



*The Gaming & Leisure
Association of Ireland*



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Minister David Stanton
Department of Justice, Equality and Law Reform
94 St Stephen's Green
Saint Kevin's
Dublin 2

13 June 2018

Re: Gambling Control Bill

Dear Minister,

Following on from your correspondence on 20th April 2018, please find below a written observation from the Gaming and Leisure Association of Ireland (GLAI) on the Department's review of the 2013 General Scheme of the Gambling Control Bill.

At this point, we feel it is important to point out that while we are supportive of Government's efforts to regulate the industry, and have been since we began engaging on the need for regulation over 12 years ago, we believe that completely rewriting the 2013 General Scheme of the Gambling Control Bill will allow operators who engage in sharp practice to continue their operations unhindered for an in-determinate period of time, perpetuating the exposure of Ireland's consumers.

As you will know, there is a growing concern among health advocates that the absence of legislation in Ireland is a contributory factor to a growing public health issue, with the incidence of gambling addiction thought to be as high as 40,000 nationally. This is especially concerning among the younger generations, who will be the first generation with access to gambling technologies 24/7, in the comfort of their own homes, schools and workplaces. Recent research indicates that adolescents are gambling two/three times more than their adult counterparts, aided by smartphones and access to Wi-Fi.¹ As such, we fear that delays to gambling regulation will have negative consequences for our population, manifest in record levels of addiction.

As an organisation seeking to promote best practice in gambling regulation, we are at odds with the presumption that the current General Scheme of the 2013 Gambling Control Bill may not be 'fit for purpose', and we would point to recent research by UCD Professor, Dr Crystal Fulton, which was commissioned by your Department last year as evidence of this. In her findings, Dr Fulton found that the need for update in the Bill was insubstantial, and concentrated on the role played by social media advertising specifically.² It is our opinion that this can be added to the existing 2013 General Scheme as a Government amendment during Committee Stage.

¹ <https://www.publichealth.ie/files/file/Developing%20a%20population%20approach%20to%20gambling.pdf>

² http://www.justice.ie/en/JELR/Final_report_to_the_Department_of_Justice_and_Equality-Developments_in_the_Gambling_Area.pdf/Files/Final_report_to_the_Department_of_Justice_and_Equality-Developments_in_the_Gambling_Area.pdf



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We are more than conscious that there have been some developments in the sector since the Government's General Scheme was originally introduced, however, this reasoning has been given for many years with legislative deadlines continuously pushed back, allowing many gambling operators to ignore basic responsible practices in favour of higher profit margins. The only means of ensuring that regulation tracks the progress in the gambling industry is via establishing an Independent Gambling Regulator in the office of Gambling Control (OGCI).

It is for this reason that we welcomed the move by Fianna Fáil to bring forward their own Gambling Control Bill, and were particularly heartened by the genuine show of cross-party support during the Bill's Second Stage debate at the beginning of May. During this debate, many TDs indicated that they would be seeking amendments. Indeed, Fianna Fáil have consistently made it clear that the party is open to working with Government and Opposition on any amendments which may be necessary, including moves to ensure the gambling regulator is independent, all in the interest of getting gambling legislation enacted as a priority.

We also welcomed the decision by the Joint Oireachtas Committee on Justice, Equality & Law Reform to progress the 2018 Gambling Control Bill without further scrutiny, given it is based on the 2013 General Scheme, and has thus been carefully inspected during the last Dáil term. This represents an appreciation by the Committee of the need for urgent reform; a trust in Dr Fulton's findings that the need for update is minor; and an understanding of the devastating impact the regulatory vacuum is having on Irish consumers.

The GLAI believes that the Gambling Control Bill is the sole legislative instrument which can appropriately regulate the gambling industry. As such, we are concerned by the piecemeal approach to legislation outlined by Minister Flanagan, who recently stated in the Dáil that a 'Gaming and Lotteries (Amendment) Bill 2018' was being prepared for certain "priority areas" such as increased stakes and prizes for slot machines. Given the rising rates of online gambling addiction, we are baffled as to why the Department considers updating stakes and prizes legislation for slot machines as a priority when it will benefit such a small sector of the industry, and when so many other consumer protection measures are outstanding.

