

Presentation to the Portfolio Committee on Trade and Industry on the National Gambling Amendment Bill

Presenters :

Mrs. Charmaine Mabuza (Ithuba CEO)

Ms. Zainab Seria (Ithuba Head of Legal)

Mrs. Adheera Bodasing (Polarity Consulting- Legal Adviser)

About ITHUBA

- ITHUBA Holdings RF (Proprietary) Limited has the exclusive licence - granted by the DTI for a period of 8 years - to offer the National Lottery as well as Sports Pools games in South Africa. Thus we are the only entity licenced to offer the National Lottery.
- We are level 3 B-BBEE certified and have a wholly black owned shareholding.
- We currently provide direct and in-direct employment to approximately 25,000 people.

Good Causes

- Contributions to the National Lotteries Distribution Trust Fund for the period 1 June 2015 to date by ITHUBA amounts to over R4 billion.
- Over the 8 year period of our licence we anticipate that ITHUBA will well over R10 billion to good causes.
- The contribution to good causes by the National Lottery, far exceeds all other stakeholders in the gambling industry.

Background

- The National Lottery is one of the regulated modes of gambling.
- We are governed by the National Lotteries Act and our regulator is the National Lotteries Commission.
- The National Lottery is the only form of gambling which has a revenue maximisation model.
- ITHUBA supports the Bill and the need for a strong effective National Gambling Regulator. ITHUBA believes that the National Gambling Regulator should be properly constituted as soon as possible.
- There is a need for better cooperation and collaboration between the National Lotteries Commission, the National Gambling Regulator and the Provincial Licensing Authorities.

Merging National Regulators

- The Gambling Review Commission (GRC) suggested that the National Gambling and Lottery regulators are merged (GRC Report, p17).
- The GRC felt that this would create better harmonisation of policy, and closing the –gaps that are being exploited by less scrupulous operators.
- ITHUBA believes that this is a good suggestion and one that the Committee should consider for the longer term.
- In the absence of this ITHUBA’s submissions on the Bill is made to ensure that there is better cooperation between the gambling and lottery regulators.

Comments on the Bill and motivation for our view

- There is on-going litigation between Bookmaker(s) who are licenced by the provincial licensing authorities and ourselves as the National Lottery Operator, together with our regulator the National Lotteries Commission who are supporting us.
- This litigation deals with the exploitation of our proprietary products by Bookmakers who are offering bets on the outcome of the Lottery results. This translates to an annual loss of revenue to the National Lotteries Distribution Trust Fund of between R1 to R2.7 billion.

Comments on the Bill and motivation for our view

- We have made detailed submissions on this in our initial submission to the Committee, however this is not the objective of our presentation today. Our focus is on avoiding the situation we find ourselves in were national and provincial gambling regulators need to seek clarity from the courts via litigation rather than resolving the situation ~~via~~ by cooperative governance and more harmonised enforcement.

Comments on the Bill

- **AD Clause 5:**

Insertion of section 21A in Act 7 of 2004 dealing with the Register of unlawful gambling operators.

- **ITHUBA's Submission:**

We submit that if someone is on this Register, they should also be excluded from obtaining a lottery licence or any other kind of licence in the gambling industry, thus the ambit of this section should be broadened.

Comments on the Bill

- **AD Clause 16:**

Amendment of section 36 of Act 7 of 2004 Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: "(1) The Council may, as contemplated in section 41(2) of the Constitution, facilitate the settlement of any dispute between the [board] National Gambling Regulator and one or more provincial licensing authorities concerning the powers and duties to be exercised and performed by them relating to casinos, racing, gambling and wagering."

- **ITHUBA's Submission:**

We submit that this section should be enhanced to allow the Council to also facilitate between the NLC and one or more provincial licensing authorities as well.

Comments on the Bill

- **AD Clause 22:**

Amendment of section 62 of Act 7 of 2004 Section 62 of the principal Act is hereby amended—(a) by the substitution in subsection (1) for paragraphs (e) and (f) of the following paragraphs respectively:

"(e) the resolution of any dispute that may arise among provincial licensing authorities, or between a provincial licensing authority and the [board] National Gambling Regulator, regarding the regulation and control of gambling activities; [and] (f) other matters that may be referred to it by a member of the Council; and"; (b) by the addition in subsection (1) of the following paragraph: "(g) policy and legislative amendments before the Council to ensure alignment."

- **ITHUBA's Submission:**

Similarly we believe that this section should be enhanced to include disputes between the NGR and or provincial licensing authority and the NLC and/or the National Lottery Operator.

Comments on the Bill

- **Further AD clause 22:**

(d) of Amendment of section 62 of Act 7 of 2004d) by the substitution in subsection (2) for paragraph (c) of the following paragraph: "(c) may make a finding that a provincial licensing authority has failed to comply with this Act and, if it does so, may direct that provincial licensing authority to enter into an agreement with the [board] National Gambling Regulator in respect of the steps to be taken by the provincial licensing authority to ensure compliance with this Act."

- **ITHUBA's Submission:**

We believe this section could also be enhanced to cover disputes between the NGR and or provincial licensing authority and the NLC and or the National Lottery Operator.

Comments on the Bill

- **Ad Clause 30:**

Insertion of section 66A in Act 7 of 2004 "Inter-governmental relations in relation to gambling activities 66A. For purposes of supporting the objects and functions of the National Gambling Regulator and to strengthen collaborative work with other government departments or institutions responsible for matters related to gambling, the department— (a) may enter into agreements with any other organ of state as contemplated in the Constitution, to provide for the joint exercise or performance of their respective powers and functions contemplated in this Act; and (b) may establish a forum or similar body for such purposes."

- **ITHUBA's Submission:**

We submit that this section should include the NLC, even though it could be suggested that this is implied, we believe it should be made more explicit.

Conclusion and Recommendations

- We reiterate that we support the Bill
- Request that the Committee consider our recommendations.

Thank You