



THE STAR

## **The Star Entertainment Group's submission to the proposed introduction of an economy-wide cash payment limit of \$10,000:**

### **Response to the Exposure Draft Legislation and Explanatory Material**

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#### **1. Executive Summary**

The Star Entertainment Group (The Star) welcomes the opportunity to respond to the exposure draft bills and supporting instruments concerning the introduction of an economy-wide cash payment limit of \$10,000.

The Star's submission reflects the unique nature of casino regulation and operation which has a complex relationship with state-based public policy objectives and regulation. The submission details the likely impacts of the cash transaction limit for industry operators.

The Star supports the principal purpose and objectives of the proposed legislation. In that context, The Star submits that because of the unique nature of casino regulation and operation the implementation of this measure in casinos would achieve little of the public policy objectives that the draft legislation is directed at and would threaten the achievement of other (predominantly state) public policy objectives.

The Star is therefore of the view that a different approach is required for Australian casinos at this present time and that an appropriate position can only be formed through a detailed process of frank and open discussion on the likely impacts of the limit. Based on the current approach, The Star believes that it (and substantial AML reporting casinos generally) should remain an AML/CTF reporting entity as per the proposed legislative design.

The Star is firmly focused on the prevention, detection and reporting of money laundering and terrorism financing activities. The Star has a long-standing program of engagement with law enforcement agencies to minimise illegal behaviours at its casinos, and to assist in the gathering of evidence and intelligence.

The Star is of the view that the proposed legislation will dramatically weaken regulatory efforts and intelligence-gathering with respect to AML/CTF. The Star has carefully reviewed the proposed Bills and concludes there is potential for the proposed legislation, as drafted, to increase black economy activity and drive people to illegal gaming markets.

The Star does appreciate the stated purpose of the legislation is to *"prevent the use of cash to avoid creating records about economic activity"* to among other things, stifle money laundering and terrorism financing activities. The Star also notes a further intention of the legislation is to ensure anti-money laundering and counter-terrorism financing (AML/CTF) reporting entities are not penalised where appropriate transaction records are maintained.

However, the latter is only proposed to apply, on and from 2021, to designated services broadly inclusive of financial institutions and currency exchange services. The Explanatory Material makes it clear that captured transactions will apply to most other reporting entities, including Australian casinos. In The Star's circumstances, this will have significant ramifications on its business model if not adequately addressed.

In this regard, The Star seeks to emphasise the following points to demonstrate the seriousness of its concerns with the proposed legislation and to support consideration of a different approach for Australian casinos:

- Casino operators are highly regulated entities that hold and operate legitimate social and portfolio investment casino licences;
- The Star fully satisfies and takes its AML/CTF responsibilities extremely seriously;
- The Star's longstanding history of compliance with the current reporting arrangements provides a rich and valuable source of intelligence to Federal and State regulatory and law enforcement bodies;
- The proposed limit will not change the material risk associated with AML/CTF activities, but rather will result in the adoption of other innovative measures to avoid detection;
- Academic research suggests that undue restrictions on the use of cash in casino gambling may prove counter-productive by increasing the danger and incidence of disordered gambling behaviours;
- Unintended impacts will have substantial ramifications for business, international tourism and commercial investment, as well as taxation estimates and targets;
- State-based legislation creates a significant control on facilitating large payments of money for gaming and gambling purposes, which are otherwise legitimate activities permitted under the terms and conditions of a social casino licence;
- Features of the State based regulatory regime mean that the assumptions embedded in the black economy initiatives about alternatives to cash use in the economy are not available to casinos;
- Patron spend will be dramatically reduced due to the speed of telegraphic transfers and maximum daily withdrawal limits on local bank accounts; and
- Australia will be placed at a significant competitive disadvantage with other casinos throughout the Australasian and US Pacific regions, including Singapore, Macau, the Philippines and Las Vegas.

Ultimately, The Star considers that the proposed legislation will substantially weaken regulatory efforts and intelligence gathering with respect to AML/CTF. However, in recognition of the Federal Government's commitment towards implementing the Black Economy Taskforce's recommendations, The Star seeks to present a preferred option and an alternative position for the Government's careful consideration.

The Star's preferred position is that subject to ongoing AML/CTF compliance, Australian casinos should be exempted from the cash transaction limit using the same legislative mechanism as financial institutions are exempted.

