

## **IS PROTECTIVE MARKETING OF CASINO CUSTOMERS AN ETHICAL IMPERATIVE?**

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### **ABSTRACT**

Legalized gambling is present in 48 of our 50 states and 43 of these states have actually authorized multiple casinos. Casino gambling is becoming a part of American's social fabric. Casino gambling's banning, demarketing or counter-marketing is a very daunting task at this stage. Instead, the authors develop and explore a new strategy of "protective marketing" to apply to all stakeholders including casino gambling customers who are negatively impacted by it. We first define protective marketing, and then we discuss the negative impact of casino gambling. We conclude by presenting the teleological and deontological ethical cornerstones of protective marketing. We reinforce the ethical bases by applying "Hohfeldian" rights and duties to protective marketing. Finally, we offer several proactive protective marketing strategies.

*Keywords:* Public Policy, Business Ethics, Protective Marketing, Casino Gambling, Demarketing

### **INTRODUCTION**

During the last decade, business scholars have been very interested in studying Corporate Social Responsibility (CSR) among firms in the gambling industry. In particular, we shall focus on casinos. (Kim & Lee, 2018; Lua, 2019; McCain, Lolli, Liu & Jen, 2018; Mizerski, 2013; Namara, 2017; Vaughn, 2017; Wong & Prentice, 2015; Yani, Javed, & Yousafzai, 2012). In 1980, only ten US states had authorized gambling. By 2018, of the 50 states, only Utah and Hawaii did not have some form of legalized gambling and 43 of these states had legalized *casino gambling* (CG). Two-thirds of the total gambling dollars that are wagered in the US occurs in casinos (Forbes 6/23/03). It is growing at a much faster rate than the overall economy. This remarkable growth is primarily because many have easy access to casinos and casinos are promoted through newspapers, TV, internet, billboards, and social media among others. Free bets, bonuses and variety of incentives are utilized by the CG industry to build lifetime loyalty among its patrons (Camp, Hartley, & Kelly, 2018; McCain et al, 2018). Moreover, online casinos provide easy access to all.

There are some obvious social and economic benefits to casino gambling. For instance, casinos generate employment, provide entertainment, and pay taxes. Additionally, casinos generate fringe benefits for complementary industries such as airlines, hotels, rental cars, sports, orchestra and operas, shopping, and tourism (Au & Hobson, 1997; Eadington, 1998; Epstein, 1998; Gazel, 1998; Matton, 2018; Nichols, Tosun, & Yang, 2015; Quigno & Zhong, 2016; Saunders &

Turner, 1987; Vong & Wong, 2013). With that said, we must similarly admit that gambling has significant social costs. They fall into nine groups: such as crime costs, business and employment costs, bankruptcy, suicide, illness related to pathological gambling, social service costs, direct regulatory costs, family costs, and abused dollars (Statista, 2018; Grinols, 2011). In summary, we contend that CG's benefits are often overstated while its costs are seriously underestimated. Some of these costs may far exceed the economic, psychological, social and moral benefits of CG both in number and in magnitude. Though our focus is CG, the ethical analysis applies to all gambling activities including lotteries, sports betting, and horse racing (Casswell, 2012; Grall-Bronnec, 2017; Grougiou, 2016; Hing, Lamont, Vitartas & Fink 2015; McBride & Derevensky, 2017; Oh, 2014).

### **What is Protective Marketing?**

*Protective marketing* protects customers and related stakeholders from the harms of certain products and services that are legal and have become part of the social fabric of our lives. Protective marketing markets protection to vulnerable consumers from addictive products like alcohol, tobacco, fatty foods and casino gambling. We fully support *protective marketing* by using the protection motivation theory of Rogers (1975, 1983) as extended by Ho (1998) and recently applied by Pechmann, Zhao, Goldberg & Reibling (2003) and Weinstein (2000). Applied to CG, *protective marketing* seeks to cognitively and emotionally forewarn and forearm actual and potential CG customers against the serious moral, social and economic risks that CG presents.

*Protective marketing* is a subset of “social marketing” coined and popularized by Kotler and Zaltman (1971). It is “the design, implementation, and control of programs calculated to influence the acceptability of social ideas. It involves product planning, pricing, communication, distribution, and marketing research.” Social marketing was a response to broaden the concept of marketing (Kotler & Levy, 1967). It included non-for-profit organizations and other societal issues such as fund raising, population problems and recycling of solid waste. Social marketing became popular and included the marketing to society and the marketing of social issues. As previously mentioned, we define *protective marketing*, as a subset of social marketing. It is the design, implementation and control of programs for influencing the acceptability of social and ethical ideas. It protects consumers from the harm of casino gambling.

We propose to “protect” prospective consumers and related stakeholders from the harm of CG by: a) objectively discussing its social externalities or negative effects on individuals, families and society and b) by offering some ethical imperatives to prevent the possible addictions to CG. Under (b) we shall invoke the normative ethical theories of *teleology* and *deontology*. As such, we reinforce the ethical arguments by invoking Hohfeld's analysis of rights and duties to CG owners, customers and other non-customers.

