



Gambling Compliance

Research Services

Modernisation of Games of Chance



A research project investigating remote games of chance and land-based casino regulations in a number of jurisdictions.

Prepared for the Ministry of Justice & Security, Netherlands.

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About this research project

GamblingCompliance Research Services (GamblingCompliance) was commissioned by the Ministry of Justice & Security, Netherlands, to research gambling legislation and regulatory frameworks for both land-based casino gambling and online gambling. The results of this research are contained in this report, with an additional sources document also prepared. The report was researched between May and August 2014 and is broken down into two main parts answering over 150 questions:

- » Part 1: Remote Games of Chance
- » Part 2: Land-Based Casinos

Jurisdictions

The jurisdictions covered represent relevant case studies covering key aspects of regulation and regulatory experiences.

Briefly, the jurisdictions researched were as follows.

Remote Games of Chance

Belgium: A pioneer of the so-called Belgium model or “licence + model” in which online authorisations are tied to land-based authorisations. Although heavily criticised by the industry and subject to European Commission scrutiny, Belgium has defended its model. Of note, online gambling expansion in the US state of New Jersey has implemented a model similar to that installed by Belgium.

Denmark: Similar to Italy and France, another European member state which introduced point of consumption regulations with licences live from January 2012. Due to its smaller population, Denmark has introduced regulations which have addressed international liquidity among other measures to ensure attractive and competitive products to those available on the black market.

France: France introduced ring-fenced regulations with licences live for the FIFA 2010 World Cup in South Africa. While France’s regulations are influenced by Italy’s approach, there are significant differences, not least being the more restrictive product offering and a dedicated online gambling regulator.

Italy: The first European jurisdiction to implement a local licensing or ring-fenced regulation at the point of consumption in 2007/2008. Subsequently, Italy has continued to refine its regulations as well as expand regulated products. Italy’s approach to regulation has proven influential across Europe.

United Kingdom: The UK implemented liberal regulations via the Gambling Act 2005, with licences live

from September 2007. The UK recognised the right of EU/EEA and Gibraltar licensees to advertise and therefore take custom from UK players, while also publishing a so-called “white-list” of jurisdictions (Alderney, Antigua and Barbuda, Isle of Man, and Tasmania) with equivalent advertising rights. The UK is changing to a point of consumption framework from October 2014 and has much material available to provide insight into regulatory experiences from a jurisdiction in transition.

Land-Based Casinos

Austria: Following a Court of Justice of the European Union ruling, Austria faced the need to amend its casino legislation to bring it in line with European law requirements. Austria also recently conducted tender processes for all 15 casino licences available in the jurisdiction, with the latest tender wins being announced in June 2014.

Denmark: Denmark modernised both its online gambling framework and land-based casino framework concurrently. Both sets of regulations are relatively new and the jurisdiction therefore provides relevant regulatory experiences, with issues such as differential taxation regimes, player protection and harm minimisation considerations.

United Kingdom: Like Denmark, the UK modernised its gambling regulations under the Gambling Act 2005. However, some previous gambling law casino licences have remained in place, while new casinos have been rolled out under the 2005 legislation. As with online gambling regulations, the jurisdiction provides material which regulating jurisdictions can study and learn from.

Switzerland: Switzerland updated its casino regulations in 2000, overturning a prohibition. As such the country’s regulations are modern and detailed.

Canada: Canada is internationally renowned in the gambling industry for its emphasis on player protection and harm minimisation, with many casinos ‘conduct and manage’ by the state under exclusive rights but managed on a day to day basis by private companies in public-private partnerships. The jurisdiction therefore provides an alternate regulatory model to that which is in place across much of Europe.

In addition to the main jurisdictions researched additional commentary has been provided from the regulatory experiences of Alderney, Estonia, Greece, New Jersey, Singapore, Spain, as well as European anti-money laundering directives, and material available to GamblingCompliance.

Sources

Research was conducted into the main gambling laws pertaining to online gambling and land-based casinos. To provide context and where possible, legislative context and reasoning, contemporaneous documents have been sourced, as well as insights from academic papers. Importantly, GamblingCompliance sought input from some regulators, with the questions answered contained in the accompanying source document.

For the UK in particular analysis of that jurisdiction's publically available Licensing Codes and Conditions of Practice (LCCP) were included, as these form a fundamental part of the UK framework and unique across the jurisdictions researched. This is because some of the codes are considered licence conditions, therefore forming a fundamental pillar of regulation. The legal base for issuing the codes is found in Section 24 of the Gambling Act 2005 and go to the heart of the UK's licensing objectives (these three objectives are: "ensuring that gambling is conducted in a fair and open way, protecting children and other vulnerable persons from being harmed or exploited by gambling, and making assistance available to persons who are or may be affected by problems related to gambling"). In particular the codes are formed of:

- » Social responsibility code provisions: these must be adhered to by all licensees.
- » Ordinary code provisions: while not taking on the status of licence conditions, if these codes are contravened, this can be used as evidence in criminal or civil cases.

Included in the research project is a sourcing document containing references and, where possible, links to underlying laws, regulations, codes, technical standards and other documents.

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Part One

Remote Games of Chance

Category 1. Regulation of remote games of chance in EU member states

1.1 Which EU member states have explicitly regulated remote games of chance?

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

★ Gambling Compliance Commentary

Please note that these member states have regulation on online gambling. Some member states however provide for a monopoly or do not allow private operators to offer online gambling.

1.2 Which EU member states are in the process of explicitly regulating remote games of chance?

Ireland, Netherlands, Portugal and Lithuania.

The UK is in the process of changing from an open market to a local licensing (regulation at the point of consumption) to be effective from October 1, 2014 (with taxation applicable from December 1, 2014).

EEA member state Switzerland is also in the process of regulating online gambling. The activity is currently prohibited.

1.3 Which EU member states explicitly prohibit the offer of remote games of chance?

Ireland and Lithuania.

Both are subject to general prohibition on any type of unauthorised gambling, which is interpreted by authorities as a prohibition on remote games, but there is no explicit prohibition on remote gambling in the law. Lotteries in these countries however, use the internet as a distribution channel.

★ Gambling Compliance Commentary

The majority of EU member states have given legislative and regulatory consideration to the regulation of remote gaming. While various regulatory frameworks are in existence, there is a clear trend to license online gambling at the point of consumption (operators requiring licences from the jurisdiction in which a player accesses remote gambling websites). This point of consumption or local licensing approach to regulation was pioneered by Italy over 2007/2008, and similar (but not identical models) have been implemented by France, Denmark, Spain, and soon to be regulated markets such as Portugal, among others. The UK, which implemented a more open market, permitting EU/EEA and Gibraltar licensed operators, along with operators from certain white-listed markets (Alderney, Antigua and Barbuda, Isle of Man, and Tasmania) to advertise in the jurisdiction, is, through the Gambling (Licensing and Advertising) Act 2014, moving to point of consumption regulation and accompanying taxation. This year has seen many draft laws notified to the European Commission, either seeking to make wholesale changes to gambling frameworks or further enhance current regulatory regimes.

Category 2. Definition of remote games of chance

2.1 Does national legislation provide for a definition of the term "remote games of chance"?

Belgium: Yes. Section 2(1) of the Gaming Act defines a game of chance as: "any game for which a stake of any kind is placed, resulting in either the loss of the stake by at least one of the players, or a gain of any kind in favour of at least one of the players or organisers of the game for which luck is an element, even incidental, during the course of the game, for the determination of the winner or the prize."

Section 2(10) of the Gaming Act defines instruments of the information society as "electronic processing equipment, including digital compression, and storage of data, which are entirely transmitted, conveyed and received by cable, by radio, by optical means or by other electromagnetic means."

Denmark: Yes. Section 5 of the Act on Gambling defines the term "online gambling" as "gambling activities between a player and a gambling provider through the use of remote communication."

Section 5 of the Gaming Act gives various categories of gambling, with Section 5(i) defining "gambling" as: "lottery, combination games and betting".

Combination games are defined in Section 5(iii) as: "activities in which a participant has a chance of winning a prize and where the probability of winning is based on a combination of skill and chance".

Betting is defined in Section 5(iv) as: "activities in which a participant has a chance of winning a prize and where bets are placed on the outcome of a future event or occurrence of a particular event in the future."

France: Yes. Online gambling is defined as a game for which the player's actions in the game exclusively go through an online communication service to the public. However, it is not considered online gambling in respect of games or bets registered through terminals used exclusively or primarily for taking bets and made available to players in public places or private places open to the public (Article 10-1° of the Online Gambling Act 2010).

The law defines gambling as games which "are considered lotteries and prohibited as such: the sale of real estate or any goods, by way of fate, or that were collected as bonuses or other benefits due, even partially, to chance

and, in general, all operations available to the public, under any name whatsoever, that give rise to the hope of a gain that would be even partially due to chance and for which a financial sacrifice is required from the participants by the operator."
(Article 2 of the Online Gambling Act 2010, modified by article 148 of Law n°2014-344 of March 17, 2014)

Italy: No. The Italian gambling law does not provide a definition of gambling. However, under Italy's Criminal Code article 721 this law defines gambling as: "games of chance are games where players can obtain a profit and in which a final gain or loss is entirely dependent on chance."

Although Italian gambling legislation has not established an explicit general definition of online/remote gambling, Article 2 (r) Decree 111/2011 which regulates the operation of fixed odds betting on sports activities provides a definition of telematic bet as:

"... r) telematics bet, the fixed odds bet place under conditions "at a distance", which is done through telephone channel, fixed or mobile, internet or interactive TV."

United Kingdom: Yes. Section 4 of the Gambling Act 2005 defines remote gambling as "gambling in which persons participate by the use of remote communication."

Gambling covers the following (according to Section 3):

- » Betting, which is defined as the "making or accepting of a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring; or whether anything is or is not true". (Defined in Section 9(1)(a-c))
- » Gaming, which is defined as playing of a game of chance, which itself can include a skill element, for a prize. (Defined in Section 6)
- » Participating in a lottery. (Defined in Section 14)

Remote Communication "means communication using—
(a)the internet,
(b)telephone,
(c)television,
(d)radio, or
(e)any other kind of electronic or other technology for facilitating communication." (Section 4(2))

2.2 Which types of games of chance may be offered remotely?

Belgium: Pursuant to the Gaming Act the following

games can be offered online (however, an equivalent land-based authorisation is required): casino games, poker and betting. In particular the Gaming Act provides for online licences for:

- » Casino games, including but not limited to roulette, dice, black jack, baccarat, punto banco, chemin de fer, poker and slot machine gaming (Category A+ licence).
- » A lower-stake category of licence is available for gaming arcades (B+ licence). This permits lower stakes forms of most A+ licensed games.
- » Betting shops can also expand online (F1+ licence). Authorised betting on sports and horseracing includes pari-mutuel and fixed-odds betting.

