

# Licensing VIP-Room Contractors or Gaming Promoters in Macao: the Status Quo and Improvement

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## Introduction

Macao is a traditional gaming city with more than 160 years of legalized gaming, and it was under the Portuguese colonial rule that Macao began to develop the industry. The transfer of sovereignty in 1999 to China, where gambling is strictly prohibited, did not interrupt the growth of the industry. Instead, the industry has experienced an unprecedented expansion after the handover. Macao's total gaming revenue was US\$ 45.2 billion in 2013 (Gaming Inspection and Coordination Bureau Macao SAR, 2013), more than 4 times of that of Nevada and roughly 7 times of that of the Las Vegas Strip (Schwartz, 2014), while in 2002 when competition was introduced to Macao, the total gaming revenue of Macao was only US\$ 2.8 billion, roughly 29% of that of Nevada and 60% of that of the Las Vegas Strip (Schwartz, 2011; Nevada Gaming Control Board, 2012). Macao is now the undisputed champion of the world in terms of gaming revenue.

The massive expansion of Macao's gaming industry has been driven by VIP baccarat play, in contrast to many other casino cities such as Las Vegas and Atlantic City, where most of the gaming revenue comes from slot machine and table game play in mass market. The revenue from VIP rooms in Macao accounts for as much as 65-72% of the total gaming revenue each year in the last decade (Gaming Inspection and Coordination Bureau Macao SAR, 2014).

This phenomenon is largely due to the unique practice of Macao's VIP rooms. Compared with the casinos in many other countries, where VIP rooms are owned and operated directly by the casino, most of the VIP rooms in Macao are contracted to a third party that is believed to be able to bring in high rollers to the casino. Typically, the third party, either a corporation or a person, will sign a contract with a casino concessionaire. The contract sets up the minimum dead chip sales by the VIP-room contractor, the commission, and other remuneration that a contractor can extract from the sales, as well as the monetary punishment to the contractor if it cannot achieve the goals (Wang & Zabielskis, 2010). These monetary awards and punishments impel the contractor to work hard at finding wealthy people to come to gamble. The contractor often hires dozens of cooperators or customer representatives to reach out to Mainland China, Hong Kong, Taiwan, Japan, and other nearby locations, to look for wealthy guests of VIP rooms. The work of VIP-room contractors and their cooperators is often so effective that each is able to bring in millions of gambling money to Macao. Therefore, a VIP room in Macao is not just an individual compartment in a casino for high-rollers to gamble, but a powerful vehicle for casinos and gaming promoters to make money.

Most of the regulations that the Macao government has made to VIP rooms can be found in *The Legal Framework for the Operations of Casino Games of Fortune* (Law No. 16/2001) which is the first and fundamental gaming law promulgated after the handover, and in Administrative Regulation No. 6/2002, which specifically stipulates the conditions and procedures of issuing a license to a gaming promoter. According to the Law and the Regulation, a VIP-room contractor is regulated as a gaming promoter, to whom licensing is the essential method of regulation.

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It has been over ten years since the Law and the Regulation took effect. Is the regulation effective enough to deter unfitted people from entering into the gaming industry?

This paper tries to answer the question and give a critical review of both the Law and the Regulation. The first section of this paper will explain why a VIP contractor is regulated as a gaming promoter, while the cooperators or customer representatives are not. The second section will discuss the licensing requirements to become a gaming promoter in Macao. The third section will address the improvement of Macao's regulation on gaming promoters. The fourth section will be devoted to analyzing the difficulties that the Macao government has encountered in order to strengthen the regulation system, followed by a summary section.

### **VIP-Room Contractors Licensed as Gaming Promoters**

A VIP-room contractor is treated as a gaming promoter because their key function is to bring in high rollers to gamble in a casino. A contractor does not own or operate a VIP room, as most of the operation is carried out by the casino concessionaire. The dealers and the managers in a VIP room are employees of the casino concessionaire, who also supplies and operates all the gambling equipment and operations. The casino concessionaire also owns the house advantage, the gambling opponent of a high roller in a VIP room, rather than the contractor (Wang & Zabielskis, 2010). The fundamental role of the contractor is to provide a variety of services such as transportation, accommodation, recreation activities, credits arrangement and gaming debt collection to the high rollers in order to entice and facilitate them to come to Macao. Therefore, a VIP-room contractor is essentially an intermediary, or agent, in the gaming business. The Law No. 16/2001 defines a gaming promoter as an agent to promote games of chance in casinos by facilitating gamblers, especially in transportation, accommodation and entertainment, so as to receive a commission or other remuneration paid by a concessionaire (Article 2(6)). The work of a VIP-room contractor exactly falls into the scope of this definition.

