



*The Gaming & Leisure  
Association of Ireland*



**Submission to the Joint Committee on Justice, Defence and Equality,  
on the Gambling Control Bill 2013**

29 August 2013

**Contents**

Introduction.....	2
Executive Summary.....	3
Provisions: our position .....	4
Appendix I.....	17
Appendix II.....	18



## **Introduction**

The Gaming & Leisure Association of Ireland (GLAI) is a trade association of Private Member Gaming Clubs and online operators involved in the provision of gaming services in Ireland, both land based and online. Members include, The Fitzwilliam Card Club (Dublin), Irish Eyes Poker (Cork), The Slaney Casino (Wexford), The Bank Casino and Card Club (Cork), The Eglinton Casino (Galway), The Live Poker Festival Association (Kildare), Celtic Poker (Dublin), and KaiRo International<sup>1</sup> (Dublin). Currently the Private Member Card Club sector employs approximately 500 people. Apart from securing these 500 jobs, we believe that regulation would enable this number to double over a relatively short period of time once regulation is put in place, as a regulated casino sector would have broader appeal to both the domestic and the tourist market. Also a well-respected regulatory regime would help attract online operators to locate their operations in Ireland, thereby creating in excess of 5,000<sup>2</sup> jobs (Appendix II) within a short timeframe of the legislation being enacted. However this is dependent upon Ireland putting a competitive tax regime in place. For additional information on the association we refer you to [www.glai.ie](http://www.glai.ie).

We provide in the body of this submission recommendations on all Heads in the draft Bill of relevance to our sector as requested in the Committee's call for comments. First, our overarching position with respect to this process is:

1. The GLAI welcomes the publication of the Heads of Bill and regards this process as a positive opportunity to achieve a paradigm shift in the way gambling is regulated and thereby controlled in Ireland. The concept of prohibition as a regulatory tool is no longer tenable as the internet and mobile devices grant users of laptops, tablets, & mobile phones access to their gambling service of choice 24/7. The reality is that existing legislation is no longer fit for purpose. Accordingly we support the view that the only viable option available to curtail criminal involvement in the provision of gambling services, and to protect the weak and vulnerable from the risks associated with all forms of gambling, is to put in place a legislative framework that properly regulates and controls gambling in the State.
2. The GLAI welcomes the rapid reaction by the Joint Committee on Justice, Defence and Equality to canvass the opinion of interested parties.
3. The GLAI has engaged on the question of the regulation of the casino sector since 2006 and remains committed to working with Dáil Éireann to achieve a workable regulatory regime for our sector. The GLAI remains available to meet with the Committee during its deliberations and would welcome same.

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<sup>1</sup> [www.fitzwilliamcardclub.com](http://www.fitzwilliamcardclub.com), [www.irisheyespoker.com](http://www.irisheyespoker.com), [www.thebankcasino.com](http://www.thebankcasino.com), [www.theeglington.com](http://www.theeglington.com), [www.pokerireland.ie](http://www.pokerireland.ie), [www.celticpokertour.com](http://www.celticpokertour.com), [www.penthousecasino.ie](http://www.penthousecasino.ie)

<sup>2</sup> DKM Economic Consultants report 'An Economic Assessment of a Regulated Casino Gaming sector' (2007).



## **Executive Summary**

In order to achieve successful, effective, workable and proportionate regulation of our sector we respectfully suggest that the Committee must address the following:

1. All distribution methods of gambling services, be they land-based or online, be they casino gaming, slot machines or sports betting, must be treated in an equitable manner with respect to regulation, licensing conditions and fees, taxation, player protection and supervision.
2. An appropriate taxation level for all forms of gambling is a key component to regulation of gambling in the 21<sup>st</sup> Century. In order to encourage investors into the sector, there is a requirement for the Minister for Finance to make a statement on the matter and to indicate the levels and means of taxation envisaged.
3. The overall regulatory regime must be one which allows responsible viable businesses to operate in an environment where taxation and licence fees do not stifle the sector unduly.
4. A gambling regulator as provided for in the Heads of Bill must be unencumbered by political interference, or the appearance of political interference.
5. A transitional arrangement must be put in place for Private Member Gaming Clubs so as to allow them to continue to plan for future operations.
6. The short duration proposed for a casino licence (2R) of 10 years needs to be lengthened to 15 years so as to enable operators to secure a return on the initial investment required to establish a casino.
7. Remote gambling should be established in a manner that incentivises online operators to establish in Ireland, thereby creating a 'Hub' similar to that in Malta and the Isle of Man. A regulated online gaming sector in Ireland could generate in excess of 5,000 jobs within a short time of the legislation being enacted.
8. The proposed restriction on opening hours for casinos must be amended in recognition that land-based casino operators compete directly with their 24/7 online competitors.
9. A taxation structure is required to facilitate the establishment of smaller venues in less populated areas.