Denmark: According to the Act on Gambling licences for the provision of online casino games, including poker and slot machines, and online betting (except betting on horse or dog racing, pigeon racing and the outcome of lotteries or other randomly generated events) may be granted to private operators.

The Act on Gambling transfers a monopoly licence for the provision of online lotteries including bingo and online betting on horse and dog racing to Danske Klassenlotteri A/S and Danske Spil A/S respectively.

France: According to the Online Gambling Act 2010, sports betting (pari-mutuel, fixed-odds, live betting), horse race betting (pari-mutuel) and poker (Texas Hold'em and Omaha Poker 4) may be offered remotely.

Italy: Italy has allowed the implementation of most forms of online gambling, separated into the following categories:

- » Betting on horse racing and sports in the form of mutual betting.
- » Betting exchanges.
- » Fixed odds betting.
- » Skill games (which are mostly poker tournaments).
- » Other forms of fixed odds betting other than sports and horse racing betting. These are the category casino games fall into. Under this category games including online gaming machines and betting on virtual events have been included.
- » Lottery games in all their forms have also been made available online. In the case of lottery games, these are distributed by licensees and also online agents.

United Kingdom: All UK licensed gambling can be offered online, including:

- » Betting exchanges or intermediaries.
- » Betting (including virtual betting).
- » Casino games, including table games, poker and online slot machines.
- » Bingo.
- » Lottery games.

Additional follow-up questions

i) Have Denmark and the UK specified what they consider to be bingo or poker? Is a definition or description available?

Denmark: No, legislation in Denmark has not specified the definition of these games, as the definitions provided by the Danish Gambling Act take a wide approach to define the types of games available in the market. In this respect, it should be noted that the games mentioned above fit into the description of the following categories:

Danish Gambling Act, Part 2 (5):

“i) Lottery: Activities in which a participant has a chance of winning a prize and where the probability of winning is solely based on chance”.

According to the gambling authority, this definition is wide enough to consider bingo games. However, as a result of the interpretation of bingo games, bingo licences are not available in Denmark for private operators.

“iii) Combination games: Activities in which a participant has a chance of winning a prize and where the probability of winning is based on a combination of skill and chance.”
 “viii) Online gambling: Gambling activities between a player and a gambling provider through the use of remote communication.”

Regarding poker games, these are not specifically defined by Danish legislation. However, the gambling authority has regulated these games under the scope of the definition of “combination games” and “online gambling” listed above.

United Kingdom: No, for bingo the Gambling Act 2005 does not contain a definition. In Section 353 on interpretation, the Act simply states: “‘bingo’ means any version of that game, irrespective of by what name it is described...”. For poker, the Gambling Act 2005 does not contain a definition or reference to that game.

ii) What types of games are considered to be lottery games?

Generally, while there are many definitions of what constitutes a “lottery” across Europe, these games refer to number based chance draws.

However, definitions do vary and in some EU member states, a lottery is given a wide definition which could capture all types of gambling games. Moreover, in some member states, gambling laws and lottery laws remain distinct pieces of legislation. This is the case in the following jurisdictions under focus:

- » **Belgium:** According to the Gaming Act of 1999, it does not apply to lottery games (according to Article 3bis). Belgium has the National Lottery Act 2002.
- » **France:** Decree No 78-1067 of November 1978 created the national lottery. The Ministry of Interior regulates lotteries, while ARJEL regulates online gambling.
- » **Italy:** The operation of lottery games remains a state monopoly, therefore, regulated under a separate regime from other gambling activities.

Two divergent meanings of “lottery” in Europe are the UK and Finland for illustrative purposes.

In the UK, a lottery is defined as follows (in Section 14 of the Gambling Act 2005):

“Lottery

(1) For the purposes of this Act an arrangement is a lottery, irrespective of how it is described, if it satisfies one of the descriptions of lottery in subsections (2) and (3).

(2) An arrangement is a simple lottery if—
 a. persons are required to pay in order to participate in the arrangement,
 b. in the course of the arrangement one or more prizes are allocated to one or more members of a class, and
 c. the prizes are allocated by a process which relies wholly on chance.

(3) An arrangement is a complex lottery if—
 a. persons are required to pay in order to participate in the arrangement,
 b. in the course of the arrangement one or more prizes are allocated to one or more members of a class,
 c. the prizes are allocated by a series of processes, and
 d. the first of those processes relies wholly on chance.”

In Finland, however, a “lottery” is defined as the following in Section 2 of the Lotteries Act 2001 (1047/2001).

“For the purposes of this Act, a lottery means an activity in which participants may win, in full or in part, a prize of monetary value based on chance and in which there is a charge for participation.”

2.3 Overview of how the remote games of chance market is regulated (monopoly or licence, number of licences, who holds the licence and what is the licensing/supervising authority)?

Belgium: Amendments to the Gaming Act of 1999 providing for online gambling licences came into effect on January 1, 2011. The Gaming Act provides that online gambling licences can only be granted to operators already holding an equivalent land-based licence. Online licences are considered a “supplementary licence” to authorised casinos, gaming arcades and betting shops. Therefore the following online licences are available:

- » Licence A for Class I casinos and Class A+ for the online licence.
- » Licence B for Class II arcades and Class B+ for the online licence.
- » Licence F1 for betting and F1+ for the online licence.

As of June 2014, there are seven Class A+ licences, 33 Class B+ and 16 F1+ licences.

However, the Gaming Act solely contains framework legislation which needs to be implemented by Royal Decrees. With regard to online gambling Belgium notified three further Royal Decrees to the European Commission on April 22, 2014. The standstill period for these three Royal Decrees ended on July 23, 2014. As a matter of completeness we have inserted reference to these Royal Decrees in this research as well. The Gaming Commission is the regulatory authority issuing licences and supervising the gambling market.

Denmark: The Gambling Authority is the licensing and supervisory authority. The Minister of Taxation is the regulatory authority with regard to tax matters. The Act on Gambling provides for an unlimited number of online licences for online casino and betting. The Executive Orders on the provision of betting and online casinos contain further provisions on online casino and betting offers.

The Gambling Authority published explanatory notes to the Act on Gambling in addition to FAQs for gaming operators and guidelines for the licence application forms further explaining the respective licensing requirements and technical standards (Spillemyndigheden’s technical standards) concerning the specifications on the licensee’s gambling system. As of July 2014 there were 28 online casino licensees, five online casino restricted venue licensees, 15 online betting licensees, and four online betting restricted venue licensees.

The Act on Gambling provides for monopoly licences for the provision of online lottery games and online horse and dog racing for Danske Klassenlotteri A/S and Danske Spil A/S respectively.

France: The French National Assembly approved on April 6, 2010 a law introducing a “controlled opening of the online gambling market” setting up a licensing regime for online gambling operations in France. After its approval by the assembly, the law was enacted at the end of April 2010.

The main goal of the law is to channel illegal gambling activities to legal activities with regard to objectives of general interest; these include the protection of players and minors, the fight against fraud and crime, the prevention of conflicts of interest and the fight against unlawful sites.

The law set up a local licensing regulatory framework for online gambling for three different activities: horse race betting, sports betting and “shared games which depend on skills” (currently only poker games). The law also created an online gambling regulatory agency known as ARJEL (Autorité de Régulation des Jeux en Ligne).

Lotteries, virtual slot machines, “spread betting”, “betting exchange”, betting on virtual competition and casino games in which consumers play against the bank (roulette, black jack, etc.) are excluded from the types of online gambling that can be authorised.

However, Française des Jeux may offer online lottery and bingo sales under the country’s lottery regulations and had started doing so prior to the adoption of the online gambling law.

ARJEL issues licences for renewable five-year periods, with an unlimited number available to all operators who can fulfil licensing criteria established by the regulator in its book of specifications.

Operators are not required to have all their company headquarters or their main servers in France but need to have their “.fr” servers in France and install technology to allow player data and all transactions involving French customers to be audited. This information must be kept in a “vault” connected in real time to ARJEL.

As of July 2014 there were 18 licensed operators.

Italy: Italy has established regulations for most gambling services. Apart from lottery games most gambling activities are operated under licence agreements by private operators. Online gambling licences in Italy are awarded by the Italian gambling authority AAMS which is a department within the Monopoly and Customs Agency (ADM).

AAMS oversees the operation of all gambling activities in the country apart from land-based casinos, which are regulated and controlled by local authorities.

Online gambling licences in Italy are made available to operators within specific application windows established by AAMS, with licences being granted for nine years. In the case of lottery games, these services are also operated by private operators but under concession contracts which are awarded for specific lottery games. Concession contracts for the operation of lottery games include the operation of land-based and online lottery games. These contracts are awarded through tender processes which are only available once the current contract has expired. Concession contracts for the operation of lottery games are awarded for a maximum period of nine years and it corresponds to the Italian gambling authority AAMS to carry out the tender process and supervise the compliance and performance of the concessionaries.

As of June 2014 there were 106 licensees.

United Kingdom: The Gambling Act 2005 is the primary piece of UK gambling legislation and regulates gambling in the UK, including bingo, lotteries, casinos, gaming machines and remote gambling. The Gambling Act provides for three forms of licences: (i) operating licences, (ii) personal licences and (iii) premises licences. An operating licence entitles a person or entity to provide facilities for the provision of gambling in the UK. Different forms of operating licences are required for different forms of gambling. Persons responsible for key management functions within an entity that is licensed to operate gambling require a personal licence. A premises licence is required in order for a licensed operator to provide gambling at a land-based gambling establishment. In the online sector, it is necessary for an operator to hold an operating licence.

The Gambling Act provided for an open online regime, under which UK-licensed operators, operators from the European Economic Area (EEA), including Gibraltar and white-listed countries (Alderney, Antigua and Barbuda, Isle of Man and Tasmania), who did not need a UK licence, could advertise online gambling in the UK (and therefore offer services into the UK market). This system has been changed by the Gambling (Licensing and Advertising) Act which received Royal Assent in May 2014. The Act still requires a Statutory Instrument to have the main provisions of the Act come into force. The required statutory instrument was tabled in parliament on June 25, 2014. The Statutory Instrument outlines transitional provisions, with the instrument’s explanatory note stating that the Gambling (Licensing and Advertising) Act will be in force on October 1, 2014. Therefore from October 1, 2014, operators will require a UK licence to transact with customers based in Great Britain. Taxation applicable from December 2014, through the Finance Bill which received Royal Assent on July 17, 2014, will achieve this, which among other measures, gives HMRC Commissioners powers to issue breach notices, if there are contraventions of taxation obligations - the HMRC Commissioners are empowered to direct the Gambling Commission to suspend a remote operating licence if breaches are not remedied. Moreover, if a suspension occurs, Commissioners can further direct the Gambling Commission to revoke a remote operating licence if the breach has not been remedied within a six month period after suspension.

