

Chapter 4

Section 4.03

Ministry of Government Services

Charitable Gaming

Follow-up to VFM Section 3.03, *2005 Annual Report*

Background

The Alcohol and Gaming Commission of Ontario (Commission) regulates charitable gaming in Ontario, with a mandate to ensure that the games are conducted in the public interest, by people with integrity, and in a manner that is socially and financially responsible.

The Commission estimates that the public wagered approximately \$1.4 billion on charitable gaming province-wide in the 2006/07 fiscal year (\$1.6 billion in the 2003 calendar year). While approximately 70% of the total wagered was paid out in prizes in 2006/07, the Commission estimated that thousands of local community charitable organizations received net revenues after prize payments and other expenses of about \$213 million (\$246 million in 2003).

The Commission regulates charitable gaming using a framework of legislation and policies, supplier and employee registrations, licensing of lottery events, inspection, and enforcement. Annually, the Commission registers about 8,000 businesses and individuals, and issues about 2,300 lottery licences, chiefly for province-wide or large-dollar events.

Fees from charitable gaming sources were approximately \$26 million in the 2006/07 fiscal year (\$30 million in 2004/05). The Commission

advised us that it spent approximately \$6 million on its charitable gaming-related regulatory activities in 2006/07.

The province has granted municipalities the authority to issue licences, and they issue about 56,000 licences annually for smaller local lottery events. This represents more than 95% of the charitable gaming licences issued in Ontario. In our *2005 Annual Report*, we noted that the Commission believed that it did not have the legislative authority to oversee municipal licensing activities and had not established any processes for doing so. However, we stated that we believed that the Commission's interpretation of its legislative authority was overly narrow. Without appropriate oversight of and co-ordination with municipalities' licensing activities, the Commission has no assurance that, for instance, charitable organizations are getting the gaming proceeds that they are entitled to.

In our *2005 Annual Report*, we also noted several areas in which the Commission-delivered regulatory activities required strengthening:

- While the Commission had generally established good regulation requirements to assess the character, financial history, and competence of the key players in the charitable gaming industry, it did not ensure that these requirements were consistently met or that registrants adhered to the terms and conditions of registration.

- Procedures were often not followed in assessing an organization's eligibility for a licence and ensuring that net lottery proceeds were used for approved charitable purposes.
- The Commission had not established formal policies and a risk-based approach for conducting inspections and enforcement with respect to charitable gaming activities, nor had it informed municipalities of the results of inspections and investigations carried out in their jurisdictions.
- In 1997, the Management Board of Cabinet provided funding to strengthen controls over the production and distribution of break-open tickets. However, many of the key controls were never put in place.

We made a number of recommendations for improvement and, except for our recommendations pertaining to the need to oversee municipal licensing activities, we received commitments from the Commission that it would take action to address our concerns.

Current Status of Recommendations

Information we obtained from the Commission indicated that good progress had been made in addressing most of our recommendations. However, with respect to our recommendation on the need for increased oversight of municipal licensing activities, more still needs to be done. Both our Office and the Standing Committee on Public Accounts have emphasized that such oversight is a key area for both the Ministry of Government Services and the Commission to address, and, while some action has been taken, more timely progress on this issue is needed. As well, our recommendations relating to the need for additional assurance over sales of break-open tickets have only been partially

addressed. The current status of action taken on each of our recommendations is as follows.

OVERSIGHT OF MUNICIPAL GAMING

Recommendation

To fulfill its legislated responsibilities and ensure that charitable gaming in Ontario is effectively regulated, the Commission should work with municipalities to establish appropriate oversight and support for municipal licensing activities that includes:

- *ensuring that the respective roles of the municipal councils and the Commission are clearly articulated and accepted to eliminate any gaps or duplication in regulating charitable gaming in Ontario;*
- *obtaining sufficient, relevant information from municipalities to allow meaningful assessment of the effectiveness of licensing activities province-wide;*
- *implementing procedures for sharing information and promoting best practices; and*
- *conducting ongoing assessments of the training and policies that it provides to municipalities and addressing any needs identified.*

Current Status

The licensing framework and the limits of provincial and municipal licensing are prescribed under Order-in-Council. At the time of our follow-up, we were informed that the Ministry of Government Services (Ministry) had conducted a preliminary review of the Order-in-Council to evaluate the respective roles of the Commission and municipalities related to lottery licensing. According to the Ministry, an initial round of stakeholder consultations had been completed and it had consulted with the Ministry of Municipal Affairs and Housing, the Ministry of the Attorney General, and its own internal auditors to obtain advice on the authorities and roles of the Commission in the development of an appropriate oversight model. The Ministry expected to complete

the review and present recommendations to the Minister of Government Services by winter 2007.