## **Provisions: our position**

As requested, we provide below our top line position on a wide range of the provisions set down in the Heads of Bill. These comments are not exhaustive but should serve to provide the committee with a flavour of our position on the intention to regulate our sector. We would be pleased to provide additional comments on the various provisions to the Committee on request.

### **Head 1: Definitions and interpretation**

We note that there is no definition provided for 'Turnover'. International Accounting Standards refer to revenues in the gaming industry as 'Gross Income' or 'Gross Gaming Income' and is defined as 'total bets placed less winning bets paid out'.

Recommendation: we recommend that this international standard be adopted.

### **Head 2: Commencement, transition, short title.**

While we welcome the introduction of new legislation to better regulate gambling in the State, we note the lengthy timeline required between drafting the legislation, debating and enacting the legislation, and establishing the OGCI, including the establishment of an expert administrative machine that will have to be put in place to support the OGCI in its work. This comes against a backdrop of 7 years of work carried out at Departmental level to regulate our sector. Also given the scope of the new legislation, it could be some time before commencement orders are made for our sector.

Recommendation: in the interests of consumer protection in the short term and business certainty for our members, some form of an interim licence should be provided for. This could be similar to that for a Bingo Hall, applied for through the District Court, to facilitate existing Private Member Card Clubs who can demonstrate that they provide their services in a responsible manner and that they are AML and tax compliant. Such a licence could be based upon the limits proposed in this Bill, i.e. that they operate no more than 15 live gaming table games, have no more than 25 gaming machines, adhere to a strict over 18's policy, and provide a self-exclusion facility for any member who indicates that they need to avail of a break. Alternatively, at a minimum we would request that commencement of those sections facilitating the regulation of casinos and the online sector be given priority, as unlike other sectors they have no pre-existing licencing options available to them.

### **Head 3: Permitted gambling**

Recommendation: those operations carved out under Head 3 of the Bill as exempt from the new legislation, namely

- (i) Horseracing Industry Act 1994 and the Horse and Greyhound Racing Act 2001, in relation to gambling under the auspices of Horse Racing Ireland,
- (ii) Greyhound Industry Act 1958, in relation to gambling under the auspices of Bord na gCon (Irish Greyhound Board),



- (iii) National Lottery Act 2013, in relation to the National Lottery,
- (iv) Financial Spread betting under the Financial Regulator / Central Bank,
- (v) Finance (Miscellaneous Provisions) Act 1956 (Part V) in relation to Prize Bonds,
- (vi) Street and House to House Collections Act 1962 (as last amended by the Charities Act 2009)

should all be equally obliged to provide their gambling services in a socially responsible manner.

Recommendation: we recommend that existing regulations, in particular those relating to the prevention of underage gambling, should be audited so as to ensure that the level of player protection provided in the new Bill is matched by existing regulations for those sectors carved out of this legislation.

#### **Head 4: Primary purpose**

We concur with the fundamental objectives of the proposed legislation to ensure that gambling services are conducted fairly, that it protects the weak and vulnerable, that it does not facilitate criminal activity and that it provides consumer choice and protection.

Recommendation: ensure that these principles are applied to all forms of gambling, regardless of the manner in which they are supplied.

