

UNCLASSIFIED

Hon Brooke van Velden, Minister of Internal Affairs

Proactive release of Cabinet material about the Online Casino Gambling Phase 2 Decisions and the Regulatory Impact Statement on Phase 1 Cabinet decisions
13 December 2024

These documents have been proactively released:

11 November 2024, CAB-24-MIN-0435 Minute: Report of the Cabinet Expenditure and Regulatory Review Committee: Period Ended 8 November 2024, Cabinet Office;

5 November 2024, EXP-24-MIN-0066 Minute: Online Casino Gambling Phase 2 Decisions, Cabinet Office;

5 November 2024, Cabinet Paper: Online Casino Gambling Phase 2 Decisions, Office of the Minister of Internal Affairs;

5 November 2024, Regulatory Impact Statement: Online gambling regulatory design – RIS 2, Department of Internal Affairs; and

18 July 2024, Regulatory Impact Statement: Online gambling regulatory design – RIS 1, Department of Internal Affairs.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to Redaction Codes:

- Section 9(2)(b)(ii) - to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information
- Section 9(2)(f)(iv) – protect the confidentiality of advice tendered by Ministers of the Crown and officials
- Section 9(2)(g)(i) - to enable the future exchange of free and frank opinions
- Section 9(2)(h) - to maintain legal professional privilege



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Expenditure and Regulatory Review Committee: Period Ended 8 November 2024

On 11 November 2024, Cabinet made the following decisions on the work of the Cabinet Expenditure and Regulatory Review Committee for the period ended 8 November 2024:

Out of Scope	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

EXP-24-MIN-0066	Online Casino Gambling: Phase 2 Decisions Portfolio: Internal Affairs	CONFIRMED
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Rachel Hayward
Secretary of the Cabinet



Cabinet Expenditure and Regulatory Review Committee

Minute of Decision

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Online Casino Gambling: Phase 2 Decisions

Portfolio Internal Affairs

On 5 November 2024, the Cabinet Expenditure and Regulatory Review Committee:

Background

- 1 **noted** that in March 2024, Cabinet agreed in principle to regulate online casino gambling to support tax collection, minimise harm, and provide consumer protections to New Zealanders [CAB-24-MIN-0072], and in July 2024, agreed to a licensing model subject to a report back in October 2024 to confirm the details of the design [CAB-24-MIN-0277.01];

Online Gambling Bill

- 2 **noted** that an Online Gambling Bill (the Bill) is required to regulate online casino gambling through a licensing system, and that all relevant decisions made by Cabinet in July 2024 will be included in the Bill;
- 3 **agreed** that the purpose of the Bill will be to regulate online gambling to:
 - 3.1 facilitate a safer and compliant regulated online gambling market;
 - 3.2 prevent and minimise online gambling harm; and
 - 3.3 limit opportunities for crime and dishonesty, and provide protections for consumers, within the regulated online gambling market;

Online casino games

- 4 **agreed** to define online casino games in the Bill to include any online game based wholly or partly on chance to determine the outcome, including where players play against the licensee and where the players play against another player or the licence holder;
- 5 **agreed** to a regulation-making power tailored to the online environment to enable minimum standards to be set by the Secretary of Internal Affairs (the Secretary), in consultation with the Minister of Internal Affairs (the Minister), on matters related to rules and features for all games offered by licence holders;
- 6 **agreed** that Lotto NZ will retain exclusive rights to run Powerball, Lotto, and Strike;

Legislative cap on the number of licences an operator can hold

- 7 **agreed** that an operator can hold no more than 3 licences of the 15 total licences made up of full or part shareholdings in any brand;
- 8 **agreed** that licence holders must use any licence within 90 days of it being issued;

Secretary of Internal Affairs to issue licences

- 9 **agreed** that the Secretary will have the authority to issue, renew, amend, suspend, or cancel and grant vacant licences;
- 10 **agreed** that licences will not be transferrable, but if a licensed brand merges or is acquired by another company the Secretary must undertake an assessment as to whether the licence can continue;
- 11 **agreed** to allow the Secretary to determine the competitive process to grant vacant or subsequent licences;

Due diligence and entry requirements

- 12 **agreed** to a two-stage process for undertaking due diligence and entry requirement checks, as set out below:

12.1 Stage 1 will require prospective licence holders to provide:

- 12.1.1 confirmation of the brand seeking a licence;
- 12.1.2 identification of key persons with significant influence involved in the brand and their criminal records and interests in other gambling-related companies both here and offshore;
- 12.1.3 confirmation of who owns the brand;
- 12.1.4 business plans and strategies for the brand in New Zealand;
- 12.1.5 amount of capital available to the brand;
- 12.1.6 declaration of any breaches of legislation here or offshore (including, but not limited to gambling, privacy, payment of tax, and consumer protection);
- 12.1.7 any additional information requested by the Secretary;

12.2 Stage 2 requirements that must be completed before a licence can be granted:

- 12.2.1 harm prevention and minimisation and consumer protection strategies and how they comply with the New Zealand regulatory framework;
- 12.2.2 compliance with the Privacy Act 2020 and with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- 12.2.3 marketing strategy and compliance with New Zealand advertising regulatory framework;
- 12.2.4 proposed online operating system;

1 2.2.5 proposed age and identity verification system;

1 2.2.6 any additional information requested by the Secretary;

13 **agreed** that a licence be granted and published only on approval of both Stage 1 and 2 documents by the Secretary, and following payment of the required fees;

14 **agreed** that the Secretary may refuse to grant a licence if not satisfied the information provided meets legislative requirements, or if a prospective licence holder fails to provide the information required, or pay the required fees to the Secretary;

15 **agreed** that the new legislation will state that entry requirements must be met throughout the licence duration, and licence holders must advise the Secretary immediately of any material change that may affect their ability to meet any entry requirements;

Licence duration and right of renewal

16 **agreed** that after the initial licence period, a renewal of up to five years can be approved by the Secretary, on the condition the Secretary is satisfied all legal obligations are being and have been met;

Licence conditions

17 **agreed** that the Secretary will have the power to impose licence conditions to promote or ensure compliance, noting that this may entail additional obligations on licence holders;

Register of licence holders and registration icon

18 **authorised** the Secretary to publish and maintain a public register of licensed brands on the Department of Internal Affairs' website, which includes:

18.1 the name of the organisation, domain name, parent company and board members;

18.2 where they are based (head office address), New Zealand address for service and a link to their corporate website;

18.3 their New Zealand licence number, start and renewal date of licence, and status of licence, i.e. current, suspended or cancelled;

18.4 any regulatory enforcement action taken by the regulator, and any licence conditions imposed;

19 **agreed** that all licence holders will be required to display the registration icon on their website and in all advertising;

Advertising restrictions

20 **agreed** to update section 16 of the Gambling Act 2003 to remove the restriction on advertising for licence holders;

21 **agreed** to a statement in the legislation that advertising must not appeal to, or target, children or young people;

22 **agreed** that licence holders must produce a marketing strategy per licence and submit this to the regulator at the commencement of their licence as part of Stage 2 entry requirements for authorisation;

- 23 **agreed** that a marketing strategy will consist of the licensed platform's marketing objectives and intentions, key brand messaging, target groups, intended marketing activities and channels, form of advertisements, frequency of activities and campaigns, any data supporting selected activities and customer groups, and use of third parties;
- 24 **agreed** that the licence holder must ensure the platform's marketing strategy stays up-to-date and inform the regulator of any changes;
- 25 **agreed** to a regulation-making power that sets out detailed advertising, sponsorship and promotion rules that cover the following: the intended audiences; form; content; timing and frequency/volume; location and placement of advertisements; and the use of third parties, such as influencers;

Harm prevention and minimisation

- 26 **agreed** that under the legislation, licence holders will be required to use an age and identity verification system acceptable to the Secretary;
- 27 **agreed** to a regulation-making power tailored to the online environment that prescribes matters related to harm prevention and minimisation;

Consumer protection

- 28 **agreed** to a regulation-making power tailored to the online environment that prescribes matters related to consumer protection;

Complaints process

- 29 **agreed** to establish a high-level complaints framework in the legislation that states:
- 29.1 a licence holder must have a complaints process, handle complaints in a timely manner, publicise that information on their website, and keep a complaint register;
 - 29.2 if complainants are not happy with how the licence holder handled or resolved the complaint, they can complain to the Secretary;
 - 29.3 the Secretary is required, after receiving a complaint, to notify the licence holder of the complaint, decide whether to investigate the complaint, investigate the complaint (if applicable), notify the complainant and licence holder of their decision to investigate, and, if applicable, notify both parties of the outcome of the investigation;
 - 29.4 if the Secretary identifies a breach during its investigation, it will undertake enforcement action it deems appropriate;
- 30 **agreed** that complaints can be made to the Secretary against unlicensed operators, but complaints that fall outside the legislation will not be investigated;

Compliance and enforcement of licensed and unlicensed operators

- 31 **agreed** that for the legislation to be effective, it must capture offshore operators with an explicit extra-territorial provision as required under the law;
- 32 **agreed** that licence holders will be required to provide a local address for service;
- 33 **agreed** that the legislation will empower the Secretary to monitor and enforce compliance, and detect, investigate, and prosecute breaches;

- 34 **agreed** that the legislation will empower the Secretary to investigate complaints, obtain information from a licence holder for the purposes of the Bill, issue formal warnings, and issue enforceable undertakings to remedy non-compliance;
- 35 **agreed** that the legislation will empower the Secretary to suspend for up to six months or cancel an online casino gambling licence if any of the grounds for issuing a licence are no longer met or have not been met, or the licence holder is in breach of any licence condition or regulatory requirement, or has provided false or misleading information to the Secretary, and that the licence holder must be notified;
- 36 **agreed** that a licence holder may appeal a decision by the Secretary in relation to Stage 2 entry requirements, suspension or cancellation of a licence to the High Court of New Zealand, with a right of appeal to the Court of Appeal;
- 37 **agreed** that checks against arbitrary or unfair licensing decisions by the regulator will consist of an ability to request an internal review of non-standard conditions imposed by the Secretary;
- 38 **agreed** that under the legislation the Secretary will have the power to issue take-down orders to unlicensed operators;

Data collection and information sharing

- 39 **agreed** that licence holders will be required to comply with the Privacy Act 2020;
- 40 **agreed** that the Secretary have the power to determine what information they require and when, to carry out their functions under the Bill;

Civil penalties

- 41 **agreed** that the legislation and any regulations made pursuant to it will apply to any person providing online casino gambling to people based in New Zealand, wherever that person is based;
- 42 **agreed** that it will be a breach to offer online casino gambling in New Zealand without a licence, with a pecuniary penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;
- 43 **agreed** that it will be a breach, with a civil penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership, if a licence holder:
- 43.1 knowingly allows a person who is underage, or who has excluded themselves, to gamble;
 - 43.2 fails to comply with any licence condition set by the Secretary;
 - 43.3 fails to keep entry requirement documentation up to date;
 - 43.4 fails to seek approval for any material changes to their operation that has the potential to no longer meet the requirements to operate in New Zealand;
 - 43.5 fails to keep or retain adequate records as required by the Secretary;
 - 43.6 advertises, sponsors, or promotes in New Zealand online casino gambling in a way that does not comply with the restrictions in the Bill or regulations;
 - 43.7 fails to display a registration icon on their website and advertisements;

- 44 **agreed** that it will be a breach to advertise, sponsor or promote online casino gambling in New Zealand without a licence, with a maximum civil penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;
- 45 **agreed** that it will be a breach of the legislation for an unlicensed operator to fail to comply with a take-down notice issued by the Secretary of Internal Affairs, with a penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;
- 46 **agreed** that it will be a breach if anyone fails to comply with a request for information from the regulator, or provides false or misleading information to the regulator, and that a maximum civil penalty of up to \$10,000 will apply;
- 47 **agreed** that it will be a breach if anyone obstructs an investigation by the Secretary, including refusing to provide requested information to assist with an investigation, and that a maximum civil penalty of up to \$10,000 will apply;
- 48 **agreed** that in setting these penalties, the following will be taken into account by the High Court: the nature and extent of the breach; any loss or damage caused by the breach; any financial gain made, or loss avoided, from the breach; the level of calculation involved in the breach; and the circumstances in which the breach took place;
- 49 **agreed** that a defence may apply if the licence holder or other defendant is able to prove a reliance on information supplied by another party, or could not have reasonably known of the contravention, or could not have taken reasonable steps to prevent the contravention from occurring;
- 50 **agreed** that a limitation period of seven years be set for this regulatory system;

Criminal offence to place a bet on behalf of a person who is underage

- 51 **agreed** that it will be a criminal offence for anyone to place a bet on behalf of a person who is underage with a maximum penalty of a fine up to \$10,000, with an available defence if the person had reasonable grounds to believe the person was 18 years or over;

Financial implications

- 52 **agreed** to a regulation-making power to: enable fees to be set either as a fixed percentage of a platform's New Zealand-based Gross Gambling Revenue (GGR), or a flat fee, to adapt to what is happening in the market; determine the exact level of any fee, be it a flat fee or percentage-based fee, in line with Treasury and Auditor-General guidance; review fees every three to five years; and set the fees charged to licence holders in the first year of the scheme's operation ^{9(2)(b)(ii)} [REDACTED]
- 53 **agreed** that, during the first few years of the scheme's operation, licence fees be set as a fixed percentage of a platform's New Zealand-based GGR;
- 54 **agreed** that revenue from auctioning licences will accrue to the Crown, less any administrative costs of running the auction;

Legislative implications

- 55 **agreed** that the Act will bind the Crown;
- 56 **noted** that the above decisions will be given effect through the Online Gambling Bill which holds a category 6 priority on the 2024 Legislation Programme (drafting instructions to be issued by the end of 2024);

- 57 **invited** the Minister of Internal Affairs to issue drafting instructions to PCO to give effect to the above decisions through the Bill, including consequential amendments to the Gambling Act 2003 and other affected statutes;
- 58 **agreed** to a consequential amendment to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 to include online casino licence holders in the definition of reporting entities;
- 59 **agreed** to consequential amendments to the Gaming Duties Act 1971, Goods and Services Tax Act 1985 and Tax Administration Act 1994 to give effect to the above decisions;
- 60 **authorised** the Minister to make final decisions on minor and technical policy changes consistent with the policy intent of the above decisions.

Sam Moffett
Committee Secretary

Present:

Hon David Seymour (Chair)
Hon Nicola Willis
Hon Simeon Brown
Hon Erica Stanford
Hon Louise Upston
Hon Judith Collins KC
Hon Mark Mitchell
Hon Simon Watts
Hon Brooke van Velden
Hon Shane Jones
Hon Andrew Bayly
Hon Chris Penk
Hon Andrew Hoggard
Hon Mark Patterson

Officials present from:

Officials Committee for EXP

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Office of the Minister of Internal Affairs

Cabinet Economic Policy Committee

Online Casino Gambling Phase 2 Decisions

Proposal

- 1 This paper seeks agreement on the detailed online casino regulatory design, proposed regulation making powers and authorisation to issue drafting instructions. Together with the July 2024 Cabinet decisions, it forms the basis for the online casino gambling regulatory system in New Zealand [CAB-24-MIN-0277.01 refers].

Relation to government priorities

- 2 The National Party Tax Plan, endorsed by the Coalition Agreements, commits to a regulatory regime for online casino gambling.

Executive Summary

- 3 In March 2024, Cabinet agreed in principle to regulate online casino gambling to support tax collection, minimise harm, and provide consumer protections to New Zealanders [CAB-24-MIN-0072 refers], and in July 2024, agreed to a licensing model subject to a report back in October 2024 to confirm the details of the design [CAB-24-MIN-0277.01 refers].
- 4 I am now seeking Cabinet's agreement on the details of the online casino licensing system to enable the Parliamentary Counsel Office (PCO) to draft an Online Gambling Bill (the Bill) with the intent to have the Bill drafted for consideration by the Cabinet Legislation Committee in May 2025.
- 5 The purpose of the Bill will be to: facilitate a safer and compliant online gambling market; prevent and minimise online gambling harm; and limit opportunities for crime and dishonesty and provide protections for consumers.
- 6 The decisions outlined in this paper will focus on the detail required to draft primary legislation with empowering provisions for secondary legislation, such as licence fees and product restrictions. I am also proposing that advertising restrictions, harm prevention and minimisation restrictions and consumer protections be in secondary legislation.

Background

- 7 In July 2024, Cabinet agreed to a high-level design of a new regulatory system for online casino gambling and invited me to report back to ECO in October 2024 to seek approval on the detailed design of the scheme and to issue drafting instructions.

- 8 The full online casino gambling licensing system has been designed to support tax collection, minimise harm and provide consumer protections to New Zealanders who choose to gamble with online casinos.

Proposed Online Gambling Licensing System

Separate online gambling legislation

- 9 I propose regulating online casino gambling separately to land-based gambling through separate legislation (Online Gambling Act). The purposes and objectives of the new legislation should reflect Cabinet's objectives for the licensing system. I propose the following purposes for the Bill: facilitate a safer and compliant regulated online gambling market; prevent and minimise online gambling harm; and limit opportunities for crime and dishonesty, and provide protections for consumers, within the regulated online gambling market.
- 10 The Gambling Act 2003 (Gambling Act) was not designed with the current levels of online gambling in mind, and integrating regulation of online gambling into a system designed primarily for land-based gambling could risk the integrity of both online and land-based gambling.

Online casino games

- 11 Cabinet's March decision limited the scope of the regulation to only online casino gambling [CAB-24-MIN-0072]. The definition of gambling will remain the same as in the Gambling Act. I propose online casino games be defined as any online game based wholly or partly on chance to determine the outcome, including where players play against the licensee (e.g. live table games, slot machines); and where the players play against one another (e.g. poker).¹
- 12 I propose including a regulation-making power like section 327 of the Gambling Act but tailored to the online environment. A regulation-making power will enable minimum standards to be set by the Secretary of Internal Affairs (the Secretary), in consultation with the Minister, regarding rules and features for all games offered by licence holders.

Powerball, Lotto, and Strike will remain exclusively with Lotto NZ

- 13 As Cabinet noted in July, I do not support allowing Lotto NZ to offer online casino games. I propose Powerball, Lotto, and Strike will remain exclusively with Lotto NZ. Lotto NZ will also be able to offer their current games that fall within the definition of online casino games without a licence. Licence holders may also offer these games such as instant games and daily games like Keno.

TAB NZ products are out of scope for the online gambling licensing system

- 14 TAB NZ will have exclusive rights to offer all products listed under the Racing Industry Act 2020. This reflects Cabinet's recent agreement to make it illegal for any entity other than TAB NZ to offer sports and racing betting to New Zealand-based customers [CAB-24-MIN-0350 refers]. Licence holders will be able to offer

¹ Video games or features within video games such as loot boxes will be out-of-scope.

virtual sports and racing betting as these games use a random number generator to determine a chance-based outcome like other online casino games.

Legislative cap on the number of licences an operator can hold

- 15 I propose that an operator can hold no more than three licences of the up to 15 licences available for the brands they own and operate. This cap applies to both full and part ownership of the brands.² I will also require licence holders to start their licence within 90 days of it being granted to prevent operators buying licences to stop their competitors from accessing the market.

The Secretary will issue licences

- 16 I propose the Secretary has the authority to issue licences, renew, amend, suspend, cancel and grant vacant licences. Licences will be non-transferable. Whenever a brand is changed, or there is a change of ownership, the primary legislation will require the licence holder, and/or the company acquiring that brand, to provide all information required by the Secretary to undertake an assessment as to whether the licence can continue i.e. the entry requirements and due diligence checks are still being met and the legislative licence cap is not exceeded.
- 17 Cabinet has agreed the initial licences will be issued via an auction process. I propose a provision in the legislation to allow the Secretary to determine the competitive process by which vacant and subsequent licences are issued. This is like the process in the Radiocommunications Act 1989. Not all 15 licences need to be filled.

Due diligence and entry requirements

- 18 I propose splitting the entry requirements and due diligence checks into two stages. Stage 1 will be an eligibility assessment conducted by the regulator to check if the prospective licence holder is suitable to compete for a licence. This will be followed by stage 2, which will be an additional due diligence check.
- 19 This staged approach will reduce the administrative burden on the regulator and the compliance costs on the operators as they will only need to provide information relevant to the stage in the process they succeed to. A list of the stage 1 and 2 documentation is outlined in **Appendix A**.
- 20 Once the information is assessed and approved by the regulator and payment is received, the licence is granted and published. The Secretary may refuse to grant a licence if not satisfied the information provided meets legislative requirements.

Licence duration and renewal

- 21 In July 2024, Cabinet agreed that all licences will be time-limited for up to three years, with a renewal period. I propose this renewal period be up to five years

² A single operator can hold no more than 300% of shares across the 15 licensed brands. This can be through full ownership of 3 brands (3 licences x 100% shares) or part shares in several brands, as long as the total shareholding does not exceed 300%.

before the Secretary goes back to market to grant new licences through a competitive process. I am confident this option strikes the right balance between reasonable regulatory costs and ensuring the term of the licence is sufficient to attract reputable operators into the regulated market.

- 22 Renewals will not be granted automatically. The licence holder must have met its licence conditions and have a history of compliance with New Zealand law. Prior to a renewal being granted, the licence holder will be required to re-submit stage 1 and 2 documents to satisfy the Secretary the requirements are still being met.

Licence conditions

- 23 I propose the Secretary has the power to impose licence conditions to promote or ensure compliance, noting this may entail additional obligations on licence holders.

Register of licensed brands and registration icon

- 24 To ensure the public can confidently identify licensed brands, I am proposing the regulator maintain a public register of licensed brands to help New Zealanders make an informed choice. The specific information the register must include is outlined in **Appendix B**.
- 25 I propose there be a requirement for licensed brands to display a registration icon on their website and advertisements so the public can easily identify licence holders. This will help channel consumers to the safer regulated market.

Advertising restrictions

- 26 Cabinet agreed in July that licence holders can advertise, with restrictions, to help channel players to the regulated market. Licence holders will have no ability to promote other products, like sports and race wagering. Unlicensed operators will be unable to advertise, at all.
- 27 I propose a three-part advertising framework, that covers a high-level statement in primary legislation for advertising; the requirement for licence holders to submit their marketing strategy to the Secretary; and a regulation-making power that prescribes matters related to advertising, sponsorship and promotions. The details of this framework are covered in **Appendix C**.

Harm prevention and minimisation

- 28 The harm prevention and minimisation proposals in the Bill will set an age limit of 18 years, require licence holders to have an age and identity verification process acceptable to the Secretary, and require them to comply with all harm prevention and minimisation standards set out by the regulator.
- 29 I propose also including a regulation-making power like section 313 of the Gambling Act, tailored to the online environment. A regulation-making power will enable prescribing matters related to harm prevention and minimisation. Regulations will set minimum standards that licence holders will be required to meet.

Consumer protection

- 30 I am also proposing a specific regulation-making power related to consumer protection. These regulations will set minimum standards that licence holders will be required to meet such as record-keeping, account information and verification, protection of privacy, and financial restrictions.

Complaints process

- 31 I propose establishing a high-level complaints framework in the Bill to provide customers, members of the public, and other operators with the certainty they will be able to raise concerns about licence holders, while also providing a clear expectation to licence holders of the complaints process in New Zealand. The details of the framework are outlined in **Appendix D**.
- 32 I am also proposing the Bill allows a person to make a complaint to the Secretary about an unlicensed online casino operator. The Secretary could investigate any conduct that breaches New Zealand law. If the complaint is about conduct that falls outside of this, the Secretary can close the complaint. This includes consumer-related complaints, such as failing to pay out on a bet.

Compliance and enforcement

- 33 I propose an explicit provision in the Bill for extra-territorial authority i.e., allow the law to apply outside of New Zealand to enable effective enforcement.
- 34 As stated in the July Cabinet paper, there will be no requirement for licence holders to be based in New Zealand to operate. However, they will be required to provide a local address for service. This is a legal requirement that will help the regulator with enforcement by simplifying the process for serving papers to bring court proceedings against a licence holder.
- 35 To ensure an effective system, I propose the Secretary has the power to monitor licence holder's compliance with licence conditions and other legislative requirements, obtain information, and detect, investigate, and prosecute breaches. I propose the regulator has a graduated suite of enforcement tools at its disposal as outlined in **Appendix E**.

Data collection and information sharing

- 36 Licence holders will be required to comply with New Zealand's Privacy Act 2020. Licence holders will only be able to collect customer information necessary to provide gambling services, use this information for the purposes collected, and securely hold, protect from loss and unauthorised disclosure, and dispose of this information once it is no longer required.
- 37 I propose the Secretary has the power to determine what information they require to carry out their functions under the Bill. For example, this could include the form and frequency of the information required on an ongoing basis to prove licence holders are complying with the legal requirements, as well as information to help

determine what is happening in the market.³ This power is like sections 333 and 365 in the Gambling Act.

Controlling unlicensed operators

- 38 I propose it is a breach to allow online casino gambling to people residing in New Zealand without a licence (see Civil penalties section below). Unlicensed operators that are licensed in other, larger, jurisdictions will be more motivated to comply with this requirement.
- 39 However, I am not proposing the Government use geo-blocking and filtering as these are resource intensive and can be circumvented by those motivated to gamble outside the regulatory system. Compliant operators who are unlicensed to operate in New Zealand will likely use their own geo-blocking to prevent New Zealand customers from accessing their site.
- 40 I propose three ways to control unlicensed operators:
- 40.1 ensuring the regulator has strong relationships with third parties and other international regulators. Overseas operators may be at risk of losing their licences in other countries if they breach New Zealand law. Memorandum of understandings and information sharing agreements may assist with enforcing penalties and prosecution;
 - 40.2 prohibiting advertisements by unlicensed operators; and
 - 40.3 giving the Secretary power to issue take-down notices to remove or make unavailable for New Zealand gamblers any unlicensed advertising or websites.

Civil penalties

- 41 I propose civil penalties to enforce the online casino regulatory system. Penalties need to be set at levels that provide effective deterrence. Large multi-national gambling operators have extremely high annual turnovers.^{9(2)(g)(i)} I propose breaches are created for the activities listed in **Appendix F**.
- 42 The penalties proposed align with those in the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act), but I am open to considering higher penalties if Cabinet wishes. Given the proposed penalty levels, the appropriate appellate body for any licensing decisions related to stage 2 entry requirements, licence suspension and cancellation decisions is the High Court, with a right of appeal to the Court of Appeal.
- 43 I also propose checks against arbitrary or unfair licensing decisions will consist of an ability to request an internal review of licence conditions imposed by the Secretary.

