

CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Matthew R. Oyster, Casino Control Commission

FROM: Jeffrey R. Kasler, Regulatory Policy Advocate

DATE: March 2, 2012

RE: **CSI Review – Casino Operators, Electronic Gaming Equipment, & MICS (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 eight rules included in this package pertain to the certification of contractors, computation of gross casino revenue for tax purposes, electronic gaming equipment, slot machine meter readings, and the extension of credit.

Rules 3772-4-10 and 3772-4-11 notably require that operators receive specific certifications from potential contractors as well as ensure that operators file returns and pay their taxes in the appropriate timeframe.

Rules 3772-9-08 through 3772-9-11 provide a framework for operators to move, remove, and maintain and repair electronic gaming equipment. There is also a provision related to remote systems access of electronic gaming equipment for certain authorized gaming-related vendors.

Finally, rules 3772-10-08 and 3772-10-23 are minimum internal control standards specific to slot machine meter readings and the extension of credit to patrons.

Development of the regulation

The Commission delivered the draft rules to casino operators and gaming-related vendors. Both operators and two vendors responded with comments and suggestions. Also of note, a meeting was held with the operators during which the Commission fielded and considered additional

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suggestions. Ultimately, some suggestions were well-taken and incorporated into the regulations and others were not.

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 as well as staff time for ongoing compliance oversight. The gaming-related vendors may incur a cost related to electronic gaming, specifically remote systems access design. The Business Impact Analysis (BIA) 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 about assigning a dollar estimate to the adverse impact. Future BIAs from the Commission should attempt to incorporate these dollar estimates directly into the BIA.

Casino operators, compliance and oversight. Development of the minimum internal control standards required by this rule package may necessitate one full-time compliance manager's salary per casino facility. The salary for that manager is determined by the operators, but the Commission assumes it to be \$80,000 to \$100,000 per year. Most casinos choose to maintain that compliance person on a permanent, full-time basis, and therefore incur ongoing annual costs.

The rules pertaining to contractor certifications (3772-4-10) and filing tax returns, paying all levied taxes, and assisting the tax commissioner when requested (3772-4-11) implicate the operators' compliance departments, which maintain the internal audit staff. As a result, part of the above-referenced compliance manager's time will be devoted to developing policies that adhere to the statutory and regulatory requirements as well as supervising the audit staff that will be required to implement and fulfill the requirements. The Commission anticipates that each of the operators will provide approximately two auditors at each of their facilities, with each auditor making approximately \$50,000 per year.

It is also anticipated that each of the casino facilities' compliance departments will have approximately two full-time clerks, who are equivalent to administrative staff, who will each make approximately \$35,000 per year. Notably, compliance with these regulations does not require additional staff, rather it will likely be a part of the ordinary job responsibilities of full-time staff already hired and licensed.

Remote access and equipment testing. In its correspondence with the CSI Office, the Commission notes the following two points: First, 3772-9-11 does not require either the operators or the gaming-related vendors to have remote systems access; providing such access is at the discretion of the operators and their vendors. Second, 3772-9-11 is designed to be business friendly, though it does contain certain logging and testing requirements designed to protect the integrity of casino gaming should they choose that option. This rule allows qualifying gaming-related vendors the ability to access electronic gaming equipment from outside of the casino facilities to perform technical assistance, effectively limiting the circumstances in which an on-site technician would be required. Absent this rule, the vendors that provide remote system access services for electronic gaming equipment would have to have their employees physically travel to the facilities to provide all technical services that the

operators could not perform on their own. Accordingly, any costs that may be realized by the vendors as a result of the logging requirements are de minimis because they are negated by the lack of requisite travel and efficiency of performing remote technical assistance.

To the extent the applicable vendors do not recoup testing costs through agreements with the operators, the vendors would incur real costs in seeking approval of their systems by Ohio certified independent testing laboratories. The actual costs of testing depend on two main factors: 1) the device or program's novelty or complexity, and 2) the rate agreed to by each vendor. Rates vary, but can range between \$100 to 200 per hour.

Summary

After receiving the Commission's clarification of the adverse impact incurred, 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