

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**

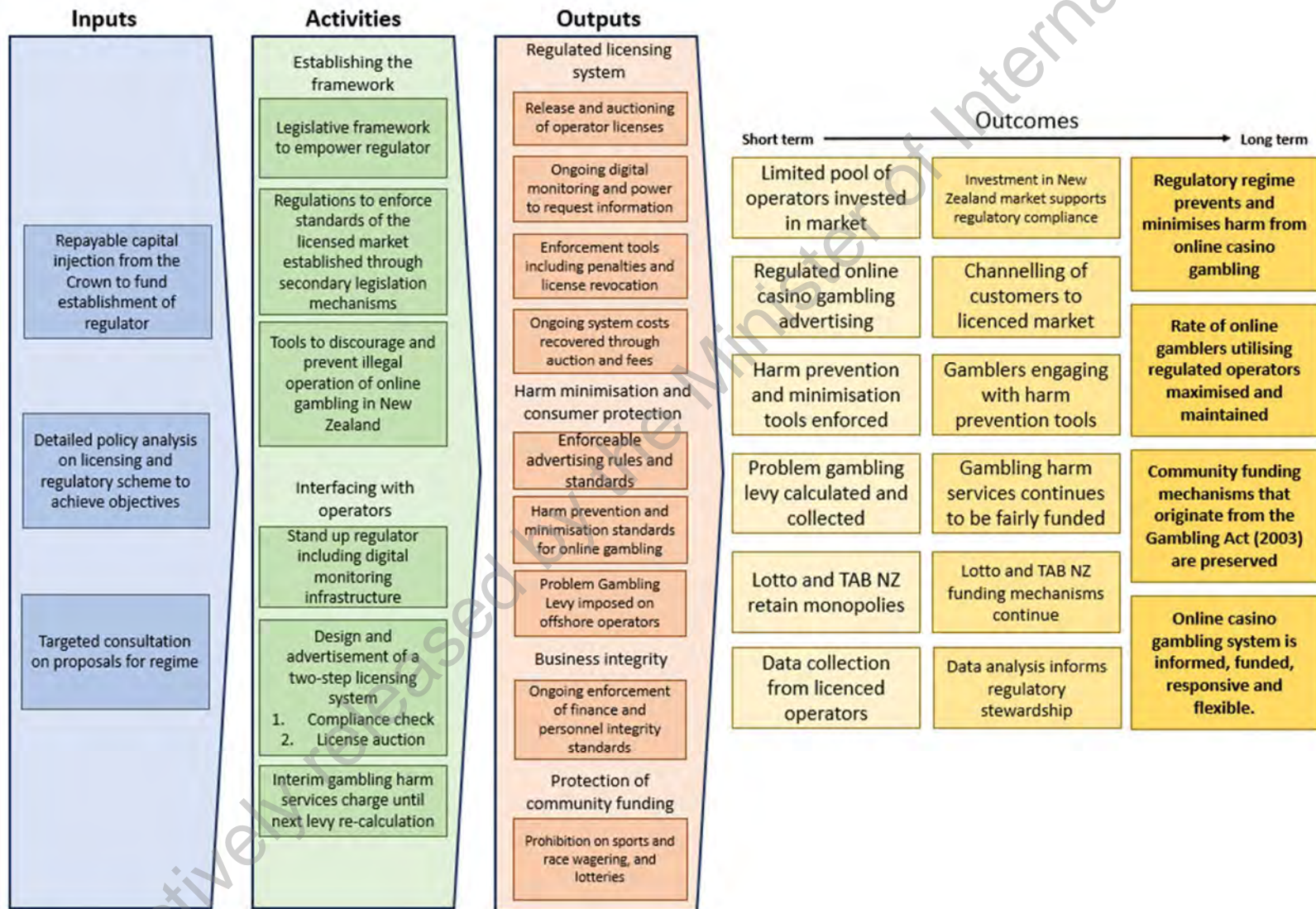
¹⁸ [Finland moves away from gambling monopoly. 2026 will be the year of change for Finnish gambling. Times Malta. 2024.](#)

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.

Proactively released by the Minister of Internal Affairs

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	[Redacted]
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)}	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Capital Injection Repayment Expenses	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Estimated Fee Income	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Net surplus/deficit	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

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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