

ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

*In the Matter of Eldorado Resorts, Inc. and Caesars Entertainment Corporation,
File No. 191-0158, Docket No. C-4721*

I. INTRODUCTION AND BACKGROUND

The Federal Trade Commission (“Commission”) has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”) from Eldorado Resorts, Inc. (“Eldorado”) and Caesars Entertainment Corporation (“Caesars”). The purpose of the proposed Consent Agreement is to remedy the anticompetitive effects that would likely result from Eldorado’s acquisition of Caesars (“the Acquisition”). Under the terms of the proposed Decision and Order (“Order”) contained in the Consent Agreement, Eldorado is required to divest to Twin River Worldwide Holdings, Inc. (“Twin River”): (1) Eldorado’s only casino in the South Lake Tahoe area, the MontBleu Resort Casino and Spa (“MontBleu”) in Stateline, Nevada; and (2) Eldorado’s only casino in the Bossier City-Shreveport, Louisiana, area, the Eldorado Casino Resort (“Eldorado Shreveport”). The divestitures must be completed by the earlier of (i) 12 months from the closing of the Acquisition; or (ii) 30 days from the date that Twin River receives all regulatory approvals. Additionally, if Eldorado does not consummate its sale of the Isle of Capri casino (“Isle of Capri”) in Kansas City, Missouri, within 60 days from the closing of the Acquisition, the proposed Consent Agreement provides the Commission with the option (at its discretion) to require Eldorado to divest the Isle of Capri casino to a Commission-approved acquirer within 12 months. The Isle of Capri sale is independent from the Acquisition.

The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the comments received and decide whether it should withdraw, modify, or make the Consent Agreement final.

On June 24, 2019, Eldorado agreed to acquire Caesars for approximately \$17.3 billion. By a vote of 3-1-1 on June 25, 2020, the Commission issued an administrative complaint alleging that the Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating meaningful and substantial competition between Eldorado and Caesars for casino services in the South Lake Tahoe, Bossier City-Shreveport, and Kansas City area markets. The elimination of this competition would likely have caused significant competitive harm, specifically higher prices and diminished quality and service levels in each of these markets. The proposed Consent Agreement would remedy the alleged violations by requiring a divestiture in the affected markets. The divestitures will establish a new independent competitor to Eldorado in each relevant area, replacing the competition that otherwise would be lost as a result of the Acquisition.

II. THE PARTIES

Eldorado is a publicly traded casino entertainment and hospitality services provider headquartered in Reno, Nevada. Founded in 1973, Eldorado operates 23 casino gaming properties in 11 states. Eldorado operates casinos under several brands, including Eldorado, Isle of Capri, and Tropicana. In the aggregate, Eldorado's properties feature approximately 23,900 slot machines, 660 table games, and more than 11,300 hotel rooms. In the South Lake Tahoe area market, Eldorado operates the MontBleu casino in Stateline, Nevada. In the Bossier City-Shreveport area market, Eldorado operates the Eldorado Shreveport casino in Shreveport, Louisiana. In the Kansas City area market, Eldorado operates the Isle of Capri casino in Kansas City, Missouri. Eldorado had approximately \$2.5 billion in revenue in 2019.

Caesars is a publicly traded casino entertainment and hospitality services provider headquartered in Las Vegas, Nevada. It operates 53 properties in 14 states and five countries outside of the United States. Caesars' properties offer approximately 38,000 slot machines, 2,700 table games, and more than 36,000 hotel rooms. Caesars' gaming properties operate primarily under the Harrah's, Caesars, and Horseshoe brand names. In the South Lake Tahoe area, Caesars operates two facilities offering casino services: Harrah's Lake Tahoe Hotel and Casino, and Harveys Lake Tahoe Hotel and Casino, both in Stateline, Nevada. In the Bossier City-Shreveport area, Caesars operates two facilities offering casino services: Horseshoe Bossier City Hotel and Casino in Bossier City, Louisiana, and Harrah's Louisiana Downs, a gaming and racetrack facility located eight miles east in Shreveport, Louisiana. In the Kansas City area market, Caesars operates Harrah's Kansas City Hotel and Casino in Kansas City, Missouri. Caesars had approximately \$8.7 billion in revenue in 2019.

Twin River is a publicly traded casino entertainment and hospitality services provider headquartered in Providence, Rhode Island. It operates eight properties in four states, including the Twin River Casino Hotel in Lincoln, Rhode Island. Twin River's properties feature approximately 9,130 slot machines, 267 table games, and 1,200 hotel rooms. The company had approximately \$524 million in revenue in 2019.

III. CASINO SERVICES IN SOUTH LAKE TAHOE, BOSSIER CITY-SHREVEPORT, AND KANSAS CITY

Eldorado's proposed acquisition of Caesars would likely result in substantial competitive harm in the markets for casino services in South Lake Tahoe, Bossier City-Shreveport and Kansas City. The relevant product market in which to assess the competitive effects of the proposed Acquisition is casino services. The casino services market consists of casino-based gaming services (e.g., slots and table games), as well as other amenities such as lodging, entertainment, and food and beverage services. Casino operators typically generate the vast majority of their revenues from gaming. Casino services differ significantly from other entertainment and leisure activities in a number of respects. For example, casinos are highly regulated, with a limited number of casinos licensed to operate in any given state and age restrictions on who can gamble. Consistent with prior Commission precedent, the evidence here supports a distinct relevant market consisting of casino services.