#### **Head 5: Functions of the Minister**

Recommendation: We believe that the establishment of an independent regulatory body, removed from the sphere of political influence, is the most appropriate option here. While we acknowledge that there may be a political reluctance to establish another 'Quango', we recommend that an independent regulatory body with a clear mandate to adhere to the key principles of good regulation, namely independence, openness, efficiency, clarity, reliability (Appendix 1) be established, as this is the best way to guard against the accusation of political favouritism regardless of its veracity, and to provide greater business certainty for would be international investors. Further, an independent regulatory authority is required, not only to enhance the reputation of the industry and to afford the consumer greater protection, but also to attract online operators to locate in Ireland, potentially creating in excess of 5,000 jobs within a short timeframe of this legislation being enacted.

#### **Head 6: Minister to designate officers and certain functions.**

Recommendation: As with head 5, we believe that an independent regulator rather than a particular Minister should have the power to 'designate certain of his/her officers to discharge on behalf of the Regulator certain responsibilities, functions, powers, and duties of the regulator under this act'.



### **Head 7: Role of the OGCI**

Recommendation: In keeping with our position above, we believe that the Office for Gambling Control Ireland (OGCI) should be an independent regulatory body removed from the sphere of political influence. Accordingly 'sole authority for the licensing of gambling' and 'exclusive authority to grant, renew, revoke and revise any license' should rest with an independent Regulator (OGCI) with an expertise in the industry, rather than the Minister. The Gambling Commission in the UK is an excellent example of how this could be done and is more in keeping with international best practice.

### **Head 8: Expenses [income and expenditure] of OGCI**

We support the concept that the OGCI shall be funded by income derived from license fees.

Recommendation: All sectors should be obliged to contribute on an equitable basis, bearing in mind that one size does not fit all. No one sector should contribute to the cost of oversight of another sector, either directly or indirectly. This principle must be applied equally to all sectors.

### **Head 9: Chief Officer of OGCI**

Recommendation: In accordance with our proposals above concerning the establishment of an independent regulator we propose that there should be a body independent of political influence, rather than a 'Chief Officer' appointed by, and reporting to the Minister of the day.

### **Head 10: Codes of Practice**

We concur that the regulatory body, regardless of structure, should take the initiative and prepare and issue Codes of Practice. We also welcome the provision that both the Public, and those sectors having a direct interest or expertise in the subject area of a draft code, shall be invited to comment on the draft before a given deadline.

Recommendation: provide for a robust consultation mechanism enshrined in legislation.

### **Head 11: Codes of Conduct**

In order to establish and protect the reputation of the regulatory authority and the gambling industry, we concur that it is imperative that proper codes of conduct be put in place for both officers and licensees. Again we would recommend that interested parties should be invited to comment on draft codes.

Recommendation: provide for a robust consultation mechanism enshrined in legislation.

### **Head 12: International Co-operation**

We believe that international co-operation between regulators would be beneficial, particularly as an aid to controlling the online sector which is largely a cross border activity.



### **Head 13: Annual Report and Accounts**

In the interests of transparency, we concur with this proposal.

### **Head 14: Chief Officer may report to the Oireachtas Committees**

While the Regulator should be held to account, as stated above, we believe that the office should be structured in a manner that ensures that it is not subject to undue political influence, or the appearance thereof.

## **Chapter 1: Categories of licences**

### **Head 15: Licenses, by category, that may issue under this Act**

While we welcome the introduction of a licencing regime, extending to individual employees, operating entities, machines, etc. we are concerned that there is no indication of the fees attaching to each licence category. As the sector is currently overburdened with VAT charges of 23% on Gross Gaming Revenues (GGR) (Total bets placed less winning bets paid out), the imposition of licence fees without appropriate refinement of the tax regime, will jeopardise the ability of the sector to secure the financial investment required to provide a casino offering comparable to that in other regulated jurisdictions and to realise the employment opportunities referred to above.

Recommendation: In order to attract investment into the sector that will deliver the potential employment opportunities referred to above, the Department of Finance and the Minister of Finance must engage in a positive manner that facilitates a growth in confidence among would be investors before the adoption of the Bill. Public consultation must be allowed on same, including the provision to allow interested parties to provide comments to the Justice, Defence and equality Joint Committee.

### **Head 16: Registration required in certain cases**

Recommendation: We agree that registration of those persons / entities supplying equipment, machines, services, software packages and storage to licensed operators is appropriate and in accordance with best practice.

