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Report to Government

Inter-Departmental Working Group on Future Licensing and Regulation of Gambling



March, 2019

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I. Foreword by David Stanton, T.D., Minister of State

Devising and implementing a modern licensing and regulatory regime for the Irish gambling industry presents this State with a significant challenge. The industry is large, growing and evolving from a largely land-based manifestation to an on-line one. However, we are currently applying a mid-20th century approach to gambling activities that have changed significantly in nature, are increasingly digital in format, and conducted on-line. As the gambling industry changes, and indeed as the demographics and motivations of its customers change, so must the State's licensing and regulatory approach.

My guiding principle since I assumed special responsibility in this area is that we must, in a transparent and proportionate manner, license and regulate gambling pursuits participated in by many citizens throughout Ireland. In doing that, we must ensure the best possible enforcement of the law and compliance with licensing conditions, increase revenue to the Exchequer, improve services to the consumer and support effective protection for those who may be vulnerable to addiction.

By way of a Decision of 10 January 2018, the Government tasked me with reviewing all of the provisions of the General Scheme of the Gambling Control Bill 2013, through the chairing of an Inter-Departmental Working Group on the Future Licensing and Regulation of Gambling. The Working Group set out to determine whether the provisions of the 2013 General Scheme remained fit for purpose in light of developments in the area of gambling, both domestic and international.

The Government also agreed on 10 January 2018, to the concept of the statutory establishment of an independent regulatory authority for the gambling industry. This represents a significant departure from the proposal set out in the 2013 General Scheme, of an Office for Gambling Control operating within the Department of Justice and Equality.

I am pleased to present this Report to the Government and to inform them of the deliberations of the Working Group. The Report recommends significant reform of our licensing and regulatory approach to gambling. It identifies new and emerging issues not represented in the 2013 General Scheme and, which must be addressed in a revised Gambling Control Bill.

The Working Group is firmly of the view that without a new independent regulatory authority of sufficient scale, the comprehensive reform required will not be possible. Effective modern licensing, regulation and monitoring of the gambling industry will come at a cost. The Working Group concludes nevertheless that such an authority can in time be substantially self-financing, through income from licence and other fees charged to gambling operators.

Incremental change is not a viable approach to the reform of Irish gambling licensing and regulation. Effective reform requires fundamental and significant change. This will take some time to develop. It is essential that sufficient resources be committed to support the reform. The effective oversight of an industry with an estimated annual value of between €6 – 8 billion requires nothing less than such an effort.

In addition to this Report, I also hope to publish the Gaming and Lotteries (Amendment) Bill in the course of this current Oireachtas session. This Bill will contain a number of interim measures, which can ultimately be reflected in the future comprehensive reform of the licensing and regulation of gambling.

I wish to acknowledge the valuable work of those officials on the Inter-Departmental Working Group and extend thanks for their contributions, which have informed the contents of this Report.

Finally, I would like to thank officials from the Gambling Policy Division and my own staff in the Department of Justice and Equality for their hard work during this process.

David Stanton, T.D.

Minister of State at the Department of Justice and Equality

March, 2019

II Executive Summary

1. General Scheme of Gambling Control Bill 2013

1.1. The Government on 9 July, 2013 approved the drafting of the Gambling Control Bill 2013, along the lines of the General Scheme, which would replace all current gaming and betting legislation. It would introduce an extensive new licensing process and a regulatory body (the Office for Gambling Control Ireland) to enforce compliance. The General Scheme was referred to the Office of the Parliamentary Counsel in July 2013, but drafting has not proceeded.

2. Government Decision of 10 January 2018

2.1. The Government decided on 10 January, 2018 to proceed with the drafting of the Gambling Control Bill, based on the General Scheme approved in 2013, subject to necessary updating, further consideration of all relevant matters that have arisen since and consultations with Departments, the Office of the Attorney General and the Office of Parliamentary Counsel.

2.2. Of particular significance was that the Government approved the concept proposed by the Minister and Minister of State for Justice and Equality to establish an independent statutory regulatory authority for gambling.

3. The Inter-Departmental Working Group on the Future Licensing and Regulation of Gambling

3.1. The Government approved the establishment of a Working Group, chaired by the Minister of State at the Department of Justice and Equality. The Group comprised all Departments with responsibility or involvement in gambling activities, the Office of the Attorney General and An Garda Síochána to review the provisions of the 2013 General Scheme and assist in the development of the future licensing and regulatory approach for the gambling industry. The Working Group met formally on six occasions between February 2018 and January 2019.

4. Summary of Working Group’s discussions

4.1. The main issues discussed by the Group, having regard to its mandate to examine the provisions of the 2013 Scheme¹ and to make recommendations for an improved Gambling Control Bill having taking into account relevant developments since, are summarised in the following paragraphs.

For the purposes of this Report, the term “gambling” is construed as encompassing all gaming, lottery and betting activities currently available in the State.

Licensing of gambling activities

4.2. The Group recommended that the 2013 Scheme approach to the licensing of gambling activities, that proposed 43 categories, be significantly rationalised. The Group considered that licensing should reflect the following broad categories:

- Betting Gaming and lotteries Gaming machines
- Bingo Casinos On-line gambling.

However, the Group recommended that further consideration be given to a more horizontal approach to licensing with the potential for single gambling licences across arrange of activities, being issued for Business to Business (B2B) operators and Business to Customer (B2C) (gaming and betting) operators.

The Group recommended that applicants for gambling licences should be intensively investigated by the proposed gambling regulatory authority to ensure their suitability and propriety. In particular, the ultimate beneficial ownership of any company or entity applying for a gambling licence must be determined.

All licences issued should have appropriate terms and conditions applied, particularly concerning protection of consumers and vulnerable persons and for combatting fraud and money laundering.

A gambling regulatory authority

4.3. The Group supported the establishment of an independent gambling regulatory authority to be responsible for all licensing and regulation of all aspects of the gambling

¹ <http://www.justice.ie/en/JELR/Gambling%20Control%20Bill%20-General%20Scheme%20July%202013.pdf/Files/Gambling%20Control%20Bill%20-General%20Scheme%20July%202013.pdf>

industry. It considered the possible governance arrangements, the functional organisation and the possible resources required of such an authority and suggested a potential organisational model. The Group believed that the example of the UK Gambling Commission could serve as a critical reference point for the development of an Irish regulatory authority given the significant commonality of market features and wide range of gambling activities offered and integration of the main operators. The regulatory model employed by the Malta Gaming Authority was also considered worthy of study.

The Group recognised that there would be significant costs involved, at least in the initial period of operation, but recommended that the authority could ultimately be self-financing through licence fees and duties charged to operators.

Advertising, sponsorship and promotion of gambling products

4.4. The Group discussed the issue of advertising, sponsorship and promotion of gambling products and activities. This matter attracts considerable public attention. At present, these are minimal provisions as to the nature and extent of advertising and sponsorship. It examined a range of possible options on the future approach to regulating these activities. The Group was conscious that any potential policies that might be adopted should not have unintended consequences, in particular for the horse racing industry.

Combatting of money laundering attempts through gambling activities

4.5. The Group, with the benefit of the expertise of the Department of Finance and the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality, discussed anti-money laundering issues in the specific context of the potential use of gambling to engage in such activities. The transposition into domestic law of the EU Fourth Anti-Money Laundering Directive in November 2018 has given added impetus to national efforts in this regard.

The Group recommended that the proposed gambling regulatory authority include a dedicated AML Unit to combat any use of gambling for this purpose.

Combatting betting related manipulation of sporting events (Match Fixing), the “Macolin Convention”

4.6. The Group noted reports in recent times of possible attempts at “match fixing” concerning Irish sporting events. It considered that maintaining integrity in this regard was of critical importance. It recommended that the proposed gambling regulatory authority include a dedicated Sports Betting Integrity Unit, modelled on that in the UK.

The Group also noted the work of the Department of Transport, Tourism and Sport in the negotiation of the Council of Europe *Convention on the Manipulation of Sports Competition*, (the Macolin Convention) aimed at assisting in a comprehensive way, efforts to combat all forms of fraudulent activities in sporting events.

Protection of the consumer of gambling products

4.7. The Group discussed the current level of protection for the gambling consumer in domestic and EU law. It concluded that there was minimal effective protection. The Group made a range of recommendations designed to increase significantly consumer protection and ensure fairness.

The Group supported the development of an Alternative Disputes Resolution (ADR) mechanism by the proposed regulatory authority to settle disputes between consumers and operators.

In a reformed modern regulatory situation, the Group agreed with the proposed approach in the 2013 General Scheme that gambling wagers be made contractually enforceable.

Protection of vulnerable persons and addressing the social impact of gambling

4.8. The Group acknowledged the raised public awareness of the issue of problem gambling and the harms caused to individuals, families and communities in this regard.

The Group considered that the approach taken in the 2013 Scheme towards the protection of vulnerable persons, including minors remained broadly valid, subject to some recommended improvements. It recommended that a Social Fund, funded by levies on licensed gambling operators, should be developed and managed by the new regulatory authority, to assist with research, information campaigns and to support addiction treatment by relevant professional bodies.

Licensing fees, betting duties and taxation of gambling activity

4.9 The Group was briefed by the Revenue Commissioners and the Department of Finance, on the current position in respect of Exchequer gambling receipts from taxes, duties and licences.

The Group considered the possible future approach to licence fees that might be imposed on licensed gambling activities, including those activities, not currently levied.

The Group recommended that the regulator should develop the levies, fees etc., to be paid by operators. This would support the self-financing objective for the proposed gambling regulatory authority.

5. Working Group's recommendations

5.1 The recommendations made by the Group on the various elements of the licensing and regulation of gambling activities under the different Chapter headings are listed in Chapter 10 of the Report.

Chapter 1

The current legislative framework for future licensing and regulation of gambling activities in Ireland

1. Gambling In Ireland

1.1. A range of gambling activities are engaged in by a large number of persons in Ireland, The Prevalence of Drug Use and Gambling in Ireland and Drug use in Northern Ireland 2014/15 Drug Prevalence Survey² revealed that 64.5% of respondents engaged in some form of gambling in the 12 months prior to the survey, while 41.4% reported gambling on a monthly basis, or more often. It also indicated that prevalence of problem gambling in the general population was 0.8%.

1.2. Gambling activity is of significant economic impact in Ireland. In the 2017 returns published by the Revenue Commissioners, the 1% betting duty amounted to €52.2m³, suggesting a market size of €5.22 billion. National lottery ticket sales for 2017 amounted to €800.2 million (2016: €750.2 million). Sales for draw based games were €558.8 million (2016: €529.8 million), while sales for instant games (scratch-card and interactive Instant Win Games) were €241.4 million (2016: €220.4 million)⁴. These figures suggest an industry worth close to €6 billion annually. In addition to this, there are no figures published for revenues from on-line gaming, gaming in arcades and private members' clubs, bingo (including on-line) or for the thousands of local community lotteries/raffles in the State. It would not be unreasonable to estimate the value of the Irish gambling market annually as being between €6 to 8 billion.

1.3. Employment numbers in the gambling sector are not readily available as operators are under no obligation to publish such figures specific to their Irish operations. In respect of betting operators, there were 862 licensed bookmaker premises in 2017⁵. There are significant numbers employed in back office IT processing, etc. For example, Paddy

² <https://health.gov.ie/blog/publications/prevalence-of-drug-use-and-gambling-survey-gambling-results/>

³ <https://www.revenue.ie/ga/corporate/documents/research/excise-trends-2017.pdf>

⁴ <http://www.rnl.ie/wp-content/uploads/2018/11/Annual-Report-2017-Final-English.pdf>

⁵ <https://www.finance.gov.ie/wp-content/uploads/2018/03/180328-Gambling-Sector-Risk-Assessment-March-2018.pdf>

Power/Betfair employs over 2,800 staff in Ireland⁶, while Boylesports employs over 1,700 persons⁷. Thus, it could be estimated that upwards of 8,000 people are directly employed.

2. Current regulatory framework for gambling activities

2.1. The current Irish legislation does not provide for a coherent licensing and regulatory approach to gambling activities (apart from the specific legislation for the National Lottery). The responsibility for licensing and regulating gambling activities is shared between a number of Departments and agencies. This fragmented approach does not facilitate a consistent and effective approach to licensing, compliance and enforcement, consumer protection and the protection of vulnerable persons, including of underage persons. In addition, this fragmented regulatory environment limits the potential for revenue raising possibilities from licensing fees, duties and taxation, which could better fund regulatory activities and treatment for gambling addiction.

2.2. With regard to on-line gambling activities, there is very limited regulation through the licensing of remote betting operators. The Revenue Commissioners are responsible for ensuring that bookmakers offering remote betting services to persons in Ireland, are properly licensed and that the correct betting duty is charged and collected on bets made, laid or otherwise entered into with persons in Ireland. Such licences are issued where the applicant submits their Certificate of Personal Fitness (issued by An Garda Síochána for people that reside within Ireland). For applicants residing outside of Ireland, as well as for on-line operators, the Minister for Justice and Equality issues the Certificate of Personal Fitness, following consultation with An Garda Síochána, where appropriate.

2.3. The licensing and regulation of gambling activities in Ireland still exhibits a land-based approach. This is increasingly less important due to the advent of digital technology and a move to on-line gambling. For example, it has been reported in the media, that attendances at the Galway Racing Festival in 2018⁸ and the Christmas Leopardstown⁹ race meeting were substantially lower than in 2017. Attendance at bingo halls has been in decline in recent years. However, while on-line gaming services (bingo,

⁶ <https://www.finance.gov.ie/wp-content/uploads/2017/07/Paddy-Power-Betfair-Submission2017.pdf>

⁷ <https://ie.linkedin.com/company/boylesports>

⁸ <https://www.irishracing.com/news?headline=Attendance-and-betting-both-down-at-Galway-this-week&prid=193180>

⁹ <https://www.irishracing.com/news?headline=Attendance-and-betting-figures-at-Leopardstown&prid=65737>

lottery, casino, etc.) are significantly available in Ireland, there is no licensing pathway available for them, and accordingly, there is no regulatory oversight of this sector, nor a revenue return to the State in terms of licence fee income and an on-line gaming tax.

2.4. Private gaming arrangements are excluded from the scope of the Gaming and Lotteries Acts. This has given rise to the operation of private members' clubs as casinos and card clubs. The opening hours, age restrictions and general operations of such clubs are not regulated by statute. There is no return to the State in terms of licence fee income or a possible casino tax. However, such clubs pay VAT and Corporation Tax.

2.5. A significant number of offshore gambling operators offer betting services or betting intermediary services to Irish citizens. These operators are required to obtain a remote bookmaker's licence or remote intermediary's licence from the Revenue Commissioners under the Betting Acts.

2.6. With regard to taxation of gambling activities, licensed bookmakers are subject to betting duty at 2 per cent of turnover. Remote bookmakers must also pay this duty on bets entered into with persons resident in Ireland. Remote betting intermediaries are subject to a betting intermediary duty that at a current rate of 25 per cent of their commission charges. On-line providers that are licensed overseas, but are providing e-gaming services to Irish customers should be registered and charging Irish VAT at 23 per cent on play from Irish customers. Casinos - that operate in Ireland as private members' clubs - must all register and charge VAT on winnings.

Relevant legislation

2.7. Licensing and regulation of gambling in Ireland is based on the following legislation:

- The Totalisator Act 1929 that provides for the licensing of Tote (pool betting) operators who operate at horse and greyhound racing courses in Ireland and for their offerings to other international pool-betting operators.
- The Betting Acts 1931-2015 that provide for the licensing of betting activities. On-line bookmakers and betting intermediaries were licensed for the first time under the Betting (Amendment) Act 2015. A number of bet-on-lottery operators, who offer betting odds on the National Lottery and other lotteries worldwide, have obtained betting licences where such operators are awarded a Certificate of Personal Fitness by the Department of Justice and Equality. The standard duration of a licence is two years. The requirements and processes that apply to the first licence application also

apply to applications for licence renewal. However, the licence fee paid may vary, dependant on the turnover of the operator in the previous licensing period.

- The Gaming and Lotteries Act 1956 that provides for the licensing of (low value and locally based) gaming and lottery activities (including bingo, raffles etc.). There is no provision in the Act for the licensing of on-line gaming and lottery activities.
- The National Lottery Act 2013 that provides for the licensing of the National Lottery and the establishment of a regulator to oversee the activities of the National Lottery operator. It also increased certain prize amounts allowed for lotteries promoted under the Gaming and Lotteries Act.

2.8. The current wide dispersion of responsibilities for the regulation of gambling activities in Ireland is as follows:

- Department of Justice and Equality:
 - Legislative oversight of minor gaming and lottery activities under the Gaming and Lotteries Act 1956.
 - Issuance of certificates of personal fitness¹⁰ to representatives of on-line betting and betting intermediary operators, as well as non-Irish resident terrestrial bookmakers (mostly from Northern Ireland), under the Betting Acts 1931 to 2015.
 - Compliance monitoring and inspection in connection with obligations on gambling service providers under Anti-Money Laundering legislation as well as issuance of certificates of personal fitness to beneficial owners or persons who effectively direct the private members' clubs at which gambling activities are carried on, who are not ordinarily resident in the State.
- Revenue Commissioners:
 - Issuance of licences to all betting operators (terrestrial and on-line) under the Betting Acts 1931 to 2015, subject to production of a Certificate of Personal Fitness from An Garda Síochána (for operators in Ireland) or Department of Justice and Equality (for operators outside of Ireland as well as on-line operators) as appropriate.
 - Issuance of gaming licences (for each premises) under section 19 of the Gaming and Lotteries Act 1956, subject to production by applicant for the licence of a District Court certificate issued under section 15 of this Act.

¹⁰ Needed in order to apply for a licence to the Revenue Commissioners.

- Issuance of Gaming Machine Licences (for each machine) under section 43(4) of the Finance Act 1975, subject to production of a Gaming Licence (for premises).
- Issuance of an Amusement Permit (for premises) and Amusement Machine Licences (for each amusement machine) under sections 122 – 123 of the Finance Act 1992.
- Department of Finance:
 - Issuance of totalisator (pool betting) licences under the Totalisator Act 1929.
 - Legislative oversight of the Betting Acts 1931-2015.
 - Lead role in negotiating the terms of the 4th Anti Money Laundering Directive from an Irish perspective.
- Department of Public Expenditure and Reform:
 - Legislative oversight of the Irish National Lottery under the National Lottery Act 2013.
 - ⊖ Following a competitive process, Premier Lotteries Ireland was awarded the National Lottery licence for a period of 20 years commencing 2014.
 - ⊖ The Office of the Regulator of the National Lottery regulates the operation of the National Lottery under the terms of the licence and the Act.
 - ⊖ The Office of the National Lottery Regulator is funded by a levy on the operator.
- An Garda Síochána:
 - Direct issuance of certificates of personal fitness to Irish resident terrestrial bookmakers under the Betting Acts and to beneficial owners or persons who effectively direct the private members' clubs at which gambling activities are carried on, who are ordinarily resident in the State.
 - Assist the Department of Justice and Equality in the issuance of certificates of personal fitness to some representatives of on-line betting and betting intermediary operators, as well as non-Irish resident terrestrial bookmakers (mostly from Northern Ireland), under the Betting Acts 1931 to 2015, and beneficial owners or persons who effectively direct the private members' clubs at which gambling activities are carried on, who are not ordinarily resident in the State.
 - Issuance of lottery permits (up to €5,000) under the Gaming and Lotteries Act 1956.
 - Enforcement of gaming provisions outlined in Part V of the Gaming and Lotteries Act 1956.

- Local Authorities:
 - Adoption and/or rescinding of resolution allowing gaming in their municipal area. This is a prerequisite under Part III of the 1956 Gaming and Lotteries Act to the certification under the 1956 Act and licensing of gaming by the District Court and the Revenue Commissioners.
- District Courts:
 - Issuance of local lottery licences (up to €30,000) under the Gaming and Lotteries Act 1956.
 - Issuance of gaming certificate under the 1956 Act authorising the issuing of a licence for gaming (by Revenue Commissioners) under Part III of the Gaming and Lotteries Act 1956.

3. 2013 General Scheme of Gambling Control Bill

3.1. On 9 July, 2013, the Government published the General Scheme of the Gambling Control Bill, which was intended to replace all existing gaming, lottery and betting legislation (with the exception of that governing the National Lottery). The objective of the General Scheme was to achieve an appropriate balance between encouraging the licensing of commercial gambling activities (including casinos and on-line gambling) and protecting consumers and vulnerable gamblers.

3.2. Under the General Scheme, all licensing, regulatory and compliance functions for gambling would become the responsibility of the Minister for Justice and Equality. The regulatory function would be undertaken by an Office for Gambling Control Ireland, intended as an Executive Office within the Department of Justice and Equality, but not a statutorily independent agency. It would have an inspectorate with prosecution powers. However, the Minister for Justice and Equality would retain significant direct responsibility for policy matters and operations. This regulatory body was intended to be funded from fees collected from gambling licence holders.

3.3. The Oireachtas Committee on Justice, Defence and Equality conducted pre-legislative scrutiny of the Scheme on 2 and 9 October 2013. However, while consideration of the Scheme continued within the Department, the proposed legislation was not progressed through the Oireachtas. The assigning of special responsibility to Minister of State Stanton and the establishment of the Gambling Policy Division in the Department on 1 January, 2017 gave a renewed impetus to the proposals for comprehensive reform.

4. Recent developments concerning gambling

Comprehensive reform

4.1. On 10 January, 2018, the Government agreed to a proposal from the Minister for Justice and Equality and Minister of State Stanton, to the concept of the establishment of a gambling regulatory authority as an independent statutory organisation. The Ministers considered that such an independent body would be best placed to conduct the complex range of licensing, regulating, monitoring, inspecting, compliance and enforcement tasks, etc. of the modern and growing gambling industry in all of its facets. An independent approach to gambling regulation mirrors the approach taken in most Member States and in comparable non-EU countries. This was a significant change of regulatory approach to that proposed in 2013.

4.2. The Government also decided to proceed with the comprehensive reform of the licensing and regulation of all gambling activities in Ireland. This reform would be based on the General Scheme of the Gambling Control Bill 2013, with all necessary revision and updating to reflect the most recent developments, particularly in technology. This reform would provide for licensed channels for all gambling activities, land-based and on-line. It would improve protection of consumers and vulnerable persons, help reduce the potential risk of criminal or money laundering activities and lead to increased taxation and fee revenue for the State.

4.3. The Government mandated the Minister of State at the Department of Justice and Equality to establish an Inter-Departmental Group on the future Licensing and Regulation of Gambling, comprising all relevant Departments, to prepare a report for Government. The Group's consideration and recommendations are set out in the following Chapters.

Interim reform measures for gaming and lotteries

4.4. The Minister of State is developing a legislative initiative, intended as an interim reform measure, to amend and update the Gaming and Lotteries Act 1956. The amendments primarily concern improving the promotion of gaming and lotteries mostly used for local fundraising by sporting and community organisations. The Minister of State hopes to be in a position to publish the Gaming and Lotteries (Amendment) Bill early in 2019.

5. Working Group consideration

5.1. The Group agreed that the current gaming and betting legislation (with the exception of the National Lottery Act) is outdated. In particular, the Betting Acts 1931-2015 and the Gaming and Lotteries Act 1956 have little or no provisions for the appropriate modern regulation and compliance oversight of the activities covered. While the Betting (Amendment) Act 2015 provided for a licensing pathway for on-line bookmakers and betting intermediaries, this Act was intended to be temporary in nature pending the enactment of the Gambling Control Bill. The new legislation would provide for regulatory oversight of these activities by the gambling regulatory authority once it is established.

5.2. The Group noted that oversight of the activities provided for under the Act is dispersed among a number of different tax administration and regulatory bodies (Revenue Commissioners, Local Authorities, District Court, Gardaí). The Minister for Justice and Equality has limited regulatory authority under the 1956 Act, despite having responsibility for certain tasks, primarily relating to the setting of prize fund limits for lotteries licensed in accordance with the Act. The Gaming and Lotteries Act 1956 provides no explicit pathway for the licensing of on-line gaming activities.

6. Recommendation

6.1. The Working Group recommended that:

- The comprehensive reform of all legislation relating to the licensing and regulation of all gambling activities should be progressed, building on updated provisions in the 2013 General Scheme and having regard to recent developments.
- The Minister of State should proceed with the proposed updating of the Gaming and Lotteries Act 1956 as an interim reform measure.

Chapter 2

Future licensing¹¹ of gambling activities

1. Introduction

1.1. The current legislation on the licensing of gambling activities in Ireland is inadequate and outdated. There is significant public and political criticism that enforcement of the licensing conditions that exist is often sporadic and inconsistent. Laws on gaming date back to the Gaming and Lotteries Act 1956. Laws on betting date back to the Betting Act 1931, with an amendment in 2015 to licence on-line betting and bring it within the taxation regime.

1.2. New legislation is necessary and overdue to provide for a modern and realistic approach to the licensing of a very significant and complex leisure and economic activity with an increasingly on-line manifestation and with cross-border dimensions. The reform of the Irish gambling licensing regime effected through an updated Gambling Control Bill should set out an improved modern approach based on clear objective principles and be transparent, balanced, flexible and long lasting. It would reflect the reality of the various gambling activities available in the State and recognise the impact of technology on the conduct of such activities.

2. General Scheme of the Gambling Control Bill 2013

General approach to licensing of betting, gaming and lottery activities

2.1. The General Scheme made extensive provision for the licensing of a wide variety of categories of gaming, lottery and betting activities by the then proposed Office of Gambling Control Ireland (OGCI). It set out (in Part 3) the terms and conditions that would attach to the application for, granting and operation of licences for all such activities. The guiding principle was that only activities, which are licensed and regulated, would be lawful. The OGCI would have the responsibility to receive applications and issue licences for gambling activities to both organisations and particular (key) individuals involved.

¹¹ For the purposes of this Report, the term “licensing” comprehends the issuing of both licences and permits for gambling activities. Such activities encompass gaming, lotteries, and betting.

The licensing of the National Lottery was excluded from the scope of the General Scheme; it is specifically regulated under the National Lottery Act 2013.

2.2. The Scheme, set out the process for applications for a licence for gambling activities, and detailed the categories of licences that could be issued by the OGCI. Provision was made for a broad number of licence categories, with 43 licence categories provided for. It was envisaged that concurrent licences could be issued for a number of these categories, once the applicant met the terms and conditions. There was provision for the issuing of both “service” and “personal” licences. Schedule I to the Scheme sets out the various licence categories.

2.3. Those guiding principles of licensing would apply equally to both land based services (such as bookmakers’ premises, on-course betting, gaming arcades, casinos, etc.) and the ‘remote’ provision of services (on-line, mobile phone, etc.). In the case of remote services, a licence would be required of an operator when a service was(i) made available to, or targeted at Irish consumers, regardless of the location of the source of the facility, whether in Ireland or abroad (“the place of consumption” principle), or

(ii) in circumstances where the service was located in Ireland but targeting customers abroad, the Scheme proposed that a licence would not be required. However, the service provider would be required to “register” with the OGCI.

2.4. Applicants for all gambling licences would be required to supply detailed information on the type of activities sought to be licensed, their operational procedures, their key personnel, evidence of financial viability, their “fit and proper” status, their level of staff training, etc. An Garda Síochána and local authorities would have statutory rights to comment on and to oppose where necessary, any application for a licence for reasons within their particular competences.

