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BACKGROUND

THE REALITY OF VIRTUAL GAMING CATCHES UP TO QUÉBEC

(24, Tsothóhrha//November 2014) The Mohawk Council of Kahnawake has been provided with a recent report related to Loto-Québec's online gaming site: Espacejeux.

The "Working Group on Online Gambling" was established by the Government of Québec shortly after Loto-Québec launched Espacejeux in 2010. On November 6, 2014, the Working Group issued its report, entitled "Online Gambling: When the Reality of the Virtual Catches Up with Us". An English language summary of the report and accompanying press release can be obtained here: <http://bit.ly/1zwEzXN> and <http://bit.ly/1BJZYIk>

The Working Group's report makes a number of key findings and recommendations, including the following:

- *The launching of Espacejeux led **neither** to an increase in participation in online gambling nor an intensification of online gambling practices.*

This finding refutes some commentators descriptions of online gaming as the "crack cocaine" of gambling: <http://bit.ly/1BJorXO>

- *Loto-Québec's arrival online **did not** channel "illicit" gambling offerings into the Espacejeux network.*

This conclusion sharply contradicts the predictions made in 2010 by Alain Cousineau, formerly Loto-Quebec's president and CEO, that Espacejeux would "cannibalize" other online gaming sites: <http://bit.ly/14A4EeC>

- *The absence of an independent regulating authority for Espacejeux creates a potential **conflict of interest** between Loto-Québec's regulatory responsibilities and its marketing and profitability objectives. Loto-Québec's self-regulation may mean that it unilaterally makes decisions that can compromise Québécois' well-being.*

The Mohawk Council of Kahnawake ("MCK") and the Kahnawake Gaming Commission ("KGC") have pointed out this problem on numerous occasions, see for example: <http://bit.ly/1xQaUte>

Unlike Loto-Québec, the KGC is wholly independent from the operators it licenses and regulates.

In 1996, Kahnawake exercised its jurisdiction over gaming through the enactment of the *Kahnawake Gaming Law* and the establishment of the KGC. The KGC has been continuously licensing and regulating online gaming since July, 1999 – over 15 years.

It is regrettable that Loto-Québec has consistently snubbed Kahnawake's efforts to engage in a discussion about online gaming as both parties would have benefitted from the creation of a mutually agreed framework that respected each party's roles in the industry. In fact, some of the criticisms leveled against Loto-Québec in the Working Group's report would have been avoided if Loto-Québec had adopted Kahnawà:ke's regulatory model.

Finally, we note the Working Group's recommendation that Québec "take the necessary steps" to amend the *Criminal Code of Canada* to enable Québec (and other Canadian provinces) to issue online gambling licences to private operators.

When the *Criminal Code* was amended in 1985 to delegate authority over gaming from the federal government to the provincial governments, First Nations were not consulted and their inherent rights to participate in the gaming industry were ignored. This was a clear breach of the Crown's fiduciary duty to Aboriginal Peoples and it has never been addressed.

The MCK strongly opposes the Working Group's suggested amendment to the *Criminal Code* unless and until the inherent right of First Nations to fully participate in the gaming industry are specifically recognized by Canada and Québec.

Given the findings in the Working Group's report, the MCK reiterates its willingness to establish a table with Québec to resolve their outstanding jurisdictional differences and to work together to create a safe, fair and equitable gaming environment for all. The time is right to create a new reality for virtual gaming in Québec.

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For more information on this backgrounder, please contact:

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