The Commission conducted a survey during the summer of 2007 in co-operation with the Association of Municipal Managers, Clerks and Treasurers of Ontario (Association) that focused on issues related to governance and accountability structures at municipalities over their lottery licensing activities. The survey requested information regarding the processing of municipal lottery licences, oversight and general controls, and municipalities' level of satisfaction with the support they receive from the Commission. The survey also sought information on the types of problems that may exist and identified any potential gaps in accountability or governance that might impact the integrity of the system. The Commission advised us that the survey results were being reviewed by an independent third-party firm, with a final report expected in October 2007.

The results of the survey and final report were to be reviewed and appropriate changes to the charitable gaming Order-in-Council considered in conjunction with other changes and updates implemented through the Commission's Modernization of Charitable Gaming initiative, which was launched in December 2005.

At the time of our follow-up, the Commission was also reviewing the type of information it can and should receive from municipalities and the most efficient means of obtaining this information without placing any undue burden on municipalities. The Commission had several initiatives under way to provide it with additional information on charitable gaming activities across the province. In one initiative, the Commission was working with the Association on developing a protocol to govern its relationship with municipalities. We were informed at the time of our follow-up that specific areas that were to be explored at a meeting scheduled for July 2007 included:

- establishing clear roles and responsibilities for both regulatory bodies;
- developing two-way open communication and reporting of licensing activities, and co-ordinating investigation and enforcement activities;
- exploring information technology opportunities in delivering lottery licensing services; and
- developing tools for consistent reporting and sharing of data.

The Commission was anticipating that, once the protocol it was developing with the municipalities was adopted, the protocol would also provide a framework for promoting and sharing best practices.

In another initiative, the Commission was planning to introduce a new bingo revenue model, effective May 1, 2007, to govern events conducted at commercial bingo halls. Under the new model, the licensing and administration of bingo is to be a joint effort between municipalities and the province. As a result, the Commission is to have direct access to licensing and financial information for all licensed games conducted in Ontario bingo halls that pool their revenues, representing approximately 95% of the bingo industry in the province and 50% of break-open ticket sales. We were informed that six training sessions had been held across the province to provide information and training on the new bingo revenue model for municipalities, bingo hall owners, operators, and charity associations.

The Commission had also looked at an information technology solution to assist with information sharing. The Commission requested funding from Treasury Board to develop a central tracking system for break-open tickets that was intended to act as the cornerstone of an enterprise-wide information technology strategy. This strategy would have included a component that allowed for electronic transfer of information between the Commission and municipalities in order to facilitate

the sharing of information. On March 27, 2007, the Commission was informed that its request for funding was not approved and it therefore decided that this option was no longer viable.

The Commission informed us that it had implemented a more structured training program for municipalities to help them fulfill their lottery licensing responsibilities. The training program had also been standardized to ensure consistent training across the province, including the development of a CD with accompanying sample forms. The Commission was planning to contact each municipality annually to offer lottery licensing training. From 2005 until the time of our follow-up, the Commission had provided over 40 training sessions to more than 500 municipal representatives. The Commission had also developed a draft user-satisfaction survey to help assess the effectiveness of the training program and to identify any gaps in the type of support provided.

COMMISSION-DELIVERED REGULATORY ACTIVITIES

Registrations

Controls over Registration Process

Recommendation

To help ensure that registrations of charitable gaming equipment and services suppliers and gaming assistants are granted only to those that meet high standards of honesty and integrity, the Commission should:

- *enforce the requirement that registrants submit annual financial statements reviewed by a licensed public accountant;*
- *implement procedures for periodically verifying that registrants have complied with the terms and conditions of registration; and*
- *verify that the information provided by prospective registrants is legitimate and accurate.*

In addition, the Commission should establish policies and procedures for ensuring that conflict-of-interest

situations are appropriately dealt with. It should also consider the benefits of requiring verification that, where applicable, prospective registrants' provincial tax status is in good standing.

Current Status

The Commission informed us that, at the time of our follow-up, it was in the process of reviewing the overall regulatory structure for charitable gaming, including registration of suppliers and gaming assistants, standards for suppliers, terms of registration, and terms and conditions of licensing. According to the Commission, this review was taking place in the context of a fiscal environment in which charitable gaming is in decline. In addition, the Commission had initiated in September 2006 a broader internal review of its due diligence processes and procedures from the perspective of efficiency, effectiveness, and risk.

