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Mr John Glen
Scottish Executive Health Department
Tobacco Control Division
3 E(R)
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Mr Glen

**The Smoking, Health and Social Care (Scotland) Act 2005
(Prohibition of Smoking in Certain Premises) Regulations 2005: Draft**

Please find attached the submission from Carlton Bingo with regard to the Smoking, Health and Social Care (Scotland) Bill in relation to draft regulations on the prohibition of smoking in certain premises.

Thank you for the opportunity to contribute to this debate. In summary, our main concerns relate to the planned implementation period and its adverse affect on business planning; the enforcement rules and the apparent lack of any economic assessment on how such a measure will affect the leisure industry.

Please do not hesitate to contact me should you require any further information regarding my submission.

Yours sincerely

pp PETER L PERRINS
MANAGING DIRECTOR



Background Information

Carlton Bingo (trading as Carlton Clubs plc) is an indigenous Scottish company with a remarkable 70-year corporate history. Today, with its headquarters still in its home town of Inverness, the UK's largest independent Bingo operator has evolved and grown to a £23 million turnover organisation, with fourteen clubs across Scotland and four in England, employing over 500 staff.

The company adheres to strong ethical principles of social responsibility towards its customers, suppliers, staff and the local community. Indeed in December 2003 Carlton Bingo became the first Bingo company in the UK to be awarded a GamCare certificate of Social Responsibility.

Carlton Bingo has invested heavily in appropriate ventilation systems within the clubs over a number of years with a view to providing freedom of choice to our smoking and non-smoking customers. In 2005, for example, Carlton Bingo has committed over £800,000 to state of the art ventilation systems in 2 new build venues. This investment decision was taken in summer 2004, before the smoking bill was announced.

Carlton Bingo regularly seeks the views of its customers particularly where changes will have a direct impact on their leisure activity. Over four days in December last year, Carlton Bingo sought members' opinions on the Executive's proposed ban on smoking in enclosed public places. Research conducted within our clubs indicates that 67% of our customers are smokers leaving 33% of non-smokers, demonstrating by their frequency of visits, that they are comfortable playing Bingo in this environment.

Feedback from our membership, smokers and non-smokers alike was strong. Over 7,100 members, or more than two thirds of the people who were in the clubs over those four days, signed a petition expressing their view against the proposed ban of smoking in all enclosed public places. This petition has been sent to the Health Minister and shared with MSPs local to Carlton Bingo outlets.

Our members feel that any imposed ban will affect them adversely and that they will not be

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| | <p>able to continue to enjoy playing Bingo if they are not able to exercise their right to smoke and therefore may stop this social activity. This could deter a great many people who regularly enjoy Bingo and alienate sectors of the community who do not undertake any other social activities. By curtailing smoking indoors, players will be forced onto the streets between games if they wish to smoke. This merely shifts the problems associated with smoking, not to mention creating other problems in terms of managing large groups of people converging on the pavements and roads in our local towns and cities.</p> <p>Carlton Bingo do not advocate smoking to our members, but we do recognise their expressed preferences and individual rights as customers and to this end offer smoking and non-smoking areas plus ventilation in our Bingo facilities.</p> <p>Bingo is the second largest participative leisure activity, for the over-18 population in the UK, with over 3 million people regularly playing Bingo in licensed clubs. It offers a safe and social environment for those who take part, the majority of which are women.</p> <p>Carlton Bingo is therefore urging you to reconsider the blanket ban and amend the Smoking, Health and Social Care (Scotland) Bill to reflect the views of our members and the Scottish public.</p> |
| <p>Timescale</p> | <p>Carlton Bingo believes that the proposed ban on smoking in enclosed public places, as it currently stands, would have a huge detrimental impact on our fourteen clubs in Scotland. A total ban in the timescale proposed could seriously impact negatively on the future viability of our business, with the potential loss of over 400 Scottish jobs. Just as importantly, the closure of local Bingo clubs would also affect Scotland's local communities by placing unnecessary barriers to people who want to enjoy a safe, social, fun and friendly leisure activity.</p> <p>If the Executive decides to press ahead with this legislative change, Carlton Bingo would urge a rethink on the implementation period to allow Scottish businesses adequate time to manage the major negative impact the introduction of a smoking ban would have on their business. Other parts of the UK are adopting a phased-in approach which gives businesses a more realistic timeframe to adjust. The Scottish Executive should follow this lead and, if the</p> |

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| | <p>proposals are supported in Parliament, enforce the proposed restrictions to smoking in enclosed public places from the end of 2008.</p> |
| <p>Regulatory Impact Assessment</p> | <p>In the section relating to economic impacts on the hospitality sector, the document states "Given these opposing effects, it is not possible to state definitively whether the impact on the hospitality sector will be positive or negative without empirical evidence." Carlton Bingo would strongly urge the Scottish Executive to undertake that evidence - across all stakeholders who would be affected by such a ban - at the earliest opportunity and not to make any knee-jerk reactions ahead of the findings of that study.</p> <p>The document should assess the impact on the hospitality trade, the retail sector and small and rural businesses. Evidence from Ireland shows the hospitality sector has been adversely hit.</p> <p>However, there is no reference to the leisure and entertainment sector in particular the bingo industry and consequently no assessment identified in relation to this sector.</p> <p>Carlton Bingo urges the Scottish Executive to carry out an economic impact assessment study immediately into the implications for those elements of the leisure industry which do not encompass the licensed or hotel trade.</p> <p>The document states that "there is a need to accelerate progress in smoke-free provision through voluntary action" and that his has been less pronounced, citing 7 out of 19 pubs still allow smoking throughout. Where is the evidence to support what is has been going on in the Bingo sector? Has there been any evidence gathered?</p> <p>As detailed earlier, Carlton Bingo has been, and continues to invest heavily in appropriate ventilation systems within our premises over a number of years with a view to freedom of choice to smoking and non-smoking customers.</p> <p>It is our belief that an enhancement of building regulations to provide better ventilation and air quality systems within smoking premises would provide the best solution to both smokers and non-smokers. Together with the Executive's proposed new approach to delivering smoking</p> |

