. The TPPPS receives full advantage of it. It's not reasonable for the TPPPS to receive the advantage of services and advertising but not have to pay any of the costs. (Cardroom)
- Concern was expressed that advertising was inaccurately referring to gambling establishments as "Las Vegas style gaming" even though such style of gaming was not offered and is not legal in California. (Tribe)
 - It would be helpful if there was a definition of "advertising." (Bureau)
 - Does advertising including marketing? (Bureau)
 - How much in advertising is the TPPPS contributing and does the amount make sense? (Commission)

Separation of House from Bank

- Concern was expressed that depending on how the contract was designed, it could give the gambling establishment an interest in the results of the play of the game. The law prohibits the house from having an interest in funds lost or won. (Tribe)
 - Desire was expressed in understanding the financial relationship. Specifically, what percentage of the cardroom's income is provided by the TPPPS contract? It was advised that a reasonable percentage should be determined. (Tribe)
 - The cardroom does not have an indirect interest. Their income is guaranteed by the contract, it is the TPPPS that is subject to all of the risk. (TPPPS)
 - If a regression analysis was conducted with TPPPS net income or gross revenues and lease agreements there would be a strong correlation. (Commission)
- It was requested that additional clarity be provided in the amounts and purposes of the costs of the TPPPS – gambling establishment contract. (Tribe)
 - The issue the Bureau has is that that regulation doesn't allow the Bureau to dig into the amounts as they are not specifically required to be explicit within categories. (Bureau)
 - The Bureau needs additional authority to do this. (Bureau)
 - Terminology in the regulations, such as "reasonable" and "substantially disproportionate," are too vague for the Bureau to enforce. (Bureau, Tribe)
 - We are relying on the Bureau to provide us with specific language. (Commission)
 - Providing additional detailing blurs the distinction between the two entities and cannot be audited for reasonableness. (Commission)
 - The TPPPS provide banking services for card clubs and any relationship between the two makes the waters murky. (Tribe)
 - Contracts should be limited to additional costs, not normal expenses. (Tribe)

Rotation and Game Rules

- Concern was expressed that California has a “third-party banking problem” and not a third-party player problem that steps across the lines of permitted gaming in Article 4, Section 19 of the California Constitution. (Tribe)
 - It was pointed out that the law (Business and Professions Code section 19805) refers to the systematic and continuation rotation of the player dealer position and the house can’t have an interest. (Tribe)
 - The law (Business and Professions Code 19984) authorizes Third Party Players, not Third Party bankers. (Tribe)
 - This situation was first observed due to collection fees no longer being required for anyone not in the player-banker position. (Tribe)
- The contract should include the requirements that the game is systematically and continuously rotated and not just offered. (Tribe)
 - Rotation is a game rule issue and therefore under the purview of the Bureau (Commission)
 - The Bureau has been discussing rotation with their legal team and cannot discuss in a public setting. (Bureau)
 - It is appropriate to discuss rotation in terms of the regulations. (Tribe)
 - Rulemaking would conflict with the Bureau’s authority under the law. (Commission)
 - The regulations include key elements related to the approval of Bureau game rules. (Tribe)
- The game rules should not be providing for a higher collection to the TPPPS than to the other players. (Tribe)
 - The game rule system charges more for the player-dealer position, not for the TPPPS. Everyone taking their turn as a player-dealer would pay the additional cost. (TPPPS)
 - Concern was expressed that charging more for the player-dealer position discourages non-TPPPS players from participating in this role. (Tribe)

Fees

- How should the fees of the TPPPS be determined? (Commission)
 - The current system can be replaced by a new system if the current system is not working. (Commission)
 - An option could be a fee per table in each cardroom based on services provided. (Commission)
 - We could back up and make this very simple by basing fees on the number of games for which services are provided. (Bureau)

