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Welcome to the first issue of Ferrier Hodgson's Pubs on Tap. Once a month, Ferrier Hodgson's Victorian pubs and clubs specialists John Lindholm and Colin Gill will keep you up to date with the latest developments and issues affecting the hospitality sector. If you have any comments, suggestions or criticisms please contact us directly. Our contact details are included below.

Gaming machine entitlements - the bell rings for the second round

In the next few months, the Victorian Government's scheme for the transfer of gaming machine entitlements is expected to be up and running.

This scheme will enable buyers and sellers of gaming machine entitlements to post information via a market-based website and to negotiate price and details for the transfer of entitlements from one venue operator to another. The site will be managed by the Victorian Commission for Gambling Regulation, but the price for entitlements won't be regulated.

The price for entitlements through the scheme won't be known until the site becomes operational. But like the auction of entitlements held earlier this year, prices are likely to vary depending on the venue type (club or pub) and the supply and demand in the region allocated. For example, any entitlements offered for sale for a capped area such as Casey (Berwick/Cranbourne) may attract a higher price than entitlements offered for the Melbourne CBD, which is uncapped.

Leading up to the opening of the transfer scheme, there are signs of a reasonable quantity of entitlements that may be offered for sale. For example, at least 200 entitlements are likely to be up for sale from the Government through entitlements purchased at auction but not allocated. There are also a number of clubs that, as a backup strategy, registered an opening (and ultimately successful) bid in regions where they don't have a venue. Having also secured entitlements in the primary region where their venue is located, the surplus entitlements are likely to be available for sale.

Certain venues will be looking for entitlements, but the timing of any purchase may be influenced by transfer rules through the scheme. Importantly for buyers, the entitlement price must be paid up front. There are no deferred payment arrangements like those available from the auction. Also, all amounts owing to the State must be paid before the transfer is recorded, including any interest, tax and fees outstanding on entitlements. Given these payment arrangements, some buyers may hold off purchasing entitlements through the transfer scheme until closer to 2013, when they can actually use them.

For sellers, any profit made on entitlements sold before 2013 will be subject to a hefty 75% profits

tax. There are exceptions (such as a new venue failing to obtain a planning permit), although the circumstances appear fairly limited.

Entitlements through the scheme will retain their venue type and regional status. It's possible for these to be amended by applying separately to the VCGR, but any application for change to a region already up to its municipal limit won't be approved.

It will be interesting to watch the values for entitlements once the secondary market is operating. Details of transactions completed will be disclosed on the website, along with the price negotiated, buyer details and date transferred.

At the moment, there appear to be entitlements that are likely to be available and venues looking to buy. Given the terms of transfer and the time until the entitlements can be used, it may take until after 2013 for values to stabilise.

Ferrier Hodgson has been following closely the development of the new gaming legislation in Victoria and is continuing to provide advice to parties on the financial impact it will have. Over the last few months we have offered many operators independent advice on the various options available for the supply of gaming machines. If you have any issues you would like to discuss, don't hesitate to contact us.

Regards,

John Lindholm, Partner
Colin Gill, Director

Every month, Ferrier Hodgson's Victorian pubs and clubs specialists, John Lindholm and Colin Gill send Pubs on Tap detailing the latest news and trends in the hospitality sector. If you have any comments or suggestions, please contact them directly at: john.lindholm@fh.com.au or colin.gill@fh.com.au. If you know of others you think would be interested to receive Pubs on Tap, please send us their details.

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