



Developing a Strong Regulatory Framework for Gaming

Honesty and integrity are the goals of public gaming regulation. Gaming regulatory regimes exist to assure honesty and integrity in casino finances and operations. Gaming regulatory systems must provide sufficiently stringent provisions to maintain the integrity of the casino industry without being so restrictive as to make operations uncompetitive.

The public interest in gaming regulation focuses on three fundamental issues: suitability, fair games; and audit controls. Public gaming regulators need to assure the suitability of those permitted to own, operate, work in, do business with and invest in casinos. In addition, regulators need to know the source of all funds provided for the construction and other development costs of a casino and be able to track the return of such funds to investors and owners. Fair games must be assured or the public will not trust the games or participate in gaming activities. Finally, public regulators must be able to trace all wagered dollars to ensure that proper gaming taxes are paid on gaming revenue.

It is because of these suitability, fairness, and financial control demands that casino regulators across the U.S. have been empowered to exert control over the core aspects of the casino gaming business and over specific individuals involved in casino gaming.

To policymakers, then, we advocate the following:

- Authorize a single Gaming Commission with oversight, licensing, and enforcement responsibilities over all casino gaming in the state. In Louisiana, for example, whether the Riverboat Gaming Commission or the state police had the ultimate authority to reject an application for a gaming license was bitterly debated several years after the state's riverboat gaming bill was signed into law. Bureaucratic turf wars may be endemic, but it is crucial that all regulations of the casino industry emanate from a single source. To maintain the integrity of the industry, there must be no question to whom casino operators, suppliers, and employees are ultimately answerable. Creation of a single Commission lessens the likelihood that operators will have to choose between compliance with various sets of conflicting regulations. The Commission should be composed of an odd number of members (we suggest no more than seven), and those members' backgrounds should include accounting, law, public safety, and finance. The Commission should have a full-time Executive Director.

It is possible to design a dual agency control system in which the functions of investigation and enforcement of gaming regulation are assigned to one agency, while final administrative and adjudicative review is the responsibility of a second agency. This is how the Nevada and New Jersey gaming regulatory systems function. The reason that these dual agency control systems work is that the states' gaming statutes make it absolutely clear that final adjudicative review is the responsibility of a single agency.

- Require casino operators, suppliers, and employees to adhere to the strictest standards of probity. Designated employees of the Gaming Commission should be empowered to inspect and examine all gaming operations and all records pertaining to gaming income.

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Applicants for gaming licenses should be required to demonstrate their good character, honesty, and integrity. If an applicant's reputation, activities, or criminal record poses a threat to the effective regulation of gaming or creates a danger of unsuitable practices, the applicant should be denied a license to operate. The Gaming Commission should be empowered to conduct necessary background investigations of all applicants.

The basic premises that should underlie the licensing system are that a license constitutes a revocable privilege, not a vested right; and that the burden of proof for producing evidence of qualification for a license rests upon the applicant. The closer an applicant's responsibilities lie to direct casino operations, the more extensive should be the scrutiny.

Gaming statutes should grant licensing agencies broad discretion to reject license applications.

- Require casino operators to adopt a secure, effective internal control system. Accounting and administrative controls which ensure that assets are safeguarded and that financial records are accurate and reliable are important for the internal workings of any business. In the casino business they are critical because the nature of casino operations prevents recording of all the transactions of each customer -- distinct wagers which can number in the hundreds for a single customer in the course of an evening. Therefore, the integrity of internal control systems that, for example, control cash at gaming tables until it is recorded forms much of the basis for auditors' opinions on whether, in fact, all casino revenues reach the casino count room. An accurate reporting of revenues is of course essential if casinos are to be appropriately taxed.

Two distinct models for internal casino regulation exist: the New Jersey model and the Nevada model. New Jersey's casino regulations traditionally have been extraordinarily specific in terms of dictating organizational and surveillance requirements, standards for credit approval, procedures for "filling" tables with chips, standards for removal of slot machine drop buckets, and other facets of casino operation. More recently some of the New Jersey regulations have been made more rational. Nevada's regulations, on the other hand, are generally less detailed, allowing individual casinos a measure of discretion in implementing internal control as long as the ultimate result maintains the operation's integrity.

Regardless of whether a state prefers the Nevada model, the New Jersey model, or some hybrid thereof, all casino legislation must direct the Gaming Commission to adopt minimum standards for internal control systems. We would suggest that within a regulatory framework that emphasizes those matters most critical to public trust and confidence, casino operators should retain the ability to exercise sound, flexible, and innovative management. Applicants for licenses must be required to provide a written description of proposed systems for internal control.