³ The number of registered customers, amount of money gambled in any given period, number of harm interventions or exclusions, type and nature of any operator investigations into suspicious activity, and number of failed or abandoned account registrations.

- 44 In setting these penalties, the High Court will consider the following: the nature and extent of the breach; any loss or damage caused by the breach; any financial gain made, or loss avoided, from the breach; the level of calculation involved in the breach; and the circumstances in which the breach took place.
- 45 A defence may apply if the licence holder or other defendant is able to prove a reliance on information supplied by another party, or could not have reasonably known of the contravention, or could not have taken reasonable steps to prevent the contravention from occurring.
- 46 I propose a limitation period of 7 years be set for this regulatory system.

Criminal offence to place a bet on behalf of a person who is underage

- 47 I propose it will be an offence for any person to place a bet on behalf of a person who is underage, with a maximum penalty of up to \$10,000 per offence. There will be an available defence that the person had reasonable grounds to believe the person was 18 or over.

AML/CFT application

- 48 As online casinos are not currently regulated in New Zealand, the requirements under the AML/CFT Act (administered by the Ministry of Justice) do not apply. I propose a consequential amendment to the AML/CFT Act to include online casino licence holders in the definition of reporting entities.

Consequential amendments to Taxation Acts

- 49 As the new online casino tax (offshore gambling duty) currently only applies to non-residents, consequential amendments are required to the Gaming Duties Act 1971 and the Goods and Services Tax Act 1985. This reflects the fact the proposed Bill will allow New Zealand resident operators to provide online casino gambling, and such operators should also be subject to the online casino tax.
- 50 I also propose consequential amendments to the Tax Administration Act 1994 to allow Inland Revenue to provide detailed tax information to the Department of Internal Affairs (the Department) for the purposes of administering the Bill.

Implementation

- 51 My intention is for the regulatory regime to be established from February 2026.
- 52 The Department will establish a dedicated team responsible for the implementation and establishment of the new regulatory system. This was budgeted for and agreed by Cabinet in July 2024.

Cost-of-living Implications

- 53 There are no direct cost of living implications from these proposals. Regulating online gambling may help to reduce financial losses to gamblers by introducing harm prevention and minimisation standards and consumer protection measures.

Financial Implications

- 54 In line with cost recovery principles, licence fees will be set at a level to recover the establishment and ongoing costs of operating the scheme while aiming to avoid under or over-recovery. Officials currently estimate the scheme's ongoing costs will be ^{9(2)(b)(ii)} [REDACTED]
- 55 During the first few years of the scheme's operation, I propose that licence fees are set as a fixed percentage of a brand's New Zealand-based Gross Gambling Revenue (GGR). Compared to a flat fee, this approach will ensure licence holders will operate on a more even playing field in the initial years of the scheme's operation.
- 56 I propose a regulation-making power to: enable fees to be set either as a fixed percentage of a platform's GGR, or a flat fee, to adapt to what is happening in the market; determine the exact level of any fee, in line with Treasury and Auditor-General guidance; review fees every three to five years; and set the fees charged to licence holders in the first year of the scheme's operation ^{9(2)(b)(ii)} [REDACTED]. This will be informed by tax information from Inland Revenue.
- 57 It is unclear how much revenue will be derived from licence auctions. In line with the objective to support tax collection, I propose the auction revenue accrue to the Crown, minus any administrative costs of running the auction, in the same manner that gambling duty and GST revenue from online operators currently does.

Legislative Implications

- 58 There are legislative implications for my proposals. I sought a priority category 6 for the Bill in the 2024 Legislation Programme. The Act will bind the Crown.
- 59 The proposals require consequential amendments to the Gambling Act 2003, AML/CFT 2009, the Gaming Duties Act 1971, the Goods and Services Tax Act 1985 and the Tax Administration Act 1994 to give effect to the policy to regulate online casino gambling.

Impact Analysis

Regulatory Impact Statement

- 60 A RIS has been completed and is attached as **Appendix G**.
- 61 The Department's Regulatory Impact Analysis Review Panel has reviewed the RIS and considers the information and analysis summarised in the RIS partially meets the quality assurance criteria.

Climate Implications of Policy Assessment (CIPA)

- 62 The CIPA team has been consulted and confirms the CIPA requirements do not apply to this proposal, as the threshold for significance is not met.

Population Implications

- 63 The population implications were set out in the July Cabinet paper and these proposals have not changed the assessment in any way.

Human Rights

- 64 The Department notes the possibility that establishing a minimum age of 18 for online casino gambling is *prima facie* inconsistent with the freedom from discrimination provision in section 19 of the New Zealand Bill of Rights Act 1990 (BORA). Restrictions on advertising and requirements to provide information may engage section 14 BORA; every person has the right to seek, receive, and impart information and opinions of any kind in any form. The offence to place a bet on behalf of a person who is underage *prima facie* would limit the presumption of innocence affirmed in s25(c) BORA.
- 65 I consider section 19 limitations are justified as this proposal aligns with the legal age in New Zealand for Class 4 gambling, racing and sports betting, alcohol and tobacco. I also consider section 25(c) limitations are justified because of the potential for gambling activity to endanger young people.
- 66 I consider any encroachment on section 14 rights are justifiable. However, the Attorney General will complete a final determination of the consistency with BORA once the Bill is drafted.

Use of External Resources

- 67 No external resources were used for this policy development process. The costing estimates for the repayable capital injection included any external contractors that may be required for the system implementation i.e., IT and legal.

Consultation

- 68 The following government agencies were consulted and raised no significant issues: Ministry of Health, The Treasury, Inland Revenue, Ministry of Justice, Te Puni Kōkiri, Te Arawhiti, Ministry for Pacific Peoples, Ministry for Women, Ministry for Culture and Heritage, Ministry of Foreign Affairs and Trade, Ministry of Youth Development, Office for Seniors, Office of the Privacy Commissioner, Ministry for Ethnic Communities, Ministry of Business, Innovation and Employment, New Zealand Police, Ministry for Regulation, Ministry of Disabled People, Legislation Design and Advisory Committee, Parliamentary Counsel Office, Commerce Commission, Sport New Zealand, Te Whatu Ora (Health New Zealand) and the Office of the Ombudsman. The Department of the Prime Minister and Cabinet was informed.
- 69 Since July, the Department has engaged with all the domestic casino operators, several offshore operators keen to enter New Zealand's regulated market, and PGF Services, as well as Lotto NZ and TAB NZ. They all support the regulation of online casino gambling. Interested parties will be able to have their say on the draft Bill through the Select Committee process.

Communications

- 70 I intend to announce that Cabinet has agreed on the detailed legislative design of the online casino licensing system.

Proactive Release

- 71 I intend to proactively release this paper, subject to any redactions that may be warranted under the Official Information Act 1982, within 30 business days of decisions being taken.

Recommendations

The Minister of Internal Affairs recommends the Committee:

Background

- 1 note that in March 2024, Cabinet agreed in principle to regulate online casino gambling to support tax collection, minimise harm, and provide consumer protections to New Zealanders [CAB-24-MIN-0072], and in July 2024, agreed to a licensing model subject to a report back in October 2024 to confirm the details of the design [CAB-24-MIN-0277.01];

Online Gambling Bill

- 2 agree that separate legislation is required to regulate online casino gambling through a licensing system, and that all relevant decisions made by Cabinet in July 2024 [CAB-MIN-0277.01 refers] will be included in the Bill;
- 3 agree the purpose of the new legislation will be to regulate online gambling to:
- 3.1 facilitate a safer and compliant regulated online gambling market;
 - 3.2 prevent and minimise online gambling harm; and
 - 3.3 limit opportunities for crime and dishonesty, and provide protections for consumers, within the regulated online gambling market;

Online Casino Games

- 4 agree to define online casino games in the Bill to include any online game based wholly or partly on chance to determine the outcome, including where players play against the licensee and where the players play against another player or the licence holder;
- 5 agree to a regulation-making power tailored to the online environment to enable minimum standards to be set by the Secretary of Internal Affairs, in consultation with the Minister, to matters related to rules and features for all games offered by licence holders;
- 6 agree that Lotto NZ will retain exclusive rights to run Powerball, Lotto and Strike;

Legislative cap on the number of licences an operator can hold

- 7 agree that an operator can hold no more than 3 licences of the 15 total licences made up of full or part shareholdings in any brand;
- 8 agree that licence holders must use any licence within 90 days of it being issued;

Secretary of Internal Affairs will issue licences

- 9 agree that the Secretary of Internal Affairs will have the authority to issue, renew, amend, suspend, or cancel and grant vacant licences;
- 10 agree that licences will not be transferrable. However, if a licensed brand merges or is acquired by another company the Secretary of Internal Affairs must undertake an assessment as to whether the licence can continue;
- 11 agree to allow the Secretary of Internal Affairs to determine the competitive process to grant vacant or subsequent licences;

Due diligence and entry requirements

- 12 agree to a two-stage process for undertaking due diligence and entry requirement checks, which include:
 - 12.1 Stage 1 will require prospective licence holders to provide:
 - 12.1.1 confirmation of the brand seeking a licence
 - 12.1.2 identification of key persons with significant influence involved in the brand and their criminal records and interests in other gambling-related companies both here and offshore
 - 12.1.3 confirmation of who owns the brand
 - 12.1.4 business plans and strategies for the brand in New Zealand
 - 12.1.5 amount of capital available to the brand
 - 12.1.6 declaration of any breaches of legislation here or offshore (including, but not limited to gambling, privacy, payment of tax, and consumer protection), and
 - 12.1.7 any additional information requested by the Secretary.
 - 12.2 Stage 2 requirements that must be completed before a licence can be granted,
 - 12.2.1 harm prevention and minimisation and consumer protection strategies and how they comply with the New Zealand regulatory framework
 - 12.2.2 compliance with the Privacy Act 2020 and with the AML/CFT Act 2009
 - 12.2.3 marketing strategy and compliance with New Zealand advertising regulatory framework
 - 12.2.4 proposed online operating system
 - 12.2.5 proposed age and identity verification system, and

12.2.6 any additional information requested by the Secretary.

- 13 agree that a licence is granted and published only on approval of both stage 1 and 2 documents by the Secretary of Internal Affairs, and following payment of the required fees;
- 14 agree the Secretary of Internal Affairs may refuse to grant a licence if not satisfied the information provided meets legislative requirements, a prospective licence holder fails to provide the information required, or pay the required fees to the Secretary;
- 15 agree the new legislation will state that entry requirements must be met throughout the licence duration, and licence holders must advise the Secretary of Internal Affairs immediately of any material change that may affect their ability to meet any entry requirements;

Licence duration and right of renewal

- 16 agree that after the initial licence period, a renewal of up to 5 years can be approved by the Secretary of Internal Affairs. This is on the condition the Secretary is satisfied all legal obligations are being and have been met;

Licence conditions

- 17 agree the Secretary will have the power to impose licence conditions to promote or ensure compliance, noting this may entail additional obligations on licence holders;

Register of licence holders and registration icon

- 18 authorise the Secretary of Internal Affairs to publish and maintain a public register of licensed brands on the Department of Internal Affairs' website, which includes:
 - 18.1 the name of the organisation, domain name, parent company and board members;
 - 18.2 where they are based (head office address), New Zealand address for service and a link to their corporate website;
 - 18.3 their New Zealand licence number, start and renewal date of licence, status of licence i.e. current, suspended or cancelled; and
 - 18.4 any regulatory enforcement action taken by the regulator, and any licence conditions imposed;
- 19 agree that all licence holders will be required to display the registration icon on their website and in all advertising;

Advertising restrictions

- 20 agree to update section 16 of the Gambling Act 2003 to remove the restriction on advertising for licence holders;

- 21 agree to a statement in the legislation that advertising must not appeal to, or target, children or young people;
- 22 agree that licence holders must produce a marketing strategy per licence and submit this to the regulator at the commencement of their licence as part of stage 2 entry requirements for authorisation;
- 23 agree that a marketing strategy will consist of the licensed platform's marketing objectives and intentions, key brand messaging, target groups, intended marketing activities and channels, form of advertisements, frequency of activities and campaigns, any data supporting selected activities and customer groups, and use of third parties;
- 24 agree that the licence holder must ensure the platform's marketing strategy stays up-to-date and inform the regulator of any changes;
- 25 agree to a regulation-making power that sets out detailed advertising, sponsorship and promotion rules that cover the following: the intended audiences; form; content; timing and frequency/volume; location and placement of advertisements; and the use of third parties, such as influencers;

Harm prevention and minimisation

- 26 agree that under the legislation, licence holders will be required to use an age and identity verification system acceptable to the Secretary of Internal Affairs;
- 27 agree to a regulation-making power tailored to the online environment that prescribes matters related to harm prevention and minimisation;

Consumer protection

- 28 agree to a regulation-making power tailored to the online environment that prescribes matters related to consumer protection;

Complaints process

- 29 agree to establish a high-level complaints framework in the legislation that states:
 - 29.1 a licence holder must have a complaints process, handle the complaint in a timely manner, publicise that information on their website, and keep a complaint register;
 - 29.2 if they are not happy with how the licence holder handled or resolved the complaint, the person can complain to the Secretary;
 - 29.3 the Secretary is required, after receiving a complaint, to notify the licence holder of the complaint, decide whether to investigate the complaint, investigate the complaint (if applicable), notify the complainant and licence holder of their decision to investigate, and, if applicable, notify both parties of the outcome of the investigation; and
 - 29.4 if the Secretary identifies a breach during its investigation, it will undertake enforcement action it deems appropriate;

- 30 agree that complaints can be made to the Secretary of Internal Affairs against unlicensed operators, but complaints that fall outside the legislation will not be investigated;

Compliance and enforcement of licensed and unlicensed operators

- 31 agree that for the legislation to be effective, it must capture offshore operators with an explicit extra-territorial provision as required under the law;
- 32 agree that licence holders will be required to provide a local address for service;
- 33 agree the legislation will empower the Secretary of Internal Affairs to monitor and enforce compliance, and detect, investigate, and prosecute breaches;
- 34 agree the legislation will empower the Secretary of Internal Affairs to investigate complaints, obtain information from a licence holder for the purposes of the Act, issue formal warnings, and issue enforceable undertakings to remedy non-compliance;
- 35 agree the legislation will empower the Secretary of Internal Affairs to suspend for up to 6 months or cancel an online casino gambling licence if any of the grounds for issuing a licence are no longer met or have not been met, or the licence holder is in breach of any licence condition or regulatory requirement, or has provided false or misleading information to the Secretary and that the licence holder must be notified;
- 36 agree that a licence holder may appeal a decision by the Secretary of Internal Affairs in relation to stage 2 entry requirements, suspension or cancellation of a licence to the High Court of New Zealand, with a right of appeal to the Court of Appeal;
- 37 agree arbitrary or unfair licensing decisions by the regulator will consist of an ability to request an internal review of non-standard conditions imposed by the Secretary;
- 38 agree that under the legislation the Secretary of Internal Affairs will have the power to issue take-down orders to unlicensed operators;

Data collection and information sharing

- 39 agree that licence holders will be required to comply with the Privacy Act 2020;
- 40 agree that the Secretary has the power to determine what information they require and when, to carry out their functions under the Bill;

Civil Penalties

- 41 agree the legislation and any regulations made pursuant to it will apply to any person providing online casino gambling to people based in New Zealand, wherever that person is based;
- 42 agree it will be a breach to offer online casino gambling in New Zealand without a licence, with a pecuniary penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;

- 43 agree it will be a breach, with a civil penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership, if a licence holder:
- 43.1 knowingly allows a person who is underage, or who has excluded themselves, to gamble;
 - 43.2 fails to comply with any licence condition set by the Secretary;
 - 43.3 fails to keep entry requirement documentation up to date;
 - 43.4 fails to seek approval for any material changes to their operation that has the potential to no longer meet the requirements to operate in New Zealand;
 - 43.5 fails to keep or retain adequate records as required by the Secretary;
 - 43.6 advertises, sponsors, or promotes in New Zealand online casino gambling in a way that does not comply with the restrictions in the Bill or regulations;
 - 43.7 fails to display a registration icon on their website and advertisements; and
- 44 agree it will be a breach to advertise, sponsor or promote online casino gambling in New Zealand without a licence, and will incur a maximum civil penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;
- 45 agree it will be breach of the legislation for an unlicensed operator to fail to comply with a take-down notice issued by the Secretary of Internal Affairs, with a penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership;
- 46 agree it will be a breach if anyone fails to comply with a request for information from the regulator, or provides false or misleading information to the regulator, and a maximum civil penalty of up to \$10,000 will apply;
- 47 agree it will be a breach if anyone obstructs an investigation by the Secretary of Internal Affairs, including refusing to provide requested information to assist with an investigation, and a maximum civil penalty of up to \$10,000 will apply;
- 48 agree in setting these penalties, the following will be taken into account by the High Court: the nature and extent of the breach; any loss or damage caused by the breach; any financial gain made, or loss avoided, from the breach; the level of calculation involved in the breach; and the circumstances in which the breach took place;
- 49 agree a defence may apply if the licence holder or other defendant is able to prove a reliance on information supplied by another party, or could not have reasonably known of the contravention, or could not have taken reasonable steps to prevent the contravention from occurring;
- 50 agree to a limitation period of 7 years be set for this regulatory system;

Criminal offence to place a bet on behalf of a person who is underage

- 51 agree it will be a criminal offence for anyone to place a bet on behalf of a person who is underage with a maximum penalty of a fine up to \$10,000, with an available defence if the person had reasonable grounds to believe the person was 18 or over;

Financial Implications

- 52 agree to a regulation-making power that: enable fees to be set either as a fixed percentage of a platform's New Zealand-based Gross Gambling Revenue (GGR), or a flat fee, to adapt to what is happening in the market; determine the exact level of any fee, be it a flat fee or percentage-based fee, in line with Treasury and Auditor-General guidance; review fees every three to five years; and set the fees charged to licence holders in the first year of the scheme's operation ^{9(2)(b)(ii)} [REDACTED]
- 53 agree during the first few years of the scheme's operation, licence fees are set as a fixed percentage of a platform's New Zealand-based GGR;
- 54 agree the auction revenue will accrue to the Crown, less any administrative costs of running the auction;

Legislative Implications

- 55 agree the Act will bind the Crown;
- 56 note that the proposals will be given effect through the Online Gambling Bill which holds a category 6 on the 2024 Legislation Programme;
- 57 invite the Minister of Internal Affairs to issue drafting instructions to PCO to give effect to the recommendations in this paper through a Bill, including consequential amendments to the Gambling Act 2003 and other affected statutes;
- 58 agree to a consequential amendment to the AML/CFT Act to include online casino licence holders in the definition of reporting entities;
- 59 agree to consequential amendments to the Gaming Duties Act 1971, Goods and Services Tax Act 1985 and Tax Administration Act 1994 to effect to the recommendations in this paper; and
- 60 authorise the Minister of Internal Affairs to make final decisions on minor and technical policy changes consistent with the policy intent of this paper.

Authorised for lodgement

Hon Brooke van Velden

Minister for Internal Affairs

Appendix A: Entry requirements stage 1 and 2 documentation

Stage 1 information requirements include:

1. confirmation of the brand seeking a licence
2. identification of key persons with significant influence involved in the brand
3. their criminal records and interests in other gambling-related companies both here and offshore
4. confirmation of who owns the brand
5. business plans and strategies for the brand in New Zealand
6. amount of capital available to the brand
7. declaration of any breaches of legislation here or offshore (including, but not limited to gambling, privacy, payment of tax, and consumer protection), and
8. any additional information requested by the Secretary.

Stage 2 information requirements include:

1. harm prevention and minimisation and consumer protection strategies and how they comply with the New Zealand regulatory framework
2. compliance with the Privacy Act 2020 and with the AML/CFT Act 2009
3. marketing strategy and compliance with New Zealand advertising regulatory framework
4. proposed online operating system
5. proposed age and identity verification system, and
6. any additional information requested by the Secretary.

These entry requirements must be met throughout the duration of the licence, and licence holders must advise the Secretary immediately of any material changes that may affect their ability to meet any of these entry requirements.

Appendix B: Information to be included in the public register of licence holders

The following information will be contained in the public register of licence holders:

- the name of the organisation, domain name, parent company and board members
- where they are based (head office address), New Zealand address for service and a link to their corporate website,
- their New Zealand licence number, start and renewal date of licence, status of licence i.e. current, suspended or cancelled, and
- any regulatory enforcement action taken by the regulator, and any non-standard licence conditions imposed.

Appendix C: Online casino gambling advertising framework

The online casino gambling regulatory system will include a three-part advertising framework, made up of:

- 1 a **high-level statement in the legislation** that requires licence holders and advertising entities to protect children and young people from harm or exploitation through gambling services
- 2 **licence holders submitting their marketing strategy** to the Secretary at the commencement of their licence as part of stage 2 entry requirements for authorisation
- 3 a **regulation-making power** that prescribes matters related to advertising, sponsorship and promotions.

High level statement

Advertising must not appeal to, or target, children or young people.

Marketing strategy

The marketing strategy provides the regulator with the opportunity to engage with licence holders before the advertisements have been released therefore increasing compliance and reducing harm from non-compliant advertisements. This method also employs a public health approach by focusing on reducing harmful exposure to the whole population from non-compliant advertising.

The marketing strategy will include: the licensed platform's marketing objectives and intentions; key brand messaging; target groups; intended marketing activities and channels; form of advertisements; frequency of activities and campaigns; any data supporting selected activities, and customer groups; and use of third parties (affiliates, endorsements, influencers etc).

The licence holder must ensure their marketing strategy stays up-to-date and inform the regulator of any changes. Authorisation of the strategy is not approval of individual advertisements, and the regulator will still act if advertisements fall outside advertising restrictions.

Regulation-making power for matters related to advertising, sponsorship and promotions

These would cover the following:

1. the intended audiences of the advertisements
2. form of advertisements i.e. direct marketing, TV, radio, social media
3. content of advertisements i.e. financial incentives (use of bonuses), imagery
4. use of third parties i.e. endorsements, affiliate marketing, influencers and celebrities
5. timing and frequency/volume of advertisements i.e. watershed, and
6. location and placement of advertisements i.e. around schools.

Appendix D: Online casino gambling complaints framework

The complaints framework will include the following:

1. a licence holder must have a complaints process, handle the complaint in a timely manner, publicise that information on their website, and keep a complaint register
2. if they are not happy with how the licence holder handled or resolved the complaint, the person can complain to the Secretary
3. the Secretary is required, after receiving a complaint, to notify the licence holder of the complaint, decide whether to investigate the complaint, investigate the complaint (if applicable), and notify the complainant and licence holder of their decision to investigate, and, if applicable, notify both parties of the outcome of the investigation, and
4. if the Secretary identifies a breach during its investigation, it will undertake enforcement action that it deems appropriate.

Appendix E: Online casino gambling compliance and enforcement tools

The table below outlines the compliance and enforcement tools that will be available to the regulator in the legislation to deal with licence holders. The regulator will use its discretion and apply the most appropriate tool(s) as it sees fit.

Enforcement Tools	Description
Requiring information from a licence holder	All licence holders will need to supply information requested by the regulator for the purposes of the Bill. An example of this will be to check compliance, or to start an investigation.
Formal warnings	These could be issued if the regulator believes the licence holder has failed to comply with the legislation. It gives licence holders a chance to remedy any non-compliance before civil proceedings commence.
Enforceable undertakings ⁴	These are an alternative to starting proceedings against a licence holder. They are a formal agreement between the regulator and licence holder to remedy compliance issues. While they help a licence holder avoid court proceedings, they are enforceable by the courts if not actioned.
Licence conditions	The Secretary has the power to impose licence conditions to promote or ensure compliance, noting this may entail additional obligations on licence holders.
Licence suspension or cancellation	For continued or serious breaches, the regulator can suspend, for up to 6 months, or cancel the licence. I propose the ability to cancel or suspend a licence where the regulator believes on reasonable grounds that: the licence holder is not meeting or has not met non-standard licence conditions, failing to comply with other legislative requirements, and/or false or misleading information has been provided to the regulator. The Secretary of Internal Affairs must notify the licence holder of the suspension or cancellation and the reasons for it.
Civil pecuniary penalties	Pecuniary penalties are non-criminal monetary penalties imposed by a court in civil proceedings that apply the civil standard of proof. This is an effective tool for the regulator to deter non-compliance.

Table 1: Compliance and enforcement tools established in primary legislation

Appendix F: Civil penalties

The list below details proposed breaches of the online gambling legislation.

It will be a breach for any operator knowingly offering online casino gambling in New Zealand without a licence.

⁴ Several New Zealand statutes, for example the Health and Safety at Work Act 2015, the AML/CFT Act 2009 and the Overseas Investment Act 2005 apply enforceable undertakings to support the Acts' strategic legislative objectives.

It will be a breach if a licence holder:

- knowingly allows a person who is underage, or who has excluded themselves, to gamble;
- fails to comply with any non-standard licence condition;
- fails to keep entry requirement documentation up to date;
- fails to seek approval for any material changes to their operation that has the potential to no longer meet the requirements to operate in New Zealand;
- fails to keep or retain adequate records;
- advertises, sponsors, or promotes online casino gambling in New Zealand in a way that does not comply with the restrictions in the Bill or regulations; and
- fails to display a registration icon their website and advertisements;
- advertise, sponsor or promote in New Zealand without a licence; and
- any unlicensed operator failing to comply with a take-down notice.

For all of the above breaches, there will be a civil penalty of up to \$300,000 for an individual and \$5 million for a body corporate or partnership.

It will also be a breach for anyone:

- failing to comply with a request for information from the regulator, or providing false or misleading information to the regulator; and
- obstructing an investigation by the regulator.

For both of these breaches there will be a maximum penalty of up to \$10,000.

Appendix G: Regulatory Impact Statement: Online Gambling regulatory design

Proactively released by the Minister of Internal Affairs

Regulatory Impact Statement: Online gambling regulatory design – RIS 2

Coversheet

Purpose of Document

Decision sought:	Analysis produced for the purpose of informing: Cabinet paper – Online Casino Gambling Phase 2 Decisions
Advising agencies:	Department of Internal Affairs Te Tari Taiwhenua
Proposing Ministers:	Minister of Internal Affairs
Date finalised:	30 October 2024

Problem Definition

New Zealand is one of the few remaining OECD countries that does not regulate offshore online gambling. There is no local regulator of these operators¹, and there are limited mechanisms in the law to prevent gambling harm, protect consumers, or recover the costs of any regulatory activity. New Zealand's AML/CFT² rules do not apply to these operators.

