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## An Comhchoiste um Dhlí agus Ceart

Tuarascáil maidir le Grinnscrúdú Réamhreachtach ar Scéim  
Ghinearálta an Bhille um Rialú Cearrbhachais  
Bealtaine 2022

## Joint Committee on Justice

Report on Pre-Legislative Scrutiny of the  
General Scheme of the Gambling Regulation Bill

May 2022



## COMMITTEE MEMBERSHIP

### Joint Committee on Justice

#### Deputies



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Robbie Gallagher  
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Michael McDowell  
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Lynn Ruane  
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Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 3<sup>rd</sup> September 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 25<sup>th</sup> September 2020.
3. Deputy James O'Connor discharged and Deputy Niamh Smyth nominated to serve in his stead by the Fifth Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 19<sup>th</sup> November 2020.

## CATHAOIRLEACH'S FOREWORD

In October 2021, Deputy James Browne, the Minister of State for Law Reform, Youth Justice and Immigration, forwarded the General Scheme of the Gambling Regulation Bill to the Joint Committee on Justice in accordance with Standing Orders for the purpose of pre-legislative scrutiny of the General Scheme.

The Committee agreed to undertake pre-legislative scrutiny and has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes change or amendments are warranted.

The Committee welcomes the General Scheme and its commitment to include recommendations from the Inter-Departmental Working Group on *Future Licensing and Regulation of Gambling*. This Working Group reviewed the previous General Scheme on the Gambling Control Bill 2013 which aimed to address the subject of gambling controls and the regulatory approach to gambling in Ireland. The 2021 General Scheme also takes into account new issues that had not been identified or covered by the 2013 Scheme.

The Committee has identified several issues and made recommendations on these which are explained in detail in the body of the Report. Among the areas identified for further examination include the prevalence and impact of gambling advertising, particularly on young people; measures to protect vulnerable individuals from developing a problem addiction; Fixed-Odds Betting Terminals; and the self-exclusion scheme for gamblers.

I would like to express my appreciation to all the witnesses for their contributions and to the Members of the Committee for their work on this subject.

I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.



James Lawless TD (FF) [Cathaoirleach]

May 2022

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## COMMITTEE RECOMMENDATIONS

The following recommendations were made by the Committee in relation to the topic:

1. The Committee recommends that an examination be undertaken into the possibility of introducing a Domain Name System (DNS) to block access, at a country level, to gambling operators that are not licensed within the State.
2. The Committee recommends that a pre-watershed ban be applied to all forms of gambling advertising.
3. The Committee recommends that the potential to decouple sports advertising and gambling advertising be evaluated, particularly in terms of sports advertisements aimed at young people.
4. The Committee recommends that the regulator to be established in the General Scheme will apply its new Codes equally to all operators, to ensure socially responsible operations and to afford protections to their customers.
5. The Committee recommends that the General Scheme include specific references to the prohibition of gambling with credit cards, alongside the proposed ban on gambling with credit.
6. The Committee recommends that automated software be introduced to better complete verification checks of a customer's age when registering for an account with an online gambling website.
7. The Committee recommends that consideration be given, with full respect to GDPR provisions, to allowing background checks to be carried out on an applicant when they register for an online gambling website, to ascertain whether this applicant may have any financial vulnerabilities.

8. The Committee recommends that Heads 49, 86 and 92 be amended to apply limits to all gambling products, stakes, prizes and deposits, including those online.
9. The Committee recommends that a scheme of escalating fines be introduced to deter harmful behaviour by the gambling industry and to better protect vulnerable individuals. This scheme should include a threshold that any breach of the self-exclusion register by a gambling provider results in an automatic loss of their licence.
10. The Committee endorses the need for the regulator established within this legislation to gather comprehensive data on the behaviour of those who gamble in Ireland, to ensure effective and evidence-based regulation of the Irish gambling market.
11. The Committee recommends that the legislation ensures that all Fixed-Odds Betting Terminals (FOBTs) are banned in Ireland.
12. The Committee recommends that there should be better enforcement of the ban on gambling within pubs.
13. The Committee recommends that GAMSTOP, the self-exclusion database preventing access to online operators in the UK, could extend its services to Ireland, to address the lack of such a self-exclusion database for online operators in the Irish market.
14. The Committee recommends that Local Authorities be cognisant of the potential impacts on the health and well-being of a community, when granting multiple licences for land-based betting in predominately disadvantaged communities and that Local Authorities should be discouraged from granting multiple licences in such areas without sufficient reasons.

15. The Committee recommends that the resolution under Part III of *the Gaming and Lotteries Act, 1956* be observed when granting licences to casinos to operate in certain areas.
16. The Committee recommends that operators should be liable to dependents and creditors of gamblers, where they know, or ought to know, that gamblers are making losses beyond their means and that this should be established in legislation.

## CHAPTER 1 - Introduction

This is the report on Pre-Legislative scrutiny of the General Scheme of the Gambling Regulation Bill, which aims to establish a gambling regulator which will focus on public safety and well-being of those who gamble online and in person, and provide powers to regulate advertising, gambling websites and apps.

### Purpose of the Bill

The Gambling Regulation Bill will establish the Gambling Regulatory Authority of Ireland. It will ensure that gambling is conducted in a fair and transparent manner; mandate safeguards to counter problem gambling and ensure the protection of children; and provide powers to regulate gambling advertising.<sup>1</sup>

The Scheme considers the recommendations included in the Inter-Departmental Working Group Report from 2019, considers evaluations of the regulatory approaches to gambling in other jurisdictions and takes into account the increasing impact of technology on gambling and the prevalence of online gambling operators.

### Procedural basis for scrutiny

Pre-legislative consideration was conducted in accordance with Standing Order 173, which provides that the General Scheme of all Bills shall be given to the Committee empowered to consider Bills published by the member of Government.

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<sup>1</sup> [Minister Browne publishes General Scheme of Gambling Regulation Bill - The Department of Justice](#)



## Engagement with Stakeholders

The Joint Committee on Justice invited submissions from stakeholders on the General Scheme of the Gambling Regulation Bill.

On 8<sup>th</sup> March 2022 and on 22<sup>nd</sup> March 2022 the Committee held a public engagement with several of these stakeholders, as laid out in the table below:

**Table 1: List of public engagements with Stakeholders**

Organisation	Witnesses	Date of appearance
<b>BetXS</b>	Mr. Colm Finlay, Founder and Director	8 <sup>th</sup> March 2022
<b>Entain Plc</b>	Ms. Jackie Murphy, Director for Ireland, Ladbrokes Mr. Martin Le Jeune, Head of Public Affairs UK and Ireland, Entain	8 <sup>th</sup> March 2022
<b>Flutter Entertainment Plc</b>	Mr. Conor Grant, CEO Flutter UK & Ireland Mr. Pádraig Ó Ríordáin, Chief Legal Officer and Group Commercial Director	8 <sup>th</sup> March 2022
<b>Lottoland</b>	Mr. Graham Ross, Country Manager Ireland	8 <sup>th</sup> March 2022
<b>Irish Bookmaker's Association (IBA)</b>	Ms. Sharon Byrne, Chairperson	8 <sup>th</sup> March 2022
<b>Department of Justice</b>	Ms. Clare Brosnan, Principal Officer Ms. Joanne King, Principal Officer	8 <sup>th</sup> March 2022
<b>Extern Problem Gambling</b>	Mr. Barry Grant, Addiction Counsellor and Project Manager	22 <sup>nd</sup> March 2022
<b>Institute of Public Health</b>	Dr Helen McAvoy, Director of Policy Dr Ciara Reynolds, Public Health Development Officer	22 <sup>nd</sup> March 2022

<b>Gambling Awareness Trust</b>	Ms. Pam Bergin, CEO	22 <sup>nd</sup> March 2022
<b>Department of Justice</b>	Ms. Clare Brosnan, Principal Officer Ms. Joanne King, Principal Officer	22 <sup>nd</sup> March 2022

The primary focus of these meeting was to allow for an engagement between the Members and stakeholders to discuss possible areas of the General Scheme which may need to be amended.

This report summarises the engagements and the key points considered by the Committee when drafting the recommendations set out in this report.

A link to the full transcript of the engagements can be found [here](#) and [here](#).

## CHAPTER 2 - Summary of Evidence

In the course of the public hearing, a number of important points were raised. A summary of the main areas discussed in evidence to the Committee follows.

### 1. Online gambling versus retail gambling

All stakeholders welcomed the introduction of a regulator for the industry and spoke of the benefits of a regulated industry, both for the industry itself and for its clients.

Members raised questions around statements made by witnesses that online gambling is not more unsafe than retail gambling. In response, witnesses highlighted figures on problem gambling in the UK supplied by the Gambling Commission, which demonstrated that in the period until September 2021, problem gambling rates fell from 0.6% of those who gambled at least once a year to 0.3%.

They highlighted that these figures cover the period during lockdown, when it was predicted that rates of gambling online would increase drastically and periods in which online gambling's share of the market increased significantly. As a result, they argued that gambling rates have either remained stable or dropped in recent times and stated that they do not believe that online gambling is hugely different from retail gambling in terms of problem gamblers. They pointed out that while this data covers the UK jurisdiction, the situation in Ireland will be clearer once there is a regulator and more data on this Irish situation ([see Point 5](#)).

It was also pointed out to the Committee that online gambling provides operators with 24-hour monitoring and with more access to data on an individual customer's behaviours, with which they can make predictions on a customer's future behaviour with modelling software. Therefore, they asserted that online gambling makes it easier to intervene and protect customers from problem gambling.

Stakeholders pointed out that retail possesses advantages and disadvantages when identifying problem gamblers ([see Point 3 for further information](#)), as online gambling records and stores more information regarding every transaction a customer has made, which would be useful to identify gambling patterns and any changes. On the

other hand, retail staff would recognise their regular customers and realise if a customer's behaviour was beginning to change.

Other witnesses informed that Committee that the increasing digitisation in retail betting shops will allow them to avail of the type of data that online gambling providers gather and that retail betting will be better able to introduce policies to decrease problem gambling, money laundering and improve age verification.

Members also questioned how it will be possible to address the problem of online gambling, where regulations here may not apply to a gambling entity in a different jurisdiction.

Witnesses informed the Committee that domain name system (DNS) technology is already available in some countries, which blocks gambling operators that are not licensed within the State. This would require support from internet service providers to establish databases of licensed operators within a certain jurisdiction and then geo-blocking, at a country level, any unlicensed operators within that jurisdiction.



## **2. Impact of gambling advertising and of over-exposure to gambling on young people**

Members raised questions surrounding the prevalence of gambling advertising with some Members suggesting that gambling advertising surrounding bingo and lotto in Ireland is becoming normalised in the same way as it is in the UK.

Members and witnesses highlighted their concerns in relation to gambling advertising and the impact that over-exposure to gambling can have on children and teenagers. Members questioned whether any research had been done into the impact that gambling ads on social media has on young people who under-18 years old and highlighted statistics which stated that 3,400 15- to 16-year-olds engaged in problem gambling in Ireland. They also asked whether there was any daily, weekly or monthly data on the number of underage persons who had tried to access gambling shops and whether organisations within the gambling industry had engaged with social media companies like Facebook and Twitter in relation to the access of under 18-year-olds to these ads.

Representatives from the gambling industry responded that while the tone and frequency of advertising needs to be evaluated on an ongoing basis, they believe that advertising is an important tool for licensed operators to communicate with customers. Witnesses pointed out that gambling operators are licensed, that they are advertising a licensed product directed towards adults and that their advertisements fall within the Broadcasting Authority of Ireland and the Advertising Standards Authority for Ireland's guidelines.

Witnesses emphasised that a right to advertise by regulated operators should form part of the regulatory framework around gambling and highlighted that if advertisements were banned entirely this would equalise the position of unregulated offshore providers, with the Irish providers that would be regulated under this legislation.

They argued that it is not possible to compare banning gambling advertising with banning tobacco advertising as there are more offshore gambling providers competing with Irish providers than there would be for tobacco companies.

The Irish Bookmaker's Association (IBA) added that their safer gambling code, introduced in January encompasses a pre-watershed ban on Irish channels and a whistle-to-whistle ban on sporting programmes that they advertise on. They highlighted, however, that international operators continue showing gambling adverts on providers like Sky and that the regulator can help in this area by bringing in directions that will be tailored to the Irish market and that can be applied equally to all operators and channels.

Witnesses informed the Committee that if gambling advertisements were banned, this would result in the closure of more retail betting shops, adding that almost 50% of the network of betting shops in Ireland having closed in recent times. This in turn would push customers towards other avenues of gambling and potentially unlicensed operators.

Representatives from the health industry highlighted that it is hard not to see a gambling advert when turning on the radio, tv or looks at social media.

They outlined that advertising and sponsorship has the most disproportionate and detrimental impact on children and those who have suffered from problem gambling, as these individuals are more likely to remember the gambling adverts they have seen and are more likely to bet as a result of seeing them.

Witnesses informed the Committee that evidence from the UK Gambling Commission's 'Young People and Gambling' study demonstrated a link between exposure to gambling advertising and a desire to gamble in children aged between 11 and 16. Additional research from the European School Survey Project for 2019 demonstrated that Irish men aged 15 to 16 had a problem gambling incidence rate of 1.7% which is over five times the estimated problem gambling incidence among the adult population.

Stakeholders commented that gambling cannot be normalised and expected to have no adverse or addictive impact on young people, particularly as recent generations of young people spend extensive time in the digital world, where online gambling advertising is prevalent.

Stakeholders emphasised, in particular, the need for a pre-watershed ban on all forms of gambling advertising. They pointed out that a cultural shift had resulted in advertising on cigarettes being banned and advertising on alcohol being curtailed and recommended that the same approach be applied to gambling advertising.

In terms of social media companies displaying gambling ads to those under 18, witnesses emphasised that their adverts are specifically aimed at those aged over 25 years of age. The IBA codes stipulate an age gating requirement for online advertising and when operators upload an ad, they must select their target market as being for those over the age of 25. However, as not all operators subscribe to this code, the IBA welcomed the establishment of a regulator that would ensure all operators abide by these principles.

While they acknowledged that it can be challenging to prevent all websites from showing adverts to those underage, witnesses stressed that targeting underage gambling is not the objective of any gambling operators in Ireland.

They informed the Committee that they have consulted with the large social media companies on this issue for the last two and a half years and that they maintain ongoing dialogue with them in relation to this. Witnesses also highlighted 'industry negative keyword lists', containing words which they avoid using as they may cause issues for people.

In terms of data on the number of underage people that had tried to enter betting shops, the IBA emphasised that refusing to serve those under the age of 21 is one of the four key pillars of the IBA social responsibility folder.

Witnesses outlined that any interactions where an individual does not provide ID and it is suspected that the customer is under 21 are recorded in each shop, but that this data would not be compiled at industry level.

In terms of underage individuals accessing online gambling websites, witnesses stated that in recent years they have introduced more robust processes for age verification when registering for online gambling websites in Ireland. Witnesses pointed out that when a customer registers for an online betting site in Ireland, however, there is no automated verification and customers are asked to first appoint a deposit. Witnesses recommended that automated software be introduced that can undertake these verification checks faster than the manual processes currently used to do this.



### 3. Impact of gambling advertising and sponsorship in sport

Members inquired about the issue of gambling sponsorship and gambling advertising in sport. Questions were raised around links between participants in sporting events and large betting companies and whether this undermines the integrity of the racing industry, or whether there should be more distance between participants in sporting events and their offering of betting advice to the public.

In response, witnesses told the Committee that there can be a healthy engagement between people who bet on sports and participants in sport and that communities can have a positive relationship with sports like horse racing and the events surrounding it.

In terms of potential conflicts of interest, for example, when jockeys are sponsored by a major betting company and are also providing advice on a race, the IBA stated that they have a Memorandum of Understanding (MOU) with the Irish Horseracing Regulatory Board and the GAA, where any irregular betting patterns or unusual information that could affect a market, price or runner is reported back to these bodies. They pointed out that larger companies might also have MOUs with exchanges or the British racing board. Other representatives from the gambling industry confirmed that they have agreements with horse racing authorities where they would inform them of any suspicious betting patterns they had noticed in order to maintain the integrity of the sport.

Members also questioned whether any measures can be taken to protect young people from the harmful impacts of the links between sport and gambling.

Witness responded that the Bill could be more specific on gambling advertising, particularly in terms of the link between sports advertising and gambling. The Institute of Public Health pointed out that sport has an important function in public health in terms of child development, weight management and mental health and stated that they do not believe the gambling industry should have a role in sponsoring or marketing sport.

#### 4. Protection of vulnerable individuals or problem gamblers

Several questions were raised surrounding what safeguards are included in the General Scheme to protect vulnerable individuals and problem gamblers.

Flutter Entertainment was asked how many people in the last year, who had been identified as a problem gambler, had they stopped from gambling; and how many people are working in their organisation who are tasked with preventing problem gambling.

Representatives from Flutter Entertainment stated that they have 180 staff members across their UK and Irish divisions, representing between 6-7% of their total workforce, who work within the safer gambling operations team to ensure that safer gambling occurs amongst their customers. In follow-up written correspondence to the Committee ([See Appendix 2](#)), Flutter outlined that in the Irish market, 55 of the 180 safer gambling employees are located in their Dublin headquarters and they provided further detail on the number of customer accounts in the Irish market in which they intervene.

Flutter highlighted that they conduct in-depth reviews of around 1,000 accounts per month. Of these accounts, on average:

- 550 customers do not require specific intervention, either due to self-exclusion by the customer or based on decisions from the safer gambling analysts.
- 450 customers receive a specific intervention in the form of a phone call or live chat with a trained Flutter agent.
- Over 160 customers have a tool applied to their account, for example a deposit limit.
- 55 customers are proactively excluded by Flutter.
- The other 290 accounts that Flutter are unable to contact have a deposit limit placed on their account until the required interaction with this customer has been undertaken.

Where further action or intervention in a customer's account is required, Flutter stated that the nature of this action depends on the individual case; in some instances, customers may be recommended to put a deposit limit on their accounts; others may be restricted to bets of £50 or £100; while others may be requested to take a cooling off period of seven days or recommended to stop gambling with Flutter entirely.

In terms of the measures they employ to help identify those with gambling addictions, Flutter stated that they use predictive models, which employ a data-informed approach to build an individual risk profile for each customer; behavioural reports of each customer; and they equip customer-facing staff with the training to recognise when the language used by customers when interacting with them may display signs of an underlying addiction habit.

Members disputed the term 'problem gambler' and questioned the number of problem gamblers in an Irish context that have been stopped from gambling. Members questioned how problem gambling is defined or measured; whether the algorithms that measure problem gamblers take into account the demographics of those who are problem gamblers or measure problem gambling relative to the income of an individual; and whether any definitions consider the lived experiences of those affected.

Members also questioned what further measures witnesses recommended be included in the legislation to help prevent people falling victim to problem gambling and entering into debt and what mistakes may have been made by organisations in the past when trying to address problem gambling.

Witnesses outlined that previously gambling operators had made mistakes in not identifying problem gamblers when they should have and in not understanding what indicators they should have been looking for to alert them to a customer with a potential gambling addiction.

In terms of how problem gambling is measured or defined, witnesses pointed out that in the UK the term ‘gambling disorder’ is used, rather than gambling problem, as this term places less blame on the individual and acknowledges that this is a shared problem to be solved between both individuals and gambling operators.

Witnesses outlined that problem gambling can be identified in several ways. For example, when the stakes are increased after losing a bet and this pattern occurs over five or six bets this can indicate a problem gambler. In terms of online betting and early identification and intervention, witnesses outlined to the Committee that the data collected on customers can be inputted into sophisticated algorithms, which contain over 200 indicators that may signal when a customer has a gambling addiction. While the algorithms cannot always guarantee the predictions they make, these algorithms can consider the different demographics of people, their different behaviours and different risk profiles in terms of addiction, based on the information available to it.

Representatives from Flutter Entertainment stated they work with experts, those with lived experience of addiction and have a board of non-executive individuals comprising of an addiction expert and the leading female gambling addiction expert in the UK, to advise them and provide an insight into gambling addiction. These addiction experts also help to train Flutter staff so that they can recommend addiction services to those who may need them.

Witnesses outlined several preventative measures that should be included within the legislation to help prevent people becoming addicted to gambling.

In terms of preventative measures that gambling operators take, Flutter Entertainment outlined their affordability triple step model that they apply to the UK and Irish gambling market. The first step of registration involves a background check being undertaken that can ascertain if a customer may have any financial vulnerabilities. Current systems in Ireland prevent this step from occurring in this jurisdiction and representatives from Flutter urged that the regulator in Ireland be able to implement this step similar to the UK.

The second step involves using algorithms that can help predict gambling disorders, based on data gathered on customers. This enables Flutter to monitor changes in customer's behaviour and to intervene and interact with a customer in relation to such behavioural changes, where necessary.

Flutter also takes a risk-based approach and acknowledges that different groups, such as individuals under 25 are at greater risk of becoming addicted to gambling than other groups.

Representatives from Flutter stated that while it is critical that they intervene at the correct point in a customer's potential addiction, the interactions and interventions they have had with customers in recent years in this area has seen a significant change and that this is an area where the industry has greatly improved.

Witnesses also clarified that betting on credit cards is prohibited by the regulator in the UK, that it is voluntarily prohibited in Ireland and that the safer gambling codes from the IBA ban credit card betting in online and retail betting. Witnesses welcomed this ban being clarified and enforced by the Irish regulator.

Witnesses also informed the Committee that the increased use of Self-service Betting Terminals (SSBTs) will allow for more use of digital technologies in retail betting shops. This will enable big data to use algorithms and better indicate when individuals are showing signs of problem gambling. Other such technologies would include having a national register of self-excluded customers and their photographs, so that facial recognition cameras could be added to each SSBT and could scan each customer that approaches it to place a bet and prevent those on the database from placing any bets.

Health stakeholders clarified that they have never called for gambling to be prohibited and that they recognise there are individuals that enjoy gambling in a moderate fashion. Their objective is that harmful gambling be identified at a statutory level and discouraged by the State and by gambling providers.

The Committee was informed that while retail betting staff are not trained addiction intervention specialists, they are trained in terms of spotting behavioural changes that

may indicate when a customer has a problem, including changes in staking levels, and changes in how customers conduct themselves in the shop. In these situations, staff are instructed on how to approach the customer confidentially and engage with them in a supportive manner by advising them to take a break or providing them with an information leaflet from Dunlewey Centre or to avail of relevant information on [gamblingcare.ie](http://gamblingcare.ie).

For more serious addiction problems, witnesses informed that Committee that supports available include a freephone service available that gamblers can contact every day of the week; technical support available from Helplink; addiction counsellors in every county; and residential treatment with addiction professionals in the Dunlewey Centre and Cluain Mhuire centres.

Cluain Mhuire services, its helpline and counsellors are resourced by the betting sector, with Gambling Awareness Trust as an intermediary distributing the funds from gambling operators, so that the operators are not directly distributing these funds.

## **5. Lack of data on gambling behaviour in Ireland**

Members pointed out the lack of comprehensive Irish data available on problem gamblers, and the reliance by betting organisations on UK research into problem gamblers. It was pointed out that research conducted by gambling companies themselves appears to conflate the Irish and UK market and it was argued that these two markets are not similar due to the lack of regulation in Ireland and the different attitudes to gambling in both jurisdictions.

Gambling industries acknowledged that applying data on gambling behaviour of UK citizens to an Irish market is not the best approach but that this information was useful given the current lack of Irish data. Witnesses hoped the introduction of a regulator would improve the research base for understanding gambling behaviour in Ireland, so that regulation of the Irish gambling market would be evidence-based and would be based on data pertaining to the Irish public.

## 6. Fixed-Odds Betting Terminal (FOBTs) and Electronic Gaming Machines

Questions were raised surrounding Fixed-Odds Betting Terminals (FOBTs), which are electronic machines that accept bets up to a pre-set maximum amount and which pay out according to fixed odds on the simulated results of games.<sup>2</sup>

Members and witnesses outlined their concerns in relation to FOBTs, with witnesses stating that they had heard that some pubs contain FOBTs, despite legislation prohibiting these pubs from containing any gambling operations. Stakeholders outlined to the Committee that these electronic gaming machines appeal psychologically to the addictive nature of gaming and are designed so as to maximise spending and time on device per user.

Witnesses recommended to the Committee that casino products would not be facilitated in betting shops and that sports betting licences would be kept separate from casino gaming licences.

Witnesses recommended a complete ban on FOBTs and more monitoring of and enforcement against illegal gambling in pubs.

Other ways to limit the damage of electronic gaming machines include examining the characteristics of the gaming machines and intervening with near misses or losses disguised as wins; limiting stake sizes, deposit sizes, prizes and speed cycles.

It was recommended that the presence of FOBTs in areas of higher deprivation be limited, as it was pointed out that evidence from other jurisdictions highlights that these machines normally have a disproportionate presence in areas of higher deprivation.

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<sup>2</sup> [Gambling: fixed odds betting terminals - UK Parliament](#)



## 7. Self-exclusion scheme in betting shops

Questions were raised in relation to the self-exclusion scheme in retail betting shops and how the procedure works; for example, if an individual is barred from their local bookmaker's office are they barred from other bookmakers around the country as a result?

Representatives from the IBA explained that the self-exclusion scheme in retail has been in place for 14 years. When an individual signs a self-exclusion form and provides photo identification in a betting shop, then their exclusion from that shop is immediate. It is essential that photographic ID is provided alongside the self-exclusion form so that retail staff can recognise the customer in question.

Witnesses outlined to the Committee that bookmakers send the individual's photo onto neighbouring branches to make them aware that this person should not be allowed to bet in their branches. While the IBA provides guides to their Members on this process, not all gambling operators are members of the Association and witnesses underlined that this is where a regulator would be necessary to ensure this practice would be applied consistently across all gambling operators.

Witnesses highlighted that experience from the UK demonstrated that it is better for local shops to be sent an individual's ID, rather than national shops, as it would prove difficult for retailers to remember so many different identities on the register.

Witnesses outlined that a record is maintained of all self-exclusions and interactions that staff have with any customer in this regard. Staff also receive onboarding training and regular refresher training on how the self-exclusion scheme operates, including role-plays with their managers to prepare them for some encounters where customers may become upset or aggressive if told they cannot bet anymore.

While there is no regulated online service for Ireland, witnesses outlined that online operators subscribe to GAMSTOP's services, a self-exclusion database in the UK that prevents a customer from betting at any licensed online operator in the UK after signing up to its database. Witnesses recommended that GAMSTOP could extend its exclusion services to Ireland and that this be discussed with the regulator proposed under this legislation.

## 8. Other suggested measures to strengthen the Gambling Regulation Bill

Witnesses and Members discussed other possible measures that could be included in the legislation to ensure that it is a robust and effective piece of legislation.

Among the measures suggested by witnesses include

- That Heads 49, 86 and 92 be amended so that limits would be applied to all gambling products, stakes, prizes and deposits, including those online.
- A scheme of escalating fines be developed to deter any potentially harmful interactions of the gambling industry with problem gamblers. This scheme would include a threshold that, if breached, would ensue the revocation of a gambling operator's licence; for example, a breach of self-exclusion would incur an automatic loss of licence.
- That Members raised questions surrounding the granting of licenses to casinos in areas where the Local Authority has not adopted a resolution under Part III of *the Gaming and Lotteries Act, 1956*. Members urged that this resolution be observed when granting these licences.
- That Local Authorities or the relevant bodies that grant gambling licences would be cognisant of the potential impacts of allowing multiple licences for land-based betting in disadvantaged communities, as it can contribute to urban decay and increased addiction problems in these communities. Witnesses recommended that when granting multiple licences within such communities it would be important to adopt a measured approach which would consider whether the granting of a licence in such communities would be in the public or in the community's interest and what the outcome of granting this licence may be for the health and well-being in that community.

## CHAPTER 3 - Summary of Submissions

This note, provided by the Oireachtas Library and Research Service, summarises the key issues raised in the submissions received.

The Committee received submissions from the following Stakeholders.

- Professor Colin O’Gara
- Gambling.com Group
- Colm Finlay BetXS
- National Lottery
- Lottoland
- Irish Bookmaker’s Association (IBA)
- Flutter Entertainment Plc
- Institute of Public Health
- Gambling Awareness Trust
- Extern Problem Gambling
- Entain Plc

This section sets out 13 key themes identified in the written submissions which the Committee may wish to consider in its scrutiny of the General Scheme. These key themes were identified based on stakeholders’ submissions to the Committee. At the outset it must be stressed that the identification of these themes is not intended to be prescriptive or exhaustive. They are intended only as a reference point and an aid to the Joint Committee’s deliberations.

## **1) Definition of gambling-related terms [Head 2; Head 14; Head 40; Head 41; Head 43]**

Stakeholders raised numerous issues regarding the definition of gambling-related terms in the General Scheme. For example, industry stakeholders sought clarity or suggested changes to the definition of “betting” and “lottery” in Head 2 and “gambling licence” in Head 40, “betting licence” in Head 41 and “gambling products or related services” in Head 43. The Institute of Public Health (IPH) suggested replacing the term “problem gambling” with an alternative form of words such as “problems related to gambling” to allow the protections of the Act to extend to the widest possible scope of disordered gambling behaviours (Head 14). The National Lottery expressed strong support for the exclusion of the National Lottery from the provisions of the Bill as set out in the definition of “lottery” under Head 2, as the public policy and regulatory purpose of the National Lottery is distinct from other forms of commercial gambling in Ireland.

## **2) Consultation with, and representation of, a wide range of stakeholders [Head 10; Head 21; Head 37; Head 108; Head 114]**

Health stakeholders recommended that membership of the Authority, and any Committees of the Authority should include a sufficient range of expertise, including public health, health services and online expertise and that anyone with conflicts of interest should be excluded. Industry and health stakeholders desired fair and inclusive consultation in relation to the Authority’s development of codes (Head 21), such as codes on advertising, sponsorship or money-laundering. Industry stakeholders also requested consultation in certain areas such as the list of countries where licence holders must be based (Head 37), the development of the Exclusionary Register (Head 108) and the operation and governance of the Social Impact Fund (Head 113).

### 3) Limitations of the stated purpose of the Authority [Head 14]

Health stakeholders highlighted that internal conflicts of interest between the functions of the Authority, particularly those relating to protection of public interest and protecting the State's revenues, have potential to create tensions with obligations under EU law. Instead, the IPH suggested imposing only an advisory/reporting role such as consulting with Revenue should the Authority become aware of an issue which affects the State's revenue/financial interests.

Health stakeholders also recommended that the Authority should have certain functions, including:

- a clearly defined monitoring and evaluation function, incorporating routinely collected data to monitor gambling behaviours and gambling harm;
- the protection of the public through the implementation of responsible gambling tools and initiatives; and
- maintaining a register of all licences issued for all gambling services and activities including geographic information to aid monitoring of the density of land-based betting venues particularly in areas of high deprivation.

### 4) Fees and levies should be fair and sufficient [Head 28; Heads 113-117]

Health and industry stakeholders agreed that the Authority should be adequately resourced to fulfil its role including compliance. However, the Irish Bookmakers Association (IBA) suggested that the setting of any fees on industry (e.g., licence fees), or contributions to the Social Impact Fund should be proportionate and should take into consideration the betting tax already levied on the sector, application fees, renewal fees, irrecoverable VAT being paid by the sector and contributions to the Gambling Awareness Trust (GAT). Health stakeholders argued that the industry contributions to the Social Impact Fund should represent at least a 1% levy on turnover to reflect the substantial funding required to address gambling harm.

## 5) Issues with licensing arrangements [Part 3 /Head 49(4)(e)]

Stakeholders raised numerous concerns regarding licensing in Part 3. Industry stakeholders recommended that the list of countries where licence holders and their operations must be based should be quite broad, given the international nature of their sector. Industry representatives were also critical of Head 49.4(e), which allows the Authority to decide minimum and maximum stakes and pay-outs on all games and activities, as they argued that operators' ability to define their minimum and maximum stakes and prizes is fundamental to managing their business and their ability to pay-out.

Health stakeholders provided recommendations in relation to licensing, including:

- consideration should be given to reducing the harms from the co-location of gambling and alcohol licences;
- before land-based licences are issued, the Authority should consider the proximity to schools, clubs or organisations where children are present to align with the regulations for sponsorship in Head 111;
- fixed odds betting terminals should be banned; and
- Extern Problem Gambling recommended the separation of sports betting and gaming – both in land-based premises and on online platforms.

## 6) Concerns about “bet refused” dockets [Head 55 ; Head 96]

Industry stakeholders raised concerns about the requirement for an operator to issue a “bet refused” docket in circumstances where they have refused a bet on the basis that it represents suspicious activity (Head 55 and 96). Industry stakeholders argued that this provision would amount to tipping-off someone that there is an investigation pending or underway. They were also concerned that providing a “bet refused” docket outlining the reasons for refusal could lead to legal action if their suspicions were incorrect.

## **7) Fairness of sanctions [Heads 85-89]**

Health stakeholders wanted financial sanctions to reflect the gravity of breaches by being sufficiently large to impact on operators making large profits and to escalate up to revoking the licence. Industry stakeholders also supported strong compliance and enforcement powers but recommended that there is a clear framework outlining all the factors that are to be considered in the issuing of any penalties and/or licence sanctions.

## **8) Powers of the Chairperson and CEO [Head 72 ; Head 22]**

Under Head 72, the IBA submitted that regarding many important powers it appears that the Chairperson legally functions like a single person Regulator (such as the Data Protection Commissioner). The IBA argued that this calls into question the provisions for decisions of the Authority to be settled by majority vote (Head 15.6). The IBA suggested that it would be helpful to understand the reasoning behind vesting so much power in a Chair over a CEO. Under Head 22, Flutter stated that it is important there be a clear delineation of duties and powers between the CEO of the Authority and the other members.

## **9) Scope of safeguarding measures [Head 105]**

In relation to a review of safeguarding measures by the Authority, Flutter sought further clarity on what patterns of gambling may indicate a level of participation that is detrimental to the person's wellbeing. There also appeared to be differences in stakeholders' interpretations of whether prohibitions on inducements to gamble were targeted at all gamblers, or problem gamblers only, so greater clarity may be required here.

Health stakeholders called on the proposed Authority to mandate online sites to carry a range of responsible gambling tools and initiatives and called on the Authority to implement a policy of mandatory limit setting in Ireland to include bet limits, time limits and spend limits.

The gambling industry supported many of the safeguarding measures contained in Head 105 but expressed concerns about excessive controls. Industry stakeholders

claimed that excessive controls tend to encourage customers to seek illegal alternatives, which operate without any customer protections.

Lottoland questioned whether the measures outlined in Head 105 will apply to the National Lottery. They argued that by allowing one licensed gambling entity to continue to operate under a different set of licensing requirements to the rest of the market, this Bill risks creating both a competitive advantage for that operator as well as a continued risk to consumers, especially those at risk of problem gambling.

### **10) Protection of children [Head 106]**

Health stakeholders recommended robust age verification measures, increased monitoring of gambling behaviours and harms among children and regulation of gambling embedded in online games.

### **11) Practical issues with the “Exclusionary Register” [Head 108]**

Industry stakeholders suggested that the Register could be a large administrative burden on the Authority. They suggested there may be other methods of achieving the same aim and that being prescriptive in the Scheme may impose operational challenges on the Authority from the outset.

### **12) Balancing controls on advertising and sponsorship [Heads 109-111; Head 49]**

Industry stakeholders recommended that controls on advertising, sponsorship and promotions should recognise clear distinctions between different types of gambling advertising and should avoid unintended consequences through overly simplistic measures. For example, they suggested that the proposed prohibition on sponsorship would unduly affect the horse and greyhound racing sector. Also, Flutter stated that Head 49 describes a wide variety of locations (e.g., a ‘playing field’ or ‘sports venue’ that may be accessible to children) where restricting advertising will be difficult to accommodate for providers. Flutter cautioned against such a broad list as it may have



the effect of a *de facto* ban on outdoor advertising which forms an important part of a regulated gambling market. They also claimed retail betting shops might have to remove any branding from their shop fronts, which would cause obvious challenges for the 800 betting shops across Ireland.

Meanwhile, health stakeholders recommended heavy restrictions around advertising of gambling such as extensive restrictions/and or bans on advertising of gambling on TV, radio, print media and online channels.

### **13) Ring-fencing of the Social Impact Fund for addressing gambling harm [Head 115]**

Health stakeholders were very concerned about the possibility of the Exchequer borrowing unspecified amounts from the Social Impact Fund for indefinite periods (Head 115). They highlighted that it is imperative that the Fund be ringfenced for allocation to services targeted at problem gambling and gambling addiction and recommended the removal of subheadings 3 and 4.

## APPENDICES

### APPENDIX 1 - ORDERS OF REFERENCE OF THE COMMITTEE

Standing Orders 94, 95 and 96 – scope of activity and powers of Select Committees and functions of Departmental Select Committees

#### **Scope and context of activities of Select Committees.**

**94.**(1) The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.

(2) It shall be an instruction to each Select Committee that—

(a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;

(c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 125(1)<sup>3</sup>; and

(d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal office-holder of a State body within the responsibility of a Government Department or

(iii) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

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<sup>3</sup> Retained pending review of the Joint Committee on Public Petitions

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

## Functions of Departmental Select Committees.

**95.** (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

(a) legislation, policy, governance, expenditure and administration of—

(i) a Government Department, and

(ii) State bodies within the responsibility of such Department, and

(b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

(a) stand referred to the Committee by virtue of these Standing Orders or statute law, or

(b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

(a) for the accountability of the relevant Minister or Minister of State, and

(b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

(a) consents to such consideration, or

(b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

(a) the Committee Stage of a Bill,

(b) Estimates for Public Services, or

(c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, or

(d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings, the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

(i) members of the European Parliament elected from constituencies in Ireland,

(ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

(a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered

the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.<sup>4</sup>

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<sup>4</sup> Retained pending review of the Joint Committee on Public Petitions.

## **Powers of Select Committees.**

**96.** Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and

(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Select Committee explaining the statutory  
Instrument, or

(ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil,

and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may

request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially

responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 197;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State, shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil;

and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 120(4)(a).'



## APPENDIX 2 - LIST OF STAKEHOLDERS, SUBMISSIONS AND CORRESPONDENCE

- Professor Colin O’Gara
- Gambling.com Group
- Colm Finlay, BetXS
- National Lottery
- Lottoland
- Irish Bookmaker’s Association (IBA)
- Flutter Entertainment Plc
- Institute of Public Health
- Gambling Awareness Trust
- Extern Problem Gambling
- Entain Plc

The Committee also received submissions from the following:

- Boyle Sports
- European Gaming and Betting Association (EGBA)
- Irish Amusement Trades Association
- International Betting Integrity Association (IBIA)

## **Submission to the Joint Oireachtas Committee on Justice on the General Scheme of the Gambling Regulation Bill 2021**

Professor Colin O'Gara MRCPsych PhD

Consultant Psychiatrist and Head of Addiction Services, Saint John of God Hospital

Clinical Professor UCD

### **Recommendations:**

#### **1. Head 10 – Membership of the Authority and terms of membership**

- Advanced online expertise is critical as vast funds are at the disposal of the gambling industry to develop the gambling product. To counterbalance and ensure the implementation of gambling protections, technical knowledge of a high level will be necessary.
- Expertise and experience should ideally include regulation in other jurisdictions.
- I welcome the recommendation that the authority should have expertise on gambling addiction.

#### **2. Head 14 – Functions of the Authority**

- The Authority should have as a key function, the protection of the public through the implementation of responsible gambling tools and initiatives.
- The Authority should measure and be accountable for collecting data on progress in this area.
- The Authority should not 'promote innovation in the gambling industry'. Innovation in the gambling industry has proved detrimental to some including severe mental disorder and death. The Authority needs to be clear in its functions regarding the protection of consumers.
- The Authority should be able to provide real time data on issues such as self-exclusion in Ireland.
- In order to carry out the above functions it is imperative that the authority is well funded.

#### **3. Head 45 –Application for a new licence or to renew a licence**

- The Authority and government should consider the huge proliferation of gambling in recent years across multiple platforms. The proliferation has led in my view to

normalisation of gambling in certain age groups. Some groups of young men in Ireland are unable to watch sport without gambling on a smartphone. Some young children in Ireland are unable to differentiate between gambling and sport, believing that they are the same thing. Some children in Ireland believe that as a society we endorse gambling as an integral part of sport. In this context do we need more licences for gambling in Ireland or should it be a key function of the authority to reduce the number of licences? Furthermore, alcohol in my view aggravates gambling on many levels and consideration needs to be given to minimising the harm of gambling wherever alcohol could be present.

**4. Head 49 – Power of authority to specify terms and condition of a licence**

- Fixed odds betting terminals should be banned and removed from Ireland. These gaming machines are too destructive and addictive in my view and serve little recreational purpose. The dangers of FOBT's are well described and can have harrowing effects on individuals and families.

**5. Head 86 – Power of the Authority to decide to impose administrative financial sanctions**

- It is imperative that the authority has actual power to revoke licences and is sufficiently resourced and supported to carry out this function. Fines of a minor nature will not in my view make any impact on operators that are making large profits.

**6. Head 105 – Measures to protect and safeguard players**

- I welcome the prohibition of VIP schemes, credit facilities and free bets.
- Responsible gambling tools and initiatives on multiple sites accessed by Irish people is currently lacking. There is an urgent need to mandate that online sites must carry a range of responsible gambling tools and initiatives.
- With the explicit support of government, The Authority should mandate a range of responsible gambling initiatives. In particular, the government and Authority should identify Gambling Disorder as a national public health crisis. Following on from this declaration, the government should direct the Authority to implement a policy of mandatory limit setting in Ireland. This limit setting would prevent large sums of money being lost by individuals suffering from gambling disorder

- Limit setting should include bet limits (no. of bets per month), time limits (hours spent gambling per week or month) and spend limit (amount of money one is comfortable losing per month).

## **7. Head 106 – Protection of Children**

- Children are currently immersed in a culture where gambling has extensively proliferated and is normalised. The presence of gambling in sport has reached a tipping point where urgent measures have to be introduced to start to reverse the problematic relationship between sports and gambling.
- Robust verification measures are required to prevent exposure of children to gambling. This will include the Authority seeking international expertise and following best practice. The Authority again will need to be adequately funded to carry out this role effectively.
- Advertising of any form in any situation should be banned before the watershed. It is entirely unacceptable that children are being exposed to hundreds of gambling adverts every year on television, radio and online.
- Loot boxes are in my view a clear form of gambling. Children as young as 3 are being exposed to 'spin it and win it' features in so called 'family apps'. Many if not most parents are unaware that their children are being exposed to gambling features in what appear to be very popular and common child apps downloaded from reputable app stores.
- The Authority should form a subcommittee to address the area of gambling within online games. Loot boxes are worth billions to the online gaming industry. If Ireland is serious about protecting children from the harms of gambling features embedded in online games, the Authority should be given the resources and power to identify and ban them.
- The Authority should consider a subcommittee devoted to the protection of children. The normalisation of gambling has become so pronounced that years of effort attempting to reverse it through education and training is required. Role models in sport and other areas of life that can outline the harms of gambling should be identified and supported through a subcommittee tasked with protecting children. The Authority should aim to balance every message from the gambling industry (such as 'it's better fun when there is money on it') with an effective message about the harms of gambling. At present, I believe there is a total imbalance in terms of

the messaging that gambling is fun as opposed to gambling being potentially harmful.

#### **8. Head 108 – Exclusionary measures**

- I agree that an exclusionary register should be set up.
- The register should be multi-operator covering all companies registered in Ireland.
- For companies not registered in Ireland The Authority should consider working with national and international IT experts in developing strategies to protect Irish people losing vast sums of money on these sites. I do not have an answer as to how this can be achieved but a task force should be set up within the Authority to begin to find answers to this problem.

#### **9. Head 109 – Advertising**

- As above, all gambling advertising on radio, television should be banned before the watershed.
- Online and print media gambling advertising should also be banned outright as children have access to both before the watershed period.

#### **10. Head 111 – Sponsorship by licence holders**

- All gambling industry involvement in sport should be terminated immediately. The ongoing harm to children is indefensible.

#### **11. Head 113 – Establishment of fund**

- The establishment of a Social Impact Fund is welcome.
- The level of contribution is critical. Previous Minister for Justice Alan Shatter recommended a 1% levy on turnover.
- It is imperative that the Authority establishes at least a 1% levy on turnover.

#### **12. Head 114 – Purpose of the fund**

- Treatment, research units and education around gambling harm in Ireland is severely lacking.
- The fund needs to be substantial to pay for a network of gambling addiction treatment facilities.
- Gambling addiction treatment facilities should be residential and outpatient in nature.

- Estimates of gambling addiction in Ireland range from 50,000 to 250,000 individuals affected with multiple family members in each of these cases also directly affected.
- Research should guide evidence based decisions in the protection of Irish society from gambling harm.
- Research units should be identified and supported to deliver data on gambling harm in Ireland.
- National Education and awareness programmes around gambling harm are much needed in Ireland. To counteract the years of proliferation and normalisation of gambling in Ireland these programmes will require substantial funding.
- The Government/Authority should consider applying the levy retrospectively for the years that gambling has proliferated and normalised in Ireland.
- Treatment facilities to include medically-led residential facilities and community based outpatient supports are not established without substantial initial funding and the Government/Authority must look realistically at how it can achieve the goal of providing treatment for those affected by gambling harm.
- Gambling disorder is a medical illness with severe consequences including major psychiatric disorder and suicide. Those affected should be treated in respectful non-stigmatising environments.
- The Government/Authority has a unique opportunity to establish treatment facilities which meet the needs of the population. The substantial level of funds required to build and staff a network of both inpatient and outpatient facilities should not be underestimated and should in my view determine the level of the levy from the gambling industry.

## **Delivering a responsible, effective regulatory regime for gambling in Ireland**

### **Gambling.com Group (Nasdaq: GAMB)**

#### **ABOUT GAMBLING.COM GROUP**

Gambling.com Group (Nasdaq: GAMB) publishes free to-use websites, such as Gambling.com and Bookies.com, which allow consumers to compare legal online gambling services. The Group is headquartered in Ireland with additional offices in the United States and Malta. Its Irish workforce has grown to over 100 employees, with further significant expansion planned. Dublin is the Group's largest office by headcount.

Founded in 2006, the Group owns and operates more than 30 websites in six languages across 13 national markets covering all aspects of the online gambling industry, which includes both online casinos, poker and sports betting. Licensed online gambling operators advertise with the Group to help acquire new consumers.

#### **INTRODUCTION**

Gambling.com Group is an industry leader in consumer education and online engagement for those interested in any form of legal online gambling. With fifteen years of history and several licenses from U.S. state gaming regulators, the Group is a credible organisation and wants to help lead the conversation on effective gambling regulation in Ireland.

The Group leverages industry expert teams in Ireland, the United States and Malta to publish reviews of betting and casino operators; industry news and legislation updates; as well as knowledge, strategy and safety information for people gambling in Ireland and around the world.

Gambling.com Group welcomes the publication of the General Scheme of the Gambling Regulation Bill 2021 (the "**Bill**"). Based on its wealth of experience, the Group wishes to offer its views to the Committee on Justice and Law Reform on how to responsibly and effectively provide for the regulation of gambling in Ireland to inform Pre-Legislative Scrutiny of the Bill.

#### **ADDRESSING THE NEED FOR UPDATED GAMBLING REGULATION**

At present, gambling legislation in Ireland is underdeveloped and largely out of date. Despite more recent efforts to reform gambling regulation in part, the existing framework remains broadly underpinned by the outdated *Betting Act 1931* and *Gaming and Lotteries Act 1956*. There is growing recognition of the need for updated regulation and Gambling.com Group believes that the Bill will help address these issues.

The societal harm of problem gambling is evident - effective, responsible regulation is necessary to protect vulnerable users and to support the functioning of a legitimate, well-run gambling industry in Ireland.

Based on its international experience, Gambling.com Group believes that responsible, effective regulation of gambling should be built on four key principles:

- I. Educated and informed consumers make better choices
- II. Not all gambling advertising is the same – a nuanced approach is essential

- III. Regulation is best implemented by a well-funded and empowered regulator
- IV. Good regulation recognises the legitimate entertainment value provided by the gambling industry

## **PRINCIPLES OF GOOD REGULATION**

### *1. Educated and informed consumers make better choices*

Confident, informed consumers make better decisions. This is particularly true within the online gambling industry where consumers must navigate an, often bewildering, array of options. Gambling.com Group seeks to provide those who have already chosen to gamble online with as much consumer education as possible, thereby empowering them to make better choices. Critically, the Group steers its audience toward onshore, regulated online gambling operators, instead of offshore gambling operators who, in some cases, do not take problem gambling seriously.

Poorly informed consumers are more likely to place bets with offshore entities, putting them at much greater risk. Gambling regulators around the world can only influence the gambling operators which they license. A lack of regulation or overly restrictive regulation will drive consumers to the offshore market where they cannot be protected by their domestic gambling regulator. Companies such as ours play a vital role in ensuring consumers stay with licensed, onshore operators where robust player protection programmes can be implemented and monitored by the local gambling regulator.

Regulation should support consumers to access appropriate information that empowers them to bet in a safe, secure and well-regulated gambling environment.

### *2. Not all gambling advertising is the same – a nuanced approach is essential*

There is a huge amount of gambling advertising in Ireland, and the need for regulation is clear. However, a nuanced approach is required to avoid unintended consequences.

Effective regulation would recognise a distinction between mass market advertising that encourages users to gamble (i.e. broadcast advertising, sporting events, billboards, etc.) and affiliate marketing services, such as those provided by Gambling.com Group, that support consumers who have already chosen to gamble, and wish to do so armed with as much information as possible.

In general, affiliate marketing companies such as Gambling.com Group, receive a significant amount of web traffic from search engines as consumers search for answers to their queries related to online gambling. Simplistic advertising policies which prohibit advertising wholesale would undermine the quality of these resources and therefore the ability of Irish online gambling consumers to find answers to their legitimate gambling related questions. It is important that advertising provisions of the Bill are scrutinised in detail to avoid any unintended consequences. It is also important that regulation in Ireland remains broadly in line with consumer offerings elsewhere in Europe and further afield. As consumers can access online gambling services based in other jurisdictions with relative ease, major variance in or outright prohibition of the types of offers available to consumers could risk Irish consumers pursuing offers available outside the remit of the Irish gambling regulator, and the Irish Exchequer.

Regulation of advertising should recognise clear distinctions between different types of gambling advertising and avoid unintended consequences through overly simplistic approaches.



### *3. Regulation is best implemented by a well-funded and empowered regulator*

Technology has rapidly changed the nature of gambling and will continue to change the industry. It is therefore important that a regulatory regime can respond rapidly. The Regulator should be empowered and adequately funded to continually license and monitor gambling entities in Ireland, while also being able to rapidly respond to technological and other industry changes via statutory instrument and/or codes of conduct.

If day to day regulation frequently requires new legislation, gambling regulation in Ireland will never level up to match the world-class standard of Ireland's gambling companies themselves. This has been recognised in the General Scheme of the Bill, providing for the new Gambling Regulator to make and amend codes concerning the advertising of gambling (Head 109). Often, as for example has been seen in the regulatory approach in the UK to the use of inducements and promotions in the advertising of gambling, the intention behind any absolute prohibition (as would be proposed under Head 105) can be trumped by a combined and interlinked approach to regulation through specific and well-reasoned legislation, codes and guidance between a regulator and the relevant advertising standards and other relevant authorities. This approach should effectively mitigate against the risk of Irish consumers seeking better offers outside of Ireland, as referred to in Principle 2 above, while continuing to allow the use of key advertising tools which benefit both the advertiser and the consumer, in as safe and secure a manner as possible.

A flexible regulatory approach is necessary to ensure that Ireland's regulatory regime can keep pace with industry change and avoid the need for supplementary legislation in the future.

### *4. Good regulation recognizes the legitimate entertainment value provided by the gambling industry*

Gambling is a major industry in Ireland, which has a positive impact on jobs and the economy not to mention the vast majority of people in Ireland who enjoy gambling responsibly. Effective, responsible regulation, as provided for in the Bill, will facilitate Ireland's continued position as a global leader in the regulated, online gambling industry. Regulation should be cognisant of rules in other jurisdictions, to ensure gambling regulation has been rigorously scrutinised in order to deliver the most effective and beneficial regulatory regime for Ireland.

There is an opportunity for Ireland to attract more investment and create additional jobs via multinational gaming companies seeking to use Ireland as a base due to its well-educated workforce, EU membership, and its strong attraction as a location for inward investment. However, this is made more difficult in the absence of a domestic gambling regulator for Ireland.

The Gambling industry provides substantial taxation to the Irish Exchequer, particularly the industry levy, which funds Ireland's world leading horse racing industry and therefore careful thought should be given to ensuring that the regulation of this industry is crafted and implemented in a coherent and responsible manner.

Close communication between Revenue and the regulator is essential. This would facilitate effective coordination and ensure that tax revenue on online gambling activity in Ireland is efficiently collected and stays in the country.

Responsible regulation will be cognisant of the legitimate role played by Ireland's world-leading gambling industry.

## **Submission to the Joint Oireachtas Committee on Justice on the General Scheme of the Gambling Regulation Bill**

By Colm Finlay, Bookmaker 20th January 2022

### **Head 105 – Measures to protect and safeguard players.**

We welcome the components of this head. I feel however it is important to stress the practicalities of implementation for retail. **Focusing on section 6 (1)** It states that license holders should develop codes for the purpose of protecting players from the harmful effects of gambling, including any prohibitions, restrictions or measures, such as *“spending limits for persons playing or participating in a licensed activity, either in-person or remotely, where practicable to do so”* It is my observation that a huge portion of retail’s failure to comply will simply be packaged into *“impractical to do so”* This can also be applied to section (c) *requirements for license holders, where practicable to do so, to provide players with a receipt/notice detailing the amount of i. time a player spent in the license holder’s premises or playing via the license holder’s remote games, and ii. money a player gave to the license holder during each period while participating in a license holder’s licensed activities (including their starting balance on any account facilities)*

Again in retail betting shops with staff, it would be impractical for staff members to effectively start a stopwatch when each customer walks into a betting shop and be able to inform an individual of how long they’ve spent on premises. There are solutions that address all of these issues and many other issues besides. Such solutions seek to convert handwritten paper betting slips which are manually input by human shop workers, prone to errors, into error-free machine transactions. The proliferation of SSBT’s (Self Service Betting Terminals) in Irish betting shops has been significant over the last decade with upwards of 3,500 terminals in 850 betting shops. It is our expectation that this will grow to the point where they account for 100% of in shop transactions. With this, there are a number of technological solutions to bring retail up to par in terms of compliance with aspects of this bill. By 2024 all SSBT’s should have the following functionality:

1. A biometric means of age identification, coupled with a biometric means of specific individual identification.
2. A "sessions based" accounting backend within the betting software. (A session begins with the customer logging in so that they are identified, from which point onward their activities are automatically logged to their account, in much the same way that online providers currently use to gain compliance.)
3. The customer interface typically moves from a human-to-human manual process to a human to machine interface, via the use of biometric-enabled SSBT's
4. A tight integration between the above components, where the components are typically provided by separate companies.
5. The goal of such solutions is to automate, streamline and simplify the burden of full compliance for the retail bookmaker, (large and small alike) while at the same time, providing a hitherto unimaginable level of accuracy and compliance in terms of the prevention of underage gaming, self-exclusion tools for problem gamblers, in addition to AML checks as soon as thresholds are reached.

These solutions normally comprise of SSBT's that reside within the bookmaker's shops, that also connect to cloud-based services which control all of the interactions with the regulator's servers, mobile applications, by which the gambler interacts with the system, as well as connecting to International AML, CRB and other databases. Such cloud services are usually extremely flexible and may often be configured to connect to virtually any external database that a regulator requires, for validation or processing interactions.

In many jurisdictions in previous years, regulators have sought to implement robust protocols to ensure compliance. All too frequently such attempts have been found to have unintended consequences as well as many "fraud holes" Thankfully, with up to date technology it is now possible to devise a robust foolproof protocol that addresses, underage gambling, problem gambler and

AML compliance, while at the same time avoiding the placing of huge burdens on the bookmaker or frustrating the legitimate gambler's "user experience" when they attempt to place their bets in a simple and quick process, with minimal to no disturbance by constant biometric monitoring and compliance checks.

Examples of flawed strategies in other jurisdictions:

The requirement to provide detailed information to the governing authority, in order to obtain a "gambling card"

This approach prevents any spontaneous ability to make a quick one-off bet, for instance by someone who is an infrequent gambler and only bets once a year for instance, on The Grand National, unless they take the trouble to apply for and obtain their gambler ID card.

A further drawback to this approach is that it is likely to be perceived as "Big Brother" spying on the gambler, especially in countries where national ID cards are heavily opposed.

Some countries link their citizen's gambling activities to their national ID card or ID number, this is often linked to the gamblers tax records as well.

## **Head 106 – Protection of Children**

I just want to flesh out the ramifications for the following sections within the head

*1. With the exception where set out in the terms and conditions of a license issued by the Authority, a child may not –*

*a. participate in gambling as understood under this Act, or b. be present at premises, or part of premises where gambling is provided by a license holder.*

It is administratively & financially prohibitive for Licensed betting office operators to prevent children from being present at premises. The reality here would be each betting shop in the country would have to have a manned

presence at their front door Identifying customers as they enter the premises. I suggest that the wording in the bill be changed to “Operators must remove children from their premises as soon they become aware of their presence”. Adding all Self Service Betting Terminals should have a means of verifying that the individual using the machine is eligible to bet. In many premises around the country, SSBT’s are often obfuscated away from the view of the staff counter. All SSBT machines must have age verification protocols installed. There is ample age verification technology available to enforce this requirement.

### **Head 108 - Exclusionary Measures**

In addition to the points set out under Head 105, we want to highlight the impractical nature of Betting Shop staff being required to recall, memorize or identify a self-excluded individual from a national registrar under current practice. Potentially a national register could have thousands of self excluded individuals. The only real means of implementing a national register would be using smart technologies at the point of sale. In addition to these licensed premises, operators should have the authority to ask individuals to temporarily remove face coverings, hats, masks, or sunglasses in attempts to be able to identify customers for the purposes of age checking or identifying self-excluded customers.

## Submission by the National Lottery to the Oireachtas Joint Committee on Justice on the General Scheme of the Gambling Regulation Bill

### 1. Premier Lotteries Ireland

Premier Lotteries Ireland DAC (PLI) as the operator of the National Lottery is pleased to accept the invitation of the Oireachtas Joint Committee on Justice (the Committee) to make a written submission on the General Scheme of the Gambling Regulation Bill (the Bill).