### **Why Protective Marketing?**

Since CG is very well integrated into the cultural, recreational and economic structure, a stratagem for a total ban on CG would likely be useless and ineffective (Oei, Raylu & Loo, 2019). This strategy would require a nationwide referendum against casinos that would eventually translate into law. The likelihood of both happening, now, is nil to none. *Demarketing*

would strongly cope with CG (Seeletse, 2017). Kotler and Levy (1971) and Kotler (1973) discuss the appropriateness of various states such as negative demand, overfull demand, and unwholesome demand. CG is primarily a case of *unwholesome demand*. This demand is unhealthy. Examples of this demand include the demand for fatty foods, cigarettes, alcohol, hard drugs, handguns, gambling, and X-rated movies. The marketing task that changes the behavior of consumers who purchase and use these products is direct no-nonsense counter-marketing. This counter marketing involves “warning label” ad messages, price or tax hikes, and reduced product promotion and availability. Collectively this is *demarketing*. Demarketing is reasonable because CG reflects both *overfull demand* and *unwholesome demand*. More than 30 years ago, Lavidge (1970) admonished marketers to stop evaluating new products exclusively based on whether they *could be sold*. He instead, suggested that these products be evaluated from a societal perspective to whether they *should be sold or not*. CG is a product/service of such questionable social desirability (Auer, Reiestad & Griffiths, 2018; Bhatti, Thiruchelvam & Redelmeier, 2019; Boatright & Smith 2017; Bonello & Griffiths 2017; Coulter, Hermans & Parker, 2013; Hing, Cherney, Blaszczyński, Gainsbury, & Lubman, 2014; Gainsbury 2017; Hing, Russell & Hronis, 2018; Marionneau & Tassopoulos 2017; Parke, Harris, Parke, Rigby & Blaszczyński, 2015).

While demarketing CG is possible, it is not preferable because it is a daunting and very expensive task to be able to effectively compete vs. the massive and well-funded lobbying efforts that pro-gambling entertainment groups, pro-tax-revenue groups and pro-business and ad groups generate. Currently, promotion and advertising of CG is a multibillion-dollar business. CG promotions use all the media including radio, television, newspapers, trade journals and consumer magazines, and billboards. It also includes celebrity spokespeople, internet or web advertising, apparel advertising (CG logos on T-shirts, caps, sports jackets), transportation advertising (i.e., CG advertising on buses, trucks, railroad cars, taxi cabs). These massive promotion efforts generate consumer demand for casinos and advertising dollars for the media (see Figures 1 & 2).

The next best alternative would be *counter-marketing* CG. That is, various anti-casino advocacy groups must bond together to actively combat any abusive behavior by the CG industry. They must: a) boycott all their products and services, b) counter-advertising their products and services, c) force legislation against casinos in one’s state or city, or d) press for higher taxes on the casinos and their customers. Strategies [c] and [d] above would be tantamount to forcing a public ban on casino products and services. With that said, we reject these strategies as not being practical under the present circumstances. Strategies [a] and [b] imply some form of active negative marketing on the part of advocacy groups.

### **Why Protective Marketing against Casino Gambling?**

CG will continue its remarkable growth as politicians aggressively pursue its tax dollars. Because of this, we estimate that:

1. Its problems will similarly grow (Epstein 1998; Unwin, Davis & Leeuw, 2000). As a result, the pathology of gambling addiction has reached over 15 million Americans (*National Gambling Impact Study Commission (NGISC) Final Report 1999*) and will

soon exceed 20 million victims (Reno, 2000) which is more than one in every fifteen Americans!

2. Legalized gambling in the US is being “exported” to other regions of the world (Feigelman, Wallisch, & Lesieur, 1998) as the US economy’s “pop” culture is a worldwide leader and trendsetter.
3. States with a strong need for “sin tax revenues” will too expand their consumer and revenue base by easing CG’s age restrictions. The result will target younger generations possessing few coping gambling defenses (Shaffer & Hall, 1996; Volberg, 1994).
4. Gambling casinos will continue to add “new and improved” devices to extract more and more dollars from vulnerable customers with a greater percent of lower income-population being enticed (Reno 1996, 2000).
5. Casinos will increasingly disguise their games as “normal” entertainment. Increasing promotions such as well-placed billboards will proliferate (Politzer, Yesalis, & Hudak, 1992).
6. The gaming industry will continue to cross-market locally with its professional associations, sports teams, charities and celebrities. As a result, CG will gain greater credibility, social acceptance and legitimacy (Heubusch, 1997; Taillon, 2000).
7. As gambling promotions intensify, so will the crime and unemployment rates in the neighboring communities. Moreover, savings and investment rates will decrease as gambling casinos suck dollars from the economy (Browne & Sek, 1997). In addition, since gambling becomes the end and not the means, the promise of extensive job creation and related industry expansion beyond the casinos will never materialize (Oddo, 1997). The unfortunate result will be "net" job losses and consequential economic stagnation (Eadington, 1998; Gazel, 1998).
8. Finally, gambling cites will lose small businesses, while those that remain will face the extra cost of their employees going through yet another additional test for gambling sobriety (Peppard, 1995). Gambling cities will face an increase in domestic crises as societal ills such as divorce and single parenting grow (Nichols, Stitt, & Giacomassi, 2000).

The sum of all these statistics and inferences makes the need for *protective marketing* against CG urgent and imperative. In general, the casino phenomenon is following the same path as the tobacco industry. With the advocates of CG ignoring or denying the negative impact of bankruptcies, suicides, emotional illness, lower productivity, family discord and increased crime. We must reinforce the public perception of CG being an actual social problem while the media unilaterally presents CG as enjoyable entertainment. The real disaster of CG is its remarkable ability to endanger the social fabric of our families.