This gap in our law is becoming increasingly obvious as the popularity of online casino gambling grows. The advertising restrictions under the current Gambling Act 2003 (the Act), and the ban on domestic operators providing online casino games, are no longer working as intended as gambling activity moves more and more to online.

The problem to be addressed is how, given the structure agreed to by Cabinet, to best implement a licensing system for online casino gambling in a way that prevents and minimises the harm caused by online casino gambling, supports tax (GST and gambling duty) collection, protects consumers of online casino gambling, without aiming to growing gambling activity overall, ensuring that total regulatory costs are reasonable.

Executive Summary

Online gambling is increasing in popularity each year.³ This growth brings with it an increase in gambling harm,⁴ and makes the long-standing gaps in our consumer protection rules more important.⁵

In March 2024, Cabinet agreed in principle to establish a regulatory regime for online casino gambling to prevent and minimise gambling harm, protect consumers, and support tax collection [CAB-24-MIN-0072 refers]. In July 2024, Cabinet agreed to a licensed online casino gambling model with the Department of Internal Affairs (the Department) as the regulator, along with several broad features, including setting the maximum number of

¹ Operator refers to the operating company of online gambling brands/websites/platforms.

² Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

³ [Te Whatu Ora Health New Zealand \(2020\) Health and Lifestyles Survey Kupe data explorer, Gambling, Release 5.4.1. Creative Commons Attribute license.](#) *Online gambling is increasing in popularity (from 8,702 persons using overseas websites in 2010, to 132,340 persons in 2020).*

⁴ The Ministry of Health gambling intervention service data (2024). *435 persons presenting to gambling services for harm from online gambling in 2018/19 more than doubling to 941 in 2022/23.*

⁵ Regulatory Services (2024) complaints and investigations data.

licenced platforms at 15⁶ allocated through an auction process of criteria assessment and bidding, 18 years as the minimum gambling age, subject to further work on the detailed system design [CAB-24-MIN-0277.01 refers]. The proposals to inform this decision were considered in a previous Regulatory Impact Statement (RIS) at that time.

This RIS summarises our analysis on the remaining policy decisions for issuing licences and the regulated market. This RIS considers a wide range of options which could be implemented in a package to achieve the best results. The options are summarised in the table below, with the preferred options in bold.

Part A – Issuing licences	Options
Limits on number of licences an operator can hold	<ol style="list-style-type: none"> 1. No limit of licences per operator 2. Limit of three licences per operator
Due diligence and entry requirements ⁷	<ol style="list-style-type: none"> 1. No due diligence or entry requirement checks completed prior to the auction 2. Implement a 2-stage process for due diligence and entry requirement checks. 3. All due diligence and entry requirements checks completed prior to the auction
Licence duration and renewal	<ol style="list-style-type: none"> 1. 3 years + a right of renewal of 3 years duration 2. 3 years + a right of renewal of 5 years duration 3. 3 years + 5-year rolling right of renewal
Register of licensed platforms	<ol style="list-style-type: none"> 1. No register 2. Department publishes a register of licensed platforms

⁶ One licence is for one platform. A platform means the brand and the website it operates from. This is to avoid a scenario where an operator is licensed and can operate several platforms (brand and website).

⁷ This is a set of standards that licence holders must meet to qualify for and obtain a licence.

Part B – The regulated market	Options
Complaints process ⁸	<ol style="list-style-type: none"> 1. Include a high-level complaints process in primary legislation 2. Set out any complaints process in secondary legislation 3. Create an ad hoc complaints process after the regulator is established
Compliance and enforcement tools	<ol style="list-style-type: none"> 1. Lighter touch - Responsive compliance tools 2. Heavy handed - Risk-based compliance tools 3. Combined responsive and risk-based compliance tools
Appellate body	<ol style="list-style-type: none"> 1. Court system 2. Gambling Commission 3. Establish a new appeals body

We think the preferred package provides the best approach for meeting the objectives set by Cabinet in July this year. There will be impacts on:

- **gambling operators**, those who are granted a licence and those who are currently operating in New Zealand but may miss out on a licence, or decide not to seek a licence;
- **gambling treatment providers**, who have seen a steady increase in help-seeking from those who are experiencing harm from online gambling; and
- **members of the public** who may be exposed to more harm, more domestic, mainstream advertising once the regulatory system is in place or are currently gambling with an online gambling operator who does not become a licensed operator. It is possible that, regulated advertising with appropriate restrictions to prevent and minimise harm and protect consumers, with a limited number of licensed operators could result in the same amount, or even less advertising than the status quo, but this seems unlikely.

However, as evident in the Constraints and Limitations Section below, there has been limited time to consult with all these groups. This limits our cost-benefit analysis, and certainly limits evidence on distributional impacts and on the views of different groups (across communities, regions, ethnicities, deprivation).

Following the Minister of Internal Affairs' announcement of the Government's agreed approach to regulating online casino gambling⁹, reaction from the public and stakeholders has been reasonably positive. Many are waiting to see further details that will be available

⁸ Applies if a person (customers, members of the public, and other operators) makes a complaint about the conduct of online casino gambling at a licensed or unlicensed platform.

⁹ Regulating online casinos approach – Hon Brooke Van Velden <https://www.beehive.govt.nz/release/regulating-online-casinos-approach>

after October Cabinet decisions, and next year when the regulations are developed, and the Bill is introduced.

In the timeframe available, we have met with:

- the PGF Group¹⁰ who support the need to regulate online gambling in order to control access and minimise harm, but are concerned about the ability for licensed operators to advertise, even with restrictions;
- all domestic land-based casino operators, who are welcoming the regulation of online gambling but are concerned that licensed operators will not have to be domiciled in New Zealand. In their view, this disadvantages domestic companies who employ New Zealanders, pay 25% companies tax rate, and are required to return a small percentage of profits to the community for their land-based casino operations¹¹; and
- a small handful of offshore providers interested in having licence to operate in New Zealand. Their concerns centre around the length of the licence, the terms and conditions of the licence, the advertising concessions available, and the total percentage of tax they will need to pay.

A common theme amongst these groups was how unlicensed operators will be kept out of the market. A huge part of that will be ensuring the regulated market is attractive enough to channel New Zealanders to play in it.

The one group we have not been able to engage with on these proposals is members of the public. This is discussed in the next section on limitations and constraints.

Limitations and Constraints on Analysis

This RIS is intended to support decisions on the outstanding policy issues, namely entry requirements, the appellate body, compliance and enforcement measures, offences and penalties, complaints, high-level advertising restrictions, and regulation-making powers. This focuses the scope of our analysis on how online casino gambling should be licensed within the approved licensed model.

Cabinet has limited the scope of the regime to online casino gambling

Cabinet's March and July decisions means our analysis is focused on the impacts of regulating online casino gambling only. Therefore, sports and race wagering, and national lotteries are excluded from the analysis. This poses little issue in the New Zealand market (Lotto NZ has a monopoly on providing the twice-weekly national lottery, and TAB NZ has a monopoly on land-based sports and race wagering). But many operators and overseas regulatory regimes are based on 'one-stop-shop' models¹², which makes it hard to compare overseas data and evidence with the New Zealand situation.

The Minister of Internal Affairs has directed the Department to achieve Cabinet's objectives while minimising total regulatory costs.

¹⁰ Formerly the Problem Gambling Foundation, PGF Group is made up of PGF Services, Asian Family Services, and Mapu Maia, all specialist gambling harm treatment providers.

¹¹ Note: Both SkyCity and Christchurch Casino's online gambling platforms are currently licensed and operated from Malta where there are lower tax rates and no requirement to make returns to the New Zealand community is attached.

¹² One-stop-shops are those that offer all forms of gambling on the one platform.

Cabinet has already agreed to the broad features of a licensed online casino gambling model

In July, Cabinet agreed to a licensed online casino gambling model along with several of its features:

- the age limit for online casino gambling will be 18 years;
- advertising will be permitted, with restrictions, with no ability for online casino operators to promote other products, like sports or race wagering services;
- sponsorship by online casinos will be prohibited;
- the Department of Internal Affairs will be the regulator for online gambling;
- the regulator will have powers to inquire into operators' activities and introduce graduated sanctions to encourage compliance by regulated operators;
- new legislation setting out the licence application process and requirements, licence conditions, details on enforcement, rights of appeal, and regulation-making provisions;
- up to 15 licence platforms will be issued in the first regulatory period (2026-2029);
- all licences are time-limited for up-to-three years, plus a right of renewal;
- all licences to be allocated through an auction process of criteria assessment and bidding;
- all licensed operators will be subject to the same harm minimisation standards;
- all licensed operators are required to comply with New Zealand tax obligations, including gaming duties, as a condition of their licence;
- all licensed operators are required to pay the Problem Gambling Levy; and
- there is no requirement to make funding returns to the community.

A lack of oversight and monitoring of online gambling affects the quality of the available evidence

New Zealand currently has no regulatory functions or oversight of online casino gambling, other than advertising restrictions.¹³ The land-based gambling regulator (within the Department) receives complaints regarding online casino gambling, but without broader oversight of the system, it is challenging to assess accurately how online casino gambling currently impacts New Zealanders.

Aggregated data from Inland Revenue tells us that 36 offshore online gambling operators pay GST and that 15 of them account for over 90% of the total GST from this type of business. This total reported revenue from GST-compliant online gambling operations offered in New Zealand was \$342.5m in the year to June 2023.¹⁴ Industry stakeholders have a variety of total market (including GST non-compliant operations) estimates which are significantly higher than this. There are more online gambling sites being frequented by people in New Zealand than the 36 that comply with tax obligations, but the scale of the entire market is unknown.

We have limited information on current consumer protections (including harm minimisation) and outcomes for consumers, such as whether online casino operators reliably pay out winnings. The health implications of online gambling have previously been monitored in the Health and Lifestyles Survey (HLS) conducted by Te Whatu Ora – Health New Zealand, but gambling behaviour and impacts have not been measured since 2020.

¹³ Under the Act, section 16 prohibits offshore gambling operators from advertising in New Zealand.

¹⁴ This figure includes all forms of offshore gambling, including sports and race betting.

The trends shown are relevant to this analysis but would be enhanced with more recent data.

In addition to being outdated, HLS data does not distinguish the platforms and products used. This limits our ability to predict how regulatory settings such as any fee settings will influence operator demand for licences. ^{9(2)(g)(i)}

The Minister of Internal Affairs has directed the Department to achieve Cabinet's objectives while minimising total regulatory costs. A balance needs to be struck to ensure that minimising costs do not affect regulatory quality required to minimise harm, support tax collection, and provide consumer protections to New Zealanders. To achieve this balance, all these criteria will be used to determine the most appropriate options.

There is insufficient time for in-depth engagement on proposals

Cabinet invited the Minister of Internal Affairs to report back in October 2024 to seek policy approval on the detailed design of the scheme and to issue drafting instructions. Cabinet has indicated it wants the new regulatory system to be up and running in February 2026. To do this, a Bill needs to be introduced to the House by April 2025, which will take the Parliamentary Counsel Office (PCO) 5 to 6 months to draft. This has left limited time between the July and October Cabinet papers to test aspects of the details of the proposed regulatory system and undertake public consultation.

This means no external groups or non-governmental organisations (such as those providing gambling harm services) have been engaged on the proposals in this document. Feedback from public consultation on earlier proposals in 2019 has been reviewed, and while some of this information is still relevant, the material is generally out of date. Based on the results from the 2019 consultation, and ongoing engagement with various stakeholders, we expect there to be broad support for a licensing system for online casino gambling.

Following the Minister of Internal Affairs' announcement of the Government's agreed approach to regulating online casino gambling¹⁵, reaction from the public and stakeholders has been reasonably positive. Harm minimisation providers have supported the need to regulate to control access and minimise harm, although many have voiced their opposition to allowing advertising. The lack of consultation on the details limits our cost-benefit analysis, and certainly limits evidence on distributional impacts and on the views of different groups (across communities, regions, ethnicities, deprivation). In the timeframe available, we have discussed the high-level proposals with 7 operators, based here and offshore. We have also had discussions with the PGF Group.¹⁶

There is insufficient resource to work on the details of this system

Currently, the Gambling and Racing Policy team has multiple substantial competing work programme priorities underway. This has significantly impacted the number of staff available to work on details of this system. Where relevant, the team has drawn on past work on online gambling policy and taken ideas from other jurisdictions more advanced in the regulation of online gambling that have been proven to work. Information provided from key stakeholders has also proved invaluable.

¹⁵ Regulating online casinos approach – Hon Brooke Van Velden <https://www.beehive.govt.nz/release/regulating-online-casinos-approach>

¹⁶ Formerly the Problem Gambling Foundation, PGF Group is made up of PGF Services, Asian Family Services, and Mapu Maia, all specialist gambling harm treatment providers.

Responsible Manager(s) (completed by relevant manager)



Gina Smith
General Manager Policy
Department of Internal Affairs
30 October 2024

Quality Assurance (completed by QA panel)

Reviewing Agency: Department of Internal Affairs Regulatory Impact Analysis (RIA) panel

Panel Assessment & Comment: The panel considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria. The main reason for this rating is that there has been no formal consultation on the proposal. The RIS explains why this is the case. It states that the Department sought the views of some interested parties on the proposals. In the panel’s view, this partially makes up for the lack of formal consultation, hence a rating of partially meets for the “consulted” criteria.

Otherwise, this is a comprehensive RIS that goes into considerable detail on the design elements of the proposed market and regulatory system. It clearly explains the options for each design element and steps through a comparative analysis of the options against the status quo. The RIS is well-written in plain English and does a good job of explaining a rather technical topic.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. As the case for change was made in the first RIS that was considered by Cabinet in July 2024, this section has been condensed to the most essential information. For further information on the wider policy problem and its context, please refer to the July Cabinet paper and associated RIS.
2. New Zealand’s current gambling regulatory system does not capture online casino gambling with offshore providers although the domestic provision of most online gambling (except for Lotto NZ and TAB NZ products) is prohibited. As a result:
 - New Zealanders who want to gamble on online casino games are forced to do so with offshore operators;
 - there are no mechanisms available to monitor the online casino gambling industry, or to set and enforce industry standards that minimise gambling harm, protect consumers, support the Government’s revenue gathering goals; or
 - otherwise enforce compliance with New Zealand’s laws, regulations and standards.

3. As stated, there is no domestic operator authorised to provide other types of online gambling, such as online casino games, which means New Zealanders look to offshore operators for these types of gambling. SkyCity and Christchurch Casino currently own and operate online casinos, but to comply with the current legislative framework these operations are based offshore.
4. **Other than revenue gathering and advertising restrictions, there are no regulatory mechanisms applied to offshore online gambling operators.** There are currently no mechanisms to protect consumers from and prevent criminal activity through offshore online gambling, as with domestic gambling modes in New Zealand. For instance, casino and Class 4 operators are subject to requirements on:
 - what information must be displayed to gamblers;
 - game features and standards; and
 - monitoring/reporting to regulators.

The Government has agreed to a licensing system approach to regulate online casino gambling

5. In July 2024, Cabinet agreed to a licensed online casino gambling model along with several of its features subject to further work on detailed system design. The RIS that informed this paper compared the licensing-based regulatory approach with the status quo (no regulation of online casino gambling provided from offshore) and a 'light touch' regulatory model that has no pre-assessment of operators and sets no limit on their numbers.
6. A licensing system approach is also how gambling is regulated in most other jurisdictions we are aligned with, including Australia and the UK. Under this model, domestic advertising of online casino games would be legalised, within limits. This would enable licensed operators to attract or 'channel' customers away from unregulated operators towards their regulated platforms.
7. A licensing system for online casino gambling will give the Government tools to ensure that licensed operators adhere to tax, consumer protection and gambling harm minimisation requirements that will be set in legislation and regulations.

What is the policy problem or opportunity?

8. Offshore online gambling is not captured by New Zealand's existing gambling legislation and regulatory system, and there are no mechanisms to prevent and minimise gambling harm, protect consumers of offshore online gambling, and recover the costs of such regulatory mechanisms. Cabinet has agreed to address these issues by introducing a licensing system for online casinos.
9. The problem to be addressed is how, given the structure agreed to by Cabinet, to best implement a licensing system for online casino gambling in a way that prevents and minimises the harm caused by online casino gambling, supports tax (GST and gambling duty) collection, protects consumers of online casino gambling, without aiming to growing gambling activity overall, ensuring that total regulatory costs are reasonable.

Regulating online casino gambling also presents opportunities

10. Regulating online gambling presents opportunities to change this status quo by:

- ensuring New Zealand consumers who use online casino products have the confidence they can do so on platforms vetted and monitored by the Government;
- implementing restrictions that balance the need to provide robust protections while also ensuring an attractive market of regulated platforms for consumers;
- advertising to be permitted, with restrictions; and
- bringing New Zealand into line with the rest of the OECD (excluding Japan) who regulate online gambling in some way.

Assumptions, risks, and uncertainties

11. We have made the following assumptions in our analysis. While they are based on the available evidence, there is uncertainty around the online gambling market, particularly its size and the level of unreported harm it may be causing. Our main assumptions are:

- **the number of New Zealanders participating in online gambling will continue to increase over time**, as will the size of the market. Global and domestic trends support this assumption;
- **an increase in participation in online gambling will have a corresponding increase in harm**. Both increasing participation and higher spends on online gambling are likely to lead to a greater proportion of harm as gambling online is an inherently risky activity, for some;
- **people will continue to participate in online gambling with offshore operators and stopping individuals from using offshore gambling platforms is not an effective solution**. International evidence shows prohibition of online gambling is ineffective. Such approaches also carry human rights and public health risks;
- **government regulation is an effective mechanism for reducing harm from gambling**, as enforced evidence-based approaches to harm minimisation provide a safer overall market;
- **a controlled but competitive regulated market can encourage gamblers to gamble in safer online settings**. A range of choice of operators and platforms, with a competitive market of odds-on offer can encourage people to stay within regulated markets (and enable channelling) compared to restrictive markets which may drive customers to unregulated operators;
- **a black market will remain in New Zealand**. Many operators will leave the New Zealand market rather than operate illegally due to the risk of losing their license in other more profitable jurisdictions. Enforcement tools will assist in driving others out of the market. However, it is likely a black market will remain. As many of these operators already have a well-established New Zealand customer base, it is possible that customers may choose to continue to gamble with unlicensed operators;
- **any harm from advertising will be outweighed by enforceable harm reduction measures**. Allowing some advertising by operators will support channelling to regulated markets, keeping players in safer online settings. The higher standards of a regulated market (including rules on advertising and harm reduction on online gambling platforms) will reduce the overall burden of harm; and
- **requiring offshore operators to contribute to community funding will reduce the impact of any new system, and potentially reduce the attractiveness and value of the licences**. Evidence from overseas has seen operators pull out of markets to protect their profits when their operating costs are

increased by tax and duty changes. The 12% gambling duty combined with GST¹⁷ makes New Zealand one of the highest taxing jurisdictions.

12. There are also risks in introducing a licensing system for online gambling, including:
- **licensing online casinos may encourage people residing in New Zealand to take up online gambling.** If licensed operators are considered more trustworthy than currently, and can promote themselves more effectively, this may result in an increase in participation and an increase in overall harm from online gambling. Furthermore, if a shift to online gambling on offshore operators results in a move away from other forms of gambling like TAB NZ or Lotto NZ, there could be a negative impact on current community funding streams;
 - if a larger and more successful black market remains than currently anticipated, **harm minimisation measures in the regulated market may not be as successful as intended** in reducing the overall harm from online gambling. If channelling measures are not successful and a larger black market remains, then this would reduce the total tax collected. Designing a market that is as appealing to consumers as possible is key to reducing this risk; and
 - **harm minimisation and market channelling requirements may be a delicate balancing act.** Some harm minimisation features may detract from the market appeal and channelling. Conversely, focusing on achieving a high channelling rate may result in diluted harm minimisation settings and more harm. This would be especially complex if regulated parties exert influence on the system and settings.

What objectives are sought in relation to the policy problem?

13. Cabinet has set three key objectives for the establishment of a new gambling system:
- prevent and minimise the harm caused by online casino gambling;
 - protect consumers of online casino gambling; and
 - support tax (GST and gambling duty) collection.
14. The Minister of Internal Affairs has asked that we meet Cabinet's goals:
- without aiming to growing gambling activity overall; and
 - subject to ensuring that total regulatory costs are reasonable.
15. The Department of Internal Affairs aims to achieve these objectives by maximising channelling of consumers into the regulated market.
16. The design will also need to be consistent with other legal obligations. New Zealand's international obligations, and requirements around AML/CFT are particularly important.

¹⁷ GST for offshore gambling operators amounts to 3/23rds of offshore gambling profits.

<https://www.taxpolicy.ird.govt.nz/-/media/project/ir/tp/publications/2024/2024-sp-offshore-gambling-duty/special-report---offshore-gambling-duty.pdf?modified=20240403222415&modified=20240403222415>

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

18. Analysis criteria for the new licensing system are shown below. Preventing and minimising harm from gambling is double weighted. This reflects both the high priority of this objective and its inter-dependence with the other objectives of the system. For instance, any design element aimed at supporting tax collection should not do so through any mechanism that is also likely to increase harm from gambling.
19. Cabinet's decisions relate specifically and only to online casino gambling. In the current context this definition applies only to offshore operators (see paragraphs 6 and 9).

Criteria	
Supports tax and gambling duty collection	<p>Will the option result in settings that enable GST and gambling duty collection ability for the Government?</p> <p>Will the option achieve effective channelling, maximising the proportion of total online casino gambling revenue earned by regulated operators?</p>
Prevents and minimises harm (double weighted)	<p>Will the option effectively impose standards that require the prevention, identification and minimisation of gambling harm from online casino gambling?</p> <p>Will the option result in online operators fairly contributing to the cost recovery of problem gambling services in New Zealand?</p> <p>Do the mechanisms of the option equitably address harm prevention and minimisation? Including for priority populations such as people living with disabilities, Māori, Pacific people, young people, etc.</p>
Protects consumers of online gambling	<p>Will the option ensure licensed operators of online casino gambling in New Zealand are reputable and complying with all relevant rules and standards? Do people gambling in New Zealand have confidence in the products they are using?</p> <p>Will the option ensure that licensed operators are providing products in line with the consumer protections, minimum guarantees, and standards otherwise applied in New Zealand? Do the settings ensure consumers can have confidence in the fairness and security of products, and the good faith of operators?</p>
Consistent with Legal Obligations	<p>Will the option comply with New Zealand's international trade obligations, and other relevant commitments such as anti-money laundering and countering of financing of terrorism? Are the standards and limitations we introduce either compliant with or reasonably justified limitations on</p>

	rights for the Government to set (e.g., Bill of Rights Act 1990)?
Future proof and flexible	Is the option designed in such a way that the objectives can continue to be achieved, processes optimised, system changes responded to, and burdens reduced without insurmountable barriers?
Reasonable regulatory cost	Will the option achieve its objectives with reasonable cost to regulator and business compared to the status quo.

What scope will options be considered within?

20. This RIS is the second of two. The first considered the broad design of the regulatory system. This paper considers the detailed policy design of a regulated licensing system.

In scope

21. The following features are within scope.

- Cabinet's decision limits the scope to a licensing regulatory regime for online casino gambling. This means casino type games delivered via an online digital platform are in scope, and alternative betting products delivered online, including sports and race wagering, and twice-weekly national lottery offered by Lotto NZ are excluded.
- Amending the Act and establishing new legislation. There are risks and benefits to both approaches. In either instance, amendments to the Act will be necessary.
- Advertising will be permitted, but with restrictions. Licensed operators will be allowed to advertise their online casino platforms but will not be allowed to promote their other non-casino products, like sports or race wagering services.
- The regulator will have powers to inquire into operators' activities and be able to issue graduated sanctions to encourage compliance by regulated operators.
- Initial licences will be allocated through a competitive process with a two-stage assessment of documents to show the applicant meets the entry criteria.
- Licensed operators will be subject to harm minimisation standards.
- Licensed operators will be required to comply with New Zealand tax obligations and pay the PGL.

Out of scope

22. The following is out of scope.

- Any changes to Lotto NZ and TAB NZ. There may be regulatory settings that influence these organisations, but online casino operators will not be allowed to offer national lotteries or sports and race wagering as part of their licence.
- Non-licensing options for regulation are out of scope. Cabinet's decision in July was for a licensed online casino gambling model. The broad design of the system was considered in the first RIS.
- Sponsorship by online casinos will be prohibited.
- Monitoring will be done electronically through an IT system that will be developed for this purpose. This was agreed in the first Cabinet paper, hence why it is out of scope for this RIS.

What options are being considered?

23. The options considered below are not mutually exclusive but can be implemented in combination. These options for online casino gambling have been implemented successfully in other jurisdictions, which is why we are considering them for implementation in New Zealand.
24. The options below can be implemented alongside the features Cabinet has agreed to with the regulatory model.

Part A – Issuing licences

25. Cabinet has already agreed that a licensing system will be put in place for online casino gambling platforms, there will be a limit of 15 licences available, which will be granted through a competitive process. This only leaves the process and requirements for obtaining a licence to be determined.
26. The problem is how to structure the licensing process to support a regulated system for online casino gambling in a way that minimises harm, supports tax collection, and provides consumer protections to New Zealanders, while minimising the costs of regulation. The process also needs to ensure licences are issued in a timely manner, as soon after the Bill is passed as possible, whilst not overwhelming the regulator with unnecessary due diligence checks on companies that are not successful in the competitive process.
27. Licences will be non-transferable. However, like any sector, platforms/brands can be merged or acquired. Whether a platform/brand is changed, or there is a change of owners, the primary legislation will require the Secretary of Internal Affairs to give their approval; and licence holder and/or the company buying that platform/brand to provide all information required by the Secretary to undertake an assessment as to whether the licence can continue.
28. The Secretary (delegated to the regulator) will undertake an assessment to determine if the entry requirements are still being met. The Secretary will also have the power to add, vary or revoke any licence conditions to achieve the objectives of the system. The problem is determining whether **limits on number of licences an operator can hold** are needed to prevent one operator from acquiring a majority of licences.
29. **Due diligence and entry requirements** are a set of standards that licence holders must meet to qualify for and obtain a licence. They are widely used in gambling licensing systems to ensure licensees mitigate the risks of financial crimes and consumer harm.
30. The July cabinet paper proposed a licensing system where operators will be required to demonstrate they meet entry criteria before they are able to compete for a licence, in addition to licence conditions for successful operators. Specifically, the paper indicated that "entry criteria will include integrity, harm minimisation standards, financial solvency, suitability checks, key person checks, privacy practices, and transparency of ownership, as well as operators' compliance record in other jurisdictions."
31. Once the information has been assessed and approved by the regulator, the licence to operate be granted. This will be spelt out in the information pack that will be provided to all applicants.
32. Cabinet agreed that all licences will be time-limited for up-to-three years, plus a right of renewal. We need to determine what the **licence renewal process** should be, including how often it should be renewed and on what conditions a renewal is granted.