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| | <p>cessation support clinics closer to the community and the wider public health education campaign, a change in the building regulations would be enthusiastically welcomed by our members and the wider public - who believe an imposed blanket ban on smoking in enclosed public places will seriously and unfavourably affect their current social activities.</p> |
| <p>Costs to the Scottish Administration</p> | <p>It is unclear from the document who is liable for any fines. With licensees allowing smoking on their premises facing fines of up to £200 and persistent offenders facing their licence being withdrawn, and individuals facing a fixed penalty of £50, it is unclear as to where the responsibility for enforcement lies.</p> |
| <p>Scientific Data upon which this policy is based</p> | <p>The viability of the statistics stated in the Regulatory Impact Assessment show the number of people dying from smoking related disease and passive smoking. However the document also states that there is 'no defined safe level of exposure to second hand smoke'. Carlton Bingo would question how accurate measurement can be made on this position, if the baseline figure is unable to be defined.</p> <p>Similarly what is the evidence that overall prevalence of smoking will reduce as a result of curtailing smoking in public places? Or indeed that smoking restrictions encourage existing smokers to give up?</p> |
| <p>The business drivers that would be required to support such a change.</p> | <p>There is little recognition if any, that the business community in certain sectors, will have to make major adjustments to deal with this new legislation and re-educate its customers. The document covers aesthetic changes like decorating costs, but fails to assess the impact on the business plan where a large degree of the customer base exercises their right to smoke.</p> <p>If business is expected to accept such a change in 'acceptable practices' it should be given an implementation period which allow each business to fully adjust. Again Carlton Bingo is calling for a longer lead time to allow business plans to adjust, with an implementation date at the end of 2008.</p> |

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| Staff Smoking Breaks | The document appears to equate a restriction in smoking in enclosed public places with people stopping smoking. I do not believe that this is the case, if you no longer offer smoking facilities for your staff, that does not mean they will stop smoking. It means that they will be forced to go elsewhere, as seen outside many buildings, where unsightly smoking 'dens' are created in shelters or around the doorways, by staff who have no other option if they choose to smoke. |
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Regarding the specific questions posed in the consultation document, Carlton Bingo's response is as follows:

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| Q1. Do the definitions of words and phrases ensure clarity of what premises are covered or exempted from the regulations? If not how might they be improved? | <p>The definitions are very geared towards the licensed and hospitality trade. As an operator providing a leisure activity, there is nothing specifically defining what is included in the regulations for this sector.</p> <p>Under the Gambling Act, the need for Bingo players to pre-register to become a member of a club will no longer be required. Therefore in the near future the Bingo "Club" as such will cease to exist as a closed membership association.</p> <p>The enforcement date from 2006, as Carlton Bingo had outlined above, does not allow enough time for businesses to adequately prepare for such a major change in the trading environment.</p> |
| Q2. Views on Display of no smoking notices | For clarity, the sign should also contain information on the individual's liability as well as the premises, and what the penalty charges are for breaking the no-smoking policy. |
| Q3. Comments on the existing formula re Regulation 3 and how it might be improved. | No issue with the definition used to describe premises. |
| Q4. Views on the level of fixed penalties and time limits for payment | The term "permitted", as in "a fixed penalty of £200 for permitting others to smoke", is disingenuous. For example, if a player in any of our facilities chooses to smoke, that is quite different to us, as an organisation, "permitted" them to do so. We do not have the enforcement capability to stop someone who chooses to smoke regardless of the regulations, despite how much effort we put into adhering to the proposed bill. |

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| | <p>The proposal is unclear as to what extent the premises is liable for enforcing the ban, for example, if the designated person for the premises has taken all reasonable steps to deter people from smoking, at what stage does that liability transfer to the individual who continues to choose to smoke? And what enforcement mechanisms are available to the designated person?</p> <p>Finally if a licensee faces losing their licence if they are a persistent offender, please clarify what constitutes a persistent offender.</p> |
| <p>Q5. Views on the general approach re councils of fixed penalties and account keeping</p> | <p>Nothing to add</p> |
| <p>Q6. Views on whether any premises which fall into the definition of no-smoking premises at section 4(4) of the Bill but which have been omitted from the list at Schedule 1</p> | <p>Nothing to add</p> |
| <p>Q7 - 9. Views on merits of the approach, the development of smoking policies for residential care homes and targeting cessation services on adult care homes; psychiatric hospitals and psychiatric units and hotel, guest house and B&B bedrooms</p> | <p>Nothing to add</p> |
| <p>Q10. Are there any premises which. Taking into account humanitarian, practical or other considerations, are omitted from the exemptions listed in Schedule 2?</p> | <p>Carlton Bingo believes that its ventilation systems mitigate the effects of smoking and passive smoking, so on a practical level, effective building regulations could deliver the same desired effect in terms of exposure to domestic smoke in enclosed public places.</p> |