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Focus on Asia: When Gaming Regulatory Authorities Stumble

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The aftershocks caused by the issuance of the Bergin Report in February of 2021 continue to reverberate across Oceania and East Asia. The report evaluated Crown Resorts’ suitability to hold a gaming license for its soon to be completed AU\$2.2 billion resort in New South Wales. The report uncovered a variety of issues at Crown’s casino properties in Victoria and Western Australia. Specifically, the Bergin inquiry found gaps in the company’s anti-money laundering controls, evidence that Crown’s bank accounts had been infiltrated by organized crime syndicates, lax oversight with its partnerships with Chinese junket operators, and the continued influence by the company’s majority shareholder on its Board of Directors. It also cited a corporate culture that promoted a certain kind of behavior that put revenues ahead of corporate responsibility. In its conclusion, the report found Crown Resorts, a company that had operated in other Australian states for almost thirty years, unsuitable to hold a gaming license in New South Wales.

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The report also brought into question the role of various state gaming regulators and how they may have been complicit by failing to oversee Crown’s operations in other jurisdictions, notably Victoria, where Crown operates its flagship property in Melbourne.

Gambling policy in Australia has traditionally been the responsibility of the states rather than the Commonwealth. State and territorial governments regulate gambling services such as casinos, slot machines and racing, and rely heavily on the ensuing tax revenue that they generate. Each of the eight states and territories with gaming have their own regulatory agencies. For example, the Victorian Commission for Gambling and Liquor Regulation oversees gaming in Victoria, including Crown's flagship casino; the Office of Liquor, Gaming and Racing provides oversight of casinos in Queensland, including those in Brisbane, Gold Coast and Cairns; and the New South Wales Office of Liquor, Gaming and Racing oversees gaming regulation in that state, including the casinos in Sydney. This model is similar to that found in the United States, where state and tribal gaming authorities oversee casinos within their geographic jurisdictions. With the growth of online gaming, the Commonwealth is only now taking a more active role in regulation.

Like the United States, regulatory oversight in Australia was long perceived as robust. However, as states in Australia grew to rely more and more on the tax revenues that their casinos generated, some authorities paid more attention to the *amount* of gaming tax revenue that was generated than *how* it was generated. Also, the relationships between casino boards of directors, politicians and regulators grew closer. This allowed some casino operators to take a more aggressive approach to player acquisition without being questioned. Some casinos came to rely on Chinese junket promoters to bring high-worth gamers to their casinos. Those junket promoters were not required to undergo the same level of probity that casinos employees had to go through.

The 2016 Incident

While the Bergin Report revealed systemic problems with Crown's internal controls and lax regulatory oversight in other jurisdictions where Crown operated, it was preceded by an incident in 2016 that revealed a fundamental problem with the company's corporate culture and one that should have alerted Victoria's gaming authorities to a larger problem.

Crown had long maintained an office in the Peoples Republic of China (PRC), ostensibly to facilitate travel to its casino in Victoria. It is against the law in the PRC to solicit Chinese citizens to gamble. Organizing a group of more than ten Chinese for gambling trips is illegal, as is any attempt to collect on gambling debts. Employees in this office walked a fine line between facilitation of travel and solicitation to gamble. That line was crossed in October of 2016 when nineteen Crown employees were arrested in PRC, including three high-ranking Crown employees from Australia. They were accused of recruiting Chinese citizens to gamble at their Australian properties. Sixteen employees served time in jail and one senior executive was sentenced to ten months in prison. A total of AU\$1.67 million in fines were paid.

Subsequent to this incident, Crown's Chairman and Chief Executive resigned. VIP turnover, a measure of gross wagering volume, declined by 45% as Crown reduced its marketing efforts in the PRC.

The fact that Crown had maintained an office in China and provided a marketing program that put its employees in harms way should have been a red flag to gaming regulators in Victoria. It spoke not only to a questionable marketing practice, but a corporate culture that put gaming

revenue from a valuable source market ahead of employee safety as well as one that violated the sovereign laws of the PRC.

Before the arrest of the Crown staff, travel advice from Australia's Department of Foreign Affairs and Trade failed to include a warning that the promotion of gambling was illegal in China. This was only changed after the arrest of the Crown staff. The department's advice now states: "Gambling and the promotion of gambling activities are illegal in China. Anyone found to be in violation of this law may be subject to fines, detention and/or a prison sentence."

The 2016 incident also prompted some regulators to call for punitive action against employees of casinos who violated these warnings. What those regulators did not explore was the corporate culture that enabled and encouraged these marketing practices, nor did it propose taking any disciplinary actions against the company.

There will continue to be repercussions from the Bergin Report, one that might ultimately lead to the sale of Crown Resorts. Regardless, as long as relationships between regulators, politicians and operators remain close, and protecting what is a critical industry to state economies remains a priority, similar problems may arise. It may be time for the Commonwealth to step up its oversight for the greater good.