33. To ensure consumers can confidently identify licensed providers, we are proposing a public **register of licensed platforms** to be maintained by the regulator and published on the Department's website. This requirement will be in primary legislation. This will provide a single repository of who is authorised to operate in New Zealand and will contain specific information so consumers can make an informed choice about who they gamble with.
34. Details on the licensing options risk and benefits are presented in the tables below.

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Options Part A – How to get a licence

Options	Risks (-) and benefits (+)
Limits on number of licences an operator can hold	
1. No limit of licences per operator	<ul style="list-style-type: none"> + Companies would be able to purchase as many of the 15 proposed licences as they want, provided they meet the entry requirements and are successful at auction. + Gambling companies, such as Entain, Evoke, and Super Group, own and run multiple online gambling brands. These multinational companies have sufficient means to purchase multiple licences and dominate the New Zealand market. - This option means one operator could acquire a majority of licences, which would reduce competition and provide New Zealanders with less choice. - If that were to happen, New Zealanders may choose to gamble outside the regulated market which reduce the channelling rate and potentially increase gambling harm.
2. Introduce a legislative limit that a company can hold no more than 3 licences for the platforms/brands they own and operate	<ul style="list-style-type: none"> + Makes access to the regulated market in New Zealand fair for all operators. + Ensures fair competition and choice for New Zealanders across a range of operators, which supports channelling. - Low risk that this restriction could be a barrier to some companies seeking a licence. We may not set the limit number correctly, which could run the risk of having vacant licences if no other companies bid.
Due diligence and entry requirements	
1. No due diligence or entry requirement checks completed prior to the auction	<ul style="list-style-type: none"> No due diligence checks by the regulator completed until after the auction. - High risk of Judicial Review if an applicant wins an auction and then the regulator determines they are not fit to hold a licence to operate in New Zealand. This could also risk having vacant licences. + The workload for the regulator would come after the auction, before the licences are issued. Only those successful at auction would receive due diligence and entry requirement checks.
2. Implement a 2-stage process for due diligence and entry requirement checks	<p>Prior to the auction, applicants who want to bid for a licence will need to provide some information (including confirmation of the brand/platform seeking a licence, identify of key persons involved in the brand/platform, their criminal record and interests in other gambling-related companies both here and offshore, details on who owns the brand, strategy for the brand/platform in New Zealand, amount of capital available to the brand/platform, declaration of any breaches of legislation here or offshore), which is then approved by the regulator. If they are successful at auction, they will be required to provide further information (including how they will meet harm minimisation, consumer protection and advertising standards, the systems they are operating and how they will comply with AML/CFT and privacy legislation in New Zealand). If approved by the regulator, then the licence is issued.</p> <ul style="list-style-type: none"> + Provides enough information for regulators to identify if any significant risks to allowing the auction to proceed + Manages the workload of the regulator and enables licences to be issued in a timely manner. + Reduces the risk of Judicial Review.
3. All due diligence and entry requirements checks completed prior to the auction	<ul style="list-style-type: none"> All due diligence completed before the auction + would minimise the risk of Judicial Review. - Would likely slow down the granting of the licences, especially if there's a great deal of interest shown in the auction. - High workload and resources requirement for regulator
Licence duration and renewal	
1. 3 years + a right of renewal of 3 years duration (as previously discussed)	<p>A licensed platform could operate for 6 years with a reapplication process at end of the third year to ensure the operator is still complying with all entry requirements and licence conditions. At the end of 6 years, all 15 licenses would expire, and the Secretary would go back to market to grant new licences through a competitive process. There would still only be 15 licensed platforms, but the companies may change because of the process.</p> <ul style="list-style-type: none"> - This may not be considered a long enough licence term to encourage operators to invest in the New Zealand market. - High administrative cost to run a competitive process every 6 years than for a longer period. - Channelling rates could be affected if a customer's preferred platform did not seek or was unsuccessful in gaining a new licence.
2. 3 years + a right of renewal of 5 years duration	<p>A licensed platform could operate for 8 years with a reapplication process at end of the third year to ensure the operator is still complying with all entry requirements and licence conditions. At the end of 8 years, all 15 licenses would expire, and the Secretary would go back to market to grant new licences through a competitive process. There would still only be 15 licensed platforms, but the companies may change because of the process.</p> <ul style="list-style-type: none"> + More efficient business model for operators that will encourage investment by licence holders. - High administrative cost to run a competitive process every 8 years than for a longer period. - Channelling rates could be affected if a customer's preferred platform did not seek or was unsuccessful in gaining a new licence.

3. 3 years + 5-year rolling right of renewal	<p>Like option 2, but it would carry on indefinitely so long as licence holders continue to meet the entry requirements and licence conditions.</p> <ul style="list-style-type: none"> + This option has a lower administrative cost in that there would be no competitive process to run to determine licence holders for the next 6 or 8 years (unless there is a vacant licence). - Creates stability in the market from a customer's perspective, but there could be a perception of creating a closed market. This could impact channelling if there are new brands/platforms that are not able to enter the market, and people choose to access them outside the regulated market.
Register of licensed platforms	
1. No register	<ul style="list-style-type: none"> - Makes it hard for customers to know who the licensed platforms are. + Marginally cheaper for the regulator to operate.
2. Department publishes a register of licensed platforms	<p>This would result in one repository of licensed platforms that customers could check.</p> <ul style="list-style-type: none"> + Provide the public with information about the brands, who owns them, their website, where they are based, and any enforcement action upheld etc. + Provides the public with assurance they are gambling with licensed platforms required to meet standards for harm minimisation and consumer protection. + Increases channelling potential. + Similar model to other existing regulated sectors which increases the likelihood it will operate as a channelling device, for example, registered charities, regulated community housing providers, lawyers and conveyancers, etc.

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How do the options compare?

key for qualitative judgements:	
++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

Options	Supports tax and gambling duty collection	Prevents and minimises harm	Protects consumers of online gambling	Consistent with Legal Obligations	Future proof and flexible	Reasonable regulatory cost	Overall assessment
Limits on number of licences an operator can hold							
No limit of licences per operator	<p style="text-align: center;">+</p> <p>If one operator is allowed to purchase a large number of licences, this would reduce competition and provide New Zealanders with less choice.</p> <p>If options are limited, consumers may choose to gamble outside the regulated market and reduce the channelling rate.</p>	0	0	-	-	+	0
				Potential for large operators to dominate market. Greater potential for anti-competitive behaviour.	Legislative change required if this option proves to be inappropriate.	Regulatory costs may be slightly reduced under this option as the regulator may have fewer operators to interact with if a larger operator purchases multiple licences. However, this is unlikely to be significant.	

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Limit of three licences per operator	++ Helps ensure fair competition for operators and provides appropriate choice for consumers. This would likely improve channelling and support greater tax collection.	0	0	9(2)(h) ++	+	May not set the number correctly, which runs the risk of having vacant licences if no other bidders. Outweighs risk of a more open market.	+	Regulatory costs may be slightly higher under this option as the regulator may have more (up to 15) operators to interact with if a larger operator purchases multiple licences. However, this is unlikely to be significant.	++
Due diligence and entry requirements									
No due diligence or entry requirement checks completed prior to the auction	+ Lower threshold for entry into the auction process would result in a larger number of potential auction participants	+ Harm min requirements before licence same for all options	+ Consumer protection requirements before licence same for all options	-- High risk of Judicial Review	+	Risk that there are too many auction participants. Risk of letting in poor operators due to initial low threshold	+	Administrative burden on the regulator would come after the auction which may delay the granting of licences. Only those successful at auction would receive due diligence and entry requirement checks.	+
Implement a 2-stage process for due diligence and entry requirement checks	++ Helps ensure the most appropriate operators are allowed to participate in auction and receive a licence	+ Harm min requirements before licence same for all options	+ Consumer protection requirements before licence same for all options	++ Minimises the risk of Judicial Review.	++	Two-step approach allows for readjustment of more crucial criteria to the early stage to avoid any unsuitable applicants early on	+	Better balance of administrative burden on the regulator	++
All due diligence and entry requirements checks completed prior to the auction	- If entry requirements pre-auction are too great, it may disincentivise operators from participating	+ Harm min requirements before licence same for all options	+ Consumer protection requirements before licence same for all options	++ Minimises the risk of Judicial Review.	+	Risk entry requirements pre-auction too great/inflexible	--	Greater administrative burden on the regulator in the early stages which may delay the granting of licences	+

Licence duration and renewal							
3 years + a right of renewal of 3 years duration	+	+	+	+	-	-	+
Shorter licence term may discourage operators to enter market	Entry requirements/licence conditions re-evaluated at 3 years	Entry requirements/licence conditions re-evaluated at 3 years	Entry requirements/licence conditions re-evaluated at 3 years	Unflexible as short licence periods would impact on regulator's ability to do other work	Highest admin cost due to more frequent competitive processes		
3 years + a right of renewal of 5 years	++	+	+	++	+	+	++
Efficient option for successful operators, but may impact channelling rates if new brands/platforms unable to enter market	Entry requirements/licence conditions re-evaluated at 3 years	Entry requirements/licence conditions re-evaluated at 3 years	Balanced approach	Provides balance between too short and too long licence periods	Reasonable admin cost		
3 years + 5-year rolling right of renewal	+	+	+	+	-	++	+
Most attractive option for successful operators, but would create perception of closed market and impact channelling.	Entry requirements/licence conditions re-evaluated at 3 years.	Entry requirements/licence conditions re-evaluated at 3 years.	Longer licence period may result in greater legal challenge from competing operators.	Unflexible flexible as market would be set for 8+ years	Lower administrative cost		
Register of licensed platforms							
No register	-	-	-	0	-	--	-
Difficult for customers to know who the licensed operators are	Less clear to customers who the reputable operators are	Less clear to customers who the reputable operators are	May be harder to start a list after the initial licensing period if licence holders are not familiar with the process	Could result in increased costs to answer requests for information			
Department publishes a register of licensed platforms	++	++	++	++	++	++	++
Clarity on who licensed (tax paying) platforms are	Customers will know they meet harm minimisation standards	Customers will know they are protected under New Zealand laws	This is consistent with existing registers. All licence holders would be required to publish the same information	Information required to publish could be adjusted over time if necessary	Minimal cost to maintain a list of licensed platforms		

Proactively released by the Minister of Internal Affairs

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

35. Our preferred package of options is for the licensing system to include:
- a legislative limit that a company can hold no more than 3 licences for the platforms/brands they own and operate;
 - a 2-stage process for due diligence and entry requirements;
 - 3 years + a right of renewal of 5 years, before going back to market; and
 - a register of licensed platforms maintained and published by the Department.
36. We consider that these options, when combined, will best support the objectives of the regulatory system to minimise harm, support tax collection, and provide consumer protections to New Zealanders, while minimising the costs of regulation to government and operators. As noted in the limitations in this paper and the previous RIS, a black market will remain in New Zealand. This approach is focused on ensuring New Zealand has a regulated, safer option available to them. To illustrate how the package would help with the operation of the system, there is a Proposed Online Casino Gambling Regulatory System diagram attached in **Appendix II**.

Introduce a legislative limit that a company can hold no more than 3 licences for the platforms/brands they own and operate

37. For licence protections we recommend option 2, with a legislative limit that a company can hold no more than 3 licences for the platforms/brands they own or operate. There will also be an expectation that licence holders utilise the licence. We want to avoid a scenario where licence holders sit on licences and without using them, as this would impact consumer choice and channelling to the regulated market.
38. For mergers and acquisitions we recommend empowering provisions as set out above be included in the primary legislation, and the process set out in operational policy.

Implement a 2-stage process for undertaking due diligence and checking entry requirements

39. These standards align with current gambling system in New Zealand and international online gambling requirements. This level of detail is flexible because it is objectives-based rather than prescriptive. As technology evolves, entry requirements may become redundant, so the requirements need to be future proof.
40. Many of the operators who would be interested in holding a licence participate internationally under multiple regulatory systems. The entry criteria proposed are similar to what other jurisdictions require. This means operators are familiar with them. They will be included in primary legislation, so everyone knows what is expected. They can enable operators to demonstrate they are suitable to hold a New Zealand licence.
41. A 2-stage process means the regulator can undertake sufficient due diligence, but not waste time going through all the documents for applicants that may not successfully bid for a licence.

3 years + a right of renewal of 5 years before going back to market

42. This option strikes the right balance between reasonable regulatory costs and ensuring the term of the licence is sufficient to attract large, reputable operators into the New Zealand market. Anything less than 8 years, potentially puts that at risk and creates a financial barrier for those operators that may result in them not bidding for a licence.

43. Under any option, the licence holder must have met their licence conditions and have a history of compliance with the New Zealand legislation and regulations. Prior to a renewal being granted, the licence holder will be required to re-submit documentation to show they still meet the entry requirements. A renewal will only be granted if the regulator is satisfied these requirements have been met.

Department publishes a register of licensed platforms

44. We are proposing a public register of licensed platforms to be maintained by the regulator and published on the Department's website. This requirement will be in primary legislation. This is a similar requirement for the Community Housing Regulatory Authority (the Authority) that must establish and maintain a register of community housing providers and include specific details on the register.¹⁸ The Act also provides for a complaints process in relation to land-based gambling.¹⁹

Part B – The regulated market

45. The problem is how to structure legislation to support a regulated system for online casino gambling in a way that minimises harm, supports tax collection, and provides consumer protections to New Zealanders, while minimising the costs of regulation to government and operators.
46. New Zealanders may have cause to complain about licensed or unlicensed online casino operators. We need to decide how to allow for **complaints**, who is best placed to handle them, and what the process will be.
47. To ensure operators are complying with their obligations, the regulator needs a range of tools at its disposal to appropriately **monitor license holders and ensure compliance**.
48. An **appellate body** is an appeals body that is empowered to hear appeals on decisions by a decision-maker, in this case the regulator, and make a binding decision on the outcome.
49. In July, Cabinet agreed to legislation setting out rights of appeal. The problem is determining the most appropriate appellate body for the online gambling regulatory system.

¹⁸ Section 172 Public and Community Housing Management Act 1992.

¹⁹ Sections 81 and 186 Gambling Act 2003.

Options Part B – What happens in the regulated market

Options	Risks (-) and benefits (+)
Complaints process	
1. Include a high-level complaints process in primary legislation	<ul style="list-style-type: none"> + Including a high-level complaints framework in primary legislation sets an expectation for licensed operators around the complaints process in New Zealand. + Provides certainty to the complainant about a standard process if they make a complaint – this should lead to a consistent approach across all licence holders. + It is based on a framework that already exists in New Zealand legislation. - Potential complexity of future proofing as process would be outlined in primary legislation, making it more difficult to change compared to regulations or through an ad hoc approach.
2. Set out any complaints process in regulations	<ul style="list-style-type: none"> + Regulations enable more flexibility for a new system that might require adjustments. - Potentially sets a lower expectation for licensed operators about the importance of following through on complaints.
3. Create an ad hoc complaints process after the regulator is established	<ul style="list-style-type: none"> + flexibility for the regulator to modify and change complaints process as required based on its regulatory activities. - Potentially sets an even lower expectation about the importance of regulated parties taking complaints seriously. - Could be difficult for consumers to find the information on where to make a complaint on what the process is.
Compliance and enforcement	
1. Lighter touch - Responsive enforcement and compliance tools	<ul style="list-style-type: none"> + The regulator has a graduated range of enforcement tools available to encourage or require compliance. The enforcement tools are on a spectrum that range from advice and education, licence conditions, reporting non-compliance to regulators in other jurisdictions, through to formal warnings, civil penalties, take down notices, enforceable undertakings, licence suspension or cancellation. These can be used individually, or as a combination. + In this approach, the regulator considers a range of factors, including the attitude and behaviour of operators, the nature of the harm, and the wider implications of the decision when deciding on what the most appropriate and proportionate enforcement action is. For operators who want to comply, guidance and education may provide sufficient direction to bring them back into compliance. Operators that refuse to comply may need stronger enforcement action to ensure compliance. + For a regulator, the responsive approach has compliance as its objective, meaning it acts on instances or indications of non-compliance. - may lose focus on operators who have greater risk
2. Heavy handed - Risk-based enforcement and compliance tools	<ul style="list-style-type: none"> + The regulator has the same enforcement tools at its disposal, so enforcement action is still appropriate and proportionate. However, in this approach, the regulator is more proactive in identifying instances of non-compliance. + Risk assessment tools are used by the regulator to determine which licence holders present the most risk, and then focuses on that in a targeted way. It could be that a specific operator presents a risk, based on an increase in complaints received by the regulator, or it could be the regulator has identified an area in the harm minimisation regulations which all the operators are struggling to meet. The regulator would then work with the operator(s), using the enforcement tools available, to increase compliance. + For a regulator, the risk-based approach has reducing and/or preventing harm as its objective, meaning it is targeting its regulatory efforts in a way that meets that objective. - Focusing on only the riskiest operators may result in lower-level compliance issues going unchecked
3. Combined responsive and risk-based compliance tools	<ul style="list-style-type: none"> + A combined approach gives more flexibility to the regulator. In the early days of regulating online gambling, it is likely the approach will be more responsive i.e. will act on complaints, through the monitoring system, identify non-compliance. However, by the time the regulator is looking at licence renewals, it will have built up relationships with the operators in the market and have a better sense of their strengths and weaknesses. It will also have data that it can use to compare and identify trends and issues. This would enable it to move more to a risk-based approach. + There are examples of a combined approach being used by New Zealand regulators, including the land-based gambling system and Maritime New Zealand. + After 8 years, if a new operator was to come into the market, the regulator may need to use a responsive approach while it gets to know them and how they operate.

Options	Risks (-) and benefits (+)
Appellate body	
1. Court system	<ul style="list-style-type: none"> + This approach creates a clear distinction between the land-based and online gambling appellate body. + The Court Rules relating to cases involving overseas parties would apply, which are well established and set out a standard process. This would mean there is consistency applied across the board for all online gambling operators regardless of where they're based. It does not prevent offshore operators from accessing justice in New Zealand, but the threshold for appeal would be sufficiently high enough to prevent spurious appeals. + Can appeal to a higher court which provides fairness to both the operator and the regulator. + It protects New Zealand's reputation, as an appeal to the court is part of a robust, rigorous regulatory approach to an activity with potential for harm. + This approach aligns with both other jurisdiction's practice, and the AML/CFT Act. + Subject matter expertise is not required as appeals will relate to points of law. Courts are well placed to do this. - Given its workload, there may be delays for hearings. An appeal would usually be to retain a licence, so if the Regulator cancelled the licence, and it took 6 months to hear the appeal, the operator could continue to operate. There is a risk that hearing appeals from online gambling operators may add to the work of the court, delaying justice for them and others.
2. Gambling Commission	<p>The Gambling Commission is an independent statutory decision-making body established under the Gambling Act 2003. The Gambling Commission has the powers of a Commission of Inquiry.</p> <ul style="list-style-type: none"> + The advantage of this option is the Gambling Commission understands the land-based regulatory system, so wouldn't be starting from scratch. Its functions are similar to what is being proposed in the online gambling regulatory system. It hears appeals in the first instance against decisions by the Secretary to refuse to grant or renew a licence or impose licence conditions in relation to Class 3 or 4 gambling. - However, the Gambling Commission could be conflicted. - the subject matter of appeals is likely to be very different than those normally dealt with by the Gambling Commission. There are commercial matters related to the auction process that the Gambling Commission would have no experience with and the High Court would be the most appropriate generic jurisdiction. - It may not be viewed by multinational operators in the same way a court may be. The Gambling Commission's standing in the online gambling regulatory system would need to be granted through the legislation i.e. Commission has the final say, with only a judicial review as an option (which happens in Class 3 and Class 4 gambling). - The Gambling Commission does not always have to follow a set procedure or hold a hearing (e.g. section 150), This approach could be viewed with suspicion by offshore operators used to a more robust appeal system in other jurisdictions. - It has a low threshold for accepting an appeal, including low filing fees (\$200), to ensure Class 4 operators that are required to be not-for-profit, can access justice, and the profits returned to the community are maximised. This is unlikely to be the case for online gambling operators.
3. Establish a new appeals body	<ul style="list-style-type: none"> - According to LDAC advice, new tribunals or appeal bodies should not be created if appeals or complaints could be heard by an existing entity. For online gambling this would be either the courts or the Gambling Commission. - The cost of establishing a new appeals body would be prohibitive. As all costs related to the gambling system must be recovered from operators, if they are too high, operators may choose to not enter the market. It also affects the amount of revenue that can be returned to the Crown, which is one of the policy objectives to be achieved by regulating online gambling. - This option does not align with MoJ's Tribunal Guidance on establishing a new appeals body.

How do the options compare?

Preferred option	Supports tax and gambling duty collection	Prevents and minimises harm	Protects consumers of online gambling	Consistent with Legal Obligations	Future proof and flexible	Reasonable regulatory cost	Overall assessment
Complaints process							
Include a high-level complaints process in primary legislation	0	++ Provides certainty to the complainant about the process	++ Provides certainty to the complainant about the process	++ Sets a clear expectation for licensed gambling operators	+ Less flexible than other options, but more future proof	+ As the regulator would only get involved when things are escalated, this would help manage its workload Regulator may get swamped with complaints about unlicensed operators. This could create resourcing issues	++
Set out any complaints process in regulations	0	+ Lower expectations may result in lower consumer protections	+ Lower expectations may result in lower consumer protections.	+ Sets a lower expectation for licensed operators about the importance of following through on complaints	+ More flexible to change than primary legislation	+ As the regulator would only get involved when things are escalated, this would help manage its workload Regulator may get swamped with complaints about unlicensed operators. This could create resourcing issues	+
Create an ad hoc complaints process after the regulator is established	0	- Least protection for consumers as there is a lower expectation for gambling operators, complaints, and other parties on the process	- Least protection for consumers as there is a lower expectation for gambling operators, complaints, and other parties on the process	-- Would be difficult to defend without legislation	+ More flexible to adjust, but would provide less certainty on process	- Could make the process less certain and more confusing to all parties involved, possibly resulting in a larger number of complaints to the regulator, which they may or may not be able to address	-
Compliance and enforcement							
Lighter touch - Responsive compliance tools	0	+ Good fit for regulatory systems that have maintaining compliance as an objective	++ Good fit for regulatory systems that have maintaining compliance as an objective	+ A range of compliance tools helps ensure compliance and provides operators with clarity on their responsibilities	+ Good fit for most operators, but may result in serious non-compliance from riskier operators	+ Provides a range of tools for all operators based on compliance, but this may miss operators who have greater risk	+

Preferred option	Supports tax and gambling duty collection	Prevents and minimises harm	Protects consumers of online gambling	Consistent with Legal Obligations	Future proof and flexible	Reasonable regulatory cost	Overall assessment
Heavy handed - Risk-based compliance tools	0	++ Good fit for regulatory systems that have reducing and/or preventing harm as an objective	+ Targeted approach to non-compliance based on the risk presented	+ Risk-based approach mostly focuses on operators who present the most risk. Other operators may get less attention	- Focusing on only the riskiest operators may result in lower-level compliance issues going unchecked. Hard to address retrospectively	+ A risk-targeted approach would focus regulatory cost on the riskiest operators, potentially at the cost of time spent on other operators	+
Combined responsive and risk-based compliance tools	0	++ Good fit for regimes with a mixture of objectives to ensure compliance and prevent harm such as online gambling	++ Good fit for regimes with a mixture of objectives to ensure compliance and prevent harm such as online gambling	++ This option provides the best balance	++ Combining the best of both options provides greater flexibility to the regulator, depending on the situation	++ Balanced approach. The regulator utilises both a responsive and a risk-based approach, which gives more flexibility to the regulator, depending on the situation	++
Appellate body							
Court system	0	++ Protects New Zealand's reputation, as an appeal to the High Court is part of a robust, rigorous regulatory approach to an activity with potential for harm	++ Aligns with AML/CFT Act	++ Well established and set out a standard process. Consistency applied. Can appeal from High Court to Court of Appeal Threshold for appeal at the right level to allow justice but prevent spurious appeals Risk that online gambling appeals add to workload of Court, delaying other cases	+ Appeal rights would be to the next highest Court, depending on the maximum penalty level Possible delays in hearings due to court workload	+ Filing fees to the Court for the licence holder Implications to prepare the case and gather evidence (for both the regulator and licence holder)	++

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Preferred option	Supports tax and gambling duty collection	Prevents and minimises harm	Protects consumers of online gambling	Consistent with Legal Obligations	Future proof and flexible	Reasonable regulatory cost	Overall assessment
Gambling Commission	0	+	+	-	-	--	+
		"Prevent and minimise harm from gambling" is one of the Purposes of the Gambling Act which the Gambling Commission must consider in its decisions		Gambling Commission understands the land-based regulatory system Gambling Commission may not be viewed by multinational operators in the same way a Court may be Risk that the Gambling Commission would be overwhelmed with online casino gambling appeals, which would impact on their other duties	Current low threshold for accepting an appeal to maximise return to community. This is not the case for online gambling operators	Low filing fees for operators, when compared to the Courts, which could result in a larger number of appeals. This would be a high cost to the regulator in terms of preparing the case and gathering evidence This option would fundamentally change the purpose of Gambling Commission as a commission of inquiry	
Establish a new appeals body	--	+	+	--	--	--	--
	Cost of establishing would be prohibitive and fall on the gambling operators, which would increase their costs.	Could be set up to support harm prevention as a priority	Could be set up to support consumer protection as a priority	Does not align with LDAC or MoJ's advice on establishing a new appeals body	Not flexible or future proof	High establishment costs, which would be ultimately borne by licence holders. The additional cost may be a barrier to enter the market	

key for qualitative judgements:	
++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

Proactively released by the Minister of Internal Affairs

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

50. Our preferred package of options is for the regulated market to include:
- a high-level complaints process in primary legislation;
 - combined responsive and risk-based compliance and enforcement tools; and
 - the court system as the appellate body.
51. We consider these options, when combined, will best support the objectives of the regulatory system to minimise harm, support tax collection, and provide consumer protections to New Zealanders, while minimising the costs of regulation to government and operators. To illustrate how the package would help with the operation of the system, there is a Proposed Online Casino Gambling Regulatory System diagram attached in **Appendix II**.