The Gambling (Licensing and Advertising) Act provides for point of consumption licensing meaning that all operators transacting with UK players are required to hold a UK licence. It also introduced a point (or place) of consumption taxation, which means that all online gambling by UK players will be subject to UK taxation. According to the Statutory Instrument in parliament, operators have until September 16, 2014 to apply for transitional licences, with the Gambling Commission

accepting applications from July 25, 2014.

The UK gambling regulator, the Gambling Commission, is the regulatory and supervisory authority. In May 2014 the Gambling Commission published a consolidated version of Licence Conditions and Codes of Practice (LCCP) which entered into force on August 4, 2014.

Licensees will have to comply with the Gambling Act as amended by the Gambling (Licensing and Advertising) Act, the LCCP and the technical standards.

Since the UK has been an open market, exact number of operators on its market is unknown, however it is estimated that applications for UK online gambling licences will easily surpass 100.

★ Gambling Compliance Commentary

On May 28, 2014, the latest version of LCCP (only the provisions related to: gambling software; peer to peer gaming; other networks; segregation of funds; display of licensed status - remote operators; social responsibility code; identification of individual customers – remote; ordinary code provision; anti-money laundering – casino; ordinary code provision; and anti-money laundering – other than casino) was notified to the European Commission, with its standstill period due to end on August 29, 2014.

Category 3. Permitted payment methods

3.1. Which payment instruments/methods are allowed with regard to remote games of chance?

Belgium: Section 58 of the Gaming Act specifies that credit cards are prohibited for online gambling. In addition, the Royal Decree notified by Belgium to the European Commission on April 22, 2014 states that concerning the payment platform only Payment Card Industry Data Security Standard certified bodies may be used. Also, the Gaming Commission prohibits licence holders from using any payment method considered fraudulent by an official authority. Further, the Gaming Commission shall be kept informed at all times of the payment methods used by players and those used by the licence holder to pay players. Payments shall always be associated with an approved website. The licence holder shall inform the Gaming Commission of such payments each month.

Denmark: Section 8 of the Executive Order on the provision of betting and Section 9 of the Executive Order on online casinos state that a licence holder may only receive payments into a gambling account from payment service providers that provide such services legally in Denmark pursuant to the Danish Payment Services Act. Cash deposits cannot be accepted. Also the licensee's gambling system shall not allow transfers of funds, etc. between gambling accounts.

France: According to Article 17 of the Online Gambling Law 2010, a player may only provision his account through payment instruments made available by a provider of payment services established in a member state of the EU or EEA, which has concluded an agreement with France containing an administrative assistance clause in the fight against fraud and tax evasion. Only payment instruments mentioned in Chapter III of Title III of Book I of the Monetary and Financial Code can be used. These concern banking payments services exclusively.

The player must use one of these payment instruments to provision funds into their account:

- » Payment cards
- » Bank transfers
- » Payments made via an intermediate payment provider (Paypal type of eWallet) which must be authorised in a member state of the EU or the EEA
- » Electronic money provided it was created by a provider authorised in a member state of the EU or the EEA.

Italy: According to Section 2.2.10 of the Certification Guidance Version 1.1 (a current updated version is in draft

form) an online gambling system must not allow the use of payment methods which do not comply with current Italian legislation. Therefore, cash, automatic recharge prepaid cards or anonymous vouchers are not permitted.

However, the use of pre-paid cards is only permitted for the purpose of crediting a player's account provided that the identity of the player has already been verified. No express provisions contained in the online gambling legislation.

In addition, the operator must ensure and notify to the gambling authority the types of payment methods to be made available to players.

United Kingdom: Under the new Licence Conditions and Codes of Practice (LCCP, May 2014) in force from August 4, 2014 - Licence condition 5.1.2 ('Payment services') applies to payments. The code states:

"Licensees should only accept payment from customers using their gambling facilities in Great Britain by a method which involves the provision of payment services as defined in Schedule 1 Part 1 of the Payment Services Regulations 2009 (SI 2009 No 209) if the provider of those services is a 'payment service provider' within the definition of that term in regulation 2 of those Regulations."

In commentary published by the Gambling Commission, the commission expects licensees to satisfy themselves that the payment providers they use are "legal and appropriate". According to the Gambling Commission operators should ensure that they carry out due diligence for the payment services which they use. The operators must be satisfied that any payment service they would like to use is either:

- » Authorised or registered by the FCA
- » Exempt from the Regulations
- » Authorised or registered with a regulator in another EEA jurisdiction.

If the above points do not apply, the operator should carry out additional due diligence in order to satisfy themselves that the payment service is appropriate.

LCCP provision 3.7.1 (a social responsibility code) which applies to all remote licences, except gaming machine technical, gambling software, provides that licensees who decide to accept credit cards must "(i) accept payment by credit card for gambling only where that payment is made to a customer account and (ii) make available for gambling, funds deposited via credit card only after the card issuer has approved the transaction."

3.2. In particular, are "anonymous" payment methods allowed (for example pre-paid debit cards)?

Belgium: No express provisions are contained in the Gaming Act or the Royal Decrees currently in force. The Royal Decree notified by Belgium to the EU Commission on April 22, 2014 solely states that payment shall always be associated with an approved website.

Denmark: No express provisions are contained in the online gambling legislation. However, the Executive Orders on the provision of betting and online casinos explicitly prohibit cash deposits into gambling accounts.

France: Please refer to the previous answer. Only a limited number of payment methods are authorised.

Italy: No. The Certification Guidance Version 1.1 for the operation of remote gambling services has established that payments must be recorded regardless of the payment system used by the player, being either a credit card or an alternative method of payment. According to section 2.2.10 of the Certification Guidance Version 1.1 the gambling system must not allow the use of payment methods which do not comply with current legislation such as cash, automatic recharge pre-paid cards or vouchers which do not involve the player. The use of pre-paid cards is only permitted for the purpose for crediting a player's account provided that the identity of the player has already been verified.

United Kingdom: The UK's gambling legislation, regulation and LCCP does not provide express provisions in relation to "anonymous" payment methods. Schedule 1 of the Payment Services Regulations 2009, lists a number of activities which constitute payments services. Among these are "payment transactions executed through a payment card of similar device."

★ Gambling Compliance Commentary 1:

The Fourth Anti-Money Laundering Directive puts a renewed focus on tracing electronic transactions. The explanatory memorandum in the draft directive notes that the "potential for misuse of new technologies to conceal transactions and hide identity makes it important for member states to be aware of technological developments and simulate the use of electronic identification, electronic signature and trust services for electronic transactions, in line with commission's proposal for a regulation on electronic identification and trust services for electronic transactions in the internal market."

Moreover, in Article 16(3) of the draft directive, it states: "When assessing the money laundering

and terrorist financing risks, member states and obliged entities shall take into account at least the factors of potentially higher-risk situations set out in Annex III." In Annex III to the draft directive, at (1) ((b) "(b) products or transactions that might favour anonymity" are listed as one type of factor which evidences such a potentially higher risk.

★ **Gambling Compliance Commentary 2:** A non-EU jurisdiction's consideration of this issue is the US state of New Jersey. New Jersey's regulations provide the gambling regulator with a wide discretion to approve payment deposit methods, including card and pre-paid cards (with pre-paid cards required to be issued to an individual and be non-transferable, most likely for licensees to discharge know-your-customer obligations) and most importantly "any other means approved by the Division" (Chapter 690 'Internet and Mobile Gaming' of the merged regulation).

3.3. Is a player allowed to make use of several kinds of payment instruments/methods?

Belgium: Not specified by the Gaming Act or the Royal Decrees. However, a Belgium licensee lists payment solutions from providers such as: Bancontact Mister Cash, Maestro, Neteller, Ukash, Skrill, Paysafecard.

Denmark: Yes. The player is allowed to make use of several kinds of payment instruments/methods as long as the game provider complies with the general rules regarding deposits and withdrawals. All payment instruments/methods have to be validated by the Danish Financial Supervisory Authority.

A Danish licensee lists payment solutions from providers such as: MasterCard, Skrill, Neteller, Visa, Paysafecard, Bank Transfer, Earth Port.

France: No express provision in the Online Gambling Act or secondary legislation. However, French licensees list payment solutions from providers such as: MasterCard, Skrill, Neteller, Visa, PayPal, Ukash.

Italy: No express provisions contained in the online gambling legislation. However, the wording of the Certification Guidance Version 1.1 indicates that players can place deposits using different payment instruments provided that the identity of the player has been verified.

However, an Italian licensee lists payment solutions from providers such as: Visa, MasterCard, Postepay, Paypal, Skrill, Ukash, Paysafecard.

United Kingdom: No express provisions contained in the online gambling legislation. However, a UK licensee lists payment solutions from providers such as: Visa,

MasterCard, Neteller, Paypal, Skrill, Ukash, Paysafecard, Entropay, Fastbank Transfer, Cheque. Moreover, Schedule 1 of the Payment Services Regulations 2009, lists activities which constitute payments services - these include: direct debits, payment transactions executed through a payment card of similar device, credit transfers, issuing payment instruments, money remittance and payments executed by an intermediary which is a telecommunication, digital or IT devcies. The Schedule activities such as the following which do not constitute payment services: paper cheques, bankers' drafts, paper-based vouchers, paper postal orders, and transactions executed wholly in cash without any intermediary, among others.

3.4. Does the bank account from which the player pays into his gaming account and the bank account to which the licensee pays out possible winnings have to be identical?

Belgium: Not specified by the Gaming Act or the Royal Decrees.

Denmark: No. The Danish Gambling Authority does not regulate the bank accounts from which the player pays into his/her gaming account and to which the game provider pays out winnings, as long as the game provider makes sure that the protective measures against money laundering are observed.

France: No. However, according to Article 17 of the Online Gambling Act 2010, the winnings of the player can only be transferred to a single payment account opened by the player with a payment service provider established in a member state of the EU or EEA which has concluded an agreement with France containing an administrative assistance clause in the fight against fraud and tax evasion. The player communicates to the operator the details of this payment account at the opening of their player account. The payment of their winnings can only be transferred on this account.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: No express provisions contained in legislation or codes of practice.