Piecemeal measures intended to be temporary in nature, will also further halt progression on the Gambling Control Bill, given the scarce resources in both the office of parliamentary counsel, as well as your own Department of Justice, which for years were cited as the reason for the legislative delay. We fear that this will in turn further delay the establishment of proper consumer protections enshrined in legislation for our citizens, and perpetuate the current levels of gambling related harm in Ireland.

That being said, if your Department feels there is a need to rewrite the 2013 General Scheme of the Gambling Control Bill, contained below are detailed comments and proposals from the GLAI on improvements which could be made to the 2013 General Scheme which concern the activities of our members. It is important to point out that we – along with a majority of the Joint Oireachtas Committee on Justice, Equality & Law Reform – firmly believe that these changes contained below could easily be debated and added during Committee Stage of the Bill, and we ask again that the Bill proceed as a matter of genuine priority.

We would welcome the opportunity to discuss the content of this letter and submission in more detail with you, your office and your officials, as we have sought to do for many months now, and appreciate you taking the time to consider this correspondence.

Yours sincerely

David Hickson
Director - GLAI



2013 Gambling Control Bill

We provide in the body of this submission recommendations on all Heads in the 2013 General Scheme of the Gambling Control Bill of relevance to our sector as requested in the correspondence from Minister of State David Stanton.

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. Currently Ireland has the highest 'gambling losses per capita' in the EU, as well as the highest global level of online gambling losses.³ In light of this, 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 those vulnerable to addiction 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.

While the GLAI supports the 2013 General Scheme of the Gambling Control Bill wholeheartedly, in order to achieve successful, effective, workable and proportionate regulation of our sector, we respectfully suggest that the Department of Justice should consider the following amendments and additions:

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. Definitions and interpretation – We note that there is no definition provided to distinguish between 'betting' and 'gaming', or a definition provided for 'Gross Income'.
3. A gambling regulator as provided for in the 2017 Gambling Control Bill must be unencumbered by political interference.
4. The short duration proposed for a casino licence of 10 years needs to be lengthened to 20 years so as to enable operators to secure a return on the initial investment required to establish a casino.
5. 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.
6. We welcome the principle of proposed limits on the number of slot machines which are permissible, but contend that the current restrictions will lead to an increase in the market share of the online sector.
7. We welcome and support the initiative to establish a social fund, but we believe this should be imposed on an equitable basis across all gambling service providers, i.e. based on gross income.

In the event further detail or information is needed on any of the below topics, we would be more than happy to provide comment or materials as required.

Part 1: Definitions and interpretation

Betting v Gaming: As Betting and Gaming regulation is primarily guided by the Betting Act 1931 and the Gaming & Lotteries Act 1956, significant ambiguity has arisen over the nuances between betting and gaming. Traditionally, betting has been perceived as a 'softer' form of gambling, associated with on-course bookmaking, while gaming is often related to a more direct form of gambling considering the increased number of wagers which tend to be placed in a shorter period of time.

Similarly, amusement machines were traditionally located in amusement halls, while gaming machines were reserved to gaming arcades.

³ The World's Biggest Gamblers, The Economist, 9 Feb 2017 <https://www.economist.com/graphic-detail/2017/02/09/the-worlds-biggest-gamblers>



As per the 'Regulating Gaming in Ireland' Report of the Casino Committee in 2006, both betting and gaming raise very distinct regulatory issues, and should be treated separately in any regulatory arrangements. The Committee considered that this was fundamental for the regulation of gaming.

Recommendation: The GLAI views the proposed definitions of 'gaming', 'betting', 'gaming machines' and 'amusement machines' in Part 1 of the 2018 Gambling Control Bill as appropriate and recommends their inclusion.

In addition, we agree with the Casino Committee's recommendation that there should be no betting of any kind permitted on, or in, any licensed gaming premises. Likewise, there should be no gaming activity of any kind permitted on, or in, any betting or bookmakers' premises.

Turnover: We note that there is no definition provided for 'Turnover'.

Recommendation: As per the International Accounting Standards, we recommend that Turnover in the gaming industry be referred to as 'Gross Income' or 'Gross Gaming Income', defined as 'total wagers placed less winning wagers paid out to customers'.

Part 2 – Sections 5-7 inclusive: Functions of the Minister – Role of the OGCI

As has been recognised recently by government, 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 be established, as this is the best way to guard against the accusation of political favouritism regardless of its veracity.