Casinos aggressively market their products both *overtly* (television, radio, billboards, direct mail, and now, the Internet) and *covertly* through sponsorship programs that indirectly promote gambling (e.g., Internet gaming sites, hand-held miniaturized casino games, publishing of gambling related books). The similarities of tobacco marketing must awaken casino marketers. The tobacco industry spent billions of dollars through decades to promote itself both *overtly* and *covertly*. The result was that its anti-health evidence became hidden and distorted. Today, it faces multibillion-dollar settlements ordered by the courts. Correspondingly, the casino industry must strongly take immediate steps to insulate itself against becoming another litigation victim. It must help find and support a casino industry's *protective marketing* movement (Rose, 2014).

### **PROTECTING CONSUMERS FROM THE NEGATIVE IMPACT OF CG**

According to the *protection motivation theory* of Rogers (1975, 1983), the consumer's intention/motivation to protect from harmful products is enhanced by four critical areas of cognition/perception: 1) the severity of the risk of harmful products; 2) one's vulnerability to these risks, 3) self-efficacy at performing the advocated risk-reducing behavior; and 4) the response efficacy of the advocated behavior. People's perceived costs of the advocated risk-reducing behavior and the perceived benefits of the opposing risk-enhancing behavior tend to weaken their intentions to protect themselves from harm. Rogers (1983) assumed that people who were protecting themselves from harm evaluate two factors: a) *threat appraisal* as a function of severity, vulnerability, and benefits; and b) *coping appraisal* as a function of self-efficacy, response-efficacy and costs. Protection motivation theory determines that in most cases, consumer cognitions affect intentions directly and additively (Rogers, 1983); as well as interactively and synergistically (Floyd, Prentice-Dunn & Rogers, 2000; Pechmann et al., 2003). Thus, for instance, cognitions of risk-severity, self-vulnerability, self-efficacy and response-efficacy of CG directly motivate anti-CG behavior via 2-way or 3-way interactive effects of risk, vulnerability and efficacy. An empirical verification of this theory relative to CG is beyond the scope of this paper. Nevertheless, we shall present information on how CG's customers and stakeholders of CG are severely stressed by the risk-severity and self-vulnerability aspects of CG (Prentice & Wong, 2016). There is strong current evidence that casino gambling is harmful in its *addictive, economic* and its *social* impact. We shall explore each of these three impacts and make an informed teleological and deontological argument for *protective marketing* to CG customers and stakeholders.

### **CG may lead to Pathologically Addictive Behaviors**

How can customers be protected against CG and how does it lead to addiction? *Pathological gambling* is the term that the *American Psychiatric Association* uses to describe the clinical disorder characterized by a persistent and recurring failure to resist harmful gambling behavior. Ten percent of the general US gambling population suffers from pathological gambling with the rate among the youth being much higher (Braunlich, 1996; Frank, 1993; Volberg, 1994).

Pathological gambling addiction could happen through various stages: *planned CG shopping, unplanned CG purchasing, impulsive CG buying* and *compulsive CG buying*. We examine them so that consumers will prevent the harmful effects of CG shopping and purchasing.

- When consumers buy goods and services that were not planned, unplanned purchasing occurs. The cases for this purchasing such as low price, marginal need, mass distribution, self-service, mass advertising, prominent store display, short product life, small size, and easy to store. By extension, *planned purchasing* is associated with the opposite factors that involve a greater expenditure of time, money and shopping efforts (Cobb & Hoyer, 1986).
- *Impulsive buying* or purchasing is a buying behavior that is formed before entering a store (Engel, Kollat & Blackwell, 1982). This in-store shopping behavior increasingly transfers planning from home to the store. Consumers enter the store with a general intention to buy and they reach the specific buying decision often at the point of purchase (Rook, 1987; Rook & Fisher, 1995).
- A subset of compulsive consumption behavior is *compulsive buying*. It is a response to a need to experience a feeling that leads one to repeat a behavior that ultimately causes harm. Compulsions are excessive and ritualistic. They are designed to alleviate tensions, anxieties and other discomfitures (O'Guinn & Faber, 1989).

Casino gambling starts as *planned purchasing*, then quickly and inadvertently changes into *unplanned purchasing*, *impulsive buying*, and finally into *compulsive buying*. Casino gambling stimulants include those that are: a) *remote*: such as all media promotions; b) those that are *proximate* such as those of unplanned purchasing like cheap or easy transportation service (e.g., chartered airlines, buses, cruises), low casino entry barriers, in-store displays the prominent casino hotel décor display and the encouragement to enjoy this type of professional entertainment. Even when the need for CG is basically entertainment, excitement, and fun, as in the case of planned shopping, it easily becomes unplanned shopping, and can easily turn compulsive (Cobb & Hoyer 1986; Rook, 1987). Impulse buying reflects of materialism, hedonism, ritualism (Belk 1985; Rook 1985) or cultism (O'Guinn & Belk, 1989). Impulse buying is a temporal behavior characterized by spontaneity, lack of planning, a struggle between will power and desire, a subjective experience of onset and coping (Rook, 1987). Impulsive CG behavior manifests all these symptoms. In the context of CG, *compulsive consumption* refers to gambling that is excessive, addictive, abusive, impulsive, habitual and/or adjunctive. It is often chronic. It is repetitive-purchasing in response to negative elements or feelings. The primary motivation of compulsive buying and compulsive consumption is to alleviate one's negative feelings. It is different from unplanned purchasing and it is an extreme case of impulsive buying (Faber & O'Guinn, 1988; Faber, Christensen, Zwaan & Mitchell, 1995; O'Guinn & Faber, 1989).