High-level complaints process in primary legislation

52. Including a high-level complaints framework in primary legislation sets an expectation for licensed gambling operators around the complaints process in New Zealand. It is based on a framework that already exists in New Zealand legislation.
53. Licensed operators would be required to investigate and act in the first instance. The regulator would only get involved when things are escalated, i.e. a complainant is unhappy with the result or process run by the licensed operator. This approach would help the regulator manage its workload.
54. Primary legislation would also allow a person to make a complaint to the Secretary on the conduct of an unlicensed online casino gambling platform i.e. providing online casino products without a licence.
55. The primary legislation should:
- require a licensed operator to have a complaints process and publicise that information on their website, and people should complain to the licensed operator in the first instance;
 - if they are not happy with how the licensed operator has handled or resolved the complaint, enable a person to make a complaint to the Secretary on the conduct of a licensed operator;
 - require the Secretary, as soon as practicable after receiving a complaint, to notify the licensed online operator of the complaint, decide whether to investigate the complaint, investigate the complaint (if applicable), and notify the complainant and operator of their decision to investigate, and, if applicable, notify them of the outcome of the investigation; and
 - direct a complainant who may be unhappy with the outcome of the Secretary's investigation to the Ombudsman.

Combined light touch (responsive) and heavy handed (risk-based) compliance and enforcement tools

56. A combined approach would enable the regulator to use both approaches to ensuring online gambling operators are compliant with legislative requirements. This gives the regulator the flexibility to change their approach depending on the operators in the

market at any given time, the risks they present, what the data analysis tells them, and feedback or complaints from the public.

Appeal to the Courts

- 57. Under this option, appeal rights would be to the Courts. Whether it is the District or High Court will depend on the maximum penalty for the breach.
- 58. This option aligns with international appeals processes. Appeals against decisions made by the United Kingdom Gambling Commission go first to the Magistrates' Court, and those decisions can be appealed to the High Court. Appeals against decisions made by the Swedish Gambling Authority may be filed with general administrative courts.

What are the marginal costs and benefits of the option?

- 59. This outlines the costs and benefits of the combined implementation of the preferred options.

Affected groups (identify)	Comment nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.	Evidence Certainty High, medium, or low, and explain reasoning in comment column.
Additional costs of the preferred option compared to taking no action			
Regulated groups	Auction cost	Medium. Likely in millions, however low in proportion to capital available to prospective bidders and likely profit earned in New Zealand	Low
	Annual licence fees	9(2)(b)(ii) must be raised to cover the cost of the regulator and pay back the capital injection from the Crown in the next 10 years. There is a question about whether this is best collected through a flat fee where all licence holders pay the same, or whether they pay a percentage based on their market share.	Medium
	Problem gambling levy	Low (levy rates for other sectors are currently between	High – calculation for PGL is legislated and certain

		0.44 and 1.08% of player expenditure)	
Regulators	Year to year operating costs of licensing and regulating sector. Costs 100% recovered through fees	Medium. See annual licence fees above	Medium – costing uncertain, however 100% recovered from licensed operators
Others (e.g., wider govt, consumers, etc.)	Government – Initial licensing system establishment costs, paid through a one-off Repayable Capital Injection to the Department (100% recoverable through annual licence fees outlined above)	\$20 million (\$2 million recovered from operators annually over 10 years)	Medium - costings were approved in the first Cabinet paper. There is also a CRIS attached to this RIS.
	Online gamblers – greater consumer protections and harm minimisation standards.	Medium	Medium
	Gambling harm service providers – harm from online gambling currently recovered from regulated land-based providers. No financial change. If system impacts participation/harm rates, some possible increase in resource requirements.	Nominal to medium	Low
Total monetised costs		9(2)(b)(ii)	Low – this counts fees on operators and Government outlay. However, fees will repay this outlay, so this figure effectively counts the same costs twice
Non-monetised costs		Low-medium	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Likely increase in Gross Gambling Revenue through	Medium	Medium

	consolidation to 15 platforms		
Regulators	Greatly improved ability to enforce standards/recover costs	High	Medium
Others (e.g., wider govt, consumers, etc.)	Government: tax revenue Maximises the estimated revenue from gambling duty (estimates 4 outyears averaged)	\$11m per annum on average	Medium – estimates were conservative
	Domestic gambling operators Reduced PGL share due to no longer covering funding gap attributed to online gambling-related harm	Low	High
	People, whānau, and communities living with gambling harm. Greater regulatory influence to interrupt drivers of harm and consequences.	High	Medium
Total monetised benefits		\$11m per annum on average (estimate over four years)	high
Non-monetised benefits		Medium-high	medium

Section 3: Delivering an option

How will the new arrangements be implemented?

60. This RIS addresses the details of the high-level regulatory system for online casino gambling. There will be regulation-making powers included in the legislation to operationalise the system. These will cover topics such as fees to be charged, advertising restrictions, harm minimisation standards, and licence conditions. These regulations will be developed in 2025.

61. Regulations or rules provide more flexibility if things need to be changed, rather than amending primary legislation. The online gambling sector is growing and changing all the time. There is a risk that the legislation may not keep pace with new products or technology that has not yet been developed.

62. The Department will establish a dedicated team that will be responsible for the implementation and establishment of the new regulatory system. This was budgeted for in the financial recommendations agreed to by Cabinet in July 2024.
63. To ensure members of the public are aware of the changes, budget has been set aside for an education campaign to encourage those who want to participate in online gambling do so with licensed providers. This will be a good opportunity for members of the public to learn about the mark/logo/symbol that all licensed providers must use to prove they are licensed by the New Zealand Government and their operations are monitored by a local regulator.
64. Affected parties will be able to have their say on the high-level design of the regulatory system through the Select Committee process. Due to the time constraints to have a Bill drafted, introduced and passed in time to stand up the regulator in February 2023, there is limited time to consult widely with impacted stakeholders.
65. Since Cabinet's initial decisions in July 2024, the Department has been engaging on an ad hoc basis with interested parties, including interested gambling operators, as well as gambling harm treatment providers. Generally, there is support for the licensing system, but they are keen to see more detail on what it will look like.

There are some implementation risks

66. The implementation risks include:
 - a lack of public consultation on the proposals. Consultation on this was last done in 2019, which is now 5 years old. We are encouraged that there remains widespread support for the regulation of online gambling, but the focus and detail has changed over that time, which was evident in the reaction to the Minister of Internal Affairs' media release after the July Cabinet decisions;
 - constrained timeframes mean there is no room for any delay in deliverables;
 - fees are set correctly to cover the cost of the regulator and pay back the capital injection that established the regulator. This is being recovered by the licensed operators. If there is a delay in issuing licenses, or there was a period of time where a licence was vacant, this may have an impact;
 - some stopgaps may need to be worked through. For instance, the Ministry of Health has nearly completed the latest revision of its Strategy to Prevent and Minimise Gambling Harm. This means it will be 2028 until the next review of the PGL and an opportunity to calculate for an online casino sectors' liability under the levy. An option would be to introduce a flat charge, like the racing industry PoCC, as a recoverable fee until the PGL is re-calculated.

How will the new arrangements be monitored, evaluated, and reviewed?

67. There are several ways for the operationalisation of the new system to be monitored, evaluated and reviewed. These include:
 - a review that will be conducted within three years of operation to ensure it is achieving the objectives it set, and that risks are being well managed. This was agreed to by Cabinet in July 2024;
 - using data that operators must provide to the regulator under their licence conditions. This information will enable the regulator to monitor performance, particularly around operators identifying and acting on an individual's risky behaviour that could result in gambling harm; and

- monitoring gambling harm outcomes through the work of the Ministry of Health and Health New Zealand. If there is an increase in the uptake of people seeking help as a result of online gambling, this can be picked up. There is also a gambling specific survey beginning in 2024 that will survey New Zealander's gambling habits.

Monitoring and evaluation are areas that require built-in flexibility

68. There is no single simple measure an agency can use to measure and monitor things like gambling harm. This is especially true as the products and settings of gambling evolve – taking gambler behaviour along with them. Additional to those basic measures, consideration will need to be given to how regulations can be designed flexibly, future proofing monitoring, and evaluation against changes in the online gambling world.
69. This will need to be balanced with the need to track metrics over time; to see how operator and gambler behaviour changes, and how this influences the objectives of a licensing and regulation regime (i.e., revenue for the Crown and reducing gambling harm caused by online casino gambling).
70. Baseline data predating regulatory enforcement will be limited and potentially not completely homogenous with measures decided on for monitoring. However, some existing data, such as the HLS will provide some early indications. Ongoing data collection will also show the impact of licensing the sector and influence of regulatory levers over time.
71. Stakeholders will have the opportunities to raise concerns through a number of channels, for example through:
 - engagement with the regulator,
 - complaints process, and
 - the Ministry of Health and Health New Zealand, who have contractual relationships with gambling harm service providers, who can raise concerns that can then be passed on to the Department.

Stage 2 Cost Recovery Impact Analysis

Cost Recovery for an Online Casino Gambling Regulatory System

72. A regulatory regime that monitors and regulates up to 15 online casino platforms will require both establishment and ongoing costs. We are proposing to recover these costs from regulated operators primarily via ongoing fees. We have assumed that auction revenue will not be returned to the Crown as general revenue, but will be used to repay establishment costs instead. However, given the uncertainty of the level of auction revenue, this has not been factored into the calculations underpinning this cost recovery analysis. Additionally, as auction revenue is not generated on a cost recovery basis, the proposed auction mechanism is not the focus of this cost recovery analysis.
73. The fees proposed under this system will be new, and the statutory authority to charge will come from new legislation that will establish the proposed system.

Key Gaps and Assumptions

74. Given that New Zealand has had a largely unregulated market where offshore operators can provide gambling products with next to no restrictions other than advertising, there is limited information about the market we can use to inform the design of a cost recovery regime. Our cost recovery analysis has therefore necessarily been limited by the following key knowledge gaps:
 - a. Size of the overall online casino market – The online gambling market is estimated to be between \$300 million and \$800 million dollars.²⁰ We know that this market is growing, but we do not know by how much.
 - b. NZ revenue/market share of online casino operators – We only have an estimate of each platform's NZ market share based on GST revenue collected by Inland Revenue.²¹ Based on these GST returns, we estimate that the 15 largest operators have around 90% of the NZ market, with the top 6 largest operators collectively controlling 80% of the market. Having a better understanding of current market share makeup would enable fees to be set at a level that means at least 15 online casino platforms will want to enter the regulated New Zealand market.
 - c. The true costs of operating the regulatory system – Our financial modelling has forecasted the expenses required to establish and operate the new regulatory system. However, while the Department has strong experience regulating land-based casino operators, the true costs of a new regulatory system over the forecast period may well be significantly different from those currently modelled.

²⁰ This is based on several sources, including Inland Revenue data from reporting by registered operators, and estimates from various interested groups such as online gambling providers

²¹ Between 2016 (when GST collection began) and 2022/23, \$224.5 million has been collected. 93.8% was collected from 15 of 36 registered operators and 81.5% from 6 of those 15 operators.

75. Given our key knowledge gaps, we have had to rely on the following key assumptions in the design of this cost recovery proposal:
- At least 15 online casino platforms will be willing to enter the regulated NZ market, as long as it is profitable to do so, i.e., the marginal costs of operating in the market are less than marginal revenues. We also assume that the 15 **largest** operators currently are more likely than smaller operators to be interested in entering the market, given their likely higher marginal revenues from operating in New Zealand.
 - For the purposes of designing a cost recovery regime, we have assumed a successful channelling rate of 85%, based on experiences in similar overseas jurisdictions. If channelling is not successful, licensed operators may choose to exit the regulated NZ market, which would jeopardise the viability of the cost recovery regime.
 - Regardless of how they are designed, initial fee levels are likely to either over or under-recover the true costs of operating the new regulatory system, and fees are likely to require reviewing within the first three years of operation.

Cost Recovery Principles and Objectives

In developing this cost recovery proposal, the Department was guided by the following principles and objectives:

Principle/Objective	Description
Efficiency	The charges to operators should be no higher than necessary to operate a regulatory system within the policy parameters decided by Cabinet. Overall, the design of charges should incentivise efficiency, i.e., keeping costs down while keeping the quality of the regulation high.
Equity/Fairness	The costs of the regulatory system should be borne by the appropriate parties. The impacts of any proposed cost recovery regime should be identified, and stakeholders need to be treated fairly.
Effectiveness	The cost recovery regime must provide an appropriate level of funding that is fit-for-purpose and that allows the regulatory system to meet the outcomes sought by regulating online casino platforms.
Transparency	Information about the regulatory activity being undertaken, its costs to operators, and resulting fees charged to each operator must be available in an accessible way to all stakeholders.
Simplicity	The cost recovery regime should be straightforward and understandable to relevant stakeholders.

Accountability	Public entities are accountable to Parliament and to the public. In practical terms, this can be demonstrated by consultation with stakeholders about changes to fees, through recording any surpluses and deficits generated by cost recovery regimes, through reporting on performance, and through reviews of the use of powers to set fees under regulation.
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Policy Rationale: Why a user charge? And what type is most appropriate?

76. Regulation of online casino operators is mostly a club good (where people can be excluded from its benefits at a low cost but its use by one person does not detract from its use by another), with some aspects of a public good (when excluding people from its benefits is difficult but its use by one person does not detract from its use by another). New Zealand gamblers who choose to gamble with licensed online casino operators will benefit from a regulated online casino market in the form of less gambling harm and greater assurance that licenced operators will operate with integrity, and winnings will be paid out. Regulation also has elements of a public good in that less gambling harm will also benefit society at large via greater productivity, more disposable income being spent on other goods and services, less criminal activity for the purpose of gambling and better general wellbeing.
77. We are proposing cost recovery by charging fees from licensed online casino operators, which are expected to be no more than 15 platforms (based on Ministerial decisions) at any given time. While benefits from regulation will, strictly speaking, accrue to gamblers and not operators per se, the significant negative externalities (i.e., gambling harm) caused by operators warrant full cost recovery from them. This approach is also consistent with the existing regulated gambling sector where costs are recovered. It would also be more efficient to charge 15 platforms discrete fees, rather than collect a levy from thousands of individual NZ gamblers.
78. Whilst online casino regulation has elements of a public good, we are proposing full cost recovery. While there may be positive flow-on impacts accruing to wider society from regulating online casino operators, most of the benefits will accrue to NZ gamblers. We also acknowledge that online operators may choose to pass on costs onto gamblers, but this scenario is still preferable to the Crown funding the regulatory regime given the above.
79. Fees from operators will fund both the establishment and ongoing costs of the regulatory regime. Whilst the Department is seeking a repayable capital injection from the Crown to enable the establishment of the system, revenue from operator fees will allow the Department to repay the capital injection within the 10-year capital forecast period. We have also assumed that auction revenue will supplement ongoing fee revenue in repaying the capital injection.

The level of the proposed fee and its cost components (cost recovery model)

Overall Fee Levels Required to Cost Recover

80. The overall fee revenue required for the regulatory system to fully recover costs from operators is summarised in the table below. These levels have been calculated using

estimated ongoing expenses for the system and establishment costs being repaid to the Crown over a 10-year period. We have assumed that auction revenue will be made available to repay establishment costs to the Crown. In line with cost recovery principles, fee levels may decrease if auction revenue is substantial enough to assist with recouping establishment costs.

81. 9(2)(b)(ii)

Online Gambling Fees	Annual fees Charged to Platforms
Fee per platform on average to recover establishment and ongoing costs	9(2)(b)(ii)
Overall fee revenue from all 15 proposed online casino platforms	9(2)(b)(ii)

82. The main cost drivers for the regulatory regime over the first five years of operation are summarised in the table below. Note that these costs assume that some costs are funded upfront by the Crown via a capital injection but are then recouped from regulated operators over a 10-year period. With the exception of the Department's overhead funding of 9(2)(b)(ii) over the forecast period, all costs are direct costs associated with the regulatory regime.

9(2)(b)(ii)

Departmental Costs	
Personnel Costs	
DIA Overheads	
Other Operating Costs	
Total Departmental Costs	
Capital charge on Crown Capital Injection	
Capital charge on Assets	
Total Expenses	

83. Estimated expenses and revenue over a five-year operating period are presented below, assuming that costs funded upfront by the Crown are repaid over a 10-year period:

Item (\$000's)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Ongoing Operating Expenses	9(2)(b)(ii)					
Capital Injection Repayment Expenses						
Estimated Fee Income						
Net surplus/deficit						

84. The estimates above assume that there will be at least 15 platforms willing to participate in a regulated market. If there are fewer regulated operators, the establishment and ongoing costs will be approximately the same in the short term, but fees charged per platform will need to be higher to make up for a smaller number of platforms in the market.

Fee Structure Design Options

85. For the purposes of the initial fees estimate included in the previous RIS, we assumed a flat fee charged to each platform to recover costs. However, we did note that the design of the cost recovery regime was subject to change as we finalise detailed design options for Cabinet later this year. We have since considered two main fee structure options, as summarised below:

Option	Description
<p>Option 1: Each licence holder (platform) pays the same flat fee</p>	<p>The fee charged to each platform annually is calculated by taking the total ^{9(2)(b)(ii)} cost of operating the regulatory regime and dividing by the number of platforms (15). This gives an annual fee of ^{9(2)(b)(ii)}.</p>
<p>Option 2: Each licence holder (platform) pays a fee that is a set percentage of their gross gambling revenue (GGR) earned in New Zealand</p>	<p>The fee charged to each platform annually is calculated by taking the total ^{9(2)(b)(ii)} cost of operating the regulatory regime and calculating this as a percentage of total market size in terms of GGR. This same percentage is then charged as a fee from each platform's GGR earned in New Zealand.</p> <p>Based on current market assumptions, this fee could be set at around ^{9(2)(b)(ii)} of each platform's New Zealand GGR to cost recover the ^{9(2)(b)(ii)} required to establish and operate the regulatory system.²² Based on the very limited information we have about the current market share of platforms operating in New Zealand, a ^{9(2)(b)(ii)} fee could result in each platform being charged between ^{9(2)(b)(ii)} depending on their New Zealand-based GGR.</p>

²² ^{9(2)(b)(ii)}

86. Each option carries its own distinct risks and benefits, as summarised below:

Risks	Benefits
Option 1: Each licence holder (platform) pays the same flat fee	
<ul style="list-style-type: none"> A flat fee may result in some smaller platforms not competing for a licence due to the cost in relation to a smaller market share, i.e., their marginal cost of operating in New Zealand could be higher than marginal revenue. This may result in not all 15 licences being granted, particularly if licences are granted at different times. If a flat fee results in fewer than 15 licenses being granted, it would have also contributed to less competition amongst operators, the entrenchment of larger platforms in New Zealand, and potentially more NZ gamblers choosing unlicensed platforms. More gamblers choosing unlicensed platforms may increase levels of gambling harms experienced. A flat fee may not be fair as smaller platforms pay the same fee as larger platforms, despite not deriving as much GGR from the New Zealand market as larger platforms. 	<ul style="list-style-type: none"> Especially during the establishment of the regulatory system when we have limited information about each platform's current NZ market share, a flat fee can be more reliably calculated than a percentage-based fee. As a flat fee is calculated strictly 'bottom up' from the expected costs of establishing and operating the regulatory system, it is more likely to cost recover without under or over-recovery.
Option 2: Each licence holder (platform) pays a fee that is a set percentage of their gross gambling revenue (GGR) earned in New Zealand	
<ul style="list-style-type: none"> If our market assumptions are incorrect, this approach risks the Department over-recovering the costs of the regulatory system. This can be mitigated, however, by using extra fee revenue to repay the Crown capital injection faster, or more regularly reviewing the percentage rate for annual licence fees. 	<ul style="list-style-type: none"> A percentage-based approach using GGR could be fairer as it reflects a platform's market share. Assuming that a larger market share leads to higher levels of gambling harm caused by a platform, a license fee based on market share might also be more equitable in this regard.

9(2)(b)(ii)

<ul style="list-style-type: none"> This approach may create an incentive for platforms to under-report their New Zealand-based GGR. 	<ul style="list-style-type: none"> This approach provides a more even playing field for smaller operators, as their annual license fee will be capped as a percentage of their New Zealand GGR. It may also provide more certainty for smaller operators as they would not need to ensure a certain level of NZ GGR in order to pay off a larger flat license fee under Option 1 above.
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Fee Structure Design Recommendations

87. On balance, we recommend initialising the regulatory system with a percentage-based fee in place under Option 2. To enable flexibility in the future, however, we also recommend that the primary legislation establishing the regulatory system includes an empowering provision for fees to be based on a percentage of New Zealand-based GGR OR a flat fee. The Secretary of Internal Affairs would determine the exact level of any fee, be it a flat fee or a fee based on a percentage of a platform's New Zealand-based GGR.
88. While Option 1 minimises the risks of under or over-recovery, we consider that the risk of not filling 15 licenses and reducing competition during the establishment of the regulatory system to be more undesirable than the risk of under or over-recovery. Operating a regulated market for a number of years will give the Department a firmer understanding of these online platforms, and the Department will be in a better position to assess whether a flat fee structure is viable without negatively impacting competition amongst platforms.

Impact analysis

89. The cost recovery fees in this case will primarily impact up to 15 platforms wanting to operate in the regulated New Zealand online casino market. Note that an operator may operate more than one regulated platform in New Zealand under the proposed regulatory system, so the total number of impacted operators may be lower than 15.
90. Given that the market has been largely unregulated to date, new cost recovery fees charged to operators may represent a significant additional cost to them. We envision, however, that as long as fees are not so high as to cause platforms to exit the regulated market, any cost recovery fee would simply reduce the profitability of individual platforms without having any wider negative impacts on harm minimisation for NZ gamblers. It is possible that operators may choose to pass on regulatory costs (such as fees) to gamblers via lower/less likely payouts, but the likelihood and impact of this is difficult to quantify.
91. We believe that our proposed fees level for online casino platforms is reasonable. The Department has been cost recovering from land-based casinos for many years, and our proposed fees for online platforms are in line with what is currently charged to land-based operators. The table below provides a comparison between our proposed fees and the current fees for land-based casinos annually:

Description/Location	Amount
Land-based Casino Operator's Annual Fees	
Auckland	\$2,852,000
Hamilton	\$550,000
Christchurch	\$813,000
Dunedin	\$446,000
Queenstown Sky City	\$304,000
Queenstown wharf (now closed)	\$278,000
<i>Land-based Average</i>	\$873,833
Online Casino Platform's Annual Fees (Proposed)	
<i>Option 1 – Flat Fee</i>	9(2)(b)(ii)
<i>Option 2 – Percentage based on GGR</i> 9(2)(b)(ii)	9(2)(b)(ii)

Monitoring and evaluation

92. Cabinet has previously agreed to establish a new memorandum account to track the revenue and expenses associated with the operation of this new regulatory system. As with the Department's other memorandum accounts tracking third-party revenue and expenses, we will regularly monitor and evaluate the performance of this new memorandum account.
93. Further details on the monitoring approach can be found in the "How will the new arrangements be monitored, evaluated, and reviewed?" section of the RIS. This includes: a review that will be conducted within three years of operation, data monitoring of operators by the regulator, and monitoring gambling harm outcomes through the work of the Ministry of Health and Health New Zealand.

Review

94. In line with the Treasury's 'Guidelines for Setting Charges in the Public Sector', we intend to review this cost recovery regime at least every three years. Depending on whether the new memorandum account is trending away from zero, we may conduct fees reviews more regularly than every three years.
95. Any review will include the completion of new financial modelling to ensure that new fee levels are set to appropriately cost recover and facilitate the memorandum account trending towards zero over time. Proposed fee levels will be subject to targeted consultation before being agreed to by the Secretary of Internal Affairs.