Betting (including Tote betting)

2.5. The Scheme proposed the repeal of the Betting Act 1931 and the Totalisator Act 1929 and their replacement by new legislation for sports betting. Consequent on this repeal, the current primary roles of the Revenue Commissioners and An Garda Síochána in the licensing process would end, save for providing necessary information or certification on foot of a request from the OGCI. The role of Horse Racing Ireland (HRI) and Bord na gCon in issuing on-course betting permits would also cease. The Scheme also made provision for the licensing of certain types of gaming in betting shops, e.g. virtual “sports”, etc.

Gaming machines

2.6. The Scheme provided for the licensing of gaming machines, in either casinos or elsewhere, played for monetary reward. The OGCI would licence gaming machines and develop any necessary terms and conditions, including stake and prize amounts. The Scheme did not specify these amounts. Neither did it contain any particular number, or location specific restrictions, on licensed gaming machines. The only limit mentioned was on the number of machines in casinos, where a maximum of 25 gaming machines was proposed. The Scheme defined Fixed Odds Betting Terminals (FOBTs) solely for the purposes of giving effect to a complete ban on their use as gaming machines. Such machines were not then, or now in use in bookmaker's premises, unlike the UK and NI, with certain restrictions coming into place in the UK on 1 April 2019.

Lotteries

2.7. The Scheme provided for three categories of lottery licences, with conditions regarding promoters' fees and a mandatory percentage allocation to the charitable or philanthropic cause. There was a prize fund limit of up to €300,000 (under a two-year licence) or €500,000 (under a one-year licence) – this latter provision effectively envisaged a lottery operated on a significant scale. There was a further category with a maximum prize fund of €10,000 per month or €30,000 per three-month period. Small scale, limited lotteries (including raffles, draws, etc.) would not require a permit or licence by virtue of their scale, with prize funds limits of between €1,000 and €1,500 per lottery. There was also provision for lotteries, draws or raffles to be held in conjunction with sales and marketing promotions, e.g. “give-away” activities, etc.

Bingo

2.8. The Scheme proposed to regulate bingo as a separate category from lotteries and provided a new definition. It amended the approach in the 1956 Gaming and Lotteries Act, that bingo must be conducted for charitable or philanthropic purposes to permit terrestrial and on-line bingo (or both) for commercial purposes.

Casinos

2.9. The Scheme provided for the licensing of casinos based on a mix of considerations including, the available floor area, a maximum number of tables, and a related number of gaming machines. It proposed that the total number of casinos to be licensed in the State should not exceed 40, with the maximum number of gaming tables in each casino not to exceed 15 and the number of gaming machines not to exceed 25. These proposals appeared largely influenced by the existence of Private Members' Clubs (PMCs) that currently provide casino type activities, although without a “casino” licence being issued. The OGCI would be responsible for ensuring that there was an appropriate

spread of such licences on a regional and national basis, from the point of view of access and choice.

2.10. The sale of intoxicating liquor would be permitted in a licensed casino, but only if there was adequate separation of the gaming and bar areas and only within the hours specified in the Intoxicating Liquor Acts.

On-line gambling

2.11. The Scheme recognised that the licensing of on-line gambling would present particular challenges to the OGCI, given the often “off shore” nature of these activities. In addition to the requirements to be met by all licence applicants, the following measures were proposed for on-line licences:

- It would be a condition of a licence that the OGCI had a right of access to operators’ servers for the duration of the licence.
- Where it was not satisfied that such access could be reasonably guaranteed, the OGCI could require that the server and anything related to it be located in the State or in an EU or EEA State.
- The OGCI could carry out inspection and compliance on licence holders located outside the State.
- There was an obligation on licence holders to maintain adequate reserves to meet customer entitlements.

3. Working Group consideration

Licensing of gambling activities

3.1. The Group noted the general licensing approach to gambling activities set out in the 2013 General Scheme. However, it was very much of the view that a significant rationalisation of the numbers and categories of licences proposed in 2013 was required along with further amendment and updating. The Group considered that the future licensing approach should be one that broadly provides for the current *de facto* position where persons can avail of a wide range of land-based and on-line gambling activities. This approach would have the objectives of effective licensing and regulation for the benefit of both the industry and of consumers and vulnerable persons, deterring criminal activity, increasing taxation yield to the Exchequer, and, potentially, increasing employment and tourism opportunities.

3.2. The Group was conscious that any future licensing regime does not discriminate between physical forms of gambling and gambling on-line in a way that might give rise

to legal challenge. In any event the latter appears to be increasingly displacing land-based activities, and the Group felt that the ultimate licensing approach must reflect that fact. The new “horizontal” approach to gambling licensing being introduced in Malta in 2019 was considered as requiring further consideration in drafting a revised General Scheme.

Licensing Authority

3.3 The Group agreed that the proposed new gambling regulatory authority must be the responsible body for the receipt of applications for licences and the determination as to whether to approve licences, and what conditions might apply. The transfer of all licensing responsibilities would also ease the current administrative burden on the Revenue Commissioners and An Garda Síochána, as it relates to licensing. However, the Group felt that An Garda Síochána and local authorities should have statutory rights to comment on and to oppose where necessary, any application for a licence for reasons within their particular competences.

Applicants for gambling licences

3.4. The Group considered the information that applicants for all gambling licences would be required to supply to the regulatory authority. The Group felt that all applications should require a processing fee. The information to be supplied should include details as the ultimate beneficial owners of a company. The Group very much endorsed the 2013 Scheme’s proposal that each application for a gambling licence – land based or remote – must detail the beneficial ownership of the applicant company. No licence should be issued in the absence of such ownership being established. It noted the intensive approach to ascertaining beneficial ownership at licensing application stage adopted by the Malta Gaming Authority. Information should be provided as to:

- the nature and type of the gambling activities sought to be licensed,
- all operational procedures, including staff recruitment and training processes,
- details of key personnel, would also require to be licensed,
- evidence of financial viability,
- evidence as to the “fit and proper” status of the applicant.

3.5. The Group accepted that, given the often “off-shore” nature of on-line gambling, further licence conditions would be required of applicants for on-line gambling licences. These would include the following measures:

- ensuring that an on-line operator has an operational website both at the time of application for a licence, and throughout the licence period.
- the location of servers, particularly in cases where the applicant company is not registered in an EU or EEA State.

- ensuring that liabilities to players are honoured by on-line gambling operators.

Gaming machines

3.6. The Group agreed that a new approach to the licensed operation of gaming machines was needed. The Group discussed whether only a standardised model of gaming machine, to be specified by the regulatory authority, should be licensed in Ireland. This could mean that each licensed machine was capable of being interrogated by the regulatory authority to assess compliance with licence conditions. Such an approach would likely require significant re-equipping by current licensed gaming machine operators.

3.7. The Group felt that more advanced technology might assist consideration of licensing gaming machines being capable of play only by a designated “player card” and not by cash or token. Such a card might apply daily, weekly or monthly spending limits to the player, for example akin to the situation in Italy and Norway. However, the Group did not reach a definitive conclusion on this point and was conscious of the technical and data difficulties involved. Such a requirement might move gaming further on-line and away from physical machines. It might also increase the possibilities of channelling gambling to unlicensed operators.

3.8. Amusement machines, played primarily by persons under the age of 18 years for leisure rather than profit purposes are treated differently to gaming machines. They are currently regulated under section 43(2) of the Finance Act 1975 and section 120 (2) of the Finance Act 1992. The Group had no decided view as to whether these machines should fall to be regulated by the proposed gambling regulatory authority. Such machines can be currently located in the same premises as gaming machines, although with physical separation between both types of machines. Their attraction would appear to be diminishing in the era of mobile digital amusement possibilities, and the advent of multi-player video gaming platforms such as Playstation, Wii, etc.

Lotteries

3.9. The Group could agree that the proposals of the General Scheme in regard to lotteries remained valid (these did not concern the National Lottery). However, it noted the significant manifestation of small-scale lotteries, run mainly by sports clubs or community organisations. The Gaming and Lotteries Act 1956 governs these amounts and the current maximum limit of €30,000 was provided by the National Lottery Act 2013. The Minister plans, in the proposed Gaming and Lotteries (Amendment) Bill 2019 to provide for greater clarity in relation to the promotion of small-scale local lotteries.

With regard to lotteries offering very significant prize amounts, the Group expressed concern at the possibility that lotteries (including raffles) could, potentially be used as a vehicle for the financing of crime. This risk was increased by on-line organisation of lottery activity. It might be necessary to attach stricter identification conditions to the issue of lottery licences involving prizes operating to a €30,000 threshold.

Casinos

3.10. The Group considered that the likely numbers of applications for casino licences may, in reality, be quite limited. Many of the current Private Members Clubs (PMCs) may not consider it viable to pay likely significant licensing fees, meet compliance and planning requirements, etc. The numbers of licensed casinos in other similar sized EU Member States is not substantial. PMCs are required to have a Gaming Licence (for premises) and a Gaming Machine Licence for each machine if engaging in gaming under section 43 of the Finance Act 1975. The PMCs are subject to inspections by the Anti-Money Laundering Compliance Unit of the Department of Justice and Equality in respect of their compliance with Anti Money Laundering legislation.

The Group noted that there was interest among foreign (primarily UK) based casino operators in possibly locating to Ireland, when the 2013 Scheme was being prepared. However, the limits on casino size proposed in the Scheme ultimately meant that this interest was not pursued.

Bingo

3.11. The Group discussed the future licensing of bingo, now increasingly a commercial and on-line activity. Bingo appears to be in decline as a significant terrestrial gambling activity. Statistics released by the UK Gambling Commission in 2018¹² identified a steady decline across the UK bingo sector in the ten years from April 2008 to April 2018 where turnover witnessed a continuous decrease over the period from £1.43 billion to £1.05 billion. Bingo's gross gaming yield (GGY, profit after tax, expenses, etc.) fluctuated throughout the period, ultimately falling from £703 million in 2008 to £681 million in 2017. No statistics are available for the industry in Ireland, but it also appears to be in decline.

In-game transactions: Gambling or e commerce?

Loot boxes, skins, etc.

¹² <https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-industry-statistics.pdf>

3.12. The Group discussed the recent emergence of the phenomenon of “in-game” offers (micro-transactions) of virtual goods such as loot boxes, skins, packs, etc., intended to increase the chances of success in player-to-player on-line video games. The developers of video games make such offers for purchase as it enhances the “monetisation” model of the games, which can be very expensive to develop. Often, video games are given away free or at low cost in their basic forms. In most games, the more expensive the box, the better the loot. Almost all loot boxes can be purchased using real money. It is argued that because the specific “loot” available is rarely enumerated clearly, it may be a “gamble” whether a purchase gives a player what they want or expect. The pricing levels are also set by publishers to encourage higher spending, which can encourage gamers to buy too much loot in search of a prize.

3.13. The issue of concern is whether such in-game transactions might cross the line from e-commerce into gambling activity as legally defined and thus require to be licensed and regulated as such. There is debate amongst European gambling regulators as to whether these offers, due to their characteristics may constitute a gambling activity under their games of chance definition. If so, they would not be an e-commerce trade activity to be regulated by consumer law. Belgium was the first EU Member State to take action against “loot boxes” in April 2018. Its Gaming Commission ruled that the characteristics of loot box offers in three popular games were in violation of its gambling legislation. The developers of the games, which had threatened legal action which might have clarified matters, have now ceased offering loot boxes, etc. for sale to Belgian based gamers. Other regulators remain more cautious as to what actions may be desirable or permissible under their national law. In early 2016, the UK Gambling Commission (UKGC) identified loot boxes as a potential risk to children and young people as part of a wider review on concerns around video games and gambling themes, resulting in publication of a position paper^[1].

3.14. However, certain third party websites have developed a service whereby players can trade, sell or “gamble” with skins (these are in-game advantages designed to increase chances of winning). This is mostly done outside the game developers’ control or consent. It would appear that skins can be used as a means to place bets on sporting events e.g. football matches. Real or virtual money can also be used on these sites to win a skin. In this situation, a stake is placed in a “game of chance”. The outcome is either winning of the skin in question or loss of the stake. In February 2017, the UKGC

^[1] <https://www.gamblingcommission.gov.uk/PDF/Virtual-currencies-eSports-and-social-casino-gaming.pdf>

successfully brought the first criminal prosecution in this area in relation to Futgalaxy - a website for providing skins gambling^[2].

3.15. The Group note that current Irish gambling legislation does not provide a pathway for licensing gambling activities arising out of the on-line video gaming environment. It acknowledged that this would be a difficult area to legislate for, given the need for accurate descriptions of activities and those games and their attributes can evolve quickly. As the first response, it further felt that the video gaming industry should play a greater role in ensuring that their intellectual property was not used outside the games for “gambling purposes” facilitated by third party websites. The video gaming industry should treat this issue similar to how they had combatted counterfeiting previously. The Group felt that the gambling regulatory authority should have responsibility to keep this matter under review.

3.16. The Group supported Ireland joining with a large number of other European regulatory authorities, in September 2018, in supporting a voluntary Declaration with regard to the “gambling” of in-game offers. While the Declaration does not have legal effect, it is designed to alert both game developers and parents as to the problems that might arise. The position adopted by those States and reflected in the Declaration, is that, where an activity is clearly a gambling activity under their respective national laws, then it may require to be licensed and regulated.

Application process for gambling licences

3.17. The Group advocated that that a new reformed licence process must be clearly set out in the Gambling Control Bill. All applicants should be aware of the information required and the costs involved in support of the application for a gambling licence. Applicants should also be made aware of the likely period involved in assessing their applications. The regulatory authority should endeavour to process applications in as speedy a fashion as possible.

Licence fees for gambling activities

3.18. The Group’s discussions on the future approach to be taken to licence and other fees are detailed in Chapter 9 of this Report. The Group accepted that there is capacity for significantly increasing the licence fees currently charged to gambling companies, particularly when consideration is given to licence fees charged in other EU Member States. Information in this regard is set out in Appendix IV to this Report.

^[2] <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/Two-men-convicted-after-offering-illegal-gambling-parasitic-upon-popular-FIFA-computer-game.aspx>

Licence fees charged for gambling activities in other EU States

3.19.

- In Italy, applicants for on-line gambling licences are required to pay a fee of €200,000. A fee of €32,000 is applied for a gaming shops licence, with a licence fee of €18,000 for a betting corner.
- Malta charges a fixed annual licence fee of €25,000 for all licence categories.
- Licence fees vary in France, depending on the number of applications: (€5,000 for a single application, €8,000 for two applications and €10,000 for three applications). In addition to this initial application fee, operators must also pay an annual fee of €20,000 for a single licence, €30,000 for two licences and €40,000 for three licences.
- In Sweden, operators must pay SEK400,000 (€38,900) for a licence. For companies seeking to offer both online casino and sports betting, this fee is increased to SEK700,000 (€66,400).
- Denmark applies a single licence fee (a distinction is made between a betting licence and an online casino licence) of DKK273,500 (€36,700). A double licence fee is charged in respect of an application for both a simultaneous betting and online casino of DKK382,900 (€51,300).

Enforcement of gambling licence conditions

3.20. The Group believed that future licensing of gambling activities must be accompanied by appropriate terms and conditions. Effective monitoring and enforcement of these conditions will be critical to the success of this reform. Enforcement will require a well-resourced regulatory authority with sufficient powers to investigate, detect and prosecute gambling activities carried out in breach of licence conditions. As set out in Chapter 3 of this Report, the Group was of the view that the proposed regulatory authority should have enforcement powers (imposition of fines and other administrative penalties, licence suspension etc.) akin to those employed by the UK Gambling Commission UKGC. It was acknowledged that the Office of the Attorney General would have to give this matter further consideration in due course.

3.21. The Group noted that the UK Gambling Act 2005 provides for a number of criminal offences that can be the subject of proceedings in the courts. However, the bulk of enforcement activity in the UK occurs under the licensing requirements and the codes of practice formulated and administered by the UK Gambling Commission (UKGC). The

UKGC can attach additional licensing requirements to operators found to have committed licence or code breaches, impose financial penalties on operators. It can also require operators to return monies taken from customers in transactions that breached licence conditions.

3.22. The penalties and related settlements in these cases in the UK have involved sums in the millions of pounds¹³. The Group noted the significant penalties and fines imposed by the UKGC in December 2018¹⁴ on a number of on-line casino companies and their senior management as part of an investigation combatting problem gambling and money laundering. Nearly £14 million in penalty packages was imposed on three companies as result of their failings to put in place effective safeguards to prevent money laundering and keep consumers safe from gambling-related harm.

3.23. The Group was of the view that existing gaming and betting licences issued by the Revenue Commissioners under the relevant Acts should continue to be valid on the introduction of the new licensing system for a suitable transition period. This would allow the proposed new gambling authority time to assume responsibility for issuing of gambling licences under a new application process. The Group noted that other States had adopted this transition approach.

4. Gaming and Lotteries (Amendment) Bill

4.1. The Group noted the intention of the Minister of State to publish the proposed Gaming and Lotteries (Amendment) Bill, in early 2019. The Bill will be concerned with the issuing of permits and licences for local and low level gaming and lottery activities. While this Bill is intended as an interim reform measure, it would be a positive move and relevant provisions should be reflected ultimately in the revised Gambling Control legislation. The amendments proposed in the Gaming and Lotteries (Amendment) Bill concern:

- A revised application process for a permit for gaming for both charitable and philanthropic purposes and for the benefit of the promotor.
- A discontinuation of the previous location specific approach to gaming at circuses, carnivals, dance halls and in licensed premises.
- Significant information, notification and recording requirements on the promotor before a permit or licence can be issued.

¹³ <https://www.gamblingcommission.gov.uk/PDF/Regulatory-sanctions-register-operators.pdf>

¹⁴ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2018/Gambling-Commission-takes-widespread-regulatory-action-against-online-casinos.aspx>

- A Garda Superintendent of the district would issue gaming and lottery permits up to a prize value of €3,000 and €5,000 respectively.
- Periodic lottery licences would be issued by the District Court with a €30,000 limit for charitable or philanthropic causes and a limit of €360,000 where a lottery is organised on a one-off basis.
- Where gaming machines are permitted and licensed in local authority areas, such machines are to have a maximum stake of €10 and a maximum prize of €750.

5. Opportunities from a modern approach to licensing of gambling activities

5.1. The Group considered several potential benefits that would arise from the introduction of a modern licensing regime for gambling activities supported by an effective enforcement authority.

Increased revenue for the State

5.2. As of 1 March, 2019 there were 64 Remote Bookmaking Licences issued by the Revenue Commissioners, comprising 57 Remote Bookmaking Licences and 7 Remote Betting Intermediary Licences, consequent on the provisions in the Betting (Amendment) Act 2015. This legislation led to an increase in revenue to the Exchequer: with €23.2m taken in betting duty (taxation) from on-line operators in 2017.

5.3. The Group considered that enactment of the Gambling Control Bill, appropriately updated, should lead to increased revenue (licence fee and taxation) through the regulation of activities that are currently unlicensed, such as casinos, gaming machines in certain local authority areas and on-line gambling. The introduction of new legislation would also give an opportunity to conduct a broad examination of the licence fees and duties currently charged. There is scope for increasing these to bring them in line with comparable jurisdictions. The UK Gambling Commission's total income from fees and other sources was £19.65 million for the year 2016 – 2017. (Details of licence fees charged by the UK Gambling Commission are set out in Appendix IV).

Better detection of criminal activity relating to gambling (money laundering, betting related sport or match fixing etc.).

5.4. The current antiquated situation for the licensing and regulation of gambling may not be conducive to ensuring against the use or infiltration of the gambling industry by criminal elements, and may give rise to a risk of fraud, match-fixing, misappropriation,

and money laundering. Betting-related manipulation of sporting events has been the subject of consistent media reporting in a number of States in recent times. This is an issue of growing concern. Efforts at “fixing” can occur across a range of sports, including horse and greyhound racing, football, snooker, tennis, etc. Transposition of the EU 4th Anti Money Laundering Directive in November 2018 brought significant subsectors of the gambling sector under the obligation to conduct anti money laundering measures in respect of their customers. This includes all bookmakers and the Tote, which is to say almost all commercially profitable gambling services within the State. An appropriate licensing and regulatory structure for gambling will support the aims of this Directive.

Reducing the risks to consumers and vulnerable persons.

5.5. The Group emphasised that the development and implementation of a modern and effectively licensed gambling environment can ensure that gambling can be an enjoyable activity for the majority of players. It would provide enhanced consumer protection for persons engaged in licensed gambling activities, while limiting the harmful effects on the minority with problems and protecting young persons. The 2013 Scheme proposed the application of safeguards including through licence conditions and codes of practice. The Group supported this approach with any necessary updating, but noted that such measures will require continuous monitoring and development.

5.6. The Group acknowledged the raised public consciousness of the issue of problem gambling in Irish society, which can involve significant negative impacts for the person as well as their family. In addition, the social costs of problem gambling can extend to their employers and to public institutions in the health, welfare and justice systems and such costs may ultimately be borne by taxpayers.

6. Recommendations

6.1 The Working Group made a number of recommendations as follows:

General recommendations:

- The gambling regulatory authority will issue all licences and permits for gambling activities following the transitional period referred to above.
- The number of proposed gambling licence categories, set out in the 2013 Scheme, should be significantly reduced to the following broad categories: betting, gaming and lotteries, gaming machines, bingo, casino, and on-line gambling.

- Consideration should be given by the regulatory authority to further refining the licensing approach, including along “horizontal” lines.
- The Revenue Commissioners, Local Authorities, An Garda Síochána, the District Court and Horse Racing Ireland would have no further direct responsibility in the licensing of all types of gambling permits and licences.
- To provide an interim reform solution, the Gaming and Lotteries (Amendment) Bill should be progressed as expeditiously as possible.
- Existing betting, gaming and lottery permits and licences issued under the Totalisator Act 1929, Betting Act 1931 and the Gaming and Lotteries Act 1956 should continue to be valid for a suitable transition period.

6.2. Specific recommendations:

The regulatory authority shall in relation to applications for gambling permits and licences:

- Subject to enactment of relevant legislation (e.g. on data protection and taxpayer confidentiality issues), be assisted by the Revenue Commissioners, An Garda Síochána and other authorities in investigation and verification of applicants.
- require all information necessary under legislation, including the required licence fee, production of a tax clearance certificate, all relevant health and safety and planning documentation.
- determine the beneficial ownership and control of any applicant company.
- carry out stringent “fit and proper” checks on all licence applicant companies and key personnel.
- determine that applicants have appropriate reserves to meet player liabilities.
- ensure that measures regarding access to records by the regulatory authority are in place.
- ensure that applicants:
 - have an operational website both at the time of application for a licence, and throughout the licence period;
 - locate their servers in the State or in an EU or EEA State;

- hold an indemnity bond to ensure that liabilities to players are honoured.
- ensure that age verification systems are in place before allowing players access to the service.
- ensure that applicant companies:
 - do not offer play-for-free games on their gambling website or platform so as not to encourage young people to gamble.
 - have customer verification systems in place to ensure that problem gamblers or, persons with criminal intent, are restricted in accessing on-line gambling services.
 - have systems in place for detecting harmful behaviour at the earliest possible stage.
 - attach such terms and conditions to gambling licences issued as are considered necessary, including requiring licensed operators to implement appropriate measures to identify customers and to combat money laundering, including establishing the source of funds used for bets over a certain threshold.
 - be responsible for all inspection and enforcement measures necessary to ensure compliance with licence conditions.

The regulatory authority would:

- be responsible for setting stake and prize limits for gaming machines (subject to Ministerial approval).
- approve, in consultation with the Minister, the stake and prize amounts limits offered for bingo.
- determine the level and extent of all fees and duties to be charged in respect of licences and permits.
- collect all licensing and permit fees and duties fees.

The regulatory authority would be authorised to:

- determine applications for licences for the sale of alcohol in licensed casinos.
- have regard to potential “grandfather” rights of existing private members clubs when considering applications for a casino licence.
- monitor the nature and offer by a game developer or a third party, of in-game purchases in on-line video games.
- determine if an activity falls within the legal definition of a gambling activity, and be required to be in possession of an appropriate licence.

Chapter 3

Future regulation of gambling activities

1. Introduction

1.1. No central regulatory authority for gambling activities currently exists in Ireland to engage with an increasingly large and evolving gambling industry. Responsibility for licensing and regulation is dispersed across several Departments and Agencies and, is currently located in the Totalisator Act 1929, the Betting Acts 1931 to 2015, the Gaming and Lotteries Act 1956, the Finance Acts 1975 (gaming machines) and the National Lottery Act 2013.

2. Regulatory approach in 2013 General Scheme of Gambling Control Bill

2.1. The 2013 Scheme recognised the regulatory lacuna and (in Part 2) set out a new regulatory approach, which was approved by Government. It proposed the creation of the Office for Gambling Control Ireland (OGCI). This would be an Executive Office within the Department of Justice and Equality, but not a statutorily independent agency. This regulatory body would be funded from fees collected from licence holders, and would function as the inspectorate for the gambling sector, with full inspection, enforcement and prosecution powers. The Minister for Justice and Equality would retain primary responsibility over the functioning of the OGCI as well as having control of policy development.

2.2. According to the Scheme, the Minister would carry out, *inter alia*, the following functions:

- be the sole authority for the licensing of all gambling activities, with exclusive authority to grant, renew, revoke and revise any licence,
- issue Codes of Practice or Conduct,
- make Orders concerning compliance and standards pertaining to licensed games and machines,
- issue policy directions, including in the area of problem gambling,
- designate officers and certain functions (including entering into contracts of employment),
- require the OGCI to provide a planned programme of work for the year (or shorter period),

- designate a Chief Officer for the OGCI (who would become the Accounting Officer upon consultation with the Secretary General of the Department),
- lay the Annual Report of the OGCI before both Houses of the Oireachtas.

3. A new approach to regulation

3.1. The Minister of State and the newly established (in 2017) Gambling Policy Division in the Department of Justice and Equality commenced a review of plans for a gambling regulatory body in the context of updating and progressing the proposals under the 2013 Scheme. This review examined the gambling regulatory structures in a number of States, with particular emphasis on the UK and Malta, where significant commonalities exist with the situation in Ireland. The review indicated that there was no realistic prospect of development of modern licensing and regulation of gambling activities through incremental development of the current structures or legislation. A significant change of regulatory approach would be required. Licensing and regulatory functions conducted independent of the Minister would offer assurance that decision-making would be free from any potentially undue influence.

3.2. Modernisation of Ireland's approach to gambling regulation would require an effective authority of sufficient scale and resourcing. Establishment of an independent regulatory authority would also mirror the approach taken in most EU Member States and beyond. Increasingly, there is a move towards independent regulation of licensing and enforcement activities. This approach reflects the increasing size, impact and complexity of the gambling industry and the efforts required to licence and regulate activities now moving rapidly on-line.

4. Government Decision on gambling regulation – January 2018

4.1. The Minister and Minister of State at the Department of Justice and Equality, on 10 January, 2018 requested the Government to approve the concept of establishing a gambling regulatory authority as an independent statutory body under the auspices of their Department. The Minister's proposal drew on previous Departmental experience in the development of independent regulatory bodies. The Government agreed that such an independent regulatory authority would be best placed to conduct the complex range of licensing, regulating, monitoring, compliance and enforcement tasks of the growing gambling industry in all of its facets and approved the concept of establishing a gambling regulatory authority under the auspices of the Department of Justice and Equality.