Contract Review

- Contracts should be provided to the Commission to ensure the licensing standard is met. (Tribe)
- It is difficult to determine the reasonable value of contracts and services when the table count served by the TPPPS is not accurately reported. (Bureau)
 - Magnitude is a big issue. The higher the contract amount the more the TPPPS needs to maintain the player-dealer position. (Tribe)
- For violations of contracts, the Bureau issues a warning letter. (Bureau)
 - The subsection should be expanded to allow the cancellation of contracts for violations. (Tribe)
 - The term “material violation” requires additional specificity. (Tribe)
- How should the cancellation process work? Should it just be notification by the Bureau to the Commission, or must it go through the accusation process? (Bureau)
 - The word “material” should be eliminated, and consideration of cancellation should be made for any violation. (Bureau, Tribe)
 - If “material” is removed then violations that would be the basis for termination of the contract need to be defined. (Tribe)
- During the approval process, the Commission should have a more active role. (Commission)
 - Under the statute, the Bureau has authority for approving the contracts, not the Commission. (Commission)
 - Contracts should be open for anyone to comment on. (Commission)
 - The Bureau already submits non-expedited contracts and amendments to contracts to the Commission for review. (Bureau)
 - Expedited contracts are not provided to the Commission because they are substantially similar and under a short approval period. Allowed changes on expedited contracts includes which games are played, the dollar amounts provided by the TPPPS (if not dramatically different), hours of operation, and number of tables. (Bureau)
 - For revisions of contracts, additional items should be allowed by notification than those currently allowed. (Bureau)
 - The review timelines should be reexamined. (Tribe)
 - Expedited contracts are an important section to be maintained and doesn't need to be revised. (Cardroom)
- Should smaller cardrooms, such as those with five or less tables, be treated differently in the requirements for contracts? There is concern that the process may be too expensive for small cardrooms. (Commission)

MICS

- The lack of minimum internal controls for the TPPPS is troubling. There are extraordinarily weak controls and there is no issue of greater importance. (Commission)

Tipping

- Tipping in a contract is not a reward for service, but is an institutionalized subsidy of labor. (Commission)
 - There is concern for who besides the dealer may be receiving tips. (Commission, Bureau)
 - Only dealers should be tipped. (Bureau)
 - Should this revision prohibit tipping altogether? (Commission)
 - The source of the funds being used for tips should be considered. There should be more detail in the source of the funds and in the amounts. Tipping should not be done at the table. (Bureau)
 - The TPPPS should only pay the winning bet, not pay employees. (Commission)
 - People who are making decisions about games should not receive tips. (Commission)
 - Tipping is an important part of the gambling industry. TPPPS tip in a similar way to other players. If TPPPS didn't follow the precedential tipping process things could look skewed. (Cardroom)
 - Employees rely on the income that comes from tips and a change in their ability to receive tips should be considered in the effect it will have on them. (Cardroom)
 - All tips are covered by the IRS in the tip agreement. (Cardroom)
 - What is important is the disclosure of tips. (TPPPS)

Electronic Playing Book

- Electronic playing books should be considered with the contracts. They should not be delayed to phase two of Commission consideration. (TPPPS)
- There are very weak controls as the money flows in the TPPPS environment. (Commission)
- Current player book is inadequate to track and protect assets. (Commission)
- A digital format can provide better controls. (Commission)
- The Bureau is 100 percent behind electronic playing books. Paper playing books require substantial time and resources to review. (Bureau)
- The Bureau does not have the resources to review and approve electronic playing book formats; the industry needs to do this. (Bureau)
- An outside agency, such as GLI, will need to be used to verify playing books meet whatever standards are determined. (Bureau)
- Intelligent industries regulate themselves. The industry should work together on a solution. (Commission)

Accounting and Financial Reporting Requirements

Executive Director Littleton introduced the topic by stating that there are currently no regulations for accounting and financial reporting requirements for TPPPS. The discussion will begin with the review of the existing cardroom regulations and how those regulations can be amended to incorporate TPPPS.

Countdown Procedures and Dual Signatures

- More verification and dual signature concepts are a good idea. However, a dealer's verification at the table of the third-party bank may not look appropriate from the customer's perspective. Need to be careful about the separation between the cardroom and third-party provider. (TPPPS)
- Verification by a third-party employee and a cardroom employee causes complications if there is an error. Will need a procedure for who is responsible when both have verified amount that turns out to be in error. (TPPPS)
- If the cardroom signature can be anyone, from a "hands-per-hour" perspective, a floor person would be more appropriate than a dealer. (Cardroom)
- The Bureau requests the cardroom employee performing the verification be a key employee or higher level. Otherwise, the employee may be a work-permit employee, and if that person is a local permittee, the Bureau has less jurisdiction over those employees. (Bureau)
 - Requiring a key employee to perform the verifications would be problematic with everything else a key employee is responsible to do. (Cardroom)
 - Business and Professions Code section 19914 authorizes the revocation of a local work-permit, so there is authority over employees holding a locally issued work-permit. (Commission)
 - Would two TPPPS employees at the same employment level (peer review) be an issue? (Bureau)
 - All ideas will be considered and are open to discussion, but the original thought is that those two employees could still be directed by their supervisor. That supervisor would be called in if there was a disagreement. (Commission)
- Could there be a way to use two TPPPS employees, such as the player and a TPPPS clerk? Perhaps a large enough third-party presence in a cardroom would have multiple supervisory chains to allow dual signatures outside of the supervisory chain without involving the cardrooms. (TPPPS)
- The change in player bank responsibility is enough responsibility to maintain accurate verifications. The checks and balances to make sure the bank the employee is now responsible for has the amount being claimed already exist. But it is agreed that recording credits and fills would benefit from dual verifications. (TPPPS)
 - Transferring of the banks may be working, but the fills and credits do not have those checks and balances yet and should have the dual signatures. (Commission)