Appendices

Appendix I - Glossary

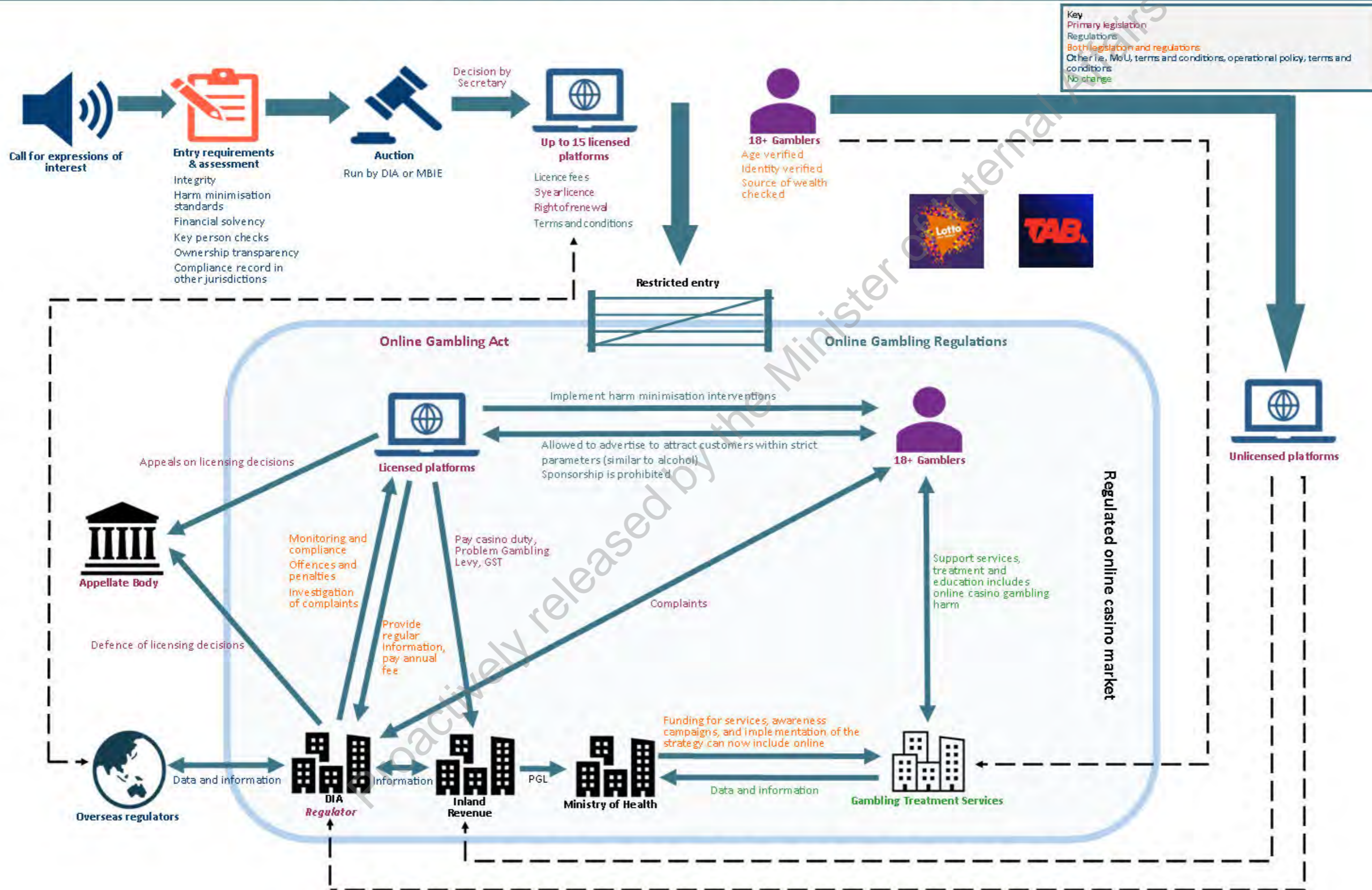
Term	Description
Black market	Operators who are offering online gambling illegally to people in a particular country but are not authorised to do so. Generally, this is because they do not have a licence and/or are offering a prohibited type of gambling.
Brand	Refers to a single website, app or brand, operated by an online gambling operator. Many operators own multiple brands or platforms. It helps operators distinguish themselves from all the other websites, apps, and brands.
Casino games	There are a range of types of online casino games, including slot games/pokies, poker, and roulette among others.
Class 1 and 2 gambling	Low-stake, low-risk gambling where the total prize pool is less than \$5,000 (e.g., raffles or prize competitions).
Class 3 gambling	Gambling (without an electronic gaming machine) where all the profits are allocated to an authorised purpose – generally used as fundraising by charities. Includes larger-scale lotteries and raffles, housie and instant games.
Class 4 gambling (pokies)	Any electronic gaming machines (pokies) operated outside a casino (i.e., pokies in pubs, clubs and TAB NZ venues).
Gambling harm	Harm or distress of any kind caused by a persons' gambling and includes personal, social, and economic harm suffered by any person or society at large.
Gambling help service providers	Organisations that offer support and treatment for harmful gambling.
Gaming machine profit	The amount paid into pokie machines, less total prizes paid out.
Gross gambling revenue (GGR)	A measure of how much people have lost through gambling and of an operator's profit. It is generally defined as the total amount of money bet/gambled minus the total amount of prizes.
Inducements	A reward or benefit that may be capable of persuading or encouraging a person to participate, or to participate frequently, in any gambling activity, including to open an account with an online casino operator.
New Zealand Lotteries Commission (trading as Lotto NZ)	An autonomous Crown entity. Lotto NZ has considerable day-to-day autonomy while Treasury monitors the Crown's interests as the owner of Lotto NZ. Lotto NZ offers a range of products: lotteries (Lotto, Powerball and Strike), instant games (scratch-based tickets and digital instant games of chance), and other daily games (Keno and Bullseye).
Offshore online gambling	Refers to remote interactive gambling, accessed and participated-in by someone in New Zealand but conducted by an operator outside

	New Zealand. This includes casino and non-casino products (such as sports and race wagering)
One-stop shop	An online gambling platform that offers multiple types of gambling – at a minimum both sports and race betting and casino games.
Online casino gambling	Refers to gambling that meets both definitions of remote interactive gambling and offshore online gambling, but is specific to casino games, and excludes lotteries and sports and race wagering; and is the form of gambling captured by Inland Revenues amendments to the Gaming Duties Act 1971. This currently is only legally provided by offshore providers. Domestic provision would require changes to the Act.
Operator	Operator refers to the operating company of online gambling brands/websites/platforms. One operator may run multiple gambling brands and websites, sometimes under single parent companies
Platform	Refers to a single website, app or brand, operated by an online gambling operator. Many operators own multiple brands or platforms. It helps operators distinguish themselves from all the other websites, apps, and brands.
Point of Consumption Charge (PoCC)	A charge established by the Racing Industry Act 2020 and set out in the Racing Industry (Offshore Betting - Consumption Charges) Regulations 2021. The PoCC applies to bets taken by offshore betting providers on sporting and racing events from persons resident in New Zealand. PoCC is currently set at 10% of gross betting revenue.
Pokies	Electronic Gaming Machines (EGMs), slot machines operating in pubs, clubs, TAB NZ venues and casinos.
Priority populations	Māori, Pacific peoples, communities living with high levels of deprivation, young people and people at risk of gambling harm or are currently experiencing gambling harm.
Problem gambler	A person whose gambling causes harm or may cause harm (see definition for gambling harm). This term is no longer used; however, it is still referred to in the Gambling Act 2003.
Problem gambling	Gambling that causes harm to the gambler, those connected to them or to communities, workplace or society at large.
Problem Gambling Levy (PGL)	The problem gambling levy recovers the costs of gambling harm services in New Zealand, public health initiatives, gambling research, and the of establishing and actioning the Strategy to Prevent and Minimise Gambling Harm. Since the levy was introduced, the only sectors that have been required to pay have been domestic casino operators, gaming machine operators, the Lotteries Commission (Lotto NZ) and TAB NZ. The levy is collected by Inland Revenue.
Remote interactive gambling	This is defined in the Gambling Act 2003 as gambling done by a person at a distance by interaction through a communication device.

Stakes	The prize money that can be won in a race by competitors (not to be confused with the amount a gambler can place as a bet).
TAB (operated by Entain)	Domestic operator of sports and race betting in New Zealand.
TAB New Zealand (TAB NZ)	The responsible entity for sports and race wagering in New Zealand.

Proactively released by the Minister of Internal Affairs

Proposed Online Casino Gambling Regulatory System



Regulatory Impact Statement: Online gambling regulatory design – RIS 1

Coversheet

Purpose of Document

Decision sought:	Analysis produced for the purpose of informing: Cabinet paper – report back on online casino gambling regulatory design
Advising agencies:	Department of Internal Affairs Te Tari Taiwhenua
Proposing Ministers:	Minister of Internal Affairs
Date finalised:	2 July 2024

Problem Definition

Online gambling services provided by offshore operators are not captured by New Zealand's current gambling regulatory regime. There is no regulator of these operators, and there are no mechanisms in the law to prevent gambling harm, protect consumers, or recover the costs of any regulatory activity. New Zealand's AML/CFT rules do not apply.

This gap in our law is of increasing importance as the popularity of casino gambling online grows. The advertising restrictions and the ban on domestic providers of online casino games that are in place are no longer working as intended since gambling activity is moving online.

Executive Summary

Online gambling is increasing in popularity.¹ This growth brings with it increasing gambling harm,² and makes the long-standing gaps in our consumer protection rules more important.³

Cabinet agreed in March 2024 to apply a 12% gaming duty to offshore online casino gambling providers from July this year. Cabinet also agreed in principle to establish a regulatory regime for online casino gambling to prevent and minimise gambling harm, protect consumers, and support tax collection. Cabinet's decision means any non-casino online products such as lotteries and sports and race wagering will not be captured by the regime.

Gambling is a legal form of entertainment, and most people gamble without experiencing any harm. However, for some no amount of gambling is safe. In New Zealand, more than 10,000 people sought help for gambling harm in 2022/23 and 183,000 people are estimated to have experienced at least one household-level harm event due to gambling

¹ [Te Whatu Ora Health New Zealand \(2020\) Health and Lifestyles Survey Kupe data explorer, Gambling. Release 5.4.1. Creative Commons Attribute license. Online gambling is increasing in popularity \(from 8,702 persons using overseas websites in 2010, to 132,340 persons in 2020\)](#)

² The Ministry of Health gambling intervention service data (2024). 435 persons presenting to gambling services for harm from online gambling in 2018/19 more than doubling to 941 in 2022/23

³ Regulatory Services (2024) complaints and investigations data.

(HLS, 2020).⁴ The lack of regulatory control over online casino gambling in New Zealand means that some people are not protected by the same harm minimisation tools as others and may not seek timely support. Regulating online casino gambling will give the Government tools to ensure that operators are conducting gambling in a safe and fair way for consumers, and to recover the costs of regulation from operators.

This Regulatory Impact Statement (RIS) compares the status quo (no regulation of online casino gambling provided from offshore) with two options:

- Option 2: a 'light touch' regulatory model that has no ex-ante assessment of operators, and sets no limit on their numbers. Apart from a requirement to register for tax and gaming duty, regulatory control would be ex-post, in response to complaints or evidence that operators were not meeting advertising prohibitions, or not complying with harm minimisation or consumer protection standards; and
- Option 3: a licensing-based regulatory approach, with a limited number of operators each with an authority to operate that could be revoked by the regulator. Operators would be assessed against relevant standards before being allowed to advertise or offer services. Unlicensed operators would be prohibited.

The Department of Internal Affairs (the Department) is recommending Option 3: a licensing-based approach that is similar to that in place for all other forms of gambling in New Zealand. Under this model, domestic advertising of online casino games would be legalised, within limits. This would enable licenced operators to attract or 'channel' customers away from unregulated operators towards their regulated platforms.⁵ In the Department's view, this approach is the most likely to deliver on Cabinet's objectives.

The status quo allows a very large number of operators to offer services, providing varying levels of harm prevention and consumer protection, and with no New Zealand regulatory oversight. Advertising, while banned domestically, is readily provided through online services. There are no harm minimisation or consumer protection standards for operators to meet, and no regulator resourced to check on operators' performance on these matters in any case.

Option 2, a light touch regulatory regime, risks a market where there are more operators than a regulator can meaningfully oversee. A lack of pre-qualification would limit the ability of the system to channel customers to safer providers and impact the standard of consumer protection. Option 2 also has no obvious funding mechanism for the regulator, potentially creating a cost burden for Government and eroding the revenue gathering benefits of the new Gambling Duty and the proposed regulatory regime.

Public consultation has not been conducted on the specifics of the proposals. However, consultation on regulating online gambling in 2019 showed strong support for regulating online gambling, with a focus on reducing harm. The Department intends to conduct further consultation on the proposals discussed here, but the pace of policy development required to establish a regulatory regime by mid-2026 (as the Minister has directed) will likely require a targeted consultation process rather than public consultation.

⁴ Household level harm denotes harm with consequences beyond the gambler and within a household, such as arguing about spend on gambling or inability to afford household essentials due to gambling losses.

⁵ Channelling refers to the proportion of total online gambling expenditure that is spent in the regulated market. It is used internationally as a measure of how successful regulation is at ensuring as many people as possible are gambling with comparatively safer licensed operators.

Limitations and Constraints on Analysis

Cabinet has limited the scope of the regime to online casino gambling

Cabinet's March decisions **focuses our analysis on the impacts of regulating online casino gambling only**. Therefore, sports and race wagering, lotteries, and novelty gambling types are excluded from the analysis. This poses little issue in the New Zealand market (Lotto NZ has a monopoly on lotteries, and TAB NZ has a monopoly on land-based sports and race wagering). But many operators and overseas regulatory regimes are based on 'one-stop-shop' models, which makes it harder to compare overseas data and evidence with the New Zealand situation.

The Minister of Internal Affairs has also directed the Department to achieve Cabinet's three objectives through channelling, while minimising total regulatory costs.

A lack of oversight and monitoring of online gambling affects the quality of the available evidence

New Zealand currently has no regulatory functions or oversight of online casino gambling, other than for advertising restrictions. The land-based gambling regulator (within the Department) receives some complaints regarding online casino gambling, but without broader oversight of the system, it is challenging to assess accurately how online casino gambling currently impacts New Zealanders. Aggregated data from Inland Revenue tells us that 36 offshore casino gambling operators pay GST and that 15 of them account for over 90% of the total GST from this type of business. This data implies that the total revenue from GST-compliant online casino operations offered in New Zealand is under \$300 million a year. Industry stakeholders have a variety of total market (including GST non-compliant operations) estimates higher than this.

We have limited information on current consumer protections (including harm minimisation) and outcomes for consumers. The health implications of online gambling have previously been monitored in the Health and Lifestyles Survey (HLS) conducted by Te Whatu Ora – Health New Zealand, but gambling behaviour and impacts have not been measured since 2020. The trends shown are relevant to this analysis but would be enhanced with more recent data.

In addition to being outdated, HLS data does not distinguish the platforms and products used. This limits our ability to predict how regulatory settings such as fee settings will influence operator demand for licences. There are more online casinos being frequented by people in New Zealand than the 36 that comply with tax obligations, but the scale of the entire market is unknown.

There is insufficient time for in-depth engagement on proposals

The Minister has indicated that she wants the new regulatory regime to be up and running in February 2026. **This limits the time available for developing a regime and limits the opportunities for public consultation.** The timeframe requires that draft legislation is ready for tabling in the House by early 2025, leaving insufficient time in 2024 for both detailed policy design and a full consultation process.

The proposals in this RIS have been subject to agency consultation but not public consultation. This means that no external groups or non-governmental organisations (such as those providing gambling harm services) have yet been engaged on the proposals in this document. **Feedback from public consultation on earlier proposals in 2019 has been reviewed, and while some of this information is still relevant, the material is**

generally out of date. Based on the results from the 2019 consultation, and ongoing engagement with various stakeholders, we expect there to be broad support for a licensing system for online casino gambling. But the lack of consultation on the details limits our cost-benefit analysis, and certainly limits evidence on distributional impacts and on the views of different groups (across communities, regions, ethnicities, deprivation). More detailed proposals for final advice later in 2024 will likely only be subject to targeted consultation due to time constraints. Consulted groups have yet to be determined, however, it is likely that will draw on subject matter expertise on the legislative requirements such as the Legislation Design and Advisory Committee, as well as gambling expert groups like the Problem Gambling Foundation and gambling operators.

We are confident, however, from the data and the analysis undertaken and from considering online gambling regulatory regimes in other jurisdictions, that the preferred option (a licensing model) is the best approach to address the issues presented by our current regulatory approach to online casino gambling.

Responsible Manager(s) (completed by relevant manager)

Hayden Glass
Acting General Manager
Policy Group
Department of Internal Affairs



2 July 2024

Quality Assurance (completed by QA panel)

Reviewing Agency: Department of Internal Affairs

Panel Assessment & Comment: The Department's Regulatory Impact Analysis (RIA) panel (the panel) has reviewed the Online Gambling Regulatory Design RIA (RIA) in accordance with the quality assurance criteria set out in the CabGuide.

The panel considers that the information and analysis summarised in the RIA partially meets the quality assurance criteria. The RIA makes sense and presents a convincing case for regulating offshore online casino gambling. There has been no consultation on the proposal, but targeted consultation is planned. The panel therefore considers that "consulted" requirement is partially met, and this means that the paper as a whole "partially meets" requirements.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Land-based gambling in New Zealand is regulated by the Government in order to reduce the risk of harm, protect consumers, and maximise the benefit to communities

1. New Zealand's current gambling regulatory regimes do not capture online casino gambling with offshore providers, while prohibiting domestic provision of most online gambling. As a result, there are no mechanisms available to monitor the online casino gambling industry, or to set and enforce industry standards that minimise gambling harm, protect consumers, support the Government's revenue gathering goals, or otherwise enforce compliance with New Zealand's laws, regulations and standards.
2. References in this document to 'online gambling' are subtly but critically different:
 - **Remote interactive gambling** is defined in the Gambling Act (2003) (the Act) as gambling done by a person at a distance by interaction through a communication device.
 - **Offshore online gambling** refers to remote interactive gambling, accessed and participated in by someone in New Zealand but conducted by an operator outside New Zealand. This includes casino and non-casino products (such as sports and race wagering).
 - **Online casino gambling** refers to gambling that is specific to casino games, excludes lotteries, sports and race wagering, and is the form of gambling captured by Inland Revenue's amendments to the Gaming Duties Act (1971). This currently is only legally provided by offshore providers. Domestic provision would require changes to the Act.
3. The document also makes distinction between 'operator' and 'platform':
 - **Operators** run multiple gambling brands and websites, sometimes under single parent companies.
 - **Platforms** are the brand or website customers access for gambling purposes. It is used in reference to the proposals covered in the corresponding Cabinet paper, which stipulates licensing 15 platforms. Further details on the operationalisation of platform licensing will be confirmed at a later date.
4. These and other terms are set out in a glossary at **Appendix I** (Page 35).
5. New Zealand's existing gambling regulatory regime is regulated across the Act and the Racing Industry Act 2020. The Act is based almost exclusively on land-based gambling options, and has purposes across the pillars of **reducing harm**, **community returns**, and **integrity**. These pillars underpin the regulatory mechanisms and processes that direct how gambling must be operated, equip regulators to uphold standards, ensure that profits from gambling are distributed back into communities, and provide oversight and monitoring for the various agencies involved.
6. This system treats different modes of gambling separately based on the risk (gambling harm, matters of integrity, and other social risks), popularity of the products, and the amounts of money available as prizes. The three highest risk/largest prize size options are operated through licensing-based regulatory regimes: **Class 3** (fundraising purpose with prizes exceeding NZD\$5,000), **Class 4** (gaming machines in pubs, clubs and some TAB venues – known as 'pokies') and **casinos**. The cost of these licensing and regulatory functions is recovered through licensing fees.
7. The Act sets regulation-making powers for the Minister of Internal Affairs and delegates some powers to the Secretary of Internal Affairs. Some of the regulatory oversight of casinos, including licensing, rests with the Gambling Commission (a permanent commission of inquiry). Regulation-making with respect to sports and race wagering

with TAB NZ, excluding TAB NZ's Class 4 operation, is set out in the Racing Industry Act.

8. The largest gambling sectors (Class 4, casinos, Lotto NZ, TAB NZ) each pay a problem gambling levy (PGL) and make returns to New Zealanders. The levy recovers the costs of gambling harm services in New Zealand, public health initiatives, gambling research, and developing and implementing the Strategy to Prevent and Minimise Gambling Harm led by Ministry of Health.⁶

The Act largely focuses on land-based gambling, however Lotto NZ and TAB NZ have domestic online product platforms

9. The Act's definition of "remote interactive gambling" (online gambling) excludes:
 - gambling operated by the Lotto NZ;
 - gambling authorised by the Racing Industry Act;
 - gambling by a person in New Zealand conducted by a gambling operator located outside of New Zealand; or
 - a sales promotion scheme that is in the form of a lottery and is conducted in New Zealand.
10. There is no domestic operator who is authorised to provide other types of online gambling, such as online casino games, which means New Zealanders look to offshore operators for these types of gambling. SkyCity and Christchurch Casino currently own and operate online casinos, but to comply with the current legislative framework these operations are based offshore.

Remote interactive (online) gambling is prohibited in New Zealand, but there is no mechanism to prohibit or regulate offshore providers

11. New Zealand is one of the few remaining OECD countries that does not regulate offshore online gambling.⁷ There are no restrictions on this offshore market or these operators, apart from prohibiting them from advertising. This prohibition has become less effective over time because the Act only restricts the publication of, or an arrangement to publish, advertisements (ads) in New Zealand.
12. Online advertising circumvents these definitions (ads are not "published" on offshore digital platforms) and New Zealand has limited jurisdictional reach or powers to enforce this prohibition internationally. As a result of increasing participation in the online 'borderless market', New Zealanders are frequently exposed to advertising for online gambling platforms that do not meet legislative definitions and breach prohibition. It is possible that advertising in these unrestricted grey areas contributes to increasing online casino gambling participation.

Some revenue gathering mechanisms exist, but the legislative framework results in an otherwise unregulated offshore online market

13. New Zealand currently has a largely unregulated market where offshore operators can provide gambling products to New Zealand with next to no restrictions other than advertising. Prior to July 2024 (when an online casino gaming duty comes into force), 36

⁶ [Strategy to Prevent and Minimise Gambling Harm 2022/23 to 2024/25 – Ministry of Health](#)

⁷ New Zealand and Japan are the only remaining OECD nations with no regulatory regime capturing online casino gambling.

offshore operators paid revenue to the New Zealand Government through GST (inclusive, set at roughly 13% of gross betting revenue (GBR)⁸ by Inland Revenue). Some operators contribute to the purposes of the Racing Industry Act by paying the point of consumption charge (PoCC) on bets take on sports and racing with parties that are not TAB NZ.⁹ However, none of these operators contribute to the PGL.¹⁰ From July 2024, Inland Revenue will collect a 12% gaming duty.¹¹ Inland Revenue produced a RIS on this policy in February 2024.¹²

14. The online gambling market is estimated to be between \$300 million and \$800 million dollars.¹³ Some operators already pay GST. Between 2016 (when GST collection began) and 2022/23, \$224.5 million has been collected. 93.8% was collected from 15 of 36 registered operators and 81.5% from 6 of those 15 operators. This market is growing, however we do not know by how much.
15. **Other than revenue gathering and advertising restrictions, there are no regulatory mechanisms applied to offshore online gambling operators.** There are currently no mechanisms to protect consumers from and prevent criminal activity through offshore online gambling, as with domestic gambling modes in New Zealand. For instance, casino and Class 4 operators are subject to requirements on:
 - what information must be displayed to gamblers;
 - game features and standards; and
 - monitoring/reporting to regulators.

The status quo: a lack of regulatory standards allows social harm from a growing industry

16. **Evidence on industry growth and harm point to a status quo of limited opportunity for intervention, negligible cost recovery and high social cost.** Financial data shows a growth in overall industry value, with consolidation among a minority of operators. However, without more disaggregated reporting, it is difficult to draw detailed connections between operator performance and outcomes for gamblers using those platforms and products. Existing data, while not from a coherent source of industry monitoring, is clear: online gambling is very popular with at-risk gamblers, unpopular with individuals who exhibit little risk or do not gamble, and is steadily increasing as a proportion of people presenting to gambling harm services.
17. Many online gambling operators have tools in place to identify and/or minimise gambling harm. These operators have significant expertise and experience with using these features. Key gaps in this approach are a lack of uniform standards across multiple providers, a lack of regulatory oversight of their implementation, and a siloed perspective that does not consider the impacts of varied approaches on gamblers (ie, differences

⁸ Gross betting revenue (GBR) is the total revenue to operators after paying out prizes to gamblers.

⁹ The PoCC is set at 10% of an offshore operators revenue from bets on sports and racing taken in New Zealand.

¹⁰ 2.5% of the PoCC charge is paid to the Ministry of Health to contribute to the Ministry's role in minimising the impacts of gambling harm in New Zealand.

¹¹ [Inland Revenue \(2024\) Offshore Gambling Duty, New Legislation – Special Report](#)

¹² [Regulatory Impact Statement: Online Casino Taxes \(21 February 2024\) Inland Revenue](#)

¹³ This is based on several sources, including Inland Revenue data from reporting by registered operators, and estimates from various interested groups such as online gambling providers

between users of different products, or outcomes for people using multiple platforms). For example, if operators impose wealth-based spend limits, how these do or do not consider gambler's use of multiple platforms is not clear.

There is a clear relationship between participation in online gambling and gambling harm

18. A small number of New Zealanders (estimated at 105,000 people in the HLS 2020) participate in offshore online gambling. This number has steadily increased from 2010 to 2020 (in 2010, it was estimated at 7,000 people). Offshore online gambling is more popular with individuals at risk of gambling harm, with 39% of offshore online gamblers in the HLS 2020 having a harm-measure score denoting some level of risk from low to problem gambler status. This popularity with at-risk gamblers exceeds that of Class 4 (New Zealand's highest risk land-based gambling).
19. Currently, the Act does not enable the Ministry of Health to collect the PGL from online operators. As a result, the majority of New Zealand's land-based gambling operators pay the costs of gambling harm services attributable to offshore online gambling. Left unaddressed, the increasing participation, harm and social costs are likely to continue.

What is the policy problem or opportunity?

20. Offshore online gambling is not captured by New Zealand's existing gambling legislation and regulatory regime, and there are no mechanisms to prevent and minimise gambling harm, protect consumers of offshore online gambling, and recover the costs of such regulatory mechanisms.
21. There are three key problems:
 - Online gambling is growing – the number of people participating in online gambling continues to increase year on year.
 - As a result, some gamblers are experiencing harm because of online gambling; this subset is a greater proportion of the than people experiencing harm from other forms of gambling in New Zealand.
 - The current legislation and regulatory regime are not built to respond. There are no mechanisms regulating the products provided by operators outside New Zealand and there is no oversight of consumer protections (such as ensuring operators are paying out winnings). Domestic provision is currently illegal.

The current legislation and regulatory regime are not built to respond

22. When the Gambling Act was introduced, it had considered some online gambling, but not the proliferation of thousands of online gambling sites available in today's market. People gambling online from New Zealand are gambling across a large number of operators, with widely varying standards of consumer protection and harm prevention, and no guarantees of fair and robust standards.
23. Previous consultation on regulating online gambling in 2019, showed strong support for regulatory settings that protect New Zealand consumers of online gambling products.

There are no mechanisms to prevent online gambling platforms using harmful products and features in the New Zealand market

24. The large number of operators with inconsistent standards of harm prevention and consumer protection means people in New Zealand are exposed to harmful features and products, with no recourse.
25. The Department receives complaints from online gambling consumers, but it does not have a mandate to act on these. A frequent complaint is when people are not able to withdraw winnings from online gambling platforms, resulting in serious financial losses that do not reflect the stakes made when gambling.
26. Without a legislative and regulatory mechanism to ensure standards of integrity and general compliance with New Zealand laws and standards, there is a vacuum in which activities such as money laundering and other financial crimes can occur.