5. Regulation of gambling activities in other States

5.1. Department of Justice and Equality officials, through their membership and participation in the European Commission’s Expert Group on Gambling Services (EGGS) and the Gaming Regulators European Forum (GREF), benefitted from exchanges of information on regulatory approaches in other Member States. They maintain an ongoing co-operative engagement on the various aspects of the gambling industry. It was noted that regulatory authorities, in practically all Member States, operate newer legislation compared to Ireland, with ongoing updating of legislation in evidence. There was an increasing focus on regulation of on-line activities with the discernible trend of movement away from land-based activities (betting at sports meetings, bingo, physical gaming machines and casinos).

5.2. Officials visited three regulators in EU States. These were the French Authority for the Regulation of On-line Gaming (ARJEL), the UK Gambling Commission (UKGC) and the Malta Gaming Authority (MGA). The range and extent of gambling licensing and regulation – excluding taxation matters (other than in Malta) as best that can be determined - vary in different EU Member States according to the nature of the gambling activity. There is significant staff employed in the various regulatory authorities in Europe. Latest figures (2018) available for employment in the following States are:

Belgium	60
Netherlands	70
Denmark	75
Hungary	126
Austria	30
Sweden	50
Malta	177
France (ARJEL - on-line regulator)	60
UK	320

France – On-line gaming regulatory authority (ARJEL)

5. 3. Department of Justice and Equality officials visited ARJEL on 24 April, 2018. ARJEL regulates and licences three types of on-line gambling activities allowed by the French gambling law, which are on-line sports betting (live betting, pool betting and fixed odds betting), on-line horse race betting (pool betting) and certain on-line poker games. It was established as an independent administrative authority under the Gambling Act 2010, following European Commission pressure on France to liberalise its market.

ARJEL's missions are:

- to issue approvals and ensure compliance by operators,
- protect consumers and vulnerable persons and fight against addiction,
- ensure the integrity of the offers of gaming operations, prevent use of illegal gaming sites, and
- fight against fraud and money laundering.

5.4. The governance structure at ARJEL comprises a full time President, Chairman, Director General and a range of functional activities. These include a significant in-house IT provision. ARJEL has an annual budget of €9 million and currently has 60 employees. This staffing number will grow when the French National Lottery is privatised and responsibility transfers from the current *Francaise des Jeux* organisation to ARJEL. ARJEL cooperates with three other French regulatory authorities in regulating the on-line gambling industry (the French Competition Authority, the Independent Authority to Protect Audiovisual Communication Freedom and the French Data Protection Authority).

5.5. With regard to other regulation, the French Ministry of Home Affairs at national level centrally supervises land-based gambling activities in France and issues all land-based gaming licences. Depending on the nature of the game, various governmental or state representatives can intervene at different levels during either the licence application process or the enforcement process. Interventions are mainly carried out by the *Préfet* (Central Government representative in each region), but can also be performed by national commissions or federations that have regulatory powers. Casinos and gaming clubs benefit from specific exceptions. Casinos are viewed in a tourism development context, particularly by French local authorities.

United Kingdom Gambling Commission

5.6. Department of Justice and Equality officials visited the UK Gambling Commission (UKGC) on 15 May, 2018 and maintain regular contacts with relevant officials. The Working Group gave particular attention to the operations of the UKGC. No other market exhibited all of the characteristics of the Irish gambling market, albeit on a much greater scale. This was particularly so concerning sports betting, horse racing, football, etc. The Group considered that the UK Gambling Commission should serve as a critical reference point for the development of any future Irish regulatory authority given the significant commonality and integration of both markets and the similar wide range of gambling activities.

5.7. The UKGC is a statutorily independent body which advises the Secretary of State (for Digital, Culture, Media and Sport) on all matters related to gambling in England,

Wales and Scotland, but not Northern Ireland where regulation is the responsibility of the Department of Communities. The Secretary of State appoints the Chairman and Board of Commissioners, which oversee the business of the Commission, for a period of between three and five years, renewable for a further term. Commissioners are responsible for the strategic direction of the organisation and oversee delivery of the Commission’s Business Plan. Commissioners also retain direct responsibility for some regulatory decisions, such as complex licence applications. The Leadership Team, led by the Chief Executive and Accounting Officer, manages the day-to-day activities of the UKGC.

5.8. The UKGC is widely regarded as amongst the foremost gambling regulatory authorities worldwide. The following points may be noted in relation to the UKGC:

- It employs 320 staff (to regulate a gambling market that is significantly larger than the estimated size of the Irish market). The Birmingham HQ of UKGC has 280 staff with another 40 staff – mostly concerned with inspection, compliance and enforcement - in regional offices.
- Total employee costs for the year 2016/2017 were £14.31m (2015 - 16 £12.83m).
- Total income from fees and other sources for the year 2016 - 2017¹⁵ was £19.65 million (does not include the grant-in-aid funding in respect of its particular National Lottery functions). This income can be broken down as follows:

Fee type	2015-16	2016-17
○ Operator annual licence fees:	£17.54m	£17.64m
○ Personal licence fees:	£0.72m	£0.75m
○ Operator application fees:	£0.83m	£0.94m

- It received £0.32m in miscellaneous income¹⁶. This was mainly attributable to contributions to compliance and enforcement costs received from operators.
- Current application and licence fees on the range of regulated activities and persons range from £200 to £443,526 dependant on operator size and licence type.

Malta Gaming Authority

5.9. Department of Justice and Equality officials visited the Malta Gaming Authority (MGA) on 16 – 17 January, 2018, (part-funded by the TAIEX service of the European Commission). The MGA is the regulatory body responsible for the governance and supervision of all gaming activities in and from Malta. The gaming regime is based on fair, responsible, safe and secure provision of gaming services and seeks to ensure that the three main pillars of gaming, namely (i) the fairness of games, (ii) the protection of minors and vulnerable persons and (iii) the prevention of crime, fraud and money

¹⁵ 2015 - 16: £19.21m

¹⁶ 2015/16: £0.12m

laundering, are safeguarded as much as possible. The MGA's critical functions are the issuing of gaming licences to applicants through an extensive verification process and the subsequent regulation of the activities of licence holders.

5.10. The MGA is currently structured as follows:

- A Non-Executive Board of Directors, primarily responsible for overseeing the strategic development of the Authority and ensuring that the set policy and strategic objectives are achieved. The Board is also responsible for policy development and overall risk management. The Board is headed by an independent Chairman who can be also the CEO of the MGA.
- A CEO, who is responsible for the overall execution and performance of the MGA functions.
- An Executive Management Committee, who are delegated tasks by the CEO and are responsible for major functions of the MGA.
- An Audit Committee, assisting the Board of Directors in ensuring good corporate governance, risk management, oversight of audit/accounting issues and internal controls, while overseeing the accounting and reporting processes and audits.
- A Supervisory Council, which supervises and reviews the regulatory objectives of the MGA, and is responsible for ensuring the integrity, consistency and development of the regulatory functions of the MGA, while providing oversight and guidance in relation to ongoing regulatory issues, strategic regulation and act as an advisory committee to the Authority's Board and management.
- A Fit and Proper Committee, which assesses and determines whether applicants for an MGA Licence are fit and proper persons, especially from a criminal probity aspect, to be granted a gaming licence and be authorised to conduct gaming business activities.

5.11. During 2017, the MGA received 220 licence applications and issued 165 remote gaming licences to 112 operators. Following a number of investigations, during 2017, the MGA issued 45 administrative fines, suspended five licences and cancelled another three. During 2017, the MGA conducted 14,826 inspections, the majority of these taking place in casinos. As at January 2019, the MGA had 177 employees. Its fee income for 2017 was €7.1m, which amounted to 72% of its total operating costs of €9.8m in 2017.

6. Working Group consideration

A new gambling regulatory authority for Ireland

6.1. Having regard to the Government Decision of 10 January, 2018, the Group devoted a considerable amount of its consideration to the issue of the establishment of a gambling regulatory authority, including, the nature of its functions, the governance arrangements and the resources required to ensure its effective operation. The Group noted information provided by DJE officials on the operation of similar regulatory models and authorities in other EU Member States, such as France, the UK and Malta.

6.2. The Group was firmly of the view, that the creation of a new, adequately resourced, regulatory authority would be the critical element in the development and implementation of new relevant approaches for the licensing, compliance and enforcement of all gambling activities. Without the establishment of a new gambling regulatory authority, the Group considered that a modern effective licensing and regulation could not be achieved as desired.

6.3. The Group felt that the gambling regulatory authority should have, *inter-alia*, the following functions:

- be responsible for licensing and regulation of all legitimate gambling activities, including for operation of Tote activities.
- be funded primarily from fees and levies on gambling activities.
- have mechanisms to allow for coordination and cooperation with critical stakeholders.
- be the lead Irish agency in EU and cross-border cooperation in combatting betting related match fixing and money laundering.
- have sufficient enforcement powers, including the ability to impose fines on operators of a scale seen in the UK, suspend or revoke licences etc.
- oversee the funding of a Social Fund and disburse monies to approved addiction treatment centres and organisations or awareness raising, research and education initiatives.

Policy responsibility for gambling

6.4. The Group acknowledged that the Minister for Justice and Equality should, following the enactment of the Gambling Control Bill, and the establishment of the new regulatory authority, continue to hold the primary broad policy responsibility for gambling activities. His Department and the proposed regulatory authority should

cooperate closely with other relevant national actors: e.g. Departments of Finance, Public Expenditure and Reform, Agriculture, Food and the Marine, Transport, Tourism and Sport, the Revenue Commissioners, An Garda Síochána (Financial Intelligence Unit) etc. It should also maintain close links with EU regulatory authorities.

Business Plan for the proposed regulatory authority

6.5. The Group was conscious that a detailed business plan for the regulatory authority and its organisation, staffing, methods of operation, etc., must be developed. In order to assist with the development of a business plan, the Department of Justice and Equality, in 2018, submitted a request to the Structural Reform Support Service (SRSS) of the European Commission for support for a study on the modalities of the creation of a new regulatory authority.

6.6. The SRSS informed the Department of Justice and Equality in early November 2018 that it had agreed to provide technical support to Ireland to help develop the regulatory framework on gambling. Following a tendering process, the legal firm of McCann Fitzgerald was contracted by the SRSS to conduct a research project entitled "*Establishment of modern regulatory environment and authority for gambling activities in Ireland*". The specific objective of the contract is to help to inform and shape the preparation of the new framework for regulation of gambling activities in Ireland. The Department of Justice and Equality is contractually required to cooperate with the consultants and provide necessary information. The study commenced in early December 2018 and, is expected to conclude by mid-Summer 2019.

Governance framework

6.7. With regard to the governance of a new regulatory authority, the Group discussed, given the nature of the matters to be regulated by the authority, whether or not a board, a Commissioner type approach or an advisory committee was required to oversee the operation of the authority. The UK and Malta both operate a Commissioner type approach, with day to day activities the responsibility of a Chief Executive Officer. If such a governance provision is decided, consideration would be required as to representation from relevant Departments and Agencies, should there should be industry representation, etc. The Department of Public Expenditure and Reform Code of Practice for the Governance of State Bodies sets out a number of principles underpinning the operation of Boards of such bodies. The Code requires a distinction between the roles of the Chairperson of a Board and the Chief Executive Officer of a State agency overseeing its day-to-day operations: "*There should be a clear division between leading and managing the Board and executive responsibility for running the State body. No one*

individual should have unfettered powers of decision.”¹⁷ An alternative approach to governance might be for the Chief Executive Officer/Director, assisted by an Executive Committee of the Heads of the functional Divisions within the new regulatory structure, to be responsible for the authority.

6.8. The Group arrived at no definitive conclusion on the governance issue and felt that this required further consideration.

Potential cost and staffing of a gambling regulatory authority

6.9. The costs involved in the establishment of a new gambling regulatory authority would relate to accommodation, staff, enforcement mechanisms, IT systems, professional expertise and equipment, etc. The regulatory authority would be required to recruit, develop and maintain a cohort of staff representing all necessary skills for effective regulation, such as administrative, inspection, legal, accounting, IT, calibration and measurement systems for gambling equipment, law enforcement etc. The Group appreciated that certain of the proposed Divisions of the authority would require specialised skills, in particular ICT, finance experts and legally qualified staff. Should the authority ultimately take on a lead role in the area of “match fixing” and gambling related anti-money laundering, persons with a law enforcement background may need to be recruited. In this regard, the UKGC has recruited a former senior officer from the London Metropolitan Police to lead its team.

6.10. The Group felt that it was not realistic for it to estimate such costs at present. However, for comparison purposes, it noted the staffing complement and annual budget (2018) of certain agencies under the aegis of the Department of Justice and Equality are as follows:

Agency	Staff Nos.	Budget
Insolvency Service of Ireland	84 staff	€7.2m,
Private Security Authority	40 staff	€2.7m
Property Services Regulatory Authority	18 staff	€1.9m

6.11. Given the estimated size of the Irish gambling market (of €6-8 billion¹⁸), and having regard to the likely level of licensing and regulatory activity required of the new authority, the Group, while not being in a position to estimate the numbers of staff involved, agreed that a significant level of staffing will be required from commencement

¹⁷ DPER Code of Practice, p.16

¹⁸ Figure is based on turnover from betting activities and the National Lottery. The balance is an estimate of the turnover from gaming machines, local lotteries, PMCs and currently unlicensed on-line gaming activity.

of operations, which might be focussed on licensing processes initially, e.g. the development of codes of practice, intensive background and beneficial ownership checks of licence applicants and the granting of licences. The post-licensing requirements of compliance and enforcement as they arose, would then involve further additional staff numbers for the authority.

6.12. The Group recommended that that the Minister for Justice and Equality should engage with the Minister for Public Expenditure and Reform as to how best to arrange for the significant staffing complement that will be required for the regulatory authority and the various other costs involved. The Group noted that the UK regulatory model operated in a gambling marketplace with significant commonality to Ireland and had large staff complement. However, the Group, of course, acknowledged that the UK market was significantly larger. It has an estimated Gross Gambling Yield (amount after taxes, costs, winnings paid, etc.) of £14.4 billion¹⁹, which suggests a total market size of over £100 billion. Economies of scale with regard to staff numbers and costs apply for the regulator in a market of this scale that would not apply for Ireland.

6.13. However, the Group considered that the Minister for Justice and Equality should engage with the Minister for Public Expenditure and Reform to determine staffing and cost issues. Particular regard should be had to the UK regulatory model given the significant commonalities of the gambling marketplace.

6.14. The Group acknowledged that the bulk of the staff of an Irish regulatory authority would likely be new persons. It was informed that there appeared to be limited possibilities of existing staff being seconded from the Department of Justice and Equality, or re-allocated from other Departments or Agencies with a current role in the licensing and regulation of gambling. There are currently relatively few such staff in any event, and *in some cases*, these staff are also responsible for other licensing functions outside of the gambling sector. The Group agreed, however, that the authority should have flexibility in the hiring of any necessary specialist staff, on a contract basis, where required.

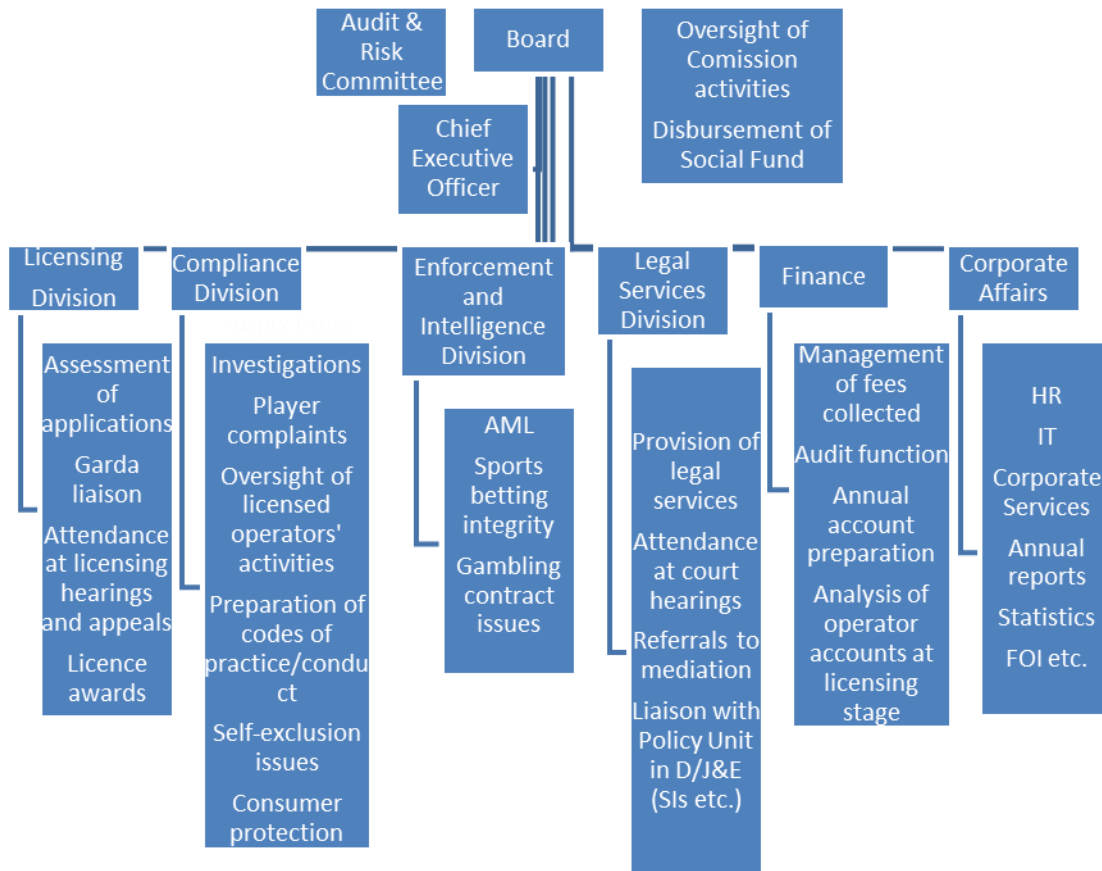
6.15. The Group agreed that the new regulatory authority should ultimately, to a significant extent, be self-financing, with income from licence fees, fines imposed on operators and other duties. This approach would be akin to that in the UK. Such income would reduce the need for Exchequer funding. However, such self-financing potential

¹⁹ The UK figure is based on Gross Gaming Yield. See latest statistics: <https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Gambling-key-facts.aspx>

may take some time to realise and Exchequer funding would be substantially relied on in the initial phase of operations. The Group’s discussions in relation to potential licence fee income and future taxation are set out in Chapter 9 to this Report.

Structure of a new gambling regulatory authority

6.16. The Group agreed that the following, suggested example of an organisational structure for a gambling regulatory authority, proposed by the Minister for State, provided a good point of reference for further consideration.



7 Future regulation of National Lottery

7.1. The Group was informed that the Government, when approving the National Lottery Bill in December, 2012, agreed that the scope for the alignment of the respective regulatory functions of the bodies charged with those functions in respect to gambling would be reviewed during the preparation of the Gambling Control Bill. The National Lottery Act 2013 established an independent regulator for the National Lottery, fully funded by the operator of the National Lottery.

7.2. The Group were of the view that the functions and operations of the National Lottery Regulator should, subject to relevant legislative and policy issues, ideally be included in the proposed gambling regulatory authority. It was agreed that all relevant stakeholders should actively consider this course of action in tandem with progress on the drafting of the revised Gambling Control Bill. This work will involve DPER, the lottery regulator (who will be consulting with lottery operator) and the Department of Justice & Equality. A final decision on this can only be made once this work is complete.

7.3. The Group noted the position in the UK where the national lottery regulator was initially established as a stand-alone statutory office. The functions of this body have now been merged into the operations of the UK Gambling Commission. However, the Group also noted the experiences in the UK and France where the process of integrating the various regulatory processes took some time.

8. Benefits of modern regulation

Potential employment and investment

8.1. The better regulation of the gambling industry may lead to increased employment and other benefits. The industry is already a very intensive user of IT services, with related employment. Further, should new casinos (including possibly resort casinos), be developed, these could offer increased employment and investment potential.

8.2. However, estimating increased benefits to the State from the gambling industry is difficult at this point. Until a modern licensing and regulatory structure is in place, there may be a resistance from operators to expanding or locating here, as well as resistance by State actors to facilitate it. Ireland is one of the last EU Member States to develop laws to

provide for modern regulation for the gambling sector, and particularly concerning on-line gambling. The ultimate implementation of Brexit may lead to a number of UK and Gibraltar based gambling concerns looking for an alternative base of operations within the EU. The majority of UK and Gibraltar operators hold on-line Irish betting licences.

8.3. Enterprise Ireland (EI) is precluded from supporting companies that operate in the gambling sector, including all companies who earn their revenues from on-line betting, betting exchanges, competitive social gaming and tipping markets. EI can provide limited support to companies engaged in activities regulated by the Financial Services Regulatory Authority and can provide support for companies who provide services to gambling companies, provided the earnings are not directly linked to amounts gambled. IDA Ireland has noted that, while there may be potential for a Brexit dividend in relation to gambling, it is not something that they are pursuing. As with EI, they will provide support for companies who provide platforms and support for gambling entities, but not directly to gambling companies.

Tourism

8.4. Whilst Fáilte Ireland support the development of tourism attractions with the aim of increasing overseas tourism to Ireland, gambling and similar activities are not part of its strategic plans. The potential for the development of resort type casinos in the future cannot be determined at this time.

9. Recommendations

9.1. The Working Group recommended that:

- **The Government proceed:**
 - with the establishment of an independent statutory gambling regulatory authority, in line with its Decision of 10 January, 2018, as the optimum approach.
 - avoid a piecemeal or incremental approach to the development of a modern regulatory function.
 - the Department of Justice and Equality should engage with the Department of Public Expenditure and Reform to determine the potential resources required for the establishment of the regulatory authority.

- The regulatory authority should have the objective of being self-financing to the greatest extent possible.
 - the results of the consultancy study funded by the European Commission should be considered in the business planning for the regulatory authority.
 - further consideration should be given to the eventual absorption of the functions of the National Lottery Regulator into the regulatory authority.
- **The gambling regulatory authority would be responsible for:**
 - licensing and regulating all gambling activities in Ireland.
 - the setting of appropriate licence fees and duties for gambling activities.
 - supervising licensees and overseeing gambling operations, through compliance and monitoring activities, on-site inspections, etc.
 - ensuring the optimum protection of consumers of gambling activities.
 - ensuring protection of minors and vulnerable persons through enforcement of licence conditions, and
 - the prevention of gambling related match fixing and money laundering.

In order to carry out these functions effectively, the regulatory authority:

- must be of sufficient scale and impact to effectively regulate the Irish gambling market.
- must have appropriate powers of enforcement, including the power to levy fines on operators, suspend or revoke licences etc.
- should benefit from the expertise of the Revenue Commissioners to provide administrative support and expertise for an interim period in relation to the licensing functions currently operated by Revenue.

- must be sufficiently resourced in the short to medium term by the Exchequer, to carry out its range of licensing, compliance and enforcement tasks.
- While acknowledging that limited possibilities exist for the reassignment of staff currently engaged in any of the licensing and regulation areas of gambling to the new authority, this matter might be subject to further consideration.

Chapter 4

Advertising, sponsorship and promotion of gambling activities

1. Current situation

1.1. There is no current legislation dealing specifically with matters of sponsorship, advertising and promotion by the gambling industry outside of the standard such requirements of the Codes of the Advertising Standards Authority of Ireland (ASAI) and the Broadcasting Authority of Ireland (BAI). Television and radio advertising of gambling products is regulated by the BAI, though the rules underpinning this regulation do not originate from specific provision of the Broadcasting Act or EU legislation. The ASAI has functions in respect of outdoor advertising, though the gambling companies appear to operate via a voluntary code of conduct in this regard.

1.2. There are very few restrictions on the activities of gambling operators, either in print, radio or television media or on-line in Ireland. In addition, there is considerable “over spill” from UK media in respect of gambling advertising, especially connected with sports betting.

2. Proposals in the 2013 General Scheme of the Gambling Control Bill

Sponsorship

2.1. The Scheme contained proposals with regard to sponsorship, promotion and advertising of gambling. On sponsorship of sporting activities by gambling companies, the Scheme was quite restrictive. It defined “sponsorship” for the purposes of the Act and set down a number of rules for gambling licence holders. The sponsorship was to appeal primarily to adults. Sponsorship of events involving under 18s was to be tightly controlled. For example:

- No sponsorship of any individual below 18 years or any team where at least some of the members are below 18.
- Branded merchandise shall not be designed to overtly appeal to under 18s. Where events are held solely for those below the age of 18, the premises holder should make every reasonable effort to cover over branded advertisements for licence holders.
- All sponsorship must comply with the rules governing advertising as developed by the regulatory authority and set out in an Order of the Minister.

Promotions

2.2. The Scheme set out a definition of “promotion”, in terms of gambling. It would not be permitted to make information detailing special offers, discounts or inducements to visit gambling establishments available to the public at large. Licence holders could display betting odds available on certain markets, e.g. first goal scorer odds in football matches, only during opening hours on the day when the event in question is taking place. A licence holder who knowingly acted in contravention of the Act would be guilty of an offence and liable to the appropriate penalties.

Advertising

2.3. The Scheme set out a definition of “advertisement” for the purposes of the Act. Advertising would only be permitted where:

- (a) the service or product is available to persons in the State, but only where the operator has a licence for the service / product in question, or
- (b) the service / product is not available to persons in the State but is available in another state (including in any EU Member State), but only where the operator holds a licence in that other state for that service / product and where the advertisement makes clear that the service / product is not available or licensed in the State.

2.4. The Scheme intended the regulatory authority would develop a set of rules to govern the advertising of gambling. It set out a number of key principles that should inform the drafting of these rules, which would be given effect by Order of the Minister. Different rules might apply to:

- (a) products offered under different gambling licence categories,
- (b) advertising in different media and in different locations, and
- (c) advertising at different times of the day, week or year.

2.5. The Scheme provided for the Minister to make Orders in respect of broadcast events providing that advertisements on radio or television, featuring or identifying specific categories of gambling service providers, not be permitted before the commonly accepted watershed time, or, where permitted, that terms and conditions might apply. Where a sporting event was being broadcast before the watershed time, advertisements relating to holders of certain categories of gambling licence would be permitted to advertise during the intervals of the broadcast.

2.6. A licence holder who knowingly contravened these rules would be guilty of an offence and liable to the appropriate penalties. It would also be an offence for unlicensed operators to advertise their products in the State.

3. Working Group consideration

3.1. The Group noted that compliance with the Advertising Standards Authority of Ireland (ASAI) Code is voluntary. However, the Group was not made aware of any particular incidents arising involving gambling companies breaching the Code.

3.2. The Broadcasting Authority of Ireland (BAI) has intervened with gambling companies where it concluded that advertisements were not adhering to its regulations. An *Irish Examiner* article of 14 March, 2018²⁰ reported that several advertisements for betting services had infringed BAI guidelines. There were six instances of advertisements for betting services, where the content was “deemed to promote gambling” and did not carry the requisite label designed to encourage responsible gambling or warn against the perils of gambling. The BAI is not in a position to intervene with foreign-based radio or TV channels, as it does not have jurisdiction.