- When a player is only performing the transfers necessary for a winning hand, losing hand, or even money exchanges, then this may not be necessary. It is when you are taking tips out of the tray, doing cross-fills or other transactions where this dual verification becomes necessary. (TPPPS)
- The playing book forms would have to be adjusted to accommodate the dual signatures that would include cardroom employees. (TPPPS)
 - Currently the electronic playing books only provide for access by third-party employees. Whatever is decided will need to be incorporated into the programing. (TPPPS)
- One method may be a triple verification, with the two peers verifying an exchange, a supervisor overlooking the exchange. The supervisor is the only one with access to the verification palm software. (TPPPS)
- Each company may feel more comfortable in the level of trust and training they have in their own employees than in trusting verifications from an employee outside of their company, who may or may not have the same training or skill. (TPPPS)

Chip control

- Asking the third-party player to keep such a large amount of money in a flat chip tray would result in the chip tray taking up a large portion of the playing table. This requirement may not be necessary or practical. (Cardroom)
 - “Stacked” refers to being stacked (vertically) like a tower, where the camera is unable to easily determine how tall the stack is, not necessarily stacked flat (horizontally) with multiple levels. (Commission)
- Most casinos use stacked racks, so you have a good indication of what is there. Also, if the overhead camera is unable to view the chips, a camera at another angle usually suffices. (Cardroom)
- The Bureau finds this very important for investigative review purposes, but does accept a stacked chip tray as appropriate. (Bureau)

Third-Party Cage Controls

- No comments were submitted.

Definition Clean-up

- Referring to the location where the TPPPS would take the chips gathered from the cardroom cage and then distribute them to the players may be called the “third-party cage.” (TPPPS)
- A third-party podium has also been used as an applicable term. (Bureau)
 - A podium becomes confused with a satellite cardroom podium or other imprest bank. The term “podium” should be limited to an imprest bank. (Commission)

Applying the Current Accounting and Financial Regulations to TPPPS

- The Bureau supports applying the current regulations to the TPPPS where appropriate, including the chart of accounts and tiered income categories. (Bureau)
- Review of the income limits for the group definitions should be considered. (Bureau)
- Internal controls should generally not be adjusted by group level, unless it makes sense. (Commission)
 - Agreed, but financial tiered reports are appropriate for financial reporting requirements. (Bureau)
- Why can't all third-parties, regardless of group level, perform annual financial audits? (Commission)
 - The smaller third-party providers generally do not have audited financials, and it is very difficult to have them perform an audit. An audit requirement for annual financial reporting may not be feasible for the smaller companies. (Bureau)
 - The levels for the cardrooms may need to be lowered for the third-parties. The cardrooms have fixed costs and assets, like the building, so the dollar value is a bit different. (Bureau)

Monthly Submission of Information by Game Type and Number of Games

- While information to determine the gaming industry trends is valuable and helpful, a main concern is with privacy, including identification and proprietary concerns. Any information should be publicized on an aggregate basis, not a cardroom basis. (Cardroom)
- The Bureau would appreciate this information. (Bureau)
- Drop information may not get the information you need, because each game or cardroom may have different drop amounts. Number of gaming hands might be better. The statistical information would be incomplete without other variables when collecting gross gaming wins. (Cardroom)

Review Documentation Currently Required; Other Suggestions

- The chart of accounts is a valuable tool for auditing purposes, and maintenance of one needs to continue to be required. Because the document can be requested, automatic submission is not necessary. (Bureau)

ADJOURNMENT:

Executive Director Littleton adjourned the meeting at 2:15 p.m.