

Regulating Gaming in the New South Africa

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Introduction

During its seventeen years under a democratic constitution, South Africa has been able to build a strong gambling regulatory regime. Prior to this period, as with many parts of the world, gambling was not nationally or rigorously regulated. With the historic apartheid divisions in this country, most gambling took place in regions that were ironically referred to as “homelands” – mostly designed for black South Africans who were not recognized as citizens of their home country.

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This paper provides the context within which gambling is currently regulated in South Africa. It also speaks to the current of this nation’s industry, the revenue it generates for the country, the infrastructural investment involved, and the industry’s likely growth or shrinkage in the future. The data in this paper come from national research commissioned by the National Gambling Board of South Africa, a statutory body that oversees the national regulation of gambling with the sole mandate of reporting to the Ministry of Trade and Industry and the national parliament of South Africa.

The creation of a constitutional democracy in South Africa brought with it the need to evolve, legislate, and regulate any number of sectors and business practices that were not considered important by the apartheid government. To cite one sector relevant to this journal’s readership, the new constitution of South Africa enabled the formulation of National Acts to regulate gambling in the country^{1,2}. Reflective of South Africa’s political distinctions, this legislative process ensured coordination and cooperation between the national and the provincial gambling regulatory boards -- while at the same time tracing their powers to a common constitution for the entire country. In today’s South African gaming industry, the nation’s nine provinces derive their functional operations from a single constitution, in order to ensure fair licensing and consistent collection of revenue to grow the economy and invest in good causes.

Gambling was already in existence in apartheid-era South Africa; however, most activities were illegal and perpetuated illicit crimes. As such, it can be argued that the post-apartheid government had little choice but to regulate, with hopes of simultaneously eliminating illegal gambling dens and other adverse consequences. In addition, a new regulatory system would ensure revenue flows into the government’s Department of National Treasury, and into programmes for development (no small consideration in the new South Africa, where developmental challenges such as high unemployment and inequality continue to plague any number of policy efforts).

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1 The National Gambling Act, 1996 (Act no.33 of 1996)
2 The National Gambling Act, 2004 (Act no. 7 of 2004)

Within this context, the South Africa's gaming industry has promoted a regulatory regime that is:

- effectively regulated, licensed, and policed;
- attentive to the unique social and historical context of the country;
- paying proper taxes;
- protecting the vulnerable against excessive gambling; and
- promoting transparent licensing of gambling activities in an effort to build a fair and equitable industry.

As with any country that has legalized and regulated gambling, South Africa confronts challenges of balancing "best-practice" regulatory approaches with a drive for more revenue. This oft-observed tension in the gaming industry is addressed via a continuous focus on what we might call "responsible regulation," with a resolve to protect citizens and a commitment to developing needed jobs and revenues.

Recent research affirms the positive achievements of a well-regulated gaming industry in South Africa³; however, these achievements are not without controversy. For instance, in yet another development that observers of international gaming industries will find familiar, regulatory agencies have faced sustained criticism by the industry regarding delays to approve new forms of gambling. For their part, regulators have to be sensitive to restrictions articulated in the current legislation that slow (and even stop) the regulatory process.

Overall, however, international observers today would marvel at the sophistication of the South African regulatory regime. Indeed, in important sub-areas such as macro- and micro-economic development, responsible gaming, and the balance of national and local politics, South Africa serves as a strong model for international study.

Economic and Employment Considerations

Even in the face of a downturn due to the recent recession, South Africa remains the biggest economy in the Sub-Saharan. GDP growth in South Africa has, as a result of the global economic recession, shrunk from a high of 5% in 2005 to 1.5% in 2010, with a 2011 forecast of 2.7%.⁴ Economic growth in South Africa, however, comes with a mandate: the country needs to grow at a rate of 6% or higher to reduce the burden on "social grants." To demonstrate, the South Africa population is currently 49 million, and of these individuals, 15 million receive some form of social grant from the government.⁵ As such, it is a continuous concern for South African regulators to ensure that the poor have access to jobs in the gaming industry, and that those with lower earnings do not exacerbate their living conditions by placing bets that endanger the wellbeing of their families. These are no easy tasks, of course, and these mandates place additional regulatory burdens beyond those typically found in the gaming world.

In the face of this complexity, however, a positive tale has begun to emerge. According to the most recent independent research commissioned by the South African National Gambling Board (the national regulatory agency), South Africa's gambling regulatory regime is on par with most developed jurisdictions. That is, most operators adhere to compliance standards, and regulators have the ability to ensure that gaming revenue is directed into government coffers as tax. Further, this research found that the country's licensing conditions and compliance regulations are based on best practices.⁶ The rest of this paper will explore the contours of these achievements.