3.5. Is there a difference between allowed payment instruments for deposits and withdrawals?

Belgium: Not specified by the Gaming Act or the Royal Decrees.

Denmark: See above answer 3.4.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: No express provisions contained in legislation or codes of practice. A current licensee states in its terms and conditions that for withdrawals: "Where possible, all withdrawals will be processed to the payment account from which the deposits were made. Withdrawal payments can only be made in the name of and to the registered account holder". In further FAQs on its website, this licensee states: "If you fund your account using multiple payment methods, we are required to process any withdrawal request you make proportionally between the methods you have used to deposit with. When you request a withdrawal it will be reviewed and we will contact you via email within 24 hours to confirm where the funds will be sent."

In June 2014 the Gambling Commission released a public statement on the "Shortcomings in anti-money laundering and social responsibility controls" at one of its licensees. Under a heading "Key Learning" the Commission notes that operators should "Ensuring effective policies and procedures are in place to identify money laundering and social responsibility triggers" stating:

"...the operator's policies did not take full account of indicators of suspicious behaviour or risk triggers arising from the individual's activity. For example, it is reasonable to expect operators to maintain policies that factor in the use of multiple debit/credit cards and multiple third party online e-money accounts to deposit to and withdraw from gambling accounts in assessing potentially suspicious or problematic behaviour."

3.6. Are licensees required to check a player's identity before paying out possible winnings?

Belgium: Yes. The Royal Decree notified by Belgium to the EU Commission on April 22, 2014 specifies that any player subscribing to an approved website shall be registered and identified through the web services and then attributed a player code by the Gaming Commission. Only players holding such player code are authorised to take part in online gambling.

Denmark: Yes. Section 3 of the Executive Orders on the provision of betting and online casinos provides that the customer's verification procedure must take place when the licensee establishes the customer relationship and no later than when the first payment is made. During the customer's registration and identity check the licensee has to set up a temporary account. No payments can be made from a temporary account.

To verify a customer, licensees are required to use the country's NemId system. NemId is a second generation digital signature, which is used across various services,

from public websites (such as tax authorities), banks and other services, including online gambling. The system consists of a user ID, password and a card containing one-time access codes. According to the "Technical requirements on gambling operators for obtaining a licence to provide online gambling services in Denmark" Version 1.09:

"When a new player wants to open an account on the Licence Holder's website, the Licence Holder must check, before the account opening has been completed, the player's identity via NemId, the player's age and whether the player is registered on the Problem Gambling Register. If the player cannot log in via NemId, the player is younger than 18 years old or the player is registered on the Problem Gambling Register, a player cannot open an account."

France: Yes. The customer is not able to collect their winnings without showing proof of identity. According to Article 17 of the Online Gambling Act 2010, an operator can offer the player on a temporary basis, to take part in gambling services, before completing all the checks related to a player's identity verification. However, these checks determine the validation of the player account and the return of their possible winnings.

The customers send a proof of identity by post or email to the operator. The operator is then in charge of sending the customer a letter by post with a code which they can use to open their account. As the operator must send by mail the activation code, it is necessary to have human intervention in the identification process.

Articles 2 to 5 of decree N°2010-518 of May 19, 2010 define all players' identity checks procedures.

Italy: Yes. In order to participate in online gambling activities one of the main requirements established by the regulation is that players are required to open a player account. The player's personal identity details for this gambling account must be verified by the gambling operator, within 30 days from the moment the account is opened. While deposits are permitted, withdrawals are not permitted until verification has been completed according to Certification Guidance Version 1.1.

United Kingdom: Yes. The UK stipulates requirements on age verification (as not permitting minors to gamble is one of the goals of regulation) as well as player identification. The LCCP social responsibility code provision 3.2.11 ('Access to gambling by children and young persons') (2)(f) states that: "if age verification has not been satisfactorily completed within 72 hours of the customer applying to register to gamble and depositing money:

- » The account will be frozen.
- » No further gambling will be permitted until age verification has been successfully completed.

- » If on completion of age verification the customer is shown to be underage, the operator must return to the customer any money paid in respect of the use of the gambling facilities, but no winnings shall be paid."

3.7. Are licensees allowed to grant loans to players?

Belgium: No. Section 58 of the Gaming Act clarifies that the offering of credits to players is prohibited.

Denmark: No. According to Section 35 of the Act on Gambling a licence holder shall not extend credit to the player for participation in gambling activities.

Italy: No. The Certification Guidance Version 1.1 Section 2.2.10 has established that the gaming system must prevent the gambling operator from providing credit to player in any form.

United Kingdom: Yes (subject to conditions.). According to LCCP social responsibility code provision 3.7.1. "Licensees who choose to accept credit cards must:

- a. accept payment by credit card for gambling only where that payment is made to a customer account
- b. make available for gambling, funds deposited via credit card only after the card issuer has approved the transaction."

Moreover, ordinary code provision 3.7.2 licensees who choose to offer credit to players must ensure that the following steps are taken:

- » Have measures for inspecting and recording applications for credit from such players, for fixing and for increase of credit limits.
- » Clarify these measures to players; establish for each player a maximum credit limit and to not allow them to go beyond that limit without other application.
- » Administer a 24-hour delay between obtaining a demand for an increase in a credit limit and permitting in those cases where the limit goes beyond that which the operator had already put in place.
- » There should not be a required minimum spend during a set time period.
- » All reasonable steps must be taken in order to ensure that credit offers are not sent to any vulnerable individuals – which also include the individuals who have decided to self-exclude from gambling.
- » Information regarding credit offers must make sure that it also contains a risk of warning in the event of default.

Gambling Compliance Commentary: Anti-money laundering compliance and permitted payment services under applicable payments regulations come into consideration with respect to the permitted use of payment types and payment services in many of the

jurisdictions researched. This is evident through some of the answers in this section of the research, where money laundering rules are required to be observed by game providers, which would then inform and frame the permitted use or otherwise of a particular payment method or process.

A number of the jurisdictions researched do link the provision of permitted payments with applicable payment services regulations and providers.

What is uniform across the jurisdictions, is the required verification of player's prior to the payment of winnings - however, the method of verification and applicable time periods do differ - from at the time of registration in Denmark, within 72 hours in the UK, to one month in Italy; and with France requiring a paper/postal system of verification which would necessarily make the process more time consuming than in Denmark or the UK for instance.

Category 4. Policies towards free play and social gaming in which money cannot be cashed out

4.1 Are free games of chance (playing for points instead of money, social gaming) allowed?

Belgium: Yes. Technically, if the type of game conforms with the definition of gambling in the Gaming Act 1999, it would require a licence and therefore be permitted. The definition of games of chance in Section 2(1) of the Gaming Act defines gambling widely and could capture free games (simply requiring a stake of any kind and the resultant loss or gain by the player based on an element of chance): "Any game for which a stake of any kind is placed, resulting in either the loss of the stake by at least one of the players, or a gain of any kind in favour of at least one of the players or organisers of the game for which luck is an element, even incidental, during the course of the game, for the determination of the winner or the prize."

On social games which could be a type of free game of chance, at the end of 2012, the Gaming Commission submitted to the Ministry of Justice a Royal Decree which would enable the authority to examine social games more closely. According to the Gaming Commission, the Royal Decree defines social games as online games with the same characteristics as games of chance that may be operated by Belgian licence holders and that comply with the definition of a game of chance in Belgium, but where no gain of any kind is paid out to the person who laid a stake. Social gaming would be able to be operated in Belgium without a licence from the Gaming Commission, except if the social game has been indicated as a licensed game of chance. According to the Royal Decree, social games would only be operated without a licence if a person can spend a maximum of €100 per month.

GamblingCompliance understands that the Gaming Commission will seek to publish on its website a list of social games that cannot be operated without a Belgian licence. Of note, in December 2012, the Gaming Commission started to add social gaming companies, to its blacklist of illegal online gambling websites.

As of June 2014, the Royal Decree has not been made available to the public and is still being examined by the Ministry of Justice. At a two-day conference organised in Brussels at the end of October 2013, the Gaming Commission pushed the Belgian government to adopt the draft Royal Decree to extend its powers over social games.

Denmark: No. Social gaming is not expressly regulated in Denmark, however, free games are considered in technical standards. Pursuant to the Act on Gambling a licence to provide gambling in Denmark is required when:

- » Players have to pay a stake (money or other items of an economic value);
- » The participant has a chance of winning (all kinds of winnings of an economic value) through the payment of a stake; and
- » The games have an element of chance.

During GamblingCompliance research in 2013 and in answer to the question of "Do you think social gaming falls within your country's existing legal definition of gambling?", the Gambling Authority replied: "The Danish gambling act includes 'social gaming', should this fall under the term 'gambling' or be a part of a marketing strategy regarding gambling activities. [...] In the opinion of the Danish Gambling Authority, 'social gaming' may in certain cases be deemed marketing of gambling." The Gambling Authority added that "social gaming may be governed by Danish legislation on consumer protection. The DGA seeks close cooperation with the relevant Danish authorities on the area of consumer protection, including the Danish Consumer Ombudsman."

The Spillemyndigheden's technical standards specify that games without stakes (free games, games for fun, etc.) shall present the chance of winning in a correct and balanced way so as not to create an impression that the chance of winning is larger than it actually is in games with real stakes.

Section 3(2) of the Act on Gambling clarifies that payment in a guessing competition at a radio or TV show, where the guessing competition does not constitute the main element, is not regarded as payment of a stake as long as the payment is made via an information and content service with embedded billing or mobile payment service that does not exceed an extra billing of DKK5 per telephone number per day.

France: No. Social gaming is not expressly regulated in France, but could fall under the current definition of gambling depending on interpretation of the law. In March 2014, a consumer law modified the definition of gambling. The changes expanded France's definition of prohibited lotteries to include all games that "even partially" rely on chance. The law defines gambling as followed: "Are considered lotteries and prohibited as such: the sale of real estate or any goods, by way of fate, or that were collected as bonuses or other benefits due, even partially, to chance and, in general, all operations available to the public, under any name whatsoever, that give rise to the hope of a gain that would be even partially due to chance and for which a financial sacrifice is required from the participants by the operator" (Article 2 of the Online

Gambling Act, modified by article 148 of Law n°2014-344 of March 17, 2014). The drafting of the law is vague with the nature of the financial contribution and the nature of the gain not being specified. It is therefore uncertain whether the new definition could include social games for instance.

Italy: Yes. According to the Certification Guidance Version 1.1, while it does not explicitly establish regulations for the operation of free games of chance, the guidance does establish the possibility for operators to offer some free games or test games to players.