The National Lottery is distinct from the entities that the Bill proposes to regulate in its supervision and ownership by the State, purpose, transparency, player protection measures and economic impact.

As regards supervision by the State, the National Lottery operates under a dedicated regulator, licence and Act which together ensure the long-term sustainability of the Lottery; that best interests of players are served; and that Good Causes funding is protected.

For instance, this supervisory structure prescribes in detail the:

- games that can be sold,
- time, place and manner in which those games can be sold,
- promotion of those games, and
- distribution of funds from ticket sales.

PLI welcomes the introduction of regulation to the mainstream gambling industry in Ireland.

### 2. The National Lottery – a regulated State-owned Lottery operated for societal benefit distinct from mainstream commercial gambling.

From a public policy and regulatory perspective, the National Lottery is entirely distinguishable from the entities that the Bill proposes to regulate in a number of important and material respects;

- The National Lottery is a State-owned Lottery – under legislation the Lottery is held on behalf of the Minister for Public Expenditure and Reform (section 6 of the National Lottery Act 2013).
- The statutory purpose of the National Lottery is to generate funds for community and societal benefit – 65% of gross gaming revenue is returned to the Exchequer to fund Good Causes –€289 million in 2021.
- The National Lottery is governed by specific legislation – the [National Lottery Act 2013](#) (the 2013 Act).
- The National Lottery is subject to intensive regulation through a dedicated Regulator – the Regulator of the National Lottery ([www.rnl.ie](http://www.rnl.ie)) .
- Funding generated by the National Lottery is directed through the Regulator of the National Lottery and Government, rather than directly allocated by PLI as the operator.
- Revenue raised from the sale of National Lottery products is allocated strictly in accordance with published ratios overseen by the Regulator – crucially this means that the level of funding allocated to Good Causes, player prizes and retail agents’ commissions increases as National Lottery sales increase.
- National Lottery ticket sales, prizes, funding for Good Causes as well as the revenue and profitability of the operator (PLI) are audited, subject to scrutiny and direction by the Regulator and published.
- The National Lottery provides very substantial protections to players including:
  - i. all products are assessed and approved by the Regulator before launch with player protection inherent in their design,
  - ii. controls are placed on how tickets are sold, for instance play limits, age controls and curfews are all in place,
  - iii. no incentives are used to promote buying more tickets, and relatively active digital customers are contacted with player protection messages and monitored by a dedicated player protection team.
  - iv. Player interactions and advertising are subject to dedicated codes of conduct as part of the overall regulatory framework.

- v. As a result, while National Lottery participation is common, it is also characterised by relatively small spend and as a consequence of the player protections outlined above is rarely identified as a contributing factor to problem play by people seeking help with gambling addiction.
- In addition to statutory controls and regulatory oversight, PLI as the operator of the National Lottery is subject to contractual license requirements and obligations set down in a detailed License Agreement concluded between PLI and the Minister for Public Expenditure and Reform (the Minister).
- Both the Regulator and the operator of the National Lottery have statutory obligations to appear before the relevant Oireachtas Committee, under the National Lottery Act 2013, as a reflection of the National Lottery's position as a State Lottery operated for Societal Benefit.

The founding and continuing purpose of the National Lottery, the fact of State ownership, and the existing levels of regulatory oversight for the National Lottery place the National Lottery in an entirely different context to the forms of gambling which the Bill seeks to regulate.

From public policy perspective these significant and substantive differences support the retention of the National Lottery under the current legislative and regulatory structure set out by the 2013 Act.

### **3. Foundation of the National Lottery**

The National Lottery was established by the Irish Government in 1986 following a recommendation in a White Paper "Building on Reality" (1984). At that time the Government recognised that a national lottery was distinct from mainstream gambling as it would operate to have a very clear societal philanthropic and community benefit focus.

It was intended that through tightly controlled gaming, a national lottery would be established to generate surplus funds to be used for societal benefit without the need for taxation or other revenue generation measures. By 1984 Ireland had become an outlier in



not operating a national lottery – at that stage over 80 countries had State lotteries, with some in existence since the middle ages.

#### **4. Good Causes funding core to the National Lottery**

When introducing the legislation to establish the National Lottery in 1986, the then Minister said that the ultimate purpose is to provide funding in support of “very desirable social and cultural activities” or Good Causes.

The categories of Good Causes that benefit from National Lottery funding are set out in the National Lottery Act 2013 and cover projects in the following areas;

- Arts & Culture
- Sports
- Heritage
- Youth
- Health and Wellbeing
- Community
- Irish language
- National Environment

The decision on specific allocations is made by the Government and relevant agencies. The National Lottery has no role in the allocation of funds for Good Causes. The Minister for Public Expenditure and Reform has recently appointed consultants to carry out a review of the allocation and utilisation of National Lottery funding with a view to developing an overarching policy to guide this funding.

To date the National Lottery has generated over €6 billion for Good Causes, with €289m generated in the last 12 months alone. It has been estimated by Benefacts that Good Causes funding from the National Lottery amounts to 34% of charitable giving in Ireland.

#### **5. The National Lottery in context**

In the context of the proposed provisions of the Bill it may be helpful to put the National Lottery operations in context.

Unlike the published information concerning the National Lottery, there is very little transparency around the operations of entities involved in gambling in Ireland. Many of the larger undertakings are based offshore in Gibraltar, Malta or the UK and provide very limited financial information on their operations in the Irish market. Some information can be gleaned from annual assessments carried out by various think tanks and from the Betting Tax receipts published by the Revenue.

Based on this information the following trends are useful in placing activity of the National Lottery in context;

- According to a Department of Justice Report from 2019, the value of the Irish gambling market annually was assessed as being up to €8bn in 2017, with National Lottery ticket sales amounting to €800m for the same period. (Report to Government of Inter-Departmental Working Group on Future Licensing and Regulation of Gambling, Department of Justice 2019)
- These figures place the existing regulated operations of the National Lottery in context in light of the largely unregulated forms of gambling that the Bill is seeking to regulate.
- On the basis of the Department of Justice market estimates, the National Lottery accounts for approximately 10% of overall expenditure on gambling in Ireland and is heavily regulated, operated transparently and exists as an Irish registered and licensed State Lottery to generate money for Good Causes.
- In contrast, expenditure accounting for close to 90% of gambling in Ireland takes place in a largely unregulated context by firms that are predominately operated from offshore locations and purely run for profit as distinct from any element of community or social benefit. There is a world of difference between the National Lottery and the entities which fall to be controlled under the Bill.

## **6. The Gambling Regulation Bill**

The primary focus of PLI's comments on the Bill is on the proposed exclusion of the National Lottery from the provisions of the Bill as set out in Head 2 of the Bill.

For the reasons set out above, we believe that there is a compelling public policy rationale for dealing with the activities targeted under the Bill as separate and distinct from the operations of the National Lottery which are currently intensively regulated under the National Lottery Act 2013.

PLI also believes that there is a public policy rationale for ensuring that many of the existing regulatory controls and restrictions that apply to the operations of the National Lottery as a consequence of the 2013 Act should also apply to the mainstream gambling sector in the interests of player protection.

These would include;

- Pre-approval of game formats to ensure player protection.
- Bans on offering free or discounted bets to players.
- Bans on targeting minors or other vulnerable players.
- Limitations on use of credit cards to play games online.
- Relevant night-time curfews and limitations on cross selling of particular games and formats.
- Active and transparent protocols and processes to secure intervention for players exhibiting problem gambling habits.
- Transparency on gaming revenues – including details of prize levels, profitability, and operating costs.
- Details of a nominated person or entity within the State for the purpose of compliance and enforcement purposes.
- A realistic and meaningful contribution being sought from licensed operators to the Social Impact Fund.
- Requirements on responsible advertising, sponsorship and promotional practices.

PLI welcomes the provisions in the Scheme of the Bill for a Social Impact Fund. It is important to distinguish this fund from the Good Causes funding. This is entirely distinct from the allocation of funding to Good Causes. There is nothing in the Bill that involves the allocation of funding by the entities proposed to be regulated to Good Causes, so although they are

being brought into the regulatory net, this point of distinction with the National Lottery will remain.

## **7. Lottery Betting**

In 2020 the Seanad passed the Second Stage of the National Lottery (Amendment) Bill 2021 which proposed introducing a ban on undertakings accepting bets on draws operated by the National Lottery. There was considerable recognition in the Seanad that the practice of lottery betting is undermining the purpose, operations and function of the National Lottery and severely impacting on the funding that is being directed to Good Causes. PLI has estimated that between 2017 and 2020, the total annual estimated spend on lottery betting with bookies which would have accrued to the National Lottery is circa €100m.

This is a significant sum which is being lost to the National Lottery and the broader community given that 91% of National Lottery income goes back to the community directly. It was notable that the National Lottery (Amendment) Bill 2021 passed Second Stage in the Seanad without a division. The National Lottery (Amendment) Bill 2021 has not been passed by the time the Bill is being considered by the Oireachtas, PLI believes that there is a significant public policy justification and broad support for the inclusion of a ban on lottery betting in legislation.

## **8. Conclusion**

PLI, as the licensed operator of the National Lottery, welcomes the Bill and looks forward to its early implementation. For the reasons set out in this submission, PLI contends that there are significant public policy reasons to maintain a distinct regulatory structure for the National Lottery given the entirely distinct purpose and foundation of the National Lottery as a State lottery established and run for societal and community benefit. PLI also contends that the regulatory control and oversight provided by the National Lottery Act 2013 is comparable to if not greater than the regime that is proposed by the Bill and does not require any elements of duplication or replacement.

**Premier Lotteries Ireland**

**21 January 2021**



**Submission to the Oireachtas Justice  
Committee on the General Scheme of the  
Gambling Regulation Bill**

**21 January 2022**



## INTRODUCTION

1. Lottoland welcomes the development of the General Scheme of the Gambling Regulation Bill which seeks to support the delivery of a modern, fit-for-purpose and sector-wide regulatory framework that is sustainable and fair for all stakeholders.
2. While gambling, a long-standing feature of Irish culture, remains a popular form of entertainment, effective, fair and transparent regulation is badly needed, with a single oversight body required to oversee its implementation and operation. Suitable, progressive legislation is in the best interest of not just the tens of thousands of Irish people who safely participate in gambling each week, but also importantly for those consumers at risk of problem gambling, the wider general public and the sector itself.
3. Much like all gambling industry operators and indeed leading e-commerce platforms generally, Lottoland saw an uplift in its customer activity across all key markets during the Covid-19 pandemic period, primarily as a result of increased online migration and available leisure time in the various lockdown periods. In the Irish market, the most significant growth in monthly activity was seen across the end of Q1 and the start of Q2 2020 as the pandemic first hit, with activity levelling off to pre-pandemic levels year-on-year through 2021. As a result, there was renewed media and political focus on the sector and its activity, so the publication of this new proposed Bill is timely.
4. All responsible licensed operators, including Lottoland, strongly support the progress which is imminent with the introduction of this legislation.
5. We thank the Committee for their invitation to provide views on the draft Bill and firmly believe that ongoing co-operation with the sector will be key to informing robust and sustainable policy into the future.
6. As a brand and business that is licensed in some of the leading regulated gambling markets globally, Lottoland has hands-on experience of best practice in this area and we welcome the opportunity to share our initial insights on the General Scheme with the Committee.
7. As a starting point for this submission, we have set out below our key priorities for the effective regulation of the gambling sector in Ireland.

## ABOUT LOTTOLAND

8. Lottoland has been a licensed Remote Bookmaker in Ireland since 15 April 2006 and we also operate in several other leading regulated gambling markets including the UK, Germany, Gibraltar and Malta, with a global workforce of over 350 employees serving more than 13 million customers worldwide.

## SUMMARY

9. This submission focuses on our views and analysis of a number of key areas within the proposed draft Gambling Regulation Bill. We also offer additional points or recommendations on other elements, seeking further clarity on areas that could require more detail or consideration as part of connected legislation.
10. Our response to the various Heads are set out in order as found within the draft Bill, with a focus on seven aspects as follows:
  - Part 3 - Licensing
    - Head 37
    - Head 45
  - Part 4 – Compliance and Enforcement
    - Head 78
    - Head 86
    - Head 90
  - Part 5 – Safeguards, Advertising, Sponsorship and Social Impact Fund
    - Head 105
    - Head 109
    - Head 113



## PART 3 – LICENSING

### Chapter 1: Licensing (General)

#### **#Head 37 – The Licence Holder**

11. The Bill proposes the introduction of a requirement that, in order to apply for a licence, licensees' and their operations must be based in either the European Economic Area, the UK, Northern Ireland or "any country or territory specified" by the Gambling Regulatory Authority.
12. This has the potential to bring significant change and may prove to be a cause for some concern among licensed gambling operators. The ability for the Authority to determine and amend this list could in practice present challenges depending on the extent of any list of specified countries or territories as developed by the Authority. We would encourage that active consultation on such a list be undertaken prior to the Authority making its determination and/or changes to same.

#### **#Head 45 - Application for a new licence or to renew a licence**

13. The licence application process as outlined will lead to a significant increase in the level of information that applicants will have to provide in order to obtain a licence in Ireland.
14. This will include, details of the applicant company's beneficial owners, copies of business plans, details on the locations of all servers and provider, and details of all software and systems that they use. Relevant officers may, together with the licence holder, be liable for any consequences from breaches of a licence or of its terms and conditions.
15. Whilst the above requirements are consistent with those in place for the licensing of new operators in most leading regulated gambling territories, we do recommend that for any renewal and/or further license applications (additional to the primary license) that an operator is required to make, that a streamlined process is provided to minimise the operational impact concerned.

## **PART 4 – COMPLIANCE AND ENFORCEMENT**

### **Chapter 2: Compliance (including inspections and investigations)**

#### **#Head 78 - Undisclosed tests or audits**

16. As part of the Authority's monitoring of compliance by providers, undisclosed tests or audits may be utilised for the purpose of ensuring a provider is complying with the provisions of the Act and any standard or requirement set by the Authority.
17. As per paragraph 2, the term "undisclosed" means that no advance notification of such tests or audits is given to the providers concerned. In our experience, while primary legislation allows for such unannounced checks to take place, unless serious and/or criminal breaches of licenses are concerned, the new Authority should provide advanced written notice (varying between 14-90 days, as per other leading regulated gambling territories) of any audits or similar checks to be carried out.

### **Chapter 4: Administrative Financial Sanctions**

#### **#Head 86 - Power of the Authority to decide to impose Administrative Financial Sanctions**

18. The new Authority will be able to effectively enforce the proposed new legislation and regulatory regime. This provision is in line with regulatory authorities in other markets, such as the UK, Gibraltar & Malta.
19. In particular, the Authority will have the power to impose administrative financial sanctions, including fines of up to €20 million on individuals or 10% of the relevant turnover on corporates if that exceeds €20 million (subject to Court confirmation).
20. In our experience, it is important that there is a clear process or framework in place to outline all the factors that are to be considered in the issuing of any penalties and/or license sanctions. It is also very important that a clear and fair process is in place to allow operators to investigate and address any potential breaches of their license as part of any investigation made by the new Authority.

### **Chapter 5: Offences and related penalties**

#### **#Head 90 - Prosecution of summary offences by the Authority**

21. The new Authority will have the power to prosecute summary offences of its own volition or refer indictable matters to the Director of Public Prosecutions. As per paragraph 21 above, it is important that licensees and their company officers have the ability to investigate, defend themselves and appeal any findings made by the new Authority.

22. Notably, the Scheme provides for potential criminal liability on the part of company officers for offences committed with their consent or connivance, or attributable to any neglect or wilful neglect on their part.

## PART 5 – SAFEGUARDS, ADVERTISING, SPONSORSHIP AND SOCIAL IMPACT FUND

### Chapter 1: Safeguards, Advertising, and Sponsorship

#### **#Head 105 – Measures to protect and safeguard players**

23. The proposed legislation outlines that all licence holders shall take steps to increase awareness amongst users of the service of how to gamble responsibly, of the possible risks from the misuse of gambling, and include clear warnings outlining the risks of participating in licensed activities, which must be displayed in a prominent position.
24. In the interest of creating a level playing field across the sector as a whole, we would seek clarity on how these conditions will be enforced with regard to the National Lottery and its operator, particularly in a retail setting. By allowing one gambling licensed entity to continue to operate under a different set of licensing requirements to the rest of the market, this Bill risks creating both a competitive advantage for that operator as well as a continued risk to consumers, especially those at risk of problem gambling.

#### **#Head 109 Advertising**

25. Consumer and player protection is one of the key objectives of the new proposed legislation and regulatory regime, with Part 5 of the Scheme making extensive provision for the safeguarding of players.
26. It is envisaged that the Gambling Regulatory Authority will have significant delegated power to develop codes relating to advertising, sponsorship, and promotions. It is critical that, as happens in other leading regulated markets, that for each such code developed, all stakeholders, including licensed operators, be given a fair and transparent consultation input to agreeing progressive, sustainable and fair requirements in each are covered.
27. In the interest of creating a level playing field across the sector as a whole, we would seek clarity on how the proposed codes outlined in this Head will be enforced in regard to the National Lottery and its operator.

#### **#Head 113 – Establishment of Fund**

28. The Bill also provides the establishment of a Social Impact Fund to treat problems with gambling addiction and to fund research, training, public education, awareness raising programmes and the production of materials. This is a very welcome proposal and we fully agree that there should be a formalised structure around what is currently a voluntary commitment by individual operators and/or through the Gambling Awareness Trust.
29. The Fund will be founded on operator contributions, the amount of which will depend on the operator's size of operations, turnover and will be separate to

licence fees. It will be important that a consultation process is delivered by the new Authority in terms of the setting of the contribution mechanic and the ongoing corporate governance and operational activity of such a fund.

30. It is envisaged that an advisory committee will assist and advise the Gambling Regulatory Authority in managing the Social Impact Fund.
31. Many operators will already be experienced with this approach and be prepared for same through our existing requirements under the UK Gambling Commission Regulatory Returns for example.

**ENDS**



Submission to the Joint Committee on Justice on the

## General Scheme of the Gambling Regulation Bill

January 2022

## EXECUTIVE SUMMARY

The Irish Bookmakers Association (IBA) represents over 750 of the 800 betting shops in Ireland. Our membership is a strong mix of Independent operators and large International companies with substantial online operations.

The IBA and its members have long called for the establishment of a Gambling Regulator and strongly support the efforts of this Government in delivering a new Gambling Regulatory Authority by mid-2023.

We welcome the publication of the Heads in this bill and would like to offer any assistance or support in completing the process and assisting the committee or regulator in any way required.

We would like to stress that we believe it would be very important that the regulator is fully resourced so that supervision and compliance can be consistent, efficient and effective. This will ensure a high level of customer protection and standards across all operators and also provide a level playing field for operators in the sector to operate within.

Resources will also be needed to ensure the new Regulator is armed with the latest research and data from an Irish context, so that any decisions, regulations or guidance's are based upon current research and evidence.

It is also very welcome to see that Social Responsibility measures and protection of vulnerable people are central to the purposes of this bill and will now be put on an official footing so that all operators will have to apply any new measures and contribute to the Levy.

Our members have vast experience of regulation around the world and are very familiar with the Irish gambling landscape. It is very welcome to see reference to 'Consultation with the sector' in many sections of the Scheme and we would encourage use of our association or its members in any other area that the Regulator would deem appropriate.

## INTRODUCTION

The Irish Bookmakers Association ("IBA") is the largest representative body of licensed betting shops in Ireland. IBA members comprise of a mix of independent bookmakers and major operators (including for example, Entain, Boylesports, Flutter, Tracksports and lots more). The IBA currently represents approximately 750 of the estimated 800 licensed betting shops in Ireland.

The retail betting sector is a significant contributor to the Irish economy. It is estimated that on average, each licensed betting office in Ireland employs 5 staff, either on a full-time or part-time basis. Based on this average, approximately 6,500 people are employed in the 800 licensed betting offices and their head offices in Ireland, which in percentage terms translates to approximately 0.3% of total employment or 0.6% total private sector employment. The continued contribution of Ireland's retail betting sector to the Irish economy will be largely dependent on a fair, proportionate and consistent Regulatory regime being introduced.

The IBA would like to express its members' views on the contents of the **General Scheme of the Gambling Regulation Bill**, and to make recommendations in relation to it. Furthermore, the IBA would welcome an opportunity to appear in public session at a meeting of the Justice Committee to discuss these recommendations further, and to answer any questions which may assist the Committee in its consideration of the Scheme. As the largest representative body of bookmakers in Ireland, the IBA is well-placed, experienced and keen to contribute to the development of this new legislation.

The publication of the **General Scheme of the Gambling Regulation Bill** is a positive step towards much needed legislative reform of the gambling sector. We are very supportive of the vast majority of measures recommended in the Heads of this bill. However, we have set out in **Section C** of this Submission a number of recommendations in relation to specific Heads of the Bill. We have also summarised in **Section B** what we believe are important policy considerations, which should be to the forefront of the minds of the Committee and the drafters of the **Gambling Regulation Bill**.

The Irish Bookmakers Association would like the committee and new regulator to know that it is available for consultation, advice or participation at any stage in the drafting of this bill, during the set-up of the regulator or after the regulator commences operations. Our members include some of the largest betting and gaming companies in the world and would be delighted to assist the committee or regulator in any way that we can.



## **B. POLICY CONSIDERATIONS**

### **Need for Clarity**

Crucial to the effectiveness of the Gambling Regulator Act, and the new Regulatory regime which it establishes, will be the extent to which it provides clear and comprehensive definitions of key concepts, including "game of chance", "cheating" and "gaming".

While there is a need for flexibility, in order that the new licensing and Regulatory regime can keep pace with technological developments, without requiring changes to primary legislation, the effect of this flexibility must not be to render the legislation unclear or unworkable.

### **Consultation with the Industry and Key Stakeholders**

The Gambling Regulator Act, when enacted, will regulate, for the first time, the full spectrum of commercial gambling activities in Ireland (subject to certain exceptions), and will be the first piece of legislation to specifically regulate remote forms of gambling in Ireland. While this new legislation will address significant societal and technological changes that have taken place in the last 40 years, the gambling industry is not static, and continues to evolve rapidly.

Consultation with stakeholders, in particular industry members and associations, will be key in developing a workable and effective legislative framework and Regulatory model, both at this stage of the legislative process and when the Regulator is established. It is crucial that the drafters of the Gambling Regulator Act, and the Regulator established by the legislation is attuned to issues affecting the gambling industry and consumers.

As such, we strongly recommend that this Committee and those drafting the Gambling Regulator Act consult with stakeholders, and in particular members of the industry, in drafting this primary legislation. Furthermore, we recommend the Regulator consults with the industry on an on-going basis in developing guidance and Codes of Practice and Codes of Conduct which form the day-to-day point of reference for licence holders. In this regard, we note that several Heads of the bill suggest consultation with the industry, but the IBA recommends that the Gambling Regulator Act provides a statutory basis for structured consultation with industry bodies, operators and other key stakeholders similar to the UK Gambling Act, 2005.

### **3. Fairness / Level Playing Field**

The IBA welcomes and supports the majority of the Heads contained in the Scheme of the Gambling Regulation Bill, and is committed to continue achieving the primary purposes of gambling regulation, as outlined in Head 14 of the Heads of the Bill, namely:-

- a. licensing, supervising and enforcing the provision of gambling services and activities in the State;
- b. protecting and promoting the interests of consumers relating to the provision of gambling services and activities;

- c. addressing money laundering activities in the context of gambling services and activities under any relevant legislation including, but not limited to, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, the Criminal Justice Act 2013 and the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018;
- d. preventing, detecting, investigating or prosecuting offences relating to gambling related match fixing / the manipulation of sporting events;
- e. securing and maintaining consumer choice in the provision and availability of gambling services and activities;
- f. ensuring competition and promoting innovation in the gambling industry, and protecting the State's revenues / financial interests;
- g. ensuring the promotion of innovation and technology through employment and research; and
- h. protecting and promoting the public interest and society, in particular children, from the ill-effects of gambling.

However, it is crucial that the new regulatory regime introduced by the Scheme of the Gambling Regulation Bill, when enacted, is proportionate in terms of achieving these primary purposes, and is consistent in its approach to the regulation of different types of gambling activities.

The Heads of the Bill clearly attempt to level the playing field in this regard by requiring all persons providing betting services, by whatever means, to be licensed and to operate in a regulated environment. However, a number of definitions will require fine tuning in order to ensure that the regulatory requirements imposed on different gambling operators are fair, proportionate and consistent, by reference to the primary purposes of this proposed legislation.

## C. OBSERVATIONS IN RELATION TO PROPOSED HEADS OF THE SCHEME

### Head 2 – Interpretation / Definitions

*“betting” means making or accepting a bet, including when made or accepted through a betting service or a betting exchange, and where the odds on the bet may still fluctuate to the benefit of the person who placed the bet, after the bet has been placed, on –*

- a) *the outcome of a race, competition or other event or process, including virtual events,*
- b) *the likelihood of anything occurring or not occurring, or*
- c) *whether anything is or is not true,*

*and includes pool betting, spot betting and spread betting.*

#### “betting”

The definition of betting now includes “spread betting”. It would be helpful to clarify if this now includes the Spread betting product which is offered by the Financial services sector.

The proposed definition of betting also states “*and where the odds on the bet may still fluctuate to the benefit of the person who placed the bet, after the bet has been placed*”

It is important to note, that many of the betting products offered by bookmakers are at Fixed odds, i.e. they do not fluctuate, so it would be important that this definition reflected that fact.

#### “gaming machine” *pg 10*

In the definition of gaming machine, it references ‘playing a game of chance’, however, Interpretation / Definitions provide no definition for ‘game of chance’. We suggest this would be an important definition to include.

## Head 14 – Functions of the Authority

#### 8 (l) *pg31*

*participating in the revision of the money laundering / terrorist financing risk assessment as it relates to gambling biennially in collaboration with the Anti- Money Laundering Steering Committee, liaising with the An Garda Síochána (Financial Intelligence Unit), the Revenue Commissioners, and other relevant bodies on Suspicious Transaction Reports;*

We would request that our sector should be involved in the collaboration of bodies revising the money laundering and terrorist financing risk assessment biennially. The feedback, experience and outcomes achieved by the gambling sector are very important indicators for reviewing the effectiveness and practicality of any money laundering codes.

Our members have vast experience in applying money laundering and terrorist financing risk assessments that are required in other regulated jurisdictions and would be delighted to share our experience and learnings with such a group.

## Head 28 - Power to charge and recover fees

### 1. *pg 51*

*The Authority shall specify and publish by regulations, the fees to be paid to it and when they fall due in respect of—*

- a. the performance of functions,*
- b. the provision of services, and*
- c. the carrying on of activities,*

*under this Act.*

We strongly suggest that any fees to be considered should be proportionate and should take into consideration the unique betting tax already levied on the sector, plus application fees, renewal fees, irrecoverable VAT being paid by our sector and voluntary social contributions paid towards the Gambling Awareness Trust.

We would also like to suggest that a comprehensive analysis be carried out by the Department of Finance as to the overall total taxation contribution by the sector to the exchequer, the current allocation of those funds and an impact sensitivity analysis carried out to include any proposed changes to the current model via additional fees imposed by the regulator.

This would assist in ensuring that a fair and sustainable fee structure would be introduced, which would not cause a barrier to entry of our sector or force current operators out of business.

It should also be noted that ensuring any fees are fair and reasonable will prevent unnecessary closures, job losses and further migration to illegal operators.

## Head 33 – Definitions for this Part

### *“relevant officer”*

We would like this section to provide more detail, particularly on the ‘manager’ title, as most operators would have managers, shop managers, area managers, regional managers, department managers, etc... For example, shop managers would change frequently and including these in the ‘relevant officer’ category would become very cumbersome for both the regulator and operators.

## Head 37 – The Licence Holder

1. pg 64

*(i) Any person or persons, whether resident in the State or elsewhere, may apply to the Authority for and, subject to this Act, may be granted a licence, and the person to whom a licence is granted shall, subject to subhead (2), be the licence holder*

It would be important that this section outlines the specific categories of person or operator that can apply for a licence and equally, the types of persons or applicants that cannot apply.

This would assist in the constant battle of finding and prosecuting illegal operators providing a bookmaking service in premises other than licensed betting shops or licensed online platforms.

*(ii) Subject to paragraph (i) above, licence holders and their operations must be based within the European Economic Area, the United Kingdom of Great Britain and Northern Ireland, or any country or territory which may be specified.*

We would suggest that the list of countries here should be quite broad, given the international nature of our sector. It should reflect the quality of the operator and regulated or licensed services they provide rather than location in our view.

We would recommend that a whitelist of approved countries should be devised by the regulator, which would include countries with similar markets, regulations and standards. This would provide comfort and assurance to the regulator when operators have already obtained and are compliant with licences or certification issued in these countries.

It would also significantly reduce the cost and workload on the new Irish regulator.

## Head 38 – Relevant officers of the licence holder

*(i) Where the applicant for a licence is a body corporate or partnership, the application shall be made on the applicant's behalf by relevant officers of the body corporate or partnership that are nominated for that purpose.*

It would be important to define relevant officers clearly, as already mentioned in comments relating to Head 33. There are many types of managers across a wide range of positions and departments that could unintentionally be covered by this.

## Head 41 - Business to Consumer (B2C) - Betting Licence (In-Person or Remote)

*2. .... at the licence holder's*

*premises or place [or location] at an event or series of events specified in the licence.*

Clarification is required in relation to what will be permitted under this type of licence – 'Series of events'. We recommend that this type of licence also states what specific bet types can be placed, and on what type of events. Unless this level of detail is provided, then a public house or club could potentially apply for a temporary licence for Cheltenham race week (citing a race night as the basis of the application and being a series of events), and take bets on live racing, thereby acting as a bookmaker for the week

Clarity is required in relation to whether there will be a limit on number of these types of licences issued to one premises per year, or per venue or per organisation/club. Clarity is also required as to whether there be a limit on the number of these types of licences issued to one office holder/company per year. Clarity is also required as to whether there be a limit on the number of nights the event can take place.

## Head 43 – Business to Business (B2B) Licence *pg 70*

*2. For the purpose of this Head, "gambling products or related services" means in relation to any type of betting, lottery or game*

*i. the supply and management of any type of betting, lottery and gaming (including games, components of games or equipment in relation to gaming, and those in relation to bingo) or services,*

*ii. the supply and management of components of a game that are indispensable for the operation of a game,*

*iii. the provision of support and maintenance which is indispensable to the provision of a game,*

*iv. the supply and management of software, whether as a stand-alone or as part of a system, to generate, capture, control or otherwise process any essential regulatory record and, or the supply and management of the control system itself on which such software resides,*

*v. the supply and management of online hosting services to facilitate the provision of gambling services and activities under this Act.*

*vi. the provision of an indispensable component in the process and, management of essential regulatory data that ensures compliance with regulatory obligations and standards as set by the Authority,*

*vii. the manufacturing, assembling, placing on the market, distributing, supplying, selling, leasing or transferring gaming equipment / machines / devices,*

*viii. the provision of risk management services for the operation of a*

*licensable game,*

*ix. the provision of event, content and, or odds,*

*Page 71 of 224*

*x. the provision of fraud management services for the operation of a licensable game,*

*xi. the holding and, or managing of player funds,*

*xii. the provision of services relating to customer due diligence,*

*xiii. the provision of services related to player identity verification,*

*xiv. the provision of co-location services and other managed information technology services, including cloud computing services and, or decentralised hosting protocols where the latter do not amount to a critical gaming supply,*

*xv. the provision of any other product or service that the Authority may specify.*

We welcome the proposal for licencing B2B providers but are concerned the proposed measure are unintentionally excessive and will cause an extreme cost and burden for the regulator. It proposes to include the ancillary services that are not gambling-specific but if serving the gambling industry they will require a B2B gambling license – whether that service is provided in Ireland or out of Ireland. For example Amazon web services /AWS which has data centres in several countries (can be referred to as agents).

Providers such as ISPs or Cloud providers, as well as operators and suppliers, locate hardware in Ireland because it is efficient to do so, currently. Excessive or unnecessary regulation may make many of these move elsewhere to European countries where it would be more efficient, in terms of cost, maintenance, regulatory burden and bandwidth. This could have a direct and indirect exchequer hit, in addition to unnecessary loss of employment in Ireland.

We suggest that this is not the intention of the Head, and unless it is reworded, would be impractical and potentially damaging for the regulator and many operators, with far removed suppliers needing to licence to continue their operations. Our suggestion would be that licencing is limited to operators and other major providers, as with other licence regimes across Europe.

## Head 45 – Application for a new licence or to renew a licence

3 pg 73

*the information a person shall be required to provide when making an application for a licence or a renewal including -*

*i. the type of licence being applied for or, for renewal, and the activities to be authorised by that licence,*

- ii. an address at which a document issued by the Authority may be served on the applicant,*
- iii. details of the beneficial owner of the licence holder, where applicable,*
- iv. information relating to any criminal convictions,*
- v. information relating to any past infringements / convictions under this Act, including where an applicant was previously sanctioned in a prior capacity,*
- vi. copies of the applicant's business plan,*
- vii. any information or documents relating to the financial circumstances / position where an applicant is a body corporate, of that body corporate, or a partner in a partnership, references to the character, competence and financial position of any of the relevant officers of the body corporate or partnership, as the case may be,*
- viii. financial information relating to the ability and capacity of an applicant to provide the kinds of activities / services under the licences being applied for,*
- ix. information relating to the applicant's current and previous holding of other licence types issued by the State and their compliance history with same (i.e. alcohol licensing, planning terms and conditions related to a licence and the application for that licence, licences under existing gambling statutes etc.),*
- x. copies of up-to-date tax-clearance certificates, or where the applicant is established or operating outside the State, equivalent documentation from where they're established, and*
- xi. where the applicant applies for a category of licence to provide gambling products, service or activities by remote means -*
  - (I) details and locations of all servers and providers (contracted third parties, operators, sub-contractors etc.) used to provide the remote gambling,*
  - (II) details of all software and systems, including technical specifications and a full, detailed description of the system and*



*components to be used to provide the remote gambling, and*  
*(III) any other information the Authority may require concerning the*  
*provision of remote games under those categories of licence,*  
*xii. details of the premises that the licensed activities (including activities*  
*provided by remote means) will be provided from including its -*  
*I. location(s),*  
*II. size,*  
*III. layout,*  
*IV. details of all entry and exit points,*  
*V. lighting sources and density of same,*  
*VI. size of the proposed area where gaming devices are to be*  
*allocated,*  
*VII. the position of games, machines, tables within the premises,*  
*VIII. details and positioning of all CCTV systems including for*  
*outdoor surveillance,*  
*IX. details of all security measures on the premises,*  
*X. details of all non-gaming areas and features to separate and*  
*distinguish them from gaming areas,*  
*XI. details of all external spaces and features including any*  
*proposed signs or lighting etc., and*  
*XII. all relevant health and safety, and planning documentation*  
*related to the premises;*

We fully appreciate the need to ascertain and ensure the credentials of every licensed operator, but we feel the above list is very comprehensive and far exceeds that which is required in similar jurisdictions operating a successful regulation regime for some time.

A lot of the information requested in this section will have already been considered and approved by other stages in the licence application process, such as the County Council when considering planning applications, the fire officer, etc.

In addition to being a duplication of work, the suggested list would be hugely cumbersome on the regulator to review and approve independently.

We suggest that the information requirements of other regulated regimes are comprehensive, effective and more suitable. It would be more efficient and prudent to

adopt a similar approach here in Ireland. We would welcome the opportunity to work with the regulator to fine tune this list to make it more relevant and achievable.

It would be helpful if clarification was provided as to the intentions of the bill for the licencing of individual premises, or if it is envisaged that only the operator needs a licence.

## Head 49 - Power of Authority to specify terms and conditions of a licence

Provide that:

### 4. pg 85

*Where a licence is issued, the Authority shall attach terms and conditions, where Appropriate...*

This head gives very wide-ranging options and power to the authority to apply terms and conditions to a licence. We would strongly suggest that this list should be refined in consultation with the industry so that it would be fair, proportionate and effective.

*4 e. the minimum and maximum stakes and prizes applicable to all games and activities authorised by the licence, where applicable*

This could suggest that Minimum stakes and Maximum payouts could be set as terms and conditions on the licence by the Regulator on “activities”. This would have severe consequences on the ability of operators to trade, manage their risk, and meet their contractual obligations to customers.

Operators already define their minimum and maximum stakes and prizes, which is fundamental to their ability to manage their business and would reflect each operators appetite for risk and ability to pay. Any imposed limits could seriously affect how they could meet their obligations, and even become a barrier to entry for some operators.

We recommend that the regulator ensures the operator must have their own limits clearly displayed, but that the regulator does not set the amount.

### 4 (m.) page 86

*an obligation not to advertise, display their name or any promotional signage that is visible to a school, a playground, a sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children,*

Clarity is needed in relation to Displaying their name, as Shop fronts could fall into this category, and currently there would be many shops near training grounds or playing fields etc.. It could render many of the 800 shop licences invalid unintentionally, despite the fact

that they have obtained planning permission and satisfied the criteria demanded by planning requirements.

Currently shop fronts are tastefully branded, with minimum messaging in shops windows – and any posters in windows must dedicate at least 20% of the space to responsible gambling messaging.

It should be noted that there is **no evidence to support** the need for such a condition or the benefit of such a condition either in Ireland or globally that we are aware of. We would suggest that the regulator should be responsible for setting these terms and that they would be decided based upon evidence and international best practice.

## Head 52 – Compliance and Review

### 6. *page 91*

*Where the Authority intends to request information from any party other than the licence holder, where such information is relevant to the Authority's review, it shall not require the licence holder's consent to do so.*

It is not clear if a copy of the information received will be provided to the licence holder. We believe in the interest of fairness and transparency, and to assist the regulator in forming a balanced and accurate view, that the licence holder should have a right to receive a copy and also have the right to reply or defend their position in response, prior to any conclusions being drawn by the regulator.

## Head 55 - Power of Authority to impose penalties where a licence holder fails to report suspected suspicious activities

### 4. *pg 95*

*Where a licence holder refuses to accept a bet or bets as per subhead (4)(a) above, that licence holder shall be obliged to provide the person or persons attempting to place the bet or bets with a "Bet Refused" docket or display a similar message on screen, in the case of a bet placed via remote means, setting out the reasons for the refusal to accept the bet.*

We are very concerned with the current wording of this section. As currently suggested, this requirement will interfere with our ability to 'not tip off' a customer in relation to a suspicious transaction, until a report has been filed to the relevant organisation or regulator and subsequent actions decided upon.

Requiring operators to provide a bet refused docket outlining the reasons for refusal, could also lead to malicious claims such as defamation. If an operator was to refuse a bet because

they believed the customer or event to be suspicious, providing details of same on a bet refused docket could lead to legal action if our suspicions were incorrect.

In addition, the size of the operator will determine their appetite for risk or ability to pay a bet. Operators will have their limits clearly on display and having to provide a customer with a reason for refusing the bet, would provide sensitive information that could put the operator in an unnecessary difficult commercial or financial position in addition to possibly damaging their reputation.

## Head 56 - Power of Approval and Certification

1. pg 97

*The Authority shall be the sole body for the approval and certification of equipment, machines, devices and systems used by a licence holder for the purposes of gambling in the State or directed from the State.*

This head would mean vast amounts of work and cost for the regulator and operators, that has already been done in similar regulated jurisdictions. We suggest that equipment, machines, devices and systems that has already been approved and certified in similar regulated jurisdictions, or those jurisdictions listed in the whitelist devised by the regulator , would cover the licensing objectives here in Ireland.

Operators or service providers could provide a copy of the certification and licence obtained in whitelisted jurisdictions when applying for their Irish licence. This would provide the desired outcome without the unnecessary cost & burden on the regulator. This is also a practice used by established regulators in other similar jurisdictions.

## Head 60 – Display and production of licences

3 pg 101

*The licence holder shall, where it provides gambling activities and services via websites, apps, or by any other remote means, must display a copy of its licence on those platforms.*

In other regulated jurisdictions, it is sufficient to display the licence number and link it to the official register of licensed bookmaking operators which is managed and maintained by the Revenue Commissioners. This would provide a live, official and up-to-date link to the relevant licence. Leaving little room for having outdated documents on site or having ‘forged’ licences in operation.

7. pg 102

*Copies of all licences as they relate to gambling must be displayed on all gaming machines in a premises offering games, activities or services under that licence.*

Similar to the above point, we would recommend that we should display the licence number and link it to the official register of licensed premises/games. This would provide a live and up-to-date link to the relevant licence. Leaving little room for having outdated documents on site or having 'forged' licences in operation.

For retail premises, we recommend displaying the shop licence number, that appears in the official online register, which is readily available, should suffice. This would ensure that the licence is official and up to date.

## Head 72 - Powers reserved to the Authority pg119

*1. (a) A reserved power is one that may be exercised only by the Authority, in accordance with this Head.*

*(b) References to the Authority under this Head are to be understood as meaning the Chairperson of the Authority or, in the unavoidable absence of the Chairperson, by three other members of the Authority.*

Head 72 also sets out in detail the powers reserved to the Authority and under Head 72.1.b it is stated that references to the Authority under this Head are to the Chairperson or in his or her unavoidable absence to three members of the Authority. It appears therefore that the Chairperson is the key player and as regards many powers legally functions like a single person Regulator (e.g. like the Commissioner on Aviation Regulation CAR, or the Data Protection Commissioner).

It is less clear what the role of the other Authority members is (other than in the unavoidable absence of the Chair and calls into question the provisions for decisions of the Authority to be settled by majority vote (Head 15.6).

The legislation provides that the Authority is the decision maker for many important functions (other than the granting of licences and inspections or audits of licensees). This would suggest a substantial time commitment especially by the Chair. More generally it would be helpful to understand the reasoning behind vesting so much power in a Chair over a CEO and further clarity on that point would be welcome.

## Head 75 – Compliance

### 4. pg 127

*The Authority may at any time - but with due notice to be given to providers regarding any changes and following consultation with relevant stakeholders, where appropriate, - review, update, clarify, vary, amend or extend its requirements in relation to its regulations, codes or reference materials.*

We welcome the intention to consult with stakeholders for any changes/updates etc, to regulations, codes or reference materials. We strongly believe this would be an important and necessary feature in implementing efficient and effective changes.

## Head 76 - Reference Materials

### 7. pg130

*The Authority may amend, revise or revoke material issued under this Head at any time and shall make any such changes public.*

We would recommend that similar to Head 75, that we should be consulted before making any changes, to ensure they are practical, effective and efficient.

## Head 91 - Prosecutions and jurisdiction

### 1. pg 153

*The Authority shall regulate any person, acting in the State in the course of business carried on by the person in the State, who or that is engaged in the provision of gambling services that are utilised by persons in the State or are accessible to persons in the State.*

We welcome regulation of the gambling sector. It is very important that the regulator has enough resources to ensure effective monitoring and compliance with any regulations or guidance's, so that compliant operators are not put at a disadvantage to those who are uncompliant or operating illegally.

It would also be important that regulation, supervision and action/enforcement happens swiftly, and that the full force of the regulator is directed towards uncompliant or illegal operations.

The path for reporting illegal or uncompliant operators should be clear and easily accessible.

## Head 92 - Substantive offences

6. pg 154

*A licence holder (or any of their employees or agents) who:*

It would be helpful to have a definition for 'Agent' in the context of this section. There are many ancillary operators that could be classed as an agent, such as legal advisers, advertisers, affiliates, etc. Clarification of same would be welcome.

## Head 96 – Gambling related to manipulation with intent to alter outcome

1. pg160

*A provider who becomes aware of gambling patterns that suggest that an attempt to influence the outcome of a game or event has been committed or attempted—*

*(a) may refuse to accept bets/gambles on that game or event but must, in such instances, issue "bet refused" docket(s),*

*(b) may suspend betting/gambling on the game or event in question but must, in such instances, issue "bet refused" docket(s),*

We welcome the fact that such bets should be refused or withheld, but the issuing of a 'bet refused' docket will only serve to 'tip the person off' and may hamper any further actions or investigation needed by the operator or the authorities.

It could also put the staff member in a difficult and perilous position with the customer if they are particularly difficult or malicious.

Requiring operators to provide a bet refused docket outlining the reasons for refusal, could also lead to malicious claims such as defamation. If an operator was to refuse a bet because they believed the customer or event to be suspicious, providing details of same on a bet refused docket could lead to legal action if our suspicions were incorrect.

We suggest that a 'bet refused' docket is not needed in these cases.

## Head 98 - Obligation to consider mediation or other form of alternative dispute resolution

### 1. pg 164

*Where there is a dispute between a provider and a user, or group of users, however represented, of that service, both parties shall consider mediation or other method of alternative dispute resolution as a method of reaching a mutually acceptable agreement to resolve the dispute.*

### 2.

*Subhead (1) shall not prevent a user of a gambling service bringing relevant matters or a dispute with the provider to the attention of the Authority.*

We suggest that all operators must have in place a specified ADR service, which has been pre-approved by the regulator, to which all disputes should be directed in the first instance. Most licensed betting operators already have this in place, via the Independent Betting Arbitration Service (IBAS).

Only after the complaint has been considered by an approved ADR service should it be escalated or notified to the Regulator. This will prevent a significant cost and burden on the regulator and allow it to focus on those complaints that are actually relevant for the regulator.

This would be similar to how disputes are currently handled in the UK.

## Head 105 – Measures to protect and safeguard players.

### 3. pg 175

*All licence holders must, for both in-person and remote gambling, clearly display the terms and conditions including the applicable odds offered for any sporting or other event and whether there are monetary limits imposed on winning bets.*

We agree with this provision and already have the requirements in place. Monetary limits are clearly outlined in the general terms and conditions of each operator, and online customers agree to them when signing up or which are visible from every page on the site already, by clicking on 'terms and conditions'. In retail, terms, conditions and limits are on display in each shop.

Odds are always on display beside each selection or market that a customer can bet on.

### 4. pg 175

*(i) All licence holders shall –*

*b. include clear warnings outlining the risks of participating in licensed activities, which must be displayed in a prominent position –*



*ii. on all screens in their premises*

We agree that helpful messages in relation to gambling risks should be displayed. In fact, many operators already practice these requirements. However, the reference to ‘warnings’ we suggest is unhelpful and needs further consideration, as Safer gambling messages are used internationally instead, and we are aware of no evidence that proves warnings are more effective than safer gambling messages.

Currently we alternate screens or media communications with Safer gambling messages and helpful information. They provide useful information, tips about safer gambling, and details about gambling addiction services. They also include the fact that gambling is for over 18’s only and direct customers to GamblingCare.ie or similar service.

Point (ii) needs to be reconsidered or rephrased, as betting shops contain a ‘gantry of screens’ that contains up to 24 Tv’s side by side. Space is limited on the screen, and by having a warning message on every screen in the gantry would be excessive and unhelpful to customers due to size constraints on a screen when the betting markets and odds are on display also. We would suggest that the current practice of having dedicated screens, alternating randomly, is far more effective and helpful for customers, than having a small ‘warning’ on every screen

It should also be noted that currently, betting shops have clear messaging and information available throughout the shop, by way of leaflets, posters, audio messaging and screens, which identify the risks with gambling, some of the warning signs and provide extensive information on the help that is available for anyone suffering from problem gambling or gambling addiction.

*6. pg 176*

*(1) The Authority shall, having consulted with licence holders, their representatives and any other persons it considers appropriate, develop codes for the purpose of protecting players from the harmful effects of gambling, including any prohibitions, restrictions or measures, such as...*

We support most of the measures outlined in this section, but there are some measures such as prohibition, that need to be reviewed carefully and based upon evidence and international best practice introduced where practicable in a fair and proportionate manner. We suggest that this section should be left to the discretion of the Regulator and that in addition to basing their codes on evidence, they should refer to established international best practices used by other similar regulated jurisdictions.

We would like to suggest that consultation with our sector in relation to developing these codes could be really helpful in adopting the most effective and protective codes, due to the experience operators have in this area, both locally and across the world.

We would be concerned about the use of Prohibition, as in our experience, prohibition tends to force customers to seek illegal alternatives, which operate without any customer

protections. Any reference to prohibition should be carefully considered and only used where evidence dictates it is required and effective.

7. pg 176/177

*(1) Licence holders shall be prohibited from offering any form of inducement to encourage persons to keep gambling or to dissuade a person to stop playing. ...*

This is a very important section that will unintentionally penalise the vast majority of customers, who should not be penalised. As currently worded we believe it goes beyond the intention of the section. Any such prohibitions should be based upon evidence and international best practice and introduced where practicable in a fair and proportionate manner. They should not affect players who are not affected negatively by gambling addiction, which is in the region of 99% of players, as per Gambling Commission surveys in the UK.

There are also other unintended consequences on introducing prohibitions without any evidence for doing so, such as the serious affect it would have on industries such as Horse Racing in Ireland or the Greyhound industry, who benefit from hospitality or sponsorship by our sector. Or for the vast majority of customers who are not negatively affected by gambling, who appreciate value for their money when betting with an operator, and receiving a free bet is part of their experience and excitement in having a bet. Prohibition should only be considered based upon evidence and international best practice.

We suggest that this section should be left to the discretion of the Regulator, who can develop it further based upon evidence and international best practice.

7.d pg 177

*d. any penalisation of players by refusing bets or limiting stakes or winnings on subsequent bets either in store or via remote means, except where that a person has engaged in cheating*

It is not clear to us if this section is in the correct head or not. This section if applied, would have very serious negative consequences for operators, as it would prevent them from managing their liabilities and force them to trade recklessly. It effectively takes control from the operator to manager their liabilities or business.

It would be critically important that operators are able to choose which bets to take. The ability to accept or reject a bet is necessary to ensure the operator can manage their own risk and liabilities within their own financial constraints and allow them to meet their contractual obligations to their customers.

As customers place bets on events, the operators liabilities will increase, and it is imperative that they are able to reflect the weight of money on a particular selection by managing the

liability on each selection. Not being able to do this would be absolutely reckless and put both operators and customers in a precarious and unviable position.

We suggest that the regulator engages with the industry on this section and any other proposed limit on stakes, bets or winnings, so that operators can trade responsibly and that effective and practical requirements are set, which are evidence based and will benefit from international best practice.

## Head 106 – Protection of Children

### 3. pg 178

*(i) A licence holder who believes that*

*a. a person is a child and that they have partaken in a licensed activity under this Act, or*

*b. there are reasonable grounds to doubt the age and identity of a person engaging remotely with a gambling service licensed under this Act shall take such steps as are reasonable, up to and including preventing the person in question from gambling, either for a set period or for a renewable period, in any form of gambling that is the subject of the licence holder's licence, and the licence holder **shall not be liable to that person for any loss or inconvenience arising.***

We strongly support this head and have many of the measures already in place for some time. Currently our recommended process when identifying someone as being underage, is to refund net deposits of the identified underage person. We also recommend keeping a log of attempted underage transactions and related actions.

## Head 108 - Exclusionary Measures

### 1. pg 181

*The Authority shall establish and maintain a register to be known as the "Exclusionary Register" for the purposes of this Act.*

We fully support the introduction of an Exclusionary register. We strongly recommend that this is introduced with the benefit of consultation with our sector. We have vast experience in using the successful UK Exclusion service – GAMSTOP and can provide useful information in relation to how and why it works – and where it does not work.

We would be anxious to introduce a register that is effective and practical and would apply across the gambling sector. We believe it would be very important that the regulator has the freedom to choose whether they want to build and operate such a database, or whether they should outsource to a suitable alternative and manage accordingly.

## Head 109 - Advertising

### 1. pg 183

*The Authority shall, in co-operation with relevant statutory bodies concerning broadcasting and advertising, and following consultation with licence holders or their representatives and any person(s) it considers appropriate, make codes concerning the advertisement of gambling (as understood in this Act) generally, and in relation to any games, services, products and activities that are authorised by the Authority which may be provided by licence holders.*

We support the fact that Head 109 states that Advertising codes will be required to be created in consultation with the industry. We believe our experience in this area will assist the regulator in introducing effective, relevant and practical codes that operators can comply with.

We welcome many of the measures suggested in Head 109, but it would be important to ensure that the measures suggested are practically possible and it would be helpful to ensure that the regulator consults with the industry before introducing or amending advertising codes. It would also be important that any such codes do not put compliant licensed operators at a disadvantage.

The Irish Bookmakers Association had developed and launched a Safer Gambling Code, which came into full effect from January 1<sup>st</sup>, 2022. It has very specific requirements in relation to advertising and we would welcome the opportunity to share our experience with the regulator in relation to this code and it's operation.

## Head 110 – Promotions and Gambling

### 3. pg 187

*Codes made under subhead (1) may prohibit or restrict the provision of any licensed game, product, service or activity on more beneficial terms to a person during a specified period of time at a price less than that being charged on the day before the commencement of the specified period.*

We would be concerned that the wording in section 3. would unintentionally produce negative consequences for both customers and operators.

As it is currently worded, it appears that it could prevent a bookmaker from changing the odds on a selection. Markets or odds fluctuate on a second-by-second basis, depending upon risk, stakes or any number of variables. This section would appear to mean that a product could not be offered "at a price less than that being charged" on the day before. This would cause the operator to trade recklessly and prevent them from being able to manage their risk or liabilities correctly.

Factors outside of bookmakers control, such as the number of runners in a race, or players in a game, could affect the odds offered on the remainder of selections in the event for example, so the operator must be allowed to modify the odds to reflect the circumstances or liabilities for an event.

5. pg 187

*Any promotion or information concerning promotions offered by a licence holder must include messages (the manner and form to be specified by the Authority) outlining the risks of participating in licensed activities including –*

*a. warnings that players may **lose more than they deposit**,*

We support that fact that offers should display important messaging, but we believe the wording of this section needs to be reviewed and clarified. It is not possible for a player to lose more than they deposit, for betting or gaming purposes. Perhaps it is meant for spread betting or investments, but other than an operating credit, which will be prohibited, it will not be possible for this to happen in our sector.

## Head 111 – Sponsorship by Licence Holders

2. pg 189

*The Authority may make codes concerning the provision of sponsorship by licence holders following consultation with any person(s) it considers appropriate.*

We welcome the fact that the regulator will make codes relating to sponsorship by licence holders. However, the current wording could have unintended consequences such as a blanket ban on sponsorship at stadiums, racetracks, etc. This would affect many sectors such as Horse racing or Greyhound racing and could result in a flow of Sponsorship revenue to other jurisdictions.

We suggest that consultation with the industry should be included here, similar to how it is included for Head 109. Expertise and experience of members in our sector would assist the regulator in introducing effective, relevant and practical codes that operators can comply with. We also strongly suggest that any prohibitions should be considered carefully and only introduced based upon evidence and international best practice, which proves prohibition is effective in achieving policy aims.

## Head 113 – Establishment of Fund

### 3. pg 192

*The contributions to the Social Impact Fund shall be calculated by the Authority having regard to -*

- a. the size of licence holders' operations,*
- b. the gambling services and activities being offered by licence holders,*
- c. licence holders' turnover, and*
- d. any other matter that the Authority may specify.*

We fully support the establishment of a fund, as our members and some international operators have been contributing to one for several years via the Independent charity, The Gambling Awareness Trust. We would like to suggest that the model used by the Gambling Awareness Trust is efficient, effective and provides the highest standard of care for vulnerable people, due to their selection and supervision process. It may be helpful for the regulator to consult with the Gambling Awareness Trust in advance of considering aspects of establishing the fund.

We agree with the points made above in relation to calculating the fund but would also like to suggest that the regulator considers the cost of the betting tax already levied on our sector uniquely, and on the cost of the work and services that are currently funded by The Gambling Awareness Trust. Any levy for a fund, should not prove to be so costly as to provide a barrier to entry for the sector,

In addition, we would suggest that any changes to regulations or guidelines in this area, are made based upon evidence and international best practice, and fully support the Regulator in creating an Irish Gambling prevalence report, or updating the latest report as published by the Department of Health and the National Drugs and Alcohol task force. We suggest that we should be consulted in this area, as our members have vast international experience in this area and may be of assistance.

### Additional points;

Credit Card usage;

Members of the Irish Bookmakers Association (IBA) and other international operators have adopted the voluntary IBA safer gambling code since January 1<sup>st</sup>, 2022. The code includes a ban on the use of Credit cards for gambling or gaming purposes. We have experienced three issues with the implementation of this code, which we are asking the regulator to consider and include in their regulations or guidance's;

- Not all operators would adopt it voluntarily, so we request that a credit card ban should be a licencing condition

- As the code is voluntary, not all payment providers have adopted the credit card ban, so it is possible for digital payment providers to accept deposits from Credit cards, but operators have no way of knowing if the source of the deposit was from a credit card. So we request that payment providers should be included in any new regulations to ensure that all credit card transactions are covered.
- Some sources are claiming that Credit Card transactions are legal tender, and as such, should not be banned for use in gambling transactions. We request that the regulations clarify whether a ban is possible or not.

## Conclusion;

We fully support the introduction of a regulator and regulation for our sector and welcome the publication of the General Scheme of the Gambling Regulation bill.

We would like to commend the Minister and his department officials for the work they have done over the last 18 months on this scheme and look forward to participating in this process going forward.

We believe it is crucial to the success of an effective and efficient regulator to consult with the industry on an ongoing basis. We hope the points we have made in our submission are helpful and can be incorporated into the proposed legislation.

We would be delighted to attend any public or private hearing regarding its content at any time and can be available to provide site visits to one of our member International Head office locations should it be of any benefit.

Please let me know if you require anything further.

Kind Regards,

**Sharon Byrne**

Chairperson

[www.IrishBookmakersAssociation.com](http://www.IrishBookmakersAssociation.com)

## Flutter Entertainment plc submission to the Joint Committee on Justice

### Executive Summary

- Flutter is fully supportive of the introduction of legislation to regulate gambling and the establishment of a gambling regulatory authority.
- Flutter is an Irish company and a global leader in licensed online gambling with extensive experience in regulated markets.
- A stable, evidence based, regulatory environment is key for Government, the sector and, most importantly, consumers.
- Effective regulation must protect those for whom gambling is harmful, while accommodating people who gamble safely.

### **Flutter is fully supportive of the introduction of legislation to regulate gambling and the establishment of a gambling regulatory authority**

Flutter Entertainment plc (“Flutter”) welcomes the opportunity to make a submission to the Joint Committee on Justice (the “Committee”) on the General Scheme of the Gambling Regulation Bill (“the Scheme”).

Flutter is fully supportive of the introduction of the legislation and of the establishment of the Gambling Regulatory Authority (“the Authority”). Betting and gaming are an integral part of our society and we need to ensure that all gambling operators are licensed and operate consistently in a manner that minimises harm to customers.