Another group of people in the VIP rooms, the cooperators or customer representatives of a contractor, do essentially the same work as that of a VIP-room contractor. The cooperators or customer representatives do most of the legwork to obtain high rollers. In most of the cases practically, it is the cooperator rather than the contractor who manages to approach, make friends with and introduce the high rollers to the casino.

Is a cooperator treated as a gaming promoter? The answer is no. The Law No. 6/2001 provides the definition of gaming promoter as a gaming promoter who receives "a commission or other remuneration paid by a concessionaire." In other words, if a person receives commission or payment not directly from a concessionaire, she/he is not treated as a gaming promoter. A cooperator or customer representative, who receives commission or payment from a VIP-room contractor rather than directly from a concessionaire, is thus not treated as a gaming promoter. This delineation was further confirmed by a news release in the process of formulating the Administrative Regulation No. 6/2002 as saying: "gaming promoters are all the people who have direct relationship with a concessionaire (i.e., signing a contract in between), provide service to the concessionaire and receive remuneration from the concessionaire," while "those people who have direct relationship with a gaming promoter, provide service for the gaming promoter and receive remuneration from the gaming promoter" are the cooperators of the gaming promoter.

According to the Law and the Regulation, a gaming promoter or a VIP-room contractor must be licensed before beginning business (Article 23(1)) while a cooperator or customer representative is not required to apply for a license. The VIP-room contractor, however, is required to submit the name list of cooperators, together with their criminal records, to the regulatory body.

### **Gaming Promoter Requirements**

The following requirements must be met before a license is issued to a gaming promoter in Macao:

*1. A gaming promoter should be a commercial entrepreneur*

Article 3 of the Administrative Regulation of No. 6/2002 provides that only a corporation or an individual commercial entrepreneur can be a gaming promoter (i.e., that a person who cannot be identified as a commercial entrepreneur shall not be a gaming promoter). The Commercial Code of Macao provides the conditions of being a commercial entrepreneur as follows: a) adopt a business name; b) have commercial bookkeeping; c) provide for the entry in the commercial register of acts subject to registration; d) render accounts.

It seems unnecessary to require an ordinary agent to be a commercial entrepreneur if only for the business of bringing in customers to the casino. Then why does the Regulation provide such requirements? The reason lies in the fact that a gaming promoter is, in essence, another name for a VIP-room contractor. In practice, VIP-room contractor runs the entire marketing of a VIP room, far more than just bringing in high rollers. A contractor does act as a commercial entrepreneur when it takes on the role of marketing of a VIP room. First, a contractor takes risks as a normal commercial entrepreneur does. As discussed above, a VIP-room contractor would be punished and thus lose money if it cannot achieve the goals that have been specified in the contract. However, an ordinary gaming agent has little chance to lose money even if he cannot bring in many customers. Second, a VIP contractor often hires a number of cooperators and pays commission to them. With respect to the cooperators, a VIP-room contractor is actually a boss. Finally, many VIP-room contractors obtain their commission in a way of profit/loss sharing with the concessionaire. In this circumstance, a VIP-room contractor is in practice a partner of the concessionaire, obviously acting as an entrepreneur. These three aspects explain why a gaming promoter should be regulated as a commercial entrepreneur.

In contrast, the cooperators of a VIP-room contractor merely bring in customers. They act as a middleman and receive commission from their intermediary business. They are not concerned with the profit and loss of the VIP room, so they are not required to be an individual commercial entrepreneur.

*2. Other requirements of being a gaming promoter*

Besides the general requirements provided by the Commercial Code for a commercial entrepreneur, a few more specific requirements for a gaming promoter have been added to the Law No. 16/2001.