3.3. The Group also noted the provisions of the Consumer Protection Act 2007 on unfair, misleading and prohibited commercial practices that are the principal statutory provisions on advertising, promotions and other commercial communications aimed at consumers.

3.4. The Group noted that there have been increased demands from a number of sources for restrictions to be placed on the gambling industry with regard to sponsorship, advertising and promotion. Any restrictions imposed, of whatever nature and extent may have to apply to all forms of gambling offered to the public, either land-based or on-line, for reasons of fairness and to minimise the risk of legal challenge. An advertising and promotion code applies to the National Lottery under the terms of its licence and the National Lottery regulator oversees adherence to this. .

Possible restrictions on gambling related advertising, promotion and sponsorship

3.5. The Group discussed what potential restrictions on gambling sponsorship, advertising and promotion might be possible. It noted that there have been increased demands from a number of sources for restrictions to be placed on the gambling industry with regard to sponsorship, advertising and promotion. Such demands are arising in other States. There have been recent calls in the UK, by the Labour Party and others, to revert to a “no advertising” of gambling products position. When demands arise with regard to possible restrictions on gambling related advertising, promotion and sponsorship, the Group was of the view that there must be a full understanding of the potential

²⁰ <https://www.irishexaminer.com/ireland/broadcasting-authority-concern-at-ads-for-toys-and-betting-services-468246.html>

consequences. Any restrictions imposed, of whatever nature and extent may have to apply to all forms of gambling offered to the public, land-based or on-line for reasons of fairness and to minimise risk of legal challenge. The Group agreed that any restrictions, if introduced, must be carefully considered, targeted and effective. They must also be capable of cost-effective enforcement by the regulatory authority.

3.6. Imposing advertising restrictions on gambling activities on Irish broadcasters may be resisted by the gambling industry, given the significant commercial importance involved. Restrictions on out of State broadcasters or, on receipt of broadcasts of out of State events would be difficult to impose. Control of out of State advertising would present particular challenges given the “spill over” effect. For example, major sporting events from abroad seen in the State contain advertising from gambling companies (Premier League football matches and UK horse racing, etc.).

3.7. The Group noted that many English Premiership football teams (as well as some League of Ireland clubs) are sponsored by gambling companies. Premiership football attracts huge audiences and attention in Ireland. A major gambling company sponsors the coverage of the Irish soccer team’s home matches on the national broadcaster, while an on-line betting operator also sponsored the coverage of the 2018 FAI Cup Final. The Group acknowledged that the GAA does not have formal relationships with betting firms and does not accept sponsorship from this sector.

3.8. Likewise, seeking to restrict advertising on-line, which is increasingly targeted, would be difficult, particularly where operators are licensed in another EU Member State. Finally, restrictions would also apply to all activities, not just sporting events, though these form the vast bulk of gambling promotion activity.

3.9. The Group was conscious that there are sectors of sporting activity that depend heavily on gambling related sponsorship. In particular, Horse Racing Ireland (HRI) and Bord na gCon had significant concerns. HRI argued that Irish horseracing would be negatively impacted by restrictive measures on sponsorship of both races and events (e.g. Irish Grand National, etc.). Such sponsorship provides revenue to sporting organisations, often of a very significant extent. The tables below detail the amounts of sponsorship for 2015-2017, for both HRI and Bord na gCon. The figures show the significance of income from bookmakers in relation to sponsorship of events for horse and dog racing.

Bord na gCon

Sponsorship (€000)	2015	2016	2017
Bookmakers	92.3	102.4	92.9
Total	849.3	765.3	732.0
Bookmakers as % of Commercial Sponsorship	11%	13%	13%

Horse Racing Ireland (HRI)

HRI (source of prize money)	2015 (€000)	2016 (€000)	2017 (€000)
Bookmakers/Exchange	570.3	749.8	766.8
Commercial Sponsors	4,268.1	4,790.9	4,937.5
Bookmakers as % of Commercial Sponsorship	13%	16%	16%

3.10. The Group accepted that horseracing has a long-standing relationship with the betting industry and would be severely impacted if the horseracing sector was included in the restrictions imposed in relation to advertising or sponsorship from gambling companies. Racing is a global business and races from many other countries are broadcast into betting shops and homes throughout the country as well as on mobile devices. It was considered that it would be incongruous to put Irish Racecourses at a disadvantage through an advertising or sponsorship ban, whilst their international competitors which do not have such a ban, remain free to broadcast their races to an Irish audience. Racecourses have been pro-active in enforcing the ban on underage betting and

it should be possible to maintain this relationship if advertising for brand awareness is acceptable, while restricting specific calls to action or advertising obviously aimed at unsuitable audiences. In a related context, a major bookmaker has indicated that they might discontinue its sponsorship at certain Irish racetracks, arising from the Budget 2019 increase in betting duty (see Chapter 9).

3.11. In conclusion, and having regard to developments elsewhere, the Group was concerned that realistic proposals must be developed, with clear objectives as to desired outcomes, when considering restrictions in Ireland on the sponsorship, advertising and promotion of gambling products, primarily those linked to sporting events. There is no simple approach evident in this regard.

3.12. The Group cautioned that a ‘one size fits all’ approach may not suffice, given the differing practical effects and form of on-line advertising vis-à-vis linear advertising (e.g., TV, radio advertising, etc.). It was of the view that the proposed gambling regulatory authority should have the primary responsibility for developing policy and regulatory codes and guidelines concerning advertising, etc. by gambling operators. It should determine what, if any, exemptions for particular activities should be made or are possible in a statutory environment. The Group felt that the current, limited roles of the ASAI and BAI should be discontinued for gambling activities in favour of the gambling regulatory authority.

Restrictions on gambling advertising in other States

3.13. The Group considered developments, both in force and contemplated, with regard to restrictions on gambling advertising in other States.

UK

3.14. In the UK, gambling advertising standards are issued by the Committees of Advertising Practice (CAP) and enforced by the Advertising Standards Authority. It is a condition of a Gambling Commission licence that marketing communications, including those for “free bet” and bonus promotions, do not mislead. In 2017, the Commission fined an operator £300,000 for misleading advertising on its own and three affiliates’ websites. UKGC has moved against bookmakers glamourising gambling, mainly using their considerable “nudge” power without recourse to formal sanctions.

3.15. In November, 2018, Sky TV announced that it will cut the number of gambling advertisements it shows amid rising concern over addiction and the prominence of betting in sport. It will impose a limit of one gambling advertisement per commercial break on its channels from the start of the next Premier League season in August 2019. Currently up to four betting advertisements are shown during each commercial break, with slots during

live matches on Sky Sports in high demand to attract “in play” betting. The restrictions will apply to all channels for which Sky sells advertising slots. All forms of gambling, including bingo and online poker, will be covered by the new rules. The self-imposed advertising restrictions are expected to cost Sky tens of millions of pounds in annual revenue. Gambling accounts for about £200m per year in UK television advertising sales. From 2020, Sky will also allow viewers to exclude gambling from commercial breaks entirely. Technology built into its set-top boxes and those of cable operator Virgin Media will insert alternative advertising in its place.

3.16. UK betting companies themselves have called for a ban on television advertising before 9pm. Such a move would save them many millions of pounds annually and give high street land-based operators a boost over online-only rivals. According to research from market research company Nielsen, the UK gambling industry has spent a total of £1.4bn on advertising between 2012 and 2017. Of that, £430m was spent to promote sports gambling, almost doubling from £64m in 2012 to £127m in 2016.

3.17. On 13 December, 2018, the Industry Group for Responsible Gambling (IGRG), the collective body for the five main UK gambling trade associations, announced the introduction of a voluntary pre-watershed, 'whistle-to-whistle' ban on betting adverts during televised sport from summer. The proposals give an exemption to horseracing and greyhound racing. Betting adverts will be banned from five minutes before to five minutes after an event finishes. The IGRG made the changes through its code for socially responsible advertising, which was republished on 5 January, 2019²¹ with the changes coming into force on 1 August 2019. There have been suggestions of further advertising restrictions being considered in the UK, including that gambling related adverts not be broadcast for a defined period before and after a sporting event is broadcast.

3.18. While there has been no indication that the industry in Ireland will adopt the same approach, the media “overspill” effect in this instance may extend any benefit of the proposed UK restriction to Ireland. In any event, it might be useful to view the proposed voluntary ban in the light of a December 2018 research study done for the gambling charity *Gambleaware*²². The study found that of the estimated UK gambling advertising spend of £1.5 billion in 2017, some £1.25 billion went on various forms of on-line and social media advertising. TV advertising amounted to £234 million, or 20% of the total advertising spend.

²¹ <http://igrg.org.uk/wp/wp-content/uploads/2019/01/Gambling-Industry-Code-for-Socially-Responsible-Advertising-5th-Edition.pdf>

²² <https://about.gambleaware.org/media/1853/2018-11-24-rp-ga-gb-marketing-spend-infographic-final.pdf>

Australia

3.19. Australia, from 30 March, 2018, introduced a ban on gambling advertisements from 5 minutes before until 5 minutes after sporting events broadcast between the hours of 05:00 and 20:30. The Australian Communications and Media Authority will have powers to determine programme standards for gambling advertisements that apply to certain broadcasters and pay-tv providers. Media standards body will set standards for advertising on broadcast media. New rules²³ developed by the Authority came into effect on 28 September, 2018. The ACMA will closely monitor operation of the new rules and, after 12 months, will consider whether to conduct a formal review of their effectiveness.

Italy

3.20. Italy's government, with effect from 1 January, 2019, implemented a blanket prohibition on gambling advertising and sponsorships, with the stated aim to limit the further spread of problem gambling activity. However, Italy's public health agency *Istituto Superiore della Sanità* (ISS) on 18 October, 2018, released the results of a survey commissioned by Italy's gambling regulator (AAMS) into the scope of the nation's gambling activities, both on and offline. The survey found that only 19.3% of Italians who actively gambled last year said they were inspired to play after seeing a gambling advert, while the other 80.7% said advertising had no effect whatsoever on their willingness to gamble. However, the survey also found that 30% of problem players choose to play based on sighted or heard advertising, which suggested that the ban might have an impact in this regard.

3.21. The survey questioned over 12,000 adults, making it the largest such study ever conducted in the country. It is estimated that there are currently 1.5 million problem gamblers in Italy of which 70,000 are minors (for whom gaming is prohibited). The survey was conducted to take a broad picture of the phenomenon that can contribute to the establishment of problematic behaviour.

Belgium

3.22. The Belgian government adopted on 25 October, 2018, a new Royal Decree enacting long-discussed restrictions on online gambling advertising. Laws for a tougher advertising framework on online gambling and betting services have been under review by Belgium's Parliament since October 2017. The measures include a complete ban on online casino TV advertising (supported by a tougher digital advertising framework). On-line casino operators will be restricted to promoting services on government-approved websites, with a limited scope on messaging. An 8:00pm watershed time on sports betting advertising on television is imposed, with no marketing coverage allowed during

²³ <https://www.legislation.gov.au/Details/F2018L01203>

live sports broadcast. A ban on celebrity or athlete endorsements of gambling products/services has also been imposed.

4. Recommendations

4.1. The Working Group made the following recommendations in the light of its consideration on advertising, promotion and sponsorship of events, primarily sporting, by gambling operators.

General recommendations

- The gambling regulatory authority should:
 - develop policies and regulations (a “Code”) in respect of all gambling advertising, sponsorships and promotions, in consultation with the relevant Departments, sporting organisations, the ASAI, the BAI, the Competition and Consumer Protection Commission (CCPC) industry representatives, health treatment professionals, consumer organisations, etc. The Code shall contain appropriate, proportionate and effective measures having due regard to potential negative consequences for sporting organisations and events.
 - ensure that regulations should contain appropriate, proportionate and effective measures,
 - have regard to potential negative consequences for sporting organisations.
 - adopt a persuasive approach to combatting egregious advertising or promotion of gambling activities.
 - in formulating any proposals in these areas, take care to ensure that no unintended or negative consequences arise, particularly for sporting organisations and events.
 - give consideration as to whether gambling advertising, sponsorship or promotions might, in appropriate instances, be required to carry “health warnings”, perhaps along the lines of the financial regulator or those imposed on cigarette and alcohol packaging.

- have close regard to developments in the UK, in the area of advertising around sporting events on TV, given the significant ‘spill over’ effect.

Advertising and Promotions

- All promotions or advertisements should clearly state any limits on amount or method of pay out, or if certain persons are excluded from participation, etc.
- Targeting of gambling advertisements or promotional offers should not be permitted at:
 - persons who have indicated their desire to self-exclude from gambling services,
 - vulnerable persons,
 - children and young adults under 18.
- Licensed gambling operators must have in place a clear and effective opt-out provision from gambling promotions and advertisements for persons targeted by “push ads” on social media.
- Gambling advertisements or promotions should:
 - primarily provide factual information only.
 - not feature cartoon type advertising, or “lifestyle or fun” scenes that may increase the appeal of gambling to young persons.
 - clearly state any limits on amount and method of pay out, if some gamblers are excluded, etc.
 - not target vulnerable persons, young persons or persons who have indicated their desire to self-exclude from gambling services.
 - include a clear opt-out provision for persons targeted by “push ads” on social media.
 - not feature persons who may be in a position to influence the outcome of an event for which a gambling market is being offered.

Sponsorship

- No gambling related sponsorship of events primarily involving persons under 18 should be permitted. This includes the event, the team, branded clothing, location and stadium branding, pitch side-advertising hoardings.

Chapter 5

Combatting money laundering as it relates to gambling activities

1. Current situation

1.1. The Group benefitted from detailed technical and legal presentations and information from the Department of Finance, the Anti-Money Laundering Compliance Unit (AMLCU) of the Department of Justice and Equality and An Garda Síochána on the situation with regard to combatting anti-money laundering activities, with particular focus on how they might affect gambling. The General Scheme of the Gambling Control Bill 2013 did not contain any significant proposals concerning money-laundering possibilities through gambling.

2. EU Anti-Money Laundering Directives

Fourth Anti Money Laundering Directive (4AMLD²⁴)

2.1. Under the Fourth Anti-Money Laundering Directive (4AMLD), a gambling service is a service which involves wagering a stake with monetary value in games of chance, including those with an element of skill, such as lotteries, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services. The 4AMLD expands the coverage of the regulations to all gambling providers rather than just casinos (as was the case under 3AMLD). Member States are required to give their competent authorities enhanced supervisory powers to monitor effectively providers of gambling services and to take the measures necessary to ensure their compliance with the AMLD (article 48) unless there is a proven low risk of money laundering or terrorist financing (ML or TF) in a specific sub-sector, which may accordingly be exempted.

2.2. Providers of gambling services are required to apply specific customer due diligence (CDD) measures (AMLD article 11) for example when:

²⁴ Directive (EU) 2015/849 on the Prevention of the use of the Financial System for the Purposes of Money Laundering or Terrorist Financing

- Establishing a business relationship;
- Upon collection of winnings, the wagering of a stake, or both when carrying out transactions of €2,000 or more whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- When there is suspicion of ML or TF, regardless of the situation on derogations, exemptions or thresholds; and
- When there are doubts about the veracity or adequacy of previously obtained customer identification information.

2.3. The 4AMLD recognises the Anti Money Laundering/Counter Terrorist Financing (AML/CFT) risks presented by gambling. Recital 21 of 4AMLD states:

“The use of gambling sector services to launder the proceeds of criminal activity is of concern. In order to mitigate the risks relating to gambling services, this Directive should provide for an obligation for providers of gambling services posing higher risks to apply customer due diligence measures for single transactions amounting to EUR2,000 or more.....However, in proven low-risk circumstances, Member States should be allowed to exempt certain gambling services from some or all of the requirements laid down in this Directive....Such exemptions should be subject to a specific risk assessment which also considers the degree of vulnerability of the applicable transactions”.

2.4. The 4AMLD requires Member States to subject all gambling service providers to ML or TF compliance unless there is a proven low risk in respect of clearly identified sub-sectors.

3. Irish implementation of AML measures relating to gambling activities

3.1. Up to November 2018, AML/CTF compliance measures were applicable only in respect of the gambling activities undertaken in Private Members Clubs (PMCs). Where such clubs have gambling on their premises, the person directing such activities is required to register with the Minister for Justice and Equality. The registered person is required to conduct customer due diligence (CDD) in respect of members who gamble and to make suspicious transaction reports (STRs) to An Garda Síochána and Revenue where he/she becomes aware of any activity which gives rise to a suspicion of money laundering (ML) and terrorist financing (TF).

3.2. The Department of Justice and Equality maintains the register of such persons, and monitors their compliance with these obligations. CDD in this context requires that the person satisfy himself as to the identity of the gambler and the source of wealth whenever a bet, or series of linked bets, exceeds €2,000. The person is required to maintain written policies documenting their procedures in this respect, and to maintain records of the CDD measures undertaken.

3.3. There are 36 PMCs in operation. The role of the Department of Justice and Equality is confined solely to ensuring ML/TF compliance. It has no role in relation to the regulation of gambling activities or any other activities taking place in the PMC. The persons who effectively direct these clubs are “designated persons” under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, and are subject to compliance monitoring by the Department of Justice and Equality's Anti-Money Laundering Compliance Unit (AMLCU). This monitoring involves on-site inspections by authorised officers to ensure that effective anti-money laundering and counter terrorist financing policies and procedures are in place in the Club, and the designated person is adhering to its obligations under the Act, including that staff have been appropriately trained in this area.

3.4. The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. . It sets the global standard for AML/CFT practices through 40 Recommendations. These recommendations have, mostly been adopted by the EU through Anti-Money Laundering Directives. FATF has been critical that Ireland does not have a licensing system for casinos or conduct fit and proper tests on the management of casinos. However, no licensed casinos exist in Ireland, and the measures, which are in place, reflect a situation in which a small number of PMCs provide casino like gambling services to their members. Ireland has taken proportionate steps to ensure that such casino-like gambling is subject to an appropriate level of ML/TF compliance measures. Section 109A (1) (a) and (b)²⁵ of the Criminal Justice (ML/TF) Amendment Act 2018 states that fit and proper certification will be required from those directing PMC gambling activities and those who are the beneficial owners of a PMC where gambling activities are carried out.

²⁵ As inserted by the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018

3.5. Apart from the specific monitoring of the PMCs, AML/CTF compliance measures have not historically been applied in respect of any other gambling activities in Ireland. Such is not a requirement under FATF standards and was not a requirement under the EU Third Anti Money Laundering Directive.

3.6. In anticipation of the transposition of the 4AMLD, a sub-committee of the Anti-Money Laundering Steering Committee (under the chair of D/Finance) undertook a risk assessment of the gambling sector. The risk assessment concluded that betting falling within the ambit of the Betting Act 1931 (as amended in 2015) and the Totalisator Act 1929 (as amended) and all on-line gambling other than that of the National Lottery had a Medium/Low risk of ML/TF and would have to be included in ML/TF compliance.

3.7. This new situation created by the risk assessment will bring around 900 licensed off-course bookmakers, an estimated 200 on-course bookmakers and on-line remote bookmakers into the scope of the 4AMLD. However, the issue of jurisdictional responsibility for compliance monitoring of offshore on-line bookmakers will need further consideration. While such bookmakers are required to have a licence in order to take bets in Ireland, it is not clear at this point whether they will be able to rely on their compliance with their host country's ML/TF regime in order to meet their obligations for Ireland. The Tote will also come into the scope of the Directive, but it is of the view that the €2,000 risk limit will not cause it any particular issues.

3.8. Gaming activities falling within the ambit of the Gaming and Lotteries Act 1956 (as amended) were determined to have a low risk and were exempted (lotteries, bingo and gaming machines) , along with land-based poker.

3.9. 4AMLD was transposed by the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018. ML/TF compliance measures in the gambling sector were applied by means of a Statutory Instrument at the same time. The SI used the power, under s 25(1)(j) and 25(7) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, for the Minister for Justice and Equality (following consultation with the Minister for Finance), to designate specific business sectors as subject to ML/TF compliance requirements.

3.10. The CDD and STR requirements for the betting sector are set out in Article 11(d) of 4AMLD as transposed into national law in the 2018 Act and SI 487 of 2018. It is anticipated that the operators will be concerned about the way in which CDD measures will interfere with the existing pattern of business in taking bets, especially in bookmaking shops and on-track. A process of outreach will be required to arrive at a proportionate approach, which adequately addresses risk.

3.11. This CDD measure is required in order to meet international obligations, which are closely monitored by FATF and the EU. Ireland is at present under enhanced review by FATF, in respect of its overall performance on ML/TF. FATF has, in particular, been critical of the resource levels committed at present for existing responsibilities. It is therefore, not viable to try to cover a significant increase in the regulated cohort with existing resources. If existing resources were re-allocated to meet this need, other areas may be neglected in which FATF has already criticised Ireland for not committing enough resources.

4. UK Gambling Commission (UKGC) requirements and enforcement actions

4.1. The UKGC requires licensed operators to assess the risks of their business being used for money laundering and terrorist financing. Furthermore, completion of a money laundering and terrorist financing risk assessment has been a requirement of most operating licences since October 2016. There is a further requirement on licensed operators to implement policies, procedures and controls to mitigate money laundering and terrorist financing risk. Casino operators are required to conduct CDD when they establish a business relationship with a customer, suspect money laundering or terrorist financing or doubt the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification.

4.2. Casino operators must also apply CDD measures in relation to any transaction that amounts to €2,000 or more, whether the transaction is executed in a single operation, or in several operations, which appear to be linked. In addition, they must also apply enhanced due diligence (EDD) where a customer presents a higher risk of money laundering or terrorist financing.

4.3. As a result of enforcement action by the UKGC, in December 2018²⁶, nearly £14m in penalty packages will be paid by three companies as result of their failings to put in place effective safeguards to prevent money laundering and keep consumers safe from gambling-related harm.

²⁶ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2018/Gambling-Commission-takes-widespread-regulatory-action-against-online-casinos.aspx>

5. Working Group consideration

5.1. The Group considered, having regard to the contribution of the technical experts in this area, and as far as it could within its remit, the various AML concerns regarding gambling activities. It felt that the revised Gambling Control Bill should contain measures, which would:

a) ensure that it was not possible for people with connections to crime to obtain ownership or control of a gambling business, and

b) ensure that all persons engaging in such business would be aware of their obligations in respect of the prevention of money laundering and terrorist financing.

Persons or organisations seeking licensing, subject to risk assessment of the activities, should be required to have a written AML framework in place (policies, training and procedures) as a condition of being granted a gambling licence.

5.2. Given the heavy regulatory burden anticipated in this area, the Group considered that the proposed gambling regulatory authority should ultimately be tasked as the future competent authority for monitoring compliance with AML requirements. The authority could only assume this role if provided with sufficient resources. Appropriate training would be required to ensure that the staff were equipped to take decisions on the suitability of AML/CFT systems and controls, required by the 4AML Directive Article 48(2).

5.3. Although gaming machines were rated low risk in the national gambling risk assessment, the Group noted that if the monetary amounts of stakes and prizes are to be increased significantly for gaming machines, then the attendant increased risks for money laundering and terrorist financing would need to be considered and adequate safeguards put in place when addressing new licensing requirements. The Group noted concerns of a possible AML risk posed by gaming machines that allow unwaged cash to be withdrawn without a receipt.

5.4. As part of a comprehensive reform of licensing and regulation, the Group recommended that there should be a licence requirement for any gambling service providers based in the State, but offering their services exclusively outside the State. This would be good regulatory practice and would assist the State in complying with its obligations under the 4AMLD to regulate all gambling service providers. In this context it should also be noted that the FATF's recommendations regarding casinos are intended to apply to internet and ship-based casinos as well.

6. Recommendations

6.1. The Working Group made the following recommendations:

- the revised Gambling Control Bill should, in so far as possible, be “AML proofed” and have as a key objective the need to combat anti-money laundering attempts through gambling activities.

- The gambling regulatory authority should:
 - be assigned responsibility as the competent authority for AML/CFT supervision in respect of licensed gambling activity operators.
 - have 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.
 - operate the standard AML/CFT supervisory practice of concentrating efforts where the risks are greatest.
 - lead on the revision of the ML/TF risk assessment biennially in collaboration with the AMLSC, liaise with the An Garda Síochána (Financial Intelligence Unit), Revenue Commissioners, and other relevant bodies on Suspicious Transaction Reports.
 - liaise with relevant AML authorities in other States as necessary.
 - ensure its staff are trained and equipped to take appropriate decisions on the suitability of AML/CFT systems and controls, as per 4AMLD Article 48(2).
 - appoint an appropriate representative to the AMLSC.
 - ensure that operators have a written AML framework in place as a condition of licensing. Ensure that operators are effectively supervised for compliance with AML/CFT requirements.

Chapter 6

Combatting the betting related manipulation of sporting events

1. Introduction

1.1. Assuring the integrity of sports activities where a licensed betting market is offered is critical for all participants concerned. Betting related manipulation of sporting events has been the subject of media reporting in recent times and is an issue of growing concern for gambling regulators worldwide. Attempted manipulation can occur in all areas of sporting activities.

1.2. There is no central body in Ireland that coordinates policies and enforces sanctions in the fight against the betting related manipulation of sporting competitions. The Betting (Amendment) Act 2015, in section 33, Administrative Cooperation, contains provisions relating to the exchange of information between the Revenue Commissioners, the Department of Justice and Equality, An Garda Síochána and foreign statutory bodies. However, none of the bodies involved in the licensing process for betting operators have a statutory role in combatting betting related sports manipulation.

2. The 2013 General Scheme of the Gambling Control Bill

Manipulation with intent to alter outcome' of sporting activities

2.1. The 2013 Scheme, in Head 64, addresses the issue of 'match fixing' and outlines the responsibilities of the licence holder and the then proposed regulatory body (OGCI) to communicate, to either prevent the execution of the offence or to prevent offenders getting any of the winnings. The arrangements proposed would require the establishment of an "alert" mechanism between the licence holders and OGCI. The OGCI would notify An Garda Síochána immediately when contacted by a licence holder regarding suspicious betting patterns.

2.2. A licence holder who becomes aware of betting patterns that suggest that an offence has been attempted or committed may refuse to accept the bet, suspend betting on the game or event in question and/or withhold payment on a winning bet.

2.3. Where a licence holder failed to comply with the requirements to notify the OGCI, the OGCI may undertake a review of the licence and may:

- (i) suspend the licence of a licence holder pending the outcome of the review.

- (ii) at the conclusion of the review do one or more or all of the following:
 - (a) issue a formal rebuke to the licence holder,
 - (b) revoke the licence, or
 - (c) impose a fine.

2.4. Anyone who attempts or conspires with others in contravention of the Act would be guilty of the offence, even where the offence did not occur or where the score or outcome being proposed or planned was not achieved.

3. Working Group consideration

3.1. The Group considered a number of aspects involved in attempts to combat manipulation of sporting activities and ensuring betting integrity. These included the role of national sports governing bodies, the work of the UK Gambling Commission in ensuring betting integrity and the Council of Europe Convention on Sports Manipulation.