Table 1 distinguishes between compulsive, impulsive and unplanned consumption in gambling behaviors. In the casino industry, promotions are used to induce unplanned purchasing, impulsive purchasing and compulsive gambling among existing customers. Marketing programs that stimulate addictive chronic compulsive buying are morally irresponsible (Mascarenhas, 1995) and, hence, unacceptable.

Problematic gambling is often uncontrollable with potentially damaging effects to one's family, social and work lives. Critics state that the expansion of legalized gambling has increased the rates of pathological gambling (Grinols, 1996; Prentice & Wong, 2015; Politzer et al 1992; Reno, 1996). The *National Research Council Studies* (1999) indicates that about one-third of

compulsive gamblers abuse their spouses. Several studies have even traced domestic violence ending in murders to gambling problems (Dvorak, 1998; Williams, 1999). Additionally, several casino patrons quickly become problem gamblers. In turn, they are the most likely going to have financial problems related to gambling (Gazel, 1998). The lower socioeconomic segments spend disproportionately more of their income on gambling than do the higher income classes (Abbott & Cramer, 1993, Ladouceur, Boisvert, Pepin, Lorange & Sylvain, 1994). CG therefore negatively affects more households of lower incomes. Tragically, CG may lead to work related problems (Pasternak, 1997) as well.

### **Casino Gambling Spells Economic Harm**

The gambling industry is growing at 9 percent while the average GDP growth is at a much lower rate (Christiansen, 1998). Growth of the gambling sector however, may not translate into net gains for the public at large (Grinols, 1996; Grinols, 2011; Kindt, 1995). Gambling casinos are now spreading throughout the world and the speed of their growth means, it will be within reach of the majority of population (Au & Hobson, 1997; Browne & Sek, 1997; Christiansen, 1998; Feigelman, Wallisch, & Lesieur, 1998; Levey, 2000). Public officials are busy deregulating the casino industry only to further enhance the indirect “sin” tax base and with gamblers becoming more addicted pushing the personal bankruptcy rate to an all-time high (Atkinson & Oleson, 2000).

Evidence from experiments in cities like Atlantic City, Detroit and St. Louis indicate that casinos impair other businesses by draining money from area economies. Crime rates continue to increase (Nichols & Tosun, 2017; Peppard, 1995; Yardley, 1994) and personal bankruptcies are steadily climbing (Nichols, Stitt & Giacomassi, 2000). New communities of addicts continue to grow among those who can least afford it such as the young and the poor (Kim, Wohl, Gupta & Derevensky, 2017; MacIsaac, 1995). In addition, significant white-collar crimes are directly attributable to soaring gambling debts (Grinols, 1996; Grinols, 2011). Economically speaking, it is at best a dangerous zero-sum game. Gamblers must be well aware of these data and understand their damning consequences.

### **Casino Gambling can become a major Family and Social Problem**

In a survey of nearly 400 *Gamblers Anonymous* members, 28 percent reported “separated” or “divorced” marriages as a direct result of their gambling problems (*National Gambling Impact Study Commission*, 1999). The National Gambling Impact Study Commission (NGISC) reported that it has substantial evidence that compulsive gambling greatly heightens the level of stress and tension in marriages and families. Moreover, children of compulsive gamblers frequently suffer abuse and neglect. In Indiana, a review of the state’s gaming commission records indicated that 72 children were found abandoned on casino premises during a year (Schneider, 2000). Furthermore, children died after being locked inside hot cars for hours while their caretakers gambled (Darby, 1997). A mother in Illinois was sentenced to 21 years in prison for suffocating her infant daughter in the attempt to collect insurance money to continue gambling (Bierschenk, 1999). Cases of child abandonment have become so commonplace in the nation’s largest casinos that authorities have posted signs in the casino parking lots for parents not to leave their children in unattended cars (Peppard, 1995). Generation-X-ers grew-up helping their parents scratch

lottery tickets. Now they frequent neighborhood casinos exploring adult games (Braunlich, 1996; Frank, 1993; Reno, 1996; Shaffer & Hall, 1996). Gambling is addictive and gamblers continue to bet whether they are winning or losing. Gamblers chase after their losses and are submerged in accumulated gambling debts, often drowning their families as well (Tomer, 2001; Volberg, 1994; Waddock 1999).

Psychologists recognize gambling as a disordered behavior of increasing magnitude. This is particularly true among the youth. Gambling addictions result in material deprivations, child neglect or abuse, domestic violence or the trauma from divorce (Reno 2000). The societal costs of gambling are the loss of productivity, crime-related incarceration, and the extraordinary damage to the family including judicial/treatment costs (Kind, 1995). As a society, we have failed to take any steps to curtail gambling and continued to permit the aggressive promotion through television, radio, newspaper, magazines, and billboards and now, the internet (Au and Hobson, 1997; Kim & Kang 2018; Orazi, Lei, & Bove, 2015).

