

CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Matthew R. Oyster, Casino Control Commission

FROM: Jeffrey R. Kasler, Regulatory Policy Advocate

DATE: February 24, 2012

RE: **CSI Review – Minimum Internal Control Standards, Table Games, and Advertising (New)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Regulatory intent

The rules included in this package relate to the minimum internal controls for the handling of unclaimed winnings, table games, and advertising provided by operators. The overarching purpose of these rules is to protect the integrity of casino gaming and casino patrons.

Rule 3772-10-25 requires casino operators to abide by Chapter 169 of the Ohio Revised Code for the handling of unclaimed winnings. Rules 3772-11-01 through 3772-11-43 provide a regulatory framework for all aspects of table games, from initial development to casino-ready and operational status. Finally, rules 3772-13-01 through 3772-13-03 provide for the Commission to regulate advertisements used by operators.

Development of the regulation

The Commission delivered the draft rules to casino operators and gaming-related vendors. Both operators and two vendors responded with numerous comments and suggestions. Also of note, a meeting was held with the operators during which the Commission fielded and considered additional suggestions. According to the Commission, the rules are in large part reflective of those already adopted by other jurisdictions.

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Adverse impact

The Commission notes that implementation of the draft rules will result in a cost to the casino operators, specifically in the form of staff time needed to develop and implement minimum internal control standards. The gaming-related vendors may incur a similar cost related to compliance with the table game regulations. The Business Impact Analysis ultimately concludes that the casino operators are best positioned to quantify these costs. So, in an effort to maximize predictability and precision, the CSI Office and the Commission corresponded multiple times about assigning a dollar estimate to the adverse impact; we also discussed a specific comment offered by both operators related to unclaimed winnings, as detailed below.

Unclaimed winnings. Both operators expressed concern with the unclaimed winnings regulation, noting potential difficulty with compliance. In response to these concerns, the Commission spoke with in-house counsel for the Ohio Department of Commerce, Division of Unclaimed Funds and the Assistant Attorney General for the Division. Following this conversation, the Commission was informed that unclaimed winnings at the casino are subject to Chapter 169 of the Ohio Revised Code, i.e. the Unclaimed Funds statute and the Commission has no discretion on whether to apply these code sections to casino winnings. What this means is that, per rule 3772-10-25, the casino operators must account for how they will process unclaimed winnings.

Our office inquired if a legislative change is or should be considered to address the operators' concerns. At this time, there is no known legislative proposal related to these unclaimed winnings, and the Commission does not intend to pursue one, as it does not function as an advocating body for the operators.

Implementation costs. The Commission noted the potential costs to casino operators for developing and implementing the minimum internal controls set forth by these rules. After the CSI Office recommended that it provide additional detail, the Commission stated that the operators have compliance staff tasked with developing internal controls, and the related work may last as much as six months before opening. The Commission assumes that this role could be filled by one full-time compliance manager at a potential salary ranging from \$80,000 to \$100,000, though that figure is ultimately determined by the operators. One final assumption made by the Commission is that the operator may opt to retain this compliance person and thus incur related ongoing costs.

The gaming-related vendors may, according to the Business Impact Analysis, incur testing costs for new table games. According to the Commission, those costs depend on two things: (1) the device's novelty or complexity, and (2) the rate agreed to by the vendor. The Commission estimates that rates may range from \$100 to \$200 per hour.

Dice handling and security, generally. One of the operators commented on the rule packages' consistent involvement of security personnel during dice handling procedures and other processes. The comment specifically suggested that other jurisdictions only require surveillance – and not security personnel, as well – for this and other processes. The expressed concern centered on potential increased labor costs for the operators whenever a process requires the participation of security personnel. The Commission noted in follow-up discussions that it opted to require security personnel involvement with dice handling outside of game play to ensure the integrity of the casinos; they further assert that this is not in conflict with any standard industry practice.

In addition, the Commission suggests that involving security personnel does not necessarily require the operators to hire more personnel, as each casino will have security personnel on staff, who will likely absorb the additional responsibility. That said, if an operator determined that a regulation would necessitate an additional security staff, the Commission estimates the total cost for a full-time position would approximate \$35,000 to \$45,000 per year, though the operator will ultimately set the rate.

Summary

We appreciate the Commission's responsiveness to our office's multiple follow-up inquiries. In addition to the BIA, the Commission attached several comments that were received during stakeholder outreach, which led to our follow-up. It was through this correspondence after submission of the BIA that the bulk of what appears above was ascertained. No additional public comments were received after submission of the rule packages to CSI.

After clarification of the above issues from the Commission, we believe this rule package satisfactorily meets the standards espoused by the Common Sense Initiative. Based on the above comments, it is recommended that the Commission proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: John Barron, Deputy Director and Legal Counsel, Casino Control Commission
Mark Hamlin, Lt. Governor's Office