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**Ministère du  
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**VIA EMAIL**

April 26, 2024

**COURT OF APPEAL FOR ONTARIO**

130 Queen Street W.

Toronto, ON M5G 2N5

Attn. Daniel Marentic, Registrar

**RE: In the matter of a Reference respecting international play in an online provincial lottery scheme (COA File No. 24-CV-0185)**

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Dear Registrar:

Please accept this letter as the response of the Attorney General of Ontario (“Ontario”) to the six procedural motions delivered on or before April 8, 2024 in this proceeding.

Ontario takes no position on the motion by the Attorney General of British Columbia (“BC”) for leave to adduce evidence. Ontario also takes no position on the motions for leave to intervene by the proposed interveners:

- Atlantic Lottery Corporation, British Columbia Lottery Corporation, Lotteries and Gaming Saskatchewan, and Manitoba Liquor and Lotteries Corporation (collectively, the “Canadian Lottery Coalition” or “CLC”);
- Canadian Gaming Association (“CGA”);
- Flutter Entertainment PLC;
- Mohawk Council of Kahnawà:ke; and,
- NSUS Group Inc. and NSUS Limited.

Ontario opposes the requests by the CLC and the CGA for leave to adduce affidavit evidence in this proceeding. While this Court’s March 1, 2024 procedural order contemplates the delivery of evidence by intervening attorneys general with leave, the Court did not grant other interveners a similar right. As interveners, the CLC and the CGA should not be permitted to add to the evidentiary record. Permitting them to adduce evidence will unduly complicate and delay the adjudication of this reference.

The CLC’s proposed evidence is not relevant to the question of whether a provincial lottery scheme established pursuant to s. 207(1)(a) of the *Criminal Code* can involve international play. The CLC’s proposed evidence is limited to setting out its members’ concerns with existing and

allegedly unlawful gaming marketing in their jurisdictions and the social ills associated with unlawful gaming.

Neither of these issues is relevant to the reference question, which addresses only the proper interpretation of s. 207(1)(a). The CLC's affiant candidly acknowledges that the CLC's interest arises from concerns "that the outcome of the Reference could lead to the further proliferation of illegal online gambling" in their jurisdictions and not the proper interpretation of s. 207(1)(a).

Further, and in any event, the CLC's proposed evidence is duplicative of the evidence BC intends to adduce if granted leave by this Court. Similarly, the CGA's proposed evidence is duplicative of the evidence that Ontario intends to adduce in this proceeding. In particular, Ontario anticipates adducing evidence describing the nature and operation of modern online gaming schemes and the implications of the various forms of liquidity for those schemes.

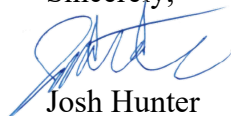
The delivery of duplicative evidence by the CLC and the CGA will not assist the Court and risks prejudicing the conduct of this reference. The same evidence will be delivered by BC and Ontario without the need to accommodate additional steps in the proceeding, including the delivery of additional records and the conduct of additional cross-examinations.

Ontario submits that the Court should establish the following terms for the intervention of BC and any other intervenor to ensure that their participation is useful, efficient, and not prejudicial:

- Intervenors should not be permitted to raise new issues.
- Intervenors other than BC should not be permitted to participate in any cross-examinations.
- Intervenors raising similar issues should coordinate to ensure their submissions are not duplicative.
- Intervenors should each be permitted to file a factum of up to 10 pages.
- Intervenors should each be granted 30 minutes for oral submissions.
- Ontario should be permitted to deliver a reply to the intervenors' factums of up to 30 pages.
- Costs should not be awarded for or against any intervenor.

Ontario reserves the right to make further submissions regarding the deadlines for intervenors' factums and any reply from Ontario when the Court establishes a timetable for the remaining steps in this proceeding.

Sincerely,



Josh Hunter  
Senior Counsel

- c. A. Sinnadurai, H. Evans, and J. Boyczuk, Counsel to the Attorney General of Ontario  
R. Danay and K. Hogg, Counsel to the Attorney General of British Columbia  
D. Bush, A. Goldenberg, G. Ringkamp, and R. Abrahams, Counsel to the Canadian Gaming Association  
M. Milne-Smith, C. Sethi, K. Spence, and J. Houston, Counsel to the Canadian Lottery Coalition  
S. Hutchison, K. Flanagan, and B. Chung, Counsel to Flutter Entertainment plc  
N. Kennedy and S. Glickman, Counsel to the Mohawk Council of Kahnawà:ke  
G. Hamilton and T. Markin, Council to NSUS Group Inc. and NSUS Ltd.