If a gaming promoter is an individual, the Law requires that the promoter be registered as a commercial entrepreneur only after obtaining a gaming promoter's license.

If a gaming promoter is a commercial company, the following requirements must be fulfilled:

1. The business must be exclusively the promotion of games of chance or other casino games and only individuals can be allowed to hold its capital stock.
2. If the corporate form adopted is that of a public limited company, the shares can only be registered, and its capital must be fully subscribed and paid up at the time of establishment of the company.
3. The company cannot be established in the way of public subscription.
4. The company can only be registered as a commercial entrepreneur after obtaining a gaming promoter's license.

These requirements facilitate the regulatory body to better understand who are controlling the company and what goes on in the gaming promotion operation. These requirements are generally helpful for the regulatory body to supervise the gaming promoters and their business. However, some conditions have already lagged behind

the reality. For example, the Law forbids establishing a gaming promotion company in the way of public subscription, but a couple of gaming promoting companies such as Neptune Group Ltd, Dore Holdings Ltd and Asia Entertainment & Resources Ltd have been listed in the exchanges of Hong Kong, the United States and other countries (Quintã, 2013). The Macao government has not taken any appropriate measures to keep track of, regulate and supervise these companies.

### 3. *Suitability check by the regulatory body*

A license cannot be issued to a gaming promoter unless it is found suitable by the regulatory body. But the gaming laws do not specify what conditions or factors lead the regulatory body to make the decision of “suitable” nor what causes it to fail the application.

Nonetheless, the matters to be considered by the regulatory body in determining the suitability can be identified by the designed information that an applicant is required to submit to the regulatory body.

For a company, the information includes:

1. Capital of the company;
2. Financial resources of the company;
3. Relative business experience in gaming promotion;
4. History of bankruptcy or insolvency;
5. History of law suits;
6. Investigations on the company conducted by a government if there are any;
7. Other information such as the organization structure of the company, history of being refused to grant any licenses, etc.

For an individual, the information includes:

1. Employment history, especially the employment related to gaming industry;
2. Applications for licenses either in or outside Macao and whether being denied;
3. Criminal record, including criminal investigation record;
4. Whether being investigated by a government for any other reasons;
5. Civil law suits, if any, especially related to finance or taxation;
6. Whether being denied to work in gaming industry;
7. Financial history such as information related to bankruptcy, insolvency, liquidity, whether property was confiscated by credit institutions, etc.

### **Improving Macao’s Licensing System**

The unique system of Macao’s VIP rooms can be dated to around 1984, when the monopoly concessionaire, the Sociedade de Turismo e Diversões de Macau S.A. (STDM), outsourced some of its own VIP rooms to certain third parties (Siu, 2010). For almost two decades from the beginning of the system, to 2002, when the articles related to gaming promoters in the Law No. 16/2001 took effect, little regulation was imposed on VIP rooms. This is largely due to the fact that the entire gaming industry in Macao was barely regulated by the government during the period of monopolistic operation. At that time, the monopoly concessionaire was, for the most part, self-regulated in the name of “entrusted regulation by the government of Macao” (Wang, 2012). Therefore, the license

system initiated in the Law No. 16/2001 marks a big leap and a great progress to the regulation of VIP rooms, gaming promoters, and the entire gaming industry.

However, more work needs to be done in order to improve the effectiveness of the regulatory system in deferring unfit people from entering into the gaming industry. The Macao government should take into consideration two essential amendments.

First, the licensing requirement should be extended to the cooperators of a gaming promoter. Currently the cooperators are only required to submit, through the gaming promoter, their identification certifications and criminal records to the regulatory body. According to the law, the regulatory body may review the name list of cooperators that a gaming promoter submitted and reject part of it or even the entire list. However, as the cooperators do not submit sufficient information to the regulatory body nor does the regulatory body do any substantial check to the background of the cooperators, how can the regulatory body determine effectively whether to reject a cooperator or not? Specific information similar to the information required for promoters such as employment history, financial history, civil law suits and criminal record must be submitted for check and the regulatory body must carry out their responsibility seriously in order to prevent unsuitable people from entering the industry.

