

Ithuba Holdings RF (Proprietary) Ltd ("Ithuba") thanks the Select Committee on Trade and International Relations ("the Committee") for the opportunity to make submissions on the National Gambling Amendment Bill 2018, ("the Bill").

## ABOUT ITHUBA

Ithuba was, awarded an **exclusive licence** on 1 June 2015 to operate the National Lottery for a period of 8 years, thus Ithuba is the only entity which is licenced to offer and/or operate the National Lottery. In terms of BBBEE, Ithuba has a **wholly owned black** shareholding.

It should be noted that from inception of our licence, 1 June 2015, to November 2016, we have already contributed well over R1.7 Billion Rand to the National Lotteries Distribution Trust Fund ("NLDTF"). We had anticipated that over the 8 year licence period Ithuba will be contributing well in excess 10 Billion Rands to Good Causes via the NLDTF.

## BACKGROUND

It should be noted that there are various regulated modes of gambling in our country and the Lottery is one of these. There are however two distinctions between the National Lottery and other forms of gambling that we wish to highlight, our model and the other is our regulator.

The National Lottery is not structured like other modes of gambling, our model as recommended by the Wiehahn Commission is to maximize revenue so that we can support Good Causes. We are the only mode of gambling which has this model. The second aspect is that unlike other modes of gambling we are regulated by the National Lotteries Act and the National Lotteries Commission (NLC).

## SUMMARY OF OUR VIEW ON THE BILL

We have no objection to this Bill and believe that it is important and necessary that that the National Gambling Regulator (NGR) needs to be constituted and established to ensure that like the lottery regulator, all forms of gambling in the country are closely monitored and effectively regulated. We however believe that the bill misses the opportunity to enhance co-operation between the NLC and the NGR. Thus our comments on this Bill are focussed on sections in the Bill where cooperation can be easily be enhanced in the Bill which would create better uniformity and avoid unnecessary intergovernmental litigation.

We would also suggest that the committee consider the proposal by the Gambling Review Commission of a merger of both national regulators for the lottery and gambling, i.e. the NLC and NGR.

## MERGING REGULATORS

We submit that all forms of gambling should be regulated by one national regulator, thus on a national level, the NLC and NGR should be one entity. We do appreciate that this might not be possible immediately but we submit that this would allow for better, stronger and more consistent enforcement

capacity as well as consumer protection. E.g. instead of both these regulators conducting independent research on gambling if they were one entity the research for example would cover the entire sector rather than a segment.

GRC report p17 "Uniformity and harmonization of policy at all levels of government  
One area of distinct weakness in the current framework is the ability to ensure proper uniformity, consistency, and accountability. It appears that provincial and national laws are sometimes not harmonized and differences exist in the application of the legal framework between provinces, resulting in a lack of uniformity. The inconsistencies and differences impact negatively on the industry, and create weak spots in the regulatory framework that can be exploited by less scrupulous operators."

Further the GRC went on to say on page 21, "6. Finally, the roles of the NGB and the NLB will need to be reviewed and consideration should be given to the continued need for two separate bodies, should the recommendations regarding the mandates of the two institutions be adopted."

We submit that the committee consider this position as recommended by the GRC. In fact we would like to remind the committee that this report of the GRC was before this committee and the recommendations of the GRC were supported. We would advise the committee to measure this Bill against these recommendations.

#### THE NEED FOR ENHANCED COOPERATION BETWEEN REGULATORS

As you are aware Ithuba hosts the National Lottery, which is televised and then makes payouts to the winners. One of the biggest challenges we as the lottery face is unfair exploitation of our proprietary product by several licenced Bookmakers (who are licenced by the Provincial Gambling Boards), these Bookmakers are offering a bet on the lottery result. We estimate that this translates to a loss to the NLDTF on an annual basis of between 1 – 2,7 Billion Rand.

We believe that this is in contravention of the Lotteries Act however this is not the object of this submission but is a core issue which we raised in relation to the previous version of the Bill. We raise it in this context as, it is our contention and submission that if the existing gambling legislation is properly enforced this situation could have been avoided with effective implementation and enforcement of the current legislation by the responsible regulators. Thus, we thus encourage the committee to ensure that the NGR is constituted.

We believe that there is a need for better cooperation and enforcement between the gambling and lotteries regulators to prevent such abuse by licensed operators from another mode of gambling.

Thus the situation we find ourselves in is that Ithuba together with the NLC are litigating against the gambling operator/s licenced by the Provincial Gambling Regulators, this does not make sense, that National and Provincial Regulators in the Gambling industry must seek clarity from the courts and that this cannot be achieved via cooperative governance and proper enforcement.

It is against this landscape that we believe that the Bill can strengthen the cooperation between the regulators in the gambling industry. **Our submission on the various sections in the Bill are below:**

**Ad clause 3: Insertion of section 10A in Act 7 of 2004 dealing with the Register of unlawful gambling operators**

Ithuba submission: we submit that 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 10 A (2) should be broadened, which can be done by a simple insertion of the words, "or a lottery licence".

**AD clause 18 : 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 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.

**AD clause 24 : Amendment of section 62 of Act 7 of 2004**

Ithuba submission: similarity 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.

**Further AD clause 24 d) of Amendment of section 62 of Act 7 of 2004**

d)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 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.

**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 National Gambling Regulator—

(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 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 explicit.