Flutter is also fully supportive of Minister Browne’s articulated objectives for the Authority:

1. Ensuring that gambling is conducted in a fair and open way, allowing companies to make decisions with certainty.
2. Requiring safeguards to address problem gambling including regarding gambling advertising.
3. Preventing gambling from being a source of or support to crime.

A fit for purpose, properly enforced, regulated market both accommodates those individuals who enjoy a bet or wager safely, the vast majority of customers, while protecting those for whom gambling is potentially or becomes a harmful activity. Good regulation also reduces the threat of unlicensed or illegal market activity, which continues to make inroads in other regulated jurisdictions (e.g. Sweden, France, Portugal).

The Government’s proposals would also contribute to the long-term sustainability of the gambling industry in Ireland, creating a common standard for social responsibility while giving clarity to enterprise, thus protecting jobs across the country and underpinning the sector’s contribution to the Exchequer.

In order to consistently achieve these outcomes, the legislation and regulatory environment have to achieve a challenging balance: to ensure that customers gamble safely with compliant licensed operators in this market while vulnerable customers are identified and protected from harm. It is in every stakeholder’s interest that the legislation and resultant regulation is evidence based and achieves this balance. A stable regulatory environment for the sector is in the interests of Government, industry participants and, most importantly, consumers.

### **Flutter: An Irish company and global operator**



Flutter is Ireland's second largest listed company and the world's largest online betting and gaming business. Flutter holds gambling licences in more than 20 countries and 12 US States and has c. 15,000 employees with more than 14 million active customers across the globe. We have extensive experience of operating in regulated markets including the UK, US and Australia.

Where we can be of constructive assistance to the Justice Committee and to the legislative process, Flutter is ready to share its experience and insights into existing regulatory regimes and environments, to illustrate how evidence based regulatory structures and approaches have worked and what has proven most effective in addressing societal concerns.

Headquartered in Clonskeagh, Flutter employs c.1,600 people in its Dublin head office, and a further c.1,400 retail staff in 265 shops, in every county in the State. We have recently underpinned our commitment to Ireland through a €15.5m million investment expanding and upgrading our Global Headquarters in Clonskeagh. Our ambition is to continue to grow employment in Ireland across a wide range of high value disciplines. In 2020, Flutter contributed over €100 million to the Irish Exchequer in betting duty, VAT, employment taxes<sup>1</sup> and corporation tax.

### **Safer Gambling measures are core to our business**

Flutter fully recognises and accepts that we have not always got it right as a company or as an industry, and that there is genuine public concern in respect of the industry. However, the sector has made significant strides in recent years in its approach to protecting customers.

In this regard, Flutter has ramped up considerably the necessary commitment of expertise, resources, and technology. Safer gambling and compliance are now very much at the core of our business, with more than 180 full-time employees dedicated exclusively to safer gambling across our UK&I operations.

Our commitment has included voluntarily introducing a range of important initiatives over the past year including:

- A commitment to introducing a €500 per month net deposit limit for all customers under the age of 25 years
- A ban on direct credit card use by customers across online and retail
- A pre-watershed whistle to-whistle advertising ban that restricts advertising during live sport

In addition, Flutter has committed to gradually increasing our contribution to support the research, education, and treatment of problem gambling to 1% of Net Gaming Revenue (NGR) by 2023, which will see Flutter increase its donations to approximately €3m by next year. However, in the absence of a regulatory regime in Ireland, these are not measures adopted by all operators.

This approach supplements our data-led interaction strategy, powered by our Customer Activity and Awareness Programme ("CAAP"), a proprietary machine learning model which uses an algorithm to identify customers who may need intervention, based on their behaviour. The account-based nature of online gambling enables us to monitor customer activity and interact or intervene quickly when we identify customers who may be at risk of developing problems with their gambling. Central to this strategy is our ability to monitor accounts on an on-going basis and take a risk-based approach to interacting with customers.

### **Regulating a dynamic and evolving industry**

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<sup>1</sup> Figure includes employment taxes – including income tax paid by employees in Ireland

It is important to recognise that most people who gamble with Flutter and other gambling operators via retail or online do so for entertainment and enjoyment. It is important that we keep all customers in mind when introducing new controls to ensure that we make effective changes which improve safety, while not interfering disproportionately with their enjoyment.

We operate in a dynamic industry, which has been revolutionised by the rapid progress of technology and data. The sector is constantly evolving. It is therefore of critical importance that measures to regulate the industry are also dynamic and adaptable. It is important that they are not static as their effectiveness could date quite quickly, mitigating their original purpose.

In this regard, the mandate and scope of the responsibility of the Authority, as envisaged by the Scheme, will largely meet this important need. The alternative of cementing specific regulatory measures into the primary legislation runs the risk of becoming outdated.

The adequate resourcing of the Authority is also of critical importance. By its nature, effective regulation, irrespective of the sector, is expensive and requires a sophisticated, thoughtful approach. The ability of the Authority to regulate effectively is of crucial importance and will require a significant commitment of resources and expertise.

Flutter has long been a vocal advocate of the imperative for a well-regulated market in Ireland. We are keen to share our extensive insights, views and experience with the Committee, to assist members in their consideration of and ultimate report on the Scheme.

## Overview

Flutter welcomes the opportunity to make a submission to the Committee. For many years, we have consistently called for the establishment of a regulatory authority in Ireland. Ireland has an important opportunity to develop a modern, effective licensing system that places the public interest at the root of its operations.

We are firmly committed to providing any assistance we can to the Committee. We have set out our observations below on a Head by Head basis, as requested, but would welcome the opportunity to discuss any of those observations in more detail.

## Part 1 – Preliminary and General

Flutter believes that the interpretation of the Scheme is generally clear. We believe that further work may be needed on some of the definitions outlined to ensure greater clarity. We support the approach proposed to transitional arrangements.

## Part 2 – Gambling Regulatory Authority of Ireland

Flutter has consistently supported the establishment of the Authority and in particular the decision to establish it as an independent body. In our experience this is in line with best practice internationally and offers Ireland the best opportunity to put in place a regulatory environment for the sector which is in the interests of government, industry participants and, most importantly, consumers.

**Functions and objectives:** Flutter endorses the functions and objectives of the Authority as set out in the Scheme. In particular, we believe that the emphasis on both protecting consumers and ensuring compliance by licensees is wholly appropriate.

**AML and CTF:** Flutter fully supports the designation of the proposed Authority as the competent authority for the purposes of Anti-Money Laundering and Counter-Terrorism Financing supervision as enforcement will be greatly assisted by ensuring dedicated sectoral expertise in gambling.

**Dynamic and flexible regulation:** We operate in a dynamic industry, which has been revolutionised by the rapid progress of technology and data. The sector is constantly evolving. It is therefore of critical importance that measures to regulate the industry are also dynamic and adaptable. Affording the Authority broad powers creates a modern, flexible regulator that can adapt swiftly to developments in a fast-changing sector.

While there may be a temptation to include specific licensing requirements in primary legislation, experience elsewhere suggests these ostensibly strong protections can instead tie the hands of the Authority and render the licensing regime cumbersome and open to exploitation.

We welcome the requirement to undertake a consultation period with relevant stakeholders when codes are issued and when amended as this will contribute to ensuring evidence-based measures are adopted.

## Part 3 - Licensing

**Resources:** While it is not the function of the Scheme to address the issue in detail, the adequate resourcing of the Authority is a critical consideration. By its nature, effective regulation, irrespective of the sector, is expensive. The provision of adequate resources to investigate potential licensing breaches by operators and ensure compliance will be the single biggest determining factor in whether a regulatory regime is effective. This will require a significant commitment of resources and expertise.

As noted earlier there are some definitions which we believe would benefit from further scrutiny and discussion and which would align Ireland with best practice in other jurisdictions.

**Stakes and pay-outs:** The Scheme proposes to allow the Authority to decide minimum and maximum stakes and pay-outs on all games and activities. All online gambling companies require a customer to create and bet on an individual account that logs their activity. This is for a variety of reasons including safer gambling, age-verification, and risk-management. Flutter believes that the nature of account-based play means operators are best-placed to monitor and understand customer behaviour in order to intervene where necessary. Flutter believes there may be a role for product specific measures if they are shown to enhance the effectiveness of account-based controls, which is why we are trialling a maximum stake of €10 on our online slots across Paddy Power, Betfair, and Sky Betting and Gaming brands in Ireland. Our data suggested that customer risk increased at stakes above this amount, so we wanted to test the impact of limits at that level. Initial findings suggest that account-based controls provide greater protection than specific product limits, and this is something we are assessing further. This is an area where the Authority can avail itself of the work of operators when determining what would be an effective code.

**Advertising:** The Scheme notes that the Authority will implement restrictions around outdoor advertising. The Advertising Standards Authority of Ireland (ASAI) Code already stipulates that marketing communications featuring gambling should not appear within 100m of a school entrance. The Scheme describes a wide variety of other relevant locations where restricting advertising will be less easily accommodated for providers. Flutter would caution against such a broad list as it may have the effect of a de facto ban on outdoor advertising. It has even been suggested that retail betting shops would have to remove any branding from their shop fronts, which causes obvious challenges for the 800 betting shops that serve their communities across Ireland. There is no evidence that this would improve safer gambling measures. Flutter has similar concerns around how the Scheme may impact providers ability to advertise online. One of the key benefits of being a licensed operator in a regulated industry vis-à-vis those who are not licensed is having the right to advertise. This licensed right acts as a disincentive for consumers to bet with unlicensed businesses outside the jurisdiction, who have the facility to advertise on media consumed in Ireland or on digital channels, and also allows licensed operators to communicate consumer protection messages (e.g. around safer gambling).

**Interventions:** Flutter welcomes the reference to the Authority having the power to attach an obligation to intervene where a customer is showing signs of problematic gambling. Flutter fully supports this requirement and has developed a data-led interaction strategy, powered by predictive data models, which enables real time monitoring of various aspects of a customer's activity to intervene quickly when we identify customers that may be at risk of developing problems with their gambling. In our Paddy Power shops, we have invested significantly in training staff to conduct safer gambling interventions with year on year progress as a result.

## **Part 4 – Compliance and Enforcement**

Flutter is supportive of the extensive compliance and enforcement powers proposed for the Authority. We welcome the proposed approach for the adoption and enforcement of flexible codes of conduct that are mandatory for all and the requirement to consult with the industry in developing such codes.

**Individual complaints:** The Scheme proposes that a private individual can complain directly to the Authority in relation to a licence holder. Flutter believes that the Authority may in time wish to establish a separate mechanism/ organisation such as the Independent Betting Adjudication Service (IBAS) model currently used in the UK and Ireland. Handling complaints places a large administrative burden on an Authority whose scope is correctly envisioned as being extensive and would require the hiring of potentially large numbers of specialist staff. Another alternative is the introduction of a separate voluntary Ombudsman an option that is currently being considered as part of the Gambling Act Review in the UK and which Flutter supports.

## **Part 5 – Safeguards, Advertising, Sponsorship, and Social Impact Fund**

Flutter is supportive of the areas identified in this Part to safeguard consumers and submits some specific observations.

**Credit cards:** Flutter introduced a voluntary ban on credit cards being used by Irish customers directly with us in March of 2021 and much of the industry has since followed suit. Recent findings by the British Gambling Commission suggest the ban on credit cards introduced there can be considered a success because, amongst other learnings, while some customers were aware of workarounds and utilised them, far more who had been using credit cards switched to non-loan based payment methods<sup>2</sup>. We have no reason to believe that Ireland would be any different. We are supportive of that ban being formalised by the Authority since there are still some licensed operators who have not voluntarily introduced the restriction. However, we think there is value in affording the Authority the power to restrict payment methods, including credit cards, rather than including the specific details in primary legislation. We believe this would achieve the same effect while allowing the Authority the flexibility to respond to a changing payment method landscape where there is evidence to suggest harm is occurring.

**Warnings on promotions:** While it is important to have appropriate warnings displayed on relevant promotional materials Flutter's view is that in a dynamic and evolving industry, the level of detail as to what warnings should apply and to what materials would be best dealt with via the Authority itself (as in other regulated jurisdictions) rather than through primary legislation.

**Underage gambling:** Flutter fully supports the aim of prohibiting children from participating in gambling. There are, however, challenges in Ireland around this issue for online customers. In some jurisdictions, the availability of third-party verification services is more widespread so verifying a new customer's age is more efficient for operators and less invasive for customers, as electronic checks have a high success rate. In Ireland, those same checks are not as reliable, so operators are often forced to request supporting documentation from customers. This creates a poor customer journey and encourages them to look elsewhere, potentially to unlicensed operators. However, Flutter has brought in mandatory verification prior to first deposit and while we think the above limitations should be looked at by the Authority, we would support the Authority compelling all operators to verify a customer's age prior to first deposit.

**Social fund:** Flutter supports the creation of a social fund to support the research, education, and treatment of problem gambling. We are proud to have been leading advocates for the establishment of the Gambling Awareness Trust, an independent, dedicated body committed to disbursing RET contributions. We have already committed to contributing 1% of NGR in RET contributions by 2023, amounting to approximately €3m. The Authority will have an important role to play in ensuring all operators contribute fairly. We believe that rather than setting the rate and method of calculating the levy in primary legislation, the Scheme adopts the correct approach of allowing the Authority to set the rate after consulting with the relevant stakeholders. This allows the Authority the flexibility to adjust to changing funding requirements.

**Self-Exclusion Register:** Flutter welcomes the creation of a self-exclusion register. We would be happy to work with the Department on tailoring this to the specifics of the Irish market given our experience in other countries which have national ID systems (e.g. Spain or Denmark) or with alternative approaches such as GAMSTOP in Britain. Flutter notes that such a register being administered by the Authority places a large administrative burden from the outset, there may be other methods of achieving the same aim and therefore being prescriptive in the Scheme may impose operational challenges on the Authority from the first moment. Likewise, a system of multi-operator self-exclusion

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<sup>2</sup> <https://www.gamblingcommission.gov.uk/report/prohibition-of-gambling-on-credit-cards/prohibition-of-gambling-on-credit-cards-executive-summary>



in retail environments is required but poses practical difficulties in terms of efficacy. Flutter has looked to innovate in this area and Paddy Power was the first operator in Ireland to introduce self-exclusion via tablet in our shops. We look forward to working with the Authority on solutions to all of this as both are important consumer protection measures that we are fully supportive of.

#### **Part 6 – Appeals Against Certain Decisions of the Authority**

We have no substantive observations on this Part.

#### **Conclusion**

The General Scheme of the Gambling Regulation Bill is an important milestone along the road towards Ireland creating an international class regulatory system. Flutter warmly welcomes the latest progress on the bill and we reiterate our commitment to assisting the Committee where possible.

## Head by Head analysis:

### Part 1 – Preliminary and General

#### Head by Head analysis:

- **Head 1** – Flutter has no submission to make.
- **Head 2** – Flutter believes that the interpretation of the Scheme is generally clear. However, we would suggest that some of the definitions outlined might benefit from further clarity so that there is no opportunity for exploitation of any uncertainty:  
The definition of betting includes the phrase *“and where the odds of the bet may still fluctuate to the benefit of the person who placed the bet, after the bet has been placed...”* Flutter understands that this phrase is intended as inclusive of the above situation rather than mandating a necessary element in betting, but we suggest that removing it aids clarity without any obvious loophole being created. Lottery is defined as *“...means all competitions and games for money or money's worth involving guesses or estimates of future events or of past events the results of which are not yet ascertained or not yet generally known...”* We would suggest that this language is overly broad and could encompass other forms of gambling. In circumstances where this could impact on licensing, perhaps a narrower definition of lotteries would be preferable. The key components of a lottery could be distilled down to a game that players pay to enter, where prizes are distributed to one or more who have paid the entry fee, and who receives a prize is governed entirely by chance
- **Heads 3-5** - Flutter has no submission to make under these headings, which are largely procedural.
- **Head 6**- Flutter understands that current licences will remain valid after commencement of Act, until their expiry date. Flutter suggests that the transitional arrangements ensure that any existing product offered under such licences be permitted until such time as the Authority suggests otherwise.

### Part 2 – Gambling Regulatory Authority of Ireland

#### Head by Head analysis:

- **Heads 7-13** – Flutter welcomes the establishment of the Authority and in particular the decision to establish it as an independent body, which in our experience is in line with best practice internationally.
- **Head 14** outlines the functions and objectives of the Authority and Flutter firmly supports the provisions therein. In particular we believe that the emphasis on both protecting consumers and ensuring compliance by licensees is wholly appropriate.
- **Head 14.6** designates the proposed Authority as the competent authority for the purposes of Anti-Money Laundering and Counter-Terrorism Financing supervision. Flutter fully supports this as enforcement will be greatly assisted by ensuring dedicated sectoral expertise in gambling.
- **Head 14.8** outlines ways in which the Authority can discharge its functions. While each aspect is dealt with throughout this submission, Flutter would observe that affording the Authority broad powers creates a modern, flexible regulator that can adapt swiftly to developments in a fast-changing sector.
- While there may be a temptation to include specific licensing requirements in primary legislation, experience elsewhere suggests these ostensibly strong protections can instead tie the hands of the Authority and render the licensing regime cumbersome and open to exploitation.
- While dealt with in more detail below, Flutter is also supportive of the creation of a Social Impact Fund at **14.10**. We believe that it is vital that all operators contribute to the research, education, and treatment of problem gambling.



- **Heads 15-20** – Flutter has no specific submission in relation to these provisions save to observe that they appropriately ensure there is a degree of ministerial oversight of the Authority. Flutter notes that the Authority will need to have specific regard to the Freedom of Information Act 2014 in how it treats provider’s confidential information.
- **Head 21** – The Authority’s power to adopt codes is important in ensuring adaptability and Flutter welcomes this power within the Scheme. The requirement to undertake a consultation period with relevant stakeholders is appropriate and important in ensuring evidence-based measures are adopted.
- **Heads 22-32** – Flutter supports these Heads and in particular, again, those providing for reports to the Minister and the accountability of the Chief Executive to Oireachtas Committees. It is important there be a clear delineation of duties and powers between the CEO of the Authority and the other members.

## Part 3 - Licensing

### Head by Head analysis:

- **Head 33** outlines the definitions pertaining to the licensing section of the Scheme. Flutter suggests the definition of a “relevant officer” could be read as excessively broad, and perhaps the insertion of “can include” in place of “means” in the definition might prevent administrative confusion.
- **Head 34** – Flutter has no comment to make.
- **Head 35** – Flutter believes that ensuring the Authority is adequately resourced to investigate licensees and ensure compliance is the single biggest determining factor in whether a regulatory regime is effective. Therefore, the Authority being empowered to set, and charge licence fees is justifiable, and the requirement to consider the forms of gambling offered by the licensee, along with the size of its operations and turnover, is reasonable. However, Flutter would suggest that any fees be based on a strict percentage basis rather than incentivising a larger number of small operators by increasing the percentage amount as operators grow in size. The administrative burden required of the Authority does not directly correspond to the size of the company. In Spain, for instance, there are flat fees for each licence and as an administrative fee with an additional charge for certain activities such as safer gambling, which is calculated as a percentage of the operator’s Gross Gaming Revenue (GGR)
- **Heads 36-38** – Flutter restates the definitional query at Head 33 but otherwise supports these sections.
- **Heads 39-43** – Flutter is supportive of the three primary licence categories as well as the three sub-categories of B2C licence.
- The definitions of gambling and betting licences might benefit from additional clarity
- Gambling licence is defined as follows: *This type of licence shall permit / authorise a licence holder to provide games which – a. are played against the licence holder, the outcome of which is determined by a random factor such as a random number generator (e.g. online non peer-to-peer games); or b. are not played against the licence holder where the operator is not exposed to gaming risk but generates revenue by taking a commission.*
- Betting licence, in turn, is outlined as follows: *This type of licence shall authorise betting [wagering] involving played against a licence holder, the outcome of which is not generated randomly but is determined by the result of an event or competition and where the operator manages his or her own risk by managing the odds offered to the player.*
- Flutter submits that this approach is overly prescriptive. Bookmakers might often offer bets where the odds aren’t managed by them, such as SP betting and certain products provided to all shops by third parties – for instance the twice daily “49s” numbers draw which runs across most shops in Ireland and is provided by SIS. The above language might suggest this betting was to be outside the terms of a licence.



- Instead, alternative language would allow for a more holistic approach by the Authority. Gambling being defined as a wager where the player is an active participant in the game, as opposed to a definition of betting as one where the bettor is merely an observer might more accurately capture what most people understand to be the distinction between the two.
- **Head 43** deals with B2B licences and Flutter approves of the principle of B2B providers being licensed by the Authority. We would observe that the definition of “gambling products or related services” which governs who requires a licence is extremely broad, far more so than in other international jurisdictions. This may pose an enormous administrative burden on the Authority and perhaps the list of services could be phrased indicatively to ensure the Authority can manage its own administrative burden in that regard.
- **Heads 44-48** deal with the licencing process and Flutter is supportive of the provisions therein.
- **Head 49** outlines various powers afforded to the Authority in terms of specifying terms of the licence. In particular, **Head 49.4** states “*Where a licence is issued, the Authority shall attach terms and conditions, where appropriate, relating to*”. Flutter believes this provision is hugely important and correctly framed insofar as it affords the Authority broad and flexible powers to regulate the sector, with some notable provisions.
- **Head 49.4(e)** allows the Authority to decide minimum and maximum stakes and pay-outs on all games and activities. Flutter believes that the nature of account-based play means operators are best-placed to monitor and understand customer behaviour in order to intervene where necessary. Flutter believes there may be a role for product specific measures if they are shown to enhance the effectiveness of account-based controls, which is why we are trialling a maximum stake of €10 on our online slots across Paddy Power, Betfair, and Sky Betting and Gaming brands in Ireland. Our data suggested that customer risk increased at stakes above this amount, so we wanted to test the impact of limits at that level. Initial findings suggest that account-based controls provide greater protection than specific product limits, and this is something we are assessing further. This is an area where the Authority can avail itself of the work of operators when determining what would be an effective code.
- **Head 49.4(m)** notes that the Authority will implement restrictions around outdoor advertising. On schools, Flutter notes that Section 10.17(h) of the [Advertising Standards Authority of Ireland \(ASAI\) Code](#) already stipulates that marketing communications featuring gambling should not appear within 100m of a school entrance. The advertising agencies that Flutter use in Ireland are required to ensure adverts meet this standard. This Head broadly describes a wide variety of other relevant locations (e.g. a ‘playing field’ or ‘sports venue’ that may be accessible to children) where restricting advertising will be less easily accommodated for providers. Flutter would caution such a broad list as it may have the effect of a de facto ban on outdoor advertising which forms an important part of a regulated gambling market. It has even been suggested that retail betting shops would have to remove any branding from their shop fronts, which causes obvious challenges for the 800 betting shops that serve their communities across Ireland
- **Head 49.4(n)** refers to an obligation to intervene where a customer is showing signs of problematic gambling. Flutter fully supports this requirement and has developed a data-led interaction strategy, powered by predictive data models, which enables real time monitoring of various aspects of a customer’s activity to intervene quickly when we identify customers that may be at risk of developing problems with their gambling. We are also able to identify changes in behaviour in our shops and have made significant progress in conducting safer gambling interventions in our Retail estate. Again, we would be happy to discuss in more detail should the Committee wish.
- **Head 49.4** outlines the obligation to contribute to the Social Impact Fund. While dealt with elsewhere in this submission, Flutter once again reiterates its support for the fund.
- Flutter has little comment to make on **Heads 50-61** save to note that **Head 52** outlines broad investigative powers for the Authority where it has reason to believe there has been a breach or in a random check. Flutter welcomes the emphasis on enforcement but suggests it is essential

that the Authority be sufficiently resourced to be able to utilise that power to ensure all licensees are compliant.

- By way of example, the British Gambling Commission has over 250 staff in total. While Ireland is a smaller market and may require fewer staff, the size of the market is only one consideration in ensuring the Authority is adequately resourced. In order to effectively achieve its aims, the Authority will need to be resourced in a suitable fashion
- Additionally, Flutter supports the emphasis on ensuring the integrity of sporting events within the Scheme. We note that **Head 55** requires an operator to issue a “bet refused” docket in circumstances where they have refused a bet on the basis that it represents suspicious activity. While well-intentioned, we believe this provision would amount to tipping-off someone that there is an investigation pending or underway. Flutter recommends that best practice is not to reveal the reason for refusing the bet. Additionally, Flutter notes that Head 55 is unclear on where the responsibility for reporting to Garda lies. While Flutter welcomes more support from law enforcement, it may be preferable that the responsibility for reporting lies with the Authority to alleviate the workload for the Garda in recognition of the fact that not every case will meet the bar for a criminal investigation. Head 55 also requires clarification as to when the requirements listed should apply. Flutter would welcome the opportunity to discuss this with the Committee but would suggest Head 55 only apply to events taking place in Ireland
- Flutter agrees with the purpose of **Head 56** but suggests that legislators guard against drafting this Head too broadly which may inadvertently place a burden on both providers and the Authority in relation to products and services ancillary to gambling. Flutter recommends that Head should capture certification of ‘software’ which is directly necessary for the purposes of gambling.
- **Heads 62-69** are concerned with charitable/philanthropic cause licences and Flutter has no submission to make in that regard.

## **Part 4 – Compliance and Enforcement**

### Head by Head analysis:

- **Heads 70-73-** Flutter welcomes the approach the Scheme has taken to assigning the Authority the appropriate powers to effectively regulate the sector.
- **Head 74-** While Flutter supports the Authority having broad powers in this area, **Head 74 c** which provide for “real time access to *providers’ online provision of services*” is a power which Flutter believes is far greater than is necessary for the Authority to pursue its objectives and would create significant privacy concerns for customers. Instead, it should be sufficient for the Authority to compel operators to provide such information where necessary.
- **Heads 75 and 76-** Flutter welcomes the fact the Authority will be empowered to adopt and enforce flexible codes of conduct that are mandatory for all and furthermore that it will consult with the industry in developing such codes
- It is important that clear consultation guidelines are drawn up by the Authority and that the requirement to consult with all relevant stakeholders, not just the industry, be enshrined in relation to the exercise of powers other than in relation to the adoption of codes
- **Head 77-** While Flutter understands the importance of regular compliance reporting, it will be important that the Authority defines clearly what providers are required to report on and the purpose of such reporting, so this doesn’t create an unnecessary burden on the Authority without any corresponding benefits for the overall regulatory environment. Flutter would welcome the opportunity to share its experience on the forms of compliance reporting which have worked well in other regulated jurisdictions.
- **Heads 78-94-** Flutter supports the Authority having broad investigatory and enforcement powers. We particularly welcome the range of sanctions available to the Authority. While it is imperative that fines and other punishments be imposed in a consistent manner that reflects the severity of

the licence breach, we believe it is best practice to ensure all operators are incentivised to ensure compliance with the regulations. We also note that the Scheme provides for strong search and seizure rights which we would suggest are only exercised in particularly serious cases where appropriate and with appropriate communication with other statutory bodies in the state.

- **Head 95-** Flutter welcomes the inclusion of a specific Head to cover instances of cheating. This Head is drafted broadly enough to capture the behaviour providers would want to see covered.
- **Head 96-** Flutter similarly welcomes this Head dealing with manipulation with intent to alter outcome of gambling events. Flutter has included some specific comment in relation to betting integrity issues on **Head 55**.
- **Head 97-** Flutter understands that this Head allows a private individual to complain directly to the Authority in relation to a licence holder. The Authority may in time wish to establish a separate mechanism/ organisation such as the Independent Betting Adjudication Service (IBAS) model currently used in the UK and Ireland or a voluntary ombudsman to deal with specific types of customer complaints. Flutter would welcome the opportunity to discuss this with the Department.
- **Head 98 –** Flutter understands the purpose of this Head is to place an obligation on licence holders to consider mediation or other forms of ADR when dealing with customer disputes. At the heart of Flutter’s business is a focus on our customers – both delivering great entertainment and making sure that it is always underpinned by robust safer gambling practices. True commitment to putting customers first also means making sure that they have somewhere independent to go if something does go amiss.

While we have robust internal complaints mechanisms in place, if a consumer is unhappy with the outcome of such mechanism then, currently, their only recourse is to a third-party alternative dispute resolution service such as IBAS – which only deals with bet disputes rather than wider social responsibility issues. While we are supportive of provisions under Head 93 removing the prohibition on gambling debts being legally enforceable, there is still the issue of redress in the case of social responsibility issues. There is a case to consider an independent consumer redress system for customer disputes relating to social responsibility (as opposed to contractual redress). However, this is a complex issue to solve. The Scheme currently envisions these complaints being heard by the Authority itself. There may be a value in this, but consideration needs to be given to the administrative burden this would impose.

A clearer system for ADR prior to adjudication by the Authority would alleviate some of this burden. At the moment, while ADR is encouraged by the Scheme, the Authority complaints procedure seems to run alongside ADR. Another option is introducing a separate Ombudsman, a position that is currently being considered as part of the Gambling Act Review in the UK, and which Flutter supports. Introducing an Ombudsman is a complex issue where clear parameters are needed, for example:

- Type of claims that can be brought forward
- The maximum value of such claims
- Limitation periods within which claims must be made and the remedies available
- Whether decisions made by this independent body are final and binding
- Funding of the body.
- **Heads 99-102-** Flutter welcomes the approach the Scheme has taken to complaints about the Authority and how it is envisaged cooperation will work between the Authority and other relevant Irish state bodies.

## **Part 5 – Safeguards, Advertising, Sponsorship, and Social Impact Fund**

While much of the Scheme empowers the Authority to develop codes, it contains a number of specific provisions in relation to advertising. Flutter’s general position on advertising is as follows:

### **Overview**

- Advertising (including sponsorship) is an important mechanism for licensed operators in a regulated market to identify themselves to customers, provide product information and choice, and communicate safer gambling messages.
- We strongly believe that, as a licensed operator, we should have the right to advertise, and that in doing so (including through sponsorship arrangements) there are many benefits we bring to customers, the supply chain (e.g. racing industry and media companies), and to the public at large.
- We use advertising to promote safer gambling messaging and raise awareness and usage of tools.
- The benefits of advertising for consumers and the overall market may be defined as follows:
  - Supports consumers in finding services that they are likely to enjoy;
  - Alerts consumers to differences in the quality and value of competing businesses and brands;
  - Allows businesses to encourage moderate, healthy consumption of their gambling services;
  - Enhances the competitive market between licensed operators forcing operators to be more competitive in their offers for customers;
  - Creates a clear incentive for operators to become licensed so they can use their ability to advertise to distinguish their offering from that of unregulated operators; and
  - Provides economic support for business involved in the supply chain, such as media companies and sports rights holders.

## Head by Head analysis:

- **Head 104** grants the Authority broad powers to assess each licence holders' measures in *protecting and safeguarding players, minimising the risks of underage gambling, monitoring patterns of gambling by individual players where there are grounds to believe that the pattern may indicate a level of participation that is detrimental to the person's wellbeing, and verifying player identification, as well as all due diligence procedures*. While Flutter supports the thrust of this Head, it may require some further clarification. Defining "a level of participation that is detrimental to the person's wellbeing" is something operators would require the Authority's guidance on, so all operators are working to the same level of standards in how they protect and safeguard customers. Also, it is important to note that whilst cooperation with the ASAI and BAI is provided for separately in Part 5, it will be important to clarify which aspects of gambling advertising the different bodies will ultimately be responsible for.
- **Head 105 (1)(b)**- Flutter's understanding of this Head is that it prohibits extending any credit facility or loan and **(d)** prevents cash back being offered but it does not specifically ban the use of credit cards for gambling transactions. Flutter introduced a voluntary ban on credit cards in March of 2021 and much of the industry has since followed suit. Recent findings by the British Gambling Commission suggest the ban on credit cards introduced there can be considered a success because, amongst other learnings, while some customers were aware of workarounds and utilised them, far more who had been using credit cards switched to non-loan based payment methods. We have no reason to believe that Ireland would be any different. We are supportive of that ban being formalised by the Authority since there are still some licensed operators who have not voluntarily introduced the restriction. However, we think there is value in affording the Authority the power to restrict payment methods, including credit cards, rather than including the specific details in primary legislation. We believe this would achieve the same effect while allowing the Authority the flexibility to

respond to a changing payment method landscape where there is evidence to suggest harm is occurring.

- **Head 105 (4)-** Flutter agrees it is important to have appropriate safer gambling messaging displayed on relevant promotional materials (both in person and remotely.) Requiring “warnings” as per this Head is not supported by evidence and may be counter-productive to the overall aim of protecting consumers. Safer gambling messaging is already widely required across other regulated jurisdictions. Flutter also refers the Committee to the European Gaming and Betting Association Code of Conduct<sup>3</sup> (already in operation across EU/EEA) which places the emphasis on SG messaging rather than warnings. Flutter is not aware of any research which provides evidence that health warnings are more impactful than safer gambling messaging. Flutter also notes that additional warnings may detract attention from pre-existing safer gambling messaging them and ultimately dilute the impact of them. Flutter’s view is the level of detail as to what messaging should apply and to what materials would be best dealt with via the Authority itself (as in other regulated jurisdictions) rather than through primary legislation and would be happy to work with the Authority in this area.
- **Head 105 (5)-** Flutter is supportive of developing codes around cards and believe it is appropriate that the Authority perform that role. We encourage the use of player cards in our shops, but we don’t believe mandatory card play is supported by evidence or wanted by the majority of customers.
- **Head 105 (6) 1** Flutter welcome that the Authority will develop codes for the purpose of protecting players from the harmful effects of gambling. Flutter notes the potential requirement for licence holders, where practicable, to provide players with a receipt/notice detailing **a)** the amount of time a player spent in the licence holder’s premises or playing via the licence holder’s remote games, and **b)** money a player gave to the licence holder during each period while participating in a licence holder’s licensed activities (including their starting balance on any account facilities). Flutter welcomes the opportunity to input into the process of establishing codes around such potential requirements as there are clear practical challenges to overcome, particularly in retail premises.
- **Head 105 (6) 1-** Flutter notes that a code around spending limits is referenced in this Head. Flutter is making significant progress in the area of affordability currently. Central to this work is our recently developed Affordability Triple Step, a risk-based framework which identifies financial red flags early in the customer lifecycle, including ongoing and real-time monitoring of all customers, and applies bespoke spending backstops, enabling us to support players throughout the customer journey. In Ireland the absence of third-party checks means the financial red flags early in the journey are not possible, but the establishment of an Authority would allow this issue to be looked at while requiring all operators to adopt similar measures. However, we have committed to €500 net deposit limits for customers under the age of 25, which we will be rolling out across our Paddy Power, Betfair, and Sky Betting and Gaming brands over the next three months. We look forward to working with Authority to adopting the best approach for customers going forward.

Flutter believes operators should ensure customers are not gambling at excessive or unaffordable levels and have therefore already introduced the above measures in Ireland. Flutter’s view is that such checks should not be a blanket mandated system to prevent normal customers enjoying their entertainment at low thresholds. In Britain, a recent YouGov survey conducted for the Betting and Gaming Council found that only 16 per cent of customers would be willing to allow gambling companies access to wage slips or bank account details. Therefore, excessive controls are likely to lead to players seeking unlicensed operators. There should be a risk-based approach to enhance customer due diligence and interactions to help

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<sup>3</sup> <https://www.egba.eu/uploads/2020/04/200625-EGBA-Code-of-Conduct-on-Responsible-Advertising-for-Online-Gambling.pdf>



prevent harm, in combination with other measures. Operators should be permitted to complete trials to identify the most effective and proportionate solutions for customers, and this should be looked at by the Authority rather than included in legislation.

**Head 105 (7) (1)** This Head prohibits operators from offering inducements to keep a customer gambling, and free bets, bonuses and prize draws are specifically mentioned. Flutter's reading of the Head is that it is seeking to prevent the offer of inducements where a customer has expressed a desire to stop gambling but would welcome clarification on how this Head is planned on operating. Flutter supports controls on who can be offered promotions, and the nature of the incentivisation, but a full ban on free bets, bonuses, and prize draws is not supported by evidence. The Flutter brands have put in place robust measures to prevent vulnerable customers from receiving advertisements for bonus offers. We suppress marketing to any customers who have self-excluded, or whom we classify as "at risk", and will share first party data with social platforms so they can do the same. Flutter believes the practice of bonusing does not directly link to gambling harm, and we already have controls in place around how promotions are offered. A total ban on free bets and an operator's ability to advertise such offers would in Flutter's view result in an increase in unregulated play, as it creates financial incentive for people to use unlicensed operators. Flutter refers the Committee to a report produced by Copenhagen Economics for the Swedish Trade Association for Online Gambling, 'The degree of Channelization of the Swedish Online Gambling Market' (April 2020) concluded that:

- There is very little visual distinction between the look and feel of licensed vs unlicensed operators, leading to customers being unaware of the difference.
- There is a reasonable set of data points to show that within sports betting and casino the leakage to unregulated operators is high – estimated at between 15 and 20% of the market.
- Unregulated casino sites are at least, if not more, attractive than regulated sites as they are not as focussed on showing rules and regulations so overtly, and 58% of casino gamblers feel better bonus schemes are a strong driver for using unregulated sites.

In general, countries that have imposed excessive regulatory and taxation burdens on operators have seen far more unlicensed activity than countries that have sought to strike a balance without compromising on safer gambling measures. France, Spain, and the above example of Sweden have all struggled to move players into the licensed market, with 15-20%+ of play being unregulated. Britain, in contrast, while not immune to customers moving to unlicensed operators, still sees 98% of their customers betting with licensed operators<sup>4</sup>. This is important not just in relation to lost taxation revenue by the state, but more importantly unlicensed operators are less likely to have effective safer gambling measures in place, so vulnerable persons are more likely to experience harm.

Flutter would welcome the opportunity to discuss its experiences with the Committee in this area more detail.

- **Head 105 (7) (1)** also seeks to prohibit *"any penalisation of players by refusing bets or limiting stakes or winnings on subsequent bets either in store or via remote means, except where that a person has engaged in cheating"*. Flutter is unsure the exact purpose of this wording but any measure which would mean it was obliged to take all bets of any size or complexity from potential customers carries significant disadvantages for the average customer. Restricting bet sizes and types from certain accounts enables us to be more generous in making offers to the wider customer base. Flutter is also exposed to customers who may have more information on the potential outcome of sporting fixtures and so must be able to limit our exposure to this risk. Flutter needs to get restrictions right though and not be too quick to restrict – we have to be fair to customers and also, we risk losing business through restrictions.

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<sup>4</sup> Based on external analysis of H2 Gambling Capital and local regulator data

Flutter spends substantial amounts of money on advertising and customer acquisition. It's definitely not in our benefit to restrict customers incorrectly. It should be noted that the practice of restricting bets is not widespread, with less than 1% of Irish customers having been restricted in 2021. It is also worth noting that we are not aware of any regulated jurisdiction where an outright ban on refusing bets is imposed on operators, principally for the reasons we outline below:

- The ability to restrict bets where there is reason to believe that the customer placing the bet has inside information is critical to protecting the integrity of sporting events and therefore public interest in those events. This is particularly the case on smaller events with less trading and traditionally more prone to manipulation. Restricting bets acts as a deterrent to this practice as there is no financial incentive to manipulate a market if one's bet is likely to be declined. We would be happy to share details with the Department of how this works in practice and the benefits it has in avoiding integrity of fraud issues. The controls in place also prevent using betting platforms for money laundering purposes.
- From a commercial perspective, bookmakers limit their liability on events. A small number of customers placing large bets, who are disproportionately knowledgeable about a given market, has a distortive effect on the overall market. This limits operators' ability to offer value to the majority of recreational gamblers who are only betting for entertainment purposes. Furthermore, it leads to an undesirable outcome where the average consumer subsidises a small group of professional gamblers. If we are to lose €2m on one event it is preferable that we lose €2000 to 1000 customers than €2m to one customer.
- As technology has developed, the profile of professional gamblers has shifted as well. Rather than the traditional perception of it being a consumer who merely exhibits extensive knowledge of a given market, professional gamblers are now able to run algorithms that scan thousands of live markets for a trading advantage. It is essential that operators can guard against this by placing occasional restrictions on algorithm led accounts. This is especially important for smaller operators who lack the scale to at least partly inoculate themselves against this practice.
- **Head 105 (7)-** Flutter is broadly supportive of this Head. It is important that operators are able to segment cohorts of customer from both a risk management and safer gambling perspective. Flutter has removed any Irish customers from its High Value Customer (HVC) programme across Paddy Power and Betfair brands and would be supportive of this approach being mandated of all operators by the Authority. But such an approach is best left to the Authority rather than being a matter for primary legislation. In terms of offering of offering customer enhanced treatment and hospitality, Flutter has made considerable changes to its HVC programme in recent times, including applying an industry code to Irish customers with some modifications given the more limited third-party financial checks available in Ireland. It is worth noting the British Gambling Commission and other leading gambling regulators do not prohibit VIP treatment. Flutter believes that it is important that customer relationship teams interact responsibly with their customers and give due attention to any concerns in that regard. It is worth noting that Flutter removes inducements to bet from customers if they present with a higher risk profile for potentially harmful play. In the UK, working with the Gambling Commission, the industry more broadly has also implemented a new code for managed customers which prevents anyone under the age of 25 from taking part without Personal Management Licence holder approval and requires additional social responsibility checks. We provide enhanced customer for a small group of high-spending customers which includes personalised account management, supported by customer due diligence to ensure affordability, evidenced source of funds, and on-going enhanced monitoring from a safer gambling perspective. The remuneration for our relationship managers is not based on

customer losses but rather it is aligned with business performance not unlike any other role in the business. The only difference is that they are also incentivised to ensure that all important checks around AML and Safer Gambling are up to date with each customer. It is important that operators are able to segment cohorts of customer from both a risk management and safer gambling perspective

- **Head 106-** Flutter fully supports the intention of this Head around prohibiting under 18s from participating in gambling with licensed operators. There are challenges in Ireland around this issue. In some jurisdictions, the availability of third-party verification services is more widespread so verifying a new customer's age is more efficient for operators and less invasive for customers, as electronic checks have a high success rate. In Ireland, those same checks are not as reliable, so operators are often forced to request supporting documentation from customers. This creates a poor customer journey and encourages them to look elsewhere. However, Flutter has brought in mandatory verification prior to a customer's first deposit and while we think the above limitations should be looked at by the Authority, we would support the Authority compelling all operators to verify a customer's age prior to first deposit.
- **Head 107-** Flutter welcomes that the protection of children being employed in the gambling industry is specifically provided for in this Head of the Bill.
- **Head 108-** Flutter welcomes the creation of self-exclusion register. We would be happy to work with the Department into tailoring this to the specifics of the Irish market given our experience in other countries which have national ID systems (e.g. Spain or Denmark) or with alternative approaches such as GAMSTOP in Britain. Flutter notes that such a register being administered by the Authority places a large administrative burden from the outset, there may be other methods of achieving the same aim and therefore being prescriptive in the Scheme may impose operational challenges on the Authority from the first moment. Likewise, a system of multi-operator self-exclusion in retail environments is required but poses practical difficulties in terms of efficacy. Flutter has looked to innovate in this area and Paddy Power was the first operator in Ireland to introduce self-exclusion via tablet in our shops. We look forward to working with the Authority on solutions to all of this as both are important consumer protection measures that we are fully supportive of.
- **Head 109** Flutter welcomes the provisions authorising the Authority to make codes concerning any form of advertisement of gambling, the fact the Authority will work with other relevant statutory bodies in relation to such codes and review them regularly. Flutter agrees with the overall purpose **Head 109 (4) (1)** to ensure gambling advertising is responsible and does not appeal to children. However, Flutter notes that there is a reference in this Head to providers not using any animals and any well-known figures, their likeness (including their voice), any depiction of them (including virtual or simulated). Flutter notes that the reference to the use of animals in adverts does not cater for sporting events which feature animals, prohibiting operators' ability to advertise horse and greyhound racing. Flutter would also caution that the broad reference to animated characters disregards the key point of this requirement which is that those animated characters should not appeal unduly to children e.g. Paddy Power frequently use 'bobbleheads' which we believe do not unduly appeal to minors.) Similarly, Flutter's view is that the use of "well known figures" in gambling adverts is not problematic provided such figures do not unduly appeal to minors.
- **Head 109 (4) and (5)** Flutter notes that it only advertises on pre-vetted sites with an acceptable audience demographic. We also measure the audience demographics for each site used on a regular basis. Flutter is not aware of any social media or video sharing platform currently offering an opt-in specifically for gambling and believe they would be unlikely to build this functionality for Ireland alone. Such a requirement may also result in unintended consequences for non-social media websites where display advertising is served. Flutter would welcome the opportunity to discuss with the Committee the work it has been doing in driving higher standards in online advertising through on-going work with the UK Betting and



Gaming Council (BGC) around industry negative keyword list, 25+ targeting of sponsored social media advertisements, YouTube age-gating etc.

- **Head 110-** Flutter welcome that the Authority will provide for detailed codes around the types of gambling promotions and offers which operators may offer and would be happy to input learnings from other jurisdictions on how customers can be best protected without placing unnecessary burden on both the Authority and providers.
- **Head 111-** appears to Flutter to seek to prohibit any form of sponsorship by providers. Advertising (including sponsorship) is an important mechanism for licensed operators in a regulated market to identify themselves to customers, provide product information and choice, and communicate safer gambling messages. Flutter is not aware of widespread gambling sponsorship in Ireland and believe the little sponsorship there is of certain media shows and horse racing etc. provides valuable funding for those who are sponsored, and we are unaware of any negative impacts associated with it. In relation to **Head 111(4) iv** Flutter would reiterate the points made in relation to Head 49 (m) above in relation to outside advertising.
- **Head 112-** Flutter welcomes that Training and Guidance for the staff of the Authority is specifically provided for within the Scheme.
- **Heads 113-117** Flutter supports the creation of a social fund to support the research, education, and treatment of problem gambling. This is to be calculated in the same way as the licencing fee but there is no suggested rate in the Scheme and it will be a matter for the Authority. We are proud to have been leading advocates for the establishment of the Gambling Awareness Trust, an independent, dedicated body committed to disbursing RET contributions. We have already committed 1% of NGR to safer gambling contributions by 2023, amounting to approximately €3m. The Authority will have an important role to play in ensuring all operators contribute fairly. We believe that rather than setting the rate and method of calculating the levy in primary legislation, the Scheme adopts the correct approach of allowing the Authority to set the rate after consulting with the relevant stakeholders. This allows the Authority the flexibility to adjust to changing funding requirements. There should be an independent assessment of funding requirements which drives a proportionate levy and the Authority should ensure that there is a robust system of independent evaluation attached. Furthermore, Flutter recommends that there should be annual reporting on how and where the funds contributed are used so that both providers and the taxpayer are clear that the fund is being used to achieve its objectives.

## **Part 6 – Appeals Against Certain Decisions of the Authority**

### **Head by Head analysis:**

- **Heads 118-142** are concerned with various features of the Appeals process. Flutter is supportive of almost all of these Heads.
- However, the Committee might consider the provision under **Heads 133 and 136** that persons not party to the Appeal can make submissions. There may be circumstances in which this is advisable and therefore some allowance should be made, particularly in relation to problem gambling support organisations etc. However, a wider entitlement risks the process being over-burdened by parties who do not provide any meaningful contribution.





# **Submission to the Joint Oireachtas Committee on Justice General Scheme of the Gambling Regulation Bill 2021**

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# Introduction

The Institute of Public Health (The Institute/IPH) welcomes the opportunity to provide evidence to the Committee on Justice on the General Scheme of the Gambling Regulation Bill.

The Institute of Public Health informs public policy to support healthier populations in Ireland and Northern Ireland. Set up in 1998, the Institute is jointly funded by the Departments of Health in Ireland and Northern Ireland. Our key priorities are promoting health and wellbeing, improving health equity, and reducing health inequalities. We work to achieve these by focusing on Evidence, Policy and Partnership. The Institute has a team of public health and policy development specialists based in Dublin and Belfast.

In 2017 the gambling regulator for Great Britain, the Gambling Commission, described problem gambling as a public health concern. In 2021, Public Health England published one of the largest ever reviews on gambling-related harms<sup>1</sup>. It found that 0.5% of the adult population have a problem with gambling, 3.8% are gambling at at-risk levels, and 7% are affected negatively by an other person's gambling. The evidence reported that gambling can lead to a wide range of harms including financial, relationship, mental and physical health, employment, educational, criminal, antisocial behaviour and cultural harms. It also found that the excess economic costs of gambling related harms were estimated at £1.27 billion for England.

There is also recognition of the interrelationship between gambling and other health issues, including mental health, substance misuse, and suicidality, with gambling contributing as both a cause and consequence<sup>2</sup>. Harms related to gambling reflect social and health inequalities, with negative effects unequally distributed among economically and socially disadvantaged groups. Any new gambling legislation needs strategic action planned and delivered to reduce gambling related harms. The Institute therefore also recommends the development of a Gambling Related Harm Strategy to support the objectives of the Gambling Regulation Bill 2021.

The Institute has contributed to gambling policy development in both Ireland and Northern Ireland. Our inputs on gambling are listed below:

- The Institute of Public Health presented written and oral evidence to the All-Party Group on Reducing Harm Related to Gambling - Inquiry into Regulation of Gambling in Northern Ireland (2020/2021)<sup>3</sup>
- In 2021, the Institute responded to the following Northern Ireland consultations and recommended the recognition of gambling as an associated behaviour and actions to mitigate its public health impacts should be aligned across all strategies:
  - Substance Use Strategy,

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<sup>1</sup> Gambling-related harms evidence review: summary <https://www.gov.uk/government/publications/gambling-related-harms-evidence-review/gambling-related-harms-evidence-review-summary#results>

<sup>2</sup> The Lancet Public Health Commission on gambling <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2820%2930289-9>

<sup>3</sup> The Institute of Public Health response to the All Party Group on Reducing Harm Related to Gambling - Inquiry into Regulation of Gambling in Northern Ireland. [https://publichealth.ie/wp-content/uploads/2021/03/FINAL\\_IPHresponse\\_APGGamblingNI.pdf](https://publichealth.ie/wp-content/uploads/2021/03/FINAL_IPHresponse_APGGamblingNI.pdf)

- Mental Health Strategy 2021-2031
  - Sport and Physical Activity Strategy
- The Institute responded to the Northern Ireland Betting, Games and Lotteries & Amusements Bill consultation in November 2021.

## Terminology

### Problem gambling

- ‘Problem gambling’ means gambling to a degree that compromises, disrupts or damages family, personal or recreational pursuits<sup>4</sup>.
- Problem gambling prevalence rates re measured via a number of screening tools including the Problem Gambling Severity Index (PGSI). This screen measures the number of problem gamblers, moderate risk gamblers and low risk gamblers in a population.
- ‘Problem gambling’ refers to the gambler only therefore prevalence estimates do not take into consideration the effects that gambling can have on others such as gamblers’ friends and family.
- The term ‘at-risk’ can imply that people who are classified as low or moderate risk gamblers on the PGSI are not experiencing harm now but will do in the future when in fact they are showing some signs of problematic behaviour now but remain below the threshold for ‘problem’ gambling.
- From this point on in our submission we will only use this term to accurately report academic study results that measure ‘problem gambling’, otherwise we will use the term ‘gambling related harms’.

### Gambling disorder

- Gambling disorder was the first non-substance related addiction to be included in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) under “Substance-related and Addictive Disorders”<sup>5</sup>.
- Gambling disorder is classified as a “persistent and recurrent problematic gambling behaviour” that causes significant impairment and distress and shares many features of substance addiction.
- For a diagnosis of gambling disorder, four (or more) criteria are required in a 12-month period and cannot be better explained by a manic episode. These include:
  - Increasing tolerance – the need to gamble more to achieve the desired effect
  - Irritability and restlessness when attempting to cut down
  - Unsuccessful efforts made to cut back or stop gambling
  - Preoccupied with gambling (persistent thoughts around gambling)
  - Gambling when feeling distressed
  - Gambling when chasing losses i.e. gambling in order to recoup losses from

<sup>4</sup> Statistics and research release. Problem gambling vs gambling-related harms. An explanation of the difference between problem gambling and gambling-related harms. <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/problem-gambling-vs-gambling-related-harms>

<sup>5</sup> Gambling Disorder Position Paper. The College of Psychiatrists of Ireland. <https://www.irishpsychiatry.ie/wp-content/uploads/2020/10/Gambling-Disorder.pdf>

- previous bets
- Telling lies to conceal extent of gambling
- Loss of a significant relationship, job or opportunity due to gambling
- Requiring relief from financial situations caused by gambling

### **Gambling-related harms**

- Gambling-related harms are the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society. These harms impact on people's resources, relationships and health<sup>1</sup>.
- Negative effects can include loss of employment, debt, crime, breakdown of relationships and deterioration of physical and mental health. At its worst, gambling can contribute to loss of life through suicide.
- Harms can be experienced not just by gamblers themselves. They can also affect their children, partners, wider families and social networks, employers, communities and society as a whole.
- The current practice of assessing the extent of gambling-related harms by problem gambling prevalence rates can be misleading. Prevalence rates fail to capture a number of important dimensions of harm, including those experienced by others than gamblers themselves (affected others). This means they are potentially underestimating the scale of the problem.



# Recommendations

The Institute recommends the following in relation to the General Scheme of the Gambling Regulation Bill 2021:

## Head 10 – Recommendations:

- We recommend the use of a broader term under 4(d)/iv to describe the type of sector-specific expertise which will be sought for membership of the Authority. The term “gambling addiction” may be narrowly construed to refer only to specific types of disordered gambling behaviours, at the extreme end of the spectrum. A broader term such as “expertise on problems related to gambling” might be considered in lieu of “gambling addiction”.
- We recommend that separate membership be included in the appointments to allow for input from two types of expertise (a) public health and (b) those involved in service development and delivery including clinicians specialised in gambling addiction.
- We recommend that there is provision made for membership by party or parties with responsibility for protecting the rights of children - for example TUSLA and/or the Ombudsman for Children.
- In making recommendations of persons who are suitable for appointment as members of the Authority under this Head, consideration must be given as to how to address the conflicts of interest that arise between commercial interests and the reduction of gambling-related harm at population level. The fiduciary imperative places the activities of the transnational gambling operators, their agents and funded organisations, fundamentally at odds with an imperative to reduce gambling-related harms. Conflicts may potentially arise through a proposed member’s existing fiduciary, advisory and proprietary interests (e.g. through shareholding in gambling undertakings). The Authority will be a corporate body and the members will have statutory obligations under companies’ legislation to avoid certain conflicts of interest. The statutory provisions address very specific types of conflict and will not go far enough to protect the range of interests at stake here. For this reason, disclosure of specific types of conflict prior to appointment is justified and consistent with the objectives of the proposed legislation.
- We recommend that conflict of interest statements be provided by each member of the Authority and advisory committees and independently reviewed. These could be signed statements similar to that of the [declaration of interests for World Health Organization experts](#) on smoking but adapted to the gambling industry i.e.:  
“Within the past 4 years, have you had employment or received research support or other funding from, or had any other professional relationship with, an entity directly involved in the production, manufacture, distribution or sale of gambling products or representing the interests of any such entity?”  
The conflict of interest statement could be required from each member at the time of appointment and thereafter annually for the duration of the term(s) of appointment.
- Consider inclusion of a similar requirement which would ensure that public health interests are at all times represented by a minimum number of at least two members. The protection of public health interests represents the broader public interest, and advocates for disparate interests which might not otherwise have a voice. It is

submitted that public health interests should always be represented in the membership of the Authority since, unlike commercial gambling interests, public health represents a range of diffuse interests and addresses a broad spectrum of community sectoral concerns.

### **Head 11 - Recommendations**

- Consider whether membership of the Authority should at all times reflect the range of sectoral interests and the minimum representation outlined in Head 10 Subheadings 4 and 9, so that the members who are required to resign should be replaced by appointees of similar knowledge and expertise. This would ensure a balance of sectoral interests among the membership of the Authority at all times.

### **Head 12 – Recommendations:**

- Include “is found to be in breach of the ‘conflict of interest declaration’ if this is enforced as is outlined under section ‘Head 10 – Recommendations’.
- The draft provision at Heading 12(1) is representative of standard disqualification provisions for public office holders but should be tailored to address the requirement that all conflicts of interest, whether existing at the time of appointment, or arising during the appointment, should be disclosed as a condition for membership of the Authority.

### **Head 13 – Recommendations**

- ‘Conflict of interest’ must be clearly defined and a written conflict of interest declaration should be considered. This could be signed by all members prior to appointment – see ‘Head 10 - Recommendations’ for an example statement.
- The draft provision at Heading 13(1) is representative of standard disqualification provisions for public office holders but should be tailored to address the requirement that all conflicts of interest whether existing at the time of appointment or arising during any term of appointment, should be disclosed as a condition for membership of the Authority.

### **Head 14 – Recommendations**

- It is noted that ‘the Authority shall be independent in the performance of its functions’. In addition, it is recommended that the Authority should have sufficient powers and resources to carry out all outlined functions. In particular, the Authority should be obliged to procure that all gambling services provided in the State are conducted in a fair and open way.
- In relation to Subheading 8g we recommend broadening the scope of this subheading to inform all Ministers on matters relating to developments in gambling regulation
- The IPH welcomes that the Authority shall have power to authorise or prohibit the provision of certain forms of gambling activities, services or products in the State.
- In relation to Subheading 10a we recommend broadening the scope of this subheading to “assist in funding research, training and community interventions into prevention and treatment of gambling related harms”.
- Consider whether justification for intervention by the Authority could be made more

flexible by replacing the term “harms of problem gambling” with an alternative form of words such as “problems related to gambling”. This is especially the case when research is still ongoing to identify causal connections between gambling and different types of negative behaviours which lead to development of addicted gambling and gambling-related disorders. Head 14 Subheading 4 concerns development of safeguards to protect individuals from the “harms of problem gambling”. This expression would benefit from some form of interpretative support. Alternatively, a formula such as “problems related to gambling” could be considered. This is the form of words used in the U.K. Gambling Act 2005. In either case, the rationale for a clearer or more flexible description of the term “problem gambling” is to allow the protections and benefits of the Act to extend to the widest possible scope of disordered gambling behaviours. The categories of “problem gamblers” is potentially very wide. This is recognised in the [WHO ICD \(International Classification of Diseases\) 11th Revision](#), which classifies gambling behaviours. This currently distinguishes between “disordered [gambling](#)” (6C50), and “[hazardous gambling or betting](#)” (QE21). Both types of behaviours are defined by set diagnostic criteria. There are however other behaviours linked to potential gambling harms which do not meet all the criteria of the WHO classifications. For example, King and Delfabbro describe abnormal behaviours found in monetized game environments as “maladaptive purchasing decisions” (King & Delfabbro, 2018). Research is still ongoing to investigate whether such behaviours are precursors to problem gambling.