### **Head 17: Specific matters affecting particular activities and licenses**

- We agree that the rule against gambling by young persons should be extended to apply to on-course betting as with all other forms of gambling as research indicates that exposure to gambling at a young age increases the risk of problem gambling in later life.
- We note that a license is not required for venues with 4 or less amusement machines. We would recommend that such venues should be obliged to register to facilitate oversight of the extent of their popularity.



- In light of international research, the provision for limited gaming in catering outlets, bars, and betting shops under license category 2E & 2G is ill-advised. As catering venues and bars are frequented by young people under 18, how will these venues be able to prevent underage gambling, and what is the justification for introducing gaming into what many consider to be a family environment particularly before 9pm? As such venues fall outside the remit of current Anti-Money Laundering legislation which identifies gambling as a potential ML risk area, their inclusion as gaming venues without proper 'Know Your Customer' (KYC) procedures etc., would create a loophole in the current legislation.
- We do not recommend that gaming, albeit in a limited form as proposed under a 'category 2G licence' be allowed in betting shops. This concurs with The Casino Committee's recommendation in their Report 'Regulating Gaming in Ireland' 'that "gaming" and "betting" be treated as two completely separate types of gambling activity, which raise very distinct regulatory issues'. Not least the difficulty of performing KYC due diligence similar to that in casinos, before customers can load credit onto gaming devices.
- Further, such provision for gaming in betting shops compromises Head 49 (7) (b) (i) which stipulates that 'no licence may be issued under this Act in respect of any device that is or is capable of being or becoming a FOBT'.

Recommendation: access to gaming and betting must be tightly controlled to achieve the objectives of the legislation. This must include instruments which prohibit the "making available" of gaming machines to under 18s.

#### **Head 18: Matters specific to casinos and casino games**

- We note the limit on the number of casino licenses but have serious concerns about the potential for political interference, or the appearance of political interference at the very least, as to how these licenses may eventually be distributed, without the appointment of an independent regulatory body.

Recommendation: See Heads 5-8

- We note that every application for a casino license type 2R should be accompanied by evidence / conformity to the planning permission acts. However, it is our understanding that planning permission cannot be granted for a casino until they are deemed 'permissible entities', accordingly planning applications can only be made for a casino after this Gambling Control Bill has been enacted. Therefore some consideration needs to be given to the timeline to enable Private Member Card Clubs to apply and secure planning permission for a casino in advance of the commencement order obliging operators to make an application and secure a casino licence.





Recommendation: Provide significantly more clarity on the timeline that will be made available to operators to secure planning permission in advance of their obligation to lodge a valid casino licence application.

- We appreciate the Minister's intention to facilitate the establishment of small casino venues in less populated areas by making provision for a minimum of 3 gaming tables, however such small scale operations will not be able to achieve the economies of scale necessary to survive under the current tax regime. We therefore recommend that casino gaming should be removed from the VAT net in favour of a gaming tax. A gaming tax could better facilitate smaller operations by operating on a 'sliding scale' based on gross profit (total bets placed less winning bets paid out), similar to that in the UK, thereby facilitating both smaller as well as larger venues.

Recommendation: in order to enable smaller casinos to be commercially viable, casino gaming should be subject to a gaming tax on a sliding scale, not VAT.

- We note the very modest limit on gaming machines proposed for casinos but that no such limits are proposed for gaming arcades or indeed amusement arcades. Similarly, given the nature of the online medium, our competitors in the online sector will not be subject to any limits on the number of machines. Accordingly, we believe that restrictions on the number of gaming machines is for appearances sake only and does not contribute in any meaningful way to reducing the incidence of problem gambling. Rather the emphasis should be on licencing those operators, both land based and online, who can demonstrate that they adhere to best practice in the delivery of their service.
- We are advised that there are currently approx. 5,600 gaming machines in 57 licensed gaming arcades around the country, with approximately an additional 20,000 in unlicensed venues. Accordingly we estimate that a multiple of 5 is justified on the basis that it equates to approx. 0.8% of the total gaming machine population (25,600).

Recommendation: The 'multiplier' regarding the number of gaming machines permitted in a licenced casino should be increased from 2 to 5.