The number of cooperators working in the industry, whose background the government knows little about, is estimated to be big. In 2013, over 230 gaming promoters, including both companies and individual commercial entrepreneurs, hold the status of licensee. If each licensee hired just a couple of cooperators, a few thousands of cooperators could possibly be active in the industry. What is this big group of people like? Are they all suitable for working in the gaming industry? These questions can easily be asked as most of the transactions in VIP rooms are not open to the public. Moreover, the image of the gaming industry could be badly hurt whenever illegal activities, such as collecting gaming debt by means of violence by the cooperators, were reported.

In addition, it does not make sense to license the gaming promoter while exempting the cooperators, as the work of the cooperators is as same as that of a gaming promoter in terms of the role of intermediary. The cooperators manage to approach wealthy people and bring them into the VIP rooms to gamble and take care of their needs. These activities are exactly within the definition of gaming promoter in the Law. The only difference between a gaming promoter and a cooperator is the source of their commission. The insignificant difference should not become a reason of sparing the cooperators from licensing.

Second, the regulatory body should consider using more methods, such as on-site investigation, to increase the effectiveness of the license system. Previously, the regulatory body only carried out paperwork verification, rarely interviewing the applicants and their connections and checking the real cash flow in the banks. Obviously, merely checking the paperwork doesn't allow the regulators to determine appropriately whether the applicants are suitable or not.

#### **Difficulties the Regulatory Body Faces in Strengthening the Licensing System**

A couple of obstacles may hinder the Macao government from implementing new requirements to strengthen the licensing system on VIP rooms.

First, Macao needs much help or cooperation from other jurisdictions to do thorough financial and background checks for licensing, as quite a number of gaming promoters and their cooperators come from outside Macao such as Mainland China, Hong Kong, Taiwan, etc., and most business transactions are cross-border. Macao is a small city with an area of around 30 square kilometers and a population of 600,000. It is part of Mainland China in terms of sovereignty, but enjoys a high degree of autonomy: its political system is different from Mainland China. Macao has its own customs and its own law. Therefore, if the regulatory body makes full investigation of the license applicants, it must seek support from other governments. However, it is not



always easy to get things done if relying too much on other jurisdictions.

Second, the government of Mainland China treats gaming promotion as a crime and the gaming promoters and their cooperators as criminals. No one dares to promote gambling publicly in Mainland China. In fact, the gaming promoters or their cooperators have been approaching and bringing wealthy people to Macao in the name of travelling or even in secret. Licensing the cooperators will bring them above board and the government of Mainland China can easily catch and put into prison those who break the law.

Finally, harsh regulation to the gaming promoters and their cooperators may heavily hit the gaming industry. The business of VIP room plays a very important role in Macao's gaming industry, accounting for more than three-fourths of the total gaming revenue of Macao. Any uncertainty that a new and stricter regulation could cause to VIP rooms will probably result in fluctuation of the gaming revenue and even the instability of the entire society. So the government has to be very cautious to take new measures or actions to VIP rooms. When they do, a strategy of step-wise introduction of new regulations could be better than that of an influx of new/stricter regulations.

### Conclusion

In short, the Macao government faces a dilemma in regulating VIP rooms. On the one hand, it hopes to strengthen the regulation to VIP rooms as they have long been suspected to be linked to crimes such as money laundering, loan sharking and other type of organized crimes, and the government has received pressure from the public in Macao, the government of Mainland China and international community. On the other, stricter regulation may have a good chance to lead to downturn, or even dramatically decrease, of the gaming revenue which accounts for the very large part of financial resources of the Macao government. What's more, the regulatory body faces a number of practical obstacles to fully investigate in order to issue licenses. Nevertheless, the Macao government should not give up on seeking support from other jurisdictions, especially Mainland China, when inspecting the background of the license applicants because full investigation is critical to ensure the effectiveness of the licensing system. It is important for the government to understand that it may have some chance to obtain support from Hong Kong and Mainland China, because the three places are all part of the same country and they share the same interest in more strictly regulate gaming promoters. The Macao government should work hard to find proper ways to overcome the difficulties and dilemma in order to ensure both the integrity and the continuous growth of the gaming industry.

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