United Kingdom: Yes. While, the Gambling Act 2005 does not provide for any express provisions in relation to free games of chance, play-for-fun games are given consideration in the UK's Remote Technical Standards. The Gambling Commission has also highlighted the potential risks associated with social gaming. It has commissioned a report into social gaming: "Exploring Social Gambling: Scoping, Classification and Evidence Review". Some of the report's findings included:

- » "Stricter age verification measures should be adopted where children are permitted to engage in gambling-related content, even where real money is not involved, if indeed real money gambling is being advertised using this medium. Children and adolescents should not be exposed to inappropriate gambling-related marketing material of any description but particularly some of what we would regard as harder forms of advertising (e.g. big wins and deposit bonuses);
- » Some games and features should be closely monitored and comprehensively researched. These relate to issues of increased accessibility through social media and removal of cost of entry. Social influence, particularly among children and adolescents should also receive special consideration."

The Gambling Commission has published a social gaming update (July 18, 2013), in which the commission's next step was stated to carry on its cooperation with the social gaming industry, other regulators and experts in order to develop a "data framework" to benefit the industry in evaluating their player data.

In 2013, the Office of Fair Trading (which was closed on April 1, 2014 with much of its responsibilities transferred to the Competition and Market Authority (CMA)) released eight proposed principles relating to the compliance of social gaming companies with existing rules. For companies who are not compliant, enforcement actions would be taken against them. The eight principles are:

1. Information about the costs associated with a game should be provided clearly, accurately and prominently up-front, before the consumer begins to play, download or sign up to it or agrees to make a purchase.

2. All material information about a game should be provided clearly, accurately and prominently up-front, before the consumer begins to play, download or sign up to it or agrees to make a purchase. "Material information" includes information about the main characteristics of the games and other information necessary for the average consumer to take an informed decision to play, download or sign up to the game or to make a purchase.

3. Information about the game business should be provided clearly, accurately and prominently up-front, before the consumer begins to play, download or sign up to the game or agrees to make a purchase. It should be clear to the consumer whom he/she ought to contact in case of queries, complaints or to seek redress. The trader should be capable of being contacted rapidly and communicated with in a direct and effective manner. When placed under an obligation to pay, the consumer should be able to retain that information in a durable medium.

4. The commercial intent of any in-game promotion of paid-for content, or promotion of any other product or service, should be clear and distinguishable from gameplay. The younger he/she is, the more difficult it is likely to be for a consumer to identify the commercial intent of a commercial practice in certain contexts, and the language, design and structure of the game should take that into account.

5. A game should not mislead consumers by giving the false impression that payments are required or are an integral part of the way the game is played if that is not the case.

6. Games should not include practices that are aggressive, or which otherwise have the potential to exploit a child's inherent inexperience, vulnerability or credulity or to place undue influence or pressure on a child to make a purchase. The younger a child is, the greater the likely impact those practices will have, and the language, presentation, design and structure of the game should take account of that.

7. A game should not include direct exhortations to children to make a purchase or persuade others to make purchases for them.

8. Payments should not be taken from the payment account holder unless authorised. A payment made in a game is not authorised unless express, informed consent for that payment has been given by the payment account holder. The scope of the agreement and the amount to be debited should be made clear. Consent should not be assumed, for example through the use of opt-out provisions, and the payment account holder should positively indicate his/her express, informed consent.

9. Traders must ensure that, at the point of each purchase, the consumer explicitly acknowledges his/her obligation to pay.

In March 2014, the UK Parliament's Culture, Media and Sport Committee published a report into online safety for young people. The report highlights the risks and threats of the online world despite having improvements from a technological point of view and the public being more aware of dangers. However, the government has yet to issue a response.

Additional follow-up questions

i) In Denmark, what other items beside money are considered to be of economic value? In Italy, what games are allowed to be offered as "free games" and under which conditions?

Denmark: "Economic value" means any kind of stake related to the game. For example, if the player has to pay a membership fee to be able to play, that will be considered as a stake of economic value - even if the fee only has a negligible value. In principle a stake can be a physical thing.

Italy: Italy's certification guidance state that free games can be offered in "demonstration mode"; however, no further guidance is provided.

4.2 If yes, are there any provisions on free games of chance contained in national legislation (age restrictions, etc)?

Belgium: Please refer to the answer above.

Denmark: According to the Gambling Authority the Danish gambling legislation applies to social gaming provided that the social games fall within the scope of application of the definition of gambling contained in the Act on Gambling. The Gambling Authority is of the view that "social gaming may be governed by Danish legislation on consumer protection."

The Spillemyndigheden's technical standards specify that games without stakes (free games, games for fun, etc.) shall present the chance of winning in a correct and balanced way so as not to create an impression that the chance of winning is bigger than it actually is in games with stakes.

France: No express provisions contained in the Online Gambling Act.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: In addition to the answer above, the Remote Technical Standards includes the following standard on play-for-fun games.

RTS 6: Result determination for play-for-fun games

Gaming (including bingo), lotteries, and betting on virtual events

RTS aim 6:
To minimise the risk that customers are misled about the likelihood of winning due to the behaviour of play-for-fun games.

RTS requirement 6A:
Play-for-fun games must implement the same game rules as the corresponding play-for-money games. Operators must take all reasonable steps to ensure that play-for-fun games accurately represent the likelihood of winning and prize distribution in the play-for-money game. For the purpose of this requirement playing a game includes participating in a lottery and/or betting on a virtual event.

RTS implementation guidance 6A:
a. The play-for-free game should use the same RNG as the corresponding play-for-money games, another RNG that fulfils the requirements set out in RTS requirement 7A, or a publicly available RNG, (such as those available as standard within operating systems) that may reasonably be expected to produce no systematic bias.

b. Where 6a is not reasonably possible, it should be demonstrated that the method of producing outcomes does not introduce a systematic bias, for example:
i. if tables of random numbers are used, they should be sufficiently long to support a large number of games without repeating
ii. the method should represent game probabilities accurately, ie it should not produce a higher than expected proportion of winning outcomes.

c. The prize distribution should accurately represent the play-for-money game. For example, where play-for-fun games use virtual cash, the virtual cash payouts should be the same as the corresponding play-for-money game, and where tokens are used, the allocation of tokens as prizes should be proportionate to the stakes and prizes in the play-for-money game.

Free games are also mentioned in RTS 14 of the Remote Technical Standards which refers to responsible product design and applies to all gambling. It is a requirement that gambling products do not actively encourage customers to chase their losses, gamble more than they should or continuing to gamble despite stating that they would like to stop. By not actively encouraging customers means among other things, that "customers who have chosen to exit a game should not be encouraged to continue playing by, for example, being offered a free game."

Category 5. Regulations around the use of games on multi-platform devices

5.1. Does national legislation allow a player to log into his gaming account on several devices at the same time?

Belgium: No express provisions contained in the Gaming Act or the Royal Decrees. However, one of the Royal Decrees notified by Belgium to the European Commission on April 22, 2014 states that a player may not play more than three different games from one holder of a supplementary licence at a time.

Denmark: No express provisions contained in the online gambling legislation.

Pursuant to the Executive Orders on the provision of betting and online casinos the licensee is only required to check whether the player is properly identified when logging into the gambling account (either with a digital signature or any other appropriate means).

The Spillemyndigheden's technical standards also determine that the gambling system shall ensure that a customer cannot start a new game until the ongoing game is completed and all logs and balances have been updated. However, this does not prevent a customer from playing several different games at the same time.

In addition the gambling system shall include steps to prevent the customers from playing against themselves and the gambling system shall have methods for discovering whether the same equipment is being used by one or more participants in the peer-to-peer system at the same time.

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: No express provisions contained in the main gambling legislation or technical standards.

Additional follow-up questions

i) Is there an explanation why the Belgians allow a maximum of three games to be played simultaneously?

Belgium: No, there are no explanatory notes explaining why this requirement was settled upon.

5.2. Are players allowed to have more than one account with the same licensee?

Belgium: No express provisions contained in the Gaming Act or the Royal Decrees. One of the Royal Decrees notified by Belgium to the European Commission on April 22, 2014 specifies that a licence holder's web services shall not prevent a player from simultaneously registering with authorised websites.

Denmark: Yes. One player may have several gambling accounts with one licensee.

France: No express provisions contained in the Online Gambling Act or secondary legislation. However, according to ARJEL's professional FAQ (page 79), when a licensee has 2 different licences to offer 2 types of games (for instant sports betting and poker), it is possible for a player to open only one player account for all games offered by this licensee.

Italy: No. According to Section 2.2.6 of the Certification Guidance Version 1.1, players are only allowed to have one gaming account per operator.

United Kingdom: Yes. Social responsibility code provision 3.9.1 of LCCP which is applicable to all remote gambling licences states that licensees must have and put into effect policies and procedures designed to identify separate accounts which are held by the same individual. If in the case that licensees allow customers to hold more than one account with them, the licensee must have and put into effect procedures which enable them to relate each of a customer's accounts to each of the others and ensure that:

- » "If a customer opts to self-exclude they are effectively excluded from all gambling with the licensee unless they make it clear that their request relates only to some forms of gambling or gambling using only some of the accounts they hold with the licensee
- » All of a customer's accounts are monitored and decisions that trigger customer interaction are based on the observed behaviour and transactions across all the accounts
- » Where credit is offered or allowed the maximum credit limit is applied on an aggregate basis across all accounts
- » Individual financial limits can be implemented across all of a customer's accounts.

Category 6. Regulations around live betting and in-play betting

6.1 Does national legislation contain explicit provisions on live betting and in-play betting?

Belgium: No but permitted. Currently there is no explicit guidance. The Gaming Act defines betting as "game of chance in which each player bets an amount that produces a gain or loss that is not dependent on an act performed by the player, but the verification of an uncertain fact that occurs without the intervention of players". Furthermore the Gaming Act contains definitions of pari-mutuel and fixed odds betting.

Following the definitions contained in the Gaming Act, live betting could fall within the definition of betting. GamblingCompliance surveyed the betting options on Belgian licensed websites, and live betting is an option, for instance, on Ladbrokes.be.

In addition, Section 5 of the Royal Decree notified by Belgium to the European Commission on April 22, 2014 states that in the absence of any provisions to the contrary, a licence holder may offer live games that are offered by holders of a Class A and B licences.

Denmark: No but permitted. Section 5 of the Act on Gambling defines betting as "activities in which a participant has a chance of winning a prize and where bets are placed on the outcome of a future event or the occurrence of a particular event in the future". According to the explanatory notes of the Act on Gambling the betting licences also cover live betting.