- We welcome the provision for casinos to apply for a license under the Intoxicating Liquor Acts, but note the restriction on consumption of alcohol away from the gaming floor. This concept which used to apply in the UK, has since been relaxed when they updated their gaming legislation in 2005.

Recommendation: We recommend that in the interests of parity of treatment, if such a restriction is to apply to casinos, it should also apply to other gambling service providers, obliging them to restrict the consumption of alcohol to bar areas, most notably race tracks and poker festival events.



- Compliance with the 3<sup>rd</sup> AML Directive is imperative.

Recommendation: we recommend that the Regulator should make it a condition of a 2R license that the operator verifies the identity of each person attending the venue by obliging customers to provide approved identity documents. The maintenance of a membership entry system is essential to facilitating a self-exclusion facility and will also assist with monitoring the frequency of player visits in the event that intervention is required.

#### **Head 19: Categories of lottery licences**

As a representative body for the private member gaming clubs, the Gaming & Leisure Association of Ireland has no direct involvement or expertise in the lottery sector.

Recommendation: As the proposed legislation facilitates competing sectors, we believe that there should be parity of taxation for all gambling service providers and equitable enforcement for any breaches of their obligations under the act.

#### **Head 20: Categories of bingo licenses**

Again, as a representative body for the private member gaming clubs, the Gaming & Leisure Association of Ireland has no direct involvement or expertise in the Bingo sector.

Recommendation: As the proposed legislation facilitates competing sectors, we believe that there should be parity of taxation for all gambling service providers and equitable enforcement for any breaches of their obligations under the act.

#### **Head 21: Variation of licenses**

We note that applications may be made to the regulator (OGCI) for variations to licenses, including 'the inclusion of new machines / equipment by way of substitution or additions', presumably for gaming arcades. However this flexibility does not apply to the limit on the number of tables (15) or machines (25) proposed under category 2R licences for casinos.

Recommendation: Further clarification should be provided as to why similar variations have not been included for category 2R licences.

#### **Head 22: Register of licences, etc.**

In the interests of transparency, we support the proposal that the regulator / OGCI should be obliged to maintain a register of all licenses, both service and personal.

#### **Chapter 2: Service licences.**

#### **Head 25: The licence holder**

The members of the GLAI support the establishment of a rigorous licensing system.



#### **Head 26: Status of premises named in the licence**

In the event of a notice to close being issued by the OGCI, what right of appeal will exist for the operator?

Recommendation: We consider that the right of appeal is unclear in this regard and recommend that it should be clarified further.

#### **Head 28: Purpose of procedures under this Chapter**

In the interests of transparency, we support the view that the OGCI shall prepare and publish a Code of Practice setting out the criteria and other information on the manner in which it processes applications for licences.

#### **Head 31: Information to accompany the application**

- We need more clarity regarding the timeline available to an operator to secure planning permission in advance of their obligation to submit a valid casino licence application.

Recommendation: As above (Head 18)

- We note that there is no indication of the permitted stakes / pay outs for table games, gaming machines, & online operators, at what stage will this information become available, as such information is necessary in order to assess the financial viability of a particular business model and to calculate the potential return on investment.

Recommendation: In order to generate sufficient certainty among would be investors, the Minister for Finance should commence a consultation process vis-à-vis taxation levels and permitted stakes / pay outs. Permitted stakes / pay outs should be the same for land based operations and their competitors in the online sector.

#### **Head 32: Convictions to be declared**

The GLAI supports the view that applicants must disclose any previous criminal convictions as this is an essential step to guard against any criminal involvement in licenced operations.

#### **Head 35: The decision on validity of application**

Under the proposed regulatory reporting structure, the decision on whether an application is valid shall be taken by the Chief Officer of OGCI or by another official duly appointed by the Minister. This arrangement facilitates political interference, or at the very least the appearance of political interference, by a particular Minister into determining whether or not an application is successful.

Recommendation: See Heads 5-8



### **Head 36: Assessment for a grant of a licence**

The latitude available under section 3 to the OGCI in terms of assessing applications against such criteria as 'geographic distribution' & 'other issues', again prompt concerns regarding the potential for political interference.