3.2. In order to effectively combat attempts at betting related manipulation, the Group believed that the proposed gambling regulatory authority should be the lead agency. It should develop specific licence terms and conditions that would act to deter, insofar as possible, potential manipulation of sports events for gain through betting activities. Licensed betting operators would be required to co-operate with all investigations by the regulatory authority, and other statutory authorised investigators, into potential betting related manipulation of sporting events. This would require, subject to any legal or GDPR related compliance, include the provision of any relevant information requested by the regulatory authority and held by the licensed operator.

3.3. The Group supported the establishment within the regulatory authority of a dedicated Sports Betting Integrity Unit, based on the UK Gambling Commission (UKGC) model. This Unit would have the primary responsibility for overseeing the betting related integrity of sporting events. The Unit would establish a working relationship with the national and international sports betting integrity units and law enforcement agencies, both nationally and internationally. The Unit should include members of An Garda Síochána and other necessary specialists as required.

3.4. The Group noted that a number of prominent sportspersons, primarily in the horseracing sphere, have associations with large bookmaking operations. This takes the form of appearing in advertisements for the company in question, writing blogs on the company's website, contributing to audio-visual recordings played in bookmakers' shops etc. The Group expressed concern at the perceived impact that such associations may

have on the integrity of sports where betting odds are offered and the person concerned is in a position to potentially influence the outcome of an event. The Group agreed that all licensed gambling operators should be required, as part of their licence conditions, to desist from using sportspersons in such advertising and promotion to counter any possible negative impressions.

UK Gambling Commission Sports Betting Intelligence Unit

3.5. The Group noted that the UK Gambling Commission established a Sports Betting Intelligence Unit (SBIU) to protect and promote betting integrity. The Unit relies on the provisions of the Gambling Licensing and Advertising Act 2014 and has prosecutorial powers (somewhat akin to the Irish Criminal Assets Bureau). The SBIU received over 300 referrals in 2016/17 with football and tennis generating the majority of the complaints. The SBIU works closely with the betting industry and with sports governing bodies to understand potential threats and help protect the integrity of sport and betting. The Unit collects information and develops intelligence about potentially corrupt betting activity involving sport. The SBIU receives information from a number of sources which includes (but is not limited to) alerts from the betting industry about suspicious activity on betting markets, concerns from sports governing bodies or tip offs through their confidential intelligence line.

3.6. The focus of the SBIU is on potential criminal activity that has at least one of the following elements:

- it relates to an event in Great Britain (it doesn't apply to Northern Ireland),
- it involves parties (athletes, officials, participants, and so on) based within Great Britain,
- betting has occurred with a Gambling Commission licensed operator.

The SBIU will share, where appropriate, specific information with other partners (for example, bookmakers, sports governing bodies, overseas regulators, etc.) both nationally and internationally. In some cases, these bodies in their investigations may then use this information in investigating a breach of their sports rules or code. A notable feature is the level of co-operation between SBIU and their foreign counterparts, and with various criminal law and sporting agencies, particularly those responsible for the running of sports competitions. SBIU cooperates with the Financial Crimes Section of An Garda Síochána as required.

Australia

3.7. Australia has recently announced plans to institute a new national (federal level) sports integrity commission that will gather, and respond to, intelligence on corruption and possible match fixing. That commission is expected to be operational by July 2020. The Department of Home Affairs, the Australian Sports Anti-Doping Authority (ASADA) and State and federal policing agencies will work together to pool intelligence data and work with integrity units in the different sports industries. The commission will be tasked with three principle responsibilities:

- regulation of sports gambling,
- monitoring and investigating possible illegal drug activity, and
- helping sports leagues create policies to ensure integrity.

A new Sports Betting Integrity Unit will be created within the commission, which will be responsible for monitoring all suspicious gambling activity. It will be legally authorised to conduct electronic surveillance of coaches, sports officials and athletes who are suspected of rigging games. The commission is also expected to act as a “national platform” which would allow Australia to join the Macolin Convention.

Global Lottery Monitoring System (GLMS)

3.8. The Global Lottery Monitoring System (GLMS) is the state lotteries’ mutualized monitoring system on sports betting. It aims at detecting and analysing suspicious betting activities that could question the integrity of a sport competition. Founded in 2009 by European lottery systems, GLMS went global in January 2015. GLMS facilitates the sharing of sports betting information as part of the collective efforts of its members in ensuring sports integrity globally, and is dedicated to effective cooperation with all key stakeholders: regulators, law enforcement authorities, sports organizations. In 2018, GLMS reported 81 matches to our partners from 631 alerts²⁷. 46 matches were reported to UEFA and 18 matches were reported to FIFA. Most reports were triggered from football (482) where irregularities were noticed during daily monitoring. The rest of the alerts were sent to the International Olympic Committee (IOC), Tennis Integrity Unit (TIU) or Local Gaming Authorities in relevant States. A number of detailed monitoring reports have been also prepared on request by members or partners. The reasons for triggering alerts included, significant odds change, suspicious odds change, team related news and rumours of match fixing.

²⁷ https://gallery.mailchimp.com/d3dd17a9afdcf674100aa8954/files/b9f653c0-a9ea-4d10-874d-8f1c8972757a/19_GLMS_OPERATIONAL_ANNUAL_REPORT_V5a.pdf

4. The role of Sports Governing Bodies in Ireland

4.1. In Ireland, individual sports associations, or Sports Governing Bodies (SGBs), seek to combat the attempted manipulation of sporting activities for gambling purposes internally through their own rules of competition. These rules have no legal application as the SGBs are not statutory bodies. Some SGBs have suggested that, without modern legislation on gambling and integrity matters, which takes into account the new landscape of betting in sports and its continuing evolution, SGBs and law enforcement authorities, are limited in the actions they can take to protect the integrity of sport. Some examples of how these issues are dealt with by sports associations in Ireland are outlined in the following paragraphs. Bord na gCon, as a statutory body, is an exception in this regard, and is subject to regulation and statutory and judicial oversight.

The Gaelic Athletic Association (GAA)

4.2. For the GAA, attempting to improperly influence the outcome of a game for financial gain falls under Rule ‘7.2(e) *Misconduct considered to have discredited the Association*’ of the *GAA Rule Book*. The penalty for a breach of this rule ranges from a minimum 8 week suspension to debarment and expulsion from the GAA. The GAA decided in 2017 not to have formal relationships with betting operators and it does not accept sponsorship from them. However, it has in place a Memorandum of Understanding with a gambling company that facilitates the sharing of unusual betting patterns around Gaelic games. Both the GAA²⁸ and the Gaelic Players Association (GPA)²⁹ have published Gambling Guidelines tailored towards both inter-county and club players.

Irish Rugby Football Union

4.3. Within the IRFU, Regulation 8 of the Irish Rugby Football Regulations states that “*World Rugby Regulation 6 shall have effect and be construed as Regulations of the Irish Rugby Football Union*”. World Rugby Regulation 6, “Anti-Corruption and Betting” prohibits any “connected person” (a definition including but not limited to players, match officials, coaches and administrators) from betting on any rugby match. Regulation 6 also prohibits any connected person from fixing, attempting to fix or misusing insider

²⁸ “Gambling and Sport Considerations for the GAA” available at http://community.gaa.ie/wp-content/uploads/2014/11/PUBLICATION-GAA-Gambling-Sport-Guidelines_FINAL.pdf

²⁹ Gambling: A Guide for Our Players and Our Games” – available at https://www.gaelicplayers.com/Portals/0/SocialResponsibility/0270_gambling_document_online.pdf

information. The maximum sanctions arising from a breach of these regulations is a life ban from the sport, and/or a fine. Additionally, the IRFU deems that players, staff and administrators must follow an on-line module on the World Rugby's anti-corruption website. Completion of the educational module shows that the relevant person has "demonstrated awareness of Anti-Corruption Regulations".

4.4. In relation to the monitoring of sporting events, the main rugby tournament organisers (Six Nations Rugby Limited, European Professional Club Rugby (EPCR), and Celtic Rugby Limited (which has responsibility for the Pro14 League)) have established Betting and Integrity Working Groups and/ or Regulations Committees that review sporting manipulation matters and the regulation of same.

Football Association of Ireland (FAI)

4.5. The FAI has a number of rules against match fixing. Rules 23 and 24 of the FAI Rulebook (effective from 27 July 2018) state as follows:

Rule 23: Manipulating match results:

Anyone who conspires to influence the result of a match in a manner incompatible with sporting ethics shall be sanctioned with a suspension and a fine. The disciplinary body may also impose a ban on taking part in any football-related activity; in serious cases, this sanction shall apply for life.

Rule 24: Betting/gambling:

1. Anyone who engages in any behaviour that damages or could damage the integrity of matches and competitions may be subject to disciplinary sanctions. All persons are obliged to cooperate fully with the Association in all efforts to combat such behaviour.

2. Anyone who engages in any of the following may be subject to disciplinary sanction:

a) acting in a manner that is likely to exert an influence on the course and/or result of a match or competition by means of behaviour with a view to gaining an advantage for themselves or a third party;

b) participating directly or indirectly in betting or similar activities relating to matches or competitions or having a direct or indirect financial interest in such activities;

c) instructing someone to bet on their behalf;

d) using or providing others with information which is not publically available, is obtained through his position in football and damages or could damage the integrity of a match or a competition;

e) failing to immediately and voluntarily inform the Association if approached in connection with activities aimed at influencing the course and/or result of a match or competition;

f) failing to immediately and voluntarily report to the Association any behaviour that they may be aware of that falls within the scope of this Rule.

Bord na gCon (The Irish Greyhound Board)

4.6. Bord na gCon has in place a range of measures to combat manipulation of greyhound racing activities for gambling purposes and operates such measures within the statutory remit of Bord na gCon. The racing regulations combined with the official grading system provide mechanisms for conducting greyhound races in a manner that ensures integrity and fairness within the sport. Where issues arise that are outside of the norm under the regulations, steward's enquiries are conducted and appropriate sanctions can be put in place. In addition, a robust testing regime is applied involving in excess of 5,000 tests on an annual basis to underline the integrity of the racing product.

4.7. An independent Control Committee, established by statute, investigates and determines appropriate sanctions for regulatory breaches. In addition, Bord na gCon employs personnel with particular skills sets in the area of betting and wagering. Strong relationships have been established with all betting companies to the extent that any unusual activity in betting markets is flagged to Bord na gCon and appropriate action taken. The enactment of the Greyhound Industry Bill 2018, currently at Committee Stage in the Dáil, having passed all stages in the Seanad, will provide an updated statutory framework to further strengthen regulation of greyhound racing.

Horseracing

4.8. The Irish Horse Racing Regulatory Board (IHRB) is responsible for the protection and enforcement of the integrity of horseracing in Ireland. The IHRB has existing structures in place to monitor their licensees including jockeys and trainers and to enforce the Rules of Racing. However, the development and growth of betting markets and the move to online exchange betting has led to deficiencies being highlighted between their powers to enforce the Rules of Racing and investigate licensees with a possibility of sanction and the powers required to fully investigate matters, which have been brought to their attention.

4.9. Without legislation allowing for the sharing of information, when appropriately requested and justifiably required, similar to that existing in other jurisdictions, the IHRB is limited in its powers to compel production of evidence by licensees. Their powers are limited to those licensed by them and it is clear, not least by recent cases highlighted in Irish soccer that these investigations often extend far beyond those involved directly in the sport.

4.10. The IHRB has taken steps to ensure the monitoring of betting markets and for information originating from that monitoring to be provided to stewards and officials. That information is highly relevant but more important is the information behind that such as who is responsible for the bets – which is not readily available from betting operators and it depends on the terms of Memorandums of Understanding between individual SGB’s and individual betting operators. Requests for information may be refused and the increased importance of data protection has further limited the information that may be provided. In carrying out investigations SGB’s need to have confirmed sources of information which can be relied up and cited during investigation stage and more especially in the event of matters moving to disciplinary action.

5. National Sports Policy 2018 - 2027

5.1. This policy indicates that the Department of Transport, Tourism and Sport (DTTAS) in consultation with relevant Government Departments and other stakeholders will work to consider Ireland’s signature and ratification of the Macolin Convention. Taking account of the overall favourable disposition of Ireland towards the aims of the Convention, a forensic identification of current legal and other obstacles, as well as potential remedial measures, will be undertaken by DTTAS prior to seeking a definitive decision by Government as to whether Ireland can sign and ratify.

6. The Council of Europe “Macolin” Convention on Sports Manipulation

6.1. The *Convention on the Manipulation of Sports Competition*, also known as the Macolin Convention, was opened for signature by the Council of Europe on 18 September 2014. The Convention is based on a stated need for a co-ordinated global response to the manipulation of sports competitions, which the Council of Europe believes to be a growing phenomenon not adequately dealt with by existing international agreements.

6.2. For this purpose, the main objectives of this Convention are:

(a) to prevent, detect and sanction national or transnational manipulation of national and international sports competitions;

(b) to promote national and international co-operation against manipulation of sports competitions between the public authorities concerned, as well as with organisations involved in sports and in sports betting.

6.3. The Convention proposes measures in the spheres of sporting governance and betting regulation to tackle the issue of sports manipulation and to increase co-operation between all relevant bodies on both a national and international level. It is to be noted that the Convention excludes doping as a form of sports manipulation from its scope. The 1989 Anti-Doping Convention, along with other agreements, covers this particular topic.

6.4. A number of key measures provided for in the Macolin Convention are listed below:

- Signatories shall identify one or more parties responsible for sports betting regulation.
- Signatories shall identify a body, which shall act as a national platform addressing the manipulation of sports competitions.
- Signatories shall ensure, in accordance with their national legislation, that their domestic law relating to criminal offences and enforcement are substantive enough with regard to sports manipulation and that the breach of these laws is punishable by effective, proportionate and dissuasive sanctions.
- Signatories shall co-operate with one another in terms of information sharing, in accordance with the principles of data protection, and jurisdictional and criminal matters.

6.5. While Ireland is favourably disposed towards the aims of the Convention, a number of legal and other obstacles have been identified that will need to be addressed in advance of the making of a definitive decision by Government as to whether Ireland can sign and ratify.

Progress in signature and ratification of the Macolin Convention

6.6. To date, thirty-three Council of Europe Member States have signed the Convention, while three have ratified it. The UK signed the Convention in December 2018. Ratification by five signatory countries is required for the Convention to come into force. Ireland has neither signed nor ratified this Convention to date. This is not due to any principled opposition to its aims, but rather the availability of sufficient legal and other resources to undertake the required procedural steps for its signature and ratification.

The National Platform

6.7. Under the terms of the Macolin Convention, signatories are required to identify or assemble a National Platform, with responsibility to address manipulation of sports competitions and co-ordinate that country's fight against match fixing. Article 13 of the Convention sets out the responsibilities of the National Platform. It is intended that the overall aim of the National Platform should be to:

- Serve as an information hub (and comply with data protection rules).
- Co-ordinate national efforts against sports manipulation (which could include the sporting National Governing Bodies, bookmakers, the relevant governmental departments and law enforcement agencies etc.).
- Act as a hub for reporting suspicious betting activities, analysing such activities and alerting the relevant authorities/bodies.
- Co-operate with all relevant national and international bodies.

6.8. Norway was one of the first countries to assemble its National Platform, known as the Norwegian Gaming and Foundation Authority³⁰ having ratified the Macolin Convention at the end of 2014. This will require enhanced coordination with its law enforcement, sports governing bodies, Ministries, etc. prior to future ratification.

7. Recommendations

7.1. The Working Group, having examined the issues surrounding match fixing and the betting related manipulation of sporting events, and to protect the integrity of sports, made the following recommendations:

- The gambling regulatory authority should:

³⁰ <https://lottstift.no/en/>

- develop specific licence terms and conditions to counter the potential for manipulation of sports events for gain through betting activities.
- establish a dedicated Sports Betting Integrity Unit having the primary responsibility for ensuring the betting related integrity of sporting events involving licensed operators.

The Unit should:

- include members of An Garda Síochána amongst its staff.
- establish relationships with national sports governing bodies who would continue to set and enforce their own rules of competition.
- develop necessary Memorandums of Understanding with all involved parties to combat sports related betting manipulation.
- require, as a licensing condition, that betting operators share all pertinent information with the regulatory authority, An Garda Síochána, etc. for the purposes of carrying out investigations into suspicious betting activity.
- establish and maintain a close working relationship with the UK Gambling Commission's Sports Betting Intelligence Unit given the significant overlap of betting on sports events.
- establish a working relationship with relevant national and international sports integrity organisations and law enforcement agencies.
- require all licensed gambling operators to desist from using sportspersons in advertising and promotion relating to the sport where betting odds are offered and the person concerned is in a position to influence the outcome of an event.
- The Department of Transport, Tourism and Sport, in consultation with relevant Government Departments and other stakeholders, should examine the potential for Ireland's signature and ratification of the Macolin Convention in accordance with Action 42 of the National Sports Policy 2018-2027.
- Subject to ultimate Government decision, the gambling regulatory authority should, primarily through its Sports Betting Integrity Unit:

- assume the gambling related responsibilities of national platform required by the Macolin Convention,
- establish relationships with national platforms in other jurisdictions.
- establish a confidential reporting mechanism for incidences of suspicious betting behaviour.

Chapter 7

Protection for consumers of gambling activities

1. Introduction

1.1. The Betting Acts 1931 – 2015 make no specific provision for consumer protection with regard to gambling activities. The Gaming and Lotteries Act 1956 contained measures requiring that “No person shall promote or assist in promoting or provide facilities for any kind of gaming

- (a) in which by reason of the nature of the game, the chances of all the players, including the banker, are not equal, or
- (b) in which any portion of the stakes is retained by the promoter or is retained by the banker otherwise than as winnings on the result of the play, or
- (c) the promoter derives no personal profit from the promotion of the game.”.

However, as the gaming permitted in terms of stake and prize amounts was minimal, these provisions could not realistically be considered as offering consumer protection.

1.2. A number of domestic and EU instruments may provide some limited protection, although there is no evidence available that these have been used by aggrieved consumers of gambling activities.

2. Domestic consumer protection legislation

Sale of Goods and Supply of Services Act 1980

2.1. The principal domestic legislation applicable to gambling contracts is Part IV of the Sale of Goods and Supply of Services Act 1980 on contracts for the supply of services. Section 39 of the Act provides that it is implied into every contract for the supply of a service that the supplier has the necessary skill to render the service and that he or she will supply the service with due skill, care and diligence. Part IV applies to both consumer and commercial contracts. While its provisions can be freely excluded or restricted in commercial contracts, any term excluding or restricting their application to a consumer contract must be fair and reasonable and have been specifically brought to the attention of the consumer. While a number of services are excluded from the scope of Part IV of the Act, gambling services are not among them.

2.2. The Competition and Consumer Protection Commission (CCPC) is the statutory office with responsibility for providing advice and information to consumers on their rights. In addition, the CCPC is responsible for the enforcement of a wide range of consumer protection laws. The CCPC does not intervene or become involved in individual issues or disputes between consumers and sellers of goods or services providers. While the CCPC can, however, advise in relation to particular consumer problems, it does not offer a service to aggrieved gambling consumers.

EU consumer protection legislation and practices

2.3. The Unfair Contract Terms Directive (UCTD) applies to all contracts between a consumer and a seller or supplier, including gambling contracts. It was given effect in Ireland by the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No 27 of 1995).

2.4. The Unfair Commercial Practices Directive (UCPD) applies to virtually all consumer transactions, including gambling transactions. Recital 9 clarifies that the Directive applies to ‘rules which, in conformity with Community law, relate to gambling activities’. The Directive was given effect in Ireland by the Consumer Protection Act 2007.

2.5. Gambling contracts are excluded from the scope of the Directive on Consumer Rights (2011/83/EU). In this Directive, gambling activities are defined as those, which ‘involve wagering a stake with pecuniary obligations in games of chance, including lotteries, casino games and betting transactions’. While Member States are permitted, in line with European Union law, to apply the provisions of the Directive to areas outside its scope in national legislation, this option has not been exercised to date in Ireland to include gambling contracts.

2.6. The proposed Directive on Contracts for the Supply of Digital Content does not apply to gambling services. These are defined under Article 3 of the Directive, as ‘services which involve wagering a stake with pecuniary value in games of chance, including those with an element of skill, such as lotteries, casino games, poker games and betting transactions, by electronic means or any other technology for facilitating communication and at the individual request of a recipient of a service’.. The Directive’s application to in-app or in-game purchases or micro-transactions (e.g. loot boxes, skins, etc.) will depend on whether these are held to come within the Directive’s definition of ‘gambling services’.

3. The 2013 General Scheme of the Gambling Control Bill

3.1. In the context of enhancing the protection of the gambling consumer, the 2013 General Scheme (in Part 6) had regard to a number of guiding principles, including:

- Fairness in the conduct of gambling activities by legitimate operators.
- Consumer choice and protection through transparent conduct of all forms of licensed gambling.

The Scheme proposed safeguards for consumers, which included:

- A general requirement to review operations to maximise compliance with the licence terms,
- Identifying the parts of the service likely to assist anyone who is not permitted to partake in gambling or, that are being availed of in a manner likely to be detrimental to the person or to other persons,
- Arrangements to confirm the identity, including age, of persons who engage by any means with the gambling service.
- A licence holder could not employ a young person in connection with the delivery of the gambling service.

3.2. The consumer protection measures would apply at all points of access to a licensed gambling service. In premises, this would include prominently displayed posters, easily available information leaflets, etc. For on-line activities, it would include links on the “home page”, notifications, etc. The General Scheme included provisions for the protection of gamblers as follows:

- Controls on advertising, promotions and sponsorship.
- A new complaints procedure for consumers.
- Arrangements to assist consumers seeking compensation from a licence holder.
- A requirement that operators maintain adequate financial reserves to cover customer entitlements.
- Prohibiting gambling on credit.

- The introduction of a “player card” whose only function is to enable a person play a machine or game.

3.3. The Scheme proposed that the OGCI regulatory agency should maintain a register of all persons who have entered into self-exclusion arrangements with licence holders. Self-exclusion was set out in the Scheme as a voluntary process, whereby a person with a concern about his/her gambling could have themselves excluded from specific gambling venues, or from accessing gambling products provided by particular providers. The person would enter into a written arrangement with the licence holder for a specified period. The person could terminate the arrangement by notifying the licence holder in writing of their wish to withdraw from the arrangement. The OGCI would maintain a register of all persons who self-exclude and make information relating to a named person available on request to gambling licence holders.

Gambling wagers to be contractually enforceable

3.4. A critical proposal of the 2013 Scheme was that the current statutory prohibition, in section 36 of the Gaming and Lotteries Act 1956 be repealed. This section provides that:

Gaming and wagering contracts void.

36.—(1) Every contract by way of gaming or wagering is void.

(2) No action shall lie for the recovery of any money or thing which is alleged to be won or to have been paid upon a wager or which has been deposited to abide the event on which a wager is made.

(3) A promise, express or implied, to pay any person any money paid by him under or in respect of a contract to which this section applies or to pay any money by way of commission, fee, reward or otherwise in respect of the contract or of any services connected with the contract is void and no action shall lie for the recovery of any such money.

(4) This section does not apply to any agreement to subscribe or contribute to any plate, prize or sum of money to be awarded to the winner or winners of any game, sport or pastime not prohibited by this Act provided that the subscription or contribution is not a stake.

The effect of removal of the prohibition would be to make gambling wagers liable to legal enforceability by either party to the wager. This new situation would only apply to licensed gambling activities under a modernised law.

Approach to alternative dispute resolution (ADR)

EU

3.5. The ADR Directive 2013/11/EU aims to ensure that consumers have access to ADR for resolving their contractual disputes with traders established in the European Union. Disputes covered by the Directive (only disputes regarding health and public providers of further or higher education are excluded) extend to on-line and offline transactions, irrespective of whether the trader is established in the consumer's Member State or in another Member State. Each Member State is required to list all the ADR entities that meet the mandatory quality requirements set out in the Directive. These ADR entities are listed on the EU Commission's website. The Commission has outlined approximately 90 distinct areas for ADR - "gambling and lottery services" is one of these 90 areas. An ADR entity may select which of these areas it wishes to deal with.

3.6. The Directive applies to procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations stemming from sales contracts or service contracts between a trader established in the Union and a consumer resident in the Union through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.

3.7. The ODR Regulation 524/13/EU provides for an ODR platform. This is a web-based platform designed to help consumers to submit to an ADR entity their disputes in relation to online transactions with traders established within the EU. The ODR platform allows the conduct of the ADR procedure online through the ADR entities listed by each Member State. It can be used in all 23 official languages of the European Union and is free of charge.

Ireland

3.8. The ADR Directive was transposed in Ireland by means of the European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015, S.I. No. 343/2015 and the European Union (Alternative Dispute Resolution for Consumer Disputes) (No. 2) Regulations 2015, S.I. No. 368/2015.

3.9. The Competition and Consumer Protection Commission (CCPC) is the designated Competent Authority in Ireland for the purposes of the ADR Directive and the enforcement of the transposing Regulations. The CCPC is responsible for the list of notified ADR entities which fulfil the relevant conditions. There are currently 4 notified ADR entities in Ireland:

- Commission for Regulation of Utilities
- Financial Services and Pensions Ombudsman
- NetNeutrals EU Ltd.
- Royal Institute of the Architects of Ireland

None of these ADR entities provide for ADR in the area of “gambling and lottery services”

3.10. Under the European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2015, responsibility is conferred on European Consumer Centre (ECC) Ireland to host the Irish ODR contact point and carry out the functions set out in article 7 of the ODR Regulation. These functions include providing information on the functioning of the ODR platform and facilitating communication between the consumer, trader, and competent ADR entity, if requested.

UK

3.11. The previous similar historic prohibition against contractual enforcement of gambling wagers was not continued in the UK Gambling Act 2005. However, to avoid undue recourse to the Courts, primarily by aggrieved customers, the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 established the UKGC as a competent authority for the gambling sector. This means that they approve alternative dispute resolution (ADR) providers that wish to offer services to gambling consumers in seeking to resolve disputes with gambling operators. Their role as competent authority includes making sure that ADR providers continue to meet the requirements of the ADR Regulations. There are 11 notified ADR entities in the UK that will deal with complaints regarding “gambling and lottery services.

3.12. Any gambling operator that wants to offer gambling services to consumers in Britain must have a licence from the UKGC and must follow the requirements in the Licence Conditions and Codes of Practice (LCCP). The LCCP includes social responsibility codes of practice that require for gambling operators to:

- deal with complaints within eight weeks of receiving them.

- have arrangements in place for customers to refer any dispute to an Alternative Dispute Resolution (ADR) process provider, if not resolved by the business.
- ensure that ADR is free of charge to the consumer.
- provide certain information to consumers about how to access that ADR provider.

The LCCP requires operators to take account of learning or guidance published by the UKGC on working with the ADR provider. This includes an expectation that where the consumer is not happy with the outcome of a complaint by the end of eight weeks (or earlier, if the operator deals with the complaint sooner), the operator will provide the consumer with confirmation that they have finished looking at the complaint. This enables the consumer to take the complaint to ADR if they choose.

The Independent Betting Adjudication Service (IBAS), a gambling-specialist Alternative Dispute Resolution (ADR) Service, adjudicating on disputes between licensed gambling operators and their customers, has published its ADR statistics for the period October 2017 to September 2018³¹.