### ***PROTECTIVE MARKETING FOR CG CUSTOMERS: ETHICAL EXPLORATIONS***

The first question moralists must answer is “what behaviors are morally correct?” Other moral questions include “what things in life are worthwhile or desirable?” In responding to these questions, philosophers must distinguish between instrumental and intrinsic good. *Intrinsic good* however is good by itself (e.g., happiness, honesty, integrity). Moral value, obligation, instrumental and intrinsic good are essential to understanding the nature of CG. Ethical scholars distinguish at least two primary positions in this regard (Beauchamp, 2004; Frankena, 1973):

- **TELEOLOGY:** (Telos in Greek is goal or purpose). The moral goodness of all decisions and behaviors is determined *exclusively* by their *consequences*. To determine what a consumer should or should not do, teleologists state that the behavior should bring about the greatest number of benefits over costs. In other words, the greatest net good for the greatest number of stakeholders impacted by this decision-action/behavior. This theory justifies an ethical action/behavior by the outcomes or consequences of the action/behavior in any given situation. It is called *utilitarianism* or *consequentialism*.
- **DEONTOLOGY:** (Deontos in Greek means duty). The moral appropriateness of all decisions and behavior is *not always due to* their consequences but also determined by principles, rules, rights and duties of the subjects involved. To the questions of what a consumer should or should not do, a deontologist states that one should not violate but rather uphold the moral rights and duties of all stakeholders concerned. It is called *existentialism* or *situationalism*.

Recent marketing ethics literature advocates the use of *teleology* (as utilitarianism or consequentialism) and *deontology* (right/duty or norms-based reasoning) as the key frameworks for ethical business decision-making (Laczniak & Murphy, 1993; Mascarenhas, 1990; Mascarenhas, 1991).

### **Teleological Argument for Protective Marketing of CG Customers**

Teleology is determined by what that conduct achieves - by the *intrinsic good* it brings to the world. Teleology, finds that a corporation is considered morally right by its foreseeable consequences that produce greater benefits than costs (Anscombe, 1958). Consequences occur from deliberate (human) behavior. A teleological theory of moral value therefore, depends on intrinsic good (Grassian, 1992). Some teleologists define intrinsic good as pleasure (they are called hedonists); others define it as *happiness* (these are called *eudemonists*); others assert that intrinsic good is one's own greatest good (This position is called *ethical egoism*); and yet, others affirm that intrinsic good is the greatest good for everyone (This theory is called *utilitarianism*). The vigorous marketing of casino gambling and the corporate money-greed that triggers it represent egoistic values. In short, the corporate good takes absolute primacy over any social or public good. Teleologically speaking, CG is not justified and is wrong for the economic development of the cities that advocate them. The social and economic costs of CG are too significant to be ignored. This concept was discussed elsewhere in this paper.

### **Deontological Argument for *Protective Marketing* of CG Customers**

Deontology means the *science of duty*. It states that the concept of duty is independent of teleological good and that results alone do not morally determine what correct behaviors are (Broad, 1967). The fulfillment of rights and duties, principles and imperatives, and contracts and norms determine the moral value of behavior (Boatright, 2003; Donaldson & Dunfee, 2009; Frankena, 1973; Kant, 1964; Rawls, 1971). Deontology starts with Kant. Kant's theory is a reaction to hedonistic utilitarianism and its fundamental inadequacies. Hedonism relies upon the notion of happiness as the ultimate ground of morality and ignores its potential for injustice (Grassian, 1992). Kant rejects reason as the slave of human passions. Instead, he postulated morality is grounded in a value that gives human beings their distinctive moral worth. What defines and establishes morality is human freedom and rationality. The morality or moral worth of any institution depends upon the basic structure of its society that ensures its fundamental system of human freedom, rights and duties. Kant presents five formulations of the categorical imperative with meaning equivalency. We invoke just two that are most relevant for *protective marketing* of CG. 1) *Universalizability*: "Act as if the maxim of your action was to become through your will a universal law of nature (i.e., that everyone follows that maxim)." In short, behave so that your behaviors will become the norms for others. This formulation affirms impartiality "do unto others, as you would have them do unto you." 2) *Reversibility*: the behavior must be based on reasons that the actor is willing to have all others to judge the actor's action. Both rules offer no actual ethical content but have the pure disinterestedness or universalizability that any moral rule must have to be truly moral (Frankena, 1980). Under each principle, the substantive *form* (e.g., intentions or reasons) of the act determines the morality of the behavior. This position is called *Formalism* (Feinberg, 1980; Frankena, 1980).

Human freedom is expanded by contractual rights and duties (Rawls, 1971). People have a duty to honor their contracts. However, a failure to honor a contract cannot be universalized (Kant, 1964). Owing to significant information asymmetries between casino gamblers and the management, the question arises as to what extent contracts signed under duress (markers

customers sign in a casino when they are highly vulnerable) are legally defensible, and ethically valid and justifiable.