Recommendation: as above

### **Head 37: Decision on whether to grant a licence**

As above, there is considerable concern that the integrity of a regulatory body under the direct control of a particular Minister could be called into question if there is even the appearance of political favouritism.

Recommendation: as above

### **Head 38: Appeals against decision to reject applications**

As above, there is a concern that the appeals process under the direct control of a particular Minister could be called into question if there is even the appearance of political favouritism.

### **Head 39: Appeals against decisions to grant, not to grant, etc. a licence**

Recommendation 1: We recommend that the right of appeal by third parties should be strictly defined as failure to do so could result in whimsical appeals thereby burdening the licence applicant with additional costs and delays.

Recommendation 2: In the event that valid applications for casino (2R) licences exceed the number of licences available in a particular geographical area, additional criteria will be used to distinguish the merits of one applicant against another. Clarification on what the additional criteria will be should be made available before the adoption of the legislation.

## **Chapter 3: Personal licences**

### **Head 43: Fees in respect of licences, etc. for services**

As with taxation, the level at which licence fees are imposed is critical to the eventual success of this legislation. Failure to strike a balance between the tax and licence fee burden on the one hand, and the ability of an operator to secure a return on their investment while adhering to the conservative restrictions imposed vis-à-vis the number of gaming tables, the number of gaming machines, and the relatively short 10 year licence period, on the other.

Recommendation: We recommend that there should be greater clarity regarding taxation, and licence fee charges on the one hand, and an increase in the number of gaming machines permitted together with a licence period of 15 years, on the other.



#### **Head 44: Fees in respect of personal licences**

As above, we require greater clarity on the proposed level of fees in order to comment in any meaningful way.

#### **Head 46: Securities**

All gaming and betting service providers covered by this Act should be equally obliged to have appropriate securities in place, both to facilitate the payment of fines etc. but also to ensure payment of all winning bets in the event of unusual losses (a so-called 'run' on a casino).

Recommendation: the scope of intended use of securities should be widened to include unusual losses.

### **Chapter 5: Terms and conditions**

#### **Head 48: Powers to attach Terms and Conditions to a licence**

In the event that additional terms and conditions are attached to a licence, it is unclear whether an operator will have the right of appeal.

Recommendation: establish whether the right of appeal is provided for in this context.

#### **Head 49: Orders to prohibit, etc. certain machines, games, etc.**

Once again we note that the powers to prohibit or restrict certain machines, games, etc., proposed under this head are reserved for the Minister, rather than an independent regulator. Further the latitude afforded the Minister to restrict games, number of tables/machines, opening hours, and stakes, places doubt over the medium term viability of a particular business model. It is unclear whether the restriction on the frequency of such changes in a particular timeframe will be similar to that proposed under Head 19 (F) for lotteries, or whether minimum notice of any proposed restrictions will be given before changes come into effect.

Recommendation: The Minister must engage in real and meaningful consultation prior to exercising his authority under this section and provision for same should be made in the legislation.

#### **Head 51: Attaching terms and conditions to a personal licence**

We recommend that staff should be permitted to accept gratuities. This is standard practice in the hospitality industry and the casino sector right around the world, including the UK, where they updated their legislation in 2005 to facilitate standardisation of this practice.



#### **Head 52: Duration of licences**

In order to ensure that the casino sector is able to attract sufficient investment funds to facilitate the establishment of a casino offering that is comparable to that available in other regulated jurisdictions, we recommend that the initial licence period as proposed should be increased from 10 years to 15 years. Given the very high set up costs of fitting out a premises, purchasing appropriate equipment, and the highly labour intensive nature of the sector driving up operational cost, casinos typically achieve very modest net profit margins of between 3% - 4% thereby making it difficult to achieve a competitive return on investment in the shorter term. We also have the additional problem of not being able to estimate the likely net profit margin as there are no clear indications of taxation levels, licence fees, or stakes & pay outs permitted. We have no issue with subsequent licences having a shorter timeframe.

Recommendation: Initial licence should be increased from 10 to 15 years.