The Commission told us that it had reviewed the requirements for financial reporting and types of financial reports that registrants must submit. It identified the areas that pose the most risk to integrity, honesty, and the public interest, and changes needed to the terms and conditions of registration to reflect these considerations. An implementation plan had been developed and the changes were to be fully operational by May 1, 2007. As of April 2007, a new internal policy was implemented pertaining to the financial responsibility reviews of registrants that are conducted every two years. The new policy requires that businesses with gross annual sales greater than \$500,000 provide audited financial statements. Such statements may also be requested from businesses with lesser sales when concerns are raised over the registrant's finances.

With respect to our recommendation that the Commission conduct periodic checks to verify that charitable gaming registrants are complying with the terms of registration, the Commission informed us that it was considering all of its compliance procedures and policies over registrants in a broader context. Its internal review of its due diligence

procedures as they apply to each industry sector regulated by the Commission is expected to fully document the registration compliance measures already in place. This review process is to be used to identify further compliance measures that do not place an undue burden on registrants. These updated procedures were targeted for completion in December 2007.

Although the Commission informed us that it recognized the importance of properly verifying that the information provided by prospective gaming assistant registrants, such as bingo hall management staff and bingo number callers, is legitimate and accurate, it decided that the risk was minimal and did not implement our recommendation that photos and references be verified as part of the registration process, except in the case of problematic applicants.

In its internal Licensing and Registration Policy and Procedures Manual, the Commission developed procedures, dated December 2006, to assist staff in identifying and assessing possible conflicts of interest between gaming suppliers and licensees.

While we noted that provincial ministries often ensure that the tax status of their major suppliers is in good standing prior to making payments, the Commission is of the opinion that the *Gaming Control Act* does not currently provide it with the necessary authority to check the provincial tax status of gaming suppliers as part of the registration process.

Verification of Registration

Recommendation

The Commission should clearly communicate to municipalities the requirement to verify that charitable organizations seeking licences are using properly registered charitable gaming suppliers. It should also provide municipalities with up-to-date information—possibly through access to its registration database—for use in verifying the gaming suppliers' registration.

Current Status

According to the Commission, during municipal training sessions it has reinforced the requirement that municipalities verify the use of properly registered suppliers. The Commission also advised us that it is not able to provide municipalities with the access to its registration database that would have enabled them to easily verify registration status because funding for its proposed enterprise-wide information technology strategy was not approved. Instead, the Commission continues to respond to municipalities' inquiries, including those pertaining to registrations, via telephone and email.

Licensing Activities

Licensing Practices

Recommendation

To help ensure that licences are granted only to legitimate charities, the Commission should more critically evaluate the eligibility of charitable organizations. In addition, to ensure that proceeds from lottery events are used for approved charitable purposes, it should:

- *obtain and properly assess the required reports on lottery events; and*
- *issue renewal licences only if an organization has met the reporting requirements for all previous lottery events.*

Current Status

The Commission informed us that it had updated its internal policies and procedures to require that all core documents are obtained before licensing staff conduct an eligibility review. In addition, it had documented its procedures to ensure that required reports are received and properly assessed. In cases where further clarification is required, a red flag is put in the system and a letter sent to the licensee. According to the Commission, all the newly documented policies and procedures had been reinforced through staff training sessions to promote consistency in decision-making. The Commission told us that its new lottery licensing system,

scheduled to be completed in January 2008, will further enhance controls.

Bingo Sponsor Associations

Recommendation

To help ensure that proceeds from provincially licensed bingo events are used for approved charitable purposes, the Commission should work with municipalities to establish procedures for verifying the charitable organizations' use of proceeds distributed through bingo sponsor associations.

Current Status

The Commission indicated that municipalities' responsibility to verify the use of proceeds distributed through bingo sponsor associations was reinforced during the municipal training sessions held in fall 2005 and continue to be highlighted as part of the new standardized training format. In addition, the revision of the Lottery Licensing Policy Manual, scheduled for fall 2007, is to include clarification of municipal responsibilities in this area.

Under the new bingo revenue model introduced in May 2007, all games are to be covered under the same licence and there will no longer be a distinction between municipal games and provincial games for revenue reporting and verification. Municipalities are to review the use of all proceeds as part of their role in administering the new bingo revenue model. All Hall Charities Associations (previously known as Bingo Sponsor Associations) are required to file a monthly report to the municipality and the Commission that identifies the revenues generated and the allocation of proceeds to each member charity. Each member charity must also file a monthly report to the municipality that identifies the amount of funds received from the association, expenses paid, how the net proceeds were used, and the balance of funds in the charity's trust account, if any. This allows the municipality to monitor the use of proceeds on an ongoing basis.