South Africa's casino industry has grown from a cumulative capital investment

3 Gambling Review Commission report submitted to the Parliament Portfolio Committee on Trade and Industry (2009).

4 Statistics South Africa 2011

5 National Planning Commission 2011

6 National Gambling Board of South Africa. (2011). Market analysis of the gambling industry. [Government Report].

of R11 billion in 2002 to R19 billion in 2010. Tellingly, this private sector growth contributed to the construction of hotels and convention centers in metropolitan cities such as Johannesburg, Cape Town, and Durban – areas where government might not ordinarily invest because of the competing needs of the country. As a result, the number of casino properties has grown from 28 in 2002 to 38 today.

For government officials in South Africa, the most critical measure of success lies in its ability to create sustained jobs – especially for “previously disadvantaged individuals,” or PDIs. Once more, this is a unique dynamic within the South African context, but it is crucial in understanding the role the industry plays in the nation at large.

To illustrate, the casino industry reports a cumulative percentage of number of black employees (defined as those of African, mixed race, and/or Indian background) broken down by senior, middle and junior management. The most recent data indicate the following percentages of PDIs employed by this industry: senior management: 42.39%; middle management: 54.43; and junior management: 71.05%.

On average, based on the above figures, the industry-wide figure for PDIs employed by casinos is 56%. However, it is important to note that the report does not provide for any employees below junior management levels (mostly low-skilled jobs), and that these figures reflect only employees in the casino industry (employees in the horse racing industry, for instance, are excluded from this analysis). Nevertheless, these

considerations are vital in contemplating the importance and the mission of the modern-day gaming industry in South Africa.

Overall, the gaming industry boasts 60,000 direct jobs (rising to just over 100,000 when part-time jobs are included), with a multiplier effect of 2.5 jobs for every one fulltime job. When viewed against a broader economic backdrop, this industry represents roughly 3.5% of total employment in the nation’s hospitality industry.

Also of significance and direct benefit is that a regulated gaming industry has yielded massive corporate social investment (CSI), with the casino industry responsible for the vast majority of these contributions due to its size. These CSI efforts have provided funds for sports programs, early childhood education, and select

skills development programs to augment government expenditures in these important development sectors in South Africa.

Gambling and Responsible Gambling in South Africa

We can also provide a brief assessment of the responsible gambling program that this dynamic nation has created. Understandably, the South African government is continuously concerned about the level of gaming proliferation and the impact this expansion is likely to have on the population. South Africa has a well-integrated national program on responsible gambling, via an industry initiative that extended into a private-public partnership. This type of “stakeholder approach” is widely seen as a best practice, as is its emphasis on evidence-based research. Notably, Linda de Vries and Peter Collins, both university professors with strong gaming research backgrounds, have played an active role in regulatory processes, providing crucial and constant research insights to help sift through the complex data that South African regulators have to interpret.

In addition, South Africa has adopted a sumptuary model, whereby most gambling sites are a reasonable distance away from poorer areas. However, urbanization and increased access to mobile technology means that citizens are likely to see increased exposure to various forms of gambling over the coming years. These developments mandate policy and educational programs that adapt to new delivery modes.

As I have indicated, with 15 million South African on various forms of social wages, the country is obliged to balance the revenue from increased gambling activities with negative impacts it can have on the population in general and the poor in particular. The

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constant theme is the correct balance and staying the course of a responsible regulator, considering the eminent threat of proliferation. According to recent research, it appears that the nation can claim some victories: the country has a relatively low percentage of those classified as problem gamblers.⁷ Furthermore, most who gamble are largely at the middle to higher end of the income bracket, and most live in the more affluent metropolitan areas.⁸

Conclusion

South Africa prides itself on a well-regulated gaming industry, but the future promises to challenge those who oversee it. For instance, the advanced scope and access to mobile technology has been well documented in Africa, and these devices mean that gambling can “move” into new (and less public) settings. Given this, the current regulatory regime may seem antiquated and in need of change. Certainly, emerging forms of gambling will demand better understanding and focused discourse with researchers and other stakeholders, with the view of understand the trajectory of this industry, its continuing contributions to social and economic development, and the impact it is likely to have on residents of the “new” South Africa. In addition, it may well be that moving forward, South Africa will want to encourage more inbound global tourism. To do this, the nation might build further synergies between the gaming industry and its international tourism assets, with its breathtaking landscapes, world-famous wildlife, and enviable year-round climate.

As with everything in South Africa, the todays and the tomorrows cannot be understood without exploring the nation’s yesterdays. It should be noted that gambling was imposed on this country; however, proper legislation and regulation has produced a well-developed industry that contributes positively to the country today. At the same time, some of the critical roles of regulators in this rapidly-evolving country are to address historical inequities, and to protect the vulnerable and poor. These are the challenges and the calls of the modern-day regulator in South Africa.

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7 National Responsible Gambling Programme (2009-2010)

8 National Gambling Board. (2011). Gambling prevalence in South Africa. [Government Report].