Recommendation: 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 expertise in the industry, rather than with the relevant Minister.

The Gambling Commission in the UK is an excellent example of how this could operate and is in-keeping with international best practice.

Part 2 – Section 8: 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, based on gross income as defined above, 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.

Part 2 – Section 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.

Recommendation: We would recommend that interested parties should be invited to comment on draft codes, with a robust consultation mechanism enshrined in legislation, with consultation to occur on a frequent and ongoing basis.



Part 3 – Section 18: Matters specific to casinos and casino games

The GLAI notes the very modest limit on gaming machines (2) 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, we believe 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. 20,000 gaming machines in licensed gaming arcades and unlicensed venues around the country. Accordingly, we estimate that a multiple of 5 gaming machines per 'gaming table' is more realistic.

Recommendation: The 'multiplier' regarding the number of gaming machines permitted in a licenced casino should be increased from 2 to 5. This would allow for a variety of gaming services to be offered in bricks-and-mortar settings, rather than merely high-stakes machines, which are more commonly associated with problem gambling and can contribute to increased social harm.

Part 3 – Section 52: Duration of licences

In order to ensure that the casino sector is able to attract sufficient investment 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 20 years.

Given the very high set up costs of establishing 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 have no issue with subsequent licences having a shorter timeframe.

Recommendation: Initial licence should be increased from 10 to 20 years.

Part 3 – Section 52: 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.

However, we do agree that there should be a cut-off point for gambling services provision, which can be shown to 'break the trance' of those with gambling problems.

We would therefore recommend that there should be a restriction on operating hours for all forms of online and land-based gambling outlets, both betting and gaming, with mandatory closing of 4.00 am – 8.00 am. ISP blocking of rogue online sites is sufficiently disruptive to the supply of service that it would erode customer confidence in reliable access to gambling services, if employed against either an unlicensed site or a site operating in breach of its licence terms to ensure adherence to a restriction on hours of operation.

Similarly, we feel that the two suggested days which casinos should close in each calendar year, i.e. Christmas Day and Good Friday, are more about optics rather than being an effective tool to reduce the incidence of problem gambling.



In an increasingly multi-denominational society, such holidays are also overly prescriptive with regards religious connotations. If this is a restriction the party wishes to proceed with, we would respectfully suggest that the two days should be selected at the discretion of the operators. Currently private member clubs close on Christmas Eve and New Year's Day as these are critical times for family and friends.

Recommendation: Land based casinos and online gambling operators should be restricted from operating between the hours of 4.00am and 8.00am.

Part 4 – Section 58: Reserved Powers

Stakes and Prizes: We support the view, based on the experiences of other regulated jurisdictions, that stakes and prizes should not be set in the primary legislation, rather the regulator should have the necessary discretion to amend stakes and prizes.

Recommendation: Regulators should have the necessary discretion to amend stakes and prizes taking into account inflation and the views of other interested parties.

Part 7 – Section 77: Establishment of a Social Fund

In the interests of equitable application, we support a fixed percentage basis for all licenced operators, which should be based on Gross Income, as defined above, that is all bets placed less all winning bets paid out.

Recommendation: Contributions from licenced operators to the social fund should be based on gross gaming revenue.

The above is our top line position on some of the provisions set down in the 2013 General Scheme of the Gambling Control Bill, however, in the event further detail or information is needed on any of the above topics, we would welcome the opportunity to further engage with the Department on this very important piece of legislation.

We look forward to assisting as required in its development and ultimate introduction, but would again caution that in the absence of urgently progressed legislation, Irish consumers will continue to be subjected to sharp marketing practices, thus exacerbating an already deleterious social and public health issue.

We would therefore respectfully request that the Minister either lends his support to the Fianna Fáil 2018 Gambling Control Bill by seeking a money message from the Taoiseach; or alternatively reintroduces the 2013 Gambling Control Bill at the earliest possible opportunity.

About the GLAI

The GLAI is a non-profit trade association of Private Member Gaming Clubs and online operators involved in the provision of gaming services in Ireland, established to represent the interests of its members throughout Ireland, both at national and at EU level. The guiding principle of the GLAI is that responsible gaming can only be promoted in Ireland through a regulated environment, which will, in turn, protect vulnerable persons, and ensure consumer protection.