Local geographic markets are appropriate to assess the competitive effects of the proposed Acquisition. There are three relevant geographic markets in which to analyze the merger's effects: (1) the South Lake Tahoe area, which approximately corresponds to the area in and around the cities of Stateline, Nevada, and South Lake Tahoe, California; (2) the Bossier City-Shreveport, Louisiana area, which approximately corresponds to the Bossier City-Shreveport, Louisiana metropolitan statistical area; and (3) the Kansas City area, which approximately corresponds to the Kansas City, Missouri metropolitan statistical area.

Absent relief, the Acquisition would result in significant increases in concentration and lead to highly concentrated markets in all three markets, resulting in a presumption of the enhancement of market power under the Horizontal Merger Guidelines. Further, Eldorado and Caesars are close and vigorous competitors in the South Lake Tahoe, Bossier City-Shreveport, and Kansas City area markets. Absent relief, the Acquisition would substantially lessen the significant head-to-head competition between Eldorado and Caesars and would likely increase Eldorado's ability and incentive to raise prices post-Acquisition in the form of hold rates, rake rates, and table game rules and odds that are less favorable to customers, and lower player reinvestments. The proposed Acquisition also would likely diminish Eldorado's incentive to maintain or improve the quality of services and amenities to the detriment of casino customers in each of these markets.

New entry or expansion is unlikely to deter or counteract the likely anticompetitive effects of the Acquisition in the South Lake Tahoe, Bossier City-Shreveport, and Kansas City area markets. The affected markets are insulated from new entry or expansion by significant regulatory barriers, including limitations on the number of casino licenses available and the ability to expand existing gaming operations. In the South Lake Tahoe area market, entry or expansion is unlikely to occur in a timely manner because of, among other things, the time and cost associated with acquiring the necessary state, county, and city approvals. In the Bossier City-Shreveport area market, Louisiana law limits the number of casino licenses and it has already issued all available licenses. Louisiana also has statutory restrictions that make significant expansion by current market participants unlikely absent legislative action. Similarly, in the Kansas City area market, Missouri and Kansas law limit the total number of casino licenses available and both states have already issued all available licenses. Expansion in Missouri is unlikely and only limited expansion in Kansas is possible. Entry or repositioning would be unlikely to be sufficient to deter or counteract the anticompetitive effects of the Acquisition.

IV. THE PROPOSED CONSENT AGREEMENT

The proposed Consent Agreement remedies the likely anticompetitive effects in the South Lake Tahoe and Bossier City-Shreveport area markets by requiring divestitures of the MontBleu and Eldorado Shreveport casinos to Twin River by the earlier of (i) 12 months from the closing of the Acquisition; or (ii) 30 days from the date Twin River receives all regulatory approvals. Until the completion of each divestiture, the parties are required to abide by the Order to Hold

Separate and Maintain Assets, which requires them to maintain the viability, marketability, and competitiveness of the divestiture assets until the divestitures are completed. The proposed Consent Agreement appoints a Monitor to ensure the parties' compliance with the Order to Hold Separate and Maintain Assets, Consent Agreement, and divestiture agreements between Eldorado and Twin River following the divestiture. The proposed Consent Agreement also remedies the likely anticompetitive effects in the Kansas City area market in the event that Eldorado's independent sale of the Isle of Capri casino does not close within 60 days from the closing of the Acquisition. In the event the Isle of Capri sale does not timely close as required, the proposed Consent Agreement provides the Commission with the option (at its discretion) to require Eldorado to divest the Isle of Capri casino to a Commission-approved acquirer within 12 months. Although these divestiture deadlines are longer than typically ordered by the Commission, they are appropriate in this matter to accommodate the lengthy state regulatory approval process, which may be subject to continued disruption from the COVID-19 pandemic.

Additionally, the proposed Consent Agreement requires the parties to provide transitional services to the approved acquirer for up to 12 months after the divestiture, as needed, to assist the acquirer with the transfer and operation of the divested assets. Finally, the proposed Consent Agreement contains standard terms regarding the acquirer's access to employees, protection of material confidential information, and compliance reporting requirements, among other things, to ensure the viability of the divested business.

A. South Lake Tahoe

The proposed Consent Agreement remedies the likely anticompetitive effects of the proposed Acquisition in the South Lake Tahoe area market by requiring the divestiture of Eldorado's MontBleu. This remedy would preserve the status quo in the South Lake Tahoe area casino services market, maintaining three independent casino operators and resulting in no change in market concentration.

B. Bossier City-Shreveport

The proposed Consent Agreement remedies the likely anticompetitive effects of the proposed Acquisition in the Bossier City-Shreveport area market by requiring Eldorado to divest the Eldorado Shreveport. This remedy would preserve four independent casino operators and result in no change in market concentration.

C. Kansas City

In the Kansas City area market, the proposed Consent Agreement provides the Commission with the option (at its discretion) to require Eldorado to divest its Isle of Capri casino to a Commission-approved buyer within 12 months if its independent sale of the Isle of Capri fails to consummate within 60 days of closing the Acquisition. If a divestiture is required, the proposed Consent Agreement remedies the likely anticompetitive effects of the Acquisition

by requiring Eldorado to divest the Isle of Capri. The proposed Consent Agreement would preserve four independent casino operators and result in no change in market concentration.

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The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement to aid the Commission in determining whether it should make the proposed Consent Agreement final. This analysis is not an official interpretation of the proposed Consent Agreement and does not modify its terms in any way.