Further detail: Section 11(3) of the Act lists what may not be permitted with a betting licence. Anything not explicitly listed in 11(3) and in the executive orders on online betting (Section 23) is allowed. In-play and live betting is not listed. The explanatory notes to the Act on Gaming (4.3.4. Betting) specify that in the Act, "betting" means activities in which a participant may have the chance of winning a prize and where bets are placed on: the result of a race, a sporting event or another event or; the occurrence of a particular event. The definition of betting therefore includes betting on events or occurrences which are not necessarily planned and will not necessarily occur.

France: No but permitted. The Online Gambling Act does not contain any explicit provision on live betting and in-play betting but secondary legislation does - through Article 3 of decree No. 2010-483 of May 12, 2010, which is a decree on sporting competitions, sports results and live, or in-play, betting.

Italy: No but permitted. Live betting and in-play betting are allowed (they currently account for more than 20 percent of the total betting activity, and growing).

United Kingdom: No but permitted. The Gambling Act does not contain an explicit provision on live betting and in-play betting. However, Article 9 of the Gambling Act 2005 provides a general definition of betting. Particular focus should be given to section (2) of Article 9 of the act, which would cover live and in-play betting on both the final outcome (who wins) of an event and contingency (such as next goal scorer) in an event:

- 1) In this Act "betting" means making or accepting a bet on—
 - (a) the outcome of a race, competition or other event or process,
 - (b) the likelihood of anything occurring or not occurring, or
 - (c) whether anything is or is not true.
- (2) A transaction that relates to the outcome of a race, competition or other event or process may be a bet within the meaning of subsection (1) despite the facts that—
 - (a) the race, competition, event or process has already occurred or been completed, and
 - (b) one party to the transaction knows the outcome.
- (3) A transaction that relates to the likelihood of anything occurring or not occurring may be a bet within the meaning of subsection (1) despite the facts that—
 - (a) the thing has already occurred or failed to occur, and
 - (b) one party to the transaction knows that the thing has already occurred or failed to occur.

* GamblingCompliance Commentary

Spain also permits in-play betting or live betting. Betting is defined in Law 13/2011 in Article 3 as: "Article 3 (c) c) Bets. A bet is understood to be a gaming activity in which sums of money are risked on the results of a previously determined event, whose final result is uncertain and unknown to participants. The sum of the prize money depends on the amounts risked or other factors that are previously set by the regulation of the specific type of bet."

However, live bets are limited to fixed-odds bets. According to Order/3080/2011 Annex I, Article 2 (12) live fixed odds sports bets are defined as: "... 12. Live fixed odds sports bet. These bets are placed while the sports event is taking place, either during the entire event or the part of the event established by the operator in their betting programme."

6.2. If yes, what are the regulatory measures set with regard to live betting/in-play betting?

Belgium: There are no regulatory measures specifically dealing with live betting or in-play betting.

Denmark: There are no regulatory measures specifically dealing with live betting or in-play betting. The general provisions on betting contained in the Act on Gambling and the Executive Order on the provision of betting would apply.

France: There are no regulatory measures specifically dealing with live betting or in-play betting. However, Article 3 of decree No. 2010-483 of May 12, 2010 on sporting competitions and types of sports results deals with the question of live betting/in-play betting.

Italy: There are no regulatory measures specifically dealing with live betting or in-play betting. However, live/in-play betting are treated and regulated just like pre-play betting. Some in-play events (those included in the "official program" or 'Palinsesto') are "certified" by AAMS, meaning that AAMS communicates the official result to the licensees.

If in-play events are part of the operator's "customised or complementary program", they are required to store for ten years the taping of the live event, together with a time-stamp over-imposed.

United Kingdom: There are no regulatory measures specifically dealing with live betting or in-play betting. However, in relation to in-play/live betting, this is termed "in-running betting", in IPA 3 of the Remote Gambling and Software Technical Standards. IPA aims to "make the customer aware that they may not have the latest information available when betting on live events, and that they may be at a disadvantage to operators or other customers who have more up-to-date information."

It is a requirement therefore that:

"Information must be made available that explains that 'live' TV or other broadcasts are delayed and that others may have more up-to-date information. Main in-running betting pages must be designed to include this information where practicable."

Moreover, guidance on this standard states that:

- a. Brief information should be included on main in-running pages or screens, such as the in-running home page or screen. More detail should be provided in 'help' or 'how to' or other product pages or screens.
- b. For telephone betting the information should be included in the general betting or product information that is made available to and/or sent out to customers.

c. Where a brief notice cannot be practicably included on the main pages or screens, the information should be provided on easily accessible 'help', 'how to' or other product pages or screens."

Additional follow-up questions

i) You state that specific rules apply for live betting in France. Could you explain what these rules consist of?

France: While the Online Gambling Act 2010 does not contain any explicit provision on in-play, or live betting, the legal basis for this is found in secondary legislation. This is through Article 3 of Decree No. 2010-483 of May 12, 2010, which is a Decree on sporting competitions, sports results and live, or in-play, betting. According to the article for each sport and for each category of events, ARJEL, the gambling regulator, defines the types of results which can be bet.

Paragraph II of this article provides that these types of results can be final results of competitions, or results of states of play of competitions.

Paragraph III of this article specifies that these results can include any event occurring during the competition, therefore regulating in-play betting.

The list maintained by ARJEL lists more than 40 sports, with each sport having the type of competitions allowed to be bet on (such as the UEFA Champions League), and the type of result able to be bet on (such as score at half time, next team to score, next player to score among others).

6.3. Which types of live betting are allowed?

Belgium: There are no express provisions in this regard contained in the Gaming Act or the Royal Decrees. However with regard to betting in general the Gaming Act allows for pari-mutuel and fixed odds betting.

Denmark: There are no express provisions in this regard contained in the gambling legislation. The explanatory notes to the Act on Gambling however clarify that the provisions in the Act on Gambling do not stipulate for which types of betting a licence may be obtained. Therefore, the licences may be for ordinary betting on fixed odds, pool betting and betting exchange.

France: According to Article 3 of decree No. 2010-483 of May 12, 2010 on sporting competitions and types of sports, for each sport and for each category of events ARJEL defines the types of results on these competitions, for which bets can be taken, maintaining a list. This list maintained by ARJEL currently lists over 40 sports, with each sport having the type of competitions allowed to be bet on (such as the UEFA Champions League), and the

type of result able to be bet on (such as score at half time, next team to score, next player to score among others). Paragraph III of this article specifies that such results include any event occurring during the competition. Italy: Live and in-play betting in Italy has been permitted in the form of fixed odds betting over the result of sports events.

United Kingdom: There are no express provisions in this regard contained in the UK gambling legislation. The most predominant form of live betting taking place in the UK is on sporting events. Live bets can be made via the internet using either a betting exchange or a bookmaker's website while it can also take place in betting shops or over the phone.

Category 7. Regulation of digital TV gaming and gambling

7.1. Are games of chance offered on (digital) television allowed?

Belgium: Yes.

Denmark: Yes (restricted to bingo and betting). The Act on Gambling defines “online gambling” as “gambling activities between a player and a gambling provider through the use of remote communication.” Pursuant to the explanatory notes to the Act on Gambling the offer of gambling on (digital) television falls within this definition. However, only the provision of lottery games including bingo and betting is allowed on digital television. As the online offer of casino games including poker and slot machines requires an instant connection of the player with a digital signature no offer of casino games (including poker and slot machines) is allowed on (digital) television.

Italy: No. According to the regulator they are not allowed. Only the feed of a live dealer online game (for example, casino) can be aired, but all the playing activity must be performed through a gaming account and a pc/mobile client. However, the list of remote gambling licensees lists television (and telephone) as a distribution channel.

United Kingdom: Yes. Section 4 of the Gambling Act 2005 provides for the definition of “remote gambling means in which persons participate by the use of remote communication”. Remote communication means communication using any of the following:

- » The internet
- » Telephone
- » Television
- » Radio
- » Any other kind of electronic or other technology for facilitating communication.

Additional follow-up questions

i) In the UK, the same regulation applies to both internet and TV gaming, since both are considered to be remote. Are there any practical implications or limitations to make TV gambling more difficult in the UK? (e.g. something similar to the NEMID system in Denmark)

United Kingdom: In addition to watersheds (discussed below), there is not a NEMID equivalent in the UK, which would make ID verification potentially fraught for digital TV. Providers usually confirm ID via credit or debit card details, so therefore one difficulty, could be if the credit/debit card is registered to a different address, with the

following illustrative example from operator Supercasino, which is on the UK’s channel 5:

“Confirm your identity: We usually won’t ask you to show us ID provided you have a credit or debit card registered to the home address you sign-up with.

Because security is such a top priority for us we insist that you sign-up with the same address that your card is registered to. However, if we cannot verify the information that you give us, either when you sign-up or in accordance with our other regulations, we may ask you to provide further verification of your identity and address, usually in the form of driver’s license, passport or credit/debit card invoice details, either online or by post.

This is to comply with our gaming regulations under the Gambling Act of 2005. We’ll let you know if we need to see this type of ID either when you sign up, or by writing to you (by post and/or email) when you have deposited more than £1,000 in total into your SuperCasino account.

This is in accordance with Gambling Commission regulations on money laundering and we request your understanding when dealing with this issue. Please be aware that it may be necessary to close or temporarily suspend your account should we be unable to properly identify you at any time.”

7.2. If yes, which rules apply to games of chance offered on (digital) television?

Belgium: The Gaming Act provides for G1 licences which allow the licence holder to offer gambling on TV. The Gaming Act provides for certain licensing requirements. The Royal Decree of June 21, 2011 sets certain rules applicable to gambling offered on TV.

In particular, there are rules for the offer of telephone gambling (for example who is allowed to participate, the telephone charges must be between €0.50 and €2, the games have to be organised and proposed in a correct and transparent way, rules on winnings, and the selection of the winners), player protection (in particular the rules of the games offered have to be available to the players at all times and on certain media, the presenter of the games may not encourage players to play excessively, before each game, an educational message in the form a voiceover has to appear on TV, etc).

Denmark: As gambling offered on (digital) television is considered online gambling, the respective provisions on online gambling are applicable.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: -

United Kingdom: As TV gambling falls within the definition of remote gambling, the respective provisions on online gambling are applicable.

