

Notes for presentation by RDM to CWN board meeting on 27 April 2017

Update

- Since the last board meeting, Karl Bitar has had two further trips to China, including one last week to accompany Jason O'Connor's wife and father for a family visit to him, which took place at the Shanghai Detention Centre last Thursday. Family members of the other 2 Australian detainees also visited.
- These family visits were viewed as a positive sign by DFAT and the Shanghai Consulate, given that such visits are unprecedented for an Australian under arrest in China.
- They visits went smoothly. Family visits are normally limited to half an hour, but the meeting with Jason O'Connor was allowed to run for almost an hour.
- His wife felt he looked well, given that he has been detained for more than 6 months. He was rather effusive in his praise of the staff looking after him, probably indicating that he appreciates that he is receiving more favourable treatment than Chinese national detainees.
- The visit was also important to orchestrate the removal of one of the lawyers acting for Jason O'Connor. He was recommending a considerably more assertive approach to dealing with the prosecutors than the other lawyer acting for him.
- The consensus of other advisors, both locally and from western observers of the Chinese justice system, is that aggressively challenging the approach of the prosecutors or the evidence on which they are relying generally draws out the process and potentially exacerbates the consequences.
- Otherwise, progress is being made. The local lawyers and DFAT think that the process is moving very quickly by Chinese standards.
- The police have delivered their files – one for each of the 19 detainees – to the Public Security Bureau, which has in turn referred them to prosecutors in a relatively low level district office, suggesting that the prospective charges are not being regarded to be of great significance.
- This backs up recent indications by investigators that the subject matter is less serious than they indicated in the early days of the investigation.
- Each file largely comprises the primary documentary evidence - hard copies of emails, text messages and other communications - together with statements by the detainees, some customers and representatives of junket operators. There are also some procedural documents.
- The files for the junior staff are thinner than those for more senior staff, including Jason O'Connor.
- Each employee appears to have been interviewed at least three times, with more leading questions being put in more recent interviews.
- The documents and statements in the files relate essentially to visits by Chinese national VIP customers to Crown to gamble. It now seems likely that the charges will be formulated as breaches of Article 303 of the Criminal Code which, as I said at the last meeting, makes it an offence for an individual to organise a group of people to engage in 'group gambling' and to make a profit personally from doing so.
- The next stage is for the prosecutors to review the files and formulate charges. They normally have 6 weeks to do so, which in most cases is extended when they refer the files back to the police to undertake some further investigation. Such a referral is likely to occur here, because the prosecutors have a heavy workload and will probably need to buy some time.
- The best case on timing now appears to be for the charges to be formulated in July. Depending on the degree of guidance the local prosecutors require from Beijing, some additional months of delay could readily occur. Much is likely to depend on the local lawyers for the detainees working cooperatively with the prosecutors. We will be doing what we can to facilitate this.

Class action

- Maurice Blackburn has not done anything further of significance in relation to the proposed class action. It has not given any public indication of the level of registrations by prospective class members.
- We have continued to prepare a chronology of relevant events and are working with Crown to load potentially relevant communications and documents into a litigation support database.
- We have also met with Ferriers to discuss options for analysing the potential size of the class Maurice Blackburn has proposed and the dollar potential of the loss which the imputed class may claim. There is a fair degree of complexity and uncertainty involved even with a preliminary assessment. We are still working through the issues.

Directors and officers insurance

- Crown's brokers have provided an update to the insurers referring to, amongst other things, Maurice Blackburn's announcement of its invitation to register for a class action. The insurers are awaiting developments.

Future business in Asia

- We completed the review of local advices on the laws of other centres in which Crown operates in Asia and prepared a consolidated advice on the principles for an operating model for the future.
- We recommended that, in the light of the detention of staff in China and the consequential impact on VIP business revenue, the VIP business in Asia be restructured, involving:
 - establishment of a regional hub in Hong Kong;
 - closure of other Asian offices and relocation of relevant staff to the Hong Kong office;
 - development of detailed operational protocols for staff in Hong Kong and for staff visiting other Asian centres;
 - review and updating of such protocols every 6 months, with appropriate training (including for new starters), and compliance audits every 12 months, with revision training as required following each audit;
 - appointment of a Compliance Officer in Hong Kong (independent of the sales staff), reporting to a Senior Risk Officer in Australia; and
 - making arrangements to obtain regular intelligence regarding the political situation and enforcement of gaming-related laws in China, Hong Kong and other countries to be visited by Crown staff.
- We briefed individual members of the Risk Committee on our advice and they were comfortable with the restructure proceeding in accordance with our recommendations.

Dealing with regulators

- The only regulator which has pressed for further information is ILGA in New South Wales, following the airing of the Four Corners program and in the context that it is still considering James Packer's application to re-join the Board.
- Mike Johnston and a CPH lawyer, together with Rowen Craigie and Michael Neilson, met with the Executive Director – Regulatory Operations of ILGA and some of her staff in March. She indicated that the ILGA Board was seeking information about Crown's risk management processes insofar as they were relevant to the risk of detentions.
- We have assisted in drafting a paper to provide to ILGA. It is expected that the paper, along with some other (non-China related) information requested by ILGA will be put before the next meeting of the ILGA Board.

Summary

- I hope that his summary has been helpful – again, I am very happy to take questions.