## DISCUSSION AND STRATEGIC IMPLICATIONS

Rights are essential to our lives. We shall defend them, demand their recognition and demand justice when they are not preserved. When our rights are trespassed, we shall demand redress and insist that trespassers are given their due. Correspondingly, rights and duties are always interrelated. What are the related rights and duties for casino owners and gamblers? Philosophers distinguish between several types of rights (Hazlitt, 1972): a) *natural rights* human rights we have because of our human nature; b) *moral rights* are justified by a moral system (e.g., utilitarianism); c) *positive rights* are legal rights that the law or society provides for its members (e.g., the bill of rights); d) *prima facie rights* are presumptive and may not be actual rights in a given situation but they seem obvious (e.g., my right to listen to loud music in my car may be overridden by ones right for silence); and e) *absolute rights* cannot be overridden (e.g., right to life) by other utilitarian considerations.

### A Hohfeldian Analysis of Rights and Duties

Despite great variation in rights, few rights are absolute, total and without infringement on their rights. All rights have a correspondence of duty. That is, if one person has a right, another person (or a group of persons) has a duty directly related to that right. In this connection, Hohfeld (1913, 1919), the premier 20<sup>th</sup> century philosopher and jurisprudential scholar, reasoned that each legal right relied on a structure of correlatives and opposites. Hohfeld distinguished four notions of rights (Hurd & Moore, 2018). A right is an entitlement. A privilege is available from sufferance and is at the discretion of the person granting it. What we commonly call rights to employment, welfare, healthcare, etc., are not rights, but rather *privileges* given to those who had the discretion to grant it, such as employers or the government. An employment rights or welfare is an abstraction (Cooray, 1998).

Table 2 applies Hohfeldian “symbolic logic” (Balkin, 1990) to derive rights and duties of the major CG stakeholder groups. They are casino owners & society (that includes gamblers). The rights and duties of each stakeholder group are predicated along the four Hohfeldian concepts of right: claims-right, privilege, power, and immunity. Corresponding each has jural correlates and jural opposites.

### Some Proactive Strategies for *Protective Marketing* against CG

Following Hohfeldian analysis, we must better interpret what now is called the consumers’ “bill of rights” (Bucholz, 1992). Table 2 reinterprets these “rights” in the Hohfeldian framework of “rights and privileges” with their correlative “duties and no-rights” of both casino owners and casino gamblers in relation to casino gambling. In 1961, President Kennedy listed the four basic consumer rights (in Table 3) that he believed needed legislative protection. Since 1964, the Congress has been discussing the remaining four rights (Bucholz, 1992). From a Hohfeldian viewpoint, most of the so-called “rights” in Table 3 are not ‘claim-rights’ but ‘privileges’ that imply ‘no-right’ as jural correlates.

CG violates several teleological and deontological principles. We therefore, propose six sets of proactive strategies for protective marketing against CG. The first five sets follow from our Hohfeldian analysis (see Tables 2 and 3) and the final strategy is based on the pathology of casino gambling (see Table 1). Additionally, our proactive strategies reflect the protection motivation theory of Rogers (1975, 1983). Extended it to include social risks (Ho, 1998).

***Minimize Consumer Exposure to Casino Promotions.*** CG promotions *increase* the social risk and vulnerability of engaging in risky CG behavior. It also weakens the self-response defenses that prevent/modify CG. Minimizing the social exposure to CG promotions is imperative. It is appropriate for casinos to voluntarily stop or reduce their TV ads. This type of self-regulation is necessary because it is impossible for anyone (including gamblers) to stop watching all TV to avoid gambling ads. Public billboard ads of casinos must be curtailed, especially along major city expressways.

***Offer Full Value and Information to Customers.*** Protective promotional theory also has interactive impact between perceived social risk, self-vulnerability and self-efficacy in refusing harmful products (Pechmann et al, 2003; Rogers 1975, Weinstein, 2000). People with low social risk and low self-vulnerability will likely lose self-efficacy and succumb to addictive habits. Those at the upper end of high-perceived social risk and vulnerability may however develop strong self-efficacy to desist from CG, unless they perceive themselves as invincible (Weinstein, 2000). *Information asymmetries* between casino service providers and receivers are pronounced and hence rendering the casino marketplace a very uneven playing field.

***Counsel Prospective Losers.*** Casinos must also publicize the “self-exclusion option” available to compulsive gamblers where the consumer agrees in writing not to enter the casino premises and voluntarily gives up all casino gambling privileges.

***Monitor Casino Gambling Behavior.*** Basically, these proactive strategies are to protect those gamblers who see themselves as invincible regarding the social risk and vulnerability of addiction and its negative consequences. In this regard, casino employees must be trained to monitor and quickly and respectfully remove these patrons from these casinos.

***Reduce Casino-related Crime.*** Concerted efforts must be made to take responsibility for, and prevent organized crime (e.g., prostitution, car-theft, the mugging of casino winners, street vandalism) in and around casinos. Casino authorities must fully cooperate with lawmakers and law-enforcers. Much of this organized crime is directly casino related, if not caused by them. Casinos must compensate victims that have been seductively engaged in gambling that inevitably led to substantial losses. Mutually accepted responsibilities will reduce personal and social crimes of casino victims.