- Head 14 Subhead 11 (b) directs the Authority to have regard to protection and promotion of the interests of consumers relating to provision of gambling services and activities. Consider expanding the list of potential interests to include other categories such as (but not limited to) the public health, social and financial consequences of accessing gambling services and activities.
- The function of the Authority should not include ‘ensuring competition and promoting innovation in the gambling industry and protecting the State’s revenues / financial interests’ and ‘ensuring the promotion of innovation and technology through employment and research’ as these are in direct tension with its function of ‘protecting and promoting the public interest and society, in particular children, from the ill-effects of gambling’. These internal conflicts of interest between the functions of the Authority, particularly those relating to protection and raising of public revenue, have potential to create tensions with obligations under EU law. Consider a formula which imposes only an advisory/reporting role such as consulting with Revenue should the Authority become aware of an issue which affects the State’s revenue/financial interests.
- The function of the Authority should include a clearly defined monitoring and evaluation function, incorporating routinely collected data to monitor progress against targets and the objectives of the Authority. The Authority should be entitled to make such data available to specified third parties, for the purpose of research, including research into gambling behaviours.
- It is recommended that the Authority consider the development of a data strategy to collect insight on gambling behaviours directly from the industry. If developed, the Authority should have a repository function over the strategy. The Authority should be entitled to make such data available to specified third parties, for the purpose of

research, including research into gambling behaviours.

- The IPH welcomes ‘maintaining a register of all licences issued for all gambling services and activities’ and recommend that this includes a geographic information system (GIS) to aid monitoring of the density of land-based betting venues particularly in areas of high deprivation.
- Enhanced monitoring of gambling behaviours and harms among both children and adults through government health surveys to consider the associations with mental health and other recognised addictions, such as alcohol and drugs, is recommended. In addition to publishing the results of such surveys, the Authority should be entitled to access the underlying data and make it available to specified third parties, for the purpose of research into gambling behaviours.

## Head 17 – Recommendations

- Any committees established by the Authority should have sufficient representation from public health and the health service to provide both prevention and treatment perspectives.
- The comments made under Head 10 Subheading 9 are repeated here. Committee membership should be always balanced so that public health interests are consistently represented for the duration of any committee’s work.
- Anyone with any conflicts of interest should also be excluded from any established committee.
- We recommend the establishment of a committee specifically relating to protecting children’s rights and wellbeing (scope of the committee could include GDPR, proof of age, online safety, test purchasing and child protection). The committee should include representation from parties involved in children’s rights i.e. the Ombudsman for Children, Committee on the Rights of the Child, and Special Rapporteur on Child Protection.

## Head 20- Recommendations

- Consider amending Head 20 Subhead 1 by adding the Ministers for Health, Mental Health, Children as parties to whom the Annual Report should be made available in the first instance.

## Head 21- Recommendations

- Consider including a mandatory list of public interest stakeholders which the Authority must consult when developing a code of conduct. At a minimum, this list should include public health and health services representatives and should provide that these parties be consulted at each stage of the development process. Although the draft legislation does not expressly identify licensed operators as a consultative party, it is implicit in the construction of Head 21 Subhead 4 “...*any parties which shall be subject to the proposed code*”. By contrast, the corresponding provisions for other stakeholders are discretionary: “...*such other interested parties as the Authority considers appropriate*”. It is fair and reasonable that the interests of all relevant stakeholders be represented at each stage of development and any review of a code.
- To the extent that it is feasible within the structure of the legislation (or alternatively

within the framework of a Statutory Instrument) clear guidance should be developed as to the processes for issuing and review of any code under the legislation.

#### **Head 45 – Recommendations:**

- Consider limiting the number of land-based betting and gambling office licences and amusement arcades available within areas of higher deprivation. The objective of this recommendation is to limit opportunities for gambling in these areas in a consistent and systematic way. Such limits are justified by reasons of public health and public order, and by reasons of public interest, including (but not limited to) reasons of consumer protection, as a deterrent against problematic spending on gambling, and to minimise risks associated with location in areas of higher deprivation.
- Betting and gambling licenses should not be granted for use within the same establishments that hold an alcohol license. The objective of this recommendation is to limit opportunities for gambling in these locations in a consistent and systematic way. Such limits are justified by reasons of public health and public order, and by reasons of public interest, including (but not limited to) reasons of consumer protection, as a deterrent against problematic spending on gambling, and to minimise risks associated with gambling activities taking place in such locations.
- Consider investigation of the Planning Acts, the Intoxicating Liquor Acts and the forthcoming Sale of Alcohol Bill to identify complementary regulatory provisions which facilitate adoption of measures in support of these restrictions to reduce the harms from co-use of alcohol and gambling and the co-location of licences.
- The Authority should consult with public health, consumer and the health services as to the type of licensing restrictions and conditions which might be appropriate to give effect to this recommendation.
- We recommend that venues are required to notify where a Fixed Odds Betting Terminal is on their premises and the maximum stake on that device.

#### **Head 49 – Recommendations**

- Consider a defined role for public health and the health services in the formulation of terms and conditions of licensing.
- In relation to Subheading 4j we recommend the removal of 'where applicable'. The obligation should be to comply with all codes.
- Before land-based licenses are issued it is recommended that the Authority consider the proximity to schools, clubs or organisation where children are present or members to align with the regulations for advertising in Head 111.
- It is recommended that limits be applied to stakes, prizes and deposits of all gambling products including online, not just those in land-based venues.
- The Institute recommends that all electronic gaming machines are removed from convenience under-supervised locations.
- FOBTs should be prohibited in Ireland. Any existing FOBTs should be removed from licensed gambling premises.
- If FOBTs are legalised, we recommend the following:
  - The maximum stake size should be set as €2.50 or lower (stake similar to UK).
  - An Equality Impact Assessment should be considered in relation to the



- regulation of FOBTs.
- FOBTs should be limited in Licensed Betting Offices (LBO) in areas where there are concentrated vulnerable groups to gambling harms.
  - FOBTs should only be permitted within LBOs and not in establishments licensed to sell alcohol. The proximity to alcohol licensed premises and ATMs should also be considered.
  - The maximum number of FOBTs within LBOs should be lowered to at least the same number per capita permitted in the UK.
  - The maximum prize is set to €550 at the very most (stake similar to UK).
  - A set of enhanced fines could be imposed for breach of conditions concerning FOBTs in the legislation under Head 86 - Power of the Authority to decide to impose Administrative Financial Sanctions. This would enable swift response and meet the requirement for urgent intervention to remedy breaches of conditions concerning FOBTs and is justified by the accessibility of FOBTs for players and their close association with development of problem gambling behaviours.
- It is recommended that protection measures such as on-screen warnings, and limit-setting are made compulsory on all FOBTs, electronic gambling machines and all other online and land-based gambling products. The size, position, placement, visibility and frequency of such warnings should also be regulated by the Authority.
  - Consider screening and affordability checks for players as a condition of licensing. Financial checks should also include the involvement of financial institutions in blocking gambling transactions.
  - Consider a scheme of enhanced penalties for breach of player protection measures concerning FOBTs with escalating severity linked to seriousness and frequency of breach, with the most serious, (revocation of licence) reserved for failure to apply the self-exclusion register and for breaches involving children. The scale of penalties may range from fines (limited number per operator - higher penalties must be imposed when the limit is reached), to restriction on operations, auditing and reporting obligations to withdrawal of licences for failure to remedy breaches and/or repeated breaches.
  - A roll-out of a test purchasing scheme should be considered.
  - Consider restricting opening hours of betting shops, particularly at weekends to reduce the availability and total consumption of gambling at a population level.
  - A data sharing agreement with the industry should be included as a licensing requirement. This could be anonymised and processed by an independent body and used for audit, research, and the development of behavioural algorithm development to detect those at risk of gambling addiction and gambling-related harms. The Authority should be entitled to make such data available to specified third parties, for the purpose of research, including research into gambling behaviours.

## Head 86 – Recommendations

- To the extent that it is feasible to pre-determine specific offences involving breaches of licence conditions and the legal obligations of the operator, the nature and gravity of breaches must be pre-determined and written into legislation to prevent ambiguity

- The Institute recommends that there should be a limit to the number of financial sanctions a license holder can receive before a license is revoked. This could help not only minimise the number of repeat offences but also maximise public safety.
- Consider a scheme of escalating fines, comprising a progressive scale of fines for specified offences, taking account of cumulative breaches of licensing conditions and legal obligations arising by operation of law.

## Head 92 – Recommendations

- Offences should also include:
  - targeting gambling promotions towards children, those on the exclusion register, or those displaying characteristic of high risk gambling
  - allowing those on the exclusion register or those displaying characteristic of high risk gambling access to gambling products
  - allowing individuals that are displaying signs of alcohol intoxication to access land-based gambling products or services.
- It is recommended that due to the risk for suicidality among those who experience problems with gambling, breaching self-exclusion measures should be enforceable in law and include an automatic loss of license.
- In light of the risks to children arising from breaches of licence conditions and/or this legislation of a severity which justify an application for revocation of a licence, consider whether it is appropriate that the Authority should be entitled to suspend the operations of the licence holder for breaches of obligations concerning children, pending any Court hearing concerning the matter, without a corresponding right for the operator to claim for any loss of revenue in the intervening period should the Court refuse to revoke a licence and/or impose a lesser penalty.
- Consider whether it is also necessary to notify any third parties with statutory competence to secure the health and well-being of children (for example TUSLA) and identify the parties with responsibility for making such notification in the event of these circumstances arising.

## Head 105 – Recommendations

- Subheads 5 and 6 contain the phrases ‘gamble responsibly’ and ‘safe gambling’. We recommend that every reference to this language is removed from the Bill or clearly defined.
- The Institute welcomes the prohibition of any form of credit facility or loan, a cash-back option and the removal of ATMs from all premises offering a licensed gambling activity.
- The Institute welcomes the prohibition of VIP schemes.
- The Institute welcomes the prohibition of offering free bets, opportunities to continue gambling free of charge and any offer or inducement for the purpose of enticing a person to keep gambling.
- The Department should consider the prohibition of the sale of alcohol products in a premises offering a licensed gambling activity
- The Institute recommends that a Health Impact Assessment should be conducted on any new gambling legislation, including an assessment of the impact on public

services such as health and social care services and the criminal justice system. The impact of any new gambling law and regulatory framework on equity groups should be carefully and transparently considered. Legislators must ensure any new measures protect the rights of children and protect them from harm and exploitation. The Institute has published a suite of HIA guidance documents that may be of assistance:

<https://publichealth.ie/hia-guidance/>

- Consider amendment of Head 105 Subheadings 3 and 4 to provide that all compulsory information shall be displayed in a prominent manner, be easily accessible by the player and expressed in clear language (and a wide range of international languages). Specific guidelines and licensing conditions could be developed specifying the prominence, visibility, legibility, and accessibility of such information.
- Consider amending Head 105 Subheadings 5 and 6 to create an obligation on the Authority to consult also with public health and health services representatives on the development of any such codes of conduct. The inclusion of public interest representatives is necessary to ensure that the interests of all stakeholders are fully represented. The current proposal only includes consultation provisions with “licence holders and their representatives” but does guarantee that public interest sectors are given an equal right to participate. See also comments under Head 21.
- Consider whether the instances of circumstances and measures which might be taken under Head 105 Subheadings 6 and 7 should be made broader by inclusion of the words “including but not limited to”, repeated seriatim. The benefit of this amendment will be to protect the legislation from becoming obsolete where research and legislative practice identifies new prohibitions, restrictions or measures that might be taken and afford greater protection to the player.

## Head 106 – Recommendations

- Verification measures should be in place from the point of registration on gambling websites and apps. All forms of gambling should be prohibited until age verification procedures are complete.
- Include a commitment to monitor gambling behaviours and harms among children through government health surveys to consider the associations with mental health and other addictions, such as alcohol and drugs. The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.
- The Institute recommends that all in-game transactions such as loot boxes and skins are subject to regulatory scrutiny and monitored in health and wellbeing surveys of children). The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.
- Consider a joint approach to addressing the potential risks and harms of loot boxes, skins and other problematic in-game microtransactions, to be taken together with the Competition and Consumer Protection Commission (“CCPC”). The provisions under Head 100 Subheading 3(a) (ix) already allow the Authority to consult with the CCPC. Head 101 Subheading 1 enables conclusion of a Memorandum of Understanding between the Authority and “any other State body” to “enable each of the bodies to fulfil



their statutory duties in an appropriate, collaborative manner”. This would facilitate measures under existing consumer legislation where, for example, a near-gambling activity which does not come within the statutory definition of gambling but is potentially harmful to players, might be brought within joint regulatory scrutiny and/or made the subject of enforcement measures.

### **Head 108 – Recommendations**

- Anyone participating in an operator-specific self-exclusion scheme should be provided with the option to opt-in to the Exclusionary Register.
- Resourcing should be made available for data collection, monitoring and evaluation of self-exclusion schemes. The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.

### **Head 109 – Recommendations**

- Advertising and marketing influence the gambling behaviour of children and young people. In a complex, integrated digital environment it is almost impossible to prevent children from being exposed to advertising and thus we recommend the precautionary principle be applied and advertising and marketing be heavily restricted.
- It is recommended that everyone is automatically opted-out of direct marketing and made to opt-in to the product vertical (i.e. sports betting, lotteries etc.) to minimise the opportunities for cross-selling.
- We recommend extensive restriction on advertising that promotes gambling goods and services on TV, radio, and online channels.
- We recommend alignment between this legislation and the Online Safety and Media Regulation Bill to ensure consistency in approach towards reducing harms from online gambling advertising.

### **Head 110 – Recommendations**

- Consider the recommendation concerning formulation of codes of practice under Head 21 above and provide that representatives from public health will be included in any ongoing consultation processes regarding the creation of codes on advertising and promotion of gambling and their review.

### **Head 111 – Recommendations**

- We recommend that the codes referred to in this Head shall include a prohibition of the sponsorship of events involving persons under 18 including the sponsorship of any sports club equipment i.e. sports bottles, gear bags, training equipment etc.
- There should be a phasing out of gambling industry sponsorship for sports clubs and national governing bodies of sports with a focus on those groups providing sporting opportunities for children in Ireland.

### **Head 113 – Recommendations**

- The Institute welcomes the introduction of an industry levy and strongly recommends that this levy is placed on a statutory footing.

### Head 114 – Recommendations

- The Social Impact Fund and State funding should be used to resource the Authority and its functions including prevention and gambling specific support services for the treatment of gambling related harms.
- The development of statutory gambling treatment and support services is a real need however, this Act should also prioritise the reduction of need for the use of these services by ensuring prevention of gambling harms is at its core. The funds could be used to fully, and independently evaluate prevention activity for example school-based education, peer to peer networks/support for changing behaviours, and public health campaigns.
- A proportion of the levy should be set aside for data collection, analysis and monitoring the impact of the changing gambling environment on gambling behaviours.
- A research strategy should be agreed and independently managed by bodies such as research councils.

### Head 115 – Recommendations

- The administration of the levy fund should be overseen by an independent statutory body to ensure maximum transparency and independent of any gambling industry influence.
- No funding should be accepted directly from the gambling industry, all funding should be deposited to the Social Impact Fund and should be proportionate to the health and societal harms resulting from gambling.

### Head 116 – Recommendations

- Include public health representatives on the advisory committee.

# Heads of Bill

## Head 10 – Membership of the Authority and terms of membership

### Subhead 4:

*In making recommendations of persons who are suitable for appointment as members of the Authority under this Head, the Service shall have regard to the desirability of the members of the Authority possessing knowledge of, and experience in, matters connected with the following:*

- i. the policy / legislative environment in which a regulatory and licensing body such as the Authority operates,*
- ii. commercial, business and consumer affairs,*
- iii. expertise on the gambling sectors (both commercial and non-commercial) (i.e. charity) or on matters related to that sector (i.e. sectors providing relevant, ancillary, or support services to the gaming sectors, consultants or academics),*
- iv. expertise on gambling addiction and safer gambling (i.e. service provision, support services, consultants or academics),*
- v. advanced ICT / online expertise,*
- vi. expertise in forensic financial matters, including auditing and anti-money laundering,*
- vii. or any other subject which would, in the opinion of the Service, be of assistance to the Authority in performing its functions under this Act.*

### Subhead 9:

*In appointing members to the Authority, the Minister shall, in so far as is practicable and having regard to the knowledge or experience of matters relevant to the functions of the Authority of the persons concerned, ensure that at least three (3) of the members of the Authority are women and three (3) who are men.*

## Head 10 – Recommendations:

- We recommend the use of a broader term under 4(d)/iv to describe the type of sector-specific expertise which will be sought for membership of the Authority. The term “gambling addiction” may be narrowly construed to refer only to specific types of disordered gambling behaviours, at the extreme end of the spectrum. A broader term such as “expertise on problems related to gambling” might be considered in lieu of “gambling addiction”.
- We recommend that separate membership be included in the appointments to allow for input from two types of expertise (a) public health and (b) those involved in service development and delivery including clinicians specialised in gambling addiction.
- We recommend that there is provision made for membership by party or parties with responsibility for protecting the rights of children - for example TUSLA and/or the Ombudsman for Children.
- In making recommendations of persons who are suitable for appointment as members of the Authority under this Head, consideration must be given as to how to address the conflicts of interest that arise between commercial interests and the reduction of gambling-related harm at population level. The fiduciary imperative places the activities of the transnational gambling operators, their agents and funded organisations, fundamentally at odds with an imperative to reduce gambling-related

harms. Conflicts may potentially arise through a proposed member's existing fiduciary, advisory and proprietary interests (e.g. through shareholding in gambling undertakings). The Authority will be a corporate body and the members will have statutory obligations under companies' legislation to avoid certain conflicts of interest. The statutory provisions address very specific types of conflict and will not go far enough to protect the range of interests at stake here. For this reason, disclosure of specific types of conflict prior to appointment is justified and consistent with the objectives of the proposed legislation.

- We recommend that conflict of interest statements be provided by each member of the Authority and advisory committees and independently reviewed. These could be signed statements similar to that of the [declaration of interests for World Health Organization experts](#) on smoking but adapted to the gambling industry i.e.:  
“Within the past 4 years, have you had employment or received research support or other funding from, or had any other professional relationship with, an entity directly involved in the production, manufacture, distribution or sale of gambling products or representing the interests of any such entity?”  
The conflict of interest statement could be required from each member at the time of appointment and thereafter annually for the duration of the term(s) of appointment.
- Consider inclusion of a similar requirement which would ensure that public health interests are at all times represented by a minimum number of at least two members. The protection of public health interests represents the broader public interest, and advocates for disparate interests which might not otherwise have a voice. It is submitted that public health interests should always be represented in the membership of the Authority since, unlike commercial gambling interests, public health represents a range of diffuse interests and addresses a broad spectrum of community sectoral concerns.

## Head 11- Terms of appointment

### Subhead 2:

*(a) Of the members appointed to the Authority on the establishment day other than the Chairperson, half the members plus one shall, subject to this Act, hold office for a period of three (3) years from the date of their respective appointments as such members.*

*(b) The members of the Authority referred to in paragraph (a) who will hold office for a period of three (3) years shall be selected by the drawing of lots, conducted in such manner as the Chairperson thinks proper, at the first meeting of the Authority referred to in Head 15.*

### Head 11 - Recommendations

- Consider whether membership of the Authority should at all times reflect the range of sectoral interests and the minimum representation outlined in Head 10 Subheadings 4 and 9, so that the members who are required to resign should be replaced by appointees of similar knowledge and expertise. This would ensure a balance of sectoral interests among the membership of the Authority at all times.

## Head 12 – Disqualification for office of member of the Authority

### Subhead 1:

*A person shall be disqualified from holding and shall cease to hold office as a member of the Authority if he or she:*

- i. is convicted on indictment of an indictable offence,*
- ii. is convicted of an offence involving fraud or dishonesty,*
- iii. is adjudicated bankrupt,*
- iv. makes a composition or arrangement with his or her creditors,*
- v. has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act,*
- vi. has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,*
- vii. is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act,*
- viii. ceases to be ordinarily resident in the State, or*
- ix. falls within any of paragraphs (a) to (d) of Head 16 (Membership of either House of the Oireachtas, European Parliament, etc.).*

### Head 12 – Recommendations:

- Include “is found to be in breach of the ‘conflict of interest declaration’ if this is enforced as is outlined under section ‘Head 10 – Recommendations’.
- The draft provision at Heading 12(1) is representative of standard disqualification provisions for public office holders but should be tailored to address the requirement that all conflicts of interest, whether existing at the time of appointment, or arising during the appointment, should be disclosed as a condition for membership of the Authority.

## Head 13 – Removal of member of the Authority

### Subhead 1:

*The Minister may remove a member of the Authority from office, following compliance with paragraphs (b), (c), and (d), where one or more of the following grounds apply, that in the opinion of the Minister:*

- i. the member has become incapable through ill health of effectively performing the functions of the office;*
- ii. the member has committed stated misbehaviour;*
- iii. the member has a conflict of interest of such significance that he or she should cease to hold the office;*  
*or*
- iv. the member is otherwise unfit to hold the office or unable to discharge its functions.*

### Head 13 – Recommendations

- ‘Conflict of interest’ must be clearly defined and a written conflict of interest declaration should be considered. This could be signed by all members prior to appointment – see ‘Head 10 - Recommendations’ for an example statement.
- The draft provision at Heading 13(1) is representative of standard disqualification

provisions for public office holders but should be tailored to address the requirement that all conflicts of interest whether existing at the time of appointment or arising during any term of appointment, should be disclosed as a condition for membership of the Authority.

## Head 14 – Functions of the Authority

### All Subheads:

1. *The Authority shall be independent in the performance of its functions.*
2. *The Authority shall be the sole authority with responsibility for regulating the provision of gambling services and activities in the State.*
3. *The Authority shall regulate gambling services and activities by commercial and noncommercial providers of such services, including the advertising of such services, in order to achieve a high degree of compliance and may undertake or have undertaken such inspections and other measures with the aim of verifying compliance with the licensing requirements of this Act.*
4. *The Authority shall develop appropriate safeguards to protect individuals from the harms of problem gambling through the regulation of gambling-related advertising and to ensure the effective protection of users of gambling services, products and activities.*
5. *The Authority shall be the sole authority for the licensing of gambling services and activities in the State and shall have the exclusive authority to develop, grant, renew, revoke and revise any licence (including its terms and conditions, if any) or any category of licence provided by this Act. This responsibility also includes:*
  - a. *establishing appropriate licence fees for gambling activities;*
  - b. *maintaining a list / register of all licensees and the activities they are licensed to engage in; and*
  - c. *supervising licensees and overseeing gambling operations, through compliance and monitoring activities, on-site inspections, etc.*
6. *The Authority shall be the competent authority for anti-money laundering and counter terrorism financing supervision in respect of gambling activity operators.*
7. *To ensure compliance with its regulatory and licensing functions as set out in subheads (3), (4) and (5), the Authority may:*
  - a. *detect and investigate whether an offence has been committed under this Act or other Acts provided for;*
  - b. *institute proceedings / prosecutions in respect of an offence under this Act or other Acts provided for; and*
  - c. *impose sanctions in accordance with Part 4.*
8. *The Authority may discharge the functions referred to in subheads (3), (4) and (5) by:*
  - a. *issuing, or having issued, codes;*
  - b. *making orders / regulations that relate to compliance and standards and that may specify matters in relation to games and machines, including:*
    - i. *standards and types of software;*
    - ii. *records of maintenance, including where seals were placed;*
    - iii. *calibration checks;*
    - iv. *other technical standards; and*
    - v. *standards for recording of transactions (either electronically and by other means);*
  - c. *receiving, investigating and addressing complaints in relation to the provision of gambling services and activities;*
  - d. *receiving, investigating and addressing complaints in relation to the licensing of gambling services and activities, including by utilising the Appeal Board for such purposes;*
  - e. *undertaking own volition investigations under the powers of investigation provided for in paragraphs (c) and (d);*



- f. *maintaining a register of all licences issued for all gambling services and activities;*
  - g. *keeping the Minister informed of developments in respect of the regulation and licensing of gambling services and activities by providers, and making recommendations to assist the Minister in co-ordinating and developing policy in that regard;*
  - h. *undertaking, commissioning or assisting in research projects and other activities in respect of gambling services and activities, which in the opinion of the Authority may promote an improvement in standards for the regulation and licensing of those services and public awareness of them, and make recommendations to the Minister arising from those projects or activities;*
  - i. *promoting public awareness and disseminating information to the public in respect of the regulation and licensing of gambling services and activities, including the cost of such services;*
  - j. *possessing powers to ensure that the integrity of the gambling sector is not compromised by the licensing of persons seeking ownership or control of gambling businesses using criminal funds, or who would manage licensed gambling in ways which facilitate money laundering or terrorist financing;*
  - k. *operating the standard anti-money laundering / counter terrorist financing supervisory practice of concentrating efforts where the risks are greatest;*
  - l. *participating in the revision of the money laundering / terrorist financing risk assessment as it relates to gambling biennially in collaboration with the Anti Money Laundering Steering Committee, liaising with the An Garda Síochána (Financial Intelligence Unit), the Revenue Commissioners, and other relevant bodies on Suspicious Transaction Reports;*
  - m. *liaising with relevant anti-money laundering authorities in other states as necessary;*
  - n. *ensuring its staff are trained and equipped to take appropriate decisions on the suitability of anti-money laundering / counter terrorist financing systems and controls;*
  - o. *appointing an appropriate representative to the Anti-Money Laundering Steering Committee;*
  - p. *ensuring that operators have a written anti-money laundering framework in place as a condition of licensing; and*
  - q. *ensuring that operators are effectively supervised for compliance with antimoney laundering / counter terrorist financing requirements.*
9. *The Authority shall have power to authorise or prohibit the provision of certain forms of gambling activities, services or products in the State.*
10. *The Authority shall establish and maintain a social impact fund to:*
- a. *assist in funding research, training and community interventions into treatment of gambling addiction;*
  - b. *assist in funding public education and awareness raising programmes and the production of relevant information materials; and,*
  - c. *assist in appropriately supporting funding the provision of services to treat gambling addiction by appropriate / suitable bodies, through other State bodies and agencies;*
11. *The Authority shall, in performing its functions of the regulation of gambling services and activities under this Act, have regard to the objectives of:*
- a. *licensing, supervising and enforcing the provision of gambling services and activities in the State;*
  - b. *protecting and promoting the interests of consumers relating to the provision of gambling services and activities;*
  - c. *addressing money laundering activities in the context of gambling services and activities under any relevant legislation including, but not limited to, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, the Criminal Justice Act 2013 and the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018;*
  - d. *preventing, detecting, investigating or prosecuting offences relating to gambling related match fixing / the manipulation of sporting events;*
  - e. *securing and maintaining consumer choice in the provision and availability of gambling services and activities;*
  - f. *ensuring competition and promoting innovation in the gambling industry, and protecting the State's revenues / financial interests;*
  - g. *ensuring the promotion of innovation and technology through employment and research; and*
  - h. *protecting and promoting the public interest and society, in particular children, from the ill-*

*effects of gambling.*

12. *Subject to this Act, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions, including liaising and co-operating with other statutory bodies or authorities, professional or consumer bodies or authorities, whether in the State or elsewhere.*
13. *Any function of the Authority may be performed through or by the Chief Executive or any member of its staff duly authorised in that behalf by the Authority.*
14. *The Chief Executive or member of staff of the Authority who performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, until the contrary is proved.*
15. *The Authority may provide for the performance, under the general direction of the Authority, of one or more of its functions by a committee.*
16. *The Minister may confer on the Authority by order or regulation such other additional functions in relation to gambling services and activities as he or she may from time to time consider necessary.*

## **Commentary – prevalence of gambling harms in Ireland**

There are no recent data available in Ireland on rates of problem gambling, gambling disorder or gambling-related harms however clinical observations on presentations for treatment are increasing (O’Gara 2018). It is noted that gambling data was collected as part of the National Drug and Alcohol Survey in 2019/20 and the report on gambling was expected in October 2021 however, it remains unpublished (Dáil Éireann Debate, 2021).

In 2019, the Department of Health and Social Care commissioned Public Health England to undertake a review of the evidence on gambling harms (PHE, 2021). The review includes the most comprehensive estimate of the economic burden of gambling on society to date. In England alone it reported that the harms associated with gambling cost at least £1.27 billion. This analysis includes the first estimate of the economic cost of suicide (£619.2 million) and provides an updated cost of homelessness associated with harmful gambling (62.8 million). Gambling-related harms in the analysis range from financial such as bankruptcy and employment issues, to family issues, and health harms such as suicide.

There is growing evidence that the profitability of gambling industries depends heavily on people experiencing problem gambling (Wardle, 2021d). A pre-COVID-19 study of 208 Irish online gamblers found that 75.0% had to borrow money or sell to fund their online gambling participation and 74.5% had experienced financial problems in their household as a result of their online gambling (Columb and O’Gara, 2018). A UK study conducted during COVID-19 found that 40% of spend on online sports betting was generated by the 15% of those classified as moderate risk or problem gamblers (Wardle et al. 2021c). Recent analysis by the University of Liverpool and NatCen Social Research of online gambling accounts showed that 70% of Gross Gaming Yield (GGY) was generated by just 5% of players, with a disproportionate amount of spend being generated from those living in the most deprived areas (Wardle et al. 2021e). These figures were even more marked for certain sectors, for example 5% of the highest staking accounts contributed 83% of GGY for online casino products. Lastly, a large-scale study of bank transactions found that 1% of gamblers spend 58% of their income on betting and suffer a range of financial, health and personal problems (Muggleton et al. 2021). Although cause of mortality data was not available the study also reported that high levels of gambling were associated with a likelihood of mortality that is about one third higher, for both men and women, independent of age.



## Evidence on objectives of the legislation

Commencing with the decision in *Van Duyn*, (where the concept was expressed as the “area of discretion” of Member States) it is well-established that where national legislation places restrictions on the fundamental freedoms, the Court recognises a “margin of discretion” for Member States legislation (Case 41/74 *Van Duyn v Home Office* [1974] ECR 1337 para [18]). This “margin of discretion” creates room for national measures in regulatory areas (such as the regulation of gambling) where there is no sector-specific law (Gerards, 2011, p. 94). Justification for use of different types of regulatory structures may be found in national moral and cultural preferences, but this discretion “...must be exercised in conformity with the obligations arising under Community law” (Case C-244/06 *Dynamic Medien* [2008] ECR I-505 at [44] and [45]). Thus, creation of a regulatory scheme for gambling comes within the “margin of discretion”, and must be structured with due observance of primary EU law obligations.

Potential conflicts with EU law and the jurisprudence of the Court of Justice of the European Union (CJEU) may emerge when regulatory structures that come within the “margin of discretion” also operate as revenue-generating schemes (Case C- 243/01 *Criminal Proceedings against Piergiorgio Gambelli et al.*, [2003] ECR I-13031 (“*Gambelli*”) at paras [68] and [69]). Notwithstanding that the gambling case law of the CJEU has principally been concerned with cross-border issues arising from monopoly/sole licensing structures, the Court has laid down some rules concerning financial impacts of gambling regulation which reflect the broader principles of EU law on general interest justifications. For example, in *Zeturf* it ruled that raising revenue must strictly be “...an ancillary beneficial consequence” of the chosen regulatory model (Case C-212/08 *Zeturf Ltd v Premier Ministre* [2011] ECR I-05633 at paras [51] to [55]). In that case, the regulatory model in question was a restrictive one, justified by reasons of public interest objectives with the subsidiary objective of contributing to development of the horse racing industry. The Court noted that it had repeatedly confirmed that even where a levy can contribute significantly to the financing of benevolent or public interest activities, such a ground could only constitute an ancillary beneficial consequence and could not be a substantive justification for restricting supply of gambling services. This reflects a general principle in EU law that economic grounds do not constitute an overriding reason in the public interest which can justify a restriction on the freedom of establishment or the freedom to provide services (see also case C-243/01 *Gambelli and others* [2003] ECR I-13031 para. [61] and case law cited; and C-153/08 *Commission v. Spain* [2009] ECR I-9735, para. [43]).

Although the decision in *Zeturf* may be distinguished on the grounds that it concerned a national monopoly, restricted to one type of gambling activity, it brings into question the validity of an objective intended to secure public revenue streams. Even where the chosen regulatory model is not a monopoly, a scheme of gambling regulation which controls supply through licensed operators is still restrictive on the freedom to supply gambling services. Where supply of gambling services is controlled via licensing, provisions designed to protect state revenue and financial interests may be inconsistent with EU and CJEU-approved justifications for restrictive legislation based on public interest objectives.

## Head 14 – Recommendations

- It is noted that ‘the Authority shall be independent in the performance of its functions’. In addition, it is recommended that the Authority should have sufficient powers and resources to carry out all outlined functions. In particular, the Authority should be obliged to procure that all gambling services provided in the State are conducted in a fair and open way.
- In relation to Subheading 8g we recommend broadening the scope of this subheading to inform all Ministers on matters relating to developments in gambling regulation
- The IPH welcomes that the Authority shall have power to authorise or prohibit the provision of certain forms of gambling activities, services or products in the State.
- In relation to Subheading 10a we recommend broadening the scope of this subheading to “assist in funding research, training and community interventions into prevention and treatment of gambling related harms”.
- Consider whether justification for intervention by the Authority could be made more flexible by replacing the term “harms of problem gambling” with an alternative form of words such as “problems related to gambling”. This is especially the case when research is still ongoing to identify causal connections between gambling and different types of negative behaviours which lead to development of addicted gambling and gambling-related disorders. Head 14 Subheading 4 concerns development of safeguards to protect individuals from the “harms of problem gambling”. This expression would benefit from some form of interpretative support. Alternatively, a formula such as “problems related to gambling” could be considered. This is the form of words used in the U.K. Gambling Act 2005. In either case, the rationale for a clearer or more flexible description of the term “problem gambling” is to allow the protections and benefits of the Act to extend to the widest possible scope of disordered gambling behaviours. The categories of “problem gamblers” is potentially very wide. This is recognised in the [WHO ICD \(International Classification of Diseases\) 11th Revision](#), which classifies gambling behaviours. This currently distinguishes between “disordered [gambling](#)” (6C50), and “[hazardous gambling or betting](#)” (QE21). Both types of behaviours are defined by set diagnostic criteria. There are however other behaviours linked to potential gambling harms which do not meet all the criteria of the WHO classifications. For example, King and Delfabbro describe abnormal behaviours found in monetized game environments as “maladaptive purchasing decisions” (King & Delfabbro, 2018). Research is still ongoing to investigate whether such behaviours are precursors to problem gambling.
- Head 14 Subhead 11 (b) directs the Authority to have regard to protection and promotion of the interests of consumers relating to provision of gambling services and activities. Consider expanding the list of potential interests to include other categories such as (but not limited to) the public health, social and financial consequences of accessing gambling services and activities.
- The function of the Authority should not include ‘ensuring competition and promoting innovation in the gambling industry and protecting the State’s revenues / financial interests’ and ‘ensuring the promotion of innovation and technology through employment and research’ as these are in direct tension with its function of ‘protecting and promoting the public interest and society, in particular children, from the ill-effects

of gambling’. These internal conflicts of interest between the functions of the Authority, particularly those relating to protection and raising of public revenue, have potential to create tensions with obligations under EU law. Consider a formula which imposes only an advisory/reporting role such as consulting with Revenue should the Authority become aware of an issue which affects the State’s revenue/financial interests.

- The function of the Authority should include a clearly defined monitoring and evaluation function, incorporating routinely collected data to monitor progress against targets and the objectives of the Authority. The Authority should be entitled to make such data available to specified third parties, for the purpose of research, including research into gambling behaviours.
- It is recommended that the Authority consider the development of a data strategy to collect insight on gambling behaviours directly from the industry. If developed, the Authority should have a repository function over the strategy. The Authority should be entitled to make such data available to specified third parties, for the purpose of research, including research into gambling behaviours.
- The IPH welcomes ‘maintaining a register of all licences issued for all gambling services and activities’ and recommend that this includes a geographic information system (GIS) to aid monitoring of the density of land-based betting venues particularly in areas of high deprivation.
- Enhanced monitoring of gambling behaviours and harms among both children and adults through government health surveys to consider the associations with mental health and other recognised addictions, such as alcohol and drugs, is recommended. In addition to publishing the results of such surveys, the Authority should be entitled to access the underlying data and make it available to specified third parties, for the purpose of research into gambling behaviours.

## Head 17 – Committees of the Authority

### Subhead 1 and 2:

*The Authority may establish committees to—*

- assist and advise it in relation to the performance of all or any of its functions, and*
- perform such functions of the Authority as may stand delegated to them under Head 14 (Functions of the Authority).*

*In appointing members of a committee, the Authority shall—*

- have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and*
- have regard to the desirability of there being such balance between men and women on the committee as is appropriate.*

### Head 17 – Recommendations

- Any committees established by the Authority should have sufficient representation from public health and the health service to provide both prevention and treatment perspectives.
- The comments made under Head 10 Subheading 9 are repeated here. Committee

membership should be always balanced so that public health interests are consistently represented for the duration of any committee's work.

- Anyone with any conflicts of interest should also be excluded from any established committee.
- We recommend the establishment of a committee specifically relating to protecting children's rights and wellbeing (scope of the committee could include GDPR, proof of age, online safety, test purchasing and child protection). The committee should include representation from parties involved in children's rights i.e. the Ombudsman for Children, Committee on the Rights of the Child, and Special Rapporteur on Child Protection.

## Head 20 - Reports to Minister

### Subhead 1:

*The Authority shall, not later than 30 April in each year, make a report (in this Head referred to as the "annual report") to the Minister on the performance of its functions during the preceding year.*

### Head 20- Recommendations

- Consider amending Head 20 Subhead 1 by adding the Ministers for Health, Mental Health, Children as parties to whom the Annual Report should be made available in the first instance.

## Head 21 - Powers of the Authority in relation to codes

### Subhead 1:

*The Authority may, having regard to the objectives specified in Head 14 (Functions of the Authority) and in accordance with this Head, issue a code where it considers it necessary to do so for the purpose of setting and improving standards for the provision of gambling services and activities in the State*

### Subhead 4:

*Before exercising its powers under subheads (1) or (2), the Authority shall consult, in such manner as it considers appropriate, with— a. any parties which shall be subject to the proposed code, and b. such other interested parties as the Authority considers appropriate. 5. Where the Authority engages in consultation under subhead (4), it shall, before issuing the code concerned, consider representations (if any) made by the bodies or parties so consulted.*

## Head 21- Observations

Consideration should be given to development of specific procedural steps for development of any code of conduct under the legislation. Some procedural issues to be considered are:

- Identifying the parties whose contribution is essential to development (and revision) of a code so that all key stakeholder interests are represented in a fair and open way.
- Involvement of public health, health services and public interest groups as key participants in the approval process.
- The practical steps towards development of the code, from the party with responsibility for initiating the process, through the sequence of development and approval, and a timetable for review and revision of the code.
- The interrelationship of the code with the objectives, principles, prescriptive rules and enforcement framework of this legislation.

## Head 21- Recommendations

- Consider including a mandatory list of public interest stakeholders which the Authority must consult when developing a code of conduct. At a minimum, this list should include public health and health services representatives and should provide that these parties be consulted at each stage of the development process. Although the draft legislation does not expressly identify licensed operators as a consultative party, it is implicit in the construction of Head 21 Subhead 4 “...*any parties which shall be subject to the proposed code*”. By contrast, the corresponding provisions for other stakeholders are discretionary: “...*such other interested parties as the Authority considers appropriate*”. It is fair and reasonable that the interests of all relevant stakeholders be represented at each stage of development and any review of a code.
- To the extent that it is feasible within the structure of the legislation (or alternatively within the framework of a Statutory Instrument) clear guidance should be developed as to the processes for issuing and review of any code under the legislation.

## Head 45 – Application for a new licence or to renew a licence

### Subheads 3cix and xii:

*The Authority shall specify the information a person shall be required to provide when making an application for a licence or a renewal including:*

- ix. *information relating to the applicant’s current and previous holding of other licence types issued by the State and their compliance history with same (i.e. alcohol licensing, planning terms and conditions related to a licence and the application for that licence, licences under existing gambling statutes etc.),*
- xii. *details of the premises that the licensed activities (including activities provided by remote means) will be provided from including its -*
  - I. *location(s),*



- II. *size,*
- III. *layout,*
- IV. *details of all entry and exit points,*
- V. *lighting sources and density of same,*
- VI. *size of the proposed area where gaming devices are to be allocated,*
- VII. *the position of games, machines, tables within the premises,*
- VIII. *details and positioning of all CCTV systems including for outdoor surveillance,*
- IX. *details of all security measures on the premises,*
- X. *details of all non-gaming areas and features to separate and distinguish them from gaming areas,*
- XI. *details of all external spaces and features including any proposed signs or lighting etc., and all relevant health and safety, and planning documentation related to the premises;*

### **Commentary - Location of licenced betting shops**

It is important the Authority considers making data on the licensing of land-based betting and gambling publicly available. This data can be used for research and to assist in area planning and development by local councils and authorities. The higher density of units in areas of high deprivation is well recognised internationally but data is not yet available in Ireland. In a secondary analysis of the Wales Omnibus Survey 2015, problem gambling rates were over seven times higher among those living in the most deprived areas than those who lived in the least deprived areas (Rogers et al. 2019). In England, HSE data from 2015, 2016 and 2018 reported that rates of problem gambling in the most deprived areas in England are twice that of the national average (Gambling Research Glasgow, 2021). This pattern of increased levels of gambling problems amongst those living in the most deprived area is observed among men, women and all age groups.

In the UK, there has been consideration of the distribution of gambling venues and their area characteristics including deprivation. This work has focused upon both the distribution of machines and the distribution of bookmakers (Wardle et al. 2014). Areas with a high density of machines or higher numbers of bookmakers tend to be more deprived than other areas such as those with no bookmakers or urban areas generally. Therefore there is an unequal distribution of gambling opportunities, being disproportionately placed in areas of greater deprivation.

Furthermore, the distribution of bookmakers typically serves local markets, with the most regular customers residing locally to their preferred LBO (Astbury and Thurstain-Goodwin 2015). Specifically, 'an estimated 8% of loyalty card players sampled live within 400m of an bookmakers where they have played a machine.... nationally, 23% live within 1km, and 46% live within 3km, suggesting quite local choices being made and a typical pattern of accessibility to goods and services'. Additionally, the study found that individuals who played machines on 80 or more different days between September 2013 and June 2014 travelled a median distance of less than 1km from their home to the bookmaker. Lastly, those who were bookmaker loyalty cardholders who lived within 400m of a cluster of bookmakers had higher rates of problem gambling than those who did not.

## Commentary - Alcohol

A review conducted by Alcohol Change UK found that participation in gambling is higher amongst more frequent drinkers and those who engage in multiple forms of gambling are more likely to consume more units of alcohol on their heaviest drinking day (Bohane et al. 2015). In land-based gambling venues, operators are required by the regulators to prevent customers who are alcohol intoxicated from gambling. However, there is little research looking at gambling and drinking behaviour in these venues. The report highlights concern about drinking which takes place outside of betting shops and drinking at home in the case of online gambling, with some studies suggested that the latter are commonly combined. The report by Bohane et al (2015) found international evidence that alcohol use contributed significantly to impaired control of gambling, and there is a relationship between gambling and binge drinking (Bohane et al. 2015).

Research has also shown that the extensive use of alcohol and drugs is a significant factor and risk predictor linked to problematic gambling. A recently published evidence review by Public Health England found a clear and strong association between gambling at all levels of harm and increasing alcohol consumption (Public Health England, 2021). This gradient is evident for overall gambling participation and becomes steeper for at-risk and problem gambling. There is a particularly high level of gambling risk for people consuming 50 units of alcohol or more per week.

### Head 45 – Recommendations:

- Consider limiting the number of land-based betting and gambling office licences and amusement arcades available within areas of higher deprivation. The objective of this recommendation is to limit opportunities for gambling in these areas in a consistent and systematic way. Such limits are justified by reasons of public health and public order, and by reasons of public interest, including (but not limited to) reasons of consumer protection, as a deterrent against problematic spending on gambling, and to minimise risks associated with location in areas of higher deprivation.
- Betting and gambling licenses should not be granted for use within the same establishments that hold an alcohol license. The objective of this recommendation is to limit opportunities for gambling in these locations in a consistent and systematic way. Such limits are justified by reasons of public health and public order, and by reasons of public interest, including (but not limited to) reasons of consumer protection, as a deterrent against problematic spending on gambling, and to minimise risks associated with gambling activities taking place in such locations.
- Consider investigation of the Planning Acts, the Intoxicating Liquor Acts and the forthcoming Sale of Alcohol Bill to identify complementary regulatory provisions which facilitate adoption of measures in support of these restrictions to reduce the harms from co-use of alcohol and gambling and the co-location of licences.
- The Authority should consult with public health, consumer and the health services as to the type of licensing restrictions and conditions which might be appropriate to give effect to this recommendation.
- We recommend that venues are required to notify where a Fixed Odds Betting

Terminal is on their premises and the maximum stake on that device.

## Head 49 – Power of Authority to specify terms and conditions of a licence

### Subhead 4 (parts d, e, h, j, k, l, m, n, s, w, x, y, z):

*Where a licence is issued, the Authority shall attach terms and conditions, where appropriate, relating to - duration of the licence,*

- d. the gambling activities and services that are authorised to be provided under the licence (including any devices and equipment used to do so),*
- e. the minimum and maximum stakes and prizes applicable to all games and activities authorised by the licence, where applicable,*
- h. the adequate provision for staff training (in particular an obligation to provide training to employees who interact with players to ensure that those employees understand problem-gambling issues, are able to liaise with the players appropriately and to take any interventions having regard to the circumstances of a situation.),*
- j. the obligation to comply with all codes (where applicable) issued by the Authority (particularly in relation to the advertising, sponsorship and promotion of gambling),*
- k. having due diligence policies,*
- l. the obligation not to contact a person registered or participating in an exclusionary measure for the purpose of promoting gambling,*
- m. an obligation not to advertise, display their name or any promotional signage that is visible to a school, a playground, a sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children,*
- n. the obligation to intervene and take all necessary steps (including any preemptive measures) in accordance with any codes issued by the Authority, or where a licence holder suspects / is of the opinion that a customer displays or is suspected of displaying problematic / addictive behaviours or patterns of activities to indicate such a concern,*
- r. hours of business (other than for remote operations),*
- s. the obligation to report suspected suspicious betting activity or suspicious patterns of betting activity to the Authority,*
- w. the obligation on –*
  - i. Business to Consumer licence holders, and*
  - ii. Business to Business licence holders,**as determined by the Authority based on the types of activities those licence holders are engaged in, to contribute to the Social Impact Fund established under Part 5,*
- x. those areas of the premises referred to in a licence, that children may enter or access on the premises (if applicable),*
- y. the obligation not to –*
  - i. employ children, or*
  - ii. accept a wager / stake from a child,*
- z. the obligation to comply with the requirements of the “Exclusionary Register” provided for under Part 5.*

### Subhead 7:

*The Authority shall, in addition, prepare and publish criteria that will be taken into account in determining whether locations used for certain activities are, prima facie, appropriate or not for use as gambling service providers. The suitability or otherwise of a location may be determined by the type of neighbourhood concerned, proximity to schools, local authority development plans, etc.*

### Subhead 8:



*The Authority may make it a condition of certain licences that each person attending or playing games via remote means may be required to enter details in a database maintained by the licence holder. It may also be a condition that the identity of each person has to be verified by the production of approved identity documents, including photo ID documents (e.g. passport, drivers licence). The content of the material to be recorded and rights of access to it shall be in conformity with the Data Protection Act 2018, but the database shall be made available to the Authority upon request.*

### **Commentary - Stakes, prizes and affordability checks**

This Bill should consider all those who are vulnerable to high risk gambling and gambling harms. Evidence shows that young people, students, some minority groups, those living in most deprived areas, those who are homeless, ex-prisoners or individuals on probation are particularly vulnerable to gambling harm (Department for Communities, 2017; Rogers et al. 2019). Problem gambling is associated with male gender, younger age (16-34 years), individuals who were separated, divorced or never married, unemployment, lower education and lower socioeconomic status.

Studies from England, Scotland and Wales show that those who engage in activities like online gambling or Fixed Odd Betting Terminals have a much higher prevalence of gambling problems, with around one in five people who engage with these products experiencing moderate risk or problem gambling (Conolly et al. 2018). The last decade has seen a significant increase in online gambling and use of Fixed Odds Betting Terminals (FOBTs), particularly amongst treatment seeking gamblers (Department for Communities, 2017; Gambling Commission 2020). Online and offline services offer rapid switching between different forms of gambling, and the practice of cross-selling facilitates continuous, high frequency gambling (Wardle, 2021a). Exposure to new forms of gambling to previously unexposed population sectors, particularly electronic gaming machines (EGMs) and other continuous forms, are associated with high risk for the development of gambling problems (Abbott, 2020).

Ireland currently has no legislation controlling or prohibiting Fixed Odd Betting Terminals (FOBTs) (Fulton, 2018). There is inadequate evidence regarding where they might be located or how many may exist. In the UK, licensed betting offices and FOBTs are typically concentrated in areas of high deprivation whose populations are more vulnerable to gambling-related harm. The All-Party Parliamentary Group in the UK expressed particular concern about the potential impact of a higher density of FOBTs in disadvantaged areas where there are higher levels of mental ill-health and suicide, violence and money laundering activity (APPG, 2018). In short, a large proportion of the population are vulnerable to gambling harm and rely on explicit and robust regulations to reduce their risk.

Until the 1<sup>st</sup> of April 2019, when the Gaming Machine (Miscellaneous Amendments and Revocation) Regulations 2018 came into force, the maximum stake on a single bet was £100. It is now £2. However, the maximum prize remains at £500. There is no formal evaluation of the impact the reduced maximum stake has had on gambling on the UK. However, it was reported in the Guardian newspaper that there has been a 38% reduction in police callouts to bookies to deal with customers becoming violent after losing money, following the enforcement of the legislation (The Guardian, 2020). There were 1,803 callouts

in 2019, compared with 2,907 the previous year, even though the reduced stake rules only took effect three months into the year. The newspaper also reported that there were 23% fewer incidents requiring a police presence than in 2017 and less than half of the 4,060 reported in 2016. Revenues on FOBTs has also dropped significantly.

A report commissioned and funded by Public Health Wales on gambling harms reported that integrated secondary measures such as on-screen warnings, and limit-setting (e.g., losses) may support individuals when deciding whether to prolong or terminate their gambling sessions (Rogers et al. 2019). For example, onscreen warnings can increase the likelihood of session termination and limit-setting can sometimes moderate betting behaviour. However, only a minority of individuals engage with these measures, limiting their efficacy.

In the UK stake sizes on machines in land-based venues are limited to £5 however this only includes particular types of machines that are present in casinos. No limits exist for more accessible online gambling products. A recent meta-analysis of 104 studies of gambling prevalence showed that although all forms of gambling are more common in people with problem gambling compared to controls, the continuous forms of gambling (characterised by high rate of play and short time between wagering and the outcome), notably EGMs and internet gambling, have the highest levels of association (Allami et al. 2021). For this reason, a critical consideration of the Gambling Act Review is lowering the stake sizes permissible online.

A recent qualitative study that interviewed 20 gamblers aged 29–60 years, self-reported that they had experienced gambling-related harm (Nyemcsok et al. 2021). Participants reported that gambling regulation was not adequately keeping pace with gambling industry practices, and that new initiatives were needed to prevent the harms associated with product design, how individuals engaged with products and marketing practices. In particular, stake limits, time limits and affordability checks were all reported as critical in restricting gambling industry practices and protecting individuals. It was also recommended that affordability checks should be implemented regardless of an individuals' income level, and should be verified prior to an individual being able to gamble. For example, one requirement could be that an individual's gambling be limited or blocked until an affordability check was completed.

### **Commentary - Hours of business**

There is a social gradient in the experience of gambling harms within populations, with certain communities being more likely to experience a greater level of gambling-related harm. Changing access and availability to gambling is related to the total amount of harm experienced within a community (21).

Community and societal factors such as availability and advertising are risk factors for gambling and problem gambling. Access to and availability of gambling is a necessary precursor to the experience of harms (Orford, 2019). Problem gambling is closely related to the time and/or amount of money spent on gambling (Mazar et al. 2020). There is a relationship between how much gambling goes on in a population and how much harm is experienced (Total Consumption Theory) (Roscow, 2019). The implications of this

relationship are that policy measures which lead to a reduction in total consumption are also more likely to lead to a reduction in harms. This suggests that an increase in consumption due to increased availability of gambling in society- through increasing opening times an extra day a week, for example- may lead to an increase in harms. This is supported by recent research that found problem gambling to be closely related to the time and/or amount of money spent on gambling (Mazar et al. 2020). Considering the Total Consumption Model (TCM), Rossow (2019) has concluded that strategies that effectively reduce gambling at the population level will likely also reduce excessive gambling and therefore probably reduce problem gambling and related harms. Furthermore, opening on a weekend increases the accessibility of gambling to a wider proportion of society- such as working age adults, children and young people who would otherwise be at school and to people who may be socialising and consuming alcohol in premises close to licensed offices.

### **Data sharing as an obligation**

Online gambling operators hold a wealth of information about people who use their products. In Great Britain, the regulator has repeatedly stated that this is a key reason they have not implemented any restrictions on online gambling products. The belief is that gambling operators should be able to use this insight to identify those who may be at risk of developing gambling problems and to intervene with them. This ambition is underpinned by a regulatory requirement for operators to interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling (Gambling Commission, 2019).

Much effort and attention has been given by individual operators to develop predictive algorithms for harm. However, to date, there is very little transparency over what operators are doing and no independent oversight or evaluation of their actions. Because of a lack of funding, the regulator must rely on individual operators to develop and test their own systems and to rely on them to put the reduction of gambling harms before other, potentially competing, corporate demands. The efficacy of such a system has been repeatedly called into the question by the Responsible Gambling Strategy Board (RGSB, 2016). Trust has been undermined by some corporations reporting intervening with far fewer individuals than one would reasonably expect and high profile breaches of 'safety measure' policies including offering 'free' spins in online casino games to those on self-exclusion registers (The Guardian, 2021).

There is certainly value in these approaches. However, the way they have been implemented has undermined trust in the system and in results. There is a significant opportunity for the to learn and improve upon these approaches. For example, it could become a legislative requirement that online operators provide a commonly agreed set of anonymised data to an independent repository. These data could then be used by independent computer scientists to develop and crucially test algorithms for the detection of harms. License holders could be required to implement these and support their evaluation. It offers an excellent opportunity to maximise the insight that operators hold on individuals for the public good in an independent and transparent way.

## Head 49 – Recommendations

- Consider a defined role for public health and the health services in the formulation of terms and conditions of licensing.
- In relation to Subheading 4j we recommend the removal of ‘where applicable’. The obligation should be to comply with all codes.
- Before land-based licenses are issued it is recommended that the Authority consider the proximity to schools, clubs or organisation where children are present or members to align with the regulations for advertising in Head 111.
- It is recommended that limits be applied to stakes, prizes and deposits of all gambling products including online, not just those in land-based venues.
- The Institute recommends that all electronic gaming machines are removed from convenience under-supervised locations.
- FOBTs should be prohibited in Ireland. Any existing FOBTs should be removed from licensed gambling premises.
- If FOBTs are legalised, we recommend the following:
  - The maximum stake size should be set as €2.50 or lower (stake similar to UK).
  - An Equality Impact Assessment should be considered in relation to the regulation of FOBTs.
  - FOBTs should be limited in Licensed Betting Offices (LBO) in areas where there are concentrated vulnerable groups to gambling harms.
  - FOBTs should only be permitted within LBOs and not in establishments licensed to sell alcohol. The proximity to alcohol licensed premises and ATMs should also be considered.
  - The maximum number of FOBTs within LBOs should be lowered to at least the same number per capita permitted in the UK.
  - The maximum prize is set to €550 at the very most (stake similar to UK).
  - A set of enhanced fines could be imposed for breach of conditions concerning FOBTs in the legislation under Head 86 - Power of the Authority to decide to impose Administrative Financial Sanctions. This would enable swift response and meet the requirement for urgent intervention to remedy breaches of conditions concerning FOBTs and is justified by the accessibility of FOBTs for players and their close association with development of problem gambling behaviours.
- It is recommended that protection measures such as on-screen warnings, and limit-setting are made compulsory on all FOBTs, electronic gambling machines and all other online and land-based gambling products. The size, position, placement, visibility and frequency of such warnings should also be regulated by the Authority.
- Consider screening and affordability checks for players as a condition of licensing. Financial checks should also include the involvement of financial institutions in blocking gambling transactions.
- Consider a scheme of enhanced penalties for breach of player protection measures concerning FOBTs with escalating severity linked to seriousness and frequency of breach, with the most serious, (revocation of licence) reserved for failure to apply the self-exclusion register and for breaches involving children. The scale of penalties may range from fines (limited number per operator - higher penalties must be imposed

when the limit is reached), to restriction on operations, auditing and reporting obligations to withdrawal of licences for failure to remedy breaches and/or repeated breaches.

- A roll-out of a test purchasing scheme should be considered.
- Consider restricting opening hours of betting shops, particularly at weekends to reduce the availability and total consumption of gambling at a population level.
- A data sharing agreement with the industry should be included as a licensing requirement. This could be anonymised and processed by an independent body and used for audit, research, and the development of behavioural algorithm development to detect those at risk of gambling addiction and gambling-related harms. The Authority should be entitled to make such data available to specified third parties, for the purpose of research, including research into gambling behaviours.

## Head 86 – Power of the Authority to decide to impose Administrative Financial Sanctions

### Subhead 4b:

*In considering both whether an administrative financial sanction is appropriate, and in considering the size of any such administrative financial sanction, the Authority shall have regard (where appropriate) to the following factors—*

- b. the nature, gravity and duration of the breach,*

## Head 86 – Recommendations

- To the extent that it is feasible to pre-determine specific offences involving breaches of licence conditions and the legal obligations of the operator, the nature and gravity of breaches must be pre-determined and written into legislation to prevent ambiguity
- The Institute recommends that there should be a limit to the number of financial sanctions a license holder can receive before a license is revoked. This could help not only minimise the number of repeat offences but also maximise public safety.
- Consider a scheme of escalating fines, comprising a progressive scale of fines for specified offences, taking account of cumulative breaches of licensing conditions and legal obligations arising by operation of law.

