Yolanda Morrow
California Department of Justice - Bureau of Gambling Control
1300 I Street, Suite 1140
Sacramento, CA 95814

September 26, 2024

Dear Ms. Morrow:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for the proposed regulations on Player-Dealer Rotation and Blackjack, as required in the California Code of Regulations, title 1, section 2002(a)(1) for major regulations. Proposed text of the regulations were not submitted, therefore comments are based solely upon the SRIA and other publicly available information.

The two separate but related proposed regulations pertaining to (1) Rotation of Player-Dealer Position and (2) California-Style Blackjack would improve interpretation and compliance by providing guidance on the activities allowed under existing laws. Specifically, the regulations for rotation of player-dealer position would implement a requirement that the player-dealer position be rotated between the seated players and the Third-party Providers of Proposition Player Services (TPPPPS) for games with player-dealers, and the Blackjack regulation would clarify which elements of games sufficiently differentiate them from twenty-one (or Blackjack), which is prohibited by statute in California. All 86 licensed cardrooms (or card clubs) in California would be subject to the proposed regulations, along with the 36 active TPPPPS in the state. Gambling activities that are authorized at tribal casinos would not be subject to the proposed regulations. The regulation is expected to take effect in October 2025 and be fully implemented by March 2026.

The estimated impacts of the proposed regulations would: (1) eliminate 50 percent of TPPPPS, divert 25 percent of TPPPPS revenue from cardrooms to tribal casinos, (2) eliminate all Blackjack revenue from cardrooms with the expectation that 50 percent of the lost revenue will be replaced by revenue from new games and divert 25 percent of lost Blackjack revenue from cardrooms to tribal casinos. The impacts are estimated to result in a direct reduction of cardroom revenue of $464 million with a direct benefit of increased revenue of $232 million to tribal casinos. The primary beneficiaries of the proposed regulation would be tribal casinos, and other inferred benefits include reduction in problem gambling and tribal revenue sharing and reinvestment. The other inferred benefits were not quantified. The fiscal impacts of the regulation are expected to be small net increases as a result of shifting economic activity away from gaming toward more heavily taxed activities. State and local tax revenues may be disproportionately impacted as cardrooms are unevenly dispersed across the state, but this was not quantified.

Finance generally concurs with the methodology, with the following exceptions. First, the SRIA currently only discusses the macroeconomic baseline and states that the overall California economy would grow according to Finance's macroeconomic projections. The SRIA should clearly identify the regulatory baseline used to analyze the change in behavior as a result of the proposed regulation, including a description of the number and types of businesses impacted, in order to augment the analysis of disparate impacts to local governments. Second, the proposed regulatory alternatives should then be compared to the defined baseline and include quantified cost impacts. The SRIA currently only discusses some qualitative impacts and quantifies the macroeconomic impacts, rather than estimating the cost impacts of each proposed alternative.

Third, the SRIA must provide the rationale for any underlying assumptions that are material to the analysis. The SRIA currently assumes a 50 percent change resulting from each regulatory change based on expert opinion, but the SRIA should justify why this is a reasonable assumption and provide historical data or other evidence for the specific 50 percent estimates. In addition, DOJ can also augment the analysis with a sensitivity analysis to show how impacts may vary under different plausible response impacts. The SRIA should also clearly describe the timing of the impacts and provide estimates of ongoing impacts, as it is currently unclear whether the impacts are one-time or ongoing. Lastly, the SRIA must provide quantitative estimates of any revenue changes at the local level. The SRIA provides state and local government impacts in aggregate amounts and mentions that there will be disproportionate impacts on certain localities due to cardroom locations, but that disaggregated data is not available. In this case, DOJ should make reasonable assumptions about the impact based on available data and information to provide a quantitative estimate of impacts to local governments.

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Somjita Mitra Digitally signed by Somjita Mitra
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Somjita Mitra
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Ms. Venus D. Johnson, Chief Deputy Attorney General, California Department of Justice
Ms. Julia Zuffelato, Supervising Deputy Attorney General, California Department of Justice