

Opinion

LEGALMINDS



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The Gaming (Sub) Concessions' Risk

Law 16/2001, published in Macau's Official Gazette on September 24, 2001, was the first step of the Macau gaming market's liberalization process that reshaped the Special Administrative Region of the People's Republic of China into the world's biggest gambling hub.

Eleven years into the Macau new gaming regime, we have three gaming concessionaires and three gaming sub-concessionaires, whose concession grants shall expire between March 31, 2020 and June 26, 2022.

One key question that has been raised on a number of recent occasions by investors, gaming operators and analysts is what will happen when the Macau gaming concessions and the associated gaming sub-concessions expire?

What we know at this stage:

- That Macau's official policy (reiterated by the current Chief Executive on various occasions) is that Macau should seek to diversify its economy into non-gaming industries such as conventions and exhibitions, leisure and entertainment and creative industries.

- That Beijing exerts significant influence over Macau's gaming policy and the central government has clearly indicated that Macau must control its casino growth.

- That the current Chief Executive will not be in office in 2020.

- That if we consider the new projects planned for the Cotai Strip (MGM, Melco, Wynn and SJM) will come online around 2015/2016, the normal repayment period of 8/9 years in financings for this type of developments will go beyond the concessions/sub-concessions expiry dates.

- It is true that the Chief Executive has the prerogative of extending the concessions/sub-concessions' term for a maximum of five years. However, this possibility can only be exercised after the concession/sub-concession term is fulfilled, which does not allow us to ascertain at this point what will happen then.

What we don't know:

- What will be the PRC's central government's approach to gaming policies, traveling visa requirements, currency and capital flows, considering that each of these factors may have, on its own, a huge impact on the gaming sector in Macau, affecting the market circumstances under which the concessions and sub-concessions will be renegotiated.

- What will be the next Chief Executive's position regarding the gaming industry and how the institutional relationship between the MSAR and China's central government will influence the policy making process in Macau, considering the ongoing debate on the reform of the political system.

- Also important and difficult to predict at this stage is how the Macau market will be affected by the new gaming developments around Asia, including Singapore, Vietnam, Philippines, Cambodia, Korea, probably Taiwan and eventually Japan. Nor do we know the state of the Chinese economy in 2020, namely in the Guangdong province, which economic performance has been proved to have a direct correlation with the gaming numbers in Macau as its most direct and immediate source of play.

- Finally, we do not know what will be the outcome of some regulatory challenges (ongoing investigations in relation to the Foreign Corrupt Practices Act, gaming licensing and listing rules compliance) affecting some of the gaming operators in a heavily regulated industry.

Under the current circumstances, we do not believe that any of the existing gaming concessions and/or sub-concessions are at risk of not being renewed. However, the renegotiation process will open a window of opportunity for the Macau Government to revisit some of the legal and contractual issues, which we hope the Gov't uses to implement a clear and transparent legal path for the continuity of the gaming business well before 2020.