This would have the effect of maintaining the 'status quo' and ensuring a continuation of The Star's close and productive relationship with Federal and State regulatory and law enforcement bodies. The Star would also recommend the introduction of legislation that is structured in a different manner to provide the Government with flexibility to amend instruments quickly to address unintended consequences as they emerge.

Alternatively, but by no means preferred, The Star proposes that the 2020-21 transitional period is extended for Australian casinos (e.g. AML/CTF reporting entities) for an additional five years (i.e. to 2026). This will allow sufficient time for operational implications and hinderances to be resolved while The Star also works with State regulators to address the statutory card-based transaction limitations currently in place (e.g. prohibitions on the use of EFTPOS facilities for gaming purposes) in each jurisdiction.

Importantly however, it will provide The Star with a greater level of business certainty, so the company can continue its substantial investment in tourism infrastructure, service its high-end clients and compete with its International competitors until such time as adequate alternative payment systems are in place and accepted by The Star's guests.

The Star is an ASX 200 listed company which operates three integrated resort properties in Queensland and New South Wales:

- The Star Sydney
- The Star Gold Coast (as well as the Sheraton Mirage Gold Coast resort)
- Treasury Brisbane (and developing Queens Wharf in Brisbane).

The Star currently employs approximately 9,000 staff in Australia and has an investment pipeline of over \$4 billion to improve local tourism assets. The Star purchases over \$1 billion of goods and services annually, predominantly from domestic suppliers making a significant contribution to local economies.

Each year The Star welcomes 18 million guests to its properties and accepts cash payments for gambling services from most of these visitors. The Star's cash transactions are heavily supervised by AUSTRAC and the state-based casino regulators.

## 2. Key observations, concerns and impacts

### Casinos exist explicitly to suppress illegal gambling markets

Australian casinos are highly regulated entities which are rated as generally being low risk from a money laundering and terrorism financing perspective. The Star in particular, has a highly developed AML/CTF Program that ensures a low risk profile is continuously maintained.

The Program includes threshold transaction reports from \$10,000 and detailed Suspicious Matter Reports if activity suspected of being related to money laundering, terrorism financing or a related criminal offence is encountered. The Star also trains its people extensively on AML/CTF and actively reviews its products and services to reduce the likelihood that they can be used for illegal purposes.

Regulated casinos were originally introduced into Australia by State Governments wanting to suppress illegal gambling markets that existed in the various state jurisdictions. While licensed casinos have for the most part suppressed illegal casinos, it is also true that licensed land-based gaming suppresses illegal online gaming.

The Star believes the proposed cash payment limit will hamper Australian casinos, which are granted legitimate social licences to counter and suppress illegal gambling markets in a lawful and highly regulated manner. As a result, the potential for the proposed legislation (as currently written) to increase black economy activity is extremely possible and real if it is applied to casinos.

It is also the case that licensed land-based gaming suppresses illegal online gaming. Impediments will therefore raise the risk that people will participate in illegal gaming markets.

### The land-based casino industry legitimately operates in large cash transactions.

The Star Sydney was the subject of the regular Section 31 Review by Jonathan Horton QC in 2016. In his final report he concluded that, "... I note that in all the interviews with law enforcement and like bodies, there was no assertion made that the junket component of The Star's business is being conducted less than honestly." He also noted interviews were held with Australian Federal Police, Australian Taxation Office, AUSTRAC, NSW Crime Commission, NSW Fair Trading, and the NSW Police Force.

Notably, Mr Horton said:

*"Persons attend the Casino from time to time with large amounts of cash to gamble. The Casino has processes to report these as appropriate. AUSTRAC's relationships with the ACCC, AFP, ATO, NSW Crime Commission, NSW Police and NSW Office of State Revenue assist with monitoring and sharing information relating to activities at the Casino.... In the last five years, AUSTRAC said, the Casino's reporting had increased proportionately to its reported business results".*

Impeding legal casinos' ability to accept cash payments will drive people to illegal gaming markets. The European Casino Association has already identified increased risks of illegal casinos arising from this kind of measure. As an example, in Italy, when a similar cash limit measure was implemented it reduced casino revenues by 20%<sup>1</sup>.

Cash transaction limits are most often used in European countries that have limited or no AML reporting obligations. This is not the case in Australia, particularly in the casino industry where The Star and others are members of the AUSTRACs Major Reporters Group. The cash limits in Europe tend to be set at higher levels (approximately \$10,000- \$15,000) and include substantially higher limits for non-residents.