## Head 92 – Substantive offences

### Subhead 17a:

*A provider which:*

- i. willfully or negligently allows a child (i.e. a person under the age of 18 years) to gamble, or*
- ii. permits a child to enter a premises which is related to the provision of gambling services or access certain parts of such a premises that is contrary to the terms and conditions of a licence issued under*

*this Act, or*

*iii. permits a child to work in any capacity related to the provision of gambling services, shall be guilty of an offence and liable to penalty/penalties.*

## Head 92 – Recommendations

- Offences should also include:
  - targeting gambling promotions towards children, those on the exclusion register, or those displaying characteristic of high risk gambling
  - allowing those on the exclusion register or those displaying characteristic of high risk gambling access to gambling products
  - allowing individuals that are displaying signs of alcohol intoxication to access land-based gambling products or services.
- It is recommended that due to the risk for suicidality among those who experience problems with gambling, breaching self-exclusion measures should be enforceable in law and include an automatic loss of license.
- In light of the risks to children arising from breaches of licence conditions and/or this legislation of a severity which justify an application for revocation of a licence, consider whether it is appropriate that the Authority should be entitled to suspend the operations of the licence holder for breaches of obligations concerning children, pending any Court hearing concerning the matter, without a corresponding right for the operator to claim for any loss of revenue in the intervening period should the Court refuse to revoke a licence and/or impose a lesser penalty.
- Consider whether it is also necessary to notify any third parties with statutory competence to secure the health and well-being of children (for example TUSLA) and identify the parties with responsibility for making such notification in the event of these circumstances arising.

## Head 105 – Measures to protect and safeguard players.

### Subhead 1:

*Having regard to the principles set out in Part 2 of this Act (Head 14(11)(h)) concerning matters in the public interest, and protecting persons from the ill-effects of gambling, the following shall be prohibited –*

- a. the extension, by a licence holder, of any form of credit facility or loan to a person availing of a licensed gambling activity under this Act,*
- b. any credit facility or loan whereby the person may pay to the licence holder the stake or bet as the case may be from winnings, if any and where, in the event of no winnings, the amount owing to the licence holder accumulates and is set-off against future winnings,*
- c. the location of ATMs in a premises offering a licensed gambling activity, or*
- d. where a person purchases an item in a premises referred to in a licence or at any premises belonging to, or from a service or services provided by a licence holder, the return of cash back to the person as part of a financial transaction (i.e. the traditional “cash back” service)*

### Subhead 3:

*All licence holders must, for both in-person and remote gambling, clearly display the terms and conditions*



*including the applicable odds offered for any sporting or other event and whether there are monetary limits imposed on winning bets.*

#### **Subhead 4:**

- (i) All licence holders shall –
  - a. take steps to increase awareness amongst users of the service of how to gamble responsibly, of the possible risks from the misuse of gambling, and*
  - b. include clear warnings outlining the risks of participating in licensed activities, which must be displayed in a prominent position –
    - i. in their premises,*
    - ii. on all screens in their premises, and*
    - iii. where practicable, on all receipts, tokens, dockets and documentation provided or sent by a licence holder.***
- (ii) The requirements under this subhead shall apply to all documentation provided either in-person or remotely to a person participating in activities licensed under this Act*

#### **Subhead 5:**

*The Authority shall, having consulted with licence holders, their representatives and any other persons it considers appropriate, develop codes in relation to offering customer account schemes, including “player cards” or similar types of programs which must be adhered to by licence holders as part of the terms and conditions of their licences.*

#### **Subhead 6:**

*The Authority shall, having consulted with licence holders, their representatives and any other persons it considers appropriate, develop codes for the purpose of protecting players from the harmful effects of gambling, including any prohibitions, restrictions or measures, such as –*

- a. spending limits for persons playing or participating in a licensed activity, either in-person or remotely, where practicable to do so,*
- b. requirements for licence holders, on their websites, remote services or software such as apps, to –
  - i. display clear messages notifying players that they may lose money and clear messaging in relation to the dangers of player losses,*
  - ii. display clear messages concerning safe gambling, the risks related to same and details of and to treatment measure for addiction / problem issues,*
  - iii. display messages detailing opt out and exclusionary mechanisms as well as information relating to treatment and support services, and*
  - iv. inform players of the amount they have spent and details of their losses due to their participation in licensed activities,**
- c. requirements for licence holders, where practicable to do so, to provide players with a receipt / notice detailing the amount of
  - i. time a player spent in the licence holder’s premises or playing via the licence holder’s remote games, and*
  - ii. money a player gave to the licence holder during each period while participating in a licence holder’s licensed activities (including their starting balance on any account facilities), when that player concludes playing or “cashes out”.**

*The detail, manner, form and frequency of any messaging and information referred to in 6(1) shall be set out in the codes referred to in this head.*

#### **Subhead 7:**

*Licence holders shall be prohibited from offering any form of inducement to encourage persons to keep gambling or to dissuade a person to stop playing. Such prohibitions shall include –*

- a. offering free bets, opportunities to keep gambling free of charge,*
- b. any offer or inducement for the purpose of enticing a person to keep gambling, where that player has requested a return of their money (accounting for winnings and losses),*
- c. any offer to return a player's losses as an enticement to keep gambling or on the condition that a player keeps gambling,*
- d. any penalisation of players by refusing bets or limiting stakes or winnings on subsequent bets either in store or via remote means, except where that a person has engaged in cheating, and*
- e. any other prohibition that the Authority specifies having regard to the principles referred to in Part 2 of this Act.*

*Licence holders shall be prohibited from offering any form of inducement to encourage persons to participate, or to continue to participate in gambling. Such prohibitions shall include -*

- a. any offer to advance credits, tokens or any similar offers that could be considered as encouraging a person to keep gambling,*
- b. any offer of enhanced treatment (e.g. the offer of more favourable terms and conditions to keep gambling, offers of better odds),*
- c. any other inducements (e.g. the offer of hospitality such as food, drinks, travel, accommodation or any other products or services), and*
- d. any other prohibition that the Authority specifies having regard to the principles referred to in Part 2 of this Act.*

## **Commentary – Alcohol, stakes and prizes**

Please refer to evidence presented in Head 45 on alcohol and Head 49 on stakes and prizes.

## **Commentary – Language considerations**

It is important that there is special consideration given to the language used in the Bill. A UK study that conducted qualitative interviews with 26 people with experience of gambling problems found that 'responsible gambling' discourses contributed to the felt and enacted stigma associated with problem gambling by focusing on personal responsibility (Mill and Thomas, 2016). The participants also perceived that 'responsible gambling' discourses created norms which led to personal blame and shame, and contributed to broader negative stereotypes of people with gambling problems and had limited impact on either their own gambling behavior or help seeking. Furthermore, there is no formal definition of what constitutes 'safe gambling', it could be argued that for some people there is no 'safe' level and it infers a degree of personal responsibility.

## **Head 105 – Recommendations**

- Subheads 5 and 6 contain the phrases 'gamble responsibly' and 'safe gambling'. We recommend that every reference to this language is removed from the Bill or clearly defined.
- The Institute welcomes the prohibition of any form of credit facility or loan, a cash-back option and the removal of ATMs from all premises offering a licensed gambling activity.
- The Institute welcomes the prohibition of VIP schemes.
- The Institute welcomes the prohibition of offering free bets, opportunities to continue



gambling free of charge and any offer or inducement for the purpose of enticing a person to keep gambling.

- The Department should consider the prohibition of the sale of alcohol products in a premises offering a licensed gambling activity
- The Institute recommends that a Health Impact Assessment should be conducted on any new gambling legislation, including an assessment of the impact on public services such as health and social care services and the criminal justice system. The impact of any new gambling law and regulatory framework on equity groups should be carefully and transparently considered. Legislators must ensure any new measures protect the rights of children and protect them from harm and exploitation. The Institute has published a suite of HIA guidance documents that may be of assistance:  
<https://publichealth.ie/hia-guidance/>
- Consider amendment of Head 105 Subheadings 3 and 4 to provide that all compulsory information shall be displayed in a prominent manner, be easily accessible by the player and expressed in clear language (and a wide range of international languages). Specific guidelines and licensing conditions could be developed specifying the prominence, visibility, legibility, and accessibility of such information.
- Consider amending Head 105 Subheadings 5 and 6 to create an obligation on the Authority to consult also with public health and health services representatives on the development of any such codes of conduct. The inclusion of public interest representatives is necessary to ensure that the interests of all stakeholders are fully represented. The current proposal only includes consultation provisions with “licence holders and their representatives” but does guarantee that public interest sectors are given an equal right to participate. See also comments under Head 21.
- Consider whether the instances of circumstances and measures which might be taken under Head 105 Subheadings 6 and 7 should be made broader by inclusion of the words “including but not limited to”, repeated seriatim. The benefit of this amendment will be to protect the legislation from becoming obsolete where research and legislative practice identifies new prohibitions, restrictions or measures that might be taken and afford greater protection to the player.

## Head 106 – Protection of Children

### Subheads 1 and 2:

*With the exception where set out in the terms and conditions of a licence issued by the Authority, a child may not –*

- participate in gambling as understood under this Act, or*
- be present at a premises, or part of a premises where gambling is provided by a licence holder.*

*Licence holders must take all necessary steps to ensure that children are prohibited from accessing their remote services or websites, including through the use of identity and age verification measures.*

### Commentary – Wellbeing of children and young people

The Institute is concerned about the wellbeing of children and young people and believes that all necessary measures should be taken in this Bill to protect them from the harms and

exploitation associated with gambling. The Institute would encourage the UN Convention of the Rights of the Child (UNICEF) to be considered in the context of preventing children from engaging in gambling activity and protecting them from the harmful effects of parental gambling.

### **Commentary - Age limits and verification**

The most recent Irish data available on gambling in young people was published in 2019 as part of the European School Survey Project on Alcohol and Other Drugs (ESPAD Group, 2020). It found that 24% of all those aged 16 years had gambled in the last 12 months, with more boys (30%) reporting having gambled than girls (19%). Online gambling followed a similar pattern with one in ten boys reporting online gambling in the last 12 months compared to 2.5% of girls (6% total). Of those who reported gambling for money in the past 12 months 61% was on sports or animal betting, 52% was in lotteries, 41% was on cards or dice and 37% on slot machines. It was estimated that one in ten gambled excessively and 5.7% were already problem gamblers. Both excessive and problem gambling was higher in males than females (14% vs 4.5% and 7.6% vs 2.8%).

A position paper developed by Wardle 2021, notes that the protection of children and young people from gambling harm should be a priority (Wardle et al. 2021b). In the UK, more recent figures estimate that approximately 55,000 young people under 18 are experiencing gambling problems in the UK, and around half of gambling undertaken by children aged 11-16 is linked to commercial and age-restricted forms of gambling. Teenage gambling can become habitual and resistant to the accumulating costs to individuals' social and educational well-being, persisting into adulthood. There is evidence from other public health contexts which suggest that age limits are one of the most effective methods of harm reduction. The paper concluded that there should be a minimum age of 18 years for all gambling, including category D machines (i.e., low-stake fruit machines, coin pushers (sometimes called penny falls) or crane grabs), and for gambling-like activities within digital games. This would give a clear and consistent message to children and young people, parents and carers, operators and the general public, that commercial gambling is an adult-only activity which carries heightened risks, especially for children and young people. Serious consideration should be given as to whether the age limit for the highest risk products should be increased still further.

### **Commentary - Loot boxes and new gambling products**

Loot boxes are one example of many gambling-like transactions that are increasingly present within digital games. They have become the focal point for exploring the convergence of gambling and gaming, largely because their practices look and feel very similar to gambling. Some researchers have described them as being psychologically akin to gambling (Drummond & Sauer, 2018). Others have reported that loot boxes may now be children's first encounter with a gambling type mechanism and that pathways to problem gambling typically begin with early access to some form of gambling (Blaszczynski & Nower, 2002).

However, loot boxes are not the only form of in-game transaction about which concerns

should be raised. Skin betting, social casino products and esports betting (and sponsorship) along with other betting mechanics which exist within some digital games (like *Defense of the Ancients 2*, which has been described as having gambling threaded through its DNA) raise broader questions about the convergence of games and gambling (Zanescu et al. 2020). A recent European Commission report into loot boxes noted this complexity and argued that “Framing the debate around loot boxes, away from gambling and towards consumer protection, would provide the EU with an array of tools to address problematic practices and minimise potential harm, especially for minors” (APPG, 2019). The landscape is complex, incorporating two different industries with different levels of regulatory risk.

The Young People and Gambling Survey 2019 found that approximately one in 10 (11%) of 11-16 year olds had spent their own money on gambling in the past seven days, with boys being twice as likely gamble as girls (Gambling Commission 2019). Furthermore, 1.7% of the 11-16 year olds were already classified as ‘problem gamblers’, an increase from 0.9% in 2017.

A recent review of types of loot boxes and their links to problem gambling concluded that regardless of the presence or absence of specific features of loot boxes, if they are being sold to players for real-world money, then their purchase is linked to problem gambling (Zendle et al. 2020).

Concerns about loot boxes centre on two aspects, a) that they are a harmful form of activity and b) that they normalise gambling-like practices among young people. There is increasing academic literature which demonstrates a link between the purchase of loot boxes and the experience of problem gambling (Zendle et al. 2020). Recent evidence among young people in Britain aged 16-24 shows that this association persists even when broader gambling engagement and impulsivity is taken into account (Wardle and Zendle, 2020). In this study, the strength of the association between loot boxes and problem gambling was of similar magnitude to gambling online on casino games or slots. The study concluded that young adults purchasing loot boxes within video games should be considered a high-risk group for the experience of gambling problems.

The concern about normalisation is well-founded but less easy to evidence. Loot boxes are ubiquitous in video games. The global loot box market is estimated to be worth £20 billion, with the UK market alone valued at £700 million (Wright, 2018). A report by Parent Zone found 91% of young people reported that there were loot boxes available in the games they play and 40% had paid to open one (Parent Zone, 2019).

There have been varied international responses to loot boxes. In June 2019, the Gambling Commission reaffirmed its position that loot boxes should not be considered as gambling under the Gambling Act 2005. Belgium has banned the use of loot boxes within some video games stating they are a violation of gambling legislation, gambling authorities in the Netherlands have ruled that some loot boxes constitute unlicensed games of chance, Japan and China has required that the odds of winning be displayed to consumers whilst the United States have not regulated loot boxes (Drummond et al. 2019; Wardle and Zendle, 2020).

## Head 106 – Recommendations

- Verification measures should be in place from the point of registration on gambling websites and apps. All forms of gambling should be prohibited until age verification procedures are complete.
- Include a commitment to monitor gambling behaviours and harms among children through government health surveys to consider the associations with mental health and other addictions, such as alcohol and drugs. The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.
- The Institute recommends that all in-game transactions such as loot boxes and skins are subject to regulatory scrutiny and monitored in health and wellbeing surveys of children). The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.
- Consider a joint approach to addressing the potential risks and harms of loot boxes, skins and other problematic in-game microtransactions, to be taken together with the Competition and Consumer Protection Commission (“CCPC”). The provisions under Head 100 Subheading 3(a) (ix) already allow the Authority to consult with the CCPC. Head 101 Subheading 1 enables conclusion of a Memorandum of Understanding between the Authority and “any other State body” to “enable each of the bodies to fulfil their statutory duties in an appropriate, collaborative manner”. This would facilitate measures under existing consumer legislation where, for example, a near-gambling activity which does not come within the statutory definition of gambling but is potentially harmful to players, might be brought within joint regulatory scrutiny and/or made the subject of enforcement measures.

## Head 108 – Exclusionary Measures

### Subheads 1, 2, 6 and 10:

*The Authority shall establish and maintain a register to be known as the “Exclusionary Register” for the purposes of this Act.*

*“Exclusionary Register” means a register of all persons (including their supplied details) who have voluntarily requested and consented that they be excluded -*

- from entering all or specified premises where gambling is offered,*
- from accessing and participating in (all or specified) licensed games, services and activities provided by all or specified licence holders.*

*It shall be a breach of the terms and conditions of a licence for a licence holder to contact a person registered or participating on the Exclusionary Register for the purpose of promoting or advertising gambling.*

*Nothing in this Head shall prohibit any self-exclusion schemes operated by a licence holder.*

*It shall not be compulsory for anyone participating in a self-exclusion scheme to be included on the Exclusionary Register.*

## Head 108 – Recommendations

- Anyone participating in an operator-specific self-exclusion scheme should be provided

with the option to opt-in to the Exclusionary Register.

- Resourcing should be made available for data collection, monitoring and evaluation of self-exclusion schemes. The Authority should be entitled to make the primary data gathered through such surveys available to specified third parties, for the purpose of research into gambling behaviours.

## Head 109 – Advertising

### Subheads 1 and 4:

*The Authority shall, in co-operation with relevant statutory bodies concerning broadcasting and advertising, and following consultation with licence holders or their representatives and any person(s) it considers appropriate, make codes concerning the advertisement of gambling (as understood in this Act) generally, and in relation to any games, services, products and activities that are authorised by the Authority which may be provided by licence holders.*

*The codes referred to in subhead (1) shall include any restrictions, prohibitions or measures concerning –*

- the times, each day, when gambling may be advertised on –*
  - television,*
  - radio,*
  - any on-demand audiovisual media service, and*
  - video-sharing platform services,*
- the volume and frequency of gambling advertising during sporting event broadcasts,*
- in the case of on-demand audiovisual or sound media services, an option for a customer of such services to opt out of receiving any advertising relating to –*
  - gambling (generally),*
  - a licence holder, or*
  - any game, service, activity or products licensed under this Act,*
- the frequency and volume of gambling advertising generally,*
- the use of the following in advertisements for gambling –*
  - children,*
  - any images, sounds or depictions that may reasonably be considered to appeal to children,*
  - animated characters;*
  - animals (including any depiction either real or simulated), and*
  - well-known figures, their likeness (including their voice), any depiction of them (including virtual or simulated).*
- on any content or information in advertisements portraying, condoning or encouraging gambling or related behaviour that is socially irresponsible or could lead to financial, social or emotional harm,*
- the inclusion or use of any unfounded statements about chances of winning, statements to exert pressure to gamble, or to suggest that gambling resolves social, professional, personal or financial problems,*
- the use of trademarks or trade names of third parties, which are not owned by the licence holder or the business group to which the licence holder belongs,*
- the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act, or their representatives, at any cinema, and*
- any other matters specified.*

*The codes referred to in subhead (1) shall include requirements that –*

- video-sharing platforms should not display gambling advertising by default, and should provide an opt-in mechanism to receive gambling advertising, and a clear and easily accessible opt-out mechanism.*
- the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act or their representatives must be clearly identifiable and recognisable as such,*



- c. *licence holders' corporate names, commercial names or images should be prominently and clearly displayed in any form of advertising,*
  - d. *all advertisements or forms of promotions (including by remote means) should include the following in a prominently and clearly displayed manner -*
    - i. *messages promoting responsible gambling, including a clear direction to sources of information about responsible gambling,*
    - ii. *information concerning the risks involved in gambling*
    - iii. *messages concerning the prohibition of children from engaging in gambling activities, and*
  - e. *any other matters as specified in the code.*
- The detail, manner, form and frequency of any messaging and information shall be specified in the codes referred to in this Head.*

*The following shall be prohibited under this Head –*

- a. *the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act or their representatives on social media websites and apps, except where a person has signed up to a licence holder's service on that social media platform or has given their consent to receive such advertising,*
- b. *the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act or their representatives by telephony, text message, email or any other remote means shall be prohibited on except where the recipient has given their consent to receiving such advertisements.*

## **Commentary – Advertising and marketing**

There is evidence that advertising and marketing influences the gambling behaviour of those most vulnerable to gambling addiction and harm. There is however, inadequate evidence on gambling advertising and intention to gamble in Ireland. Evidence presented in this section is drawn mainly from studies in the UK where more research has been undertaken to determine the impact of gambling advertising on gambling practices.

In the UK, the Gambling Commission's Young People and Gambling Study demonstrates a relationship between exposure to gambling advertising and intentions to gamble (Gambling Commission, 2019). In 2018, 7% of children aged 11 to 16 who had seen gambling advertisements or sponsorship said that it prompted them to gamble when they would not have done so otherwise. This represents about 5% of children aged 11-16 overall. This means that approximately 200,000 children aged 11-16 gambled because of advertising, marketing or sponsorship exposure.

A UK study found that those experiencing gambling problems were three times more likely as those experiencing no problems to report that the amount of gambling advertising they saw, and the amount of direct marketing they received from gambling operators, increased during the initial COVID-19 lockdown (Wardle et al. 2021c). Marketing was also successful in instigating behavioural response among those gambling at higher risk. Around half (54%) of those experiencing gambling problems stated a gambling advert, promotion or sponsorship often or very often prompted them to spend money on gambling when they were not otherwise planning to during the initial COVID-19 lockdown. Equivalent estimate for those not experiencing gambling problems was just 2%. Half agreed that 'There are too many adverts for gambling on television' (52%), whilst just under half agreed that 'It's OK for professional sports clubs to be sponsored by gambling companies' (47%). Nearly a third thought

‘Gambling adverts should be banned’ (30%).

Some countries have already taken action. For example, the Netherlands and Switzerland prohibit the advertising of all online games, whilst Iceland prohibits the advertising of poker and tables games. At the end of August this year, the new provisions of Spain’s Royal Decree 958/2020 were enforced. Under the new amendments commercials promoting gambling goods and services on TV, radio, and online channels are limited to a four-hour period between 1am and 5am daily.

## Head 109 – Recommendations

- Advertising and marketing influence the gambling behaviour of children and young people. In a complex, integrated digital environment it is almost impossible to prevent children from being exposed to advertising and thus we recommend the precautionary principle be applied and advertising and marketing be heavily restricted.
- It is recommended that everyone is automatically opted-out of direct marketing and made to opt-in to the product vertical (i.e. sports betting, lotteries etc.) to minimise the opportunities for cross-selling.
- We recommend extensive restriction on advertising that promotes gambling goods and services on TV, radio, and online channels.
- We recommend alignment between this legislation and the Online Safety and Media Regulation Bill to ensure consistency in approach towards reducing harms from online gambling advertising.

## Head 110 – Promotions and Gambling

### Subheads 1 and 2:

*As provided for Head 49(4)(j), it shall be a term and condition of a licence that a licence holder must adhere with all codes issued by the Authority (where applicable).*

*The Authority may make codes concerning the promotion of -*

- a. gambling generally, or*
- b. any licensed game, product, service or activity under this Act,*

*following consultation with any person(s) it considers appropriate*

## Head 110 – Recommendations

- Consider the recommendation concerning formulation of codes of practice under Head 21 above and provide that representatives from public health will be included in any ongoing consultation processes regarding the creation of codes on advertising and promotion of gambling and their review.

## Head 111 – Sponsorship by Licence Holders

### Subheads 4 and 5:

*The codes referred to in this Head shall include a prohibition of the sponsorship of events involving persons under 18. This prohibition includes the sponsorship of any –*

- i. event, where the primary purpose or intention of that event is to appeal to children,*
- ii. organisation, club or team where children are members,*

- iii. *branded clothing or apparel,*
- iv. *locations and stadium branding, including any sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children, or*
- v. *any advertising displayed in such a location.*

*by a licence holder.*

*A reference to sponsorship and a prohibition in subhead (1) shall not apply to the sponsorship of any fundraising activities, including competitions, of any team, club or organisation where children are members.*

*The codes referred to in this Head shall also include prohibitions on sponsorship of –*

- i. *any individuals or groups who predominantly appeal to those below the age of 18 years, and*
- ii. *any branded merchandise or apparel which may overtly appeal to those below the age of 18 years*

*by a licence holder.*

## **Commentary – Sponsorship**

There is inadequate evidence on gambling marketing and sponsorship in Ireland. There is an urgent need to enhance data to assess the extent, nature, reach and operation of gambling marketing in Ireland. Evidence presented in this section is drawn mainly from studies in the UK and Australia.

In the current 2019/20 season, half of Premier League clubs have gambling operators as shirt sponsors, generating nearly £70 million in revenue for those clubs. In the second tier of English football, the Sky Bet Championship, 17 of the 24 teams have gambling operators as shirt sponsors. This level of sponsorship is also found in Northern Ireland with almost half (5/12) of Northern Ireland's Football League Teams sporting gambling sponsorship<sup>6</sup>.

In November 2019, the All-Party Parliamentary Group (APPG) on Gambling Related Harm's interim report criticised the popular football video game series FIFA, for showing teams and players wearing kits showing gambling sponsors, despite the majority of FIFA players being young people and gambling adverts not being permitted in games or websites that are popular with children.

A study of shirt sponsorship by gambling companies found a pronounced increase in the presence of shirt sponsorship by gambling brands in the English Premier League Group (EPLG) and a modest increase in the Scottish Premier League Group (SPLG) since 1992. The finding in EPLG is highly likely to be influenced by the Gambling Act 2005 for three reasons: 1. Relaxation of gambling laws; 2. Greatest increase occurred after the introduction of the Act; 3. Magnitude of the increase was substantial. The authors report that gambling companies have responded to change in the legislative by seeking to increase their visibility through sponsoring teams. Between the 2008 and 2009 (the year after the 2005 Act came into force) and 2015–2016 tax years, the UK gross gambling yield grew from £8.4bn to £13.6bn (Burn et al, 2019).

## **Commentary - Gambling advertising and young people**

The Gambling Commission's Youth Gambling Study has repeatedly demonstrated a

<sup>6</sup> <https://www.halpinsportssponsorship.com/front-of-shirt-sponsors#northern-ireland-football-league>



relationship between exposure to gambling advertising and intentions to gamble (Gambling Commission, 2019). In 2018, 7% of children aged 11 to 16 who had seen gambling advertisements or sponsorship said that it prompted them to gamble when they would not have done so otherwise. This represents about 5% of children aged 11-16 overall. This means that approximately 200,000 children aged 11-16 gambled because of advertising, marketing, or sponsorship exposure.

A number of studies have looked at awareness of gambling advertising and sponsorship in sport. An Australian study by Thomas et al (2016) explored child and parent/caregiver recall of sports betting and gambling brand sponsorship of teams in the Australian Football League (AFL) and the National Rugby League (NRL). Based on the responses 152 parents and 152 children aged 8–16 years, the following findings were reported:

1. The majority of children were able to recall the names of sports betting brands, with older children (aged 12–16 years), boys and children who play or attend AFL matches more likely to recall brand names than younger children, girls and children who play other sports.
2. The majority of children implicitly recalled shirt sponsors associated with AFL and NRL teams. Boys recalled more correct sponsorship relationships than girls.
3. Some children were able to implicitly recall gambling sponsorships associated with player uniforms. Most children (and in particular younger children) implicitly associated gambling brands with AFL and NRL teams, even if they did not correctly ‘match’ the exact sponsoring brand with the correct team.
4. More children selected a gambling brand as one of two most preferred brands (13.8%) compared to an alcohol brand (3.3%).
5. Most children believed that advertising for gambling during or aligned with sport has an influence on children’s gambling attitudes and consumption intentions.
6. Most parents and children perceived that sporting codes should take a more active role in ensuring that children are not exposed to gambling advertising during sport.

### **Commentary - Gambling sponsorship, intention to gamble and problem gambling**

Hing et al (2013) explored relationships between gambling sponsorship, and attitudes and intentions relating to gambling, in the context of a major Australian football competition heavily sponsored by gambling companies. The study was underpinned by the Theory of Reasoned Action<sup>7</sup> and used two online surveys to collect data from 212 participants aged 18 to 68 (mean 28.8 years). Results suggest that exposure to gambling promotions during televised sport may encourage gambling intentions, and that gamblers scoring higher on the Problem Gambling Severity Index (PGSI)<sup>8</sup> are more likely to be exposed to these promotions, view them favourably, be interested in the sponsor’s products and be willing to use them. As such, these promotions may trigger gambling amongst problem and recovering problem gamblers.

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<sup>7</sup> The Theory of Reasoned Action (TRA) suggests that a person’s behaviour is determined by their intention to perform the behaviour and that this intention is, in turn, a function of their attitude toward the behaviour and subjective norms (Fishbein & Ajzen, 1975).

<sup>8</sup> The Problem Gambling Severity Index (PGSI) is the standardised measure of at-risk behaviour in problem gambling.

Another study by Hing et al (2015) explored gamblers' responses to sports-embedded gambling promotions, and whether this varies with problem gambling severity. Findings indicate that problem gamblers have highest approval of, feel most encouragement to gamble, and report being influenced to gamble most from gambling promotions in televised sport, compared to the other PGSI groups of sports bettors. The study showed that problem gamblers are more influenced to sports bet by contextual factors, and particularly types of bets promoted, and the appeals used to promote them, than the lower risk gambling groups.

Research by Jones et al (2019) into gambling sponsorship and advertising in British football reported that football plays a problematic role in the promotion and normalisation of gambling. The authors note that regulation of current sport broadcast offers gambling operators a loophole to avoid watershed guidelines, exposing children and young people to gambling advertising. The authors argue that football contributes to an increase in the overall 'amount' of gambling in society and in turn contributes to an increase in the prevalence of problem gambling (including gambling disorder) and all the associated harms.

A report by the Economic and Social Research Institute (ESRI) (2019) into player welfare among senior inter-county Gaelic players found that 86% of 2016 players believe that their teammates engage in gambling on either a daily or a weekly basis. (The question was phrased in this way due to concerns that players may not respond reliably when asked about their own engagement in these behaviours). A third of players reported that 'Addiction – gambling, drink, drugs, etc.' was an area that they would like to see more emphasis placed on in playing senior inter-county. The ESRI report acknowledges that alcohol and other risky behaviours (e.g. gambling, illicit drug use) might manifest as coping mechanisms to address sports-related stress and anxiety. There is evidence to suggest that may be particularly true of elite-level athletes given the mental and physical demands, and time commitments, of elite sports participation. The ESRI report also highlighted evidence which suggests that athletes may be more prone to gambling than other groups.

### **Commentary – International action on gambling advertising and sponsorship**

Some governments and sporting bodies have taken action in relation to restrictions or bans on gambling advertising and sponsorship in sport. In 2017, England's Football Association ended its partnership deal with Ladbrokes and announced the termination of all of its sponsorship deals with betting companies. In 2018, the Italian Government announced a ban on all gambling adverts, which included any sponsorship deals held by sports clubs with gambling operators. This meant that any organisation with an existing sponsorship arrangement with a gambling operator had to terminate their relationship by August 2019. Also in 2018, the Gaelic Athletic Association (Ireland) introduced a complete ban on sponsorship by gambling companies (Gaelic Athletic Association, 2018).

In November 2020, Spain's Council of Ministers approved the 'Royal Decree on commercial communications of gambling activities' restricting gambling advertising (excluding lotteries) to 1-5am broadcast across traditional media. Gambling promotions and content will not be able to feature any sports athletes (active or retired) or celebrity endorsements. All Spanish

autonomous communities must adhere to promoting uniformed gambling standards on under-18s restrictions, safer gambling protections and social responsibility messaging established by the Director General for the Regulation of Gambling (Directorate General for the Regulation of Gambling 2020). It has been reported that Spanish football clubs must ensure that all gambling sponsorships and partnerships are concluded by June 2021. In 2020, a House of Lords committee recommended that gambling operators should no longer be allowed to advertise on the shirts of sports teams or any other part of their kit from 2023 (House of Lords, 2020)

In the absence of updated gambling legislation, gambling sponsorship in sport will continue to grow. For example, the Football Association of Ireland (FAI) has announced that it will not ban sponsorship deals between League of Ireland football clubs. The number of League of Ireland football clubs sponsored by the gambling industry is growing, with Shamrock Rovers partnering with 888 and Dundalk partnering with Bet Regal for the new season (2021/22).

## Head 111 – Recommendations

- We recommend that the codes referred to in this Head shall include a prohibition of the sponsorship of events involving persons under 18 including the sponsorship of any sports club equipment i.e. sports bottles, gear bags, training equipment etc.
- There should be a phasing out of gambling industry sponsorship for sports clubs and national governing bodies of sports with a focus on those groups providing sporting opportunities for children in Ireland.

## Head 113 – Establishment of Fund

### Subheads 2 – 6:

*The Social Impact Fund shall be funded from contributions paid by the licence holders in respect of the licences specified in Head 39(1)(a) and (b), and these contributions shall be separate to licensing fees.*

*The contributions to the Social Impact Fund shall be calculated by the Authority having regard to -*

- a. the size of licence holders' operations,*
- b. the gambling services and activities being offered by licence holders,*
- c. licence holders' turnover, and*
- d. any other matter that the Authority may specify.*

*For the avoidance of doubt, the holder of a Charitable / Philanthropic Cause [Purpose] Licence issued under Part 3, Chapter 2 shall not be required to contribute to the Social Impact Fund.*

*The Authority shall with the consent of the Minister and the Minister for Public Expenditure and Reform make regulations prescribing the manner in which the Social Impact Fund is to be administered.*

*Any regulations made under this Head and the level of contribution fixed therein may be revoked and replaced by new regulations and a new level of contribution.*

The Institute considers the statutory levy applied in New Zealand to be an example of best practice which could usefully inform the approach taken in Ireland. It is imperative that the gambling industry cannot be allowed to influence the distribution of funds generated from a levy. The allocation of funds must be transparent, independent of any gambling industry influence and proportionate to the health and societal harms resulting from gambling. A levy could be used to fund a dedicated service to treat and support people who

experience gambling addiction and harms from gambling as well as to bolster the community and voluntary sector supports already available. A proportion of the levy should be set aside for data collection and analysis to monitor the impact of the changing gambling environment on gambling behaviours. As such, research should be considered a strategic priority and independently managed by bodies such as research councils.

### Head 113 – Recommendations

- The Institute welcomes the introduction of an industry levy and strongly recommends that this levy is placed on a statutory footing.

### Head 114 – Purpose of the Fund

#### All subheads:

*The purpose of the Social Impact Fund shall be to assist in counter-acting the ill effects for society, as well as for persons and their families, of problem gambling.*

*In order to attain the objective in subhead (1), the Social Impact Fund may undertake activities including assisting in:*

- i. funding research, training and community interventions into treatment of gambling addiction;
- ii. funding public education and awareness raising programmes and the production of relevant information materials; and
- iii. appropriately supporting the funding of the provision of services to treat gambling addiction by suitable bodies, through other State bodies and agencies;

*The Social Impact Fund may be used to assist –*

- i. programmes that are consistent with its purpose and that promote its objective,
- ii. in multi-state programmes, where the programme is beneficial to persons in the State who are subject to the ill-effects of gambling.

### Commentary – Treatment and support services for gambling related harm

There are currently no bespoke statutory treatment or support services for those experiencing a gambling disorder in Ireland however some gamblers may access treatment through the Health Service Executive (HSE) addiction treatment services or voluntary sector providers. Recent evidence from Ireland suggests that the combination of the increased anxiety and stress due to COVID-19, the isolation caused by the social distancing measures and high availability of alcohol and gambling during this time will contribute to increased mental health difficulties for addiction patients (Columb et al. 2020). The authors reported that the potential increased demand on services would test the ability of current systems to provide a service for these patients.

### Head 114 – Recommendations

- The Social Impact Fund and State funding should be used to resource the Authority and its functions including prevention and gambling specific support services for the treatment of gambling related harms.
- The development of statutory gambling treatment and support services is a real need however, this Act should also prioritise the reduction of need for the use of these

services by ensuring prevention of gambling harms is at its core. The funds could be used to fully, and independently evaluate prevention activity for example school-based education, peer to peer networks/support for changing behaviours, and public health campaigns.

- A proportion of the levy should be set aside for data collection, analysis and monitoring the impact of the changing gambling environment on gambling behaviours.
- A research strategy should be agreed and independently managed by bodies such as research councils.

## Head 115 – Administration and management of the Fund

### Subhead 1:

*The Social Impact Fund shall be administered by the Authority.*

### Commentary –Statutory Levy international experiences

In UK legislation, there is the provision to enact a statutory levy upon the industry to raise funds in a transparent and independent way (Wardle et al. 2020b). The British Regulator, their Advisory Board, and some members of the industry are all supportive of implementing a statutory levy. A group of over 40 British researchers on gambling have supported the implementation of a levy, arguing that it provides an opportunity to 1) deliver harm reductions by ensuring a fair, independent and trusted system for developing effective prevention activities, 2) that, in turn, effective prevention delivers societal benefits through reductions in the social costs associated with gambling harms and 3) that a levy creates an equitable system by which all members of the industry contribute to addressing the harms they generate) (Wardle et al. 2020b).

IPH would encourage the Committee to consider the way in which in a statutory levy has been developed and implemented by the New Zealand government. The purpose of the gambling levy is ‘to recover the cost of developing, managing, and delivering the strategy to reduce gambling harm.’

On 7 October 2021, IPH and the UK Public Health Network jointly hosted a Five Nations Roundtable on Gambling and Public Health. Associate Professor Maria Bellringer (Auckland University of Technology Gambling and Addictions Research Centre) gave an overview of the strategy and approaches to harm reduction in New Zealand (Bellringer 2021). This included an overview of the statutory levy which is used to fund the implementation of the strategy and recover the costs associated with treatment. In New Zealand, the levy rates are set by regulation at least every three years following a Ministry of Health recommendation and include casinos, electronic gaming machine operators, the Racing Board, Lotteries Commission.

The Levy formula is set within the Gambling Act and considers:

1. The amount of money ‘lost’ by gamblers to each of the gambling sectors (player

expenditure data)

2. A proxy for the harm caused by each of the gambling sectors (i.e., the number of people who seek treatment and cite that particular sector or type of gambling as their primary mode of gambling)
3. Forecast player expenditure over the next three years.

Over a three-year period, the levy generated approximately NZ \$60 million (around £31 million) based on a population of approximately 5.1million people. The levy is administered by the Ministry of Health and the revenue split between the general health fund and the Gambling Strategy. Prof Bellringer noted that the levy ensures a guaranteed funding for gambling harm minimisation activities over each three-year period. It was also highlighted that the gambling industry has no influence over how the money is spent (this was not the case with the voluntary levy before the Gambling Act). However, some limitations were noted. The levy does not take account of money lost through overseas online gambling and only considers primary problem gambling activity in the presentation data; in other words, it does not take account of the harms caused from other forms of gambling.

IPH fully supports this use of the levy to fund projects related to gambling addiction and other associated forms of harm. To have greatest impact, community and voluntary sector support should be supported with a dedicated service that provides the appropriate specialist clinical care. It is vital that the decisions on the operation of the levy and the allocation of funds from the levy are protected from commercial influence.

### **Head 115 – Recommendations**

- The administration of the levy fund should be overseen by an independent statutory body to ensure maximum transparency and independent of any gambling industry influence.
- No funding should be accepted directly from the gambling industry, all funding should be deposited to the Social Impact Fund and should be proportionate to the health and societal harms resulting from gambling.

## **Head 116 – Advisory Committee on the Fund**

### **Subhead 1:**

*As per the provisions of this Act, the Authority shall establish an advisory committee to assist and advise the Authority on the administration and management of the Social Impact Fund, and on such matters relating to the Social Impact Fund as the Authority may from time to time determine.*

### **Head 116 – Recommendations**

- Include public health representatives on the advisory committee.



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## Acknowledgements

We wish to acknowledge the support of Dr Heather Wardle and Deirdre Leahy for providing external advisory support on this response.

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# **GAMBLING**

AWARENESS TRUST

## **Submission to the Joint Committee on Justice on the General Scheme of the Gambling Regulation Bill, 2021**

**JANUARY 2022**



**GAMBLING  
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## Introduction

Gambling Awareness Trust (GAT) would like to thank the Joint Committee on Justice for the invitation to make a written submission on the General Scheme of the Gambling Regulation Bill.

GAT is an independent charity established in 2019 to fund research, education and awareness, treatment and rehabilitation and support services and to help minimise gambling related harm in Ireland. The board of the Gambling Awareness Trust is run by volunteer members from across civic society, who are highly respected in their fields and committed to the mission and values of the charity. The board comprises of Chairperson Tom Hayes, former Minister of State, Secretary Willie Collins, addiction expert, Kathleen Lynch, former Minister of State, Riona Graham, chartered accountant and John Forde, former PA to the Garda Commissioner. The day-to-day operations are overseen by full time CEO Pam Bergin.

GAT is funded by donations from the online and retail betting industry in Ireland through a social responsibility fund. Since 2019 GAT has allocated over €1M in funding to a number of organisations to provide support services for anyone affected by problem gambling or gambling addiction in Ireland. These services include counselling, peer support, a dedicated residential treatment programme, education and awareness campaigns, and the provision of a national helpline.

GAT's first commissioned research 'Gambling Trends, Harms and Responses: Ireland in an International Context', was carried out by Maynooth University and published in 2021<sup>1</sup>. This report is the most comprehensive examination of the topic that has been produced in Ireland to date and has assisted us in developing our strategic plan and addressing the gaps in supports required by individuals coping with problem gambling and their families and the issues experienced by addiction services and practitioners in the field.

GAT funds and administers the support website [www.gamblingcare.ie](http://www.gamblingcare.ie) The primary aim of this website is to broaden public understanding of safer gambling

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<sup>1</sup> <https://gamblingawarenesstrust.ie/research/>

and to help those that do develop problems or know someone that has developed a gambling problem to get the support and help that they need quickly and effectively. This website and its content is used as a social responsibility measure by those operators who contribute to the social responsibility fund.

The publication of the General Scheme of the Gambling Regulation Bill is welcomed by GAT as we recognise the urgent need for legislative reform of the gambling sector and the introduction of a Regulator. We will express our views and recommendations on the chapters and heads most relevant to us as the only charitable body with a national remit for administering a fund to address the issues associated with problem gambling in Ireland. In addition, we would welcome the opportunity to appear in public session at a meeting of the Justice Committee to discuss these recommendations further and to answer any questions which may assist the committee in its consideration of the scheme.

The board of GAT wish to advise the committee that we are available for consultation, advice, or participation at any stage in the drafting of the bill, particularly around the establishment and management of the Social Fund given the similarity to our current structure and our experience in utilising this fund with prudence, integrity, and efficiency.

## Analysis of Heads of Bill

### Part 5 – Safeguards, Advertising, Sponsorship and Social Impact Fund

Head 105 – Measures to protect and safeguard players

3. pg. 175

*All licence holders must, for both in-person and remote gambling, clearly display the terms and conditions including applicable odds offered for any sporting or other event and whether there are monetary limits imposed on winning bets.*

We agree with this provision and note that the majority of operators currently meet these requirements.

4. pg. 175

(i) *All licence holders shall –*

- a. *take steps to increase awareness amongst users of the service of how to gamble responsibly, of the possible risks from the misuse of gambling and*
- b. *include clear warnings outlining the risks of participating in licensed activities, which must be displayed in a prominent position –*
  - i. *in their premises,*
  - ii. *on all screens in their premises, and*
  - iii. *where practicable, on all receipts, tokens, dockets, and documentation provided or sent by a licence holder.*

- We agree that all licence holders should actively promote safer gambling on all of their materials. We would like to see more proactive safer gambling messages to consumers on all online betting sites. The majority of traffic to the gamblingcare.ie website comes from operators who display our logo and details on their websites.

6. pg. 176

*(1) The Authority shall, having consulted with licence holders, their representatives, and any other persons it considers appropriate, develop codes*



*for the purpose of protecting players from the problem effects of gambling, including any prohibitions, restrictions, or measures, such as –*

- a. *spending limits for persons playing or participating in a licensed activity, either in-person or remotely, where practicable to do so,*
- We support pre-commitment systems whereby an individual can set limits on money and time before commencing gambling, as a social responsibility tool.
- b. *requirements for licence holders, on their websites, remote services, or software such as apps, to –*
    - ii. *display clear concerning safe gambling, the risks related to same and details of and to treatment measures for addiction / problem issues,*
- We strongly support this measure and currently work with the Irish Bookmakers Association to ensure their members provide customers with information on gamblingcare.ie to ensure all players can access information on safer gambling and options for treatment and support.
  - iii. *display messages detailing opt out and exclusionary mechanisms as well as information relating to treatment and support services,*
- We support self-exclusion measures that are designed to help individual gamblers to stop gambling and recommend that this measure be considered at national level rather than operator level, whereby the authority regulates self-exclusion for multiple operators. Self-exclusion programmes should allow individuals to exclude themselves from multiple venues / platforms with a single request. The UK Multi-operator self-exclusion scheme (MOSES) is an example of such a scheme.<sup>2</sup>
- Operator self-exclusion places primary responsibility on the individual. The IBA introduced self-exclusion in their recent Safer Gambling Code (September 2021). While a welcome measure it can be difficult for individuals wishing to opt in as they have to request a form from every operator they gamble with.
  - iv. *inform players of the amount the amount they have spent and details of their losses due to their participation in licensed activities,*

<sup>2</sup> <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/multi-operator-self-exclusion-schemes-moses-evaluation-and-impact-assessment>



- We support targeted personalised feedback for players as a tool for online gambling operators to reduce gambling related harm.
- Behavioural tracking as an approach to collect data on online gamblers in an effort to identify customers who may require an intervention or display signs of problem gambling, e.g., Flutter Entertainment's Customer Activity and Awareness Programme<sup>3</sup>, is an area that requires serious consideration by the authority as a customer protection measure.

7. (1) *Licence holders shall be prohibited from offering any form of inducement to encourage persons to keep gambling or to dissuade a person to stop playing. Such prohibitions shall include –*

*a. offering free bets, opportunities to keep gambling free of charge,*

- This section of the bill is extremely relevant to limiting potential gambling harm for vulnerable customers.
- Customers identified as problem gamblers, through measures such as online behavioural tracking and data collection should not be offered any enticement to continue gambling.

*b. any offer or inducement for the purpose of enticing a person to keep gambling, where the player has requested a return of their money (accounting for winning and losses),*

*c. any offer to return a player's losses as an enticement to keep gambling or on the condition that a player keeps gambling,*

*d. any penalisation of players by refusing bets or limiting stakes or winnings in subsequent bets either in store or via remote means, except where that person has engaged in cheating, and*

*e. any other prohibition that the Authority specifies having regard to the principles referred to in Part 2 of this Act.*

- We support the above measures as a means of protecting vulnerable players who may be gambling detrimentally.

(2) *Licence holders shall be prohibited from offering any form of inducement to encourage persons to participate, or to continue to participate in gambling. Such prohibitions shall include:*

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<sup>3</sup> <https://www.flutter.com/operating-responsibly/responsible-gambling>

- a. *any offer to advance credits, tokens or any similar offers that could be considered as encouraging a person to keep gambling,*
    - b. *any offer of enhanced treatment (e.g., the offer of more favourable terms and conditions to keep gambling, offers of better odds),*
    - c. *any other inducements (e.g., the offer of hospitality such as food, drinks, travel, accommodation, or any other product of services), and*
    - d. *any other prohibition that the Authority specifies having regard to the principles referred to in Part 2 of this Act.*
  - We support the new legislation providing for a range of important consumer protection measures aimed at preventing harm for problem gamblers.
  - Partial prohibitions on inducements to bet e.g., free bets, VIP Schemes and Loyalty Schemes should be considered by the Regulator as a protective measure with substantial sanctions for operators who fail to uphold customer protection measures for those identified as problem gamblers.
8. *A licence holder who contravenes the provisions of this head shall be in breach of the terms and conditions of their licence and shall be subject to any combination of the following sanctions –*
- a. *a warning under Part 4 of this Act;*
    - b. *a fine, subject to court confirmation;*
    - c. *suspension or part suspension of their licence;*
    - d. *revocation of their licence; or*
    - e. *the prosecution of an appropriate offence under Part 4 of this Act.*
  - We support these measures particularly the introduction of harsh fines for operators who breach customer safety and protection codes.
  - As per the UK model, money accrued through fines should be utilised for treatment and support for individuals and families affected by problem gambling.

## Head 106 Protection of Children

1. pg. 178

*With the exception where set out in the terms and conditions of a licence issued by the Authority, a child may not –*

- a. Participate in gambling as understood under this Act, or*
- b. Be present at a premises, or part of a premises where gambling is provided by a licence holder.*
- This section requires careful consideration in relation to settings and activities in communities such as bingo, where there is a history and practice of children attending bingo with adult family members.

*2. Licence holders must take all necessary steps to ensure children are prohibited from accessing their remote services or websites, including through the use of identity and age verification measures.*

- We fully support the introduction and enforcement of robust measures that prevent children and young people from registering with online gambling platforms. Anecdotal evidence suggests current measures can be circumvented.
- The wording should include children and young people as teenagers represent a significant cohort who use online gaming platforms.

*3. A licence holder who believes that –*

- a. a person is a child and that they have partaken in a licensed activity under this Act, or*
- b. there are reasonable grounds to doubt age and identity of a person engaging remotely with a gambling service licensed under this Act*

*Shall take such steps as are reasonable, up to and including preventing the person in question from gambling, either for a set period or for a renewable period, in any form of gambling that is the subject of the licence holder's licence, and the licence holder shall not be liable to that person for any loss or inconvenience arising.*

- We fully support this Head and any and all measures associated with keeping children and young people safe and protected from gambling.

*4. A licence holder who*

- a. wilfully or negligently allows a child to gamble as understood under this Act, or*
- b. subject to subhead (1)(b) above, permits a child to enter a premises or access certain parts of a premises that is contrary to the terms and conditions of a licence issued under this Act,*

*Shall be in breach of the terms and conditions of their licence and shall be subject to any combination of the following sanctions –*

- a. A warning under Part 4 of this Act,*
  - b. A fine, subject to court confirmation,*
  - c. Suspension or part suspension of their licence,*
  - d. Revocation of their licence*
  - e. The prosecution of an appropriate offence under Part 4 of this Act.*
- We fully support all of the above measures. Any operator in breach of the terms and conditions should face stringent sanctions.
  - The wording needs to include children and young people to encompass older teenagers.

## **Head 108 – Exclusionary Measures**

1. – 10 Pg. 181-182

*The Authority shall establish and maintain a register to be known as the “Exclusionary Register” for the purposes of this Act.*

- We fully support the introduction of an Exclusionary Register.
- Operators require clear regulation and effective policies to ensure this measure is effective.
- A ‘single customer view’ model should be considered as part of this measure as an overarching collaborative effort between the licence holders, tech companies and the Authority.<sup>4</sup>
- Evidence from the UK with the use of GAMSTOP for online gambling suggests the introduction of a similar measure in an Irish context would act as an important tool in player protection and harm reduction.
- A system similar to the UK multi-operator scheme, MOSES, supports those individuals wishing to self-exclude to do so with one request.<sup>5</sup>
- Exclusion needs to be a relatively simple but equally robust measure to prevent gambling harm.
- All operators must be required to participate as per the UK Gambling Commission, in order to be effective.
- The system needs to be robust enough that it cannot be circumvented by those with a gambling addiction.
- The system needs to be robust enough that it cannot be used negatively for the purposes of promoting or advertising gambling.

## **Head 109 – Advertising**

1. – 7. Pg. 183-188

*The Authority shall, in co-operation with relevant statutory bodies concerning broadcasting and advertising and following consultation with licence holders or their representatives and any person(s) it considers appropriate, make codes concerning the advertisement of gambling (as understood in this Act) generally, and in relation to any games, services, products and activities that are authorised by the Authority which may be provided by licence holders.*

- We fully support the inclusive and collaborative approach to developing codes around the advertising of gambling and related products.

<sup>4</sup> <https://igamingbusiness.com/gc-chief-industry-must-recognise-reality-of-problem-gambling-stats/>

<sup>5</sup> <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/multi-operator-self-exclusion-schemes-moses-evaluation-and-impact-assessment>

- Consideration on calls for a blanket ban on gambling advertising, as introduced in Italy in 2019, is required. Should gambling advertising be regulated in a similar fashion to alcohol advertising?
- Broadcasters have a role to play in this action.

4. (1) pg. 183 *The codes referred to in subhead (1) shall include any restrictions, prohibitions or measures concerning –*
    - a. *the times, each day, when gambling may be advertised on –*
      - i. *television*
      - ii. *radio,*
      - iii. *any on-demand audio-visual media service, and*
      - iv. *video-sharing platform services,*
    - c. *The volume frequency of gambling advertising during sporting event broadcasts,*
    - d. *In the case of on-demand audio-visual or sound media services, an option for a customer of such services to opt out of receiving any advertising relating to –*
      - i. *Gambling (generally),*
      - ii. *A licence holder, or*
      - iii. *Any game, service, activity, or products licensed under this Act,*
    - d. *the frequency and volume of gambling advertising generally,*
    - e. *the use of the following in advertisements for gambling -*
      - i. *children,*
      - ii. *any images, sounds or depictions that may reasonably be considered to appeal to children,*
      - iii. *animated characters;*
      - iv. *animals (including any depiction either real or simulated), and*
      - v. *well-known figures, their likeness (including their voice), any depiction of them (including virtual or simulated)*
- We support all above measures and recommend a strategy similar to that implemented in the UK whereby Sky TV introduced significant cuts in the volume of gambling adverts broadcast across its outlets.

- Both Virgin Media and Sky viewers in the UK can exclude from gambling advertising during commercial breaks due to technology built in to set top boxes.
- Gambling advertising is restricted on TV before the watershed, the IBA have introduced this in their new codes since January 1, 2022. Not all operators have signed up to the code. Only regulation will ensure this can be achieved.
- No gambling advertising is shown during 'whistle to whistle' live televised sports before the watershed. The IBA have also introduced this code for the Irish market.
- Regulatory processes across the UK and Europe are currently looking at banning all forms of inducements such as free bets, bonus rewards, loyalty and VIP programmes and bet-to-view models across TV and digital media platforms.
- The National Lottery ads currently aired on national TV appeal to children and appear family friendly (waterslides).
- The interruption of the 'Big Big Movie' on Saturday evenings to air the National Lottery draw encourages viewing by children and families.
- Reducing problem gambling is not conducive with a proliferation of gambling advertising across mainstream media.

2.d. *all advertisements or forms of promotions (including by remote means) should include the following in a prominently and clearly displayed manner -*

- (I) *messages promoting responsible gambling, including a clear direction to sources of information about responsible gambling,*
  - (II) *information concerning the risks involved in gambling*
  - (III) *messages concerning the prohibition of children from engaging in gambling activities, and*
- Consideration needs to be given to the choice of wording in terms of 'responsible' gambling.
  - We fully support the inclusion of safe gambling information across all media platforms in advertising and promotion of products.
  - Audience viewers should be signposted to relevant sources of information on safer gambling which includes information and advice and signpost to treatment and support services for problem gamblers, those with a gambling addiction and their affected others.

5. pg. 185 (1) *The following shall be prohibited under this Head -*

- a. *the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act or their representatives on social media websites and apps, except where a person has signed up to a licence holder's service on that social media platform or has given their consent to receive such advertising,*
- b. *the advertisement of any licensed game, service, activity or product authorised under this Act, or in relation to any licence holder under this Act or their representatives by telephony, text message, email or any other remote means shall be prohibited on except where the recipient has given their consent to receiving such advertisements.*

- It is imperative that those who choose to opt out of receiving gambling related material across all social media platforms can do so without restrictions of time limits being imposed.
- Individuals in recovery are vulnerable to receiving unsolicited communications

7.pg. 186 *Any party who is not a licence holder who contravenes the provisions of this Head and is in breach of any corresponding codes related to broadcasting or advertising shall be subject to any appropriate sanctions in relation to those codes.*

- We fully support the imposition of sanctions on any operator who breaches the codes outlined in this Head.
- Fines from breached of the codes and standards should be diverted swiftly to treatment, support, education, and awareness programmes through the vehicle of the Social Fund.



## **Head 110 – Promotions and Gambling**

1. *As provided for Head 49(4)(j), it shall be a term and condition of a licence that a licence holder must adhere with all codes issued by the Authority (where applicable).*
  2. *The Authority may make codes concerning the promotion of -*
    - a) *gambling generally, or*
    - b) *any licensed game, product, service, or activity under this Act, following consultation with any person(s) it considers appropriate*
  3. *Codes made under subhead (1) may prohibit or restrict the provision of any licensed game, product, service or activity on more beneficial terms to a person during a specified period of time at a price less than that being charged on the day before the commencement of the specified period.*
  4. *Codes made under subhead (1) may restrict -*
    - a) *the duration and times that promotions may be made available for, and, or*
    - b) *any special offers, discounts, or inducements (including the offer of favourable odds or hospitality) to encourage the public at large to visit any premises to which a licence applies or to participate in any licensed activity provided by remote means.*
- We fully support all measures which protect vulnerable players and consumers. While promotions, special offers, discounts, and other such inducements can enhance the gambling experience for those for whom gambling is a pleasurable, recreational pastime, it is imperative that those players identified as having a problem with their gambling activity be totally excluded from any promotional type materials or advertising. This is especially important for any individual on the Exclusionary Register.

### **Head 111 – Sponsorship by Licence Holders**

1. *As per Head 49(4)(j) it shall be a term and condition of a licence that a licence holder must adhere with all codes issued by the Authority (where applicable).*
  2. *The Authority may make codes concerning the provision of sponsorship by licence holders following consultation with any person(s) it considers appropriate.*
  3. *In this Head, “sponsorship” means –*
    - i. *a commercial agreement by which a sponsor, for the mutual benefit of the sponsor and sponsored party, contractually provides financing or other support in order to or which has the effect of establishing an association between the sponsor’s image, brands or products and a sponsorship property in return for rights to promote this association, for the granting of certain agreed direct or indirect benefits, and*
    - ii. *it is a sponsorship within the meaning in this Head whether or not the sponsorship has aims or effects other than, aside from or in addition to those set out in this Head.*
  4. *(i) The codes referred to in this Head shall include a prohibition of the sponsorship of events involving persons under 18. This prohibition includes the sponsorship of any –*
    - i. *event, where the primary purpose or intention of that event is to appeal to children,*
    - ii. *organisation, club, or team where children are members,*
    - iii. *branded clothing or apparel,*
    - iv. *locations and stadium branding, including any sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children, or*
    - v. *any advertising displayed in such a location.*
- We fully support the restriction of gambling sponsorship in locations and at events where children and young are exposed to such materials.
  - The wording needs to include young people as well as children.

## **Head 112pg. 191 – Training and Guidance**

1. *The Authority shall, within one year of the commencement of Part 3, develop an appropriate training programme and issue guidance to licence holders in relation to the training referred to in Head 49(4)(h).*
  2. *The Authority shall develop the training programme and guidance referred to in subhead (1) having consulted with the licence holders or their representative and any other person or persons it considers appropriate.*
  3. *The Authority shall issue the guidance and training program in whatever form and manner as it feels is appropriate having regard to the circumstances.*
- We support measures that ensure all licence holders receive adequate training on the codes to minimise gambling harms.

