



**MGS: "OUR EXHIBITORS RECOGNIZE THAT MACAO REMAINS THE MOST SIGNIFICANT SINGLE-MARKET IN THE WORLD AND MGS...OFFERS A FORUM WHERE BUSINESS CAN BE DONE." [WWW.MACAOGAMINGSHOW.COM](http://WWW.MACAOGAMINGSHOW.COM)**

## LEGISLATION

# Internet sweepstakes vs electronic product promotion kiosks: the curious and unique legislation in Illinois

While the debate surrounding the proliferation internet sweepstakes cafés continues, businesses have been exploring the marketing opportunities offered by electronic product promotion kiosks. **Jeffrey Catanzaro** explains how Illinois is leading the way when it comes to clarifying the legality of this nascent sector.



UNITED STATES

During the past decade, internet sweepstakes cafés have gained in popularity across the US. These cafés typically sell time on the internet or the telephone to customers, while also providing the opportunity to play sweepstakes games - with the possibility of winning substantial cash prizes.

Internet sweepstakes cafés have generated significant revenue in many jurisdictions, and state legislatures have been assertive in regulating and prohibiting the operations of these establishments, as demonstrated in last year's *People v. Grewal* case, in which the California Supreme Court ruled that sweepstakes games offered by cafés constituted an illegal slot machine under the California Penal Code.

While the debate surrounding the legality of internet sweepstakes cafés continues across the country, businesses have also been exploring the marketing opportunities offered by electronic product promotion kiosks. These kiosks differ from those offered in internet sweepstakes cafés in that they allow a customer to buy a legitimate product - such as a discount coupon applied towards the purchase of an item - and with each purchase the customer is awarded participation in a promotional sweepstake.

To promote the sale of merchandise through use of the discount coupon, promoters use cash prizes as an incentive. Upon insertion of cash into the electronic product promotion kiosk, consumers receive a coupon and

entries into the promotional giveaway. Consumers receive entries which are depleted when participating in the amusement style simulated gambling games. No credits are won or lost. Entries have no value. If an entry wins a prize, the cash prize is represented on a receipt, which can then be redeemed for cash at the location.

Promotional sweepstakes kiosks are marketing devices designed to get people to purchase the coupons and apply them towards the purchase of goods via the online retailer or at the bricks-and-mortar location. This form of product promotion is similar to other currently legal promotions, such as Coca Cola or McDonald's Monopoly game.

As with internet sweepstakes cafés, opinion is divided when it comes to the legality of promotional sweepstakes kiosks. However, Cory Aronovitz, founder of The Casino Law Group in Chicago and pioneer in the field of gaming law, has made significant progress when it comes to clarifying the situation in Illinois.

Unlike any other jurisdiction, Illinois has a specific law that exempts games of skill or chance that award cash or prizes where no purchase is required from being considered gambling under the criminal code. The video gambling act also exempts game devices that are otherwise lawful under the criminal code. This seems clear-cut, but the Illinois Gaming Board issued a policy statement to the public that has caused confusion.

As a result, the Illinois courts were asked to make a declaration as to what is and what is not lawful, and whether the Illinois Gam-

ing Board has the authority to issue an opinion related to the exempted activity. Legislation aimed at prohibiting vending machines that allow someone to enter a contest or sweepstakes died in the last legislative session.

The Illinois Prize and Gift Act does not prohibit sweepstakes through an electronic device. In fact, many local ordinances expressly provide for the allowance of electronic devices. Because the kiosk follows the criminal code, it is not a gambling device prohibited by state law. The fact that the kiosk's primary purpose is to vend a product and the promotion is used pursuant to the statute makes this promotion unique in that it appeals to a consumer on several levels.

Aronovitz worked with the Illinois Gaming Board to reach a solution, and the legislature then amended the video gaming act. As a result of these efforts, a recent decision by an Illinois trial court clarified that lawful electronic product promotion is not within the jurisdiction of the gaming board. This activity is not gambling.

"When the legislature amended the criminal code to exempt sweepstakes devices after the passage of the video gaming act, there was a need to clarify the video gaming act so that the VGAI did not also prohibit activities otherwise lawful under the criminal code," Aronovitz said.

The case is currently on appeal and, undoubtedly, the decision will have an impact on this emerging area of gaming law and regulation. Analysis on the outcome of the case will be discussed in a future issue of International Casino Review.



## JEFFREY CATANZARO BIOGRAPHY

Jeffrey Catanzaro is with the The Casino Law Group. He received his Juris Doctorate and LL.M from The John Marshall Law School and was formerly with Huron Legal where he counselled many clients in the gaming sector on commercial contracting and compliance issues. He is also an active member of the International Association of Gaming Advisors (IAGA), which since 1980 has provided a relevant, collaborative forum for discussing key issues that affect global gaming today. Jeff is involved with IAGA's Communications Committee.

## NEW PROPERTY



# BCLC weighs up prospects for additional casino



CANADA

British Columbia's regional lottery, bingo and casino overseer British Columbia Lottery Corporation (BCLC) is considering opening a second casino within the vicinity of downtown Victoria.

A casino is already operated by Great Canadian Casinos in nearby View Royal, but a third-party casino consultant employed by BCLC has advised that the opportunity exists for the introduction of another property in the area.

The crown corporation has thus asked six local communities - Songhees First Nations, Esquimalt, Victoria, Esquimalt, Saanich and Oak Bay - if they would be willing to host a facility which would be smaller in size than the flagship property at View Royal. Discussions with these communities will continue through December 11, with local legislation granting any prospective host community 10 per cent of the new casino's net takings.

The View Royal Casino generated C\$69.3m (E48.2m) between 2014-15, down on the previous year's result of C\$70.4m (E49m).

The stagnation has been enough to convince some local politicians that a second casino may not lead to a substantive increase in gaming revenue.

"We question whether the amount of revenue that they feel is missing is, in fact, in this marketplace," the mayor of View Royal told the Vancouver Sun. "By opening a second facility, what you're going to do is create two mediocre facilities."