## CONCLUDING REMARKS

The public must be educated about the addictive nature of gambling and its probable, damaging impact on the moral and social fabric of individuals and the families. Governments at all levels must pressure casino owners undertake the proactive protective marketing measures we have outlined in this paper. The proactive marketing strategies outlined here are aimed at protecting

compulsive gamblers from ruin. Of course, gamblers must also take all measures to protect themselves. Consumer education is a continuing necessity with *caveat emptor* always being preferred. Educators must help students develop coping skills to teach them to stay away from addictive harmful behaviors such as casino gambling. Phillip Morris has attempted “protective marketing” in recent TV ads. One specific ad encourages kids that if they have not started to smoke, they “should not”. It notes smoking health hazards. These warnings about alcohol and cigarette ads are subtle forms of protective marketing. There is a lot that casinos can learn from this. Protective marketing of CG involves many stakeholders. They include all pathological gamblers, their immediate families, friends, workmates and neighbors. It is in the best interest of casino owners and governments to accept their stakeholder role in CG and take actions to shield the public from the negative effects of CG.

### **Managerial Guidelines for Casino Operators**

Casinos are here to stay as they continue to grow throughout the world. Many religious folks argue that casinos are the work of the devil along with other “sin” industries such as prostitution, hard liquor, cigarettes, illicit drugs, fatty foods and many others. While we cannot reverse the growth of casinos, we can use moral persuasion to develop and extensive ethical guidelines and polices for casinos to implement. Based on our Hohfeldian “ethical” analysis and the rest of our discussion on this topic of CG, we offer the following guidelines for casino marketers: 1. Casinos must protect gamblers from themselves; 2. Provide gamblers access to qualified counselors to guide them towards the legal option of “self-exclusion” from entering casinos and limit their gambling activities; 3. Casinos must restrict total time a consumer can spend in the casino in a specific period of time; 4. Casinos must limit the amount of money that a player can lose in that specific period of time; 5. Casinos must stop targeting the low-income populations; 6. Casinos must not promote gambling to senior citizens on fixed incomes; 7. Casino must remove all “vulnerable” populations from its mailing lists; 8. Casinos must avoid advertising in sports programs thereby forging the targeting the teens; 9. Casinos must fund extensive counseling services for self-identified problem gamblers; 10. Casinos must categorically restrict the number of alcoholic drinks served to their patrons.

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Table 1. Compulsive, Impulsive, and Unplanned Buying in CG: A Comparative Analysis

<b>Theory-based Expected Behavioral Features</b>	<b>CG &amp; Unplanned Purchasing</b>	<b>Casino Gambling as Impulsive Consumption</b>	<b>Casino Gambling as Compulsive Consumption</b>
<b>Nature of CG: Frequency Addiction Inner urge Pre-disposition: Dependency</b>	<b>Occasional CG Casino Store-specific CG Conditioned response Time-pressure Ergonomic</b>	<b>Stimulus-conditioned CG-Product-specific Instinctual drive CG Fantasy Bio-psycho-social effects</b>	<b>Repetitive CG Chronic/Problematic CG Irresistible impulse CG Compulsivity Bio-chemical effects</b>
<b>Etiology of CG: Remote factors Motivation Arousal</b>	<b>Bio-habitual causes Socio-psychological Socio-ergonomic Planning surrogate for CG Time management</b>	<b>Bio-social causes Psychological causes Socio-cultural causes Onset/coping Thrill of winning</b>	<b>Physiological- causes Bio-genetic causes Socio-exclusive-causes Anxiety-relief Boredom relief</b>
<b>Effects of CG: Short Term Long Term</b>	<b>Need recognition Time saving/loss Workaholic relief Social harm Self found in work Loss of time control</b>	<b>Shopping thrill Gratification Obsessive buying Economic harm Self in possessions via Loss of will power</b>	<b>Positive feelings Anxiety-relief Negative-conditioning Physical harm Loss of self control</b>
<b>Justification of CG Processes:</b>	<b>Objectivization Disability to plan Forgotten needs</b>	<b>Symbolization Spontaneity Created needs</b>	<b>Over-rationalization Self-immunity Stress reducing</b>
<b>Extreme CG Cases:</b>	<b>Planning disuse Shopping disorders CG Store-display addiction</b>	<b>Collection abuse Disposal disorders Fad/bargain addiction</b>	<b>Consumption abuse Usage disorders Self-escape addiction</b>
<b>Treatment for cure</b>	<b>More needs planning Planned shopping</b>	<b>Modifying behavior Limited exposure to CG</b>	<b>Avoidance behavior Total abstinence</b>

+ Often, cure could lead to abnormalities such as anxiety, stress, amnesia, and other withdrawal syndromes.