## **Head 113 pg. 192 – Establishment of Fund**

1. *Subject to Head 116(2) (Administration and Management of the Fund), a fund, to be known as the “Social Impact Fund” shall be established under this Act for the purpose outlined in Head 115 (Purpose of the Fund).*
2. *The Social Impact Fund shall be funded from contributions paid by the licence holders in respect of the licences specified in Head 39(1)(a) and (b), and these contributions shall be separate to licensing fees.*
3. *The contributions to the Social Impact Fund shall be calculated by the Authority having regard to -*
  - a. *the size of licence holders’ operations,*
  - b. *the gambling services and activities being offered by licence holders,*
  - c. *licence holders’ turnover, and*
  - d. *any other matter that the Authority may specify.*
4. *For the avoidance of doubt, the holder of a Charitable / Philanthropic Cause [Purpose] Licence issued under Part 3, Chapter 2 shall not be required to contribute to the Social Impact Fund.*
5. *The Authority shall with the consent of the Minister and the Minister for Public Expenditure and Reform make regulations prescribing the manner in which the Social Impact Fund is to be administered.*

6. *Any regulations made under this Head and the level of contribution fixed therein may be revoked and replaced by new regulations and a new level of contribution.*
  - GAT currently manages a Social Responsibility Fund established and collected by the IBA the structure of which mirrors the proposed model in this Head.
  - GAT administers this fund as an independent charity governed by the codes set out by the Charities Regulator.
  - The Authority will ensure all operators / licence holders will contribute to the Social Impact Fund which will greatly increase the level of funding available for intended purposes.

#### **Head 114 pg. 193 – Purpose of the Fund**

1. *The purpose of the Social Impact Fund shall be to assist in counter-acting the ill-effects for society, as well as for persons and their families, of problem gambling.*
2. *In order to attain the objective in subhead (1), the Social Impact Fund may undertake activities including assisting in:*
  - i. *funding research, training and community interventions into treatment of gambling addiction;*
  - ii. *funding public education and awareness raising programmes and the production of relevant information materials; and*
  - iii. *appropriately supporting the funding of the provision of services to treat gambling addiction by suitable bodies, through other State bodies and agencies;*
  - Since 2019 GAT has effectively and efficiently managed a social responsibility fund. The organisation operates with prudence, maintaining minimal operational overheads, ensuring the majority of funding received annually is directed towards research, education, treatment, and support services to address the issue of problem gambling and gambling addiction in Irish society.
  - GAT funding received to date has been used to fund research, education, awareness, treatment, and support programmes across the country to respond to the needs of those affected by problem gambling.
  - GAT has allocated over €1.5M in funding to a number of organisations providing counselling, residential treatment, and awareness campaigns.
  - GAT provided funding to Cuan Mhuire in 2020 to establish the first gambling addiction residential treatment programme in Ireland at their centre in Athy, Co. Kildare.
  - The Maynooth report ‘Gambling Trends, Harms and Responses: Ireland in an International Context’ was commissioned by GAT to identify support us in

targeting funding to areas currently neglected in terms of the provision of support for problem gambling in Ireland. This report had informed our three-year strategic plan and strengthened our position in affecting change in the field of problem gambling and gambling addiction.

- GAT has collaborated with the National Forum of Family Resource Centres to establish the first National Problem Gambling Support Service which will launch in the first quarter of 2022. This service will provide face-to-face support service to individuals and families affected by problem gambling across 19 locations in Ireland. This initiative is a direct response to the findings in the Maynooth Report.
- GAT has collaborated with organisations best placed to raise awareness among young people and the general population of the issues associated with problem gambling. The GAA is currently launching a social media awareness campaign 'Reduce the Odds' through their Healthy Club network initiative. This national campaign will have an audience of 1 million followers.
- GAT currently funds two third level CPD courses through a collaborative partnership with Cuan Mhuire and Munster Technological University and Tabor Group and UCC to provide specialist training for professionals in the treatment of problem gambling and gambling addiction. These courses are a direct response to findings of the Maynooth research which reported the need for specific training in the area of gambling addiction. We envisage improved quality of care and support provided to those coping with gambling addiction across treatment centres in Ireland as a result of practitioners in the field acquiring this qualification.
- GAT funds the National Helpline which is managed by Dunlewey Addiction Services.
- GAT funds HelpLink Mental Health Service based in the western region to provide face-to-face and online counselling supports to individuals struggling with problem gambling and their affected others. In 2020 HelpLink will provide aftercare through facilitated peer support group meetings.
- GAT funds Together Razem, a Cork based organisation providing addiction support services to members of the Polish and Eastern European communities.

3. *The Social Impact Fund may be used to assist -*

- i. programmes that are consistent with its purpose and that promote its objective, or*
  - ii. in multi-state programmes, where the programme is beneficial to persons in the State who are subject to the ill-effects of gambling.*
- We fully support this Head as we are acutely aware of the deficits in supports available in the area of problem gambling.

- We recommend that all funding from the Social Impact Fund be targeted to the areas identified in current research that require immediate attention for those affected by problem gambling.
- Gambling addiction and problem gambling are public health concerns and need to be included in any public health policies and strategies relating to addiction. Gambling addiction is not included in the National Drugs and Alcohol Strategy and is not directly addressed by the HSE treatment services.

## **Head 115 pg. 194 – Administration and management of the Fund**

1. *The Social Impact Fund shall be administered by the Authority.*
2. *Any proposed allocation of funding by the Authority shall be subject to regular financial management thresholds and shall be subject to the oversight of the Minister and the Minister for Public Expenditure and Reform.*
- Prudent and efficient monitoring of funded services is recommended by GAT as is currently our practice. All organisations funded by GAT are subject to the terms and conditions for service provision as set out in the Service Level Agreement. Quarterly financial reports together with data reports form part of this agreement which enables GAT to ensure all funded organisations are meeting the conditions of funding and operating with due diligence and in line with good practice.
3. *Where it is in the public interest to do so, the Minister may, with the consent of the Minister for Public Expenditure and Reform -*
  - a. *authorise the utilisation of funding from the Social Impact Fund for purposes which are not connected with the operation of the Social Impact Fund; or*
  - b. *arrange that funding from the Social Impact Fund to be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.*
- GAT do not support measures a and b of this Head. It is imperative that the Social Fund be ringfenced for allocation to services meeting the needs of those affected by problem gambling and gambling addiction.
- The Social Fund should be targeted to purposes only associated with and connected to addressing gambling addiction and the impacts of problem gambling through research, education, treatment, and support services.
4. *Any such allocation shall be indemnified by the Exchequer and shall be returned to the Social Impact Fund at the earliest possible opportunity.*

5. *The Minister may set an amount or percentage of the total Social Impact Fund held at a given time as the maximum expenditure to be incurred on administration of the Social Impact Fund.*
  6. *The Minister may, with the consent of the Minister for Public Expenditure and Reform, authorise the return to the Exchequer of a surplus within the Social Impact Fund.*
- GAT does not agree with the Social Fund being utilised as what could be perceived as a 'rainy day fund'. The social impact of gambling addiction in Ireland requires a consistent strategic public health policy approach through the funding of research, education, treatment, and support services nationally.

### **Head 116 pg. 195 - Advisory Committee on the Fund**

1. *As per the provisions of this Act, the Authority shall establish an advisory committee to assist and advise the Authority on the administration and management of the Social Impact Fund, and on such matters relating to the Social Impact Fund as the Authority may from time to time determine.*
  2. *The composition, membership, and terms of appointment to the Committee, as well as any other relevant matters, will be provided for during formal drafting.*
  3. *All proceedings of the Committee and all communications by and to the Committee shall be confidential and shall not be disclosed except for the purposes of this Act.*
- We fully support the establishment of an advisory committee to assist and advise the Authority on the administration and management of the Social Impact Fund.
  - We recommend that a representative of GAT be invited to a seat on this advisory committee given our experience in effectively managing a social responsibility fund since 2019 and our track record pursuing our aims and objective in a progressive four tier model of funding research, education and awareness, treatment and rehabilitation, and support services to address the social impacts of problem gambling and gambling addiction in Irish society.

## **Head 117 pg. 196 – Where licence holder withholds or withdraws contribution to the Social Impact Fund**

1. *Where a licence holder withholds or withdraws from contributing to the Social Impact Fund, they shall be in breach of the terms and conditions of their licence and shall be subject to any combination of the following sanctions -*
  - a. *a warning under Part 4 of this Act,*
  - b. *a fine, subject to court confirmation,*
  - c. *suspension or part suspension of their licence,*
  - d. *revocation of their licence, or*
  - e. *the prosecution of an appropriate offence under Part 4 of this Act.*
- We fully support this Head as it is imperative with the establishment of a Social Impact Fund under the Authority that all licence holders are obliged to contribute to the fund.
- GAT currently manages a social responsibility fund in the region of €1M per annum. This fund is collected on a voluntary donation basis managed by the IBA. This funding has enabled us to fund a number of organisations in the areas of research, education and awareness, treatment and rehabilitation, and support services in the field of problem gambling and gambling addiction. This work is crucial to addressing and reducing gambling harms in Ireland.



## **GRB\_10(1)**

### **Submission to the Joint Oireachtas Committee on Justice on the General Scheme of the Gambling Regulation Bill 2021**

Authors:

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We support and have included, where we feel appropriate, some of the points of Professor Colin O'Gara's submission to the Justice Committee.

**Head 10 - Membership of the Authority and terms of membership:** While this Head outlines a healthy mix of potential appointees, it would be worth considering setting a limit on the number of members, with links to the gambling industry, in order to avoid any potential 'regulatory capture'.

Advanced online expertise is critical as vast funds are at the disposal of the gambling industry to develop the gambling product. To counterbalance and ensure the implementation of gambling protections, technical knowledge of a high level will be necessary.

Expertise and experience should ideally include regulation in other jurisdictions.

We welcome the recommendation that the authority should have expertise on gambling addiction.

**Head 13 – Removal of member of the Authority:** Section 1(a)(iii) states that a member of the Authority may be removed from office by the Minister, if “the member has a conflict of interest of such significance that he or she should cease to hold the office”. Ideally, this would exclude any person who has any shares in gambling companies operating in Ireland or any financial incentive to reduce robust regulation of the gambling industry in Ireland – or impose stricter regulation on one sector of the gambling industry to the advantage of another sector. Best practice would require a member to divest themselves of any such shares, prior to joining the Authority. It would also be best practice for a member to be removed, should they purchase gambling company shares or invest in gambling companies in any other way, while serving as a member of the Authority. We recommend that this be clearly stated in the Bill.

#### **Head 14 – Functions of the Authority**

- The Authority should have as a key function, the protection of the public through the implementation of responsible gambling tools and initiatives.
- The Authority should measure and be accountable for collecting data on progress in this area.
- The Authority should not 'promote innovation in the gambling industry'. Innovation in the gambling industry has proved detrimental to some including severe mental disorder and death. The Authority needs to be clear in its functions regarding the protection of consumers. We would encourage a greater focus on innovation in relation to player protection.
- The Authority should be able to provide real time data on issues such as self-exclusion in Ireland.
- In order to carry out the above functions it is imperative that the authority is well funded.

**Head 39 – Types of licences that may be issued by the Authority:** Section 6 states: “A person may apply for one or more of the licences at subhead (1)(a) and where multiple licences are approved / granted by the Authority and it is practical to do so, the Authority may group them as a single Business to Consumer licence clearly specifying what elements have been authorised.”

Section 1(a) refers to: “Business to Consumer (B2C) Licence

- i. Gambling Licence (In-Person or Remote),
- ii. Betting Licence (In-Person or Remote), or
- iii. Lottery Licence (In-Person or Remote)”

We strongly recommend that premises with a Betting Licence are not also granted a Gambling Licence. In our experience of working with people affected by problem gambling, most people will progress from low-frequency, low-intensity sports betting – to high-frequency, high-intensity casino-style games (including virtual racing/sports) as their gambling becomes more problematic. Ideally, from a public health perspective, sport betting would be kept separate from casino-style games.

#### **Head 45 – Application for a new licence or to renew a licence**

The Authority and government should consider the huge proliferation of gambling in recent years across multiple platforms. The proliferation has led to normalisation of gambling in certain age groups. Some groups of young men in Ireland are unable to watch sport without gambling on a smartphone. Some young children in Ireland are unable to differentiate between gambling and sport, believing that they are the same thing. Some children in Ireland believe that as a society we endorse gambling as an integral part of sport. In this context do we need more licences for gambling in Ireland or should it be a key function of the authority to reduce the number of licences?

Furthermore, alcohol in my view aggravates gambling on many levels and consideration needs to be given to minimising the harm of gambling wherever alcohol could be present. The current ban on allowing gambling on premises licensed to sell intoxicating liquor should stay in place and we want to see the Regulatory Authority taking enforcement measures against the many public houses, across the State, which operate illegal bookmaking and machine gambling.

#### **Head 49 – Power of authority to specify terms and condition of a licence**

While a ‘gentleman’s agreement’ is believed to be in place, preventing their use, in Ireland - Fixed Odds Betting Terminals (FOBTs) should be banned, on a statutory footing. These gaming machines are too destructive and addictive, in our view, and serve little recreational purpose. The dangers of FOBT’s are well described and can have harrowing effects on individuals and families.

We would also recommend the separation of sports betting and gaming – both in physical (land-based) premises and on online platforms (websites and apps). High-frequency casino games (roulette, blackjack, virtual racing/sports, slot machines) are highly addictive – by design – and need to be kept segregated from sports betting. The separation of sports betting and casino games has already been proposed in the new German gambling regulations [1] – for good reason. The German regulations also propose a ban on ‘cross-promotion’ of casino products to sports bettors. It also proposes a €1,000 per month maximum deposit limit; a €1 per spin limit on online slots; a 5-second waiting period between spins on an online slot machine. We strongly support these types of limits being imposed by the Regulatory Authority. They will have no negative impact on recreational players and will minimise harm among problematic players, Disordered Gamblers and their affected others.

#### **Head 86 – Power of the Authority to decide to impose administrative financial sanctions:**

It is imperative that the authority has actual power to revoke licences and is sufficiently resourced and supported to carry out this function. Fines of a minor nature will not, in our view, make any impact on operators that are making large profits. The GB Gambling Commission has handed out several multi-million pound fines to ‘household name’ gambling operators, under its jurisdiction. Many of those gambling operators are also licensed to operate in Ireland or can be accessed by Irish customers, regardless of licensing in this jurisdiction. It would be naïve, in the extreme, to expect that these gambling companies have been better behaved in the unregulated Irish market, than they have been, to date, in the regulated GB market. While large fines, as detailed in the Bill, have value, we recommend a ‘three strikes’ system – so that gambling operators know that there is a real risk of losing their license if regulatory breaches continue.

**Head 105 – Measures to protect and safeguard players:** The recently published Health Research Board report, ‘Gambling in the Republic of Ireland’ [2], found that there are at least 137,000 people in Ireland who are at-risk or problem gamblers. The authors of the report stated that this is likely to be an underestimation as, “gambling prevalence questions are considered to be sensitive and therefore people may refuse to participate, or they may under-report their gambling”. The report authors also stated that “younger males and those living in large urban areas were under-

represented” in the survey. Young males are the most at-risk group for problem gambling. As such, the true number of people with gambling problems is likely to be higher. For every person with a gambling problem, an additional 8-10 people are negatively impacted (children, partners, parents, siblings, friends, employers, etc.). It is imperative that sufficient safeguards are put in place to protect vulnerable adults and children from problem gambling and gambling harms. We also strongly recommend that sufficient funding is allocated to harm-prevention, treatment and ongoing research in this area.

Section 6 (1) (a) states that “The Authority shall, having consulted with licence holders, their representatives and any other persons it considers appropriate, develop codes for the purpose of protecting players from the harmful effects of gambling, including any prohibitions, restrictions or measures, such as - spending limits for persons playing or participating in a licensed activity, either in-person or remotely, where practicable to do so”. Mandatory spending limits already exist in an Irish context. The National Lottery imposes spending limits on its online system. These limits are: €75 per day; €300 per week; €900 per month. The vast majority of people who gamble recreationally will not be impacted in any way by the imposition of spending limits. People who have a strong desire to spend larger amounts of money gambling, could be offered affordability checks, in order to ascertain whether or not they can afford to lose sums in excess of the mandated spending limits. Financial gambling losses do not only impact on the individual gambler, they often impact on family members, including child dependents.

We welcome the prohibition of VIP schemes, credit facilities and free bets.

Responsible gambling tools and initiatives on multiple sites accessed by Irish people is currently lacking. There is an urgent need to mandate that online sites must carry a range of responsible gambling tools and initiatives.

With the explicit support of government, The Authority should mandate a range of responsible gambling initiatives. In particular, the government and Authority should identify Gambling Disorder as a national public health crisis. Following on from this declaration, the government should direct the Authority to implement a policy of mandatory limit setting in Ireland. This limit setting would prevent large sums of money being lost by individuals suffering from gambling disorder.

Limit setting should include bet limits (no. of bets per month), time limits (hours spent gambling per week or month) and spend limit (amount of money one is comfortable losing per month).

The online gambling industry has access to vast amounts of real-time data on customers’ behaviours. This data includes, but is not limited to: number of days played; nightly play; time consumption; game types; cancelled withdrawals; number of deposits; monetary consumption; fluctuating wagers; repeated loss of winnings; loss chasing. These ‘markers of harm’ are key indicators of an individual’s relationship with gambling and the level of harm they are experiencing. We recommend that the Gambling Regulatory Authority be given powers to access anonymised, randomised data sets in order to assess the overall level of harmful gambling. Ideally, these data sets should also be made available to the Health Research Board and other reputable, independent research bodies, such as those to be funded by the Social Impact Fund. This extremely valuable data is far more robust than prevalence studies – due to the stigma associated with gambling and problem gambling. This type of data would allow for better development of treatment and prevention interventions.

#### **Head 106 – Protection of Children:**

- The 2019 European Schools Project on Alcohol and Other Drugs (ESPAD) survey [3] [4], found that young Irish males, aged 15-16, had a problem gambling prevalence rate of 1.7%. This is over 5 times

the problem gambling rate in the general population, according to the most recent HRB data (0.3%). Everything possible must be done to prevent minors from accessing highly addictive gambling products and services. We are already storing up problems for the future, by allowing this situation to develop.

Children are currently immersed in a culture where gambling has extensively proliferated and is normalised. The presence of gambling in sport has reached a tipping point where urgent measures must be introduced to start to reverse the problematic relationship between sports and gambling.

- Robust verification measures are required to prevent exposure of children to gambling. This will include the Authority seeking international expertise and following best practice. The Authority again will need to be adequately funded to carry out this role effectively. The current '72-hour window' provided by online gambling operators, before asking for identification is both a glaring gap in age verification and an Anti-Money Laundering issue. No customer (of any age) should be permitted to open an online gambling account without providing identification.
- Advertising of any form in any situation should be banned before the watershed. It is entirely unacceptable that children are being exposed to hundreds of gambling adverts every year on television, radio and online.
- Loot boxes are, in our view, a clear form of gambling. Children as young as 3 are being exposed to 'spin it and win it' features in so called 'family apps'. Many if not most parents are unaware that their children are being exposed to gambling features in what appear to be very popular and common child apps downloaded from reputable app stores
- The Authority should form a subcommittee to address the area of gambling within online games. Loot boxes are worth billions to the online gaming industry. If Ireland is serious about protecting children from the harms of gambling features embedded in online games, the Authority should be given the resources and power to identify and ban them. 'Loot Boxes' have already come under the remit of Belgian Gaming Commission and been declared illegal in that jurisdiction [5].
- The Authority should consider a subcommittee devoted to the protection of children. The normalisation of gambling has become so pronounced that years of effort attempting to reverse it through education and training is required. Role models in sport and other areas of life that can outline the harms of gambling should be identified and supported through a subcommittee tasked with protecting children. The Authority should aim to balance every message from the gambling industry (such as 'it's better fun when there is money on it') with an effective message about the harms of gambling. At present, we believe there is a total imbalance in terms of the messaging that gambling is fun as opposed to gambling being potentially harmful.

**Head 108 - Exclusionary Measures:** Section 2 states: "'Exclusionary Register" means a register of all persons (including their supplied details) who have voluntarily requested and consented that they be excluded –

- a. from entering all or specified premises where gambling is offered,
- b. from accessing and participating in (all or specified) licensed games, services and activities provided by all or specified licence holders".

It is unclear to us, on our reading of this section, if the "Exclusionary Register" will function as a multi-operator self-exclusion register for licensed online gambling operators, in Ireland. While a multi-operator self-exclusion register for land-based gambling is to be welcomed and is sorely needed, an equivalent system for online gambling is essential, in order to minimise gambling related harm and support people in recovery from gambling addiction. Robust self-exclusion schemes also

have a highly beneficial impact on child dependents, partners and other concerned persons in the lives of people with gambling problems, as they greatly reduce the risk of relapse.

The UK have taken a 'belt and braces' approach to self-exclusion, with the 'Talk, Ban, Stop' [6] campaign. This allows individuals to sign up for the multi-operator self-exclusion scheme, 'GamStop', as well as receive free access to the gambling blocking software, 'Gamban'. This approach helps to prevent people relapsing by accessing 'black market', unlicensed online gambling operators. We recommend a similar system be put in place in Ireland.

Unlicensed, 'black market' online gambling operators can and should also be blocked from the Irish market, at a 'country level'. We have been advised by experts in this field (Gamban), that this can be achieved by blocking unlicensed operators, using 'DNS blocking' in collaboration with Internet Service Providers. There are several advantages to implementing this. They include:

**1.) Sustainable Tax Revenue** - Millions upon millions of Euros are lost, per annum, to the unlicensed market. This means that only legal and licenced products can be offered in the Irish marketplace as the unwelcomed market site appearances would become blocked making Ireland become a financially contained marketplace, saving millions in potential revenue for the Exchequer, the Gambling Regulatory Authority and the Social Impact Fund.

**2.) Deliver Sincere Player Protection** - The Gamban blocklist is constantly growing (daily) and stands at 55k global coverage of sites and apps - and is also manually curated. National Self exclusion programs/schemes can no longer be undermined as unlicensed operator sites are blocked to Ireland through DNS blocking, which would be rolled out with Internet Service Providers.

**3.) An Attractive Marketplace** - A potential increase in the number of legal, licensed operators as previously grey or black market sites accept they must come onshore to participate in the licensed market, pay taxes and become compliant - if they want to have access to the Irish market. Licensed sites no longer need to compete against unfair, unlicensed pricing and market opportunities from bad actors.

#### **Head 109 – Advertising**

- All gambling advertising on radio, television should be banned before the watershed.
- Online and print media gambling advertising should also be banned outright as children have access to both before the watershed period.

#### **Head 111 – Sponsorship by licence holders**

- All gambling industry involvement in sport should be terminated immediately. The ongoing harm to children is indefensible.

**Head 113 – Administration and Management of the Fund:** Sections 3 and 4 state: "Where it is in the public interest to do so, the Minister may, with the consent of the Minister for Public Expenditure and Reform –

a. authorise the utilisation of funding from the Social Impact Fund for purposes which are not connected with the operation of the Social Impact Fund; or

b. arrange that funding from the Social Impact Fund to be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.

4. Any such allocation shall be indemnified by the Exchequer and shall be returned to the Social Impact Fund at the earliest possible opportunity."



The treatment and prevention of gambling addiction and gambling related harm has been starved of statutory funding, to date. We are extremely concerned about the possibility of the Exchequer borrowing unspecified amounts from the Social Impact Fund, for indefinite periods. The hundreds of thousands of people in Ireland, who are impacted by gambling related harm, desperately need reliable, meaningful, best practice interventions to minimise harm and improve prospects of recovery. We recommend the removal of Sections 3 and 4 from this Head of the Bill – or, at a minimum, for the percentage of the Fund to be borrowed, to be capped and for a time limit on repayment to be set in the Bill.

Section 5 states: “The Minister may set an amount or percentage of the total Social Impact Fund held at a given time as the maximum expenditure to be incurred on administration of the Social Impact Fund”. Section 6 states: “The Minister may, with the consent of the Minister for Public Expenditure and Reform, authorise the return to the Exchequer of a surplus within the Social Impact Fund.”

As gambling industry turnover increases, so does gambling related harm, in the community. As such, setting a maximum expenditure limit would be contrary to the goals of the Gambling Regulatory Authority. We can see no reason for the Social Impact Fund to run a ‘surplus’. Ireland has been behind the curve in relation to statutory funding of problem gambling treatment and harm prevention, for generations. There are major deficits in service provision, which may take decades to remedy. It is our strongly held view that any ‘surplus’ funds should be used to increase problem gambling service provision where the greatest needs exist at the time – be it: treatment; education; research or public health promotion and advertising.

The level of contribution is critical. Previous Minister for Justice, Alan Shatter, recommended a 1% levy on turnover. It is imperative that the Authority establishes at least a 1% levy on turnover.

#### **Head 114 – Purpose of the fund**

- Treatment, research units and education around gambling harm in Ireland is severely lacking.
- The fund needs to be substantial to pay for a network of gambling addiction treatment facilities.
- Gambling addiction treatment facilities should be residential and outpatient in nature. Estimates of gambling addiction in Ireland range from 50,000 to 250,000 individuals affected with multiple family members in each of these cases also directly affected.
- Research should guide evidence-based decisions in the protection of Irish society from gambling harm.
- Research units should be identified and supported to deliver data on gambling harm in Ireland.
- National Education and awareness programmes around gambling harm are much needed in Ireland. To counteract the years of proliferation and normalisation of gambling in Ireland these programmes will require substantial funding.
- The Government/Authority should consider applying the levy retrospectively for the years that gambling has proliferated and normalised in Ireland.
- Treatment facilities to include medically-led residential facilities and community based outpatient supports are not established without substantial initial funding and the Government/Authority must look realistically at how it can achieve the goal of providing treatment for those affected by gambling harm.
- Gambling disorder is a medical illness with severe consequences including major psychiatric disorder and suicide. Those affected should be treated in respectful non-stigmatising environments.
- The Government/Authority has a unique opportunity to establish treatment facilities which meet the needs of the population. The substantial level of funds required to build and staff a network of

both inpatient and outpatient facilities should not be underestimated and should, in our view, determine the level of the levy from the gambling industry.

**Head 116 - Advisory Committee on the Fund:** Section 2 states that: “The composition, membership and terms of appointment to the Committee, as well as any other relevant matters, will be provided for during formal drafting”. We strongly recommend that there be no gambling industry representation on the Advisory Committee. For the industry to have any influence over the allocation of funds to problem gambling research, treatment, education and harm-prevention awareness raising, would be a major conflict of interest. Numerous studies have been published, looking at the percentage of gambling industry revenue generated by people with gambling problems. While numbers differ, based on country and types of gambling, a meta-analysis found that the proportion of revenue ranges from 15-50% across studies [7]. No industry is motivated to lose 15% of its revenue – never mind 50%. As such, it is imperative that the obvious conflict of interest be avoided at all costs.

The minimisation of gambling related harm is contrary to the financial interests of the gambling industry. The Government has the opportunity, with this new legislation, to take a best-practice, public health approach to the treatment and prevention of gambling addiction and gambling harms. The allocation of funds from the Social Impact Fund, must be decided upon by people who have the public health interests of vulnerable adults, children, affected others and the wider community as their primary focus – i.e., the ‘social impact’. As such, the members of the Committee must be empowered to make decisions which are contrary to the financial ambitions of the gambling industry.

## Key Recommendations

- **Head 10 - Membership of the Authority and terms of membership:** We recommend a limit on the number of members with links to the gambling industry.
- **Head 13 – Removal of member of the Authority:** We recommend that members must divest themselves of any financial ties to the gambling industry, before attaining membership of the authority. We also recommend that financial investment in the gambling industry, while in office, be a reason for removal of a member from the authority.
- **Head 14 – Functions of the Authority:** The Authority should have as a key function, the protection of the public through the implementation of responsible gambling tools and initiatives.
- **Head 39 – Types of licences that may be issued by the Authority:** We strongly recommend that premises with a Betting license are not also granted a Gambling license.
- **Head 45 – Application for a new licence or to renew a licence:** It is imperative, on public health grounds, that the long-standing ban on allowing gambling on premises licensed to sell intoxicating liquor, remains in place. We also strongly recommend that the Regulator takes enforcement proceedings against public houses which operate illegal bookmaking and machine gambling.
- **Head 49 – Power of authority to specify terms and condition of a licence:** We recommend a ban on Fixed Odds Betting Terminals – or any variation on these casino-style games – in betting shops.
- **Head 86 – Power of the Authority to decide to impose administrative financial sanctions:** We recommend a ‘three strikes’ system for the revocation of licences for repeated breaches.



- **Head 105 – Measures to protect and safeguard players:** We recommend mandatory spending limits and time limits for online gambling – such as already exist on the Irish National Lottery’s online system. We also recommend that the Authority be given powers to access anonymised, randomised data sets, from online operators, in order to assess the overall level of harmful gambling.
- **Head 106 – Protection of Children:** We recommend that a customer’s age must be verified before they can lodge any funds to an online gambling account. The current ‘72 hour window’ allowed by operators in Ireland is completely unacceptable and would never be allowed for any other over-18s, addictive product or service.
- **Head 108 - Exclusionary Measures:** We recommend the establishment of a multi-operator self-exclusion scheme for both land-based and online gambling, in Ireland. We also recommend the blocking of unlicensed online operators, through Internet Service Providers.
- **Head 109 – Advertising:** We recommend a pre-watershed ban on all forms of gambling advertising, in order to protect children from gambling harms.
- **Head 113 – Administration and Management of the Fund:** We recommend the removal of Sections 3, 4 and 5 from this Head of the Bill – or, at a minimum, for the percentage of the Fund to be borrowed to be capped and for a time limit on repayment to be set in the Bill. It is imperative that the Authority establishes at least a 1% levy on turnover.
- **Head 116 - Advisory Committee on the Fund:** We strongly recommend that there be no gambling industry representation on the Advisory Committee.

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## RESPONSE FROM ENTAIN PLC TO THE GENERAL SCHEME OF THE GAMBLING REGULATION BILL, OCTOBER 2021

21 January 2022

### Introduction

Entain welcomes the opportunity to contribute to this important process and to assist the Justice Committee.

We strongly support the establishment of a regulatory authority for gambling, betting and gaming in the Republic of Ireland and the inclusion of new products within the proposed regulatory framework. We have a commitment to operate only in regulated jurisdictions, like Ireland, and strongly support measures that could improve and clarify the Irish regulatory system. We welcome the opportunity to comment on these proposals and look forward to working with the Ministry and the new regulator from 2023, to ensure our industry remains an important part of Irish culture and heritage, enjoyed by millions of customers each year.

### About Entain in the Republic of Ireland

Entain is one of the world's largest sports-betting and gaming groups, operating both online and in the retail sector. In Ireland, Entain is most recognised as the owner of Ladbrokes. We are the third biggest operator in the State, both in terms of shops and employment.

Our company directly employs about 700 people across its retail and digital businesses here, with some 100 employees in Entain's digital business in Ireland, based in our Dublin office. The remainder work in support functions and in our 133 betting shops, which are an integral part of many Irish communities. In addition, we operate 72 shops in Northern Ireland and employ 350 people there.

We make a significant contribution to Ireland's economy through tax, VAT and a range of other contributions. In 2019 – the last year of pre-Covid normal operating conditions- our Irish retail business paid €1.4m in corporation tax; €3.7m per year employment taxes; €2.8m per year in irrecoverable VAT; and over €6.4m in betting tax.



## **Part 1 – Preliminary and General**

### **Head 2 – Interpretation/Definitions**

It is helpful that the General Scheme (henceforth “GS”) sets out some definitions which have hitherto not been clearly set out in legislation or regulation. However, it is still the case that some products might fall under multiple definitions, and we hope that the Committee will review and clarify these definitions to avoid any regulatory uncertainty.

However, we would draw the Committee’s attention to some particular issues:

1. There is a growing market for betting on virtual events. These have, as the Committee will know, existed in betting shops for some time via virtual racing. In addition, however, betting on gaming (in the sense of e-sports events) or virtual reality events is a small but growing market. It is important that these betting products are properly regulated rather than left to the unregulated or black markets. We therefore urge the Committee to ensure that the legislation is drafted in a manner that will enable these products to continue to be offered as betting products (both in retail outlets and online) and for the legislation to be sufficiently flexible, by the use of secondary powers vested in the Minister or the proposed Gambling Regulatory Authority of Ireland (henceforth “the Authority”) or otherwise (see Head 4), to enable new products to be considered, scrutinised, and, if approved, regulated without the need for additional primary legislation.
2. Head 41, ‘Business to Consumer (B2C -Betting Licence (In-Person or remote)’ appears to exclude betting on outcomes which are generated randomly. This appears to us to be at odds with the definition of betting given in Head 2 and should therefore be amended.
3. The GS defines betting as: “‘betting” means making or accepting a bet, including when made or accepted through a betting service or a betting exchange, and where the odds on the bet may still fluctuate to the benefit of the person who placed the bet’ (page 9). This appears to exclude some very popular and well-established forms of betting such as ante-post betting, where fluctuations in price (either to shorten or lengthen the odds) are specifically excluded. We assume that this is a drafting error and respectfully ask that it be redrafted.
4. Spread Betting is included in the definition of betting by the GS (page 9). We suggest excluding spread betting from the wider definition of betting. Spread betting is already regulated by the Central Bank of Ireland under MiFID and therefore should be explicitly excluded under the regulation for general betting licences.
5. The GS (page 12) offers a definition of turnover as ‘a licence holder’s total income from gambling, less the total winnings on those gambling activities paid by that licence holder.’ The normal terminology used in most



jurisdictions is Gross Gambling Revenue (GGR): the amount retained by gambling operators after the payment of winnings but before operating cost deductions. The Committee may wish to adopt this formula instead.

## **Part 2 – Gambling Regulatory Authority of Ireland**

### **Head 10 – Membership of the Authority and terms of membership**

The GS lists, *inter alia*, that ‘expertise on [sic] the gambling sectors (both commercial and non-commercial) (i.e. charity) or on matters related to that sector (i.e. sectors providing relevant, ancillary, or support services to the gaming sectors, consultants or academics)’ is a desirable quality for members of the Authority.

In our experience, it would be most useful for the Service to consider, and the Minister to appoint, persons who have recent experience of the commercial gambling sector in Ireland, but who no longer are employed by any operator, always provided that such persons have not taken public positions that would constitute an apparent conflict of interest with their role.

The reason we recommend this approach is that the commercial gambling sector is complex, innovative, and challenging to understand. Recent direct experience would be immensely useful in approving a regulatory structure that is fit for purpose.

### **Head 14 – Functions of the Authority**

Under this Head we have two general observations:

1. There seem to be no overarching objectives for the Authority, other than a list of functions which sometimes, but not always, have their aims contained therein. In the case of the UK gambling legislation, the Gambling Commission is given three specific licensing objectives in S.1 of the Gambling Act 2005. These are:
  - a. preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - b. ensuring that gambling is conducted in a fair and open way
  - c. protecting children and other vulnerable people from being harmed or exploited by gambling.

It seems to us that a similar set of objectives would be helpful in guiding the Authority in its work and establishing broad parameters for what it addresses.

2. Although the need for consultation of interested parties, including the operators themselves, is referenced in specific heads, it would be advisable that a general expectation that the Authority will regularly consult all its



stakeholders, including operators and their customers, and operate in a transparent and open way, should be included in this Head.

In addition, we note from the UK regulators' code that:

- 1.1 'Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
  - understand and minimise negative economic impacts of their regulatory activities;
  - minimise the costs of compliance for those they regulate;
  - improve confidence in compliance for those they regulate, by providing greater certainty; and
  - encourage and promote compliance.'

(<https://www.gov.uk/government/publications/regulators-code>).

These seem to us to be useful guiding principles for regulators, including the helpful reminder that regulation, however necessary, is ultimately a cost which businesses have to manage by increasing process or reducing employment or wages. We hope that this will be borne in mind as the Authority begins to operate.

## **Head 19 – Strategic plan**

We suggest that there should be a duty on the Authority to consult its stakeholders on the content of the strategic plan before it is submitted to the Minister. That will ensure that it reflects knowledge of the latest market developments and emerging issues.

## **Head 21 – Power of the Authority in relation to codes**

We welcome this section, but respectfully suggest that, unless there is a clear need for expediency, the period for consultation before a code is issued should be specified as not less than three months to enable proper consideration by all parties affected.



In general, we suggest that the creation of codes should be a collaborative process between stakeholders. In addition, to avoid licensees being faced with codes that change the basis on which they sought a licence, we think it would be sensible to create a timetable for revision of the most significant codes – every two years, for example – to give licensees some certainty over business planning.

### **Head 23 – Staff of the Authority**

It would be helpful if the Committee were to explore how many staff and what operating costs have been provisionally identified by the Department of Justice, and whether these initial estimates take into account existing regulatory bodies in other jurisdictions, whilst adjusting for the relative size of the Irish gambling and gaming market.

We note from the ‘Final Report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland’ prepared in 2019 by McCann FitzGerald (the McCann report<sup>1</sup>), that an estimate for the Authority at that time was c100 employees and an overall operating cost of c.€8-9m once operational.

This figure seems feasible, if a little on the high side when comparing Ireland with other similarly sized markets. For example, Sweden with a population of 10 million (twice that of Ireland) and a GGR of €2.44bn, has 70 employees in its regulator. However, Denmark, which has a similar population to Ireland, and a GGR of €1.6bn, has 120 employees in the DGA regulatory body. There is no perfect solution, since the scope of regulation varies between markets. However, we urge the Committee to ensure that the Authority is conscious of the need to keep the burden on its funders - the providers – to a minimum, consistent with meeting its regulatory objectives.

### **Head 28 – Power to charge and recover fees**

It is our strong view that the Authority should not have an untrammelled right to specify fees, and that these should be subject to consultation with operators and then the formal approval of the Minister. This offers a check and balance which is present in some other jurisdictions.

Entain’s experience of working with the Gambling Commission in the UK has been that there is a reluctance to draw on industry experience on issues such as international trends, technology and the black market. That increases costs as the regulator undertakes its own research which can duplicate what the market already knows.



Clearly, a regulator must be able to make decisions and set appropriate fees without the approval of those it regulates. But we submit that those decisions should always be based on evidence, and the experience of operators is a valuable part of the evidence base.

### **Head 31 – Funding of the Authority**

It is envisaged under this Head, if we understand it correctly, that any surplus revenue generated by the Authority will flow into the Exchequer and be used for any purpose whatsoever.

We disagree with this proposition, as the Authority is clearly not intended to be a profit-making body.

Instead we suggest:

1. Surplus funds should be returned to licensees if practicable or offset against fees for the following year if that would be simpler to operate.
2. If not, surplus funds should be employed in the treatment of problem gambling either by the proposed Social Impact Fund, or by approved charities operating in the field.

## **Part 3 - Licensing**

### **Head 35 – Power to set and charge licence fees**

This Head places a duty on the Authority to consult: ‘any person it feels appropriate’. It is our view that this Head should specify that relevant licensees should be consulted as a group when fees are set or varied, as they are the parties most affected; this would not prevent wider consultation if the Authority so wishes.

In addition, the Head contains a reference to, *inter alia*: ‘the size of licence-holders’ operations’ as a criterion for setting fees. For clarity it should be established, as is presumably intended, that these are operations licensed by the Authority and applicable to the Irish betting and gaming market, not those of companies, like Entain, which operate in multiple markets outside the State.

In general, we believe that the Authority should bear in mind the total cost of market entry when dealing with providers. Licensing fees, compliance costs, contributions to the Social Impact Fund are all in addition to the current tax and VAT regime. The Authority should be under a duty not to make it uneconomic for providers to continue to operate in the State, with the consequent damage to employment and tax revenues.



It should also operate, as many other regulators do, under a duty to increase channelisation rates in the regulated market (and hence curb the black market). For example, Sweden has set a 90% target, and the Netherlands, 80%.

It is important that nothing is done to increase the attraction of black market gambling, whether physical or online, because of the lack of customer protection and links to crime.

### **Head 37 – The Licence Holder**

In paragraph 1 of this head, the possible geographical location of licence holders and their operations is listed as being: ‘the European Economic Area, the United Kingdom of Great Britain and Northern Ireland, or any country or territory which may be specified’. [Emphasis added].

Gibraltar is an important operational centre for Entain (and many other companies) and is widely regarded as being a model regulatory Authority. It is not, however, within the EEA.

To avoid doubt at this stage, and unnecessary and expensive contingency planning, we propose to the Committee that Gibraltar be expressly included as a permissible geographical location for licensing and operations on the face of the Bill.

We would be very happy to explain to the Committee or Department the detailed reasoning behind this and the way in which licensing and operational structures interact in our business.

If preferred, the Authority could instead concentrate on the quality of licence applications rather than specifying a series of jurisdictions which were considered acceptable.

It would also be helpful to have clarity on whether a Group Licence system is envisaged under this system.

### **Head 45 – Application for a new licence or to renew a licence**

In section 3 of this Head there is a list of information that must be supplied when applying for a licence.

The list is extremely onerous and not in keeping with similar licensing systems in other jurisdictions (e.g. UK, Malta, and Gibraltar). In particular we note the requirement to communicate business plans; the requirement to list all sub-contractors; the requirement to provide a detailed description of remote gambling systems; and the requirement to provide details of the physical layout of all





gambling premises including the entry and exit doors, lighting sources and other minor matters.

We do not consider this level of detail to be necessary or proportionate. It would also be costly and require updating every time a window was installed or removed in a betting shop, which is presumably not the intention. We propose that further work might be done on examining the requirements in other jurisdictions to establish what best practice looks like.

Separately, we recommend to the Committee the establishment of an approved list of other jurisdictions which meet the standards which the State would feel necessary in regulating gambling. In those cases, there might be a fast-track or passporting system in which licence-holders could undergo a reduced scrutiny process while still meeting the most important information provision requirements applicable to the Irish market.

We believe this was suggested in the McCann report of 2019, and we endorse that suggestion.

#### **Head 46 - Determination (decision to grant, part-grant, or refuse a licence or renewal of a licence)**

In this section there is a specific reference (4.j.11) to taking into account the proximity of gambling premises to schools. It should be noted that betting shops already make every effort to comply with the law that under-18s may not enter. At Entain all our staff are trained to challenge persons who appear to be under-25 to ensure that genuinely under-age people will always be identified.

It is difficult to see why the mere presence of betting shops near schools – as opposed to advertising or marketing which is already prohibited within 100 meters of a school – is uniquely harmful compared to pubs, fast-food restaurants or off-licences. Nor is it always practical in smaller urban centres and towns to find premises which are not within sight of a school. We can envisage situations where a new school was opened and – if such a rule were interpreted strictly – a betting shop would have to close.

We assume that in practice this would not apply to existing betting shops, but it could impede future relocations and the evidence base for doing so does not exist. An absolute rule envisaged here would cause endless difficulties for operators with nil effect on problem gambling and is not justified on the evidence available.

In our view, therefore, this specific reference to schools should be removed and the general area should be considered as a whole, while retaining the current ban on marketing and advertising within 100 meters of a school.



This comment also applies to Head 49, section 7.

#### **Head 47 - Notification to applicant of decision of the Authority.**

There is no mention in this Head of any right of appeal when an application has been refused. While it would be open to applicants to take legal action by way of judicial review, we suggest that the Authority should be required to use its Appeal system in these cases.

#### **Head 49 - Power of Authority to specify terms and conditions of a licence**

This Head contains ‘an obligation not to advertise, **display their name** or any promotional signage that is visible to a school, a playground, a sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children.’ [Emphasis added]

It is true that this is a possible rather than a mandatory requirement for a licence.

We accept that, in line with the Advertising Standards Authority of Ireland (ASAI) code, that gambling marketing communications should not ‘be displayed within 100 meters of a school entrance.’ (ASAI Code 10.17(h)). This is something we welcome. However, this Head seems to go further, and imply that the presence of a shop would constitute marketing in its own right.

We do not believe that there is research in any jurisdiction that suggests that seeing the name of a bookmaker above a shop makes children gamble. We do not want to have children in our shops, and as noted in our comments to Head 46 above, we take steps to ensure that they do not come in. However, this Head as currently drafted would cause difficulties when shops and indeed schools change locations, and we suggest it is removed.

Section 4 specifies a power to set maximum stakes and prizes applicable to all games as part of licensing. This is a topic of great importance to the future of the industry. As such, we believe the Authority should be explicitly required to consult providers and supply evidence before determining these matters. In the UK, these rules require approval by the relevant Minister, and given their significance we suggest the same should apply in the State. This is particularly the case as decisions could have implications for Exchequer revenues which requires a balanced political judgment.



### **Head 51 – Notification to licence holder concerning decision to vary or alter terms and conditions of a licence**

There is no mention in this Head of any right of appeal. Hence we make the same comment as under Head 47 above, in reference to the proposed Appeal system to the Authority.

### **Head 52 – Compliance and Review**

We note that this contains a power for the Authority to seek information from suppliers and customers of a licensee, and to do so without consent of the licensee (sections 5 and 6). Such a power is disproportionate. At a minimum, the Authority should be required to notify the licensee that such requests are being made and to give the licensee the opportunity to inform its commercial partners. Otherwise, established commercial arrangements might be called into question, and the reputation of licensees may be damaged without good cause.

It is not sufficient to argue that the existence of compliance checks do not of themselves presuppose the licensee has failed to comply. In practice they will create doubt and uncertainty, particularly if the licensee itself is kept unaware that its commercial partners are being required to supply sensitive commercial information to the Authority.

### **Head 55 - Power of Authority to impose penalties where a licence holder fails to report suspected suspicious activities**

For clarity, it would be helpful to define the markets in which suspicious betting activity is taking place, in order to trigger a report to the Authority. We assume that these will be limited to:

1. markets on events taking place in the State, or
2. bets placed by Irish citizens.

Incidentally, a number of MOUs exist between sports governing bodies and the IBA (the FAI and GAA, for example) where any concerns or suspicious activity is highlighted to them or vice versa. In addition, they may ask if we saw a specific betting pattern on specific games and we work together to resolve the issue.

We would recommend the Committee consider the creation of a Sports Betting Integrity Forum ('SBIF'), along the lines of the one that exists in the UK.

SBIF in the UK brings together representatives from sports governing bodies, betting operators, sport and betting trade associations, law enforcement bodies and gambling regulation.



We propose that a similar vehicle is introduced in Ireland for the following reasons:

- The forum allows for greater cooperation amongst stakeholders whose overall aims are aligned in keeping sport fair and clean.
- The structure allows for best practice to be shared amongst members in areas such as investigations and player/athlete education.
- Project work can be undertaken and shared amongst those from different areas of employment in areas deemed relevant by the members.
- The group improves relations which can contribute to greater knowledge sharing amongst members, particularly in relation to specific cases. It also allows for the relevant points of contact at the various member organisations to familiarise themselves with each other prior to formal requests being submitted.

In terms of the practicalities of SBIF, there are four meetings held per year by the representatives, and an annual conference, webinars and discrete projects.

There are two co-chairs of the UK SBIF, one from a sports governing body, and one from a betting operator and these seats are held in two-year cycles. The secretariat function is carried out by the Sports Betting Intelligence Unit of the UK Gambling Commission.

## **Head 56 – Power of Approval and Certification**

It is appropriate for the Authority to approve and certify equipment, machines, devices and systems used by licensees. However, in practice many of these things will already have been tested by testing houses approved in other jurisdictions with good regulatory records. It would therefore make sense for the Authority to establish a passporting system by which equipment etc. approved in specified jurisdictions should not need to be approved again for use in the State. This should also apply to cloud-based technology and remote servers which have already been approved in other jurisdictions.

## **Part 4 – Compliance and Enforcement**

### **Head 76 – Reference Materials**

We note that this Head contains in (4.(a)-(j)) a list of matters which should be taken into account when preparing reference materials.

Absent from this list are five topics which would be of great utility in establishing how the Authority should act and regulate:

1. The prevalence of problem gambling among customers.



2. The use of AI-driven systems (like our own Advanced Responsibility and Care (ARC) system) to tackle harmful gambling on a targeted individual basis without penalising customers who bet safely.
3. The rights of customers to be able to access the products on which they wish to bet where they exhibit no problem gambling behaviours.
4. The likely response of customers if they are required to provide private financial information to operators to be allowed to bet, and the impact this would have on operators, jobs and tax revenues.
5. The scale of black market gambling in the State and in Northern Ireland where accessible to Irish citizens, covering both physical and online gambling.

In Entain's experience, the debate over problem gambling is unbalanced by a lack of credible research in Ireland indicating levels of problem gambling among consumers. In many jurisdictions regulators have a tendency to balance the interests of the overwhelming majority of customers who bet safely and responsibly against the very small minority who do not and need to be protected.

In this light we recommend that the Authority should create a programme of research among gambling consumers as a whole to establish their attitudes and if possible create a panel representative of the safe majority to inform its decisions. We would be happy to part-fund such a programme with other operators.

In the absence of this, Entain has itself empowered customers to contribute their views via its UK (established) and Irish (in the process of creation) Players' Panels to have a voice on decisions that affect their leisure interests and has researched attitudes among Irish gamblers which we would be happy to share with the Committee.

If desired, the research into problem gambling could instead fall within the ambit of the Social Impact Fund (see comments on Head 114 below).

## **Head 77 – Compliance assessments**

This Head gives the Authority unfettered discretion over the institution, timing, duration and implementation of compliance assessments. We suggest a balance is struck between regulatory certainty and the cost to licensees in time and money of complying with assessments.

We suggest to the Committee that the Authority should set out guidelines on the process of compliance assessments that give licensees some indication of how, under normal circumstances, they will be conducted and over what time: always allowing the Authority to take urgent action where real harm to consumers or



illegality is proven. This is the system which seems to be envisaged in Heads 83-85, and it would be helpful to have it reiterated under this Head.

## **Head 86 – Power of the Authority to decide to impose Administrative Financial Sanctions**

We have three comments:

1. It is stated that the turnover and ability to pay of the provider will be taken into account when imposing financial sanctions, and that these should be the greater of €20,000,000 or 10% of relevant turnover. It would clearly be disproportionate for companies such as Entain to pay administrative sanctions based on its global turnover. Financial sanctions should be calculated on the turnover of the licensed entity only.
2. The power is given to the Authority to impose fines at the same level (i.e. up to €20,000,000) on individuals, subject to confirmation by the courts. This is a colossal sum which in practice would bankrupt virtually all those who might be subject to it. We wonder whether it might deter small operators from continuing in or entering into the market, which would reduce competition and customer choice. We return to this point under Head 94. When considering the level of financial sanctions that can be applied under the new regime we believe that any sanctions which are imposed must be proportionate. In this regard we note that under the Central Bank Act 1942 the level of monetary sanctions that Central Bank can impose in Ireland for breaches by regulated financial service providers and by persons concerned in the management of such entities and who have participated in the breach shall not exceed the greater of €10,000,000 or 10% of turnover where the regulated financial service provider is a body corporate or an unincorporated body and not exceeding €1,000,000 where the regulated financial service provider is a natural person and for persons concerned in the management of a regulated financial service provider (<https://www.centralbank.ie/regulation/how-we-regulate/enforcement/administrative-sanctions-procedure>).

In addition, it is important to note that the Central Bank is under a legal duty to act proportionately at all times, including when imposing sanctions and we would suggest that such a requirement should also be built into the General Scheme. It is also significant that when setting the level of financial sanctions that can be imposed, the Central Bank Act 1942 has a number of important provisions built in which the Central Bank is obliged to comply with. In particular we would refer to the following;

- a. Section 33AS(1) of the Central Bank Act 1942 which provides:  
*“If the Bank decides to impose a monetary penalty on a regulated financial service provider under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the financial service provider to cease business.”*
- b. Section 33AS(2) of the Central Bank Act 1942 goes on to state:



*“If the Bank decides to impose a monetary penalty on a person under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the person to be adjudicated bankrupt.”*

The level of financial sanctions set out in the General Scheme are not proportionate and if imposed would result in many operators having to cease business or put individuals into bankruptcy. For that reason we would suggest that;

- I. an express legislative provision is introduced into the General Scheme to express that the Regulator must act proportionately;
  - II. the level of financial sanctions that can be imposed needs to be considered in light of the equivalent sanctions that can be imposed by the Central Bank of Ireland,
  - III. an express legislative provision should be inserted into the General Scheme to make clear that when imposing financial sanctions the sanctions should not be so high as would cause the operator to cease business or result in an individual being adjudicated bankrupt.
3. It is stated that High Court approval is required for the level of sanctions. We assume that is not the case where the operator does not dispute the sanction.

#### **Head 94 – Senior Management Liability**

There is no proper legal definition of ‘senior management’, which means that this section should be clarified. We suggest that a system akin to that in the UK whereby a certain number of individuals must hold licences – known as Personal Management Licences (PMLs), in the UK if they are responsible for:

1. Overall strategy and delivery of gambling operations.
2. Financial planning, control and budgeting.
3. Marketing and commercial development.
4. Regulatory compliance.
5. Gambling-related IT provision and security.
6. Management of licensed activity for a particular area in Great Britain where you have five or more sets of premises for which you hold a premises licence.
7. Management of a single set of bingo and/or casino licensed premises.

These individuals would therefore be the group of persons who might be personally liable for licence breaches applicable to their corporate function. This would clarify the powers of the Authority, ensure accountability, but avoid any risk to persons who are lower down in the management hierarchy and who are not final decision-makers.

#### **Head 96 – Gambling related to manipulation with intent to alter outcome**





We note that there is an absolute requirement under this Head to issue immediate 'bet refused' dockets in the event that a provider detects suspicious betting patterns and decides to refuse to accept bets. It might be better for this requirement to be preceded by a report to the Authority or Garda Síochána, since an immediate refusal to accept bets might alert those who are trying to manipulate an event and enable them to evade detection and punishment.

## **Head 97 – Complaints about providers**

We take this together with 'Head 98 – Obligation to consider mediation or other form of alternative dispute resolution'. ("ADR")

The system envisaged here is cumbersome and could be improved quite simply by using the procedure in other jurisdictions, viz.: providers should be required to have ADR processes in place. These should be available to complainants before any case reaches the Authority. Only when this avenue is exhausted should the Authority become involved.

In Great Britain, the Gambling Commission does not examine customer complaints unless there is an alleged breach of the Licensing Conditions by the Operator, preferring instead to refer such complaints to ADR or to the Courts. More information on how this is structured is available here <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/handling-complaints-and-alternate-dispute-resolution-adr>

This system avoids burdening the Authority with every complaint but involves no diminution of complainants' rights as an appeal to the Authority is still possible after ADR has been unable to resolve a dispute.

By means of illustration, in 2021 in Great Britain, the Entain Group identified 1607 contacts that were identified as formal complaints. Of these, 1496 were resolved with the customer through the Entain internal customer complaints process and thus only 111 reached a deadlock that had to be referred to ADR. Of the 111 cases that were referred to ADR, 40 were subsequently resolved to the customer's satisfaction during the ADR process, while only two cases were decided against Entain by IBAS.

We also use IBAS in Ireland and have done so for many years. We suggest to the Committee that this system is fit for purpose and the Authority need not invent a new one, or become involved in the first stage of complaints.





## **Head 100 – Cooperation with other bodies**

We note that under 3(a)viii, the Authority can liaise with ‘bodies holding comparable or related functions in other jurisdictions’. As we have suggested in this submission, we believe that such cooperation might include mutual recognition of licensing decisions, thereby reducing the burden on providers which operate in multiple jurisdictions without risk to regulatory standards. In addition, it will ensure that the Authority is automatically in step with internally-recognised best practice.

Entain has considerable experience in this area and would be happy to share it with the Committee if so desired.

## **Part 5 - Safeguards, Advertising, Sponsorship and Social Impact Fund**

### **Head 105 – Measure to protect and safeguard players**

Entain is wholly committed to encouraging safer gambling practices and protecting vulnerable players. We have been at the forefront of using technology to intervene in individual cases through our Advanced Responsibility and Care (ARC) programme.

Our advanced safer gambling system is at the cutting edge of player protection, providing unprecedented safeguards for customers of our online sports betting and gaming brands by minimising problems before they arise and diverting customers from potential risk. If risks are identified the ARC system will guide and positively educate players into a safer gambling experience through tailored interventions to fit their individual behaviour, alter products offerings as well as providing an invisible safety net.

Entain also committed to invest \$5 million over five years in a partnership with the Harvard Medical School Faculty at the Division on Addiction. Through this, we are providing Harvard with access to anonymized player data across a range of our brands and products in order to ensure our systems and processes are industry leading and based on the highest academic evidence. We also work with Dr Mark Griffiths, Distinguished Professor of Behavioural Addiction and Psychology to audit our policies and processes on responsible gaming and suggest improvements. Our ARC programme was developed using insight from the Harvard team, Dr Mark Griffiths as well as lived experience from EPIC Risk Management.

Our comments in this section are therefore made in the light of these commitments.



1. The duty to promote responsible gambling is one we willingly accept, but the stipulation in 4(i)a ('take steps') is vague and could be addressed more specifically in codes issued by the Authority.
2. We do not currently display warnings on all screens, as there may be many screens in a single shop, and the message would be in small type on each to allow customers to see the betting events clearly. Instead, a prominent single screen has more impact.
3. We provide customers with the ability to see their account activity over the past six months including wins and losses. This seems proportionate.
4. We already communicate safer gambling tools directly to customers (and these have proven to be both popular and effective).
5. It would not be practicable to have a clocking in and out system in licensed betting shops as seems to be envisaged in 6(1)c.i. We suggest that this stipulation is dropped.

It is critically important to the future of the industry and the contribution it makes to both the economy of the State and to the responsible leisure enjoyment of its citizens, that the following draft prohibitions are removed:

1. The prohibition of free bets.
2. The prohibition of limiting stakes or winnings ("factoring") except in cases of cheating.
3. The prohibition of enhanced odds.

These prohibitions, taken together, would essentially destroy the economic basis of our operations.

Perhaps even more importantly, prohibitions on free bets, enhanced odds, and hospitality would penalise customers who value these opportunities; opportunities which are used by numerous other leisure industries to reward loyalty.

Free bets have been a feature of the betting market for decades; they generate tax revenue for the State if they are treated as if they were real bets; and customers like them, so it seems strange to prohibit them, given there is no proven link to problem gambling.