#### **Head 53: Hours of business**

By restricting the opening hours of a casino as proposed, there is no benefit to the protection of the individual customer or society in general given that all forms of gaming and betting activity are available online 24 hours a day to anybody with internet access via mobile phones, PC, laptop or tablet. This paradigm shift in the accessibility to gambling services was acknowledged in the UK where they updated their legislation in 2005 to permit land based casinos to operate 24/7 alongside their online competitors if they so choose. Similarly we disagree with the suggestion that casinos should be obliged to close two days in each calendar year, as again we would suggest that this is more about optics rather than being an effective tool to reduce the incidence of problem gambling.

Recommendation: Land based casinos should be permitted to operate 24/7, where the operator so chooses.

#### **Head 54: Appointment of authorised officers**

Authorised Officers should be answerable to the Regulator rather than to the Minister, either directly or indirectly.

#### **Head 56: Inspections**

We note that in the absence of proper inspections, enforcement of standards and obligations under the act would be impossible.

Recommendation: Proper powers of enforcement should be enshrined in the legislation and the inspectorate should be adequately resourced so that it may achieve the objectives of the legislation.



#### **Head 57: Cooperation with other agencies**

Recommendation: we support the proposal that the OGCI should both receive and provide cooperation with other agencies, in particular with the Revenue Commissioners to ensure parity of tax treatment, and with the police to ensure proper enforcement is achieved.

#### **Head 61: Infringements**

We welcome the provision a breach of the Act may be regarded as an 'infringement' and dealt with in a more appropriate manner.

#### **Head 62: Substantive offences under this Act**

We welcome provision for breaches of the new legislation, however we would like to emphasise that without robust enforcement, rogue operators will seize the opportunity to supply their services in an unregulated manner, unencumbered by issues of compliance and taxation.

Recommendation: robust enforcement mechanisms must be provided to the OGCI

#### **Head 71: Self exclusion register**

We would recommend that provision should be made to enable licenced operators to engage with 'concerned family members' about their loved ones in the event that they are contacted. A concerned family member must first be obliged to verify their identity and the nature of their relationship with the person there are concerned about. If possible the family member about whom they are concerned should be encouraged to attend any meetings to discuss the matter. A licenced operator should engage in such circumstances in a responsible manner and where it appears reasonable to do so, encourage the player to avail of their self-exclusion facility, or alternatively to suspend them from accessing the premises.

Recommendation: provisions should be made which empower operators to act in the best interests of problem gamblers.

#### **Head 72: Advertising and gambling**

We support the Minister's intention to develop rules governing the advertisement of gambling and are fully in agreement with the principles of this head.

Recommendation: Rules governing the advertising of gambling should apply to all sectors equally.



*The Gaming & Leisure  
Association of Ireland*



#### **Head 76: Advisory Committee**

We support this initiative and would welcome the opportunity to be on the Advisory Committee.

Recommendation: clarify criteria for choice of participants, length of tenure etc.

#### **Head 77: Establishment of a Fund**

In the interests of equitable application we support a fixed percentage basis for all licenced operators. We would like clarity regarding the definition of 'turn-over'. Typically such charges are based on Gross Revenues or Gross Income, that is all bets placed less all winning bets paid out, rather than turn-over in the traditional sense as total revenues.

Recommendation: Seek clarity from the Department of Finance.

#### **Head 78: Purpose of the Fund**

We welcome and support the initiative to establish a social fund.

Recommendation: The levy should be imposed on an equitable basis across all gambling service providers.

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## Appendix I

### Principles of Good Regulation

A responsible regulator with a very important public safety mission, should adhere to certain principles as they carry out their regulatory activities. These principles focus us on consumer protection while appropriately balancing the interests of stakeholders, including the public and licensees.

**Independence:** Nothing but the highest possible standards of ethical performance and professionalism should influence regulation. However, independence does not imply isolation. All available facts and opinions must be sought openly from licensees and other interested members of the public. The many and possibly conflicting public interests involved must be considered. Final decisions must be based on objective, unbiased assessments of all information, and must be documented with reasons explicitly stated.

**Openness:** Regulation of gambling is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law. Open channels of communication must be maintained with other government agencies, licensees, and the public, as well as with the international gaming community.