7.3. Which regulatory measures apply to games of chance offered on (digital) television? (licences, etc)

Belgium: The Gaming Act provides for G1 licences which allow the licence holder to offer gambling on TV. The Gaming Act provides for certain licensing requirements. The Royal Decree of June 21, 2011 sets certain rules applicable to gambling offered on TV, in particular rules on the offer of telephone gambling (for example who is allowed to participate, the telephone charges must be between €0.50 and €2, the games have to be organised and proposed in a correct and transparent way, rules on winnings, and the selection of the winners), player protection (in particular the rules of the games offered have to be available to the players at all times and on certain media, the presenter of the games may not encourage players to play excessively, before each game, an educational message in the form a voiceover has to appear on TV, etc).

Denmark: As the Act on Gambling provides for an unlimited number of online licences for betting and monopoly licences for the provision of online lottery games and online horse and dog race betting there is an unlimited number of licences available for the provision of betting on (digital) television and one licence for the provision of lottery games and horse and dog race betting on (digital) television.

France: -

Italy: -

United Kingdom: According to the Gambling Act 2005, games of chance offered on television fall under the category of remote gambling. The Gambling Commission is responsible for issuing operating licences which authorise the licensee to operate a casino, provide facilities for pool betting/playing bingo and more. It is stated that an operating licence is a “remote operating licence” if it authorises activity to be carried on – (a) in respect of remote gambling or (b) by means of remote communication”.

7.4. Which types of games of chance may be offered on (digital) TV?

Belgium: The Royal Decree of June 21, 2011 determines that the Gaming Commission has to state in the licence granting decision which types of gambling may be offered on TV.

Denmark: The Act on Gambling defines “online gambling” as “gambling activities between a player and a gambling provider through the use of remote communication.” Therefore the offer of gambling on (digital) TV falls within this definition. However, only the provision of lottery games including bingo and betting is allowed on digital television. As the online offer of casino games including poker and slot machines requires an instant connection of the player with a digital signature no offer of casino games (including poker and slot machines) is allowed on (digital) television.

France: -

Italy: -

United Kingdom: All the types of “remote gambling” permitted in the UK, would be permitted over television, since it is considered a means of ‘remote communication’.

7.5. Are there certain restrictions on when such games of chance may be offered on digital (television) etc?

Belgium: No. There are no express provisions in the gambling legislation. The Royal Decree of June 21, 2010, however states that before each game, an educational message in the form a voiceover has to appear on TV.

Denmark: In Denmark they do not have any limitation in proportion to what time of day television shows can be shown, cf. the recommendation from the EU.

While there are no express provisions in the online gambling legislation, Section 36 of the Act on Gambling contains various rules which apply to the marketing of gambling activities (chance of winning has to be presented in a correct and balanced manner, marketing shall not aim at young people under the age of 18 neither in its communication nor in the choice of media, etc).

Italy: -

United Kingdom: The UK Gambling Commission released a note on Gambling services on TV channels, in October 2009. This note said that:

“Transactional TV services offering gambling content have been in existence for some years and indeed in advance of the 2005 Gambling Act (the Act). At that time, they

were restricted to “betting” services but, in the wake of the agreement in respect of allowable content on fixed odds betting terminals, such betting content was deemed to include virtual roulette and virtual horse and dog racing. Also, as betting and gaming advertising was not permitted on UK television, gambling-based output could exist only as editorial programme services.

The introduction of the act changed the position in two respects; it removed the restrictions both on gambling advertising and on the range of remote gambling services which can be offered within Great Britain. The consequence was that transactional gambling services could be offered as either editorial programming or teleshopping (advertising) and on all types of gambling.”

In recent times such gambling services have been offered both on dedicated channels (where it is shown for all or much of the day) and on general services (where it is typically shown in blocks). Ofcom have summarised what is available as follows:

“Typically, this content offers roulette, bingo, card games and virtual horse and dog racing. Viewers are able to open accounts and take part in pay gambling. Some services are predicated on this output; other, more general programme services carry extended features or ‘windows’, usually three or four hours in length, that are generally simultaneous broadcasts of the dedicated channels.”

The output itself usually involves inviting or encouraging viewers to gamble, showing the “event” and displaying the results and winners. Bets can be placed by such means as the “red button” or phone.

There have been two significant changes to broadcasting regulation in recent months which have impacted on such services. First, as mentioned above, transactional TV services offering gambling content could from September 2007 choose whether to hold an ‘editorial’ licence and broadcast as ‘programming’ or a licence granted on the basis of the output being treated as teleshopping (or in other words as advertising).

Earlier this year Ofcom consulted on and then implemented a change that means all such output is now treated as teleshopping. The move to treat transactional gambling services as only teleshopping by Ofcom (the communications regulator) was announced in May 2009, when Ofcom said: “Ofcom has today published a statement on the status of transactional gambling services(-7-). From 1 June 2009, such content, which has previously been regulated as editorial content, will be treated as teleshopping.

One effect of the decisions made in this statement will be to enable those channels (including PSB channels) that have previously scheduled transactional gambling

content as editorial programming to do so in the future in teleshopping slots.”

Therefore, transactional gambling Games of chance offered on TV are able to be shown between midnight and 6am. This rule is found in the “Code on the scheduling of television advertising”. An updated code from December 2010 noted that:

“Teleshopping windows must be at least 15 minutes long:

- a) on public service channels, teleshopping windows may be scheduled only between midnight and 6am; and
- b) on other channels, there are no limits on the number or scheduling of teleshopping windows.”

★ Gambling Compliance Commentary

Many jurisdictions have ‘watersheds’ with respect to the promotion of gambling – that is, this cannot occur until after a certain time (sometimes with exceptions for advertising betting during live sports broadcasts). In the UK, the gambling advertising watershed for most forms of gambling is 9pm. For the UK this is found in the ‘Gambling Industry Code for Socially Responsible Advertising’ and has codes paragraphs 30-32 on television advertising – Watershed. The code states:

“30. Under the Gambling Act 2005 it is legal to offer a wider range of gambling advertising than was previously the case. The content of that advertising will be governed by the BCAP codes (see paragraph 5), but the gambling industry is aware that concerns exist about the potential effect of a rapid growth in television advertising. Although gambling operators will advertise in a socially responsible manner in compliance with the BCAP codes it is right to proceed with caution, especially in relation to the protection of children.

31. Consequently, this code requires that new gambling products (NB not those, such as bingo, that were permissible prior to 1 September 2007), should not be advertised on television before the commonly accepted watershed time of 9.00pm. For the avoidance of doubt, it is worth underlining here that the sponsorship of television programmes is classified as advertising (for a definition of advertising, see Section 327 of the Gambling Act 2005).

32. The exception to this rule is the advertising of sports betting around televised sporting events. The majority of these events take place or begin before 9.00pm and given the direct relationship between the two it would be unreasonable to prevent the advertising of betting opportunities.

For the purposes of this code sporting events do not include sports-themed entertainment programmes such as (but not exclusively) dancing and ice-skating competitions and quizzes. The sponsorship of sporting events themselves, as opposed to their televised coverage, is not affected by this code.”

Category 8. Policies in terms of transition periods between pre-regulatory and regulated environments, with reference to player accounts/blackout periods, etc

8.1. How did the transition of players/customers of remote games of chance operators to the regulated environment take place?

Belgium: No express provision in the Gaming Act on online gambling.

Denmark: As long as the player's identity was verified, it was possible for the game providers to migrate existing players.

The explanatory notes to the Act on Gambling suggested at the time that the: "government believes that the implementation of this legislation will lead to the creation of greater order on the Danish gaming market, which has been characterised by illegal marketing and provision of games by foreign providers and by the inability of the courts of law to enforce the legislation, inter alia because the European Commission has commenced infringement proceedings against Denmark."

Denmark therefore considered the offering of online gambling by operators not licensed by Denmark against Danish gambling regulation which was in force.

However, Denmark recognised that the online gambling legislation in force at that time was in potential breach of EU law and therefore not applicable. The prohibition could therefore not be enforced and online gambling operators established in other member states of the EU offered their services in Denmark during the transition period.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: Only the personal data of existing .com accounts can be transferred to an .it platform. By no means the existing .com balances can be transferred (according to Italian law, that would be treated as money laundering). So, the former .com players must withdraw their balances and then decide to deposit the money again into their .it accounts.

United Kingdom: Currently operators that are based in an EEA and "white-listed" countries (Alderney, Antigua and Barbuda, Isle of Man and Tasmania) do not need a UK licence to offer their services legally in the UK.

Under the move to point of consumption licensing, operators currently active on the market are expected to qualify for continuation licences. The UK Gambling Commission expects that such operators will need to submit an application and pay a fee during the transitional period. Operators holding a continuation licence will only be permitted to supply products which are already on the market and are required to ensure they apply for the correct size of licence. The Gambling Commission has stated that "continuation licences are full licences albeit ones subject to termination or suspension if the substantive application is not determined positively or their overseas licences cease to have effect."

The Statutory Instrument to put the Gambling (Licensing and Advertising) Act 2014 into force was tabled in parliament on June 25. Following this the Gambling Commission said that it is "now accepting licence applications....Operators who meet this requirement [hold a licence in an EEA or white listed jurisdiction] must have submitted an advance application with the relevant application fee by midnight (Greenwich Mean Time) on 16 September 2014 to be eligible for a continuation licence. If the application has not been determined by 1 October 2014 the applicant will be issued with a continuation licence that will enable them to continue to operate until completion of the application process."

* Gambling Compliance Commentary 1

Spain: Prior to the awarding of the first online gambling licences in the country, online gambling operators were required to eliminate client lists (databases) and create new accounts for players. Additionally, companies which applied for a gambling licence in Spain and were known to offer online gambling services in the country prior to the approval and implementation of legislation for the operation of online gambling activities, were also required to pay back-dated taxes, since the moment the companies were estimated to have entered the Spanish gambling market.

The measures listed above were not explicitly considered by the Spanish gambling law.

* Gambling Compliance Commentary 2

Greece: Despite the fact that no licensing process has been formally implemented in Greece, to date

Greece is host to 24 online gambling licensees. However, these licensees only hold a temporary licence which was granted by the Ministry of Finance in 2012, not by the Hellenic Gaming Commission which is the authority in charge licensing gambling activities in the country. As part of the conditions imposed on these 24 licensees, the Ministry of Finance, following a similar approach to that of Spain, required online gambling operators interested in obtaining one of these temporary licences to pay back dated taxes in order to be eligible for a temporary online gambling licence. Following a similar approach to that of Spain, the Greek Ministry of Finance did not base its decision on requiring the payment of back-dated taxes on gambling legislation, instead, the ministry based its decision on administrative legislation which has established that tax measures can be applicable to past situations within certain time periods. In this particular case, online gambling operators were required to pay back taxes to the Greek state since 2010.