A ban on enhanced odds would presumably end the ante-post system which allows customers to fix their odds regardless of fluctuations, and end offers of paying out on a greater number of places in a given race. It is surely not the intention of the legislation to remove customer benefits like these? Removing them would push our customers to bet in Northern Ireland or on the black market.

Please also note that it would not be possible to run our business without the use of factoring. Allowing all customers to place bets at any sum and take the odds



offered has never been the practice of the industry – nor could it be, because our operations would rapidly become unviable. We can demonstrate this to the Committee in more detail if so desired.

Other risk-based industries manage commercial exposure by pricing their products according to the potential cost to the business. For example, an insurance company may choose to charge a higher premium or apply a higher excess on a younger driver of a high-performance vehicle than they might to a more experienced driver. This is based on a mathematical calculation of the likelihood and cost of a claim. In some situations, an insurer may even reserve their right not to quote for certain business.

Similarly, in the betting industry, when offering a market, a trading team seeks to offer a balanced book to its consumer base such that a commercially attractive proposition can be offered to customers. Whilst the betting industry does not go as far as to quote different odds depending on the customer, it is necessary to limit the size of bets that players with demonstrated expert knowledge in a certain market can place. The alternative would be to price the markets less attractively in such a way that would disadvantage the recreational consumer.

Finally, we urge the Committee to bear in mind that the very tight restrictions envisaged here, together with possible spending and staking limits and intrusive affordability checks as urged by some organisations, are not cost-free.

There is already a small but persistent presence of physical illegal betting in Ireland. There are also numerous unlicensed overseas operators who are ready to offer the exact inducements which licensed operators would be prevented from doing. They offer no safer gambling tools and have been known to take customers' money and fail to pay out. In other jurisdictions (notably France, Sweden, Norway), there is evidence that strict regulation has precipitated a move to the unlicensed operators.

Our own research in Ireland in April 2022 has shown that already half of our customers had direct or indirect experience of the black market.

On behalf of the Betting and Gaming Council (BGC) in the UK, PWC conducted a study of black market use in late 2020, which found that:

‘The proportion of UK online gamblers using an unlicensed operator has increased from 2.2 per cent to 4.5 per cent in the last 1-2 years. This equates to an increase from c210,000 players in 2018-19 to c460,000 in 2020.’

‘A sizable and growing share of stakes is placed with unlicensed sites, growing over the last 1-2 years broadly in line with usage (i.e. doubling). Those that gamble with unlicensed operators still almost always gamble with licensed operators as well.’



‘Our survey found that the share of online stakes with unlicensed operators had grown from 1.2 per cent in 2018/19 to 2.3 per cent. This corresponds to a doubling of stakes with unlicensed online operators from £1.4bn to £2.8bn.’

([https://bettingandgamingcouncil.com/uploads/Downloads/PwC-Review-of-Unlicensed-Online-Gambling-in-the-UK\\_vFinal.pdf](https://bettingandgamingcouncil.com/uploads/Downloads/PwC-Review-of-Unlicensed-Online-Gambling-in-the-UK_vFinal.pdf))

It would be a serious mistake to make the black market gambling sector more attractive than it already is. We urge the Committee to investigate this matter in depth.

### **Head 108 – Exclusionary Measures**

In our view the proposal that the Authority itself should run an exclusionary scheme is unnecessary and would be a diversion from its considerable core responsibilities. Instead, we propose that the very successful UK scheme run in association with GamStop, should, if GamStop agrees, be extended to the State.

As the Committee will know, the GamStop system covers all operators with a UK licence (and already covers Northern Ireland). It enables customers of all licensed companies to self-exclude for periods of six months, one year or five years, and does not permit the revocation of such self-exclusion until the specified period has elapsed. We warmly commend it to the Committee.

We note 10(ii): ‘It shall not be compulsory for anyone participating in a self-exclusion scheme to be included on the Exclusionary Register’. It might be helpful to include here a requirement, however, that if a customer self-excludes from a single operator, there shall be a duty to inform him or her of the GamStop full exclusion facility.

### **Head 109 – Advertising**

This Head appears to us, as drafted, to be both disproportionate and in some instances unworkable, although of course we support all viable efforts to ensure that children are not exposed to gambling advertising.

For context, it should be noted that no academic research has demonstrated that gambling advertising drives problem gambling. Problem gambling prevalence rates in the UK have remained at the same (low) levels during the liberalisation and then subsequent re-regulation of gambling advertising.

Entain’s advertising is designed specifically to appeal to adult customers and to help us grow market share from the existing gambling customer base; contains safer gambling messages and is a legitimate avenue for promoting a legal leisure



activity to those who wish to participate in it. It should be regulated sensibly and proportionately.

With that in mind, we invite the Committee to consider:

1. How it would be possible to regulate on-demand audiovisual media and video-sharing services so that no gambling advertisements are shown. We are not aware that this is feasible. Instead, the Committee should consider age-gating systems which already prevent gambling advertising on services where the proportion of under-18s watching is high, as is currently the case with e.g. YouTube.
2. Permitting animated characters where these are used in appropriate settings, for example our own Foxy Bingo character which is used on the Foxy Bingo website and is licensed in the UK without issue.
3. How it would be possible to operate a system under which consumers have to opt in to receiving gambling advertising on social media (5(1)(a)), as opposed to the more practical ability to opt out, which is already offered by leading social media platforms such as Facebook, Twitter and Instagram, and is operated successfully in the UK and elsewhere. An opt-in system would be bureaucratic and unworkable, and the result would be effectively to ban gambling advertising on all social media platforms, as the providers of these platforms would be highly unlikely to create a system just for Ireland. That could only be justified if there were proof of a direct causal link between gambling advertising and problem gambling, and there is none. It would also prevent customers from receiving promotional offers which are known to be popular with them. We submit this is an excessive step given that gambling is a legitimate leisure pursuit provided by companies which will be licensed by the new Authority and subject to its codes and regulations.

### **Head 110 – Promotions and Gambling**

We note subsection 3 under this head which reads: ‘Codes made under subhead (1) may prohibit or restrict the provision of any licensed game, product, service or activity on more beneficial terms to a person during a specified period of time at a price less than that being charged on the day before the commencement of the specified period’.

We are unclear what this means, but if it means that customers would not be able to benefit if odds fluctuate in their favour in the period before a betting event, then that would clearly be unfair to them, and this section should be rescinded.



## **Head 111 – Sponsorship by Licence Holders**

While we welcome the emphasis placed here on ensuring that sponsorship does not act as a way of suggesting to under-18s that they should gamble, of the draft presents some practical difficulties which the Committee should be aware of, and which presumably are why the ASAI code specifically excludes sponsorship from its remit (2.3(o)) :

1. It is not unheard of for race meetings and other sporting events to include persons under the age of 18 as participants. The current draft section 4 would prevent Entain from, for example, sponsoring a race meeting at an Irish racecourse on the basis that one race out of - say - six had a jockey who was under the age of 18. That would either have a major impact on the finances of Irish racing, given the extent of bookmaker sponsorship of meetings and other facilities (hospitality venues etc.) or would decrease the availability of riding opportunities for apprentices and young jockeys to avoid breaching the code. Irish racing might decide to introduce an over-18 rule for jockeys for example, to avoid losing sponsorships. Endless difficulties would be caused if there were last-minute substitutions of jockeys, which frequently happens. This is presumably not what the Committee would want.
2. We stress to the Committee that we are happy to commit never to have our brand on the kit of any athlete, or on the silks of any jockey who is under 18.
3. The definition of an event whose 'primary purpose is to appeal to children' is unclear. It might be preferable to distinguish between adult sports (which do have a fair number of children attending but a greater number of adults, e.g. football matches); and events where the participants are all under-18 and where the sponsorship ban would be absolute.
4. It is stated that the prohibition would extend to organisations where children are members; branded clothing (whether for children or adults is not specified); and venues accessible to children (where advertising is also banned). Given that many sporting clubs and venues operate memberships that offer a junior section, and do not specifically bar children from their venues, the effect of this would be to completely outlaw any promotional activity by gambling companies in any venue anywhere in the State. If that is desired, the Committee should be aware that it would have a very serious effect on the finances of Irish racing and of other sports. At the same time, it is a well-established fact that television channels based in the UK broadcast coverage of venues where there is no such sponsorship ban, and where gambling advertising is permitted. Providers will continue to use this sponsorship through entities not licensed in the State. Money, one assumes, would



therefore flow back into the UK sporting economy to reach Irish customers. The result is to harm Irish sports and broadcasters, and advantage British ones. We submit that this would be undesirable.

In short, the prohibitions envisaged here seem to us to be difficult to enforce and harmful to sporting activities in the State. A more forensic approach tackling real harm, rather than hostility towards gambling-related promotions and advertising per se, would achieve greater results, without deleterious effects.

### **Head 113 – Establishment of Fund**

We support the establishment of a Social Impact Fund. Entain is already a major contributor to research, education, and training on problem gambling in the UK and elsewhere. In Ireland, we, along with other IBA members, have been contributing to the Gambling Awareness Trust ('GAT') since its inception in 2018 (although no other gambling sector has followed suit. We would like to work with the Authority, the SIF and GAT to deliver a coherent strategy for tackling any negative social effects of gambling, as we do in many of the jurisdictions in which we operate.

As noted above (Head 86) we believe that the calculation of contributions to the fund should be made in the basis of GGR in the Irish gambling and betting market, as that would disadvantage international companies like Entain.

### **Head 114 - Purpose of the Fund**

As per our comments under Head 76 above, we suggest that either the Authority, or the Social Impact Fund ("SIF") should undertake research into the prevalence of problem gambling in the State and publish the results annually.

### **Head 116 – Advisory Committee on the Fund**

We invite the Committee to consider whether the SIF should not be wholly independent of the Authority which would strike us as a more natural system, particularly if the SIF published research that might be seen as implicitly critical of the Authority's work.

## **Part 6 – Appeals Against Certain Decisions of the Authority**

### **Head 119 -Gambling Regulatory Appeal Board**

The GS does not anywhere indicate what decisions of the Authority should be subject to appeal. It might be helpful for an indicative list to be included.

As a comparative example, in the UK in general a licensee can appeal if:



- its licence application is turned down
- its licence is suspended or revoked
- it receives a fine or warning
- there are changes to its licence conditions

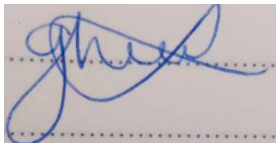
In the first instance, a licensee appeals to the body that has made the decision (i.e. the Gambling Commission's own Regulatory Panel).

Regulatory Panels comprise Commissioners, and provide the opportunity for applicants / licensees to attend an oral hearing to challenge the decisions. Gambling Commission staff are minded to take about personal or operator licenses.

In our opinion, however, it would be more reassuring to licensees in Ireland if the Authority were to constitute Regulatory Panels that consisted of experts in the gambling regulatory system, but were truly independent of the Authority itself.

If the licensee is still not content with the outcome, it can appeal the decision to a first tier tribunal within 28 days of receiving the decision. This will be heard at the general regulatory chamber, although such a step is very rarely taken.

<https://www.gov.uk/guidance/gambling-licence-decisions-appeal-to-a-tribunal#the-tribunal>



Grainne Hurst  
Group Corporate Affairs Director



**To: The Joint Committee on Justice (“Committee”)**

**From: Conor Grant, Chief Executive Officer, Flutter UK & Ireland and Pádraig Ó Ríordáin, Chief Legal Officer & Group Commercial Director**

**Re: Flutter Entertainment plc (“Flutter”) additional evidence on the General Scheme of Gambling Regulation Bill**

## **Introduction**

We would like to again thank the Committee for the opportunity to appear before you regarding the General Scheme of the Gambling Regulation Bill.

During the session on 8 March, we offered to provide some additional information in response to specific questions posed by members of the Committee, hence this correspondence.

## **Safer Gambling Team**

At Flutter, safer gambling is at the heart of everything we do. Our approach to safer gambling is comprehensive, with customer interventions forming just one part. We have appended an overview of some of our safer gambling controls to this submission. We currently have 180 full-time employees in the UK & Ireland dedicated to safer gambling, assessing both our UK and Irish customers, of whom 55 are located in our Dublin headquarters. This team reviews customer accounts and interacts with those customers where they believe intervention is required, while also supporting colleagues to ensure the right tools are in place and to embed safer gambling in all areas of the business.

## **Predictive Models**

We take a data-driven approach to identifying signs of customer risk. We have developed predictive models based on hundreds of transactional and behavioural indicators to help us identify customers whose behaviours suggest they may be at risk of developing problems with their gambling.

On our Paddy Power and Betfair brands, we have developed our proprietary predictive model in consultation with leading academics and researchers. The Customer Activity Awareness Programme, has 276 different inputs, which produces a risk score for every customer. This individual risk profile takes into account elements of their play in real-time, enabling us to identify potentially at-risk behaviour earlier and take appropriate action as soon as possible.

For example, if a customer typically deposits €10 on a Saturday to bet on their favourite football team, and then starts to deposit higher amounts, on different days, betting on different markets or using different payment methods, our predictive models will flag the customer for further interaction.

## **Behavioural Reports**

In addition to our predictive models, we have an additional layer of reporting for the monitoring of customers. Our “in-the-moment model” creates a report which provides a holistic view of a customer’s risk across a number of actions or behaviours. This risk score is calculated for every active customer every day using a number of indicators (e.g. deposit amounts, deposit spike increase above average, and placed stake increase above average). This identification method allows for early intervention where increased risk of potential harm is identified.

For example, if the report shows a customer has suddenly started increasing their deposits and placing larger bets in the previous 24 hours, then one of our agents will make contact proactively with that customer to discuss their gambling and to seek to identify signs of potential harm.

### **Empowering Customer-facing Staff to Identify Potential Harm**

Extensive training enables our customer-facing staff to identify potential indicators of harm from our customers' behaviour, including during their verbal interactions. If a customer uses a potential trigger word and/or exhibits behaviours associated with problem gambling, our customer-facing staff will place a suspension on that account until reviewed by our safer gambling team.

For instance, a customer uses live chat to complain about the delayed settlement of a bet. During the course of a conversation with a customer support agent, the customer makes repeated requests for a free bet so that they can have another bet while they are waiting. Additionally, they refer to having spent more than they should on gambling over the past month. Our customer support agent would then send that chat transcript and account details to our safer gambling team for review.

### **Interventions in Practice**

There are various actions we take once a customer has been identified by one of our models, reports, or colleagues. We will manually review the account and decide whether to:

- Stop sending marketing emails to that customer for a set period of time before reassessment
- Send safer gambling messages and reminders about safer gambling tools to that customer, an example of which we have appended below
- Create onsite messaging for that customer
- Have one of our safer gambling team call the customer
- Place deposit limits or blocks on the customer's account
- Suspend or permanently close the customer's account
- Use a combination of the above

This is a very substantial operation, running 24 hours a day, 365 days per year, and which requires a dedicated and skilled team of people within our business. We have invested significantly in technology and human resources in this area because it is in all of our interests to protect our customers.

### **Working with External Experts**

Training and support are crucial for the safer gambling team, and also for our colleagues more widely. We use a variety of external partners, such as specialist charities and gambling therapists, to assist us with training our customer-facing staff on effective interactions, implementing policies and processes, and supporting our colleagues.

All new joiners complete an induction which includes a safer gambling module, and we provide on-going training on safer gambling to our colleagues.

### **Irish Customers**

On average, every month across the Flutter brands, our safer gambling team interacts and intervenes with Irish customers as follows:

- We manually conduct in-depth reviews of approximately 1,000 accounts
- Of those 1,000 in-depth reviews, approximately 550 per month will not require specific intervention (e.g. because the customer has since self-excluded, or our safer gambling analysts do not deem it necessary)

- 450 customers have a specific interaction (e.g. a phone call or live chat with one of our trained agents)
- More than 160 of those customers have a tool applied on their account by Flutter (e.g. deposit limits)
- Between those identified by reports and customers flagged by our customer-facing teams, we proactively exclude 55 customers per month
- Of the remaining c.290 customers we are unable to contact but who have been identified as requiring an interaction, we place a deposit limit on their account until that interaction has been completed.

We will use some of these actions specifically to prompt a customer to contact us so that our staff are able to have a direct interaction with that customer. Once we are in contact with a customer, we are better able to give them the specific support they require and, if necessary, help them to manage a safe withdrawal from gambling, including access to treatment.

One outcome of this process may be for a customer to self-exclude. During the self-exclusion process, we offer customers a free licence (paid for by Flutter) to use a product called Gamban. This product can be installed onto every device a customer owns, blocking access to every gambling site in the world, including black market sites. It cannot be removed or uninstalled so, in combination with other controls such as bank blocking, it forms a strong block to customers who wish to abstain from gambling. At the point of self-exclusion, we also signpost to Gambling Therapy, a global online support service offering advice in multiple languages for people who have been adversely affected by gambling.

## **Conclusion**

As the above demonstrate, we remain deeply committed to safer gambling and will continue to develop and evaluate new initiatives to keep our customers safe.

We also remain at the Committee's disposal if we can be of further assistance. We also reiterate our invitation to the Committee to visit us at our global headquarters in Clonskeagh, where we can demonstrate first-hand and in detail how our safer gambling controls work in practice.

# **APPENDIX**

# FLUTTER'S SAFER GAMBLING APPROACH



## REGISTRATION

We begin our safer gambling help at registration and continue through the customer's lifecycle, giving them the tools and understanding to gamble

### PROMOTING POSITIVE PLAY

- Age Verification
- Safer Gambling onboarding
- Deposit Limit prompts

## ENVIRONMENT

We implement complementary controls and safer gambling tools for our entire customer base, to act as an additional safety net and ensure they are continually protected from harm.

### BUILDING A SAFE ENVIRONMENT

- Credit card ban
- Monthly limits
- Safer Gambling Tools

## MONITORING

We utilise data to power a suite of metrics aimed at identifying customers who may be at risk of gambling harm. This includes predictive models and in-the-moment behavioural reports.

### MONITORING FOR SIGNS OF CONCERN

- AI predictive model
- Real-time reactive reports
- Staff Referrals

## SUPPORT

We have an extensive team of specially trained colleagues to conduct in depth interactions with customers who may be at risk of gambling harm and provide them with the right support for them in that moment.

### SUPPORTING OUR CUSTOMERS

- 180 full-time safer gambling colleagues
- Manual Reviews
- People-led interventions





**BEN,**

We hope you're enjoying your experience with us so far. After all, enjoyment is the name of the game here at Paddy Power.

However, it is easy to get carried away. We think it's important for our players to enjoy a healthy balance in their life, and always stay in control of how they play with us.

## SEE THE SIGNS

Here's some tips on how to spot if you or one of your mates might be at risk:

### PRE-OCCUPATION:

We all like to relive our wins, but if it's all the time, it's not healthy

### TOLERANCE:

Feel the need to increase your stake to get the same level of enjoyment?

### CHASING LOSSES:

Do you try to win back money if you've lost a bit?

### UNABLE TO STOP:

Have you tried to stop gambling before and not been able to?

Have a look at the full list [HERE](#), and just keep them in mind when you're next having a punt with pals.

## TOOLS TO HELP

Check out some of our tools [HERE](#). They help you manage your account, set your limits, and stay in control.



## MATES LOOK AFTER MATES



If you see the signs in one of your mates, you might want to mention it to them. Having a quiet word will do.

Support is the key here. Click on [WHERE TO GO](#) to see where to point them.

## General Scheme of the Gambling Regulation Bill

21 January 2022

GRB\_12

By Email: [justice@oireachtas.ie](mailto:justice@oireachtas.ie)

### BoyleSports Overview

BoyleSports is Ireland's largest independent bookmaker. Headquartered in Dundalk, County Louth, the organisation operates an online gambling platform with sports betting, casino and bingo as its core products and has over 350 retail branches throughout Ireland and the UK.

We are a long-established regulated sports betting and gaming business who applies strict adherence to the controls laid down by law in all jurisdictions in which we operate.

We are a significant contributor to the Irish Bookmakers Association (IBA) and are a proactive and influential policy maker with representatives from BoyleSports having over 40 years' experience collectively in regulatory Compliance and Anti-Money Laundering (AML) across many jurisdictions.

We are also an active participant and contributor to the forum hosted by the Department of Justice's AML compliance unit (the AMLCU). Our recent productive, balanced, and proportionate discussions and agreements with the AMLCU for the industry are a clear demonstration that working together with the industry will bring the most productive outcomes to the planned legislative reform in the area of Gambling in Ireland.

Our approach to operational excellence can be demonstrated by our commitment to the work we carry out in partnership with other legislative bodies. By way of example, we participate in the National Self-Exclusion schemes operated within the UK, operate a robust age verification process using 3<sup>rd</sup> party verifiers and control and monitor our customer base to enable an effective 'know your customer' (KYC) process.

BoyleSports would like to express its views on the content of the General Scheme of the Gambling Regulations Bill, and to make recommendations in relation to it. Furthermore, we would like to offer our industry experience in supporting any aspects of the Bill that the Committee see appropriate. As Ireland's largest independent bookmaker, BoyleSports is well placed, experienced and keen to support the development of this new legislation.

The publication of the Gambling Regulation Bill is very much welcomed, and we appreciate the opportunity to provide feedback to the content. We believe the Gambling Regulation Bill is a positive step towards much needed legislative reform of the gambling sector. We are very supportive of the vast majority of the measures recommended in the Heads of this bill. However, we have set out in part 1 of this submission a number of recommendations in relation to specific Heads of the Bill. We have also summarised in part 2 considerations we feel the committee should take into account as part of the draft.

We have a vast range of compliance and practical operations experience within our organisation which may provide benefit to the Committee and support those drafting the Gambling Regulation Bill, including international markets. We very much hope the Committee consider our experience when reading our recommendations.

## Part 1 – Recommendations

Key Heads of the Scheme	Recommendations
Head 2 – Interpretations/Definitions	<p><b>“betting”</b> within the definition of betting, “spread betting” is now included. Spread betting is currently regulated by the Central bank. For the purpose of clarity, we would need to understand if this will continue or whether it will be the responsibility of the new regulator under this bill.</p> <p><b>“gaming machine”</b> Within the reference of gaming machine, it references ‘playing a game of chance’ however, there is no definition/interpretation for ‘game of chance’. We feel this definition would be important to include.</p> <p><b>“lottery”</b> The definition for lottery excludes a lottery operated by the National Lottery under the National Lottery Act 2013. We would categorise the National lottery as gambling and believe it should be regulated by the new Gambling Regulator as the same customer protections and operator oversight should apply to the lottery as a gambling operator. This is the approach taken by the Gambling Commission in the UK and is equally relevant in an Irish context given the similarities in product offering. It should also be noted that the Irish National Lottery also offers instant win games as well as regular lottery draws.<sup>1</sup></p>
Head 28 – Power to charge and recover fees	<p><b>1 page 51</b> <i>The Authority shall specify and publish by regulations, the fees to be paid to it and when they fall due in respect of—</i>  <i>a. the performance of functions,</i>  <i>b. the provision of services, and</i>  <i>c. the carrying on of activities,</i>  <i>under this Act.</i></p> <p>We would suggest a comprehensive analysis be carried out by the Department of Finance as to the overall total taxation contribution by the sector to the exchequer, the allocation of those funds and an impact sensitivity analysis carried out as to any changes to the current model. Any fees considered should be proportionate with the betting tax already levied on the sector. We would expect transparency with accounts as this is a not-for-profit Authority. Same for Head 31 &amp; 35, where if there is a surplus it should be carried over in the accounts of the Authority.</p>

<sup>1</sup> See <https://www.lottery.ie/#> - under ‘Play’ and ‘Instant Win’



<p>Head 31 – Funding of the Authority</p>	<p><b>1 page 54</b>  <i>The Authority shall charge and collect such administrative and licensing fees as provided for in-</i>  <i>a. Head 28 – Power to charge and recover fees, and</i>  <i>b. Head 35 – Power to set and charge licence fees.</i>  <b>2.</b>  <i>Following appropriate provision to cover the financial costs incurred by the Authority at the end of each financial period, any remaining fees collected by the Authority under the Heads referred to in paragraphs (a) or (b), or anywhere else under this Act if appropriate, shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.</i></p> <p>We strongly suggest that any fees to be considered should be proportionate and should take into consideration the betting tax already levied on the sector, plus application fees, renewal fees, irrecoverable VAT being paid by our sector and voluntary contributions paid towards Gambling Awareness Trust.</p> <p>It is proposed that any surplus fees would be disposed of for the benefit of the exchequer. We propose that it should be maintained by the Regulator to support any future projects/performing duties/functions which are required of the Authority and could prevent further borrowing. As the sector already has a very heavy fee burden and taxes which are already a barrier to entry for some operators, we harbour some concern at the prospect that these costs may be increased still further without any comprehensive impact analysis being carried out.</p>
<p>Head 33 – Definitions for this Part</p>	<p><b>“relevant officer”</b></p> <p>With regard to Head 33 section a (v), we would suggest the inclusion of the term ‘senior manager’ in place of the current ‘manager’. This would help clarify the definition as referring to staff with appropriate seniority only, and exclude from the definition junior shop managers, contact centre managers etc.</p> <p>We would welcome the regulator of the committee to visit our offices to increase their understanding of the structure and roles within our compliance functions, the operations of our business model, the levels of expertise within our organisation and the depth and breadth of the policies and processes we have in place to enable us to operate a fair and transparent gambling business.</p>

<p>Head 35 – Power to set and charge licence fees</p>	<p><i>1. The Authority shall determine and set the fees to be charged in respect of each of the licensable activities under this Act.....</i></p> <p><i>4. In setting licence fees, the Authority shall have regard to any information it feels is relevant and consult with any person it feels appropriate.</i></p> <p><i>5. Licence fees shall be set having regard of the need to meet the administrative burden of regulating the gambling sector and shall be based on –</i></p> <ul style="list-style-type: none"> <li><i>a. the size of licence holders’ operations,</i></li> <li><i>b. the forms of gambling being offered by licence holders,</i></li> <li><i>c. licence holders’ turnover, and</i></li> <li><i>d. any other matter that the Authority may specify.</i></li> </ul> <p>We strongly suggest that any fees to be considered should be proportionate and should take into consideration the betting tax already levied on the sector, plus application fees, renewal fees, irrecoverable VAT and voluntary contributions paid towards Gambling Awareness Trust.</p>
<p>Head 37 – The Licence Holder</p>	<p><b>1.</b></p> <p><i>(ii) Subject to paragraph (i) above, licence holders and their operations must be based within the European Economic Area, the United Kingdom of Great Britain and Northern Ireland, or any country or territory which may be specified.</i></p> <p>We would suggest that entities based in countries appearing on the FATF ‘blacklist’ are prohibited from holding licenses, and that those based in territories on the FATF grey list/EC watchlist should be subject to additional due diligence requirements to safeguard the integrity and transparency of the Irish gambling market.</p>
<p>Head 45 – Application for a new licence or to renew a licence</p>	<p><b>3. page 73,74</b></p> <p><i>the information a person shall be required to provide when making an application for a licence or a renewal including -</i></p> <ul style="list-style-type: none"> <li><i>i. the type of licence being applied for or, for renewal, and the activities to be authorised by that licence,</i></li> <li><i>ii. an address at which a document issued by the Authority may be served on the applicant,</i></li> <li><i>iii. details of the beneficial owner of the licence holder, where applicable,</i></li> <li><i>iv. information relating to any criminal convictions,</i></li> <li><i>v. information relating to any past infringements / convictions under this Act, including where an applicant was previously sanctioned in a prior capacity,</i></li> <li><i>vi. copies of the applicant’s business plan,</i></li> <li><i>vii. any information or documents relating to the financial circumstances /position where an applicant is a body</i></li> </ul>

	<p>corporate, of that body corporate, or a partner in a partnership, references to the character, competence and financial position of any of the relevant officers of the body corporate or partnership, as the case may be,</p> <p>viii. financial information relating to the ability and capacity of an applicant to provide the kinds of activities / services under the licences being applied for,</p> <p>ix. information relating to the applicant's current and previous holding of other licence types issued by the State and their compliance history with same (i.e. alcohol licensing, planning terms and conditions related to a licence and the application for that licence, licences under existing gambling statutes etc.),</p> <p>x. copies of up to date tax-clearance certificates, or where the applicant is established or operating outside the State, equivalent documentation from where they're established, and</p> <p>xi. where the applicant applies for a category of licence to provide gambling products, service or activities by remote means -</p> <p>(I) details and locations of all servers and providers (contracted third parties, operators, sub-contractors etc.) used to provide the remote gambling,</p> <p>(II) details of all software and systems, including technical specifications and a full, detailed description of the system and components to be used to provide the remote gambling, and</p> <p>(III) any other information the Authority may require concerning the provision of remote games under those categories of licence,</p> <p>xii. details of the premises that the licensed activities (including activities provided by remote means) will be provided from including its -</p> <p>I. location(s),</p> <p>II. size,</p> <p>III. layout,</p> <p>IV. details of all entry and exit points,</p> <p>V. lighting sources and density of same,</p> <p>VI. size of the proposed area where gaming devices are to be allocated,</p> <p>VII. the position of games, machines, tables within the premises,</p> <p>VIII. details and positioning of all CCTV systems including for outdoor surveillance,</p> <p>IX. details of all security measures on the premises,</p> <p>X. details of all non-gaming areas and features to separate and distinguish them from gaming areas,</p> <p>XI. details of all external spaces and features including any proposed signs or lighting etc., and</p>
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	<p><i>XII. all relevant health and safety, and planning documentation related to the premises;</i></p> <p>We fully appreciate the need to ascertain and ensure the credentials of every licensed operator, but we feel the above list is very comprehensive and far exceeds that which is required in similar jurisdictions operating a successful regulation regime for some time. We suggest that the information requirements of the GB Gambling Commission are very comprehensive and suitable. It would be useful to adopt a similar approach here in Ireland.</p> <p><a href="https://www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees">https://www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees</a></p> <p>The highlighted passage above, in our view, may be more pertinent to the decision-making process via local licensing rather than any decision to grant an operating license, and its inclusion under Head 45 may prove a barrier to entry for prospective operators looking to establish themselves in the sector.</p>
<p>Head 49 – Power of Authority to specify terms and conditions of a licence Provide that:</p>	<p><b>4. page 85</b> <i>Where a licence is issued, the Authority shall attach terms and conditions, where Appropriate...</i></p> <p>This head gives very wide-ranging options and power to the authority to apply terms and conditions to a licence. We would suggest that this should be refined in consultation with the industry. There are many points that need to be reviewed in consultation prior to legislation being drafted, but we would particularly like to point out the following two for the purposes of this paper;</p> <p><b>4 e. the minimum and maximum stakes and prizes applicable to all games and activities authorised by the licence, where applicable</b></p> <p>We understand and support the right of a regulatory authority to define limits around the services provided within their sector. We would ask, however, for the statute to make clear that any such limits be considered on a product-by-product basis, rather than between license-by-license. That is to say, all games and activities should have the same limits irrespective of the operator concerned. This would ensure a level playing field across the industry and offer clarity and consistency to consumers. For ease of reference, a link to the standards implemented by the Gambling Commission in Great Britain may be found <a href="#">here</a>. We would also respectfully suggest that an operator must have the ability to manage the trading risk associated with a particular event or product. Maximum stake products like</p>

	<p>FOBT's in the UK are not relevant in an Irish context as these machines are not allowed in betting locations.</p> <p><b>4 (m.) page 86</b>  <i>an obligation not to advertise, display their name or any promotional signage that is visible to a school, a playground, a sports training ground, playing field or fields, or a sports venue or venues, that may be accessible or used by children,</i></p> <p>Clarity is needed in relation to Displaying their name, as Shop fronts could fall into this category, and currently there would be many shops near training grounds or playing fields etc. It could render many shop licences invalid unintentionally. It should be noted that planning permission is required for each premises and the local environment would already have been considered carefully in this process prior to granting permission. This may result in an unintended consequence where a shop will have no sign outside indicating that it is a betting shop, thus increasing the risk of minors entering the shop inadvertently. We suggest this section sits within marketing and advertising and not terms and conditions of a licence and as to our points above, the removal of shop name and exclude premium sports stadia should be considered.</p>
Head 52 – Compliance and Review	<p><b>6. page 91</b>  <i>Where the Authority intends to request information from any party other than the licence holder, where such information is relevant to the Authority's review, it shall not require the licence holder's consent to do so.</i></p> <p>It is not clear if a copy of the information received will be provided to the licence holder. We believe in the interest of fairness, the licence holder should have a right to receive a copy and also have the right to reply or defend their position in response.</p>
Head 55 – Power of Authority to impose penalties where a licence holder fails to report suspected suspicious activities	<p><b>4. page 95</b>  <i>Where a licence holder refuses to accept a bet or bets as per subhead (4)(a) above, that licence holder shall be obliged to provide the person or persons attempting to place the bet or bets with a "Bet Refused" docket or display a similar message on screen, in the case of a bet placed via remote means, setting out the reasons for the refusal to accept the bet.</i></p> <p>We understand that Head 55 pertains to cases of suspicious betting activity (i.e. in relation to match fixing) rather than cases of suspicious transactional activity (i.e. in relation to money laundering). We would ask that a clearer definition of what 'suspected suspicious activities' constitutes in this context.</p>

	<p>If suspected money laundering activities were to fall under this definition, we believe that requirement 4 is contrary to our legal obligation to avoid ‘tipping off’ as described within the Criminal Justice Act – Chapter 5 49 ‘Tipping off’<sup>2</sup>. More clarity in this area would be welcome.</p> <p>Please note that the above-quoted reference in section 4 to “<i>bet or bets as per subhead (4)(a) above</i>” appears to be a transcription error and should read “<i>bet or bets as per subhead (3)(a) above</i>”.</p>
Head 56 – Power of Approval and Certification	<p><b>1. page 97</b>  <i>The Authority shall be the sole body for the approval and certification of equipment, machines, devices, and systems used by a licence holder for the purposes of gambling in the State or directed from the State.</i></p> <p>This head would mean vast amounts of work for the regulator and operators, that has already been done in similar jurisdictions, such as the UK. We suggest that equipment, machines, devices and systems that has already been approved and certified in the UK, Gibraltar or any other regulated jurisdiction which requires the B2B provider to obtain their own software licence, should suffice for licensing purposes here in Ireland. Operators or service providers could provide a copy of the certification and licence obtained when applying for their Irish licence. This would provide the desired outcome without the unnecessary burden on regulator or operators and would be the standard model internationally.</p>
Head 60 – Power of Authority to impose penalties where a licence holder fails to report suspected suspicious activities	<p><b>3. page 101</b>  <i>The licence holder shall, where it provides gambling activities and services via websites, apps, or by any other remote means, must display a copy of its licence on those platforms.</i></p> <p>In other licensed jurisdictions, it is sufficient to display the licence number and link it to the official register of licensed bookmaking operators. This would provide a live and up-to-date link to the relevant licence (see <a href="https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling">https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling</a> as an example). This reduces the risk of operators having outdated documents on site.</p> <p><b>7. page 102</b>  <i>Copies of all licences as they relate to gambling must be displayed on all gaming machines in a premises offering games, activities or services under that licence.</i></p>

<sup>2</sup> <https://www.irishstatutebook.ie/eli/2010/act/6/enacted/en/pdf>.

	<p>Similar to the above point, we would recommend that we should display the licence number and link it to the official register of licensed bookmaking operators. This would provide a live and up-to-date link to the relevant licence. Leaving little room for having outdated documents on site.</p>
Head 72 – Powers reserved to the Authority	<p><b>6. page 119</b>  <i>(c) The tests shall be for the purpose of establishing compliance with requirements on the age of customers, limits on stakes, bets or winnings, appropriate financial accounting, availability on the premises of specified games, use of machines, use of related technology, staff competence and performance and any other factor(s) considered relevant by the Authority.</i></p> <p>We would request further clarity on the meaning of ‘limits on stakes’ and to what gaming product/services this relates to. Please see our <a href="#">response to Head 49 above</a>.</p> <p><b>7. page 120</b>  <i>Further to subhead (2)(e), where the Authority holds a reasonable belief that a provider is involved with or related to matters of a serious criminal nature, including but not limited to money laundering or gambling-related match fixing, the Authority may make an application to Court for an Order to freeze and preserve bank accounts and any other assets of (or associated with) a provider until such time as all relevant investigative steps and any related proceedings have been completed.</i></p> <p>Further clarity is required in regard to the full investigations process which will be carried prior to court applications. This will prevent potential bona fide businesses from being incorrectly accused and being unable to pay customers should bank accounts be frozen.</p>
Head 75 - Compliance	<p><b>4. page 127</b>  <i>The Authority may at any time - but with due notice to be given to providers regarding any changes and following consultation with relevant stakeholders, where appropriate, - review, update, clarify, vary, amend or extend its requirements in relation to its regulations, codes or reference materials.</i></p> <p>We welcome the intention to consult with stakeholders via the IBA for any changes/updates etc, to regulations, codes or reference materials. We strongly believe this would be an important and necessary feature in implementing efficient and effective changes and has already worked well with the Department of Justice AMLCU department.</p>
Head 91 – Prosecutions and jurisdiction	<p><b>1. page 153</b>  <i>The Authority shall regulate any person, acting in the State in the course of business carried on by the person in the</i></p>



	<p><i>State, who or that is engaged in the provision of gambling services that are utilised by persons in the State or are accessible to persons in the State.</i></p> <p>We very much welcome this Head. It would also be welcomed to see further detail which provides actions taken on any illegal operator found to be conducting licensed activities.</p>
Head 96 – Gambling related to manipulation with intent to alter outcome	<p><b>1. page 160</b></p> <p><i>A provider who becomes aware of gambling patterns that suggest that an attempt to influence the outcome of a game or event has been committed or attempted—</i></p> <p><i>(a) may refuse to accept bets/gambles on that game or event but must, in such instances, issue “bet refused” docket(s),</i></p> <p><i>(b) may suspend betting/gambling on the game or event in question but must, in such instances, issue “bet refused” docket(s),</i></p> <p>We welcome the fact that such bets be refused or withheld, but the issuing of a ‘bet refused’ docket will only serve to ‘tip the person off’ and may hamper any further actions or investigation needed by the operator or the authorities. We suggest that a ‘bet refused’ docket is not needed in these cases. <a href="#">Please also refer to our recommendations under Head 55.</a></p>
Head 98 – Obligation to consider mediation or other form of alternative dispute resolution	<p><b>1. page 164</b></p> <p><i>Where there is a dispute between a provider and a user, or group of users, however represented, of that service, both parties shall consider mediation or other method of alternative dispute resolution as a method of reaching a mutually acceptable agreement to resolve the dispute.</i></p> <p><b>2.</b></p> <p><i>Subhead (1) shall not prevent a user of a gambling service bringing relevant matters or a dispute with the provider to the attention of the Authority.</i></p> <p>We suggest that all operators must have in place a specified Alternative Dispute Resolution (ADR) service to which disputes may be escalated. Most licensed betting operators already have this in place.</p>
Head 105 – Measures to protect and safeguard players	<p><b>4. page 175</b></p> <p><i>(i) All licence holders shall –</i></p> <p><i>b. include clear warnings outlining the risks of participating in licensed activities, which must be displayed in a prominent position –</i></p> <p><i>ii. on all screens in their premises</i></p>



	<p>We agree with this point and already practice these requirements – however, point (ii) needs to be rephrased, as betting shops contain a ‘gantry of screens’ that contains up to 24 TV’s side by side.</p> <p>Currently we alternate screens with Safer gambling messages and helpful information. We would suggest that this is by far more effective than having a small message on the bottom of every screen on the gantry. We welcome a visit to our premises to fully appreciate the layout of our gantry.</p> <p><b>6. page 176</b>  <i>(1) The Authority shall, having consulted with licence holders, their representatives and any other persons it considers appropriate, develop codes for the purpose of protecting players from the harmful effects of gambling, including any prohibitions, restrictions or measures, such as...</i></p> <p>We support the measures outlined in this section and are happy to provide any such information as the Authority may need to support an evidence-led approach to consumer protection.</p> <p><b>7. page 176/177</b>  <i>(1) Licence holders shall be prohibited from offering any form of inducement to encourage persons to keep gambling or to dissuade a person to stop playing. ...</i></p> <p><i>(2) Licence holders shall be prohibited from offering any form of inducement to encourage persons to participate, or to continue to participate in gambling....</i></p> <p>We would welcome further clarity with regard to these provisions given that in their current form they could be interpreted as an outright prohibition on free bets, bonuses or other such benefits to customers. We believe that robust systems and tools should be in place to protect those who are vulnerable and/or suffering gambling-related harms, product marketing opt-in facilities are in place and clear responsible gambling messaging.</p> <p>It is important to note that the vast majority of recreational bettors should be able to enjoy the type of rewards available to those in other jurisdictions.</p> <p>An outright ban in this area will inevitably push customers to illegal operators offering these incentives and will potentially cause more harm to vulnerable customers.</p> <p><b>7. page 177</b>  <i>d. any penalisation of players by refusing bets or limiting stakes or winnings on subsequent bets either in store or via remote means, except where that a person has engaged in cheating</i></p>
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	<p>We would welcome the opportunity to discuss this proposed measure as it affects one of the key tenets of any gambling business – the ability to manage its liabilities. Anything which precludes the ability of operators to limit customer stakes is likely to have significant negative consequences for other customers, likely in the form of considerably higher overruns. We would consider the proposed change to represent an unprecedented change to the bookmaking industry which could inadvertently penalise players financially and drive many to unlicensed black market betting sites. Operators' ability to manage their financial risk on an event or product is a fundamental principle of the bookmaking industry, the removal or limitation of which risks severely distorting the market. We consider that this change would have an adverse impact on consumers and businesses in the sector.</p>
Head 106 – Protection of Children	<p><b>3. page 178</b>  <i>(i) A licence holder who believes that</i>  <i>a. a person is a child and that they have partaken in a licensed activity under this Act, or</i>  <i>b. there are reasonable grounds to doubt the age and identity of a person engaging remotely with a gambling service licensed under this Act shall take such steps as are reasonable, up to and including preventing the person in question from gambling, either for a set period or for a renewable period, in any form of gambling that is the subject of the licence holder's licence, and the licence holder <b>shall not be liable to that person for any loss or inconvenience arising.</b></i></p> <p>We strongly support this head and have many of the measures already in place for some time. Currently our process is to refund net stakes that have been identified as those that have been placed by under 18's.</p>
Head 108 – Exclusionary Measures	<p><b>1. page 181</b>  <i>The Authority shall establish and maintain a register to be known as the "Exclusionary Register" for the purposes of this Act.</i></p> <p>We fully support the introduction of an Exclusionary register. We strongly recommend that this is introduced with the benefit of consultation with our sector. We have vast experience in using the successful UK Exclusion service – GAMSTOP and can provide useful information in relation to how and why it works.</p>
Head 109 - Advertising	<p><b>1. page 183</b>  <i>The Authority shall, in co-operation with relevant statutory bodies concerning broadcasting and advertising, and following consultation with licence holders or their representatives and any person(s) it considers appropriate,</i></p>

	<p><i>make codes concerning the advertisement of gambling (as understood in this Act) generally, and in relation to any games, services, products and activities that are authorised by the Authority which may be provided by licence holders.</i></p> <p>We support the fact that Head 109 states that Advertising codes will be required to be created in consultation with the industry. We believe our experience in this area will assist the regulator in introducing effective, relevant, and practical codes that operators can comply with.</p>
Head 110 – Promotions and Gambling	<p><b>5. page 187</b>  <i>Any promotion or information concerning promotions offered by a licence holder must include messages (the manner and form to be specified by the Authority) outlining the risks of participating in licensed activities including –</i>  <i>a. warnings that players may <b>lose more than they deposit</b>,</i></p> <p>We support this proposed measure and would ask that it be slightly amended so as to make clear that the specified messaging need only be displayed where relevant. For example, the passage cited above, referring to the risk of players losing more than they deposit, applies only to spread betting (currently regulated by the Central Bank) and would be misleading if applied to fixed odds betting.</p>
Head 113 – Establishment of Fund	<p><b>3. page 192</b>  <i>The contributions to the Social Impact Fund shall be calculated by the Authority having regard to -</i>  <i>a. the size of licence holders’ operations,</i>  <i>b. the gambling services and activities being offered by licence holders,</i>  <i>c. licence holders’ turnover, and</i>  <i>d. any other matter that the Authority may specify.</i></p> <p>We fully support the establishment of a fund, as we have been contributing to one for several years via the Independent Gambling Awareness Trust. We agree with the points made above in relation to calculating the fund but would also like to suggest that the regulator considers the cost of the betting tax already levied on our sector uniquely, and on the cost of the work and services that are currently funded by The Gambling Awareness Trust.</p> <p>We would also like to suggest that the regulator ensures that all service providers funded from such a levy are vetted and supervised carefully, similar to how the Gambling Awareness Trust operates, as they are dealing with very vulnerable people and only those services offering qualified, exemplary and trusted services should be funded.</p> <p>In addition, we would suggest that any changes to regulations or guidelines in this area, are always made based upon evidence and international best practice, and</p>

	fully support the Regulator in creating an Irish Gambling prevalence report, or updating the latest report as published by the Department of Health and the National Drugs and Alcohol task force.
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## **Part 2 – Considerations**

As described in our overview, we are a long-established regulated sports betting and gaming business and apply strict adherence to the controls laid down by law.

We have a vast range of compliance and practical operations experience within our organisation which may provide benefit to the Committee and support those drafting the Gambling Regulation Bill.

We believe it is important for the Committee to consider the expertise & experience, including international markets, within the industry to achieve the objectives of the Bill and recommend that the Committee and those drafting the Gambling Regulator Act continue to consult regularly with members of the industry in drafting this primary legislation where required.

Furthermore, we suggest there is a consideration that the Regulator consults with the industry on an on-going basis in developing guidance, technical standards and Codes of Practice and Codes of Conduct which form the day-to-day point of reference for licence holders to be able to operate sustainably with a high level of protection to vulnerable customers.

## **Conclusion**

We fully support the introduction of a regulator and regulation for our sector in Ireland and commend the comprehensive General Scheme of the Gambling Regulation Bill.

We trust the points we have made in our submission are supportive and helpful to ensure a Bill that protects the vulnerable and enables a sustainable industry in Ireland can be incorporated and achieved in the proposed legislation.

As required, we look forward to participating, where applicable in any consultation, public or private hearings regarding its content via the IBA or as an individual industry representative.

Yours sincerely,

Mark Kemp

CEO BoyleSports

## EGBA submission to the Irish parliament stakeholder consultation

The European Gaming and Betting Association (EGBA), representing the leading online gaming and betting operators established, licensed, and regulated within the EU, welcomes the Irish government's proposals for the regulation of online gambling in the country and welcome the progress made so far. EGBA particularly welcomes proposals to establish an independent regulatory authority for gambling, measures that could improve and clarify the Irish regulatory system, and provisions to enhance consumer protection, particularly through the creation of a national self-exclusion register to enable those experiencing gambling harm to block themselves from accessing gambling websites. EGBA is, however, concerned about unclear and - potentially severe - fees and marketing restrictions, and, among others, the proposals to introduce a blanket ban on free bets - such a measure could, for example, nudge gamblers who regularly use free bets, or bonuses, to seek these with the many gambling websites, including those in the black market, which are easy to access and operate outside of the scope of Irish gambling regulation.

### Summary of the Irish gambling market

In 2020, the Irish gambling market was worth €1.4 bn, ranking it the 12<sup>th</sup> largest gambling market in the Europe<sup>1</sup> by order of gross gaming revenue (GGR)<sup>2</sup>, ten times smaller than Italy, the largest gambling market in the Europe. The share of online gambling in Ireland was 50.8% (€0.7bn) in 2020, up from 34.9% share in 2019, making it the 11<sup>th</sup> largest online gambling market in the Europe by GGR.<sup>3</sup> Like other European countries, Ireland's higher online gambling share in 2020 is attributed to the temporary closure of land-based establishments, such as racecourses and bookmaker shops, as part of Ireland's response to the Covid-19 pandemic. The revenue breakdown of the Irish online gambling market by product in 2020 was: sports and other betting (38%), casino (26%), poker (13%), bingo (14%), and lottery (10%).<sup>4</sup>

### Reform must prioritise ensuring a viable, well-regulated onshore gambling market

Ireland is the only EU member state which has not yet established a dedicated regulation for online gambling<sup>5</sup> and EGBA fully supports the government's efforts to establish one. Currently, it is relatively straightforward for Irish citizens to play on offshore gambling websites, with either 'grey market' operators (those licensed elsewhere in the EU, but outside of Ireland) or even 'black market' operators (those totally unlicensed or licensed outside the EU). As consequence, the Irish state could be losing out on significant tax monies, some of Ireland's online gambling is taking place on websites outside the control of Irish authorities, and some Irish players use websites which may deny them legal recourses, adequate consumer protections, or may even actively seek to exploit them.

This is clearly due to the absence of a well-established and enforced licensing system and regulation of online gambling in Ireland. To avoid the above problems, all other EU countries have already introduced dedicated online gambling frameworks and licensing systems – and enforce these. As a result, in the EU, the average online gambling "channelling rate" is 80%,<sup>6</sup> that means that on average 80% of online gambling in each EU member state takes place on websites which are licensed in that country. The regulations in countries such as the UK and Denmark achieve +90% channelling rate for online gambling – and we encourage the Irish authorities to set similar ambitions.

<sup>1</sup> EU-27 and the UK.

<sup>2</sup> Gross gaming revenue (GGR) is the net profit of a company – the amount of money customers bet minus the amount of money customers won and company costs.

<sup>3</sup> H2 Gambling Capital (2021).

<sup>4</sup> H2 Gambling Capital (2021).

<sup>5</sup> [Analysis: Multi-Licensing Has Become Europe's Preferred Online Gambling Regulation, But Few Monopolies Remain](#), European Gaming and Betting Association (2021).

<sup>6</sup> H2 Gambling Capital (2021).

There is a big task ahead for the Irish authorities to ensure that any new regulation in the country will bring, as much as possible, Ireland's online gambling activity onshore. To make that happen the regulatory framework should be attractive for online gambling companies to apply for a license in Ireland. This is important not only in respect to the future success of the regulations themselves in regulating gambling operators and the market, but also to ensure that as many Irish players as possible are protected by Irish laws when they play, and the Irish state generates as much tax revenues as possible from online gambling.

All member companies of the EGBA already have online gambling licenses and pay betting taxes in Ireland and wish to continue to operate on the newly regulated Irish market. EGBA welcomes the opportunity to comment on these proposals and looks forward to working with the Irish authorities – and the soon-to-be established regulator – to ensure that Ireland's future regulatory framework ensures a viable and well-regulated online gambling market.

It is important to stress that any future regulatory framework for online gambling cumulatively makes for a business case for online gambling operators to apply for a license to enter the Irish market to support effective channeling, apply stringent consumer protections, and provide high-quality gambling entertainment and an offer, including products and betting odds, which Irish customers are already long accustomed to.

In this respect, EGBA welcomes the opportunity to contribute to this consultation and to provide the Oireachtas' Justice Committee with its initial views on the key aspects of the government's [General Scheme of the Gambling Regulation Bill](#).

## **I. Gambling Regulatory Authority of Ireland**

EGBA welcomes the creation of the Gambling Regulatory Authority of Ireland. There is no better way to effectively implement and monitor the gambling market than a dedicated expert team. It is very important to establish a single point of contact for direct communication with operators and an efficient cooperation between licensees and the state. We also welcome the structure of the proposed membership, which will comprise individuals with a wide degree of expertise.

EGBA supports the fact that the Authority is intended to undertake research projects, which are crucial to understanding the issues and proposing solutions, particularly in relation to problem gambling. Such research work is also relevant not only on a national, but also on a European level and helps shape better policies, based on evidence. EGBA itself has engaged in research on a number of important topics, such as a recent study overview of the consumer protection measures for online gambling in EU member states.<sup>7</sup>

### ***Powers relating to the authorisation or prohibition of certain types of gambling:***

Concerning the powers of the authority, we wish to comment on several aspects that may need to be examined in more detail as to how it would work in practice.

*Head 14 point 9: The Authority shall have power to authorise or prohibit the provision of certain forms of gambling activities, services or products in the State.*

This provision may need clarification, as it seems to go quite far. It is usually the role of the legislator to determine, which forms of gambling are authorised and prohibited and under what regime that is to happen. Further, having legislative oversight on that issue ensures legal certainty for operators that

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<sup>7</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).



have invested in their licenses and any changes should be properly examined and subject to proper procedure.

Similar concerns can be expressed regarding the following provision, which is very broad and covers essentially any functions and or powers:

*Head 14 point 16: The Minister may confer on the Authority by order or regulation such other additional functions in relation to gambling services and activities as he or she may from time to time consider necessary.*

**License fees:**

Head 35

*5: Licence fees shall be set having regard of the need to meet the administrative burden of regulating the gambling sector and shall be based on –*

- i. the size of licence holders' operations, b. the forms of gambling being offered by licence holders, c. licence holders' turnover, and d. any other matter that the Authority may specify*

*....*

*8. The Authority shall have the power to revise and vary the fees chargeable for activities licensed under this Act.*

*9. The revised fees shall apply to the grant of new licences issued after the coming into force of the revised fees. The revised fees shall not apply to any portion of a licence period in respect of which a fee is outstanding on the operative date for the revised fee.*

License fees should reflect the genuine administrative costs related to the application of the licensing regime and be set out based on clear, non-discriminatory criteria that respect the rules of competition.

Licensing fees, compliance costs, and contributions to the Social Impact Fund are all, in addition to the current tax and VAT regime which operators pay, an important part of the market entry calculation that operators make, and the authorities should ensure that the culminative financial burdens of these various fees and taxes does not render it uneconomic for operators to operate in the country.

Looking at best practice in other EU member states, retaining a sensible tax based on gross gaming revenue is also advisable.

Overall, the role of the regulatory authority and that of the government will need to be thought out and clearly separated as in other jurisdictions. This is necessitated by the above as the line needs to be clearly introduced and encoded into the future legislation. As such other provisions may also need to be re-thought and re-phrased such as in Head 14, point 2:

*The Authority shall be the sole authority with responsibility for regulating the provision of gambling services and activities in the State.*

**Head 43**

This head suggests that all levels of the supply chain for an online gambling operator must be licenced (B2B) which we believe would be impractical and potentially damaging to all operators, with far removed suppliers needing to licence to continue their operations. We recommend deleting this head and propose that licencing should be limited to online gambling operators and other major providers, as in most other EU justifications.

## II. Advertising and sponsorship

With the re-regulation of the licensing market, advertising is particularly crucial to ensure that customers are sign-posted to regulated websites. This will be particularly important under a new regulatory and licensing framework, given that the biggest challenge of the reform is to establish a viable, well-regulated onshore gambling market. Advertising regulation will therefore be a crucial instrument for the Irish authorities in encouraging operators to seek a license and to signpost the regulated websites to its citizens .

In this respect, advertising is recognised by the European Commission<sup>8</sup> as being an important element of sustainable gambling regulation stating that “commercial communication of online gambling services can play an important role in directing consumers to an (*gambling*) offer which has been allowed and is supervised, for example by showing the identity of the operator and by carrying correct information about gambling including the risks of problem gambling, as well as appropriate warning messages”. The value of advertising in channelling the player towards the regulated offer was also recognised in the established case law of the European Court of Justice (CJEU).<sup>9</sup> Like the Commission, EGBA recognises that gambling advertising should be conducted in a socially responsible way and not target minors.

EGBA welcome the proposal to establish codes of practice on advertising and fully supports the collaborative approach towards advertising regulation outlined in:

### Head 109 points 1 & 2:

1. *The Authority shall, in co-operation with relevant statutory bodies concerning broadcasting and advertising, and following consultation with licence holders or their representatives and any person(s) it considers appropriate, make codes concerning the advertisement of gambling (as understood in this Act) generally, and in relation to any games, services, products and activities that are authorised by the Authority which may be provided by licence holders.*
2. (1) *The Authority may, having regard to the principles set out in Part 2, amend the codes referred to in subhead (1).*  
  
(2) *The Authority shall not amend any codes under this Head without first having consulted with relevant statutory bodies concerning broadcasting and advertising, licence holders or their representatives, and any person(s) it considers appropriate.*

EGBA looks forward to being involved in the discussions to establish an advertising code and to draw on our experiences of advertising best practice across Europe. EGBA introduced the first [pan-European Code of Conduct on responsible advertising for online gambling](#) in 2020 and this code has since been used as a guideline by gambling regulators, media authorities, and online gambling trade associations in EU member states and further afield, in countries such as Georgia, Serbia and Brazil. The code is broad in scope and introduces essential standards for advertising content, across all media platforms, and dedicated measures for social media and has a particular focus on minor protection.

The creation of codes should be a collaborative process between stakeholders. We recommend that the regulatory authority should be required to institute a period of consultation, before a code is decided upon, of no less than three months, to enable sufficient consultation and dialogue with all relevant stakeholders. In addition, to avoid new licensees on the Irish market being faced with newly

<sup>8</sup> [2014/478/EU](#): Commission Recommendation of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online.

<sup>9</sup> Cases: *Ladbrokes Betting* (C-258/08) §30, *Joint cases Markus Stoß* (C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 and C-410/07) §101-103, *Case Dickinger and Ömer* (C-347/09) §69, §100.

established codes that fundamentally change the basis on which they applied for a licence, we recommend that the regulatory authority establishes a timetable for revision of the most significant codes – of at least every two years – to allow new licensees greater certainty over the planning of their business operations.

EGBA believes that gambling advertising particularly can be used to support safer gambling, including the promotion of safer gambling advice, messaging and to raise awareness about safer gambling tools available, such as deposit limits.

Regarding the other measures outlined in Header 109 points 4 and 5, EGBA believes specific advertising measures which prohibit or restrict it in any form, such as volume reductions or specific product prohibitions or prohibitions on certain media platforms e.g. social media, should not be enforced without first consulting all relevant stakeholders, in particular the licence holders, in accordance with the general approach outlined in Head 109 points 1 and 2. The bill should not pre-empt these consultations, neither seek to limit their scope, nor steer these in a particular direction without due consideration or consultation.

