

By Hand

March 15, 2021

The Parliament of Aruba,
The President of the Parliament
Mr. Juan E. Thijsen

Attn. the Secretary General (*griffier*) of Parliament
Mr. Herman Hek
L.G. Boulevard 72

Aruba

Dear Honourable Mr. Thijsen,

It has come to our attention that the government of Aruba is intent on passing legislation that will allow for additional lottery licenses to be issued, eliminating the partial exclusivity for jackpot games currently enjoyed by Fundacion Lotto pa Deporte (hereinafter: "FLPD"). This language was included in the *Landsverordening Toezicht Kansspelen* (hereinafter: "Ltk") bill last week. We understand the bill is now scheduled to be voted on in Parliament on March 24, 2021, without the Advisory Council being consulted with respect to the licensing of lotteries and without the lottery sector being consulted by the committee responsible with implementing the Dutch requirements in exchange for Covid-related loans (*Landspakket*).

Reasoning behind the Ltk bill

The explanation being given for the change in the lottery licensing is that this is necessary to satisfy the requirements set by the Netherlands in exchange for Covid-related loans (*Landspakket*); this in the mistaken belief that it is a means to generate more income for government priorities from lotteries in Aruba from the industry. In fact, the result of the bill will be less money for Aruban government priorities.

Aruba Lottery currently has limited exclusivity for lotto style jackpot games in Aruba. There is very good reason for that. Jackpot lottery players are attracted to higher not lower jackpots. If multiple operators offer jackpot games in a market such as Aruba where the per capital spend is already among the highest in the world, the inevitable result will be lower jackpots and lower total sales and hence lower good cause revenues overall.

The Netherlands and most other jurisdictions recognize this as a fact in the lottery market. Curiously, this is being presented to Parliament as a requirement from the Netherlands, while the Dutch lottery license only allows one party to be licensed to offer lotto games¹; all the jackpot games in the Netherlands are being offered by *De Nederlandse Loterij*.

The Dutch gaming law is on the verge of being amended to regulate online gaming, which is one of purposes of the Ltk bill as well. Unlike the Aruba government however, the lottery licensing system in the Netherlands will remain untouched. The benefit of licensing jackpot games to one provider is clearly

¹ Article 27b, subsection 1 jo. 16 of the *Wet op de kansspelen*.

understood in the Netherlands – as it is understood in most jurisdictions in the world and all jurisdictions in North America. This model maximizes returns to the government.

The bill also requires the current lottery license holder to reapply for its license if it desires to keep it. The license holder has held its lottery license for 30+ years and has entered into a long-term agreement with our company based on the assurance of the Aruba government that not only it will keep its license, but also that it will keep it on an exclusive basis with regard to lotto jackpot games.

Why is CBN concerned about this bill?

Our company has been a provider of lottery services to Aruba under every administration since 1999. In 2011 we were approached by the then Minister of Finance to help the Stichting Fundacion Lotto Pa Daport (FLPD) re-structure its finances. The Minister's objective was to avoid potential credit default due to a very high debt load that FLPD had incurred to finance various sporting venues.

The solution we agreed to with the Minister and his staff came in the form of the Lotteries Management Services Agreement dated July 13th, 2011. Our company arranged to refinance the debt of the FLPD, significantly reducing debt service costs by providing our corporate guarantee of the new consolidated FLPD borrowings from CMB Bank in the amount of Afl. 20,000,000. We were able to accomplish this by leveraging our longstanding relationship with CMB Bank's minority shareholder Scotiabank in Canada, our credit worthiness and that institution's confidence in the safety of foreign investment in Aruba.

The Assurances we received directly from the government of Aruba led to our company taking substantial financial risk by further investing in the lottery and arranging for the re-financing of the long-term debt of the government foundation FLPD. Those arrangements included providing our debt service guarantees and letter of credit to support CMB Bank underwriting the re-financing.

In fulfilling our obligations under the management agreement, we have made substantial capital investments in the modernization of the lottery operation and building a professional lottery operation that is operated by talented Arubans.

Following our assumption of responsibility for management of the lottery operations we immediately invested over Afl. 2,000,000 in the lottery in the form of new equipment, branding and offices. We consider that we have held up our part of the bargain by guaranteeing good cause revenue to the FLPD of Afl. 4,000,000 annually, Covid-19 implications aside. Once revenue reaches an agreed threshold 100% of upside goes to FLPD to be allocated towards Aruban sports. In addition to the minimum Afl 4 million guaranteed for good causes, we also guarantee debt servicing to CMB Bank which currently amounts to Afl. 2,100,000 per year. Finally, we also provide a guaranteed Afl. 600,000 per year to FLPD to defray board administration expenses.

