



Victorian Commission for
Gambling and Liquor Regulation

Memorandum

HARD FILE NO: INV -

To: Scott May, General Counsel, Legal Services

From: Tim Bryant, Team Leader, Compliance

Subject: Crown Presentation to the VCGLR on 31 August 2017 regarding the detention of Crown employees in China Date: 29 October 2020

Purpose

1. To provide a summary of the material contained within the presentation (the '**presentation**') based on evidence obtained during the course of the VCGLR's investigation.

Background

2. On 31 August 2017, Mr Joshua Preston, Chief Legal Officer, of Australian Resorts attended the offices of the VCGLR and gave a presentation to; -
 - Catherine Myers, CEO
 - Alan Stone, Director, Legal services / General Counsel
 - Alex Fitzpatrick, Director, Licensing
 - Stephen Berriman, Director, Compliance

The presentation (annexure A)

3. The presentation was provided '*Strictly Commercial in Confidence – Providing in the course of or for the purposes of the deliberative process of the Commission.*'
4. The presentation consists of 22 single side pages consisting of the following headings; -
 - Background
 - Articles 25 and 303 of the Criminal Law of PRC
 - Sentences
 - How did this happen?
 - Risk Management
 - Rationalisation of Crown's operations in Asia
 - Some observations

How did this happen? – Crackdown on ‘gambling’

5. At the first and second dot point paragraph the presentation states; -

In early 2015, Chinese state media quoted an official of the Chinese government as saying that there was to be a crackdown on corruption and illegal activities, including gambling.

Crown had heard many rumours that illegal gambling was occurring in China (amongst other criminal activities) and understood the crackdown to be targeting such gambling, rather than targeting the provision of assistance to customers to arrange visits to foreign or Macau casinos.

6. During the ILGA examination of Jason O'Connor; -

Admitted he was aware that in early February 2015, that they were cracking down on foreign casinos recruiting Chinese citizens to gamble in other countries.

Gave evidence that he understood that this announcement by the Chinese authorities had the potential to create a risk to Crown's existing business operations in China. He admitted that it was a matter that he "needed to treat seriously as a senior executive responsible for the VIP international business".

It did not occur to him to notify Mr Stuart and the other officers of Crown Resorts and Crown Melbourne responsible for risk management, about the announcement of the crackdown on foreign casinos.

7. During the ILGA examination of Barry Felstead

It was evident that he was aware that the 'crackdown' was wider than targeting 'gambling' as evident in numerous articles at the time and Crown operational responses at the time. This included taking the logo off Crown private jets and delaying executive travel to China around this time. A summary of some of the relevant examination is below

Now, would you agree that the Chinese government crackdown on foreign casinos seeking Chinese gamblers seems to have been widely published in the media and in industry publications in February 2015?

MR FELSTEAD: I would agree with that, Mr Bell.

I take it that you appreciated at the time that this crackdown on foreign casinos was quite a different dimension to the existing crackdown on corruption. Is that right?

MR FELSTEAD: I would have seen these – I would have seen these go hand in hand, Mr Bell.

MR BELL: You do appreciate the difference between a crackdown on corruption, on the one hand, and a crackdown on foreign casinos luring China's gamblers overseas on the other?

MR FELSTEAD: I certainly do. I guess I was making the point rather clumsily that in my view they were connected, but I definitely do see your point.

MR BELL: And then at the bottom of page 0344 Mr Chen had sent you a link to an 35 article headed China's President Just Declared War (on overseas casinos). See that?

MR FELSTEAD: I do, Mr Bell.

MR BELL: And you can take it that was a link to the Business Insider article at tab 132 of exhibit M for Mike which I've taken you to. Just look at your response here at page .0344. You replied to Mr Chen and Mr O'Connor saying:

Another good challenge for you both.

You did not in fact report this crackdown which had been reported to the risk management officers or the risk management committees for Crown Melbourne or Crown Resorts, did you?

MR FELSTEAD: I did not make specific reference to that, no.

MR BELL: Do you now acknowledge that that was an oversight on your part?

MR FELSTEAD: I think from a – from a compliance perspective I should have put it on the register. There is no doubt about that. This was common knowledge in the industry amongst people who were on that committee. This is - many people got these emails. I'm not apportioning blame, but I should have put it on the register.

COMMISSIONER: When you say it was common knowledge, a lot of people knew in the industry, are you referring to the risk committee or not?

MR FELSTEAD: This – people in Crown senior management would have been aware of this. This was a - as Mr Bell quite rightly pointed out, this was - this was widely reported. Many other people got this information as well.

8. During the ILGA examination of Michael Johnston; -

The Inquiry put to Mr Johnston was the only director on the board of Crown Resorts who knew two important facts – both of two important facts:

- (a) firstly, that there was a crackdown on foreign casinos by the Chinese authorities in 2015; and
- (b) secondly, that a few weeks after the arrest of South Korean operators, a staff member of Crown Resorts was being questioned by the police and accused of organising gambling tours, notwithstanding that you were the only director who knew both of those facts he does not accept that he failed to engage with the risk management structures of the company in relation to what was occurring at this time.