With regards to Head 110, EGBA supports point:

*5. Any promotion or information concerning promotions offered by a licence holder must include messages (the manner and form to be specified by the Authority) outlining the risks of participating in licensed activities including –*

- 1. warnings that players may lose more than they deposit,*
- 2. clear messages concerning safe gambling, the risks related to same,*
- 3. details of any opt out, self-exclusionary mechanisms and the Exclusionary Register, and*
- 4. information relating to treatment and support services.*

Head 111 points 4 (i) requires re-wording to define that the sponsorship restrictions refer only to events where the **primary** participants or audience are children. Without this clarification, this provision can be interpreted as a general ban of sponsorship of any sports event, see proposed edits below:

*4. (i) The codes referred to in this Head shall include a prohibition of the sponsorship of events primarily involving persons under 18. This prohibition includes the sponsorship of any –*

- i. event, where the primary purpose or intention of that event is to appeal to children,*
- ii. organisation, club or team where all members are children*
- iii. branded clothing or apparel which is primarily worn by minors,*
- iv. locations and stadium branding, including any sports training ground, playing field or fields, or a sports venue or venues, where children are the primary audience, or any advertising displayed in such a location.*

In the spirit of the measures outlined in point 4 (i), the derogation in point 4 (ii) should be amended as per below:

*(ii) A reference to sponsorship and a prohibition in subhead (1) shall also apply to the sponsorship of any fundraising activities, including competitions, of any team, club or organisation where children are the primary members.*

Like in other EU member states, sports sponsorships are an important revenue source for Irish horseracing, and other sports. In 2020, EGBA members alone invested €408m in European sport,

including those in Ireland, through voluntary contributions, such as sponsorships or streaming rights payments, and paid €24.4m in mandatory sports levies or fees.<sup>10</sup>

### **III. Measures to protect and safeguard players**

EGBA advocates for the need to gamble safely and based on our experience in multiple jurisdictions we have seen which regulations work well and which do not. While generally supportive of the measures outlined Head 105, we consider the wording of Head 105 point 7.1.a to be problematic. As such this wording could mean a proposed ban on free bets, which is not a measure that exists in other EU member states. Free bets are an important marketing, customer acquisition and retention tool, and their prohibition will certainly impact channelling negatively, while benefiting unlicensed operators. To support channelling and to ensure the objectives of the regulation are met, the licensed offer needs to as competitive, if not more competitive, than the offer provided by unlicensed operators. Rules that permit fee bets but regulate their permitted frequency and/ or/amounts are much better suited to achieve a positive result for balancing the need to safeguard player protection while at the same time enabling licensed operators to provide Irish citizens with a competitive offer. However, EGBA supports measures to protect those experiencing gambling harm and, in this respect, proposes to amend the wording of Head 105 points 7.1 and 7.2 as per below:

*7. (1) Licence holders shall be prohibited from offering any form of inducement to encourage persons, who are displaying clear signs of gambling harm, to keep gambling or to dissuade a person to stop playing. Such prohibitions shall include -*

*7. (2) encourage persons, who are displaying clear signs of gambling harm, to participate, or to continue to participate in gambling. Such prohibitions shall include -*

EGBA believes that there should be additional inclusions on safer gambling under Head 105, namely the obligation upon gambling operators to offer gambling tools to their customers, the provision of which should be obligatory for all licensed operators.

Safer gambling tools, such as deposit limits, time limits, allow customers to manage and stay in control of their gambling and are increasingly popular. In 2020, 75% of the European customers of EGBA member companies, equivalent to 12.5m customers, had at least one safer gambling tools active, either voluntarily or mandatorily, on their online gambling accounts. Of these European customers, 33% of customers, equivalent to 5.5m customers, had activated at least one safer gambling tool voluntarily.<sup>11</sup>

18 EU member states already require online gambling operators to allow their customers to set up time and deposit limits of their choice if they wish to do so<sup>12</sup> and EGBA suggests the same requirement is established in Ireland. As customers are best placed to understand their own gambling behaviour and financial resources, the maximum time duration or maximum deposit limit should be determined by the players themselves. Setting these limits should be a requirement upon account opening and there should be a rule that these limits are not easy to change and a cooling off period (of at least 48 hours) is required if a customer wishes to amend the levels of their established limits.

<sup>10</sup> [Sustainability Report 2020/21](#), European Gaming and Betting Association (2021).

<sup>11</sup> [Sustainability Report 2020/21](#), European Gaming and Betting Association (2021).

<sup>12</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

In addition to this, almost all EU member states require online gambling operators to display the contact details and information of support helplines for problem gambling and officially endorsed treatment centers on their websites<sup>13</sup> and EGBA believes this should be mandatory also in Ireland.

#### **IV. Social impact fund**

EGBA members contribute €10.5m to safer gambling research, education, and training each year in Europe<sup>14</sup> and welcomes the proposal to establish a social impact fund which will be funded from licensed companies, as well as its mandatory nature. Regarding the calculations of the operator contributions to the fund, EGBA believes that gross gaming review, is a most effective measurement, as profit more accurately reflects the relative financial success of a gambling operator. Gross gaming revenue is the amount of money collected from gambling transactions (the value of customer stakes) minus the amount of money that has been paid out to customers for winning (customer winnings). EGBA therefore proposes the below edit under Head 113:

*Head 13, point 3. The contributions to the Social Impact Fund shall be calculated by the Authority having regard to –*

- a. licence holders' gross gaming revenue in Ireland, and*

The Irish authorities should ensure that proper governance and oversight is in place to guarantee that funding from the social impact fund is spent effectively and efficiently and goes directly to areas which need it the most and the monies from the fund should not be used for other purposes as proposed in Header 115, point 3. This section should be deleted to ensure that the funds monies are protected exclusively for the purposes of the fund and only be used to either conduct research about gambling, educate about safer gambling, or to treat gambling addiction:

**DELETE** Head 115, point 3. *Where it is in the public interest to do so, the Minister may, with the consent of the Minister for Public Expenditure and Reform -*

- a. authorise the utilisation of funding from the Social Impact Fund for purposes which are not connected with the operation of the Social Impact Fund; or*
- b. arrange that funding from the Social Impact Fund to be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.*

While holders of a license for charitable or philanthropic causes are excluded from contributions to the social fund, under Head 113 point 4, EGBA believes that the national lottery in Ireland should contribute to the fund, like all other gambling operators. Alternatively the national lottery should, under the National Lottery Act 2013, be required to ensure that a guaranteed minimum percentage of its profits are returned to good causes, which is currently not the case.

#### **V. Self-exclusion register**

EGBA fully supports the proposals, laid out under Head 108, to establish a national self-exclusion register for gambling in Ireland. EGBA has [consistently](#) advocated for self-exclusion protections in Ireland to fully protect its consumers and to ensure the country is in line with developments in other EU member states.

<sup>13</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

<sup>14</sup> [Sustainability Report 2020/21](#), European Gaming and Betting Association (2021).

Such a register should be fully compliant with the EU General Data Protection Regulation to ensure that customer data is secure, and their privacy is protected. In terms of the operation of the register, EGBA believes that the self-exclusion register should be in the form of an easy to use and access website portal and licensed operators should be required to include and promote the online website portal for the register via their online gambling websites and ensure that the website portal is visible and clearly signposted to customers and communicated to customers clearly.

EGBA supports in particular the government's proposals under Head 108 point 7 and Head 110 point 6 and believes there should be clear rules which prohibit operators and/or affiliates from sending marketing to self-excluded players and requirements that self-excluded players should be suspended or removed from marketing lists for the duration of their self-exclusion.

11 EU member states have an obligation on online gambling operators to provide any customer who has self-excluded with the contact details of problem gambling support helplines and/or treatment centres in the country<sup>15</sup> and we believe this should be a requirement in Ireland also.

In terms of the operability of the register, requirements concerning the duration of self-exclusion vary significantly between different EU member states, where minimum periods for self-exclusion vary from 7 days to 12 months and maximum duration from 12 months to permanent exclusion.<sup>16</sup> EGBA believes that a minimum period for addition to the self-exclusion register should be ideally 12 months and the maximum self-exclusion period should be permanent, but the later rule should be revocable by the customer at any time under specific and strict conditions, such as a court order providing evidence of recovery from addiction for example.

The self-exclusion register should also include a rule whereby customers can be excluded on safer gambling grounds upon the request of other parties, such as immediate family members or guardians. Such rules already exist in 14 EU member states<sup>17</sup> and EGBA believes this is a best practice approach. However, the rules for adding a person onto the national self-exclusion register without their consent should be strict, specific, and only applicable when it is clearly demonstrated that a person is vulnerable, for example via a court ruling, which is currently the case in 5 EU member states.<sup>18</sup>

In addition to the national self-exclusion register there should also be an obligation for gambling operators to offer company-specific self-exclusion so that customers can opt-out of accessing some specific – but not all - licensed companies if they so wish. Such a rule exists in all but 3 EU member states and is considered another layer of protection for those who may be experiencing problematic gambling. An operator-specific self-exclusion obligation is useful for those customers who may wish to stop playing with a specific operator and would enable such customers the possibility to do so.

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<sup>15</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

<sup>16</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

<sup>17</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

<sup>18</sup> [Consumer Protection in EU Online Gambling Regulation](#), City University of London (2021).

We hope the above input is useful for the committee's deliberations and we look forward to answering any questions that the committee, and its members, may have.

Yours sincerely,



Maarten Haijer  
Secretary General



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#### **About EGBA**

The European Gaming and Betting Association ([EGBA](#)) is the Brussels-based trade association representing the leading online gaming and betting operators established, licensed, and regulated within the EU, including bet365, Betsson Group, Entain, Flutter, Kindred Group, and William Hill. EGBA works together with national and EU regulatory authorities and other stakeholders towards a well-regulated and well-channelled online gambling market which provides a high level of consumer protection and takes into account the realities of the internet and online consumer demand. EGBA member companies meet the highest regulatory standards and, in 2020, had 234 online gambling licenses to provide their services to 29 million customers across 19 different European countries. Currently, EGBA members account for 36% of Europe's online gambling gross gaming revenue (GGR).





## *Irish Amusement Trades Association*

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**GRB\_14**

James Lawless T.D.

Dail Eireann,

Leinster House,

Kildare Street,

Dublin 2.

Re: Gambling Regulation Bill.

Dear Deputy Lawless,

As Chairman of the Oireachtas Committee on Justice and Equality you will shortly be involved in the scrutiny of the above bill. This Association represents the vast majority of amusement and gaming arcades in Ireland and welcomes the introduction of the proposed reforms outlined in the General Scheme of the Gambling Regulation Bill.

I enclose for your information I.A.T.A.'s observations on the Scheme which I hope that you will find time to read. We would also very much welcome an opportunity to elaborate further on our thoughts at a hearing of the Committee.

If you require any further information, please do not hesitate to contact me.

Sincerely,

John Roche.

14/02/22

# IATA. Irish Amusement Trades Association.

General Secretary

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John Roche.

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## **Gambling Regulation Bill**

The Irish Amusement Trades Association welcomes the introduction of the General Scheme of the Gambling Regulation Bill. The purpose of the Bill is to protect those who gamble from excesses, both in terms of their own participation and in the type and scale of gambling products available to the public at large. The members of this Association welcome those aims and will assist in every way possible to see such legislation enacted. We urge the government to proceed with haste.

### **Part 1 - Preliminary and General**

I.A.T.A. notes the contents of Part 1.

#### **Observation:**

The definition of gaming under Head 2 as follows: means playing for a stake, a monetary prize, for progression in the game or other form of reward is, in I.A.T.A.'s view, too all-encompassing and will capture activities such as video games or amusement games within its remit.

### **Part 2 - Gambling Regulatory Authority of Ireland**

I.A.T.A. notes the contents of Part 2.

## **Part 3 – Licensing**

### **Chapter 1 – Licensing (General)**

#### **Head 33 – Definitions for this Part**

#### **Head 34 – Power of Authority to issue a licence**

#### **Head 35 – Power to set and charge licence fees**

I.A.T.A. welcomes the provisions proposed in Heads 33, 34 and 35. The concentration of such functions within one authority is long overdue.

#### **Head 36 - Register of licences**

I.A.T.A. welcomes this provision.

#### **Head 37- The Licence Holder**

I.A.T.A. notes these provisions and welcomes the clarity it gives.

#### **Head 38 - Relevant officers of the licence holder**

I.A.T.A. notes this section and welcomes the clarity it gives.

#### **Head 39 - Types of licences which may be issued by the Authority**

I.A.T.A. notes the provisions of this section. However, it is extremely important that a clear line be drawn between the various licences. On the face of this provision there would be no impediment for every betting office in the country to add a gaming licence, therefore increasing the number of arcades by 900, at least, which will dwarf the current arcade sector which numbers approximately 400 premises including seasonal seaside arcades. This would not be desirable. Any crossover between betting and gaming should be prohibited. Betting and Gaming are completely separate and different types of gambling and should be recognised as such. Recommendation 8 of the Casino Committee Report 2008 states “ The Committee recommends that there should be no betting of any kind permitted on or in any licensed gaming premises. Likewise, there should be no gaming activity of any kind permitted in any betting or bookmakers premises.” I.A.T.A. strongly endorses that view.



**Head 40 – Business to Consumer (B2C) Licence – Gambling Licence (In-Person or Remote)**

**Head 41 - Business to Consumer (B2C) – Betting Licence (In-Person or Remote)**

**Head 42 - Business to Consumer (B2C) – Lottery Licence (In-Person or Remote)**

**Head 43 - Business to Business (B2B) Licence**

The provisions contained in Heads 40 to 43 are noted by IATA.

**Head 44 - Public notice of intention to apply for licence**

I.A.T.A. notes this section.

**Head 45 - Application for a new licence or to renew a licence**

I.A.T.A. has areas of concern in relation to subsections of this Head. While most of the provisions are necessary, particularly in relation to new applicants for live gaming licences, I.A.T.A. is concerned at some of the requirements outlined in Section 3 xii – details of the premises that the licensed activities ( including activities provided by remote means) will be provided from including its -

- I. location(s),
- II. size,
- III. layout,
- IV. details of all entry and exit points,
- V. lighting sources and density of same,
- VI. size of proposed area where gaming devices are to be located,
- VII. the position of games, machines, tables within premises,
- VIII. details and positioning of all CCTV systems including for outdoor surveillance,
- IX. details of all security measures on the premises,
- X. details of all non- gaming areas and features to separate and distinguish them from gaming areas
- XI. details of all external spaces and features including any signs or lighting etc.,
- XII. all relevant health and safety, and planning documentation related to the premises;

The above provisions are onerous, expensive to provide and, in the main, unnecessary when applied to premises which already have full planning permission from the local authority and have operated, in most cases, for decades in full compliance with that permission.

I.A.T.A. would propose that the submission of the existing planning permission documentation when applying for a licence should suffice. Any questions arising from the Regulatory Authority as a result of an examination of that documentation would then be dealt with on a case by case basis.

In the case of new applicants or new start-ups the local authority would, in the first instance, have to grant permission based on the criteria laid down in its development plan. The Regulatory Authority should be a notice party to the application which will give ample opportunity to ensure that requirements are fully met.

By that method the duplication in the process by the Regulatory Authority and any perceived usurping of planning powers of local authorities who are the planning authority will be avoided.

The unnecessary expense that is bound to be imposed on applicants, if this section is retained in its present form, will be avoided.

#### **Head 46 - Determination (Decision to grant, part-grant or refuse a licence or renewal of a licence)**

I.A.T.A. notes this Head. Reference section 4.V. – I.A.T.A.'s reservations under Head 45 regarding planning permission are equally relevant to this section.

#### **Head 47 - Notification to applicant of decision of the Authority**

I.A.T.A. notes the detail contained in this Head.

#### **Head 48 - Application to vary licence**

Noted.

#### **Head 49 - Power of Authority to specify terms and conditions of a licence**

Section 4.a. - duration of the licence.

I.A.T.A. would submit that gaming licences for arcades should be of three years duration. The power of the Authority to revoke a licence (Section 52) would seem to render an annual reapplication unnecessary. I.A.T.A. notes the other provisions of this Head.

#### **Head 50 - Power of Authority to vary or alter conditions of a licence**

I.A.T.A. notes the provisions of this section.

#### **Head 51 - Notification to licence holder concerning decision to vary or alter terms and conditions of a licence**

I.A.T.A. notes this section.

#### **Head 52 - Compliance and Review**

I.A.T.A. notes this section and welcomes its provisions.

### **Head 53 - Surrender and seizure of licence following suspension or revocation**

I.A.T.A. notes the provisions of this Head.

### **Head 54 - Expiry / Lapse of a licence**

I.A.T.A. notes the provisions of this Head. See observation regarding licence Head 61.

### **Head 55 - Power of Authority to impose penalties where a licence holder fails to report suspected suspicious activities**

I.A.T.A. notes the provisions of this Head.

### **Head 56 - Power of Approval and Certification**

I.A.T.A. notes the provisions of this Head.

### **Head 57 - Obligation to notify the Authority of issues of material matter**

I.A.T.A. notes the provisions of this section.

### **Head 58 - Power of Authority to impose penalties where a licence holder fails to report an issue of material matter**

I.A.T.A. notes the provisions of this section.

### **Head 59 - Issue of replacement licence, etc.**

Noted.

### **Head 60 - Display and Production of Licences**

I.A.T.A. notes the provisions of this section.

### **Head 61 - Non-transferability of licences**

I.A.T.A. believes that, where a licence is held by an individual operating as a sole trader or family business, that the licence should be transferable to another family member or long-term responsible employee of a business in circumstances such as the demise of the holder, the moving out of the business of a holder or the holder becoming incapacitated through accident or illness.



## **Chapter 2 – Licensing (Charitable / Philanthropic Causes)**

**Head 62 – Charitable / Philanthropic Cause Licence**

**Head 63 – Application for a Charitable / Philanthropic Cause Licence**

**Head 64 – Consideration of application for a Charitable / Philanthropic Cause Licence**

**Head 65 – Issuance of Charitable / Philanthropic Cause Licence**

**Head 66 – Appeal of refusal of Charitable / Philanthropic Cause Licence**

**Head 67 – Transfer of Charitable / Philanthropic Cause Licence**

**Head 68 – Lotteries held for charitable or philanthropic purposes not requiring a licence**

**Head 69 – Gambling held in conjunction with certain events to promote a product or service**

**The provisions contained in Heads 62 to 69 are noted by IATA.**

## **Part 4 Compliance and Enforcement**

**Heads 70 to 102 noted by I.A.T.A.**

## **Part 5 - Safeguards, Advertising, Sponsorship and Social Impact Fund**

### **Chapter 1 – Safeguards, Advertising and Sponsorship**

**Head 103 - Definitions for this Part**

**Noted by I.A.T.A.**

**Head 104 - Review of Safeguards**

**Noted by I.A.T.A.**



## **Head 105 - Measures to protect and safeguard players.**

I.A.T.A. agrees with the majority of the sections contained in this Head. However Section 7 appears extremely inflexible in its present form and it may not be possible to apply it or enforce it in all online situations. Therefore we could possibly have a situation where inducements can be offered by out of jurisdiction operators, while local land based businesses come within the prohibition remit. I.A.T.A. would submit that this section be a guideline for the Regulator who will be given discretion in the matter. Different rules for different sectors may be the answer here.

## **Head 106 – Protection of Children**

## **Head 107 – Protection of Children (Employment)**

## **Head 108 – Exclusionary Measures**

## **Head 109 – Advertising**

## **Head 110 – Promotions and Gambling**

## **Head 111 – Sponsorship by Licence Holders**

I.A.T.A. welcomes the provisions of the above Heads 106 to 111.

## **Head 112 - Training and Guidance**

I.A.T.A. notes and welcomes.

## **Chapter 2- Social Impact Fund**

I.A.T.A. welcomes the establishment of the fund and its purpose.

## **Part 6 – Appeals Against Certain Decisions of the Authority**

I.A.T.A. notes the provisions contained in Part 6.

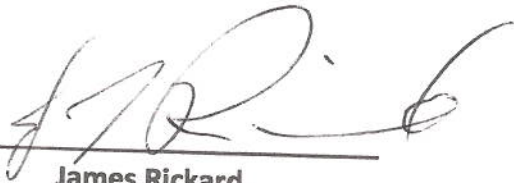
As the Bill is being scrutinised, aspects of the individual Heads of this Part may have to be further examined.

### Further Observations

It is a matter of concern that there is no specific reference in the Bill to the operation of gaming machines or gaming terminals outside of an arcade setting. Over recent years, settings such as bookmakers' offices and public houses have been deriving a portion of their income from gaming and amusement machines and terminals, despite no specific provision in law to allow such activity. This is a matter which must be clarified in the final drafting of the Bill to remove any doubt as to what a particular establishment is entitled to operate.

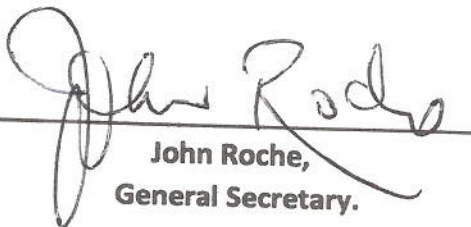
Also a fuller discussion must take place regarding the Live Gaming Sector.

Signed: \_\_\_\_\_



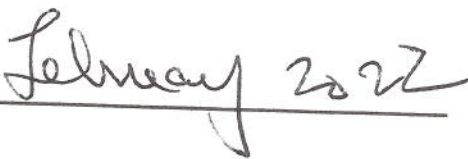
**James Rickard,  
President.**

Signed: \_\_\_\_\_



**John Roche,  
General Secretary.**

Date: \_\_\_\_\_



# IATA. Irish Amusement Trades Association.

General Secretary      **MILLPARK ROAD, ENNISCORTHY, CO. WEXFORD Y21V528.**

John Roche.

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**GRB\_14(1)**

## Submission on General Scheme of the Gambling Regulation Bill.

This Association represents 90% of the gaming and amusement arcades in Ireland. We have been lobbying for an update in gambling legislation since 1979.

We fully recognise that the main priority of any gambling legislation is the protection of all those who gamble.

Our sector is a transparent sector located on the side of the street for all to see. Unlike on-line our business is out in the open as the customer has to walk into the arcade and play games in full view of other customers and staff. Therefore, it is relatively easy to pick up on the spending habits of customers. This is not the case with regard to on-line or indeed bookmakers where someone can walk in and in two minutes gamble any conceivable amount of money. Our sector is transparent and visible and very easily monitored.

The vast majority of gaming and amusement arcades are relatively small family run businesses. They like the local pub know their customers. They know the normal spending habits of the individuals who frequent the arcades. While staff may not be specifically trained as addiction counsellors, they will be well aware of a developing problem in relation to a customer and do what we always did, have a discreet word. We also display information regarding addiction services and other agencies on our premises.

We do not advertise our products through the media as other sectors do and we do not promote our businesses through sponsorship or use other public means to get publicity.

The purpose of the proposed legislation is to bring all gambling activities in the State under the umbrella of a Regulator who will have adequate powers and expertise to carry out its duties. We fully support that aspiration and hope to see it come to fruition as soon as possible. Currently too many agencies have some oversight and none have proper oversight of gambling in Ireland which can make it cumbersome to implement regulation. The appointment of the Regulator will not be a door opening exercise but will be a control mechanism in relation to where and what type of gambling will be permitted in throughout

the country. A one stop shop is the answer and anything other than that would render this process in which we are participating redundant before it commences. The General Scheme as outlined gives the Regulator the power to issue licences, decide on the number and type of licences in an area, decide such matters as licence fees and most importantly revoke a licence where the Regulator thinks that such action is justified.

The issue of local authorities retaining powers of adoption of gambling legislation has been raised here in recent times. I.A.T.A. is opposed to that for the reasons as stated above but also because it is not necessary. If this bill is passed in its present form local authorities will be the ultimate deciders in their own areas as to where gambling outlets are located, if at all. In 1956 when the Gaming and Lotteries Act was enacted it was the only power available to local authorities in this regard. However, since 1963 the Planning and Development Act has remedied that situation. Currently and indeed in the wake of the enactment of a gambling Regulation Act local authorities will still have a quadruple lock and control of on street gambling in their community as follows:

The elected members of the local authority decide Zoning in the Development Plan. Most Development Plans deal specifically with gambling outlets such as bookmakers and arcades.

Each premises must have specific planning permission for gaming use. Use as a gaming establishment can never be an exempted development under the Planning and Development Act 2001.

A licence from the Regulatory Authority will be required and local authorities will be consulted by the Regulatory Authority before issuing licences.

Individual members of local authorities, and members of the public, will be able to make submissions to the Regulatory Authority regarding applications for gambling licences.

This is a quadruple lock which will remain in existence after the enactment of the Gambling Regulation Bill.

John Roche.

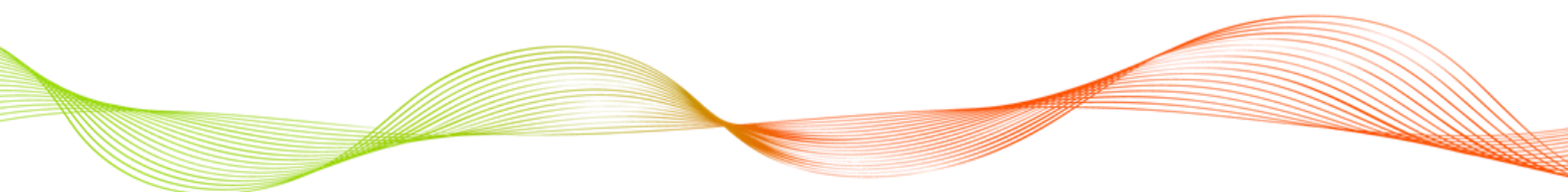
April 2022.



JC2022-080(2)

# IBIA response: Joint Committee on Justice Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill

April 2022



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## Chapter 1: Introduction

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1. The International Betting Integrity Association (IBIA)<sup>1</sup> is a not-for-profit trade body representing the betting integrity interests of many of the largest licensed retail and online betting operators in the world. The association welcomes the opportunity to provide representations to the Joint Committee on Justice as part of its pre-legislative scrutiny of the Gambling Regulation Bill.<sup>2</sup>
2. The association's members are licensed and operate within various regulatory frameworks for gambling around the world; their business operations and focus are truly international. IBIA's membership is made up of around 35 companies with roughly 100 retail and remote betting brands, including many globally recognised household names, operating across six continents.
3. Those operators see US\$137bn of global betting turnover per annum through their regulated businesses and account for c.30% of all (retail and online) regulated sports betting activity and c.40% of all regulated online sports betting globally. In some markets, such as Great Britain, IBIA members' betting turnover can be as high as 90% of the national licensed betting market.
4. IBIA's principal goal is to protect its members, consumers and partners, such as sports bodies, from fraud caused by the unfair manipulation of sporting events and associated betting. The organisation combats this fraud with evidence-based intelligence, principally obtained from its global monitoring and alert system which identifies suspicious activity on its members' markets.
5. The association has longstanding information sharing partnerships with leading sports bodies and gambling regulators around the world to utilise that data to investigate and prosecute corruption. That approach has been successful in helping to drive criminals away from regulated markets, creating a safe and secure environment for our members' customers and sports.
6. The association, which was established in 2005 and formerly known as ESSA, is the leading global voice on integrity for the licensed betting industry. It represents the sector at high-level policy discussion forums and maintains a policy of transparency and open debate, publishing quarterly integrity reports analysing activity reported on the IBIA monitoring and alert platform.<sup>3</sup>
7. In particular, IBIA holds seats on betting integrity policy groups run by the International Olympic Committee (IOC), Council of Europe (CoE) and the United Nations (UN), amongst others. The association also engages in mitigating actions with a range of partners, such as player betting education programmes and academic studies on the causes of, and solutions to, match-fixing.
8. IBIA has followed the discussion regarding the modernisation of the gambling framework in Ireland and responded to the Gambling Regulation consultation in 2019. IBIA represents many of the largest betting operators in Ireland and welcomes the opportunity to provide its experience and knowledge of the global sports betting market and related integrity issues.

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<sup>1</sup> <https://ibia.bet/>

<sup>2</sup> <https://www.justice.ie/en/JELR/Pages/General-Scheme-Gambling-Regulation-Bill> & <https://www.oireachtas.ie/en/press-centre/press-releases/20220307-joint-committee-on-justice-to-meet-in-relation-to-its-pre-legislative-scrutiny-of-the-general-scheme-of-the-gambling-regulation-bill/>

<sup>3</sup> <https://ibia.bet/resources/>



## Chapter 2: Head 96 – Gambling related to manipulation with intent to alter outcome

9. Maintaining the integrity of sporting events and stopping the corruption of those events for fraudulent betting purposes, most notably through the manipulation of the event and associated wagering, has become an increasing focus of policymakers, sports and betting companies. The association welcomes that measures to address this issue are contained in the draft legislation.
10. Responsible licensed operators support practical and effective market integrity measures; defrauding betting operators is often the focus of corruption and will see operators incur financial loss. Consumers will also be less likely to engage with a product they believe is unfair or fixed. Maintaining the integrity and credibility of the market is therefore of paramount importance.
11. The latter is highlighted in the government’s policy deliberations, and which state that: “Assuring the integrity of sports activities where a licensed betting market is offered is critical for all participants concerned.”<sup>4</sup> To that end, the gambling regulatory authority in Ireland should be responsible for “the prevention of gambling-related match fixing and money laundering.”<sup>5</sup>
12. A range of integrity measures are readily available and employed by various regulatory authorities around the world and include information sharing, voiding suspicious bets and the suspension of betting markets. However, the principal means of protecting a market is through monitoring, and the most efficient and widely used approach is to require licensed operators to utilise their market and customer oversight to identify and report suspicious betting to the relevant authorities.
13. This important issue was considered in the government’s deliberations in 2019 with reports containing proposals on maintaining the integrity of betting and sporting events, namely in the:
  - Inter-Departmental Working Group on Future Licensing and Regulation of Gambling report (March 2019); and
  - Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland (December 2019).<sup>6</sup>
14. The government’s focus was, at that time, understandable on integrity models such as the provisions contained in Great Britain’s Gambling Act.<sup>7</sup> That model is widely seen as one of the most effective, with a clear operator reporting requirement and an integrity unit within the regulator.<sup>8</sup> The law also provides a range of specific provisions to counteract betting corruption.
15. In particular, this includes the regulator’s ability to: issue codes of practice (Section 24); prosecute offences (Section 28); exchange information (Section 30 and Schedule 6); an offence of cheating (Section 42); require the provision of information (Section 88); and to void bets (Section 336).<sup>9</sup> This is supplemented by regulatory guidance on the integrity monitoring and reporting process.<sup>10</sup>

<sup>4</sup> <https://www.justice.ie/en/JELR/Pages/General-Scheme-Gambling-Regulation-Bill> Inter-Departmental Working Group on Future Licensing and Regulation of Gambling report p66

<sup>5</sup> <https://www.justice.ie/en/JELR/Pages/General-Scheme-Gambling-Regulation-Bill>

Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland report pages 6 & 22

<sup>6</sup> <https://www.justice.ie/en/JELR/Pages/General-Scheme-Gambling-Regulation-Bill> Inter-Departmental Working Group on Future Licensing and Regulation of Gambling report (2019) and Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland report (2019)

<sup>7</sup> [http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga\\_20050019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf)

<sup>8</sup> Paragraph 15.1.2 <https://beta.gamblingcommission.gov.uk/licensees-and-businesses/lccp/condition/15-1-2-reporting-suspicion-of-offences-etc-betting-licences> &

<https://www.gamblingcommission.gov.uk/news-action-and-statistics/Match-fixing-and-sports-integrity/Sports-Betting-Intelligence-Unit.aspx>

<sup>9</sup> [http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga\\_20050019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf)

<sup>10</sup> <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/page/background-protecting-betting-integrity>

16. Whilst that model remains effective, it was drafted in 2005 (operational since 2007) and reflects the understanding and response to the issue at that time. More recent legislation has taken that approach and built upon it and, in addition to individual operator monitoring and reporting, it is increasingly recognised that there is clear value from operators being part of a wider international integrity alert and monitoring system, which also feeds data into the appropriate authorities.
17. This approach adds an additional layer of protection both for operators' own businesses and also the licensed framework and its operational integrity capacity and associated reputation. This approach – requiring operators to be part of a betting integrity monitoring body in addition to reporting requirements – has, in recent years, been implemented in the following jurisdictions:
  - Czech Republic Gambling Law (operational since January 2017);<sup>11</sup>
  - Around a dozen US states, to date, permitting betting since PASPA was repealed in 2018 e.g. New Jersey (and in operation at various stages since August 2018);<sup>12</sup>
  - Amended German Interstate Treaty on Gambling (in operation since July 2021);<sup>13</sup>
  - The Netherlands Remote Gambling Law (in operation since October 2021);<sup>14</sup> and
  - The Canadian province of Ontario gaming regulations (in operation since April 2022).<sup>15</sup>
18. The Review of Australia's Sports Integrity Arrangements, which reported in 2018, similarly recognised this integrity approach and promotes that betting operators licensed in Australia "participate in a 'detect and disrupt' real-time monitoring and analysis of suspicious wagering activity", anticipating a model similar to IBIA's monitoring system.<sup>16</sup>
19. In addition, a Swedish government established inquiry into match-fixing and unlicensed gambling reported in October 2021 recommending that being part of a betting integrity monitoring body, such as IBIA, should be a licensing requirement for all of its operators to provide "an international exchange of information and warnings of suspected manipulation of sports events".<sup>17</sup>
20. In doing so, the inquiry commented that: "Given the international nature of the betting market where betting objects are often found on another market than the gambling companies home market, the investigation considers it to be reasonable that the licenced companies in Sweden contribute to, as well as benefit from, these international monitoring and warning systems."<sup>18</sup>
21. These approaches support the European Commission funded Betmonitalert report, which strongly recommends that public authorities should oblige all of their licensed sports betting operators to be "part of a betting monitoring system".<sup>19</sup> That report, and the Netherlands legislation, specifically refer to the International Betting Integrity Association as a best practice example.<sup>20</sup>
22. This model and many of the regulatory approaches to integrity listed above do not appear to have been assessed as part of the deliberations for the Gambling Regulation Bill; that is understandable

<sup>11</sup> <https://www.zakonyprolidi.cz/cs/2016-186> and in English <https://www.iprh.cz/en/documentation/act-no-186-2016-on-gambling/> Section 88 (5)

<sup>12</sup> <https://www.dlapiper.com/en/us/insights/publications/2018/05/paspa-unconstitutional/> & <https://www.wsn.com/sports-betting-usa/paspa/>

& New Jersey § 13:69N-1.6 Sports pool and online sports pool integrity; confidential information <https://www.nj.gov/lps/ge/docs/SportsBetting/PublishedProposalJan7th2019.pdf>

<sup>13</sup> <https://mi.sachsen-anhalt.de/themen/gluecksspiel/gluecksspielstaatsvertrag-2021/> Section 21 (3)

<sup>14</sup> <https://kansspelautoriteit.nl/nieuws/nieuwsberichten/2020/maart/voortgang-wet/> Decree laying down provisions for the implementation of the Remote Gambling Act (Remote

Gambling Decree) – Article 4.7 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>15</sup> <https://www.agco.ca/sport-and-event-betting-integrity> AGCO Gaming Standards - Sport and Event Betting Integrity

<sup>16</sup> [https://www1.health.gov.au/internet/main/publishing.nsf/Content/63F0A5D78DA5A0B5CA2582CF0005E6F9/\\$File/HEALTH-RASIA-Report-Acc.pdf](https://www1.health.gov.au/internet/main/publishing.nsf/Content/63F0A5D78DA5A0B5CA2582CF0005E6F9/$File/HEALTH-RASIA-Report-Acc.pdf) page 91 and footnote 160. The

Australian report refers to IBIA under its previous identity of ESSA

<sup>17</sup> <https://www.regeringen.se/rattsliga-dokument/departementsserien-och-promemorior/2021/10/ds-202129/> Section 7.4 translated from Swedish to English

<sup>18</sup> Ibid.

<sup>19</sup> [http://ethisport.com/wp-content/uploads/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Page 7

<sup>20</sup> The Betmonitalert report refers to IBIA under its previous identity of ESSA

in some instances as those regulatory approaches were still in development. IBIA contends that Ireland would however benefit from the adoption of this enhanced integrity protection model.

23. It recognises the value from operators being part of a wider international integrity monitoring system which feeds data into the appropriate authorities. In particular, the benefits this additional layer of protection, shared data and a common threshold for identifying and reporting suspicious betting provides for operators' businesses, consumers and the regulatory framework.
24. IBIA members share data because they are aware that corrupters may seek to try and circumvent integrity protocols of individual operators by placing bets with multiple operators licensed in different jurisdictions. Betting related match-fixing is transnational and monitoring systems are therefore most effective when they are also transnational and multi-operator.
25. Indeed, IBIA's data shows that the majority of its alerts involve customer accounts outside of the market where the potentially corrupted sporting event takes place. For example, 84% of IBIA's football alerts during 2017-2020 involved suspicious betting by customers placing bets outside of the country and regulatory framework where the potentially corrupted sporting event took place.
26. In basketball, 92% of suspicious betting alerts were similarly generated by customers in a different country to where the match was taking place.<sup>21</sup> Any national approach would therefore be best served by also seeking to address this international dimension. From an integrity perspective, that is best achieved through monitoring international betting markets and customer activity.
27. Detailed customer account data, which is only available from regulated operators (unregulated or poorly regulated operators will not or cannot provide such data), is critical for investigations. It allows investigators to "obtain information from betting operators on those who have placed suspicious bets"<sup>22</sup>, which is far more valuable than simple odds movement data (Figure 1).

**Figure 1: IBIA's customer transaction monitoring approach v odds monitoring**

	Account monitoring	Odds monitoring
Identity and location of the customer	✓	×
Disproportionate volumes of bets placed	✓	×
Customer bet type outside normal behaviour	✓	×
An unusual number of new accounts opened	✓	×
Geographical location/clustering of accounts	✓	×
Accounts showing previous suspicious behaviour	✓	×
Ability to link account activity across operators	✓	×
Covers every bet and betting market of operators involved	✓	×

28. The UNODC rightly notes that operators are a "principal source of information/intelligence about a fixed sporting event, both past and future".<sup>23</sup> When combined across multiple operators operating across different jurisdictions, such customer account data becomes an immensely valuable resource in detecting suspicious betting and identifying potential corruption globally.
29. Its value is not just in uncovering potential corruption across operators and markets, but also being able to discount 'false positives' other systems may raise (e.g. just odds movements), but where customer account data provides a justifiable reason for such betting which is not related to corruption. This prevents valuable investigatory resources from being wasted.

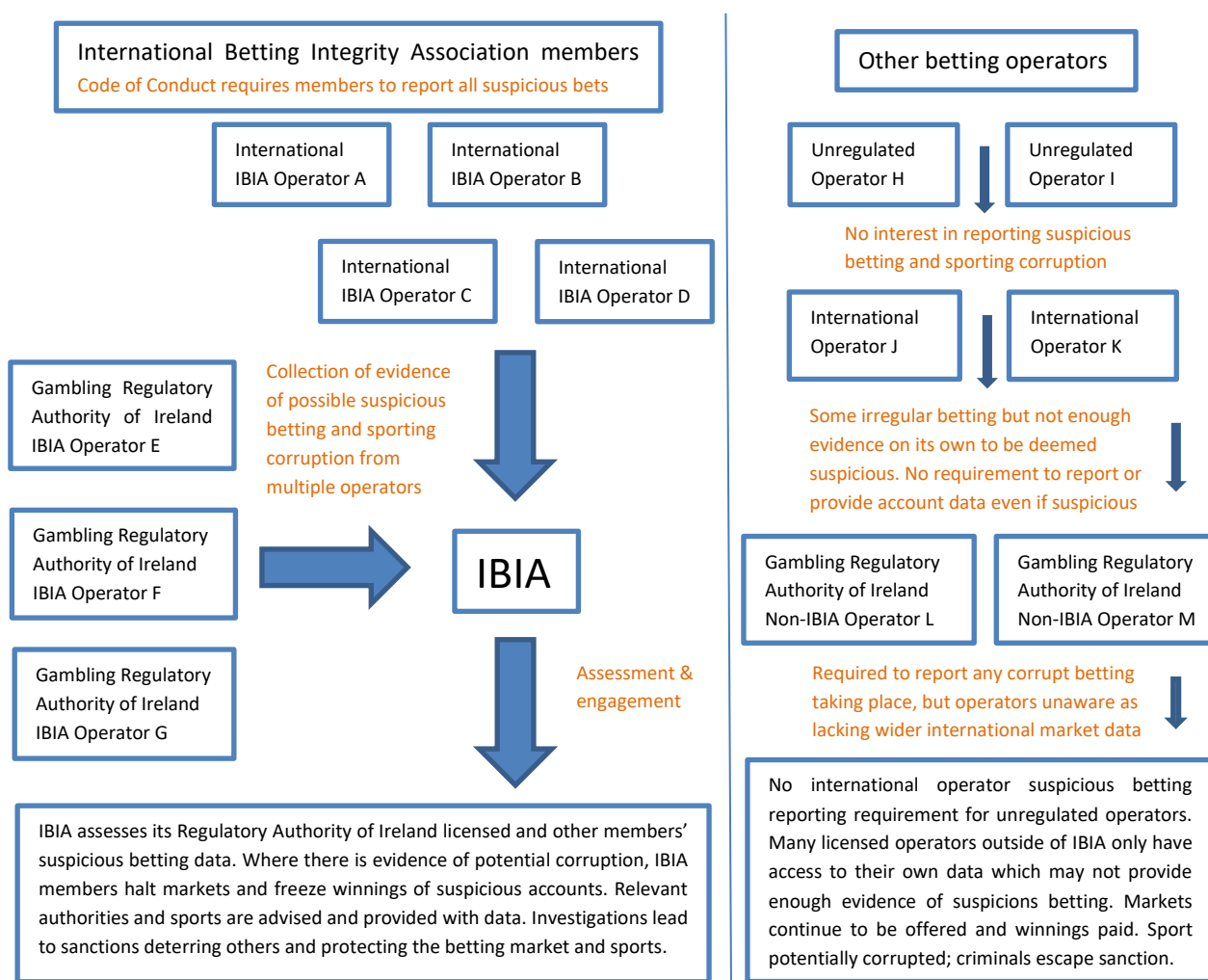
<sup>21</sup> <https://ibia.bet/an-optimum-betting-market/> An Optimum Betting Market Report (2021) page 60

<sup>22</sup> [https://www.unodc.org/documents/corruption/Publications/2016/V1602591-RESOURCE\\_GUIDE\\_ON\\_GOOD\\_PRACTICES\\_IN\\_THE\\_INVESTIGATION\\_OF\\_MATCH-FIXING.pdf](https://www.unodc.org/documents/corruption/Publications/2016/V1602591-RESOURCE_GUIDE_ON_GOOD_PRACTICES_IN_THE_INVESTIGATION_OF_MATCH-FIXING.pdf) Page 19

<sup>23</sup> Page 30 Ibid.

30. To utilise this data to best effect, IBIA has information sharing agreements with major sports and regulatory and law enforcement authorities around the world, allowing both parties to engage on integrity matters both in relation to our international alert system and with regard to any national actions. IBIA would welcome an agreement with the regulatory authority established in Ireland.
31. Betting operators outside of IBIA may have their own internal control systems to detect suspicious betting or their betting operation may be managed by a third-party provider, along with other operators. In either instance, those operators will not have access to the level of international betting integrity coverage and market protection that IBIA members have access to.
32. The scope of their betting operation may therefore be relatively small and their national and international market data capture likewise small. As such, this may increase the possibility of corruption taking place through those non-IBIA operators and where they may simply not have the level of data to identify suspicious trends across the wider international market (Figure 2).

**Figure 2: Operation and benefits of IBIA's transaction-based international alert system**



33. A sizeable part of the Irish retail betting market are members of IBIA's international integrity monitoring system, most notably via Entain (Ladbrokes) and Flutter Entertainment (Paddy Power), whilst discussions are ongoing with BoyleSports. Those two operators have around 400 retail premises (133 Ladbrokes + 265 Paddy Power) of the overall total of 800 retail premises in Ireland.<sup>24</sup>

<sup>24</sup> [https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_justice/2022-03-08/3/?highlight%5B0%5D=gambling&highlight%5B1%5D=regulation&highlight%5B2%5D=bill](https://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice/2022-03-08/3/?highlight%5B0%5D=gambling&highlight%5B1%5D=regulation&highlight%5B2%5D=bill)

34. They represent two of the largest operators in Ireland and join other companies which offer remote betting services, and which provided betting duty receipts of around €86.8m in 2020.<sup>25</sup> Around a third of the approaching 70 operators currently licensed to offer remote betting are IBIA members, albeit IBIA operators are likely to represent the majority of the betting market share.<sup>26</sup>
35. Suspicious betting has been reported by IBIA on five sporting events (four in football, one in tennis) played in Ireland during 2017-21 from a total of 1,755 alerts reported globally during that period. Whilst that may demonstrate a potentially relatively low level of integrity issues in Ireland, the importance of this issue and the response by the government should not be underestimated.
36. At the end of March, the Garda National Economic Crime Bureau warned that organised criminals are infiltrating Irish sports clubs to fix matches.<sup>27</sup> Other reports have, in recent years, similarly emphasised potential threats to Irish sport from match-fixing.<sup>28</sup> These highlight the importance of ensuring that the regulatory framework involves the most effective response to this issue.
37. IBIA is well-placed to provide a level of international integrity monitoring protection for the market in Ireland via its existing membership. However, the development of the market cannot be predicted, and as new licensees enter the market, the dynamics of those operators and their commitment to enhanced integrity monitoring may change significantly over time.
38. As stated above, the integrity model of requiring licensed betting operators engage with an international integrity monitor is increasingly being promoted around the world as part of a modern regulatory approach. It is a licensing requirement in jurisdictions such as Germany, the Netherlands, around a dozen US states (and potentially growing as other states regulate betting), and in Ontario, with the expectation that it will be introduced in Sweden in the near future.
39. The Netherlands and Ontario models are two leading examples (see Annexes). Ontario represents the most recent and, in many respects, is the most advanced model. In addition to requiring operators to be part of an integrity monitoring system, the Ontario authorities have also: a) established a register of approved monitors (of which there are currently three, including IBIA); and b) moved to remove any commercial conflicts from those parties offering integrity services.
40. On the latter, the Alcohol and Gaming Commission of Ontario's (AGCO) gaming standards include a specific requirement that: "Independent integrity monitors shall not have any perceived or real conflicts of interests in performing the independent integrity monitor role, including such as acting as an operator or as an oddsmaker."<sup>29</sup> This stipulation covers remote and land-based betting.<sup>30</sup>
41. On the latter, there is a general presumption that fraudulent betting activity only, or primarily, takes place online. However, 22% of IBIA's football alerts during 2017-2020 were flagged involving suspicious retail betting transactions. As such, any regulatory framework or market monitoring that relies predominantly or solely on online activity could therefore be deemed to be somewhat incomplete in its ability to detect and report potential corruption, if excluding retail betting.<sup>31</sup>

<sup>25</sup> <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/excise/receipts-volume-and-price/betting-duty-receipts.aspx>

<sup>26</sup> <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/excise/licences/licensed-remote-bookmaking-operations.aspx>

<sup>27</sup> <https://www.irishtimes.com/news/crime-and-law/organised-criminals-infiltrating-teams-to-fix-matches-garda-warns-1.4839366>

<sup>28</sup> <https://www.irishtimes.com/news/crime-and-law/cash-stun-gun-seized-in-limerick-match-fixing-inquiry-1.4156907> & <https://www.rte.ie/news/2019/0904/1073668-match-fixing/>

<sup>29</sup> <https://www.agco.ca/sport-and-event-betting-integrity>

<sup>30</sup> <https://www.agco.ca/blog/lottery-and-gaming/feb-2022/agco-updates-land-based-gaming-standards-include-sport-and-event>

<sup>31</sup> <https://ibia.bet/an-optimum-betting-market/> page 62

42. For the reasons set out above, IBIA would like to see every licensed operator be part of an integrity monitoring system. However, it is acknowledged that on-course operators and some smaller retail only operators may find the operational and technical practicalities more challenging. They may have a lower risk profile due to the smaller size and number of bets that they will accept; albeit they are not immune from corruption and the benefits of a monitoring system are as applicable.
43. In recognition of the above, the association has however suggested a threshold for retail operators based on betting shop numbers, and which will also serve to remove on-course operators from this requirement, should the Committee agree that this approach be appropriate and in support of Ireland adopting the integrity approach set out in this response to the Committee.
44. As such, IBIA therefore proposes that Head 96 be amended to enhance the integrity provisions currently contained within the draft legislation and to bringing this into line with the most effective integrity models currently in operation around the world, as follows (see track changes):

#### **Head 96 – Gambling related to manipulation with intent to alter outcome**

##### **Provide that:**

1. A provider who becomes aware of gambling patterns that suggest that an attempt to influence the outcome of a game or event has been committed or attempted—
  - (a) may refuse to accept bets/gambles on that game or event but must, in such instances, issue “bet refused” docket(s),
  - (b) may suspend betting/gambling on the game or event in question but must, in such instances, issue “bet refused” docket(s),
  - (c) may withhold payment on a bet/gamble but if payment is withheld this shall be for as long as all relevant investigations are ongoing,
  - (d) shall maintain safely and securely all relevant documentation or other records, including financial accounting information or video footage, for examination by the Authority,
  - (e) shall, without delay, inform the Authority of its suspicions, its actions and the reasons for its decision to refuse, suspend gambling and to withhold payment,
  - (f) shall, without delay, inform an international integrity monitor, if that provider falls within the scope of subhead (2).
2. (a) An international integrity monitor shall promptly disseminate any reports of suspicious betting activity to all of its betting providers.
- (b) All providers shall review such reports and promptly notify their international integrity monitor of whether they have experienced similar activity.
- (c) An international integrity monitor shall facilitate collaboration and information sharing with its providers to enable the investigation of, and response to, any prohibited activity.
- (d) An international integrity monitor will review and notify the Authority of its assessment of the activity observed by its providers in manner determined by the Authority.
- (d) Only the following providers will be required to engage with an international integrity monitor:
  - (i) Any provider that is licensed to offer remote betting; and
  - (ii) Any provider that offers in-person betting in at least 25 licensed premises.
- (e) An international integrity monitor shall not have any perceived or real conflicts of interests in performing the international integrity monitor role, such as providing separate commercial services.
- (f) The Authority shall publish a list of approved international integrity monitors.

32. (a) The Authority shall, where it has reason to believe that the event is ongoing or where payments have not been made, take such steps as are appropriate to inform other providers licensed under this Act, bearing in mind the need to avoid jeopardising any investigation that may be under way, or any proceedings that may have commenced, or that may be undertaken by it or by any other State body.

(b) The Authority shall, in any/all notifications to other bodies, be mindful of the need to protect appropriately the confidentiality and security of a provider which has provided it with information in such circumstances.

43. The Authority shall notify An Garda Síochána without delay where it suspects that an attempt to influence the outcome of a game or an event has been committed or attempted. Such notifications may be made verbally, in the first instance, where speed is important; however, such verbal notifications shall be followed up in writing as soon as possible thereafter.

54. (a) The Authority may alert any agency in any State within the EEA, or in the United Kingdom of Great Britain and Northern Ireland, or in any country or territory which may be specified, with functions the same as or similar to its own, of the information in its possession where it has reason to believe inappropriate activities referred to in this Head have occurred, are occurring or are expected to occur, or where the persons alleged to be involved are located, in that other State.

(b) The Authority may alert the relevant Sports Governing Body where such notification will not endanger any ongoing or subsequent investigation.

65. (a) Without prejudice to any liability incurred by a provider under subhead (7), the Authority may, where a provider fails to inform it as required by subhead (2),

(i) undertake a review of the licence by way or inspection or investigation, and

(ii) where the Authority deems it necessary or appropriate, suspend the licence of a provider pending the outcome of the review.

(b) At the conclusion of the review, where the Authority has formed the view that the provider has been non-compliant with the provisions of this Head, may—

(i) issue a warning,

(ii) suspend the licence,

(iii) revoke the licence,

(iv) prohibit the provider from holding a licence under this Act,

(v) impose an administrative financial sanction in accordance with the provisions of this Act, in relation to that provider.

76. A provider may bring an appeal to an appropriate Court against any decision of the Authority in accordance with subhead (5).



## Annex A: Netherlands Integrity Provisions

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Translated from Dutch to English

### Decree laying down provisions for the implementation of the Remote Gambling Act (Remote Gambling Decree)

#### Article 4.7

1. Without prejudice to Articles 4.5 and 4.6, a licence holder that organises bets must make sure that an effective policy is developed, applied and maintained within its organization that is focussed on maintaining the integrity of the contests associated with these bets.
2. The licence holder must at any rate take appropriate measures aimed at cooperation and the exchange of data, in the interest of preventing and identifying match fixing, with relevant organizations operating in the area of the integrity of sport, including at any rate the contest organisers and sports organizations involved in the contests, the Dutch National Match-Fixing Platform and an international collaborative association of contest organisers and operators of games of chance.
3. The licence holder must also take appropriate measures to prevent conflict of interests or the misuse of inside information relating to contests. These measures must at any rate cover the prevention of:
  - a. misuse of its financial and commercial relationship with the sports organization, sportspersons and organisers of contests for which it arranges bets;
  - b. involvement by individuals involved in a contest in determining the odds for bets on that contest; and
  - c. taking part in a bet that it has organised on a contest by individuals involved in that contest or in the organization of that bet.
4. Further rules may be set by order of the Minister concerning the paragraphs 1 to 3.

#### Explanatory Memorandum

##### Article 4.7

##### Paragraph 2

It is extremely important that the various parties involved have all the information required if manipulation of contests and the associated risks are to be prevented and tackled. The licence holder must therefore cooperate with (among others) the organisers of the contests, the sports organizations concerned and the umbrella organizations that work to prevent and combat manipulation. Depending on signals given by the licence holder and any matters that are brought to light, they may take the necessary action using the tools they have available to prevent possible match fixing or to apply sanctions against those involved. Conversely, signals from other parties that indicate possible match fixing may be a reason for the licence holder to take additional measures, such as placing a maximum on the stake for certain bets or for cancelling a specific bet. The licence holder must take appropriate measures in its organization to make such cooperation and exchanges of information possible.

The licence holder must in any event cooperate with the contest organisers and sports organizations concerned. An example of this is the joint drafting of a code of conduct with a number of common standards. The NOC\*NSF, the KNVB [Royal Dutch Football Association] the *Eredivisie* CV [Premier League CV] and the *Coöperatie Eerste Divisie* [Cooperative First Division] have drawn up the '*Code Betrouwbaar Spel&Sponsoring*' [Reliable Game & Sponsoring Code]. Based on Article 4.8, paragraph 2

the licence holder must also give the contest organisers and sports organizations concerned notification in advance about the nature of the bets it wishes to organise.

In addition, it must cooperate with the Dutch National Platform on Match Fixing, which was set up after a recommendation in the report entitled "*Matchfixing in Nederland*" (Match Fixing in the Netherlands). That platform is a forum within which there are structural consultations between the investigative partners involved, supervisory authorities (including the Gambling Authority), the sports sector and the games-of-chance sector in order to improve the availability of information for all those involved, so that more signals that point towards match fixing are detected, more signals are picked up in good time through the appropriate channels by the right people and the most appropriate interventions can be used to combat match fixing.

In addition to the cooperation with the National Platform on Match Fixing, the licence holder must also cooperate with an internationally operating collaborative venture in which the organisers of sports betting analyse and exchange data with the sports organizations concerned relating to such betting, in the interests of the integrity of the sport and of sports betting. Through its affiliation with such a collaborative venture, the licence holder can also receive signals from games-of chance operators who are not active on the Dutch market. The collaborative venture with which the licence holder must be affiliated is not prescribed. It is however important that this is an organization that has a formal status in the country in which it is established and that it is an organization within which signals about match fixing are shared with its members. Because of the social responsibility they bear and with a view to the quality of the products they offer, socially responsible operators of sports betting have already set up a number of international collaborative ventures as a form of self-regulation in order to limit the risks of match fixing as much as possible. Example of this are the International Betting Integrity Association (IBIA) and Global Lottery Monitoring System (GLMS). In the Government's response to the report that was issued in September 2013 entitled "*Matchfixing in Nederland, de aard en reikwijdte van het probleem, de risico's en de aanpak*" (Match fixing in the Netherlands: the nature and scope of the problem, the risks and the approach) (Parliamentary Papers II 2012/13, 33 296, nos. 9 and 10), it is stated that the licence holder must be affiliated to such a collaborative venture.

## Annex B: Ontario Integrity Provisions

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### Sport and Event Betting Integrity

**4.32 Sport and event betting operators shall have risk management measures in place to mitigate the betting integrity risk associated with sport and event betting, including insider betting and event manipulation.** (Also applicable to Gaming-Related Suppliers)

**Requirements** – At a minimum:

1. Operators shall establish controls to identify unusual or suspicious betting activity and report such activity to an independent integrity monitor.

Unusual betting activity is a betting pattern that deviates, including statistically, from the activity otherwise exhibited by patrons and reasonably expected by an operator or independent integrity monitor, which may indicate potential suspicious activity in the betting or the underlying sport or other event. Unusual betting activity may include the size of a patron's wager or increased wagering volume on a particular event or wager type.

Suspicious betting activity is unusual betting activity that cannot be explained and is indicative of match fixing, the manipulation of an event, misuse of inside information, or other illicit activity.

2. Independent integrity monitors shall not have any perceived or real conflicts of interests in performing the independent integrity monitor role, including such as acting as an operator or as an oddsmaker.
3. Independent integrity monitors shall promptly disseminate reports of unusual betting activity to all member sport betting operators.
4. All sport and event betting operators shall review such reports and notify their independent integrity monitor of whether they have experienced similar activity.
5. If an independent integrity monitor finds that previously reported unusual betting activity rises to the level of suspicious activity, they shall immediately notify any entity with which they have an information sharing relationship, including independent integrity monitors, sport betting operators, the appropriate governing authority for the sport or event, and any other organizations or individuals identified by the Registrar.
6. All independent integrity monitors receiving such a report shall share such report with their member sport betting operators.
7. Independent integrity monitors shall facilitate collaboration and information sharing to enable the investigation of and response to prohibited activity associated with the suspicious betting activity as directed by the Registrar.
8. Independent integrity monitors shall provide, in accordance with the notification matrix, the Registrar with:
  1. All reports of unusual betting activity;
  2. If the activity was determined to be suspicious; and
  3. The actions taken by the independent integrity monitor.

**Guidance:** The Registrar will publish a list of registered independent integrity monitors.

**4.33 An operator receiving a report of suspicious activity under Standard 4.32 may suspend or cancel sport and event betting on events related to the report or withhold associated customer funds. To this end, an Operator must ensure that it has reserved itself the authority to suspend betting, void bets, and withhold associated customer funds. The Operator's decision to suspend or cancel sport and event betting, or withhold associated customer funds, on events related to the report must be fair, reasonable, and made in good faith.**



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