Public statements claiming that our company pockets the lion's share of the lottery revenue are perplexing to us and completely inaccurate. Aside from the abovementioned investments made, guarantees provided and risks assumed by our company, a large part of the CBN Management Fee is used to cover operational costs and in one way or another is redistributed into the Aruban economy.

Since the effective date of the Lotteries Management Services Agreement, our operation of the lottery has had a very positive impact on the Aruban economy:

- prizes paid have exceeded Afl. 200,000,000;
- commissions paid to over 180 lottery retailers have exceeded Afl. 45,000,000;
- income taxes paid by our subsidiary totaled just under Afl. 2,800,000;
- BBO paid to the Government on behalf of FLPD has totaled in excess of Afl. 7,000,000; and
- significant salary and benefits have been paid to our 100% Aruban operational staff.

Lottery sales have grown over 25% during the period of our management.

Consequences of the Ltk bill if left unchanged

While we prefer to avoid controversy and to focus instead on managing the lottery in a professional and transparent way, this legislative initiative will, if approved in its present form, lead to massive financial losses for Aruban sports and for our company. We are therefore breaking our silence.

The premise that opening the lottery market in Aruba to more lotteries will generate more income for either the government or good causes is misguided.

It is also highly unlikely that players who are already spending more on lotteries than most players in advanced countries would spend more because they have more lottery operators to choose from. On the contrary, in all likelihood, the result of this legislation would be that more lottery organizations will be competing for the same ticket buyers. Each new lottery will have investment and overhead to finance from its lottery sales, while the total lottery sales on the island will remain the same. The net revenue available for good causes will simply be less.

Today the Aruba Lottery offers the only jackpot lotto games in Aruba. They are the national games. Allowing other lotteries to offer jackpot games will lead to lower jackpots. Lotto players are motivated by larger not smaller jackpots, so overall sales and good cause revenues can only be expected to decline.

Competition can be a good thing for consumers in some markets, but as the Netherlands and others have clearly recognized, that is not the case in lotto games.

The bill that Parliament is to be asked to approve next week will eliminate the limited exclusivity for jackpot games that was the foundation of our investment and our guarantees of the refinancing of FLPD debt. This would fly in the face of the deal we struck in good faith with the Government of Aruba that was approved and co-signed by the Council of Ministers.

The unintended but inevitable consequences of this proposed bill to Aruban sports financing and to our investment in Aruba are so dire that the bill should not be considered until it is thoroughly reviewed by and the opinion of the Advisory Council (*Raad van Advies*) obtained. The prior version of this bill, that was reviewed by the Advisory Council, did not include the lottery provisions that will cause so much damage. The committee responsible for implementing the Dutch requirements mentioned above should also be equipped with the input of those with knowledge of the industry, before proposing legislation that will lead to the opposite of the intended effect.

Adoption of the Ltk bill in its current form is likely to lead to prolonged litigation involving all stakeholders to the substantial detriment of the lottery and the country. The Aruba Lottery's ability to service the debt that we have guaranteed will be compromised and the aggregate revenues available for sports reduced.

There would no doubt be damage to the reputation of Aruba generally for foreign investment security. It is not inconceivable that the losses suffered would be in the tens of millions of florins over the remaining term of the Lotteries Management Services Agreement. We would have no option but to seek compensation for those losses from the Government of Aruba.

The path forward

The urgency of this situation in terms of the potential damage to our economic interests and the future support for good causes in Aruba compel this plea to you to allow the Members of Parliament sufficient time to properly evaluate the implications of allowing more lotteries to operate jackpot games in Aruba by removing the lottery provisions from this bill.

There are ways to improve the net revenues available for good causes, but they require a dialogue with government that we have thus far been unable to open, notwithstanding our best efforts. With government approval for refinancing of the existing FLPD debt, funds could immediately be generated to address the most pressing needs in Aruban sports and culture.

We would be happy to discuss those possibilities with yourself and any Member of Parliament.

Our objective is to ensure you have a full understanding of our assessment of the peril of the intended course of action in Parliament and to collaboratively seek a better alternative for all concerned.

Sincerely,

Canadian Bank Note Company, Limited



Craig Bascombe
President, Lottery Systems and Chief Financial Officer

Cc: All Members of Parliament

Cc: College Aruba Financieel Toezicht

Cc: The Minister of Justice, the Honourable Mr. Andin C.G. Bikker

Cc: The Prime Minister, the Honourable Mrs. Evelynna C. Wever-Croes

Cc: The people of Aruba