Each charity will also be required to file an annual report demonstrating compliance with the terms and conditions of the licence and a financial report summarizing the receipt and use of all lottery proceeds received.

Controls over Break-open Tickets

Recommendation

To ensure that adequate controls exist over the production, distribution, and sale of break-open tickets, the Commission should:

- *identify and implement key controls authorized by Management Board of Cabinet over manufacturers and ticket agents that would provide adequate assurances that they are complying with legislative requirements and the Commission's terms and conditions of registration;*
- *reconsider the need for an independent central distribution and warehousing supplier for break-open tickets; and*
- *establish procedures for periodically verifying the accuracy of reported break-open ticket sales.*

Current Status

In our 2005 Annual Report, we noted that the Commission had not implemented several key controls over break-open tickets that were authorized by Management Board of Cabinet in 1997, as follows:

- No central ordering, warehousing, and distribution system had been established. Agents and some charitable organizations purchased tickets directly from manufacturers.
- No dedicated team of permanent staff had been established to negotiate and manage contracts with the private suppliers, and to monitor the performance and audit the functions contracted to the private sector.
- The Commission had not established procedures for monitoring break-open ticket production and sales, and had failed to obtain compliance reports and to conduct regular inspections of internal control procedures in

place at the then two print manufacturers and at the then approximately 50 ticket agents, who resell tickets on behalf of authorized charitable organizations to local ticket vendors.

At the time of our follow-up, the Commission told us that it had concluded that a central tracking system over the almost \$300 million sales of break-open tickets could be justified only as part of an integrated enterprise-wide information management system. As previously stated, the Commission's request for additional funding to implement a new system was not approved.

At the time of our follow-up, the Commission was still not inspecting nor auditing break-open ticket manufacturers and ticket agents unless there was a complaint, incident, or other information to prompt an inspection. As a requirement of continuing their registration, the three break open-ticket manufacturers provided the Commission in 2007 with compliance reports prepared by independent auditors showing they had met Commission-directed control objectives through the implementation of internal controls. However, the Commission still had no independent assurance on manufacturer-reported sales. We continue to believe that requesting that the manufacturers' auditors confirm the accuracy of reported break-open ticket sales would be a cost-effective solution to this issue.

In addition, a risk that has still not been adequately addressed is that break-open ticket vendors and agents are selling more tickets than are reported and are retaining the total ticket-sale proceeds instead of disbursing a portion of those proceeds to the charity holding the lottery licence.

We were informed that the Commission would be exploring additional measures over break-open ticket sales as part of its new mandate to regulate retailers that sell Ontario Lottery and Gaming Corporation lottery products. Furthermore, the Commission and Ministry advised us that the manner in which the break-open ticket industry is regulated is

specifically designed to mitigate risks to the integrity of break-open ticket sales and, in the Commission's opinion, there is no evidence of widespread fraud in the sector.

Provincial Administration Fee

Recommendation

To ensure that the Commission has adequate assurance that the correct amounts of provincial administration fees are remitted by break-open ticket manufacturers, the Commission should request that the manufacturers provide independent audit assurance on their reported sales and fees payable. Alternatively, if this more cost-effective option is considered not feasible, independent audits by Commission staff should be conducted periodically.

Current Status

The Commission informed us that it now requires the three break-open ticket manufacturers to implement internal controls that have been independently audited and approved by the Commission. In addition, the Commission had incorporated a financial audit requirement into the terms and conditions of registration for break-open ticket manufacturers. Obtaining such assurances on the manufacturers' internal controls is a good initiative. However, to ensure that it is receiving all the fees it is entitled to, the Commission should still obtain assurance that sales as reported by each manufacturer are accurate, by, for example, comparing these amounts to the manufacturers' audited financial statements.

Charitable Gaming Inspections and Enforcement

Recommendation

To be more effective in ensuring the integrity of charitable gaming, the Commission should develop and implement a formal strategy and policies for its inspection activities that include a risk-based

approach to target high-risk gaming equipment and services suppliers.

The Commission should also investigate the extent to which better education and additional enforcement measures are needed to achieve a high level of voluntary compliance with legislative requirements and with the terms and conditions of registration.

In addition, to improve inspection and enforcement activities at both the provincial and municipal levels, the Commission should work with municipalities on sharing information about the results of inspections and investigations.

Current Status

The Commission informed us that, at the time of our follow-up, it had developed the foundation for a corporation-wide risk-based enforcement strategy as part of a broader compliance strategy that encompasses activities related to prevention, communication, co-operation, enforcement, technology, and consultation. According to the Commission, the strategy focuses on regulations that apply to licensed charities and registered gaming suppliers, and on assisting municipalities with compliance issues related to the charitable gaming licences that they issue.