The Star accepts that this measure might be sufficient to address concerns that some vulnerable and risky businesses types in Australia are not captured by AML/CTF law. Similar implementations in Europe have

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<sup>1</sup> Casino Cash Limits – European Experiences in Enforcement, Gambling Compliance, UK, July 2018.

addressed such concerns. However, The Star has already noted that it is a highly compliant AML/CTF participant.

#### State law prohibitions on domestic electronic transactions by card

The Star's customers convert cash (sometimes in quite high volumes) to credits on EGMs or to chips at tables. Patrons use large volumes of higher denomination notes and expect cash payments from The Star when they win.

In both NSW and QLD, state-based casino legislation prohibits The Star from accepting debit or credit card transactions in casino licensed areas. It means that patrons can only fund their gambling experience via the use of bank cheques or cash. Generally, the utility of cash in reducing harm from problem gambling is that it forces gamblers to substantially pre-commit to any given expenditure (even below \$10,000).

A further implication for domestic patrons is that most financial institutions impose maximum daily transaction limits which would cap the amount of funds that could be withdrawn or deposited into a player account on any given day. This hinderance can currently be avoided by patrons if they withdraw large sums of money via transactions made in person at their financial institution. Notably, under these circumstances, the financial institution is required to make a record and report such transactions to AUSTRAC.

It is also worth noting that both NSW and QLD have made amendments to their respective legislation in the last 12 months to allow casinos to provide credit to foreign nationals. While this legislation has yet to formally commence, it does not operate to fully mitigate the impacts of the proposed limit and requires a substantial amount of confidence in a casino's capacity to redeem the credited funds from the person.

#### Academic research suggests restrictive cash measures may increase disordered gambling behaviour<sup>2</sup>

The Star draws attention to a 2016 research paper prepared for the UK Responsible Gambling Trust by Prof. Jonathan Parke, Dr. Adrian Parke, and Prof. Alex Blaszczynski from the University of Sydney. The research suggests that the use of non-cash payment instruments may lead to overspending because the wealth impact of a transaction is argued to be less obvious, less tangible and requires less thinking on actual amount being spent. Key findings from this research indicate:

- *“Non-cash payment methods used in gambling are likely to facilitate increased spending and disrupt cognition regarding the perceived impact on wealth. The primary explanations for this non-cash payment effect are that, in general, individuals are less likely to think about the actual cost implications of spending in the absence of the physical transactions of cash and a reduced need to rehearse specific sums when making payment.”*
- *“There is growing evidence that access to additional funds in a gambling venue is a significant risk factor for problem gambling. This may be because it facilitates the decision to continue spending more than planned. The requirement to leave the gambling venue to access additional funds may represent a natural break in play and may inhibit unplanned spending. Because of the nature of non-cash transaction, and fewer restrictions on the amount that can be deposited, remote loading via debit card may represent a greater risk for problem gambling than ATMs.”*

#### Key statistics

In FY19 The Star made about **80,000 threshold transaction reports** (statutory reports to AUSTRAC whenever a cash transaction occurs at or above \$10,000). The national total was 4.5 million.

The Star also made about **1140 Suspicious Matter Reports** to AUSTRAC in FY19 (statutory reports to AUSTRAC which capture activity we think might be related at a crime, money laundering or terrorism financing). The national total amounts to 74,120.

In FY19, the total value of cash related to those transactions at The Star was about **\$1.3 billion**. The following table sets out The Star's reports as a percentage of the national total:

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<sup>2</sup> *Key issues in Product-based Harm Minimisation: Examining theory, evidence and policy issues relevant in Great Britain.*  
Prof. Jonathan Parke, Dr. Adrian Parke, and Prof. Alex Blaszczynski 2016

<i>National Totals</i>		<i>The Star</i> %
<i>Suspicious Matter Reports</i>	125,900	0.91%
<i>Threshold Transaction Reports</i>	3,960,100	2.02%
<i>Threshold Transaction Reports Value</i>	\$170B	0.76%

### Key impacts

Drawing from The Star's AML/CTF reporting data, the total cash impact of the proposed legislation to The Star on an annualised basis would be **\$1.3 billion**. At risk is **\$423 million in total inward cash** transactions and **\$900 million in total outward** transactions.

It is expected that the additional cost in preparing cheques and processing direct debits would be nearly \$900,000 per annum. This would not be substantially counterbalanced by a reduction in cash handling costs as The Star expects substantial numbers of customers to continue using cash.