Mr Johnston said he did engage with the board and “advised the board following the Korean arrests”.

When asked if the members of the board were aware that there was a crackdown on foreign casinos announced by the Chinese authorities in 2015, Mr Johnston said that he believed that “by virtue of bringing the Korean arrests to the attention of the board, that the issue of – of the risks of what was happening in China was at least brought to the attention of the board”.

When asked again if Mr Johnston informed all of his colleagues on the board that there was a crackdown on foreign casinos announced by the Chinese authorities that was not merely limited to the South Koreans, he said “I'm not sure that I advised them of that, no”.

Chinese Government monitoring the 'gambling industry' not those engaged in 'gambling'

9. In the Presentation under '*How did this happen – Mintz advised Crown that;*'

Under 'How did this happen?' the presentation states; -

Mintz advised Crown that: -

- *According to sources working in the Public Security Bureau (PSB) in China, most provincial levels of the PSB had intelligence units that routinely monitored people engaged in gambling;*
- *The PSB has a network of informants, including representatives of foreign casinos and were routinely developing new contacts to help in particular with information about laundering of significant amounts of money*

Request from VCGLR and response from Crown for advice from Mintz (annexure B)

Mintz advice provided to Chen on 13 March 2015 (annexure C)

10. On 27 November 2017 Crown provided a response to the VCGLR that included an email on 13 March 2015 from Randy Phillips to Michael Chen headed 'Project Wager' that states

Hi Michael,

Please see attached informal update on highlights from inquiries conducted to date. Hope this is useful in your call, and please advise if you have any questions.

The attached is headed

Confidential

Project Wager Update: March 13, 2015

The second paragraph reads

According to sources working in the Public Security Bureau (PSB) system in Tianjin, Guangdong, and Shanghai, most provincial levels of the PSB have intelligence units that routinely monitored people who work in the gambling business. PSB has a network of informants, including casino representatives from overseas, and are routinely developing new contacts that could provide valuable information to help their cases. PSB is especially interested in developing sources who could access information relating to cases with significant amounts, such as anti-money laundering cases.

Note the change from '*... routinely monitored people who work in the gambling business*' to '*routinely monitor monitored people engaged to gambling*'.

Mintz advice provided to Chen and also forwarded to O'Connor on 26 March 2015 (annexure D)

11. On 26 March 2015, a further email was sent from Phillips to Chen who onforwarded it O'Connor was an attachment 'Updated Memo Project Wager'

Hi Michael,

I have beefed up the areas requested asper attached, and believe this covers the areas of your primary interest.

The second paragraph on the second page states; -

According to sources working in the Public Security Bureau (PSB) system in Tianjin, Guangdong, and Shanghai, most provincial levels of the PSB have intelligence units that routinely monitored people who work in the gambling business. We approached additional sources at the Guangdong Provisional PSB, Shanghai PSB and the Zhuhai Municipal PSB, and we summarised f findings from these sources in our briefing with you on March 19, 2015. In essence, we learnt that the Guangdong PSB had recently received instructions from central PSB to step up monitoring of foreign gambling companies marketing activities throughout China, and the Zhuhai PSB office has particular responsibility for this. In fact, officers from the latter office were attending a meeting in Beijing on 20 March to discuss this further

Note that the above paragraph in yellow was not included in the Crown presentation.

The third paragraph states; -

PSB has a network of informants, including casino representatives from overseas, and are routinely developing new contacts that could provide valuable information to help their cases. PSB is especially interested in developing sources who could access information relating to cases with significant amounts, such as anti-money laundering cases.

Comments

12. One view of the presentation is that it attempts to portray the February 2015 Chinese government crackdown as one on 'gambling' and 'gamblers' and not those involved in attracting gamblers to gamble at overseas casinos.

The change of Mintz advice from '*... who work in the gambling business*' to '*engaged in gambling*' significantly changes the intention of the actual Mintz advice that was directed at companies doing what Crown was doing in China.

The non-inclusion of the paragraph highlighted in yellow that directly states

'...had recently received instructions from central PSB to step up monitoring of foreign gambling companies marketing activities throughout China'

further supports this view.

In short, it appears that Crown's position was to not disclose to the Commission that it knew there was evidence that the Chinese authorities were focussing their attention on companies such as Crown in China.

This position was also evident in VCGLR interviews of O'Connor and Felstead. It was also the constant thread throughout the Benny Xiong 'letter' incident that Crown Legal (Tegoni) and executives (Felstead and Chen at interview) that the focus was about a Chinese gambler or customer.



Tim Bryant
Team Leader
Compliance