The first phase of the strategy, which establishes a risk profile for registrants through inspections, commenced in April 2006, but the Commission anticipated that it will take two years of inspections to gather benchmark data. In addition, new inspection policies and procedures were established in May 2007 for bingo halls and break-open ticket vendors, and there were approximately 950 inspections of break-open ticket sellers and 94 inspections of bingo facilities during the 2006/07 fiscal year—substantially more than were conducted at the time of our last audit.

At the time of our follow-up, the Commission was in the process of developing a Public Affairs function, which is to focus on enhancing communication with and training for licensees and registrants to promote voluntary compliance.

We were also informed that, to enhance the enforcement strategy, the Commission was in the process of considering whether monetary penalties should be imposed for minor offences. In this regard, in June 2007, the Commission received legislative authority, subject to the approval of the Minister of Government Services, to impose monetary penalties for contravention of acts administered by the Commission.

The Commission told us that new policies require that local municipal licensing offices be informed of the results of all inspections that identify issues, and of all investigations initiated based on complaints made by the municipality. The Commission expected that its new draft protocol on the respective roles and responsibilities of the Commission and municipalities, once approved, will help to develop two-way open communication and reporting of enforcement activities and to coordinate investigation and enforcement activities.

Information Technology Project

Recommendation

To ensure value for money and comply with the Management Board of Cabinet's directives governing information technology projects and the use of consultants, the Commission should:

- *provide decision-makers with a comprehensive business case before proceeding with the development of information technology projects;*
- *involve ministry internal auditors in the oversight of projects to verify that key controls over project management, system design, and the use of consultants are established and adhered to;*
- *require that project documentation be up to date and that reports to senior Commission management include relevant and accurate information on project status; and*
- *ensure that a valid written contract is in place with consultants before authorizing work, budgeted amounts are not exceeded without proper justification and approval, invoices are*

scrutinized, and payments are made only after services are rendered.

Current Status

The Commission informed us that it has updated its policies and procedures to ensure that all current and future information technology projects comply with the Management Board Directive on Information and Information Technology, which was updated as of August 2006. A key requirement of the directive is that projects must follow the integrated project management methodology issued by the Ministry of Government Services' Project Management Centre of Excellence for ensuring a standardized project management approach by ministries and agencies.

In January 2006, the Commission engaged the Ministry's internal auditors to be involved in the development of its Lotteries Licensing System project, and the Commission told us that the Ministry's auditors would be involved in all such future projects.

An updated project charter and business plan were prepared for the Lotteries Licensing System project. At the time of our follow-up, the project was more than 50% complete, and the completion date was revised to January 2008, which is 16 months later than the revised project completion date we noted in our *2005 Annual Report*. We were informed that this resulted from the Commission increasing the scope of the project to include systems to administer the new bingo revenue model.

We noted that internal status reports for the project indicated that the costs for the project have not substantially changed. However, the Commission had not tracked and reported on the costs for internal staff resources applied to the project, as required for such projects, even though the project was being completed primarily through the use of internal staff. We were informed that the Commission was planning to track internal staff resources applied to information technology projects on future projects.

The Commission further advised us at the time of our follow-up that it was ensuring that the directive's requirements are fully followed when consultants are engaged.

Measuring and Reporting on Program Effectiveness

Recommendation

To enable the Commission to report to legislators and the public on its effectiveness in regulating charitable gaming, the Commission should develop more comprehensive indicators for measuring and publicly reporting on its performance. The Commission should also consult with municipalities to regularly obtain meaningful information that would allow the Commission to also include municipalities' contribution to regulating charitable gaming activities in its results-based plans and annual reports.

Current Status

The Commission informed us that it had reviewed its performance measures and incorporated more meaningful measures into its 2006/07 business plan and 2006/07 Annual Report. The performance measures in its recent business plan pertaining directly or indirectly to charitable gaming included a rating on its customer-satisfaction level, whether all complaints have been investigated, and the extent to which licenses were issued within 30 days of receipt. However, a draft of the Commission's 2006/07 Annual Report for us to review was not yet available at the conclusion of our work.

The Commission also informed us that, in consultation with the Association of Municipal Managers, Clerks and Treasurers of Ontario, it will continue to provide available information on municipal licensing activities as part of its annual business plan and report. The new bingo revenue model introduced this year is also expected to facilitate the gathering and sharing of information available about bingo events conducted in Ontario.