There are no mechanisms to recover the costs from offshore operators for the harm caused

27. The proportion of people seeking help from gambling harm services for their gambling is increasing. Between 2019/20 and 2022/23 this figure increased from 551 to 941 persons. These figures cannot be compared to other types of gambling modes as gamblers list all types of gambling contributing to their help-seeking and these are equally weighted in the data.¹⁴ These services are funded by the PGL. The cost of these clients is currently covered by the PGL collected from land-based domestic gambling operators (paragraphs 18 & 19)

It is difficult to enforce advertising restrictions on online platforms

28. The Act makes it illegal to publish or arrange to publish advertisements for overseas gambling (which captures all online casino gambling currently) and has limited regulation-making provisions to limit certain advertising. The Act does not address sponsorship at all.
29. In recent years, advertising by offshore online gambling operators has become established in New Zealand. The current legislation does not define 'publish' sufficiently to capture modern forms of advertising. Further, the internet's borderless nature means people in New Zealand are occupying online spaces that are not operated in or regulated by New Zealand.

Regulating online casino gambling also presents opportunities

30. Regulating online gambling presents opportunities to change this status quo:

¹⁴ [Gambling harm intervention services data \(2024\) Te Manatu Hauora the Ministry of Health](#)

- Ensuring that New Zealand consumers who use online casino products have the confidence that they can do so on platforms vetted and monitored by the Government.
- Implementing restrictions that balance the need to provide robust protections while also ensuring an attractive market of regulated platforms for consumers.
- Bringing New Zealand into line with the rest of the OECD (excluding Japan) who regulate online gambling in some fashion.

Assumptions, risks, and uncertainties

31. We have made the following assumptions in our analysis. While they are based on the available evidence, there is uncertainty around the online gambling market, including its size and the level of harm it is causing.

- **The number of New Zealanders participating in online gambling will continue to increase over time**, as will the size of the market. Global and domestic trends support this assumption.
- **An increase in participation in online gambling will have a corresponding increase in harm**. Both increasing participation and higher spends on online gambling are likely to lead to a greater proportion of harm as gambling online is an inherently risky activity, for some.
- **People will continue to participate in online gambling with offshore operators and stopping individuals from using offshore gambling platforms is not an effective solution**. International evidence shows this is ineffective. Such approaches also carry human rights and public health risks.
- **Government regulation is an effective mechanism for reducing harm from gambling**, as enforced evidence-based approaches to harm minimisation provide a safer overall market.
- **A broad regulated market can encourage gamblers to gamble in safer online settings**. A broad range of choice of operators and platforms, with a competitive market of odds on offer can encourage people to stay within regulated markets (and enable channelling) compared to restrictive markets which may drive customers to unregulated operators.
- **A black market will remain in New Zealand**. Many operators will leave the New Zealand market rather than operate illegally due to the risk of losing their license in other more profitable jurisdictions. Enforcement tools will assist in driving others out of the market. However, it is likely that a black market will remain.
- **Any harm from advertising will be outweighed by enforceable harm reduction measures**. Allowing some advertising by operators will support channelling to regulated markets, keeping players in safer online settings. The higher standards of a regulated market (including rules on advertising and harm reduction on online gambling platforms) will reduce the overall burden of harm.
- **Requiring offshore operators to contribute to community funding will reduce the impact of any new regime**. Evidence from overseas has seen operators pull out of markets to protect their profits when their operating costs are increased by tax and duty changes. The 12% gaming duty combined with 13% GST makes New Zealand one of the highest taxing jurisdictions.

32. There are also risks in the proposal to regulate the online gambling market:

- **Regulating the market may encourage people residing in New Zealand to take up online gambling**. If regulated operators are considered more trustworthy than currently, and can promote themselves more effectively, this may result in an increase in participation and an increase in overall harm from

online gambling. Furthermore, if a shift to online gambling on offshore operators results in a move away from other forms of gambling like TAB NZ or Lotto NZ, there could be a negative impact on current community funding streams.

- If a larger and more successful black market remains than currently anticipated, **harm minimisation measures in the regulated market may not be as successful as intended** in reducing the overall harm from online gambling. Designing a market that is as appealing to consumers as possible is key to reducing this risk.
- **Harm minimisation and market channelling requirements may be a delicate balancing act.** Some harm minimisation features may detract from the market appeal and channelling. Conversely, focusing on achieving a high channelling rate may result in diluted harm minimisation settings and more harm. This would be especially complex if regulated parties exert influence on the system and settings.

What objectives are sought in relation to the policy problem?

33. Cabinet has set three key objectives for the establishment of a new gambling regime:
 - prevent and minimise the harm caused by online casino gambling;
 - protect consumers of online casino gambling; and
 - support tax (GST and gaming duty) collection.¹⁵
34. The Minister of Internal Affairs has asked that we meet Cabinet's goals:
 - by maximising channelling of consumers into the regulated market, and
 - without aiming to growing gambling activity overall,
 - subject to ensuring that total regulatory costs are reasonable.
35. The design will also need to be legally defensible. New Zealand's international obligations, and requirements around anti-money laundering and countering of financing of terrorism (AMLCFT) are particularly important.

¹⁵ The Minister for Internal Affairs has stipulated that supporting tax collection does not equate to increasing the amount returned through supporting industry growth. This implies the objective falls into maximising channelling of existing gambling and industry compliance.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

36. Analysis criteria for the new regulatory regime are shown below. Preventing and minimising harm from gambling is double weighted. This reflects both the high priority of this objective and its inter-dependence with the other objectives of the system. For instance, any design element aimed at supporting tax collection should not do so through any mechanism that is also likely to increase harm from gambling.
37. Cabinet's decisions relate specifically and only to online casino gambling. In the current context this definition applies only to offshore operators (see paragraphs 2 and 9).

Criteria	
Supports tax and gaming duty collection	<p>Does the regulatory regime result in settings that enable GST and gaming duty collection ability for the Government?</p> <p>Does the regime achieve effective channelling, maximising the proportion of total online casino gambling revenue earned by regulated operators?</p>
Prevents and minimises harm (double weighted)	<p>Does the regulatory regime effectively impose standards that require the prevention, identification and minimisation of gambling harm from online casino gambling?</p> <p>Does the regime result in online operators fairly contributing to the cost recovery of problem gambling services in New Zealand?</p> <p>Do the mechanisms of the regulatory regime equitably address harm prevention and minimisation? Including for priority populations such as people living with disabilities, Māori, Pacific people, young people, etc.</p>
Protects consumers of online gambling	<p>Does the regulatory regime ensure that the operators of online casino gambling in New Zealand are reputable and complying with all relevant rules and standards? Do people gambling in New Zealand have confidence in the products they are using?</p> <p>Does the regulatory regime ensure that providers of online casino gambling to people in New Zealand are providing products in line with the consumer protections, minimum guarantees, and standards otherwise applied in New Zealand? Do the settings ensure that consumers can have confidence in the fairness and security of products, and the good faith of operators?</p>
Legally defensible	<p>Does a regulatory regime and licensing approach comply with New Zealand's international trade obligations, and other relevant commitments such as anti-money laundering and countering of financing of terrorism? Are the standards and limitations we introduce either compliant with or</p>

	reasonably justified limitations on rights for the Government to set (eg, Bill of Rights Act (1990))?
Future proof and flexible	Is the regulatory regime designed in such a way that the objectives can continue to be achieved, processes optimised, system changes responded to, and burdens reduced without insurmountable barriers?
Reasonable regulatory cost	Does the regulatory regime achieve its objectives with reasonable cost to regulator and business compared to the status quo.

What scope will options be considered within?

38. This RIS is the first of two. It considers the broad design of the system. The second will consider the detailed policy design alongside final Cabinet decisions with draft instructions.

In scope

39. Cabinet's decision limit the scope to a regulatory regime for online casino gambling. This means that **casino type games delivered via an online digital platform are in scope**, and alternative betting products delivered online, including sports and race wagering, and the products Lotto NZ provides are excluded.
40. **Both amending the Act and establishing new legislation are in scope.** There are risks and benefits to both approaches and these will be analysed further in a second RIS later in 2024, in line with Cabinet decisions. In either instance, amendments to the Act will be necessary.

Out of scope

41. **Changes to Lotto NZ and TAB NZ are out of scope.** There may be regulatory settings that influence these organisations, however online casino operators will not be licensed to provide lotteries or sports and race wagering.
42. **Non-regulatory options are out of scope.** Non-regulatory options, like education of gamblers or of operators, are unlikely to delivery materially different outcomes to the ineffective status quo. Effectively meeting the objectives set out by Cabinet will require a system to ensure that only operators that meet requirements can operate in New Zealand, and enforcement mechanisms to uphold those requirements.
43. **Complete prohibition is out of scope.** The Government has made the decision to collect revenue from online gambling and made an in-principle decision to regulate.
44. **Monopolising online casino gambling (reflecting Lotto NZ and TAB NZ models) is out of scope.** This could breach international trade obligations and international evidence shows that a monopoly would struggle to achieve higher channelling rates.¹⁶

¹⁶ Finland implemented a state monopoly system for online gambling in 2017. [They saw the market share that the monopoly held \(or the amount of gamblers being channelled to the operator\) steadily reduce over the years from 87% in 2017 down to 52% in the most recent statistics.](#) They have now decided to re-regulate the

45. **Other regulatory models are out of scope** as these have been previously considered and discounted: operator self-regulation or co-regulation, whitelisting or accreditation of operators based on approval in other jurisdictions, Crown-operator agreements with individual gambling firms, and approval of individual operators through regulation or primary legislation.

What options are being considered?

46. Within the scope parameters above, the options put forward for analysis are outlined below. These have some similarities to existing approaches in land-based gambling regulation.

Option	Description
Options One – status quo	Offshore operators remain excluded from the definition of <i>Remote Interactive Gambling</i> and operate without restrictions or oversight except a ban on domestic advertising and a requirement to register for and pay GST and gaming duty.
Option Two – light touch regulation of broadly open market	Light touch regulatory regime, with no pre-assessment of operators and an unlimited number of platforms (including domestic operators), but some requirements on operators and some enforcement tools. Comparable to current approach for Class 1 and 2 gambling.
Option Three – Limited competitive licensing regime (officials' preferred option)	Licensing based regulatory regime, with unlicensed operators banned, robust oversight, clear penalties for breach of licence and regulations, and a limited number of platforms. Comparable to current approach for Class 4 and casino gambling.

Option One – Status Quo / Counterfactual

47. Currently, online gambling with offshore online operators is not illegal because it is excluded from the definition of “remote interactive gambling” in the Act. Nor is explicitly authorised. There are 36 operators paying GST, and a newly introduced 12% gaming duty on revenue from online casino games. The size of the non-GST compliant market is unknown. The industry is growing in popularity and value, but the scale and rate is difficult to measure. Harm from online offshore online gambling is substantial compared to other forms of gambling and is increasing.
48. Over the 10 years preceding 2019, New Zealanders accessed thousands of offshore gambling websites. This figure is likely much lower at any given point (websites cease operating, consolidate, etc), and there is evidence that most gambling activity happens with a relatively small number of operators. But there is clear evidence of harms relative to Cabinet’s objectives:

online gambling market and introduce licenses to outside providers. This move follows developments in other European countries where gambling monopolies have been dissolved and online markets opened to competition.

- Multiple operators accept bets from people in New Zealand but refuse to pay out winnings based on player locality.
 - Many offshore operators advertise bonuses but won't allow people to draw out winnings from bonus bets based on a variety of unadvertised conditions.
 - Many will not utilise harm prevention tools on their platforms to ensure their products are not causing gambling harm.
49. There are no regulations nor any oversight into such operators to prevent disreputable participation in the market. There are advertising restrictions, however these are diluted by modern advertising modes that circumvent New Zealand's legislation and restrictions.

Criteria	Analysis
Supports tax and duty collection	Requirement to register and report earning to Inland Revenue and pay GST on earnings, and (from July 2024) pay 12% gaming duty on online casino product earnings. IR has been allocated some funding for enforcement, but without any regulatory settings that provide oversight of the sector, verifying earnings reporting, and estimating the size of the black market will be challenging.
Prevents and minimises harm from gambling (x2)	Some operators provide harm prevention and minimisation tools to consumers. These are not consistently provided and are done so with no oversight of their application. There is no funding for regulatory activity beyond the advertising ban. Operators do not contribute to the Problem Gambling Levy that funds harm reduction activities.
Protects consumers	There are no mandated protections for consumers. Many operators provide their products in a manner that meets certain standards, but others do not. Consumers have no way to know who is a reputable provider, or whether protections are uniformly provided.
Legally defensible	The status quo has no legal provisions that apply to providers based outside New Zealand. It is possible that the lack of requirements on operators with respect to AMLCFT rules may have reputational risk for New Zealand.
Future proof and flexible	Without a regulatory framework in place, there are no tools to assess.
Reasonable regulatory cost	There are few regulatory costs associated with the status quo.

Option Two – light touch regulation of broadly open market

50. This option combines no limitation on the number of approved platforms, with a lighter touch regulatory regime which reflects existing Class 1 and 2 gambling¹⁷ under the Act.

¹⁷ Classes 1 and 2 reflect low prize value and low risk gambling. Class 1 (<\$500 prize value) and must be non-profit. Class 2 (<\$5,000) prize value) and must be run by a society and fund only authorised purposes. Neither option requires a license.

This approach would not require operators to have a pre-approved license before they can offer services. There would be rules for operators, eg, for age verification, and harm minimisation, and some enforcement for breaches of requirements, which might be evidenced by complaints or as a result of regulator investigations.

Regulatory feature

Settings: option two

Authority to operate	Not required – register and report with regulatory body and Inland Revenue.
Number of platforms	Unlimited (or limited only by compliance with some requirements).
Enforcement	Light touch enforcement approach focusing on the highest risk operators; conditions set and enforced generally in reaction to complaints. Limited ability to prevent operators participating in the market.
Regulatory cost	Low, since limited oversight and reactive regulatory stance keeps costs down. Costs would be recovered, however with limited oversight and lack of pre-authorisation there is risk of non-compliance. Small, offshore, non-compliant operators could consume an outsized proportion of regulatory resources.
Legislative approach	Simplicity of design would make it easier to add the new regulatory regime to existing legislation; but could also be set in new legislation
Advertising	Advertising would be likely be completely prohibited. A high volume of operators/platforms in conjunction with a light touch and low cost regulatory regime would pose an unacceptable risk of high volume, high risk advertising environment with limited ability to mitigate through regulatory enforcement – except in significant breaches.
Entity for regulator	Department of Internal Affairs as regulator.
Appeals	Gambling Commission OR High Court.

51. Option two would likely not meet the objectives set out. A large number of platforms becomes increasingly complex and costly to monitor and regulate – even in a light touch regulatory model.
52. It is probable that option two would improve consumer protection and harm prevention standards on the whole. With limited enforcement tools, and resource pressures with a larger number of platforms however, it would be unlikely to achieve uniform standards. In addition, without sufficient enforcement tools such as penalties or license revocation, there would be only minimal ways to incentivise and influence operator performance.
53. If advertising is allowed under option two, it would be challenging for consumers to identify advertisements from the safer or least-safe providers. Conversely, there would be limited ability to influence advertising standards or prevent harmful inducements to gamble. This ambiguity would make it very difficult for consumers to distinguish regulated

operators from black market operators. Option two would likely need to prohibit online gambling entirely.

Criteria	Analysis
Supports tax and duty collection	Large number of providers would make it complicated for consumers to distinguish providers and advertising from reputable operators, from black market providers. Limited ability to monitor and influence these aspects of operation is likely to result in attrition to black market operations that do not pay tax and duties in New Zealand.
Prevents and minimises harm from gambling (x2)	Ability to create standards of harm prevention and consumer protections, with limited enforcement ability. Possible to have minimal tools – however, without the option to revoke licences, this is very limited. Similarly to above, difficult to ensure consumers are in the regulated market. This option would not deviate significantly from the status quo with respect to the risk of harm and consumer rights.
Protects consumers	
Legally defensible	Complies with international trade obligations around fair opportunity in the market. Feasible to ensure reporting could include AMLCFT reporting requirements.
Future proof and flexible	Light touch regulatory approaches do not preclude changes to the regime downstream, but would likely require legislative change and significant resource, so this only partially meets this objective.
Reasonable regulatory cost	Costs depend on the level of oversight and the level of non-compliance, but a light touch regulatory regime would be lower cost than a licensing regime.

Option Three – Limited competitive licensing regime (corresponding with rest of gambling system in New Zealand) (officials' preferred option)

54. A regulatory regime with a limited number of platforms licensed to operate online casino gambling in New Zealand. This approach would limit the number of operators, require them to hold a license with specific conditions, and have requirements enforced across a range of tools by a regulator.

Regulatory feature	Settings: option three
Authority to operate	Conditional time-limited license.
Number of platforms	Analysis has identified about 12 platforms as the optimum number to promote licensing and diversity of options for gamblers while limiting regulatory costs.
Enforcement	Regulatory enforcement approaches across a range of compliance elements. Cost restraints likely require some risk-based enforcement approaches.

Regulatory cost	Moderate.
Legislative approach	A more complex regime with a wide spectrum of enforcement and other requirements poses a risk of inadvertent outcomes if built in the Act (particularly with a limited timeframe for development). A separate online casino gambling bill is proposed.
Advertising	Operators can advertise (supporting channelling) within limitations set through the regulatory regime and can have this modified or revoked through license conditions.
Entity for regulator	Department of Internal Affairs.
Appeals	High Court.

55. Option three meets the objectives of the system more effectively than option two through two key mechanisms: it limits the number of platforms and requires them to secure a license to operate in New Zealand before offering services.
56. By limiting the number of platforms, we ensure that there is a clear boundary for consumers to gamble within. This should make licensed regulators clear to consumers, and therefore who the Government has ensured has the harm prevention and consumer protections to safely provide online casino products to people in New Zealand.
57. Further, by licensing operators to provide products, the Government retains a contractual arrangement with each operator. Operators would be required to meet certain conditions and comply with stipulated laws, rules, and standards. In the event that these operators do not comply and other enforcement mechanism don't work, the Government would be able to revoke a license and exit that operator from the regulated market.
58. A licence-based regime has additional benefits. It increases the value of the market for operators, further encouraging compliance and quality products. It would allow the small number of operators in the market to advertise and retain the market. Setting the market to 12 licenses balances the criteria of minimal regulatory costs with the need to have a diverse and appealing regulated market that can compete with the black market. Evidence indicates that significantly more licensed platforms would add regulatory burden to the regime (e.g., regulated a high number of advertiser content) for minimal return on providing a diverse and attractive market to channel consumers to the regulated market over the preferred 12 platforms.

Criteria	Analysis
Supports tax and duty collection	Licensing approach generates an appealing market and provides surety to consumers and to operators. The result is a higher channelling rate than the status quo, capturing online casino gambling revenue and taxation most effectively.
Prevents and minimises harm	A licensing approach maximises the proportion of gamblers using online products in a regulated market, and provides regulators the greatest ability to ensure products meet necessary standards through

from gambling (x2)	penalties such as financial penalties and revocation of licenses. This option maximises harm prevention outcomes.
Protects consumers	Similarly, option three will see a greater majority of consumers in the regulated market and provides the greatest compliance assurance in a market that will be held to standards by enforcement tools such as financial penalties and revocation of licenses.
Legally defensible	Domestic regulatory requirements can be enforced without breaching international obligations such as trade agreements. Possibly some additional measures may be necessary to prevent inadvertent breaches however this is manageable and low risk. This option maximises the ability to enforce AML/CFT compliance requirements.
Future proof and flexible	By ensuring regulation-making provisions stipulate sufficient oversight and regulation-marking range, a licensing regime maximises the ability for the regulator to respond to market changes.
Reasonable regulatory cost	More expensive than option two, but with options to reduce regulatory costs, and 100% cost recovery through fees charged to operators.

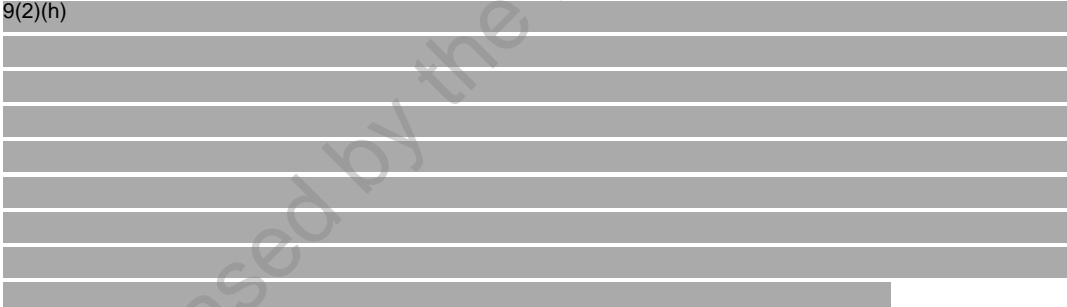
How do the options compare to the status quo/counterfactual?

Example key for qualitative judgements:	
++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

	Option One – Status Quo	Option Two – Non-licensing regime: light touch regulation of open market	Option three – Licensing regime of limited competitive market
Supports tax and duty collection	0	Would not support revenue gathering outcome: GST and gaming duty would apply, however monitoring and enforcing across a large number of operators and with limited enforcement tools would not support effective collection through register and report only approach. Ensuring gambling occurs in the registered market (channelling) is more difficult, increasing leakage to non-compliant operators. --	This approach maximises the proportion of gamblers in the regulated tax-paying market: minimising gambling that does not contribute to GST and gaming duty, while providing constraints to the system to prevent it becoming un-regulatable. ++
Prevents and minimises harm from gambling (x2)	0	Limited ability to reduce harm: with insufficient tools empowering regulators to enforce standards and reporting requirements, and with a high number of operators; a lighter touch regulatory approach is going to be less able to prevent harm. Reducing the impact of harm done will depend on ability to impose the problem gambling levy. --	Maximises potential to reduce harm: with a range of enforcement tools that cover a spectrum of regulatory approaches, and a manageable number of licensees, ability to prevent harm is optimised and maximised. ++++
Protects consumers	0	More limited ability to enforce New Zealand’s consumer protection standards: New Zealand cannot require operators to have onshore operations. Regulators might struggle to enforce local consumer laws with offshore firms, especially relative to more rigorous enforcement tools enabled by a licensing regime. -	Maximises ability to impose consumer protection standards through regulatory conditions on licenses: by regulating with a license model, regulators will have the option to build in consumer protection standards reflecting New Zealand’s legislative system through license-conditions, and without requiring onshoring. ++
Legally defensible	0	Likely to comply with international trade agreements: option reduces regulatory hurdles and opportunity for domestic advantage. Does not prevent Government from ensuring compliance with domestic legislation binding the Crown (eg, Bill of Rights Act). ++	Regulatory requirements enforceable without breaching commitments: regulatory requirements can be enforced on international operators without requiring businesses to onshore in New Zealand or any other participatory hurdles that would advantage a domestic operator. Some risk-management of international trade obligations is required (to prevent inadvertent domestic advantage) in implementation of the regulatory regime, with corresponding resource requirements. Does not prevent Government from ensuring compliance with domestic legislation binding the Crown. +
Future proof and flexible	0	Responding to changes in the online gambling market remains possible but more complex: taking a light touch approach with minimal regulatory enforcement and light touch monitoring means that more options remain open to the Government in the face of market changes, only with potentially greater hurdles including primary legislative processes to create powers. +	Maximises use of initial legislative process to create a strong and flexible regime: by designing legislation with robust but flexible regulation-making provisions and adequately distributing secondary-legislation making powers, a regulatory regime will be equipped to respond to changes in the market promptly and effectively. ++
Reasonable regulatory cost	0	Minimises regulatory costs for gambling operators: this option is the likely close to the lowest regulatory cost for operators. Monitoring would be minimal and low-cost. Most burden is likely to arise at the penalty end of the regime. ++	Some capacity to reduce regulatory cost and built in cost recovery: option two retains flexibility in design to ensure regulatory costs are reasonable. Small licensed market model also gives operators greater market opportunity, offsetting regulatory burden. All regulatory cost for Government recovered through fees including license fees. Auction of licenses will offset initial regulatory costs of new regime. Risk based enforcement regime minimises costs and fees. +
Overall assessment	0	Poor – Minimises regulatory burden but at significant loss to Cabinet priorities and consumers, with complex path to future amendments. Somewhat better than status quo. -: 5 +: 5	Good – Maximises outcomes on Cabinet’s priorities and provides a flexible regulatory regime with ability to meet market changes and adjust regulatory settings. Much better than status quo. +: 12

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Option three achieves the optimal trade-offs for a new regulatory regime

59. Option three includes the optimal regulatory settings when considered against Cabinet's system objectives:
- This option enables channelling through advertising and market diversity and competition, while also giving the Government levers and controls to prevent an unrestrained gambling system.
 - It would set harm prevention and consumer protection standards and crucially the tools to enforce them.
 - Importantly, it would balance regulatory cost with a risk-based enforcement approach to minimise costs for operators and a cost recovery model for a neutral cost to Government.
60. It may seem counterintuitive that a licensing and regulating model would support the Government's revenue gathering goals, however we expect this to be the case. Such an approach would enable licenced operators to advertise (both standardising rules, and normalising advertising media), thus channelling consumers toward their platforms and products and away from unregulated and untaxed black-market operators. Inland Revenue's analysis indicates this will **raise \$10 to \$13 million more in revenue per annum**, when compared to a taxation-only approach. In this regard, option two is similar to the status quo, and would distribute gambling participation more broadly – making it difficult to prevent leakage to unregistered operations with loss of revenue.
61. 9(2)(h)
- 

How does option three compare to other jurisdictions' licensing regimes?

62. Licensing is a generally standard approach to regulating online gambling. It provides the greatest breadth of tools and the most confidence to Governments of being able to execute their authority over regulated parties when breaches of compliance are found. All other OECD nations (excluding Japan) regulate online gambling through a license-based regulatory regime. There are some differences throughout these regimes, and these are largely driven by differences in objectives. Evidence on the success and failings of these regimes demonstrates that the proposals here take an evidence-based middle-road.
63. Finland implemented a state monopoly system for online gambling in 2017. They saw the market share that the monopoly held (or the amount of gamblers being channelled to the operator) steadily reduce over the years from 87% in 2017 down to 52% in the most recent statistics. Finland's Competition and Consumer Authority had concluded that

the model had failed in preventing gambling with unregulated operators and failed in minimising the negative affects of the products.¹⁸

64. Conversely, the United Kingdom has a complex and large-scale licensing model. It does not limit the number of licenses issued. The industry is worth £14.2 billion – however this has come with growing evidence of harm and pressure to address regulatory gaps. The UK Gambling Commission’s 2023 advice to Government on reforms to its Gambling Act 2005 notes the regulatory actions taken in lead up to the advice including; revoking 10 licenses, issuing £100 million in penalty actions, as well as introducing broad suites of requirements on harmful features such as VIP programmes. This advice also noted the need for significant investment and greater flexibility of resources for the regulator. New Zealand is a comparably smaller population and market; and would struggle to resource a regulator to reverse widespread harm in an equally large or lightly regulated market.
65. These examples demonstrate the value in the proposed licensing regime including clear restrictions products and platforms, a focus on channelling with a diverse and appealing market, and the need to maintain a manageable market for fiscally constrained regulatory operations.