Malta

3.13. The Malta Gaming Authority (MGA) published the Alternative Dispute Resolution (ADR) Directive in December 2018. This Directive outlines the specific requirements in relation to Alternative Dispute Resolution that must be complied with by a person licensed by the Authority to provide a gaming service.

In Malta the Competent Authority for ADR is the Consumer Affairs Council and there are two ADR entities available for complaints regarding “gambling and lottery services”, these are Malta Alternative Dispute Resolution Entity for Gambling (MADRE) and Pardee Consulta.

The Malta Gaming Authority itself, is neither a Competent Authority for the purposes of EU Directive (2013/11/EU) nor is it an ADR entity.

3.14. In 2017, the MGA received 3,998 requests for assistance or complaints from gamblers, with 3,586 of them being resolved³².

³¹ <https://www.ibas-uk.com/media/1079/2016-18-annual-adr-report-comparisons-final.pdf>

³² <https://www.mga.org.mt/wp-content/uploads/MGA-ANNUAL-REPORT-2017.pdf>

4. European Commission Recommendation on on-line gambling services

4.1. This Recommendation³³, adopted by the Commission on 14 July, 2014, encouraged Member States to pursue a high level of protection for consumers, players and minors through the adoption of principles for on-line gambling services and for responsible advertising and sponsorship of those services. The aims of the principles are to safeguard health and to minimise the eventual economic harm that may result from compulsive or excessive gambling.

4.2. The Commission's Recommendation sets out a number of principles that Member States are invited to take up in their national gambling regulations. These were as follows:

- Basic information requirements for gambling websites, in particular to ensure that consumers are provided with sufficient information to understand the risks related to gambling. Commercial communication (advertising and sponsorship) should be carried out in a responsible way.
- Member States should ensure that minors are not able to gamble on-line, and that rules are in place to minimise their contact with gambling, including through advertising or promotion of gambling services whether broadcast or displayed.
- There should be a registration process to open a player account so that consumers have to provide details of age and identity for verification by the operators. This should also enable operators to keep track of player behaviour and raise the alarm if necessary.
- Ongoing support should be available to players to prevent gambling-related problems, by equipping them with tools to keep gambling under control: possibilities to set spending limits during the registration process, to get information alerts about winnings and losses whilst playing, and to take time out from gambling.
- Players should have access to helplines they can call for assistance about their gambling behaviour, and they should be able to easily exclude themselves from gambling websites.
- Advertising and sponsorship of on-line gambling services should be more socially responsible and transparent. For example, it should not make unfounded statements about chances of winning, exert pressure to gamble, or suggest that gambling resolves social, professional, personal or financial problems.

³³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014H0478>

- Member States should ensure that training is provided to employees of on-line gambling operators interacting with players to ensure they understand problem-gambling issues and are able to liaise with the players appropriately.

5. Working Group consideration

5.1. The Group discussed what consumer protection measures should apply to consumers of gambling activities. The Group felt that the 2013 provisions to improve protection for consumers of gambling activities remained broadly valid, subject to some adjustments and updating. The Group also noted that the 2013 Scheme reflected many of the measures covered by the 2014 European Commission Recommendation.

5.2. The Group considered whether increased consumer protection in gambling activities should be achieved through development of existing consumer protection processes and legislation and be the responsibility of the Competition and Consumer Protection Commission (CCPC). Alternatively, should measures and enforcement responsibility be developed specifically for gambling activities. It noted in this regard, that the current domestic and EU legislative provisions did not apply to gambling to an extent that could be considered as providing adequate protection. In practice, the Irish Competition and Consumer Protection Commission does not have this function and may not, in any event, be adequately equipped for it. The 2013 Scheme proposed to incorporate consumer protection measures into the licensing requirements and codes of practice envisaged for gambling operators.

5.3. The critical element to improving consumer protection in relation to gambling, the Group believed, was the establishment of the proposed gambling regulatory authority. If established, and having regard to Government policy on sectoral economic regulation, the Group believed, that the authority should have the primary responsibility and mandate to ensure consumer protection for persons who engage in gambling, whether land based or on-line. The Group discussed whether the authority should have responsibility for the enforcement, in respect of gambling activities, of relevant general consumer protection legislation, in particular, the provisions of the Consumer Protection Act 2007 on unfair, misleading and aggressive commercial practices, as well as the Regulations that give effect to the Directive on Unfair Terms in Consumer Contracts. The Group felt that the authority should further enforce all new licensing conditions and other provisions designed to prevent unfair practices by operators in relation to gambling offers. Compliance in this regard would be part of the licensing requirements for gambling operators, and of any relevant codes of practice to be developed. It should also be the

competent authority for the purposes of EU or international consumer protection co-operation in the gambling sector.

5.4. The Group considered the contrasting examples of the ADR mechanisms operated by the UKGC and the MGA. The Group believed that the development of an ADR mechanism should be a priority issue for the new Irish regulatory authority, and that the authority should be competent authority in Ireland for ADR issues relating to gambling. Such a mechanism, as a discrete and adequately resourced (by the gambling industry) feature of the authority, would contribute significantly to ensuring that a player protection mandate was entrenched, to the greatest extent possible and justifiable.

5.5. The Group considered the range of enforcement measures that should be available to the regulatory authority to ensure effective protection of consumers. These might include potential prosecutorial powers insofar as such would be permissible in an Irish legal context. The Group agreed that any future consideration of this matter should be guided by the views of the Office of the Attorney General. The Group noted that while the UK Gambling Act 2005 provides for a number of criminal offences, the bulk of enforcement activity in the UK occurs under the licensing requirements and the codes of practice formulated and administered by the UKGC. In addition to attaching additional licensing requirements to operators found to have committed breaches of licence requirements or codes, the UKGC can impose heavy financial penalties on operators. The UKGC can also require such operators to return monies taken from customers in transactions that breached the licensing requirements and codes. The penalties and related settlements in some such cases in the UK have involved significant amounts in the millions of pounds.

5.6. The Group took the position that effective sanctions, akin to those in the UK, must be available to the Irish regulatory authority against operators who breach licence conditions, in regard to protection of the consumer and, in particular, of children and vulnerable persons. These sanctions should include financial penalties for breaches of licensing requirements and codes, as well as administrative penalties such as licence suspensions, revocations, etc. These penalties are likely to prove a more effective and expeditious form of enforcement than taking criminal proceedings through the courts. The power to impose direct sanctions would enhance the status and credibility of the proposed regulatory authority.

5.7. The Group, in recommending a new regulatory authority as the primary agency for the protection of the gambling consumer, appreciated that there may be constitutional limits on its ability to impose fines or administrative sanctions on gambling operators as might be necessary. The Group felt that further consideration should be given to the issue

of the type and range of enforcement powers of the proposed regulatory authority, having regard to what has proved possible in other regulated sectors, for example financial services.

5.8. It is clear, having regard to the extensive examples provided by the UK Licensing Conditions and Codes of Practice, that the development of similar provisions in Ireland would require a considerable amount of time and work. While the Group were conscious of the work involved in the formal establishment of the proposed regulatory authority, it was of the view that the development of the appropriate consumer protection measures should be undertaken at the earliest practicable date, including through engagement with all relevant stakeholders.

6. Working Group recommendations

6.1. The Working Group recommended that:

- The 2013 Scheme proposal to permit the contractual enforcement of gambling liabilities be implemented, but would only apply to licensed gambling operators.
- The proposed gambling regulatory authority should:
 - have the primary responsibility and mandate to ensure consumer protection as it relates to gambling activities.
 - have responsibility for the enforcement, in respect of gambling activities, of relevant general consumer protection legislation, in particular, the provisions of the Consumer Protection Act 2007 on unfair, misleading and aggressive commercial practices, as well as the Regulations that give effect to the Directive on Unfair Terms in Consumer Contracts.
 - assume the role of competent authority for Alternative Disputes Resolution (ADR) issues relating to gambling and develop an ADR mechanism to resolve disputes between operators and customers.
 - have the power to implement sanctions including financial and administrative penalties against operators who breach licence conditions and codes of practice designed to ensure protection of the consumer.

- be the competent authority for the purposes of any EU or international consumer protection co-operation in the gambling sector.
- The Office of the Attorney General should advise on the legality of permitting the regulatory authority to impose fines and administrative sanctions on gambling operators.
- The terms and conditions of permits and licences issued to licensed operators of gambling activities should provide, *inter-alia*, for:
- Authorisation of any special offers from gambling operators, especially those aimed at new customers, which may take the form of:
 - the imposition of monetary limits on such offers,
 - the offers only being available for limited periods,
 - whether the offers only being promoted in the operator’s premises or on-line, etc.
 - a prohibition of unreasonable conditions (including further bet requirements, etc.) on redeeming winning special offers.
- That a free bet offered which wins should return the amount won in money if requested by the consumer.
- That the player should not be obliged to engage in further betting before withdrawing winnings.
- A prohibition on inducements to bet (including advancing credit to a person for the purpose of betting, offers of VIP treatment, return of lost player funds to bet again, etc.)
- A clear Opt-out procedure for persons from targeted gambling advertising on social media.
- No penalising of successful gamblers by refusing bets or limiting stakes or winnings on subsequent bets either in store or on-line.
- The clear displaying, both in store and on-line, of terms and conditions including the applicable odds offered for any sporting or other event and whether there are monetary limits imposed on winning bets.
- All winning pay-outs “over the counter” to include a receipt or note of winnings.

Chapter 8

Addressing the social impact of gambling and protection of vulnerable persons

1. Introduction

1.1. The issue of problem gambling has been the primary focus of Irish media discussion around the regulation of gambling. A number of prominent sportspersons³⁴ have been to the forefront in sharing their experiences in this regard. There has been repeated reporting of problem gambling leading to persons engaging in theft from employers, resulting in imprisonment in some cases³⁵. Figures produced by the HSE in February 2019 show that the number of cases where people presented with problem gambling were 208 in 2015, 195 in 2016 and 219 in 2017³⁶.

1.2. The 2014/15 Drug Prevalence Survey provides the first comprehensive set of data on the extent of gambling in Ireland, as the final achieved sample comprised of 7,005 respondents. The results indicate that 64.5% of the population report some form of gambling in the 12 months prior to the survey, with 41.4% gambling on a monthly basis, or more often. The survey further found that prevalence of problem gambling in the general population was 0.8%. The survey is being repeated for 2018/2019 under the auspices of the Health Research Board (HRB) with initial findings expected to be published in 2020.

1.3. Research published in February 2017³⁷ (by H2 Gambling Capital), suggested that Ireland is behind only Australia and Singapore in terms of losses from gambling. Gambling losses in Ireland totaled €2.1 billion, indicating that about €470 per adult is lost on different forms of gambling. The research indicated that about half of the gambling losses in Ireland comes from online with traditional sports betting the second most popular method.

³⁴ <https://www.thejournal.ie/davy-glennon-anonymous-donor-4042012-May2018/>

³⁵ <https://www.independent.ie/life/high-roller-the-extraordinary-story-of-the-irish-postman-who-gambled-10m-and-stole-1-75m-at-work-36624072.html>

³⁶ [PQ 1663-19 \(Nos. treated for gambling addiction\) final jd .pdf](#)

³⁷ <https://www.economist.com/graphic-detail/2017/02/09/the-worlds-biggest-gamblers>

2. The 2013 General Scheme of the Gambling Control Bill

2.1. In the context of protection of vulnerable persons prone to risk of addiction to gambling activities, the 2013 General Scheme (in Part 6) was underpinned by a number of guiding principles. Enactment of the Gambling Control Bill was necessary to ensure the protection of vulnerable persons, including children, from risks to their well-being arising from gambling.

2.2. The Scheme proposed safeguards for vulnerable persons, which included:

- Taking steps to increase awareness amongst users of how to gamble responsibly and of possible risks from the misuse of gambling.
- The operator may offer no credit facility.
- No persons under 18 are allowed to gamble or to be employed by operators.
- Appropriate player identification measures being implemented by licensed gambling operators.
- The operation of a voluntary self-exclusion process whereby a person with a gambling concern can have themselves excluded from specific gambling venues, or from accessing gambling products provided by particular providers.
- The regulatory authority would maintain a register of all such persons and, make information relating to a named person available on request to some or all gambling licence holders.

Social Impact of Gambling

2.3. The social and health impacts of problem gambling include financial difficulties, theft, impact on relationships, mental health issues, drugs and alcohol use, etc. Gambling can negatively affect significant areas of a person's life, including mental and physical health, employment, finances and relationships with others. These have been documented in a research study commissioned by the Department of Employment Affairs and Social Protection.³⁸

2.4. The wider public health effects of gambling in the population are also potentially damaging as it may lead to poverty and damage to health³⁹. Problem gambling should be

³⁸ <http://www.welfare.ie/en/pressoffice/pdf/Playing-Social-Roulette.pdf>

³⁹ Griffiths M. Betting your life on it. *BMJ* 2004; 329:1055-6

viewed as a public health issue alongside other addictions and recent research work in this area supports a public health approach for problem gambling in that it is more cost-effective to prevent people from developing gambling problems.⁴⁰

Social Fund

2.5. The General Scheme proposed (in Part 7) the establishment of a new Social Fund with a purpose of promoting socially responsible gambling and assisting in counter-acting the ill effects for players, their families and society, of irresponsible gambling.

2.6. Some of the specific purposes of the Fund were to undertake public education and awareness raising programmes, research, the establishment, operation and evaluation of treatment programmes and the production of relevant information materials.

2.7. The Fund was to be comprised wholly of contributions from licence holders, with the level of contribution to be fixed by the Minister as a percentage of the turnover generated by the licensed service. The 2013 Scheme also contained provision for the suspension of a licence where a licence holder withheld contributions from the Fund. The licence would only be re-activated upon appropriate contributions being made by the licence holder.

3. Working Group consideration

Impact of problem gambling

3.1. The Group discussed the social and health impacts of problem gambling and acknowledged that problem gambling can lead to social breakdown, with devastating financial losses and alienation of family and friends. Often gambling is a behaviour conducted in secret, becoming known to the gambler's social network only when negative financial and social difficulties arise. Problem gambling can be associated with a range of harms including higher risk of psychiatric disorders, alcohol and drug misuse, physical and mental health issues, separation and divorce, unemployment and insolvency.

⁴⁰ Meyer C, Haver T, Griffiths M, (editors). *Problem Gambling in Europe: Challenges, Prevention and Treatment*. New York: Springer Science + Business Media; 2009.

Social Fund

3.2. The Group felt that the approach in the 2013 Scheme, with regard to safeguards for persons vulnerable to gambling addiction remained broadly valid. In particular, the establishment of a Social Fund supported by levies imposed on licensed gambling operators. It could play a significant role in helping to address addiction treatment by appropriate professional organisations. The Social Fund could also support research into gambling addiction problems and education programmes. .

UK

3.3. The UKGC requires all licensed gambling businesses, including society lotteries, to make a contribution towards research, education and treatment of problem gamblers. GambleAware raises funds, mainly from the gambling industry through voluntary donations, to support research, education and treatment of problem gambling. Fundraising targets for the gambling industry are agreed with the government and with the Responsible Gambling Strategy Board. However, in the event that the voluntary system fails to generate sufficient funds, the Gambling Act 2005 provides for a levy to be introduced.

3.4. The Group noted a Report published on 21 November, 2018⁴¹ by the UK Gambling Commission highlighting the issue of Young People and Gambling with 1.7% of 11-16 year olds found to be classified as ‘problem’ gamblers and 2.2% as ‘at risk’. The Group noted that no comparable Irish research has been undertaken. The 2014/15 Drug Prevalence Survey does show that almost one in ten 15-17 year olds bought a lottery ticket or scratch card in the last year, and 9.4% placed a bet at a horse or dog-racing meeting in the previous year.

New Zealand

3.5. In New Zealand, problem gambling services are funded through a levy on gambling operators. The levy is collected from the profits of New Zealand’s four main forms of gambling: gaming machines in pubs and clubs; casinos; the New Zealand Racing Board and the New Zealand Lotteries Commission. The Ministry of Health is responsible for the prevention and treatment of problem gambling, including the funding

⁴¹ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Young-People-and-Gambling-2018-Report.pdf>

and co-ordination of problem gambling services. The current regulations came into force on 1 July 2016⁴².

Australian Capital Territory (ACT)

3.6. The Problem Gambling Assistance Fund⁴³ supports projects and research for the purpose of alleviating problem gambling or the disadvantages that arise from problem gambling and for providing or ascertaining information about problem gambling. Revenue for the Fund is sourced from a 0.75 per cent levy on gaming machine licensees' Gross Gaming Revenue and contributions on a voluntary basis from Tabcorp and Casino Canberra Limited. The ACT Gambling and Racing Commission administers the Fund, including providing for the ACT Gambling Counselling and Support Service which is currently operated by Relationships Australia Canberra and Region. The Problem Gambling Assistance Fund Advisory Committee provides advice on other projects that fall within the scope of the Fund for consideration and decision by the Commission. In making decisions on projects under the Fund, the Commission's Board, having considered the recommendations of the Advisory Committee, ensure that approved expenditure meets a range of short-term and long-term goals as well as representing a cross-section of applied and academic projects.

Self-exclusion measures

3.7. The Group noted the demands for the development of a national self-exclusion register or mechanism whereby persons could seek to prevent themselves from placing a bet or engaging in a gaming activity. The proposals in the 2013 Scheme would, the Group felt, require significant further consideration given developments since 2013, particularly in relation to GDPR requirements. Issues identified by the Group in relation to the operation of a self-exclusion system included:

- the lack of a national identity card and attendant difficulties in “over the counter” recognition of gamblers in terrestrial gambling venues,
- the common practice of gamblers having multiple on-line accounts,
- who would have responsibility for maintaining a multi-operator self-exclusion register,
- the liabilities that may be involved in the maintenance of such a register.

3.8. The Group noted the reservations that have been expressed by regulatory authorities in other jurisdictions regarding the effectiveness of such self-exclusion

⁴² <http://www.legislation.govt.nz/regulation/public/2016/0120/latest/DLM6851201.html>

⁴³ <https://www.gamblingandracing.act.gov.au/community/problem-gambling-assistance-fund>

measures. It recommended that the proposed new regulatory authority should study the experiences in other jurisdictions such as the GAMSTOP⁴⁴ system in the UK.

UK

3.9. It can take up to 24 hours for self-exclusion to become effective, once a person signs up to GAMSTOP. After this period, the gambler will be excluded from gambling for a period of 6 months, 1 year or 5 years (depending on the option chosen) with on-line gambling companies licensed in Great Britain. Once the minimum duration period has elapsed, the self-exclusion will remain in force until the person returns to GAMSTOP to ask for it to be removed and gone through the relevant process.

New Zealand

3.10. There are two types of exclusion order provided for under the Gambling Act 2003. Self-exclusion orders provide gamblers who believe they may be experiencing gambling-related difficulties with the option to exclude themselves from the gambling area of a particular venue or a number of particular venues. Venue-initiated exclusion orders afford gambling providers the opportunity to exclude from the gambling area of the venue a person who they believe on reasonable grounds may be an actual or potential problem gambler.

Australian Capital Territory

3.11. There are two types of exclusions: self-exclusion and licensee exclusion. Self-exclusion is where a person chooses to exclude themselves from gambling at as many licensed venues in the ACT as they believe they need. A person can ask for help with self-exclusion from a gambling venue, the ACT Gambling Counselling and Support Service or they can get a self-exclusion Deed and lodge it directly with the Commission. A person can apply at any time to revoke their self-exclusion by completing an Application to Revoke Self-exclusion and sending it to the Commission. A person can also ask to revoke their self-exclusion by contacting a venue they are excluded from. There is a seven-day “cooling off” period after the application is made before the revocation becomes effective.

3.12. Licensee exclusion can happen when a gambling licensee believes the welfare of a person or their dependants is seriously at risk from the person's gambling. The licensee must exclude the person from gambling at their venue by issuing a Notice of Exclusion from Gambling by Licensee. A licensee must give a copy of the exclusion notice to the excluded person and this document will outline the reasons the licensee has taken this

⁴⁴ <https://www.gamstop.co.uk/>

action. A person who doesn't agree with the licensee's decision may ask the licensee to reconsider and may ask the Commission to review the exclusion.

4. Working Group recommendations

Protection of vulnerable persons and minors

4.1. The Working Group recommended that:

- The gambling regulatory authority should be empowered to:
 - impose effective financial and other administrative sanctions (licence suspensions etc.) against operators who breach licence conditions to prevent gambling by minors and vulnerable adults.
 - ensure that licensed operators implement appropriate age and identity checks both in store and on-line by all operators.
 - research the development of a workable “self-exclusion” system, subject to data protection and other legal considerations.
 - consider the possible imposition of daily, weekly and monthly spending limits for certain gambling activities, with appropriate “cooling off” periods where the player seeks to increase previous limits imposed.
 - consider a potential requirement for “Pop up” notifications to appear on websites informing gamblers how much they have gambled, how much they have won/lost, how long they have been on-line, etc.

Addressing the social impact of gambling

4.2. The Working Group recommended that:

- funding be made available for research, training, and community interventions into treatment of gambling addiction.
- funding of public education and awareness raising programmes and the production of relevant information materials be supported.

- assistance be given in the provision of additional services to treat gambling addiction.

4.3. In order to meet these objectives, the Group recommended that a Social Fund, managed by the gambling regulatory authority should be established.

4.4. The Social Fund should:

- be funded through levies on licensed gambling operators.
- have an Advisory Board of persons with relevant expertise to determine the disbursement of funds.

Chapter 9

Licence fees and taxation for gambling activities

1. Introduction

1.1. The setting of off-course bookmakers' licence fee rates, betting duty rates and other taxation provisions on gambling activities are the policy responsibility of the Minister for Finance and the Minister for Public Expenditure and Reform under the legal authority of the Oireachtas. The Revenue Commissioners are responsible for related tax and duty collection and excise licensing compliance functions as provided for in the Finance Acts.

2. Betting Duties for licensed bookmakers

2.1. The current rate of off-course betting duty was doubled to 2% on all bets, including remote bets, from 1 January, 2019. However, under section 67A of the Finance Act 2002 (as amended), liability for betting duty on remote bets is confined to bets placed by persons in Ireland, including on-line bets. The duty on the commission charged by remote betting intermediaries (betting exchanges), was increased from 15% to 25% by the Minister for Finance, in Budget 2019.

2.2. On-course bookmakers are liable to a turnover charge of 0.25% on all bets entered into at the racecourse. Horse Racing Ireland administers this charge and allocates the permits. Bets made at the racecourse are not liable to betting duty. However, bets made or accepted, at a racecourse or dog track, through any means of telecommunications from outside the track, are liable to the 2% betting duty.

2.3. While the increase in betting duty was strongly opposed by bookmakers, the authorities responsible for horse and dog racing supported the move. HRI argued strongly for continued support for the sector. It was of the view that State support is repaid in employment, economic activity, exports of horses and dogs and raised profile.

3. Rates and Yield from betting duties

3.1. The Revenue Commissioners provided the following figures for the Rates and yield from betting duty.

Rates of betting duty (as of 1 January 2019)

<u>Betting Operators</u>	<u>Rates of Duty</u>
Off-Course Bookmakers	2%
Remote Bookmakers	2%
Betting Intermediaries	25% on all commission earned
On- Course	0%

Betting Duty Yield 2014 – 2017

<u>Year</u>	<u>“Traditional” Betting</u>	<u>Remote Betting</u>	<u>Betting Intermediaries</u>	<u>Total</u>
-	<u>€m</u>	<u>€m</u>	<u>€m</u>	<u>€m</u>
2017	29.0	21.4	1.8	52.2
2016	28.1	20.7	1.9	50.7
2015	27.7	3.0	0.3	31.1
2014	26.2	n/a	n/a	26.2

4. Betting Licences for on-course bookmakers

4.1. The current fixed fee set by Horse Racing Ireland and Bord na gCon for all on-course bookmaker permit holders is €250 per annum. These bookmakers pay a levy of 0.25% to Horse Racing Ireland (but are not subject to betting duty).

4.2. The Betting (Amendment) Act 2015 brought remote bookmakers and remote betting intermediaries within the scope of the betting duty and existing licensing regime from August 2015. The current licence fees for bookmakers are as follows:

<u>Licence Type</u>	<u>Cost</u>	<u>Duration</u>
Standard Bookmaker's licence	€500	2 years
Registration of Premises	€760	2 years
Remote Bookmaker's licence	€10,000*	2 years
Remote Betting Intermediary's licence	€10,000**	2 years

*The cost of a first Remote bookmaker's licence is €10,000. However, the cost of renewal is based on turnover.

** The cost of a first Betting Intermediary licence is €10,000. However, the cost of renewal is based on annual commission earnings.

5. Gaming and amusement machines licence fees

5.1. Gaming and Amusement Machine licence duty was introduced to raise revenue and is not earmarked to provide and support compliance and regulatory functions. The Revenue Commissioners are responsible for issuing gaming licences (for premises), amusement machine permits (for premises), gaming machine licences (for each gaming machine) and amusement machine licences (for each amusement machine). They are also responsible for ensuring excise licence compliance, i.e. taking action under the Finance Acts against unlicensed or improperly licensed gaming and amusement machines. Gaming machines and amusement machines which are made available for play must have a valid excise licence issued by the Revenue. It is illegal to operate a gaming or amusement machine without the appropriate licence.

5.2. Gaming Licences are issued by the Revenue Commissioners in accordance with the provisions of Part III of the Gaming and Lotteries Act 1956. Under section 15 of the

1956 Act, a District Court may grant a certificate authorising the issue of a licence permitting gaming in an amusement hall or funfair. Section 19 of the same Act provides that the Revenue Commissioners “shall, on the application of a person to whom a certificate for a gaming licence has been granted by the District Court and on payment by that person of the relevant excise duty to Revenue, issue to that person a gaming licence”. Applicants to Revenue for a Gaming Licence are also required to hold a current tax clearance certificate.

5.3. The relevant legislation for the setting of licence fees for gaming machines is the Finance Act 1975. (The Finance Act 1992 applies only to amusement machines). In addition, Revenue will issue a Gaming Machine Licence (for each gaming machine) on the production of a Gaming Licence (for the premises), payment of the excise duty due on the licence and confirmation of tax clearance status.

5.4. The Revenue Commissioners provided the following details for the rates and licence fee yield from gaming and amusement machines for 2016 and 2017.

Gaming and amusement machines – Current licence fees

Licence Category	Licence Fee
Gaming Licence (for premises)	3 months: €175. Up to one year: €630
Gaming Machine Licence (per machine)	3 months: €145. Up to one year: €505
Amusement Permit (for premises)	€100
Amusement Machine Licence (per machine)	3 months: €38. Up to one year: €125

Gaming and amusement machines – licence fee yield

Gaming & Amusement machine licences	2016 Licences issued & yield		2017 Licences issued & yield	
	Issued	Paid	Issued	Paid
Amusement machine annual licence (premises)	8330	€1,041,250	8728	€1,091,000
Amusement machine -3 month licence	171	€6,498	176	€6,688
Amusement machine permit	181	€18,100	169	€16,900
Gaming Licence - 3 month licence	2	€350	3	€525
Gaming Licence Annual	74	€46,620	81	€51,030
Gaming Machine - 3 Month Licence	3420	€495,900	6013	€871,885
Gaming Machine - Annual Licence	2668	€1,347,340	3599	€1,817,495
Totals	14,846	€2,956,058	18,769	€3,855,523

5.5. With regard to enforcement measures against unlicensed or improperly licensed gaming machines, in 2017 the Revenue Commissioners engaged in a national compliance project in relation to tax and licensing compliance in the gaming and amusement sector. The objectives of the project are to ensure maximum licensing compliance in the sector and to provide assurance to the legitimate trade. Revenue is checking for compliance across all tax heads during the course of the project. As of end January 2019, a yield of €2.3 million was received under the project. Of this, approx. €1.28 million related to excise liabilities (licence fees for machines) and €0.6m approx. related to VAT. In addition, a total of 293 gaming machines had been seized by Revenue for licensing non-compliance

6 Licence fees for gambling elsewhere

6.1. The licence and annual operating fees charged by the UK Gambling Commission for the various gambling activities licensed by them are set out in Appendix IV. Details of the licence fees charged in other EU Member States are set out in Chapter 3.