Table 2. A Hohfeldian Analysis of Casino Gambling Rights and Duties

Hohfeldian Concept of Right as:	Jural Correlates/ Opposites	Casino-owners' Responsibilities	Casino-Customers Responsibilities
<b>Claim-Right</b>	<b>Duty</b>	Duty to respect the rights of CG customers and non-customers by not over-marketing casinos, if the latter so demand it.	Duty for seeking clear and adequate CG information, fair gambling-outcome odds, and safety-security-privacy amenities.
	<b>No-right</b>	No right to seduce customers by exaggerated advertising and promotions, deceptively easy money loans, and other baits.	No right to claim ignorance on unintended consequences that are reasonably foreseeable such as CG compulsions and other externalities.
<b>Privilege</b>	<b>No-right</b>	No right for legal approval or social legitimacy if casino owners excessively profiteer and impair local competition.	No right but privilege to gamble for leisure and entertainment, but not for self-destruction.
	<b>Duty</b>	Privileged duty not to abuse the privilege of establishing, operating and marketing casinos in approved cities.	Privileged duty to protect oneself and fellow customers from excessive gambling that leads to addictions and bankruptcy.
<b>Power</b>	<b>Liability</b>	Power to operate or withdraw casinos any time, or sell them to others under stipulated conditions; but they are liable for leaving "ghost towns" behind.	Licensed customers are empowered for casino privileges, but are also liable for irresponsible gambling consequences.
	<b>Disability</b>	Despite power to operate casinos, owners are disabled from continuing operations if under severe public and social scrutiny.	Customers are disabled when deluged by seductive promotions and deceptive money-loans.
<b>Immunity</b>	<b>Disability</b>	Once legally approved, casino owners are immune from external interference, unless stakeholder rights are seriously violated.	Heavy losers must be disabled from further losses by proper counseling or being escorted from CG premises.
	<b>Liability</b>	Because of legal approval, casino owners are also liable for generating gambling addicts, and the negative social consequences that follow.	Despite legal age, casino customers are liable for abuses of gambling privileges. They could be disabled from gambling when certain loss-thresholds are reached.

Table 3. Consumer Bill of Rights and Duties regarding Casino Gambling (CG)

	<b>CG Consumers' Privileges</b>	<b>Casino Owners' Duties and No-rights</b>
<b>To Safety</b>	Privilege to casino products and services that are personally and socially safe and non-addictive.	“No-right” not to protect CG customers and non-customers from all personal and social harm of unsafe and addictive products.
<b>To Know (i. e., to be informed)</b>	Privilege to truth in CG advertising and promotions without information overload or under-disclosure.	“No-right” not to truthfully inform and instruct CG customers through objectively clear and meaningful promotions and products. Hence, no over-marketing and deceptive CG offerings!
<b>Have Choice</b>	Privilege to choose from a variety of socially safe CG products and service packages.	‘No right’ to offer a wide variety of CG product bundles unless socially and competitively safe. Hence, build safety before variety.
<b>To be Heard</b>	Privilege to complain to proper authorities about CG abuses and be heard.	‘No-right’ to immunity when legitimately opposed by CG customers and non-customer publics. Hence, avoid CG abuses and seductions.
<b>To Redress</b>	Privilege to recourse and adequate compensation when unjustly tricked into attractively deceptive CG packages.	‘No-right’ to demand compensation when unjustly maligned or vandalized by CG customers and non-customer public.

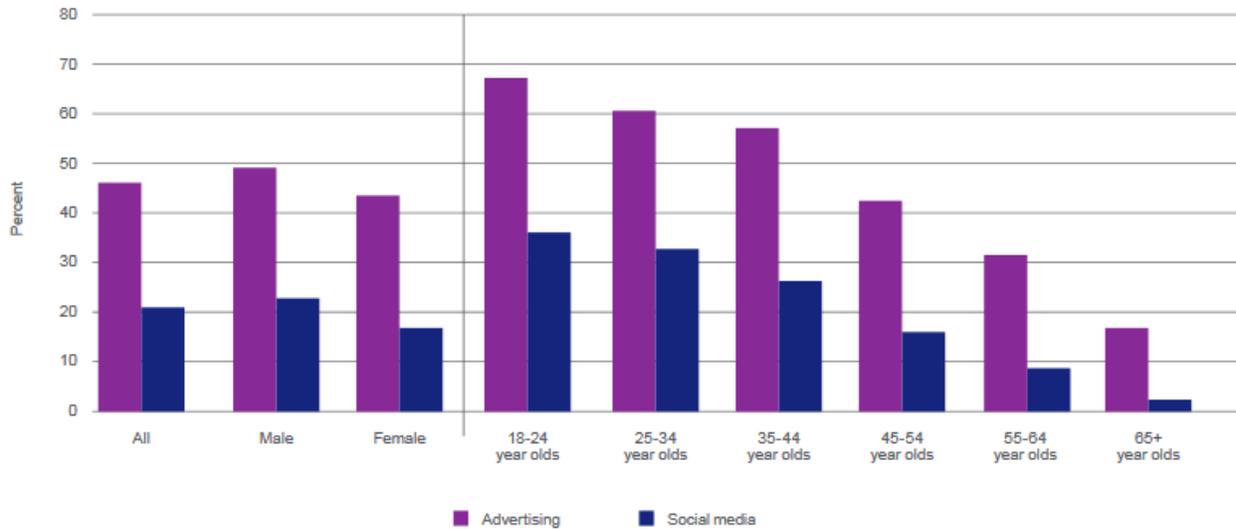
Figure 1 – Gambling on Sports is Skyrocketing



Source: The biggest unspoken crisis in the country (2017).  
Retrieved from <https://thenewdaily.com.au/sport/sport-focus/2017/12/15/australians-gambling/>

Figure 2— Influence of Advertising on Online Gambling by Gender and Age Groups

Proportion of online gamblers prompted to spend money on gambling by advertising and social media by gender and age (n=2,067)



Source: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-participation-in-2016-behaviour-awareness-and-attitudes.pdf>

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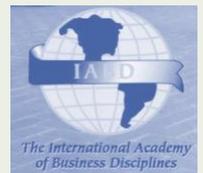
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