### Engagement with Police and other law enforcement

The Star has a long-standing program of deep engagement with law enforcement agencies to minimise illegal behaviour at the casinos we operate and to assist in the gathering of evidence and intelligence. The Star also provides detailed briefings and training to law enforcement agencies about casino operations. In recent times, multiple training and information sessions, including with AUSTRAC, ATO, NSW Police, and the Australian Federal Police, have been conducted.

### Pre-commitment and exclusion policies

The Star has active pre-commitment and exclusion policies to assist in the reduction of harm from problem gambling. The exclusion policy is also used to remove people from the Casino precinct that have been convicted of money laundering or other financial crimes.

The Black Economy Taskforce Report<sup>3</sup> noted there needs to be a balance between reducing barriers to modern payment mechanisms and the social harms associated with problem gambling. While the report (p78) refers to support from Clubs Australia, The Star was not consulted and it believes that the existing proposal will impede the public policy objectives of the various State-based casino control acts.

## **3. Proposed Options**

### Option A (Preferred Option): That clause 6 of the AML/CTF Amending Act includes table 3 in Section 6 of the AML/CTF Act.

Noting the key issues, concerns and impacts highlighted above, The Star believes public policy outcomes will be reduced by applying the \$10,000 limit to Australian casinos or to differentiate them from financial institutions and related services for AML/CTF reporting purposes. The Star, along with the major Australian banks, is included in AUSTRAC's major reporters group and contributes substantially to the collection of valuable financial intelligence information, which will substantially diminish under the proposed regime.

The Star's strong position remains that Australian casinos should not be captured to the extent that transactions are related to gambling activities and AML/CTF requirements are complied with. In the context of the casino environment, The Star contends that the benefits of maintaining the 'status quo' and its productive relationship with Federal and State regulatory and law enforcement bodies will far outweigh any of the costs that will arise from the proposed limit, which in particular will result in predictable commercial, tourism and taxation losses.

The Star also submits that the proposed legislation be structured differently so that either clause six of the proposed Currency (Restrictions of the Use of Cash) (Consequential Amendments and Transitional Provisions Bill 2019 be amended to include Table 3 from Section 6 of the AML/CTF Act or that powers are

<sup>3</sup> The Black Economy Taskforce Report<sup>3</sup> p78 – Supplemental Recommendation 3.7

embedded in the Act(s) to allow the cash payment limit and captured transactions types or entities to be prescribed by regulation (i.e. in the supporting instruments). This approach will provide the Government with significantly more flexibility to amend instruments quickly if/when the unintended consequences highlighted in our submission come to fruition.

Under the current approach, whereby the limit is embedded in the Act(s) and offences apply to all transactions/entities, there is no ability for amendments to be made swiftly by virtue of the fact that amending legislation must be introduced into the Parliament. An arguably more sensible approach, and one which is regularly adopted across Australia, including by the Australian Parliament<sup>4</sup>, is to install overarching powers in principle legislation with the administrative detail or mechanics prescribed in subordinate legislation.

#### Option B: Extend the implementation period for casinos

Should The Star's preferred position remain unsupported by the Government, The Star contends there is a demonstrated need to formulate a compromise position to mitigate the impact of the proposed limit on its casino operations. Among the broader and far-reaching economic implications highlighted earlier, there are significant ramifications for The Star's current business model and an almost certain reduction in short to mid-term value for shareholders.

The Star believes that this could be mitigated, in part, by extending the proposed 2020-21 transitional period for Australian casinos (e.g. Major AML/CTF reporting entities) for an additional five years (e.g. at least to 2026). These measures will also ensure the initial 'culture shock' of the proposed restrictions are somewhat avoided and can be addressed through a measured but purposeful communication and engagement strategy to The Star's patrons, particularly The Star's International VIP or premium player guests.

It will also provide adequate time for The Star to properly engage with State regulators to address or resolve the current legislative restrictions in place which prohibit us from accepting card-based payments from domestic patrons for gambling purposes (e.g. prohibitions on the use of EFTPOS facilities for gaming purposes). This is a vital issue of concern for The Star because while non-cash payment methods are becoming increasingly common across the broader economy, Australian casinos are currently prohibited from accepting non-cash payments via credit or debit cards. A future concession that will be permitted will enable credit to be provided to International patrons, but this has yet to be implemented and will not mitigate the potential loss of International patronage we expect will occur.

Most importantly however, it will provide The Star with a greater level of business certainty, so it can continue, in part, to service its high-end clients and compete with The Star's International competitors until such time that adequate alternative payment systems are in place and accepted by clients.

**AUGUST 2019**

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