7. Application of VAT on gambling

7.1. All forms of gambling carried on as a business are subject to VAT. The operation of gaming and amusement machines are subject to VAT at the standard rate (currently 23%).

7.2. However, the following gambling activities are exempt from VAT:

- The operation of lotteries under the 1956 Gaming and Lotteries Act. (This now essentially concerns local lotteries).
- Betting at bookmakers premises and remotely, or via the Tote at horse and dog racing tracks (Schedule 1, VAT (Consolidation) Act 2010).

8. The 2013 General Scheme of Gambling Control Bill

8.1. The 2013 General Scheme, in Part 4, provided that the Office for Gambling Control Ireland (OGCI) may charge fees for the receipt and processing of applications for licensing and registration purposes, the lodging of appeals, issuance of a licence or a registration.

8.2. Fixed fees would be charged, in respect of the appropriate licence categories, for each land-based venue where a gambling service is provided. OGCI may set a higher fee in certain regions/locations based on established criteria. Supplementary fees may also be charged per machine, per table, per terminal (as defined in Head 18 of the Scheme) and per game.

8.3. When setting the level of fee for each category of licence, supplementary licence or registration, the OGCI will take account of the following factors:

- the complexity of assessing applications,
- the level and nature of resources required in the assessment,
- subsequent compliance and enforcement requirements,
- the relative benefits to be gained by the potential licensee or applicant for registration, from the grant of a licence or registration.

8.4. The Scheme further provided that the OGCI would submit a Schedule of fees and supplementary fees to the Minister for approval.

9. Working Group consideration

9.1. The Group noted the detailed information provided by the Department of Finance and the Revenue Commissioners. This informed discussion on issues with regard to fees, duties and taxation in the context of new licensing approaches and modern regulation of the gambling sector. The proposals contained in the 2013 Scheme were also considered in this regard.

9.2. The Group agreed that the licence fee and duty regime for gaming and amusement premises and machines was antiquated. Fees charged remained relatively low compared to the fees payable by gambling operators in the UK and elsewhere. The Group felt that the proposed regulatory authority should, when established, examine the optimum level of fees to be charged for permits and licences to ensure that the licensing objectives and conditions can be met and to ensure better regulation. The Group, critically, believed that, licence fees charged to operators, should ultimately contribute to the objective of self-financing of the proposed regulatory authority.

9.3. The recent trends in tax receipts from betting were examined. The Group noted that the extension of the betting duty to the remote (on-line) sector through the Betting Amendment Act 2015 served to increase receipts substantially from €26 million in 2015 to €52 million in 2017.

10. Recommendations

10.1. The Working Group recommended that:

- the gambling regulatory authority should develop the appropriate permit and licence fees and duties to be payable by licensed gambling operators.
- the fees should be at a level necessary to achieve the optimum level of licence issue and regulatory compliance objectives.
- the permit and licence fees to be charged should, ultimately have regard to the intention for future self-financing of the authority.
- in determining the level of fees and duties to apply, regard should be had to fees and duties currently payable by gambling operators in other States.

- the Department of Finance and the Revenue Commissioners, in conjunction with other relevant Departments and in consultation with the regulatory authority should develop a proposal on the future approach to the taxation of the gambling sector once the future legal framework has been set out in the enactment of the proposed new Gambling Control Bill. Such a proposal should have regard to the various manifestations of gambling activities offered.

Chapter 10

Recommendations of the Working Group

Chapter 1: Introduction

The Working Group recommended that:

1. The comprehensive reform of all legislation relating to the licensing and regulation of all gambling activities should be progressed, building on updated provisions in the 2013 General Scheme and having regard to recent developments.
2. The Minister of State should proceed with the proposed updating of the Gaming and Lotteries Act 1956 as an interim reform measure.

Chapter 2: Future approach to licensing of gambling activities

The Working Group made a number of recommendations as follows:

General recommendations:

3. The gambling regulatory authority will issue all licences and permits for gambling activities following the transitional period referred to above.
4. The number of proposed gambling licence categories, set out in the 2013 Scheme, should be significantly reduced to the following broad categories: betting, gaming and lotteries, gaming machines, bingo, casino, and on-line gambling.
5. Consideration should be given by the regulatory authority to further refining the licensing approach, including along “horizontal” lines.
6. The Revenue Commissioners, Local Authorities, An Garda Síochána, the District Court and Horse Racing Ireland would have no further direct responsibility in the licensing of all types of gambling permits and licences.
7. To provide an interim reform solution, the Gaming and Lotteries (Amendment) Bill should be progressed as expeditiously as possible.

8. Existing betting, gaming and lottery permits and licences issued under the Totalisator Act 1929, Betting Act 1931 and the Gaming and Lotteries Act 1956 should continue to be valid for a suitable transition period.

Specific recommendations:

The regulatory authority shall in relation to applications for gambling permits and licences:

9. subject to enactment of relevant legislation (e.g. on data protection and taxpayer confidentiality issues), be assisted by the Revenue Commissioners, An Garda Síochána and other authorities in investigation and verification of applicants.
10. require all information necessary under legislation, including the required licence fee, production of a tax clearance certificate, all relevant health and safety and planning documentation.
11. determine the beneficial ownership and control of any applicant company.
12. carry out stringent “fit and proper” checks on all licence applicant companies and key personnel.
13. determine that applicants have appropriate reserves to meet player liabilities.
14. ensure that measures regarding access to records by the regulatory authority are in place.
15. ensure that applicants:
 - have an operational website both at the time of application for a licence, and throughout the licence period;
 - locate their servers in the State or in an EU or EEA State;
 - hold an indemnity bond to ensure that liabilities to players are honoured.
16. ensure that age verification systems are in place before allowing players access to the service.
17. ensure that applicant companies:

- do not offer play-for-free games on their gambling website or platform so as not to encourage young people to gamble.
- have customer verification systems in place to ensure that problem gamblers or, persons with criminal intent, are restricted in accessing on-line gambling services.
- have systems in place for detecting harmful behaviour at the earliest possible stage.

18. attach such terms and conditions to gambling licences issued as are considered necessary, including requiring licensed operators to implement appropriate measures to identify customers and to combat money laundering, including establishing the source of funds used for bets over a certain threshold.

19. be responsible for all inspection and enforcement measures necessary to ensure compliance with licence conditions.

The regulatory authority would:

20. be responsible for setting stake and prize limits for gaming machines (subject to Ministerial approval).

21. approve, in consultation with the Minister, the stake and prize amounts limits offered for bingo.

22. determine the level and extent of all fees and duties to be charged in respect of licences and permits.

23. collect all licensing and permit fees and duties fees.

The regulatory authority would be authorised to:

24. determine applications for licences for the sale of alcohol in licensed casinos.

25. have regard to potential “grandfather” rights of existing private members clubs when considering applications for a casino licence.

26. monitor the nature and offer by a game developer or a third party, of in-game purchases in on-line video games.

27. determine if an activity falls within the legal definition of a gambling activity, and be required to be in possession of an appropriate licence.

Chapter 3: Future regulation of gambling activities

The Working Group recommended that:

The Government proceed:

28. with the establishment of an independent statutory gambling regulatory authority, in line with its Decision of 10 January, 2018, as the optimum approach.
29. avoid a piecemeal or incremental approach to the development of a modern regulatory function.
30. The Department of Justice and Equality should engage with the Department of Public Expenditure and Reform to determine the potential resources required for the establishment of the regulatory authority.
31. The regulatory authority should have the objective of being self-financing to the greatest extent possible.
32. the results of the consultancy study funded by the European Commission should be considered in the business planning for the regulatory authority.
33. further consideration should be given to the eventual absorption of the functions of the National Lottery Regulator into the regulatory authority.

The gambling regulatory authority would be responsible for:

34. licensing and regulating all gambling activities in Ireland.
35. the setting of appropriate licence fees and duties for gambling activities.
36. supervising licensees and overseeing gambling operations, through compliance and monitoring activities, on-site inspections, etc.
37. ensuring the optimum protection of consumers of gambling activities.

38. ensuring protection of minors and vulnerable persons through enforcement of licence conditions, and
39. the prevention of gambling regulated match fixing and money laundering.

In order to carry out these functions effectively, the regulatory authority:

40. must be of sufficient scale and impact to effectively regulate the Irish gambling market.
41. must have appropriate powers of enforcement, including the power to levy fines on operators, suspend or revoke licences etc.
42. should benefit from the expertise of the Revenue Commissioners to provide administrative support and expertise for an interim period in relation to the licensing functions currently operated by Revenue.
43. must be sufficiently resourced in the short to medium term by the Exchequer, to carry out its range of licensing, compliance and enforcement tasks.
44. While acknowledging that limited possibilities exist for the reassignment of staff currently engaged in any of the licensing and regulation areas of gambling to the new authority, this matter might be subject to further consideration.

Chapter 4: Advertising, promotion and sponsorship of gambling products.

The Working Group made the following recommendations concerning advertising, promotion and sponsorship of events, by gambling operators.

General recommendations

The gambling regulatory authority should:

45. develop policies and regulations (a “Code”) in respect of all gambling advertising, sponsorships and promotions, in consultation with the relevant Departments, sporting organisations, the ASAI, the BAI, the Competition and Consumer Protection Commission (CCPC) industry representatives, health treatment professionals, consumer organisations, etc. The Code shall contain appropriate, proportionate and effective measures having due regard to potential negative consequences for sporting organisations and events.

46. ensure that regulations should contain appropriate, proportionate and effective measures,
47. have regard to potential negative consequences for sporting organisations.
48. adopt a persuasive approach to combatting egregious advertising or promotion of gambling activities.
49. in formulating any proposals in these areas, take care to ensure that no unintended or negative consequences arise, particularly for sporting organisations and events.
50. give consideration as to whether gambling advertising, sponsorship or promotions might, in appropriate instances, be required to carry “health warnings”, perhaps along the lines of the financial regulator or those imposed on cigarette and alcohol packaging.
51. have close regard to developments in the UK, in the area of advertising around sporting events on TV, given the significant ‘spill over’ effect.

Advertising and Promotions

52. All promotions or advertisements should clearly state any limits on amount or method of pay out, or if certain persons are excluded from participation, etc.
53. Targeting of gambling advertisements or promotional offers should not be permitted at:
 - persons who have indicated their desire to self-exclude from gambling services,
 - vulnerable persons,
 - children and young adults under 18.
54. Licensed gambling operators must have in place a clear and effective opt-out provision from gambling promotions and advertisements for persons targeted by “push ads” on social media.
55. Gambling advertisements or promotions should:
 - primarily provide factual information only.
 - not feature cartoon type advertising, or “lifestyle or fun” scenes that may increase the appeal of gambling to young persons.

- clearly state any limits on amount and method of pay out, if some gamblers are excluded, etc.
- not target vulnerable persons, young persons or persons who have indicated their desire to self-exclude from gambling services.
- include a clear opt-out provision for persons targeted by “push ads” on social media.
- not feature persons who may be in a position to influence the outcome of an event for which a gambling market is being offered.

Sponsorship

56. No gambling related sponsorship of events primarily involving persons under 18 should be permitted. This includes the event, the team, branded clothing, location and stadium branding, pitch side-advertising hoardings.

Chapter 5: Combatting money laundering through gambling activities

The Working Group made the following recommendations:

57. The revised Gambling Control Bill should, in so far as possible, be “AML proofed” and have as a key objective the need to combat anti-money laundering attempts through gambling activities.

The gambling regulatory authority should:

58. be assigned responsibility as the competent authority for AML/CFT supervision in respect of licensed gambling activity operators.
59. have 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.
60. operate the standard AML/CFT supervisory practice of concentrating efforts where the risks are greatest.
61. lead on the revision of the ML/TF risk assessment biennially in collaboration with the AMLSC, liaise with the An Garda Síochána (Financial Intelligence Unit), Revenue Commissioners, and other relevant bodies on Suspicious Transaction Reports.

62. liaise with relevant AML authorities in other States as necessary.
63. ensure its staff are trained and equipped to take appropriate decisions on the suitability of AML/CFT systems and controls, as per 4AMLD Article 48(2).
64. appoint an appropriate representative to the AMLSC.
65. ensure that operators have a written AML framework in place as a condition of licensing. Ensure that operators are effectively supervised for compliance with AML/CFT requirements.

Chapter 6: Combatting betting related manipulation of sporting events (match-fixing)

The Working Group, having examined the issues surrounding match fixing and the betting related manipulation of sporting events, and to protect the integrity of sports, made the following recommendations:

The gambling regulatory authority should:

66. develop specific licence terms and conditions to counter the potential for manipulation of sports events for gain through betting activities.
67. include a dedicated Sports Betting Integrity Unit having the primary responsibility for ensuring the betting related integrity of sporting events involving licensed operators.

The Sports Betting Integrity Unit should:

68. include members of An Garda Síochána amongst its staff.
69. establish relationships with national sports governing bodies who would continue to set and enforce their own rules of competition.
70. require, as a licensing condition, that betting operators share all pertinent information with the regulatory authority, An Garda Síochána, etc. for the purposes of carrying out investigations into suspicious betting activity.

71. require all licensed gambling operators to desist from using sportspersons in advertising and promotion relating to the sport where betting odds are offered and the person concerned is in a position to influence the outcome of an event.
72. develop necessary Memorandums of Understanding with all involved parties to combat sports related betting manipulation.
73. establish and maintain a close working relationship with the UK Gambling Commission's Sports Betting Intelligence Unit given the significant overlap of betting on sports events.
74. establish a working relationship with relevant national and international sports integrity organisations and law enforcement agencies.
75. The Department of Transport, Tourism and Sport, in consultation with relevant Government Departments and other stakeholders, should examine the potential for Ireland's signature and ratification of the Macolin Convention in accordance with Action 42 of the National Sports Policy 2018-2027.
76. Subject to ultimate Government decision, the gambling regulatory authority should, primarily through its Sports Betting Integrity Unit,
- assume the gambling related responsibilities of national platform required by the Macolin Convention,
 - establish relationships with national platforms in other jurisdictions.
 - establish a confidential reporting mechanism for incidences of suspicious betting behaviour.

Chapter 7: Protection of the consumer of gambling activities

The Working Group recommended that:

77. As proposed by The 2013 Scheme, the contractual enforcement of gambling liabilities be implemented, but would only apply to licensed gambling operators.
78. The proposed gambling regulatory authority should:
- have the primary responsibility and mandate to ensure consumer protection as it relates to gambling activities.

- be the competent authority for the purposes of any EU or international consumer protection co-operation in the gambling sector.
 - develop an Alternative Disputes Resolution (ADR) mechanism to resolve disputes between operators and customers.
 - have the power to implement sanctions including financial and administrative penalties against operators who breach licence conditions and codes of practice designed to ensure protection of the consumer.
79. The Office of the Attorney General should advise on the legality of permitting the regulatory authority to impose fines and administrative sanctions on gambling operators.
80. The terms and conditions of permits and licences issued to licensed operators of gambling activities should provide, *inter-alia*, for:
81. Authorisation of any special offers from gambling operators, especially those aimed at new customers, which may take the form of:
- the imposition of monetary limits on such offers,
 - the offers only being available for limited periods,
 - whether the offers only being promoted in the operator's premises or on-line, etc.
 - a prohibition of unreasonable conditions (including further bet requirements, etc.) on redeeming winning special offers.
82. That a free bet offered which wins should return the amount won in money if requested by the consumer.
83. That the player should not be obliged to engage in further betting before withdrawing winnings.
84. A prohibition on inducements to bet (including advancing credit to a person for the purpose of betting, offers of VIP treatment, return of lost player funds to bet again, etc.)
85. A clear Opt-out procedure for persons from targeted gambling advertising on social media.

86. No penalising of successful gamblers by refusing bets or limiting stakes or winnings on subsequent bets either in store or on-line.
87. The clear displaying, both in store and on-line, of terms and conditions including the applicable odds offered for any sporting or other event and whether there are monetary limits imposed on winning bets.
88. All winning pay-outs “over the counter” to include a receipt or note of winnings.

Chapter 8: Addressing the social impact of gambling and protection of vulnerable persons

The Working Group recommended that:

89. The gambling regulatory authority should be empowered to:
 - impose effective financial and other administrative sanctions against operators who breach licence conditions or designed to prevent problem gambling, gambling by children and vulnerable adults.
 - impose significant penalties (licence suspensions, etc.,) for breaches of its licensing requirements and codes.
 - ensure that licensed operators implement appropriate age and identity checks both in store and on-line by all operators.
 - research the development of a workable “self-exclusion” system, subject to data protection and other legal considerations.
 - consider the possible imposition of daily, weekly and monthly spending limits for certain gambling activities, with appropriate “cooling off” periods where the player seeks to increase previous limits imposed.
 - consider a potential requirement for “Pop up” notifications to appear on websites informing gamblers how much they have gambled, how much they have won/lost, how long they have been on-line, etc.

Addressing the negative impact of gambling

The Working Group recommended:

90. that a Social Fund, managed by the gambling regulatory authority should be established.
91. The Social Fund should:
 - be funded through levies on licensed gambling operators.
 - have an Advisory Board of persons with relevant expertise to determine the disbursement of funds.
 - assist in the provision of additional services to treat gambling addiction.
 - fund research, training, community interventions into treatment of gambling addiction.
 - fund public education and awareness raising programmes and the production of relevant information materials.

Chapter 9: Licensing fees, betting duties and taxation of gaming and gambling Activities

The Working Group recommended that:

92. the gambling regulatory authority should develop the appropriate permit and licence fees and duties to be payable by licensed gambling operators.
93. the fees should be at a level necessary to achieve the optimum level of licence issue and regulatory compliance objectives.
94. the permit and licence fees to be charged should, ultimately have regard to the intention for future self-financing of the authority.
95. in determining the level of fees and duties to apply, regard should be had to fees and duties currently payable by gambling operators in other States.
96. the Department of Finance and the Revenue Commissioners, in conjunction with other relevant Departments and in consultation with the regulatory authority should develop a proposal on the future approach to the taxation of all gambling activities.

Appendix I:

Membership of the Inter-Departmental Working Group

The table below details the attendees from Departments and Agencies at the meetings of the Working Group.

Department	Meeting Attendees
Justice and Equality	Minister of State David Stanton (Chairperson) Brendan Mac Namara, Coroner and Gambling Policy Division, Barry Quinn, Coroner and Gambling Policy Division, Ciarán Colley, MoS Stanton's Office, Secretary to the Working Group.
Tourism, Transport and Sport	Peter Hogan Sarah Doherty James Lavelle Saorla Begley
Public Expenditure and Reform	John Burke Eoin Dormer
Communications, Climate Action & Environment	Tríona Quill Ciarán Shanley Dualta Ó Broin
Office of the Attorney General	Jonathan Buttimore Aimee Sweeney Micheál Corry
Finance	Money Laundering Oliver Gilvarry Deirdre Nic Ginnea Alan Keating Taxation Gerry Kenny
Revenue Commissioners	Aileen Gleeson Keith Hennessy Dan Kelleher Ethna Rynne
Health	Dairearca Ní Néill
Employment Affairs and Social Protection	Sarah O'Halloran Mairéad Reilly
Agriculture, Food and the Marine	Rebecca Chapman Gerry Greally Joan Kennedy

Business, Enterprise and Innovation	Bill Cox Felix O’Kane
Culture, Heritage and the Gaeltacht	John Healy
Education and Skills	Rita Sexton Eamonn Moran
Housing, Planning and Local Government	Brian Kenny Niamh Drew
Rural and Community Development	Kevin Power
Taoiseach	Anthony Cummins Mairéad Naughton
Justice and Equality – Anti-Money Laundering and Counter Terrorist Financing (AMLCTF) Division	Paul Gunning Ann Neville Eimear Cowan Aaron O’Sullivan
An Garda Síochána	Inspector Paul Greene Sergeant Nigel O’Neill Chief Superintendent Fergus Healy

Glossary of Terms

4AMLD	4 th Anti Money Laundering Directive – brings gambling activities other than casinos within scope for compliance with AML/CTF requirements
ADR	Alternative Disputes Resolution – mechanism used in UK and Malta for settling disputes between gambling companies and users of their services
AML/CTF	Anti-Money Laundering/Counter Terrorist Financing
ARJEL	French on-line gambling regulator
ASAI	Advertising Standards Authority of Ireland
BAI	Broadcasting Authority of Ireland
CDD	Customer Due Diligence – enables an organisation to assess the extent to which a customer exposes it to a range of risks. These risks include money laundering and terrorist financing.
DJE	Department of Justice and Equality
EGGS	Expert Group on Gambling Services – a group of national gambling regulators meeting under the auspices of the European Commission.
EI	Enterprise Ireland
FATF	Financial Action Task Force - an inter-governmental body established to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats.
FOBT	Fixed Odds Betting Terminal – description given to a Category B2 gaming machine in the UK.
GGY	Gross Gaming Yield - total of all money received by the gambling operator from players as bets, minus the payout made to those players as winnings.

GREF	Gaming Regulators European Forum - forum in which European gambling regulators meet to exchange views and information and discuss policy on gambling matters.
HRI	Horse Racing Ireland
MGA	Malta Gaming Authority
OGCI	Office of Gambling Control Ireland – 2013 Gambling Control Bill General Scheme proposed the establishment of such a regulatory Division within DJE.
OPC	Office of the Parliamentary Counsel – a Division of the Attorney General’s Office that is responsible for drafting legislation.
PMCs	Private Member Card Clubs – establishments providing casino type services in Ireland. Subject to AML/CTF compliance.
SBIU	Sports Betting Intelligence Unit – operates as the point of contact for match fixing issues in the UKGC.
STR	Suspicious Transaction Report – in accordance with AML/CTF requirements, relevant business are obliged to report suspicious transactions to An Garda Síochána and the Revenue Commissioners
UKGC	UK Gambling Commission – the regulatory authority for gambling in the UK.

Current activities and responsibilities of Departments and agencies in the area of gaming and gambling

A. Department of Employment Affairs and Social Protection (DEASP)

1. Introduction

1.1 The Department of Employment Affairs and Social Protection (DEASP) does not have direct involvement in gambling, but has an interest in the potential social impact of gambling on persons, including poverty. The then Minister for Employment Affairs and Social Protection had observed, in the context of the Gambling Control Bill 2013, that there was a lack of evidence on the social impact of gambling in Ireland. In view of this, DEASP initiated two complementary research projects on the social impact of gambling. The Department of Justice and Equality undertook a prevalence survey on the extent of gambling in Ireland, through the auspices of the National Advisory Committee on Drugs and Alcohol Drugs and Alcohol Prevalence Study 2014/2015, and DEASP undertook a qualitative study on problem gambling:

<http://www.welfare.ie/en/pressoffice/pdf/Playing-Social-Roulette.pdf>

2. Main issues of concern

2.1 National Poverty Target for Poverty Reduction

- One component of the national poverty target for poverty reduction is deprivation of basic necessities, which may be affected by excessive expenditure of limited household resources on gambling. It is important any new regulations take into account the social and financial consequences of gambling, particularly for those on low incomes.

2.2 Poverty Impact Assessment

- Poverty impact assessment (PIA) is the process by which government departments, local authorities and State agencies assess policies and programmes at design, implementation and review stages in relation to the likely impact that they will have or have had on poverty and on inequalities which are likely to lead to poverty, with a view to poverty reduction. A poverty impact assessment should be considered when developing any future regulation of gambling.

3. Conclusion

While DEASP has no direct interest in the proposed legislation, there is interest from the perspective of potential impacts on persons in receipt of social protection payments, arising from regulation of this sector. The Department's concern is primarily from a poverty perspective.

B. Department of Education and Skills

1. Curriculum

The syllabus for Social, Personal and Health Education (SPHE) at primary and post-primary level provides a framework for teachers and students to explore issues of concern to their personal wellbeing and development. SPHE is a mandatory curriculum subject in all primary schools and in post-primary up to Junior Cycle. At Senior Cycle an SPHE Framework published by National Council for Curriculum and Assessment (NCCA) is available to schools to use.

SPHE is designed as an enabling curriculum. Schools are enabled to develop an SPHE curriculum, which is informed, by the needs and concerns of students, parents and guardians.

Digital Media Literacy Short Course - Junior Cycle

Through studying this digital media literacy short course, students will learn to use digital technology to engage in self-directed enquiry, to discriminate between multiple sources of information and to participate safely and effectively in an on-line environment.

2. On-line Safety

Webwise is part of the Professional Development Service for Teachers Technology in Education service, which promotes and supports the integration of ICT in teaching and learning in first and second level schools. Webwise looks at key areas for young people including digital media literacy and on-line gaming. Webwise promotes the autonomous, effective, and safer use of the internet by young people through a sustained information and awareness strategy targeting parents, teachers, and children themselves with consistent and relevant messages.

Webwise develop and disseminate resources that help teachers integrate internet safety into teaching and learning in their schools. It also provide information, advice, and tools to parents to support their engagement in their children's on-line lives. With the help of the Webwise Youth Advisory Panel it develops youth oriented awareness raising resources and campaigns that address topics such as cyber bullying.

There is a concern that reward type games may encourage or lead on to on-line gambling at a later stage. The most effective way to address this issue among young people is through education and awareness, which can be embedded through digital media literacy resources. Webwise are planning additional lessons and resources around media literacy, which will educate students on areas such as on-line advertising.

C. Revenue Commissioners

1. Gaming machines

The Revenue Commissioners, under the terms of Part III of the 1956 Gaming and Lotteries Act will issue a gaming licence to an applicant to whom a certificate for a gaming licence has been granted by the District Court and on payment of any excise duty provided for by law subject to the conditions attached to the certificate.

Gaming machines and amusement machines which are made available for play must have a valid excise licence issued by Revenue.

For all forms of excise licence – Revenue will check for a valid tax clearance certificate.

Where a Gaming or Amusement machine is available for play without a current licence displayed, it is liable to forfeiture by Revenue under Section 43(10) (b) of the Finance Act 1975 (Gaming machines) and Section 127 of Finance Act 1992 (Amusement Machines). Machines may be seized under Section 141 of the Finance Act 2001.

2. VAT

The following activities are exempt from VAT: lotteries (both National Lottery and “local” lotteries), betting at a bookmakers premises or via the totalisator at horse and dog race tracks (Schedule 1 VAT Act 1972-2010). All other forms of gambling carried on as a business are subject to VAT. The operation of gaming and amusement machines are subject to VAT at the standard rate (currently 23%).