Option three is likely to maximise stakeholder support

66. Regulation has previously received wide support from consumers, gambling harm service organisations, and online gambling operators.
67. Online operators have indicated they are in favour of a licensing regime. This provides them confidence both here in New Zealand, and abroad. These operators are licensed in multiple jurisdictions and many of these regimes require them to be compliant in other jurisdictions. Option three achieves the Government’s objectives and is likely to provide certainty for their other licensed operations through a clear licensing regime.
68. New Zealand’s domestic operators have been covering the costs of gambling harm attributable to online casino gambling as calculated through the PGL process for years, which has been raised as an issue for consideration for any online gambling regulatory settings for some time. Bringing online casino operators into the regulated system and imposing the levy would redistribute this cost more fairly.
69. Problem gambling service providers have also long advocated for changes to the legislative and regulatory settings to enable effective responses to what can, for some, be a dangerous activity.
70. An effective regulatory regime is the best tool to shift distributional impacts of gambling.
71. The first two sections of this document summarised current settings (the status quo) that demonstrate three key points with respect to distributional impacts:
 - without a coherent and continuous monitoring mechanism, **understanding gambling behaviour and applying it to policy decisions is complex** and less effective;
 - without standardisation and enforcement of prevention tools (ie, only having a standard of minimisation at the treatment end of the harm journey) **gambling**

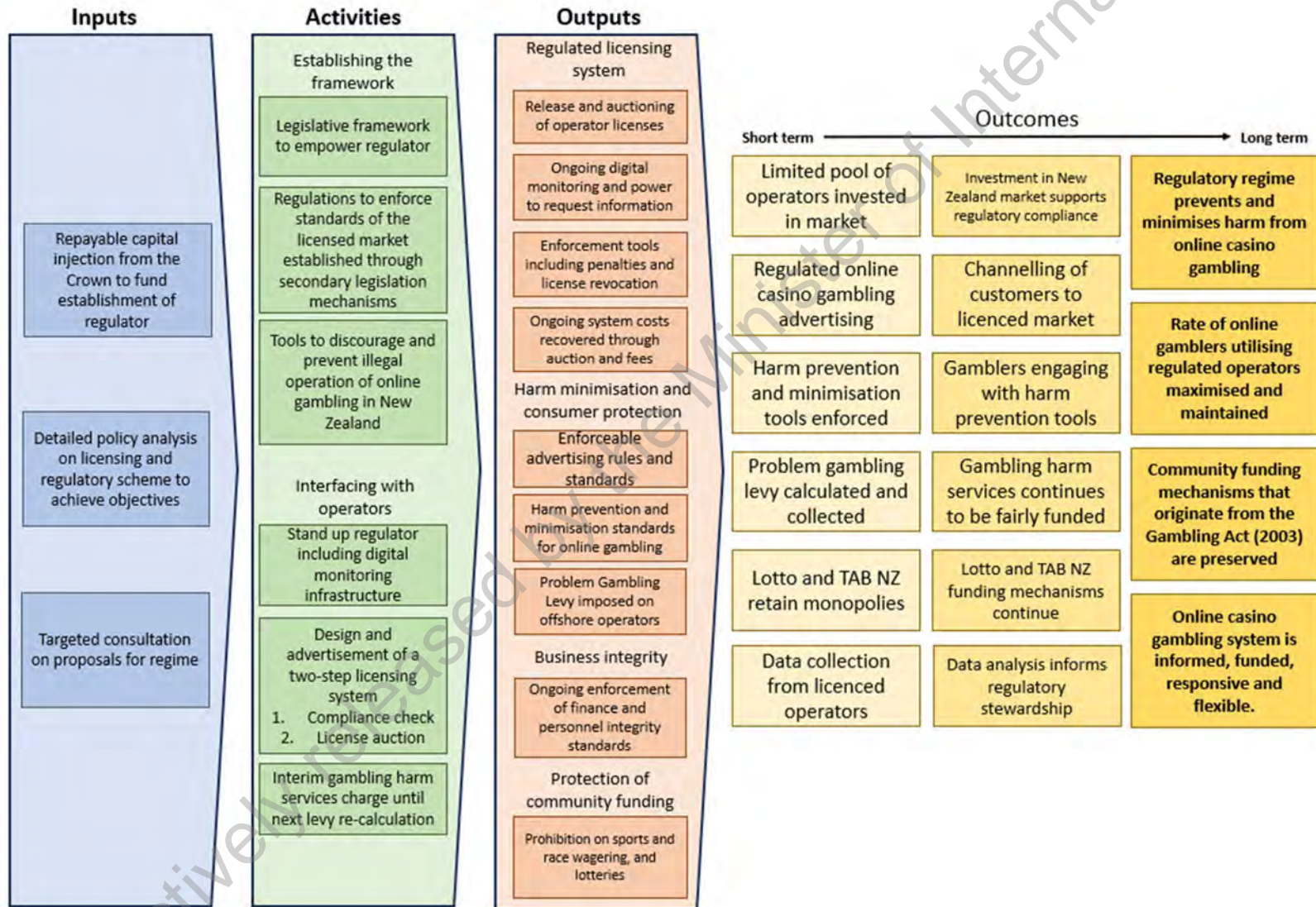
¹⁸ [Finland moves away from gambling monopoly. 2026 will be the year of change for Finnish gambling. Times Malta. 2024.](#)

harm is growing, and disproportionately participated-in by people who experience gambling harm; and

- **this results in a distribution of gambling harm that impacts priority populations more than the general population.**

72. Effective regulatory settings applied uniformly to all licensed online casino gambling providers, combined with enforcement tools and settings that channel consumers to that market is the most effective way to reduce the impact of gambling harm.
73. One such setting is age limits. Currently, Class 4 (pubs, clubs and some TAB NZ venues) is limited to people over 18 years of age to match the alcohol licensing of those venues. Land-based casinos are limited to people over 20 years of age. One proposal for online casino gambling is for an 18+ limit with additional spend controls for people under 25. This will have additional monitoring and evaluation requirements to ensure it achieves the intended outcome of preventing harm for young people, without increasing costs to operators and reducing the value of the licence. This, or any similar approach to age limits, would also need to be well justified if found to be rights-limiting under the Bill of Rights Act 1990.

Figure 1 - Intervention logic of proposed regulatory regime (option three)



What are the marginal costs and benefits of the option?

Affected groups (identify)	Comment nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.	Evidence Certainty High, medium, or low, and explain reasoning in comment column.
Additional costs of the preferred option compared to taking no action			
Regulated groups	Auction cost	Medium. Likely in millions, however low in proportion to likely profit	Low
	Regulatory fees Figures pending final regulatory design decisions, including number of licences distributed. Assumes standard fee rate rather than proportional rate.	9(2)(b)(ii)	Medium
	Problem gambling levy	Low	High – calculation for PGL is legislated and certain
Regulators	Year to year operating costs of licensing and regulating sector. Costs 100% recovered through fees	TBC following decisions and design.	Medium – costing uncertain, however 100% recovered.
Others (eg, wider govt, consumers, etc.)	Government – Initial Licensing system establishment costs. One off Repayable Capital Injection to DIA (100% recoverable through fees outlined above)	9(2)(b)(ii)	Medium; costings to be developed further along with detailed policy development
	Online gamblers – fewer options of platforms to gamble on	Low	Low
	Gambling harm service providers – harm from online gambling currently recovered from regulated providers. No financial change.	Nominal to medium	Low

	If regime impacts participation/harm rates, some possible increase in resource requirements.		
Total monetised costs		9(2)(b)(ii)	Low – this counts fees on operators and government outlay. However fees will replay out outlay, so this figure effectively counts the same costs twice
Non-monetised costs		Low-medium	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Likely increase in GBR through consolidation to 12 platforms	Medium	Medium
Regulators	Greatly improved ability to enforce standards/recover costs	High	Medium
Others (eg, wider govt, consumers, etc.)	Government: tax revenue. Maximises the estimated revenue from gaming duty by (estimates 4 outyears averaged)	\$12m pa	Medium – estimates were conservative
	Domestic gambling operators Reduced PGL due to no longer covering funding gap attributed to online gambling	Low	High
	People, whānau, and communities living with gambling harm. Greater regulatory influence to interrupt drivers of harm and consequences.	High	Medium
Total monetised benefits		\$12m pa (estimate over four years)	high
Non-monetised benefits		Medium-high	medium

Section 3: Delivering an option

How will the new arrangements be implemented?

This RIS is for high-level decisions for the design of a licensing scheme

74. This RIS addresses the high-level design of a licensing scheme for online casino gambling. Many of the details of the regulatory regime are to be worked out and addressed in a second RIS later in 2024. The broad design of the system is outlined in Figure 1 (intervention logic).
75. It is proposed that the Department stands up the regulator function for online casino gambling. This takes advantage of existing capability and infrastructure, either in informing the system's design; or in providing a foundation on which to build the system.

Online casino gambling legislated and regulated through standalone legislation

76. A standalone legislative vehicle (i.e. a new Online Gambling Act) would make it easier to achieve the objectives, rather than being constrained by settings of the Act. The Act is complex; accounting for five Classes of gambling, including a statutory entity (Lotto NZ), and empowering the gambling functions of a sixth entity (TAB NZ), as well as the Lotteries Grants Board, and the Gambling Commission. Establishing a new regime within this model would require considerable resource and additional analysis to prevent undesirable interruption to this system. Additional risks and benefits are outlined in Table 1.

Table 1 - risk benefit analysis - legislative vehicle

	Risks	Benefits
Standalone Act	<ul style="list-style-type: none"> • May inadvertently omit critical features of land-based regime (under the Gambling Act) • Could be seen as bypassing “controlling growth of gambling” purpose of the Act <p>These can be controlled for by addressing the requirements in consultation and work with PCO and Legislation Design Advisory Committee</p> <ul style="list-style-type: none"> • Establishes parallel but separate regulatory enforcement regime – duplicating processes and fragmenting regulation. <p>Can be controlled for through regulatory establishment and sound review process</p>	<ul style="list-style-type: none"> • Would avoid interruption to existing land-based regulatory regime through unexpected outcomes • Future changes to online gambling environment addressed to changes to lone Act, avoiding ongoing complexity risk • Avoids inappropriately bypassing gambling act purpose of gambling for community benefit
Amending Gambling Act	<ul style="list-style-type: none"> • Establishes parallel but separate regulatory enforcement regime <p>Cleanest mechanism to address inherent differences between land-based and online gambling e.g., lack of in-person</p>	<ul style="list-style-type: none"> • Would ensure that existing mechanisms are applied to the online casino gambling regulation.

<p>interactions and brick-and-mortar establishment restrictions such as business hours</p> <ul style="list-style-type: none"> • Risks setting precedence of gambling that bypasses purpose of gambling for community benefit 	<ul style="list-style-type: none"> • May avoid fragmenting regulatory system but does not address the inherent unique requirements in regulating online gambling
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77. It is our intention that following Cabinet’s agreement (in July) to the high-level system design, legislative requirements, and a repayable capital injection, detailed policy analysis on regulations will be developed then presented to Cabinet in October. For efficiency and expediency, legislative drafting instructions will be developed in parallel to policy decisions, so that, following Cabinet decisions, any adjustments or final changes can be made, and the Parliamentary Counsel Office can be commissioned promptly. The repayable capital injection will enable establishment of monitoring infrastructure and regulatory capability to commence from this stage.



Figure 2 – High-level process to establish regulator by 2026

78. Following a parliamentary legislative process from early 2025, the regulator will accept expressions of interest from online casino operators and run a preliminary compliance check on applicants (preliminary to reduce resource requirements at this early stage). An auction (type to be determined) will be run, to sell licences to online gambling platforms. The Minister of Internal Affairs has expressed a preference for 15 platforms and this is the number that the July cabinet paper will be seeking agreement on. After the auction, more detailed conditional checks will be conducted (on the smaller cohort, thus reducing resource requirements of compliance checks). The revenue from this auction will ideally be used to offset the repayable capital injection, although Cabinet may decide to redirect it to Crown accounts.

79. The regulatory regime will commence operation with operators in the market from mid-2026. It is anticipated that this system will be comprehensive, with regulation-making potential across a range of operational areas, and engagement and enforcement tools across a spectrum of regulatory levels. Implementation will depend on design of the regulatory limits, the compliance and transparency of operators, and the resourcing constraint of the regulator. It is likely that there will need to be a risk-based enforcement approach which focuses resource where the most risk exists, and reduces resource expenditure where high-compliance is identified.

80. Some stopgaps may need to be worked out. For instance, the Ministry of Health has nearly completed the latest revision of its Strategy to Prevent and Minimise Gambling Harm. This means it will be 3 years until the next review of the PGL and an opportunity to calculate for an online casino sectors’ liability under the levy. An option would be to introduce a flat charge, similar to the racing industry PoCC, as a recoverable fee until the PGL is re-calculated.

There is limited time available for engaging on these proposals

81. The Minister has indicated that she wants to establish the regulator by early February 2026. This limits the time available to consult on the proposals herein. The Department intends to undertake targeted consultation to test the validity of previous consultations and certain aspects of proposals.

82. 9(2)(f)(iv)

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83. 9(2)(g)(i)

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The Ministry of Health conduct a regular review of the system’s harm prevention and minimisation measures

84. Under the Act, the Ministry of Health conducts a review of the Strategy to Prevent and Minimise Gambling Harm every 3 years, with a needs assessment to inform the development of the strategy and a review of the PGL rates for each sector. By having a licensed and regulated online gambling system with robust oversight, detailed and accurate information can be included in reviews to inform and support effective harm prevention and minimisation strategies.

How will the new arrangements be monitored, evaluated, and reviewed?

85. Details on the arrangements for monitoring, evaluation and review of licensing and regulation will be developed and provided in future advice and RIS, following decisions on the high-level design.
86. The proposed regime would be reviewed within its first three years to ensure it is achieving the objectives set out for it, and that risks are being well managed.
87. Gambling harm outcomes will be an important part of the evaluation process. The Ministry of Health currently monitors levels of gambling harm (previously through the HLS survey, and from a gambling specific survey beginning in 2024) and the client uptake of gambling harm services.
88. Monitoring and evaluation will be bolstered by the regulatory regime's ability to prescribe reporting on non-personal consumer data, such as aggregated and/or anonymised data on money and time spent gambling, engagement with and outcomes from harm prevention tools, advertising data, among others.
89. Such data would be collected and held by the Department as part of broader regulatory and licensing functions. Work is underway to develop the policy advice for these settings, for October decisions and drafting instructions.
90. Key decisions that will determine the shape and scale of the monitoring and evaluation of online casino gambling regulations will be the amount and types of information the regulator is empowered to gather, and nature of that data – i.e., processed, or raw data. Raw data will increase cost (storage and processing) but enable greater insights and regulatory intelligence. Conversely, cost-saving may result in greater proportions of pre-processed or aggregated data reducing the ability to conduct investigations.
91. Designing monitoring and evaluation correctly from the outset will be critical. Online casino gambling is likely to have unique settings (e.g., wealth check information and greater volumes of personal data which will be held remotely) compared to land-based gambling types. Ongoing evaluation will need to ensure that these settings both achieve the intended outcomes (enabling regulators and protecting consumers) without perverse results such as enabling opportunities for operators to create targeted inducements from wealth data, or preventing the development of self-efficacy in gamblers.¹⁹
92. Monitoring via operators will also be crucial as monitoring outcomes at the consumer end is difficult compared to products such as cigarettes and smoking. Gambling is an often-hidden habit (which online gambling makes even easier to do) and tracking spend accurately at the consumer end (i.e., via banking data) has proven difficult.

Monitoring and evaluation are areas that require built-in flexibility

93. There is no single simple measure an agency can collect to measure and monitor things like gambling harm. This is especially true as the products and settings of gambling evolve – taking gambler behaviour along with them. Additional to those basic measures, consideration will need to be given to how regulations can be designed flexibly, future proofing monitoring and evaluation against changes in the online gambling world.

¹⁹ de Ridder B, Deighton RM. The Effect of Shame and Self-Efficacy on Gambling Behaviour. *J Gambl Stud.* 2022 Sep;38(3):1059-1073. doi: 10.1007/s10899-021-10059-6. Epub 2021 Jul 15. PMID: 34268668.

94. This will need to be balanced with the need to track metrics over time; to see how operator and gambler behaviour changes, and how this influences the objectives of a licensing and regulation regime (ie, revenue for the Crown and reducing gambling harm caused by online casino gambling).
95. Baseline data predating regulatory enforcement will be limited and potentially not completely homogenous with measures decided on for monitoring. However, some existing data, such as the HLS will provide some early indications. Ongoing data collection will also show impact of licensing the sector and influence of regulatory levers over time.

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Cost Recovery Impact Analysis

96. A regulatory regime that monitors and regulates up to 15 online casino platforms will require both establishment and ongoing costs. We are proposing to recover these costs from regulated operators primarily via ongoing fees. Dependent on Cabinet decisions, auction revenue may supplement ongoing fee revenue to recover costs. Note that as auction revenue is not generated on a cost recovery basis, the proposed auction mechanism is not the focus of this section.
97. The fees proposed under this system will be new, and the statutory authority to charge will come from new legislation that will establish the proposed system.

Policy Rationale: Why a user charge? And what type is most appropriate?

98. Regulation of online casino operators is mostly a club good (where people can be excluded from its benefits at a low cost but its use by one person does not detract from its use by another), with some aspects of a public good (when excluding people from its benefits is difficult but its use by one person does not detract from its use by another). New Zealand gamblers who choose to gamble with licensed online casino operators will benefit from a regulated online casino market in the form of less gambling harm and greater assurance that they will receive winnings from licensed operators. Regulation also has elements of a public good in that less gambling harm will also benefit society at large via greater productivity, more disposable income being spent on other goods and services, and better general wellbeing.
99. We are proposing cost recovery by charging fees from licensed online casino operators, which are expected to be no more than 15 platforms (based on Ministerial decisions) at any given time. While benefits from regulation will, strictly speaking, accrue to gamblers and not operators per se, the significant negative externalities (i.e., gambling harm) caused by operators warrant full cost recovery from them. This approach is also consistent with the existing regulated gambling sector where costs are recovered. It would also be more efficient to charge 15 platforms discrete fees, rather than collect a levy from thousands of individual NZ gamblers.
100. Whilst online casino regulation has elements of a public good, we are proposing full cost recovery. While there may be positive flow-on impacts accruing to wider society from regulating online casino operators, most of the benefits will accrue to NZ gamblers. We also acknowledge that online operators may choose to pass on costs onto gamblers, but this scenario is still preferable to the Crown funding the regulatory regime given the above.
101. Fees from operators will fund both the establishment and ongoing costs of the regulatory regime. Whilst the Department is seeking a repayable capital injection from the Crown to enable the establishment of the system, revenue from operator fees will allow the Department to repay the capital injection within the 10-year capital forecast period. Dependent on Cabinet decisions, auction revenue may supplement ongoing fee revenue in repaying the capital injection.

High-level cost recovery model (the level of the proposed fee and its cost components)

102. The estimated charge levels for operator fees are summarised in the table below. These estimated levels have been calculated using estimated ongoing expenses for the system and establishment costs being repaid to the Crown over a 10-year period. We have assumed that auction revenue will be not made available to repay establishment costs

to the Crown. In line with cost recovery principles, fee levels will decrease if auction revenue is made available to recoup establishment costs.

103. For the purposes of this initial fees estimate, we have assumed a flat fee charged to each operator to recover costs. However, the design of this high-level cost recovery model is subject to change as we finalise detailed design options for Cabinet later this year. ^{9(2)(b)(ii)}

[Redacted]

Online Gambling Fees	Annual fees Charged to Operators
Fee per operator on average to recover establishment and ongoing costs	^{9(2)(b)(ii)}
Overall fee revenue from all 15 proposed online casino platforms	^{9(2)(b)(ii)}

104. The main cost drivers for the regulatory regime over the first five years of operation are summarised in the table below. Note that these costs assume that some costs are funded upfront by the Crown via a capital injection but are then recouped from regulated operators over a 10-year period. With the exception of the Department's overhead funding of ^{9(2)(b)(ii)} over the forecast period, all costs are direct costs associated with the regulatory regime.

^{9(2)(b)(ii)}

Departmental Costs
Personnel Costs
DIA Overheads
Other Operating Costs
Total Departmental Costs
Capital charge on Crown Capital Injection
Capital charge on Assets
Total Expenses

105. Estimated expenses and revenue over a five-year operating period are presented below, assuming that costs funded upfront by the Crown are repaid over a 10-year period:

Item (\$000's)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Ongoing Operating Expenses	^{9(2)(b)(ii)}					
Capital Injection Repayment Expenses						
Estimated Fee Income						
Net surplus/deficit						

106. The estimates above assume that there will be at least 15 platforms in the market that will be willing to participate in a regulated market. If there are fewer regulated operators, the establishment and ongoing costs will approximately be the same, but fees will need to be higher to make up for a smaller number of operators in the market.

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Appendices

Appendix I - Glossary

Term	Description
Black market	Operators who are offering online gambling illegally to people in a particular country. Generally, this is because they do not have a licence and/or are offering a prohibited type of gambling.
Casino games	There are a range of types of online casino games, including slot games/pokies, poker, and roulette among others.
Class 1 and 2 gambling	Low-stake, low-risk gambling where the total prize pool is less than \$5,000 (eg, raffles or prize competitions).
Class 3 gambling	Gambling (without an electronic gaming machine) where all the profits are allocated to an authorised purpose – generally used as fundraising by charities. Includes larger-scale lotteries and raffles, housie and instant games.
Class 4 gambling (pokies)	Any electronic gaming machines (pokies) operated outside a casino (ie, pokies in pubs, clubs and TAB NZ venues).
Club good	A good where people can be excluded from its benefits at a low cost but its use by one person does not detract from its use by another, at least until the point where congestion occurs.
Gambling harm	Harm or distress of any kind caused by a persons' gambling and includes personal, social, and economic harm suffered by any person or society at large.
Gambling help service providers	Organisations that offer support and treatment for harmful gambling.
Gaming machine profit	The amount paid into pokie machines, less total prizes paid out.
Gross betting revenue (GBR)	A measure of how much people have lost through gambling and of an operator's profit. It is generally defined as the total amount of money bet/gambled minus the total amount of prizes.
Externalities	When an activity generates benefits that extend beyond those who are immediately involved to others who also benefit – and who cannot be prevented from doing so – it is said to involve a positive externality. Conversely, where it generates harmful effects, it is said to involve a negative externality.
Inducements	A reward or benefit that may be capable of persuading or encouraging a person to participate, or to participate frequently, in any gambling activity, including to open an account with an online casino operator.
Lootboxes	Generally found in videogames, a lootbox is a consumable item, redeemable for money, with a randomised selection of further virtual items (often available separately for purchase) or 'loot' such as avatar skins and game-play equipment (e.g., weapons). The randomised nature of the loot available gives these purchases gambling-like attributes, but does not meet the definition of gambling in the Gambling Act 2003.

New Zealand Lotteries Commission (trading as Lotto NZ)	An autonomous Crown entity. Lotto NZ has considerable day-to-day autonomy while Treasury monitors the Crown's interests as the owner of Lotto NZ. Lotto NZ offers a range of products: lotteries (Lotto, Powerball and Strike), instant games (scratch-based tickets and digital instant games of chance), and other daily games (Keno and Bullseye).
Offshore online gambling	Refers to remote interactive gambling, accessed and participated-in by someone in New Zealand but conducted by an operator outside New Zealand.
One-stop shop	An online gambling platform that offers multiple types of gambling – at a minimum both betting and casino games.
Online casino gambling	Refers to gambling that meets both definitions of remote interactive gambling and offshore online gambling, but is specific to casino games, and excludes lotteries and sports and race wagering; and is the form of gambling captured by Inland Revenues amendments to the Gaming Duties Act 1971.
Operator	Operator refers to the operating company of online gambling websites/platforms.
Platform	Refers to a single website, app or brand, operated by an online gambling operator. Many operators own multiple brands or platforms.
Point of Consumption Charge (PoCC)	A charge established by the Racing Industry Act 2020 and set out in the Racing Industry (Offshore Betting - Consumption Charges) Regulations 2021. The PoCC applies to bets taken by offshore betting providers on sporting and racing events from persons resident in New Zealand. PoCC is currently set at 10% of gross betting revenue.
Pokies	Electronic Gaming Machines (EGMs), slot machines operating in pubs, clubs, TAB NZ venues and casinos.
Priority populations	Māori, Pacific peoples, communities living with high levels of deprivation, young people and people at risk of gambling harm or are currently experiencing gambling harm.
Problem gambler	A person whose gambling causes harm or may cause harm (see definition for gambling harm). This term is no longer used; however, it is still referred to in the Gambling Act 2003.
Problem gambling	Gambling that causes harm to the gambler, those connected to them or to communities, workplace or society at large.
Problem Gambling Levy (PGL)	The problem gambling levy recovers the costs of gambling harm services in New Zealand, public health initiatives, gambling research, and the of establishing and actioning the Strategy to Prevent and Minimise Gambling Harm. Since the levy was introduced, the only sectors that have been required to pay have been domestic casino operators, gaming machine operators, the Lotteries Commission (Lotto NZ) and TAB NZ. The levy is collected by Inland Revenue.
Public good	A good is considered to be a public good when excluding people from its benefits is either difficult or costly, and its use by one person does not detract from its use by another. Sometimes excluding other users is not only impractical, but undesirable.

Remote interactive gambling	This is defined in the Gambling Act 2003 as gambling done by a person at a distance by interaction through a communication device.
Stakes	The prize money that can be won in a race by competitors (not to be confused with the amount a gambler can place as a bet).
TAB (operated by Entain)	Domestic operator of sports and race betting in New Zealand.
TAB New Zealand (TAB NZ)	The responsible entity for sports and race wagering in New Zealand.

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