**Efficiency:** The Irish taxpayer, the consumer, and licensees are all entitled to the best possible management and administration of regulatory activities. The highest technical and managerial competence is required, and must be a constant agency goal. A regulatory authority must establish means to evaluate and continually upgrade its regulatory capabilities. Regulatory activities should be consistent with the degree of risk reduction they achieve. Where several effective alternatives are available, the option which minimizes the use of resources should be adopted. Regulatory decisions should be made without undue delay.

**Clarity:** Regulations should be coherent, logical, and practical. There should be a clear nexus between regulations and the regulator's goals and objectives whether explicitly or implicitly stated. The Regulators positions should be readily understood and easily applied.

**Reliability:** Regulations should be based on the best available knowledge from research and operational experience. Innovations, technological advances, and the diversity of licensees activities must all be taken into account so that risks are maintained at an acceptably low level. Once established, regulation should be perceived to be reliable and not unjustifiably in a state of transition. Regulatory actions should always be fully consistent with written regulations and should be administered promptly, fairly, and decisively so as to lend stability to the Licensee operational and planning processes.



## **Appendix II**

### **Extract from DKM Report 'Economic Assessment of a Regulated Gaming Sector' (Full report available at [www.glai.ie](http://www.glai.ie))**

#### **3.3.3 Scope for Capturing a Share of the Online Gaming Sector**

Ireland is well-positioned, if the appropriate legislative and regulatory structures are put in place, to attract a comparable share of the global remote gambling sector. Many of the required skill-sets are well-established in the internationally traded services sectors operating in Ireland, notably Information & Communications Technology (ICT) and financial skills.

Already, as noted, a number of leading firms in the sector have established operations in Ireland (e.g. Fulltilt, regulated in Kahnawake, Cryptologic, regulated in Malta and Bodog, regulated in Antigua), and there are a number of successful Irish bookmakers who have based their online subsidiaries in other jurisdictions for regulatory purposes, combined with their existing Irish skill-base.

While a small number of (mainly Irish) firms have been prepared to be regulated offshore while maintaining substantial related operations onshore, discussions with firms in the wider industry have indicated that, while Ireland is an attractive location for the reasons listed above, legal and regulatory uncertainty prevents them from committing to setting up operations here. Ideally they would wish to be regulated and operate from the same jurisdictions.

They have fears that a view might be taken that some back office services (such as those operated in Ireland by Paddy Power and Boyle Sports – see box) might fall foul of the existing law, as they might be seen to facilitate gambling. They would also be concerned that the appropriate tax regime be put in place, although a number of them indicated that they would be prepared to live with somewhat higher tax levels than are currently in place in off-shore jurisdictions, given the other advantages Ireland can bring.

Discussions indicate that another important addition would be a properly regulated land-based casino gaming sector, which would facilitate development of gaming skills domestically or encourage them to be attracted into the country. This skill base could then be drawn on by the online sector (and vice versa) in a synergistic way.

It is difficult to be prescriptive on the size of a prospective Irish-based remote gambling sector going forward, not least because of the uncertainty regarding the current and likely future size of the sector internationally.



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As can be seen, these are large businesses with substantial revenues and employment. They are operating in a rapidly growing sector, so firms in the sector could be expected to expand significantly over time. Many are sub-divisions of larger groups. Were Ireland to capture a share of this industry, it could become a major employer and source of Exchequer revenue.

For illustration, let us assume that Ireland succeeds in attracting 5% of the global sector, this would represent a local sector worth €2.2 billion per annum (based on a global valuation of €44 billion).

The sector is labour intensive and skill intensive, and so could be expected to generate a significant amount of highly paid employment. It would be reasonable to expect for current purposes that the sector would generate an additional 5,000 jobs, at an average salary of say €40,000 per annum. Assuming an additional 20% for Employer's PRSI, pension, etc., then this would add €240 million per annum in payroll to the Irish economy<sup>1</sup>. The Exchequer tax take would be approximately €60 million per annum.

Licence fees and gaming tax revenues would also be generated, although, as the discussions in this chapter has indicated, if firms are to be attracted to Ireland, these taxes will have to be competitively pitched.

The full report can be accesses by the following link:

[http://glai.ie/downloads/policy/DKM\\_Report\\_2008.pdf](http://glai.ie/downloads/policy/DKM_Report_2008.pdf)