3. Betting

Revenue issues betting licences to the following categories of betting operators:

1. Bookmakers.
2. On-course bookmakers.
3. Remote (on-line) bookmakers.
4. Remote betting intermediaries.

4. Betting duty

Revenue collects Betting Duty and Betting Intermediary Duty from licensed bookmakers. The Betting (Amendment) Act 2015 brought remote bookmakers and remote betting intermediaries within the scope of the betting duty and existing licensing regime in Ireland from August 2015.

D. Department of Agriculture, Food and the Marine (DAFM)

1. Departmental responsibility

The Department of Agriculture, Food and the Marine has responsibility for two state bodies which are likely to be impacted by the Gambling Control Bill i.e. Horse Racing Ireland and Bord na gCon.

In broad terms, DAFM is responsible for oversight functions in relation to these bodies -

- Monitoring compliance with the Code of Practice for the Governance of State Bodies
- Securing and disbursing funds to Horse Racing Ireland and Bord na gCon through the Horse and Greyhound Racing Fund
- Implementing legislative change in the thoroughbred horse and greyhound sectors

In the context of legislative change, DAFM recently enacted the Horseracing Ireland Act 2016 the purpose of which was to strengthen governance and transparency within the administration of horseracing and to improve accountability and control over State funding in the sector. This was in line with recommendations in a report commissioned by the Minister, 'Review of certain aspects of Irish Horseracing industry' by Indecon consultants.

DAFM is currently in the process of implementing a new Greyhound Racing Bill, which will improve the governance of Bord na gCon, strengthen regulatory controls in the greyhound racing sector, modernise sanctions and improve integrity in the sport. This Bill is expected to be enacted before the end of 2019. Again, this legislation implements the recommendations for legislative change in a number of reports on the greyhound racing sector.

2. State bodies and regulation

Under existing legislation, Horse Racing Ireland (Irish Horseracing Industry Act 1994) (as amended) and Bord na gCon (Greyhound Industry Act 1958) have responsibility for licensing, regulating, prosecuting and sanctioning bookmakers on their respective tracks. No change to this arrangement is proposed in the new Greyhound Racing Bill.

In addition Bord na gCon, as a statutory function, controls, licences, investigates and regulates greyhound racing.

In the thoroughbred horseracing sector the Irish Horseracing Regulatory Board CLG, a private club, carries out these functions under the Rules of Racing which were formerly carried out by the Turf Club.

The proposed change to a single regulatory authority for licensing in the proposed Gambling Control Bill would impact on both Horse Racing Ireland and Bord na gCon in terms of bookmaker's licences. Amendments to both the Irish Horseracing Industry Act 1994 (as amended) and the Greyhound Industry Act 1958 (as amended) would be required.

Horse Racing Ireland (HRI) made the following observations in relation to the proposed new gambling regulatory authority.

1. HRI welcomes the work of Minister Stanton in advancing the regulation of the gambling industry. It is broadly supportive of the work of the Inter-Departmental Group to advance the reform of the licensing and regulation of the gambling industry in Ireland. This is especially so in the areas of protection of the customer, reducing problem gambling and combatting AML. HRI recognises that the transition to a new regime of regulation may bring an initial burden in its long established marketplace. HRI looks forward to the results of the study by McCann Fitzgerald as to the design of the regulatory authority.
2. Gambling and horse- and greyhound racing are inextricably linked in ways, which other sports have never been. While horseracing is in part a shop window for Irish bloodstock, which is an annual €350,000,000 export business it is also a significant force in the entertainment and tourism sector. HRI funding has always derived from and been linked to betting. The Group should keep this distinction in mind when considering measures relating to marketing and promotion, including sponsorship. HRI would argue strongly for retention of its ability to partner with the betting industry (within guidelines and codes of conduct, etc.) and for the freedom to cross-promote or work together with the gambling industry.
3. Sometimes overlooked is the true significance of the “integrity” budget, a reflection of our commitment to producing a product which has won the confidence of bettors (and bloodstock investors) worldwide. HRI directs a high-seven-figure sum through the IHRB to “police” the sport and to retain the confidence of our public. It is an ongoing challenge and negative issues will arise from time to time. HRI is of the view that the new regulatory authority could be considered another strengthening of that excellence.

4. Every advanced racing jurisdiction has a mechanism to link betting to racing. If we weaken that link in Ireland, we will inevitably lose the “world leader” status we have cultivated over decades. HRI is proud of the impact of the industry across the entire island, its job creation, its economic impact and its heritage of success on the world stage.

5. HRI notes the specific reference to HRI and the IGB and the close association between horse racing and greyhound racing and the gambling industry. HRI welcomes the fact that any changes proposed will take this relationship into account, particularly in the area of sponsorship and promotion. The move towards “the provision for the licensing of other types of gaming in betting shops” will need to be gauged carefully, in light of experiences in the UK.

E. Department of Health

The mission of the Department of Health is to improve the health and wellbeing of people in Ireland by:

- keeping people healthy;
- providing the healthcare people need;
- delivering high quality services; and
- getting best value from health system resources.

The Department's strategic objectives include supporting people to lead healthy and independent lives, creating a more responsive, integrated, people-centred health, and social care service. Such a system will enable and support people to live independently and lead active lives in their communities, contribute to making a real difference for a person's quality of life and allow older people or those with a disability or illness to achieve their full potential.

Prevention, early intervention and empowering people to look after their own health and wellbeing are essential elements of *Healthy Ireland - A Framework for Improved Health and Wellbeing*. Healthy Ireland outlines that health is a personal, social and economic good, and the health and wellbeing of individuals, and of the population as a whole, is Ireland's most valuable resource. Healthy Ireland recognises that a healthy population is a major asset for society and is essential to allow people to live their lives to their full potential, to create the right environment to sustain jobs, to help restore the economy and to look after the most vulnerable people in society.

The vision of Healthy Ireland is for "A Healthy Ireland, where everyone can enjoy physical and mental health and wellbeing to their full potential, where wellbeing is valued and supported at every level of society and is everyone's responsibility".

Reducing Harm Supporting Recovery, *A health-led response to drug and alcohol use in Ireland 2017-2025* outlines Government policy and response to drug and alcohol use. Gambling is not identified in this strategy

1. Addiction treatment

Currently people who present to the HSE for addiction treatment for gambling are offered the same range of interventions as those who present with a drug and alcohol addiction, or a mental health concern, including an initial assessment, a comprehensive assessment, and individual counselling. Counselling and rehabilitation services provide care to those

presenting with a gambling addiction through one to one counselling, financial advice and onward referral to other services and supports where appropriate, such as Gamblers Anonymous.

HSE Addiction Services have traditionally focussed on problematic Drug and Alcohol use. Although some cases of problematic gambling have been provided with treatment, services have not been funded to develop a programme or intervention for problematic gambling.

To provide additional services for gambling addiction would result in significant capacity issues and lengthening of existing waiting lists for people with drug and alcohol problems.

If additional funding were made available, research would need to be undertaken to guide the development of a suitable model for the treatment of gambling addiction.

This research would have the following two main objectives

- (1) to improve access to gambling addiction treatment/ advice to people (this would include research, training, brief/ community interventions and residential services) and
- (2) to analyse the demand for such services and provide a report at end of year.

There is currently no additional funding available to commission this research. The issue of ring fencing of funds, from a future potential Gambling Social Fund, to assist in the treatment of gambling addiction must be addressed.

2. Funding

The Department of Health provided €93.1m to the HSE in its 2017 allocation for the provision drug and alcohol addiction services. An additional €6.5 million for drug-related actions was secured in Budget 2018, to support the implementation of the national strategy, *Reducing Harm, Supporting Recovery*. The monies outlined above are for the provision of drug and alcohol addiction treatment services. It is not possible to identify the proportion specifically spent on individual addictions.

According to the National Drug Treatment Reporting System, 208 cases were treated for gambling in Ireland in 2015, the latest year for which data is available. In comparison, almost 10,000 individuals were in receipt of opioid substitution treatment as at 31 December 2015.

F. Department of Transport, Tourism and Sport (DTTAS)

Council of Europe Convention on the Manipulation of Sports Competition

The Department of Transport, Tourism and Sport (DTTAS) represented Ireland on the Council of Europe drafting group for the convention against the manipulation of sports competitions (i.e. Macolin Convention). DTTAS liaised with a number of other Government departments throughout the drafting process, including the Department of Justice, Department of Finance, Revenue Commissioners and the Attorney General's Office. The drafting group, which was composed of 51 delegations, finalised its text for the Convention in January 2014.

Since the adoption of the Macolin Convention in July 2014, DTTAS has remained as the overall national point of contact for the Council of Europe in relation to matters covered by the Convention. This scale of this role is somewhat minimalist and reflects Ireland's status, as neither a signatory to, nor having ratified the Convention. The Council of Europe periodically issues general questionnaires seeking information on national progress concerning implementation of the Macolin Convention which DTTAS co-ordinates nationally.

DTTAS also attends occasional conferences and workshops organised by the Council of Europe. This enables DTTAS to keep itself generally informed on ratification progress in other jurisdictions. To date, three countries have ratified the Convention – Portugal, Norway and Ukraine. This slow rate of progress internationally reflects the inherent difficulty in comprehensively addressing the Convention's coverage of a number of highly complex cross-sectoral issues such as gambling, money laundering, data protection and criminal jurisdiction.

The recently published National Sports Policy 2018-2027⁴⁵ acknowledges the importance of ensuring the integrity of sport, and the associated requirement for specific consideration of Ireland's signature and ratification of the Macolin Convention. Recognising the complex and multi-faceted nature of the Convention's aims and objectives, Action 42 of the National Sports Policy 2018-2027 commits DTTAS and relevant Government Departments to work on a collaborative basis to facilitate a decision on Ireland's potential signature and ratification of the Macolin Convention. This collaboration has been facilitated by the discussions in the context of the Inter-Departmental Working Group.

⁴⁵ <http://www.dttas.ie/sites/default/files/publications/sport/english/national-sports-policy-2018-2027/national-sports-policy-2018.pdf>

G. An Garda Síochána (AGS)

1. Betting Acts

Any person who is ordinarily resident in the State and seeks to obtain a bookmaker's licence may apply for a certificate of personal fitness in accordance Section 4 of the Betting Act (as substituted by section 7 of the 2015 Act) to the superintendent of the Garda Síochána of the district in which he/she ordinarily resides or to the Superintendent of the district where the bookmaker premises is located or is proposed to be located.

This process similarly applies to an individual applying to obtain a certificate of personal fitness to become a relevant officer of a body corporate.

Similarly, section 10 of the Principal Act provides for persons seeking to register or renew the registration of any premises of which he is the proprietor in the register of bookmaking offices. The process includes applying in accordance with this section to the superintendent of the Garda Síochána for the district in which such premises are situate for a certificate (referred to as a certificate of suitability of premises) that such premises are suitable for registration in the register of bookmaking offices.

AGS welcomes the proposed revised approach to legislation in relation to all forms of betting which would replace the current disjointed model.

2. Gaming and Lotteries Act 1956

Both An Garda Síochána and Revenue work closely together to carry out the current enforcement and inspection activity under the Act. This has resulted in a more proactive approach being taken to ensure compliance by gaming and amusement arcade owners. The 1956 Act provides powers to seize machines under section 37, powers of entry under section 38 and a power of arrest under section 40.

H. Department of Public Expenditure and Reform (DPER)

1. National Lottery

The National Lottery Act 1986 allowed for the creation of a National Lottery. From its inception, until February 2014, the National Lottery was operated under licence by the An Post National Lottery Company, which was 80 percent owned by An Post and 20 percent by the Minister for Public Expenditure and Reform.

In April 2012, the Government agreed that there would be a competitive process for the award of the next National Lottery licence. This would include a move away from issuing a 10 year operating licence towards a longer-term lease arrangement.

The National Lottery Act 2013 put in place new arrangements for the National Lottery. It allowed for issuing a 20 year operating licence and the establishment of the Office of the National Lottery Regulator as an independent regulatory office, with responsibility for issuance of the licence. The Office is funded by a levy on the operator, which is provided for in the Act. Prior to 2013, the Minister for Public Expenditure and Reform (and previously the Minister for Finance) exercised the regulatory role.

The National Lottery licence was awarded to Premier Lotteries Ireland (PLI), further to a competitive process and it commenced operations on 30 November 2014.

2. Role of the National Lottery Regulator

The functions of the Regulator are described in the Act and include the following:

- To procure the holding of the National Lottery
- To monitor the operation of the National Lottery and to monitor and enforce compliance with the Act and the Licence to operate the National Lottery
- To consider for approval certain matters relating to the National Lottery (including schemes for National Lottery games)
- Manage and control the National Lottery Fund.

The Regulator carries out these functions in a manner most likely to ensure –

- a. that the National Lottery is run with all due propriety,
- b. that the interests of participants in the National Lottery are protected,
- c. that the long term sustainability of the National Lottery is safeguarded, and

Subject to the provisions at (a) to (c), to ensure revenues allocated to Good Causes are as great as possible.

In accordance with sections 22 and 24 of the National Lottery Act 2013, the Regulator presents an Annual Report and Annual Accounts, which are audited by the Comptroller and Auditor General, to the Minister for Public Expenditure and Reform who shall cause them to be laid before each House of the Oireachtas.

I. Department of Finance

1. Anti-Money Laundering/Combating the Financing of Terrorism

Introduction

The Department of Finance's participation in the Interdepartmental Working Group on gambling was from the perspective of its shared role in anti-money laundering and combating the financing of terrorism.

Money laundering and terrorist financing (ML/TF) are criminal endeavours, which are usually tackled together due to their overlapping nature. The measures taken to combat these two activities are referred to as Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT).

Ireland's AML/CFT framework is influenced by two sources in particular, the Recommendations of the Financial Action Task Force (FATF) and successive EU Directives on anti-money laundering.

Financial Action Task Force (FATF)

The FATF is an inter-governmental body founded in 1989 and based in Paris, which sets standards to assist its 38 member countries to combat money laundering and terrorist financing activities. FATF's 40 Recommendations are widely considered the global standard for AML/CFT and have heavily influenced EU Directives in this area.

Ireland has been a member since 1991. The Department of Finance heads Ireland's delegation to the FATF, which usually also consists of representatives from the Department of Justice and Equality, An Garda Síochána and the Central Bank of Ireland.

In a seven to ten year cycle, the FATF organises mutual evaluation reviews (MERs) of its member countries' AML/CFT systems. This involves an in-depth examination of the legal, regulatory and operational measures in place and the effectiveness of the country's AML/CFT framework.

Ireland's most recent FATF MER was conducted in 2016-17 and this evaluation found that "Ireland has a sound and substantially effective regime to tackle money laundering and terrorist financing". Coordination, cooperation and the use of financial intelligence are strong points of the Irish AML/CFT framework.

Role of the Anti-Money Laundering Steering Committee (AMLSC)

Ireland's overall AML/CFT regime is monitored by the Anti-Money Laundering Steering Committee (AMLSC), which is chaired by the Department of Finance. The members of the committee include:

- * The Departments of Finance, Justice and Equality, and Business, Enterprise and Innovation;
- * An Garda Síochána, the Revenue Commissioners and the Criminal Assets Bureau;
- * The Central Bank of Ireland;
- * The Companies Registration Office and Charities Regulatory Authority;
- * The Office of the Director of Public Prosecutions.

The main objective of the Anti-Money Laundering Steering Committee (AMLSC) is to assist government departments, agencies and competent authorities to fulfil their mandates with respect to combating money laundering and terrorist financing as provided for in: the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended by the Criminal Justice Acts 2013 and 2018; the Criminal Justice (Terrorist Offences) Act 2005; all other relevant domestic and European legislation; and the Recommendations of the FATF.

Role of the Department of Finance

The Department of Finance's role in AML/CFT is to act as chair of the government's Anti-Money Laundering Steering Committee (AMLSC) and head of Ireland's delegation to the FATF, as outlined above. In addition to these responsibilities, the Department, in consultation with other stakeholders engages in the development of AML/CFT policy at the EU level. Much of the relevant legislation lies in the area of criminal law and this involves close collaboration with colleagues in the Department of Justice and Equality and other government agencies.

It was as part of its role on the AMLSC that the Department coordinated a risk assessment of the gambling sector for ML/TF as part of the transposition of the 4th AML Directive. This assessment was agreed by a subgroup of the AMLSC which was established to deliver the risk assessment but which had no other function in terms of deciding on gambling policy.

It is important to note that, apart from any taxation of gambling activity, which falls under the Department's role in overall tax policy, the Department of Finance's only role in the area of gambling lies in the granting of licences as laid out in the Totalisator Act and the Betting Acts. There is no oversight or supervisory role attached to these functions. Nor does the Department have a supervisory or enforcement role for AML/CFT. Its role in this area is to contribute as appropriate to ensure Ireland's policies remain compliant with EU and international standards.

Beyond this, the Department has no direct role in combating money laundering occurring via gambling activities or via any other channel. Neither is the Department of Finance a Competent Authority for AML/CFT.

Risk assessment of the gambling sector for money laundering and terrorist financing

A change introduced by the Fourth Directive was for all gambling services to be regulated and for an extension of the category of 'designated persons', i.e. the category of persons having AML obligations, to include all providers of gambling services, unless a risk assessment shows that the nature or scale of a service means that it has a low risk of money laundering or terrorist financing. A subgroup of the AML Steering Committee agreed a risk assessment of this sector in November 2017 and the findings were published in March 2018. It found that three subsectors – bookmaking, the Tote and all online gambling except that of the National Lottery – had a risk rating of 'medium-low' while the other subsectors assessed – bingo, lotteries, gaming and amusement machines, and land-based poker – all had ratings of 'low'.

For context, casinos/PMCs had previously been rated as 'medium-high' in the 2016 National Risk Assessment. It should be noted that these findings are subject to future review and also that the risk described relates purely to money laundering and terrorist financing and not to other potential problems in the gambling sector.

As a consequence of the risk assessment findings, regulations under section 25 of the 2010 Criminal Justice (Money Laundering and Terrorist Financing) Act classify gambling service providers as designated persons, with specific exemptions for those providers, deemed to hold a low risk as a complementary measure to the coming into force of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018. The main effect of the new 2018 provision is that gambling service providers must now comply with the obligations of designated persons under the act, including the application of customer due diligence on transactions or linked transactions of €2000 or

higher, as well as conducting a risk assessment for the business and putting in place policies, procedures and appropriate training for staff.

2. Betting legislation

The Betting Acts 1931 to 2015 provide for the regulatory framework for betting activities in Ireland including the licensing and registration of bookmakers and bookmakers' premises, while betting duty rates are provided for in the Finance Act 2002 (as amended). The Finance Act 2002 also provides for the excise duty rates payable on the grant or renewal of Bookmaking Licences, Remote Bookmaking Licences and Remote Betting Intermediary Licences.

Until mid-2015, excise duty was only payable on bets entered into with a traditional bookmaker on premises. The Betting (Amendment) Act 2015 provided for a regulatory system for remote bookmakers and remote betting intermediaries offering betting services in Ireland regardless of their location. The Act provided for the fair and equal treatment of all bookmakers (traditional, remote and intermediaries) by extending betting duty to remote operators, thus widening the tax base and protecting the Exchequer from the leakage of tax revenue. The Act prohibits the offering of remote betting and intermediary services to customers in Ireland without a licence, regardless of where the operator is located.

With effect from 1 August 2015, licensed remote bookmakers became liable for duty of 1% on the total amount of bets from customers in the State. Licensed remote betting intermediaries are liable for duty of 15% on the commission charged to customers in the State. In the case of bookmakers located in the State, betting duty is applied to all bets placed by a person with a bookmaker at the bookmaker's registered premises.

Accordingly, with effect from 1 August 2015, licensed remote bookmakers became liable for duty of 1% on the amount of a bet from customers in the State. Licensed remote betting intermediaries became liable for duty of 15% on the commission charged to customers in the State. This means betting duty is now applied at a rate of 1% of turnover to both bookmakers and remote bookmaking operators, irrespective of whether such operators have a physical presence in the State. Turnover is defined as the total wagers or amounts bet in a particular period. This is applied in such places as Australia and France, as well as Ireland. In the case of bookmakers located in the State, betting duty is applied to all bets placed by a person with a bookmaker at the book maker's registered premises.

In the case of remote bookmakers, betting duty is applicable in respect of bets entered into with persons in the State.

The separate rate of 15% gross profit tax is applied to the commission earned by remote betting intermediaries (betting exchanges) to reflect the different business model applying in these cases.

A licensed bookmaker at an authorised Irish racecourse does not charge betting duty on bets accepted on-course during race meetings. However, where an on-course bookmaker enters into bets by any means of telecommunications, these bets are liable to betting duty.

Budget 2019 provided for an increase in betting duty from 1% to 2% and for betting exchanges from 15% to 25%. This increase took effect from 1 January 2019.

Totalisator Act 1929

The Minister for Finance has responsibility for issuing Tote licences, which are currently issued to Horse Racing Ireland and Bórd na gCon.

J. The Department of Business, Enterprise and Innovation (DBEI)

DBEI has policy responsibility for general consumer protection legislation. The principal consumer protection enactments that apply to gambling contracts and transactions are as follows:

- The Unfair Contract Terms Directive applies to all contracts between a consumer and a seller or supplier, including gambling contracts, and is given effect in Ireland by the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No 27 of 1995) and a number of subsequent amending Regulations. The Directive seeks to protect consumers from the abuse of power by sellers or suppliers, and in particular from one-sided standard contracts and the unfair exclusion of essential rights in contracts. Contract terms that have been individually negotiated between a seller or supplier and a consumer are excluded from the scope of the Directive as are terms relating to the definition of the main subject matter of the contract and the adequacy of the price as against the goods or services supplied in exchange. The Directive is a minimum harmonisation measure, which permits Member States to go beyond its protections in national legislation.
- The Unfair Commercial Practices Directive seeks to protect consumers from unfair, misleading or aggressive commercial practices which harm consumers' economic interests and is given effect in Ireland by the Consumer Protection Act 2007. It applies to virtually all consumer transactions and is a maximum harmonisation instrument, which prohibits Member States from maintaining or introducing national measures that exceed its protections. Article 3(8) of the Directive provides however that it is without prejudice to 'conditions of establishment and authorisation regimes'. Recital 9 clarifies that this applies to 'rules which, in conformity with Community law, relate to gambling activities'.
- Part IV of the Sale of Goods and Supply of Services Act 1980 applies to consumer and commercial contracts for the supply of services. While a number of services are excluded from the scope of this Part of the Act, gambling services are not among them. Section 39 of the Act provides that it is implied into every contract for the supply of a service that the supplier has the necessary skill to render the service and that he or she will supply the service with due skill, care and diligence. While the provisions of Part IV of the Act can be freely excluded or restricted in commercial contracts, any term excluding or restricting their application to a consumer contract must be fair and reasonable and have been specifically brought to the attention of the consumer.

Some EU consumer protection Directives, such as the Consumer Rights Directive and the proposed Directive on contracts for the supply of digital content expressly exclude gambling contracts from their scope. In accordance with EU law, however, Member States are permitted in national legislation to apply the provisions of such Directives to areas outside their scope.

The Competition and Consumer Protection Commission has overall responsibility for the enforcement of general consumer protection legislation. Sectoral regulators can be given an enforcement function for this legislation in their particular sectors. The Central Bank has enforcement powers for the Unfair Contract Terms Directive and the Unfair Commercial Practices Directive in respect of regulated financial services providers. The Commission for Communications Regulation, (ComReg), has enforcement powers for the Unfair Contract Terms Directive and the Consumer Rights Directive in respect of electronic communications networks and services and premium rate services.

Minimum licence fees charged by the UK Gambling Commission in the area of gambling

(a) Betting

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Operating Licence for Remote General Betting	£879 (€999.68)	£1324 (€1505.77)
Operating Licence for Non remote general Betting Ltd (on -Track)	£160 (€181.97)	£200 (€227.46)
Non-remote betting intermediary operating licence	£178 (€202.44)	£280 (€318.44)
Non-remote pool betting operating licence	£586 (€666.45)	£1,910 (€2172.23)
Remote general betting (standard) (real events) operating licences	£2,933 (€3335.67)	£3,408 (€3875.89)
Remote general betting (standard) (virtual events) operating licences	£2,640 (€3002.45)	£2,709 (€3080.92)
Remote betting host (real events) licence	£2,200 (€2502.04)	£2,556 (€2906.92)
Remote betting host (virtual events) licence	£1,980 (€2251.84)	£2,027 (€2305.29)
Remote general betting (limited) operating licence (for telephone an email bets only)	£534 (€607.31)	£1,462 (€1662.72)
Remote betting intermediary operating licence	£5,711 (€6470.56)	£3,408 (€3861.26)
Remote betting intermediary (trading rooms) operating licence	£534 (€607.31)	£1,594 (€1812.84)
Remote pool betting operating licence (pool betting business on-line)	£586 (€666.45)	£1,552 (€1765.08)

(b) **Bingo**

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Non-remote bingo operating licence	£879 (€999.68)	£1,322 (€1503.50)
Remote bingo operating licence	£2,640 (€2991.12)	£2,709 (€3069.30)
Remote bingo game host operating licence	£1,980 (€2243.34)	£2,027 (€2296.59)

(c) **Gaming machines**

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Non-remote gaming machine technical - full licence	£879 (€999.68)	<u>£2,722 (€3,078.67)</u>
Non-remote gaming machine technical – supplier operating licence	£879 (€999.68)	£1,186 (€1341.40)
Non-remote gaming machine technical – software operating licence	£879 (€999.68)	£1,528 (€1728.22)
Ancillary licence (permits the supply of gaming machine software by FTP or email only)	£100 (€113.10)	N/A
Remote gaming machine technical – full operating licence	£879 (€999.68)	£6,426 (€7,268.00)
Remote gaming machine technical – supplier operating licence	£879 (€999.68)	£5,360 (€6062.33)
Remote gaming machine technical – software operating licence	£879 (€999.68)	£3,748 (€4239.10)
Linked licences gaming machine technical (already hold an operating licence)	£165 (€187.65)	£375 (€426.48)
Single machine permits (not intended for those that are operating a commercial business)	£25 (€28.43)	N/A

(d) Casino

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Non-remote casino 1968 Act Licence	£5,858 (€6637.11)	£16,714 (€18,936.96)
Non-remote 2005 Act casino operating licence	£25,777 (€29205.34)	£21,714 (€24559.20)
Remote casino operating licence	£2,640 (€2985.92)	£2,709 (€3063.96)
Remote casino game host operating licence	£1,980 (€2239.44)	£2,027 (€2292.60)

(e) Lotteries

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Non-remote society lottery operating licence (not be run for private or commercial gain)	£147 (€166.26)	£348 (€393.60)
Remote society lottery operating licence	£147 (€166.26)	£348 (€393.60)
Non-remote external lottery manager (ELM) operating licence	£879 (€999.68)	£2,075 (€2346.89)
Remote external lottery manager (ELM) operating licence	£879 (€999.68)	£6,765 (€7685.35)

(f) Gaming and amusement arcades

<u>Licence Type</u>	<u>Application Fee</u>	<u>Annual Fee</u>
Adult gaming centre (AGC) operating licence	£879 (€999.68)	£1,314 (€1489.02)
Family entertainment centre (FEC) operating licence	£879 (€999.68)	£1,000 (€1133.19)