8.2. In particular, did already existing player accounts stay in place?

Belgium: No express provision in the Gaming Act on online gambling

Denmark: No. Existing players received a new account. The accounts had to be validated by cpr. No. (personal security no).

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: It is mandatory not to accept players from Italy (or let them play) on the existing .com platform. They must all be directed to the .it site. Infringing this rule would cause a suspension of the Italian license. There is no transition period, as .com and .it cannot overlap.

United Kingdom: Yes. This would seem to be the case with the transitional licence arrangements described above.

8.3. Was there a "blackout period"? How long did such a black period last?

Belgium: No express provision in the Gaming Act on online gambling.

Denmark: No. There was not a "blackout period" in the transitional phase.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: No. No blackout periods have been established.

United Kingdom: No. However, with licence applications, according to the Gambling Commission a "dead period" is expected to occur for approximately two weeks before the Gambling (Licensing and Advertising) Act 2014 comes into effect: "to ensure that the Commission can process applications in time for 'go live'."

8.4. During the transition period, were operators allowed to advertise their remote games of chance services?

Belgium: No provisions in the Gaming Act on online gambling.

Denmark: No. The Act of gambling came into force by January 1, 2012.

Only games providers with a licence were/are allowed to advertise, therefore it was not allowed to advertise before January 1, 2012 if you did not hold a licence. The regulator includes information on promotion of games in newsletter no. 7.

France: -

Italy: No. Advertising was allowed only after the .it site was launched.

United Kingdom: Yes.

8.5. Did remote games of chance operators have to pay taxes applicable to licensees during the transition period?

Belgium: No provisions in the Gaming Act on online gambling.

Denmark: The licence holder started paying taxes from the day they started providing games. Not earlier than January 1, 2012. They did however pay an application fee when they applied for their licence in the fall of 2011.

France: -

Italy: They have to pay taxes only on the .it gaming activity.

United Kingdom: No. The Finance Bill which received royal assent on July 17, 2014, and has now become the Finance Act 2014, will only have applicable taxation (remote gaming duty) obligations from December 1, 2014.

8.6. Does national legislation provide for any time limits for the identification of existing players?

Belgium: No express provisions in the Gaming Act on online gambling.

Denmark: No express provision in the Act on Gambling or the Executive Orders on the provision of betting and online casinos. However, the Danish Gaming Authority issued a number of newsletters in the run up to the market opening. In Newsletter number 3 they stated this:

“We have received a number of queries regarding the paragraph: Licence holders should be aware that the requirement for validation of registered players’ identity information must still be applied and that in the period from 1 January to 29 February 2012 they must use an alternative to the digital signature, e.g. passport and driver’s licence etc.

In the additional terms we will require that the license holder obtain information concerning their customer’s identity i.e. name, address and CPR number. The obtained information needs to be verified by an independent and reliable source.

In addition the information has to be verified through supplementary documentation. NemID can be used in this regard. However, since this might not be an option for some license holders alternative supplementary documentation needs to be obtained. In Guide on betting and online casino p.p. 30 in the section Proof of the customer’s identity examples of what constitutes supplementary documentation.

In addition to what is stated in the Guide it should be added that the aforementioned customer information does not necessarily have to be obtained and verified after 1 January 2012. Information previously supplied by the customer can be used. This does also apply to documentation such as passport, bank statements etc. as long as it can be reasonably assumed to still be current. Therefore it is already possible to migrate customers.”

Furthermore, Newsletter number 6 stated the following:

“Due to the recent challenges of NemID not being ready for use as on 1 January 2012, the Danish Gambling Authority has decided to make it possible for licence holders to open permanent accounts in the name of registered players on the following premises:

1. As of 1 January 2012 cpr. no. validation of the registered players must be carried out.
2. Validation by the use of NemID or alternative documentation must be carried out prior to 1 March 2012.

i.e., during the month of January it will not be mandatory to open temporary accounts in the name of either existing or new customers. However, 1 March 2012 at the latest validation must be finalized. If not, due to the entry into force of the Executive Orders as of 1 February 2012 the accounts must be closed.

In order to assess whether payments of more than DKK10,000 may call upon attention, until 1 March 2012 the Danish Gambling Authority will carry out selections in the data received in SAFE and by the use of spot checks. In that connection, licence holders may be obliged to provide additional information of the accounts in question.

The Danish Gambling Authority stresses that gaming accounts opened on the 1 February 2012 and onwards will have to be temporary accounts in accordance with the requirements stated in the executive orders.”

France: -

Italy: Yes. Players must send a copy of their ID to the operator within 30 days from when they have opened a gaming account. Failure to do so implies a suspension of the gaming account. The ID is necessary anyway before any withdrawing activity.

United Kingdom: No. Not specified in the main gambling act.

Category 9. Jackpot limits, minimums and measures in place to guarantee payment

9.1. Any specific regulation with regard to jackpots?

Belgium: No specific regulation in the Gaming Act and the Royal Decrees currently in force. The Royal Decrees notified by Belgium to the European Commission on April 22, 2014 contains some provisions on the distribution of prizes and in particular states that:

- » The distribution of prizes must be clearly known before the player starts the game.
- » In the event of any modifications to the prize distribution in accordance with the rules of the game, the licence holder shall retain records of the previous distributions.
- » Modifications to prize distribution must under no circumstances take effect during the game.

Denmark: No. However, the Spillemyndigheden’s technical standards contain some provisions on the fairness and transparency of jackpots, rules that apply to jackpots, the setup, notification, triggers and discontinuation of jackpots.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: No. However, progressive jackpots are considered by the Certification Guidance Version 1.1. According to annex A, games can only be considered to include a jackpot function when: i) serves as a supplement of main game ii) its funds are generated partially or entirely for the players’ bets iii) the prize is combined with that of future events when there is not winner.

United Kingdom: No. However, progressive jackpots are considered in the Remote Gambling and Software Technical Standards. It provides the following definition: “an incremental prize that increases as a result of contributions from the monies staked within a game from a pre-set base value”.

Additional question: What specific rules apply to jackpots in Denmark?

Denmark: According to the Testing Standards for Online Casino SCP.01.03.EN.1.0 section 3.3 states regarding that:

“3.3 jackpots

3.3.1 General

1. The gambling system shall ensure that the actual funds transferred to a jackpot correspond to what is stated in the rules governing the jackpot in question.

Guidance: If there is a maximum amount on a jackpot, all further contributions after this maximum has been reached shall be credited to another pool (see below for details).

2. The gambling system shall ensure that the return to player corresponds to what the customer has been led to expect, irrespective of the game unit stake.

3. If a minimum stake is required for a customer to trigger a jackpot, the basic game (ex Jackpot) shall have the stated return to player.

4. The gambling system shall ensure that all customers who contribute to a jackpot have a chance of winning the jackpot while playing the game in question.

5. The gambling system shall ensure that the likely chance of winning the jackpot is linearly proportional to the customer’s contribution to the jackpot.”

9.2. Any minimum requirements guaranteeing the actual payout of the jackpot?

Belgium: No. However, the Royal Decree of June 21, 2011 determines that a licence applicant has to provide a detailed plan explaining how the licence applicant will secure the payment of the winnings and all other payments made between the player and the licensee.

Denmark: No. However, Section 11 of the Executive Order on the provision of betting and Section 12 of the Executive Order on online casinos require that a licence holder has to have a set-off free bank account for the players’ funds, which must be kept separate from other funds of the licence holder. The funds in the account may solely be payable to players and they must be protected in case of the licence holder’s insolvency. The amount held in the account must always be equal to the total amount deposited on the players’ gambling accounts. In applying for an online casino or betting licence the applicant must attach a declaration from the financial institution about the set-off free account and how it is ensured that the conditions of the Executive Orders are met.

Specifically with regard to jackpot winnings the Spillemyndigheden’s technical standards require that the gambling system shall be able to restore jackpot amounts and jackpot prizes on the basis of customer contributions to the jackpot.

France: No express provision contained in the Online Gambling Act or secondary legislation.

Italy: No express provision contained in the online gambling legislation. However, the Certification Guidance Version 1.1 states that jackpots can only be implemented in relation to those activities which have been authorised by the Italian gambling authority. Additionally the guidance establishes that the jackpots are subject to specific regulation of the games which serves as a base for its implementation (for example, gaming machines) which are generally subject to a minimum payout.

United Kingdom: No express provision contained in the main gambling legislation. However, progressive jackpots are referred in RTS 3 of the Gambling and software Technical Standards (August 2009). This section applies to gaming (including bingo), lotteries and betting on virtual event and its objective is to inform customers when making their decision about whether to gamble based on their likelihood of winning, how the game, lottery or event work, the offers on the prizes or payouts and the state of multi-state games or events. RTS requirement 3A provides that before gambling the customer must be provided with an explanation of all the applicable rules and “all reasonable steps must be taken to ensure that the content is understandable.” The content must include, among other things: if there are any contributions to jackpots/ progressives and how the jackpot operates (for example, if winning the jackpot is achieved by a certain result).

RTS requirement 3D states that before a customer decides to gamble on a virtual event, game (including bingo), or lottery, content explaining the potential prizes and payouts or the means by which these are calculated must be accessible. The following should be noted: “Displays of jackpot amounts that change over time (progressives) should be updated as frequently as practicable, particularly after the amount has been reset following a win.”

9.3. Other guarantees for the payment of players’ winnings (especially in the event of bankruptcy)?

Belgium: Yes. The Royal Decree of June 21, 2011 determines that a licence applicant has to provide a detailed plan explaining how the licence applicant will secure the payment of the winnings and all other payments made between the player and the licensee.

Denmark: Yes. Section 11 of the Executive Order on the provision of betting and Section 12 of the Executive Order on online casinos require that a licence holder has to have a set-off-free bank account for the players’ funds, which must be kept separate from other funds of the licence holder. The funds in the account may solely be payable to players and they must be protected in case of the licence holder’s insolvency. The amount held in the account must always be equal to the total amount deposited on the players’ gambling accounts. When applying for an online

casino or betting licence the applicant must attach a declaration from the financial institution about the set-off free account and a description of how it is ensured that the conditions of the Executive Orders are met.

The licence applicant is required to provide a copy of its procedures and controls designed to ensure that the applicant has sufficient funds to pay out all potential winnings. The guidelines on how to fill the application form on the Gambling Authorities’ website states that a funding plan containing a specific description of mathematical calculations of financial risks and the funding of such risks. Financial risks include for example currency risk, interest rate risk and gambling risk.

France: No express provision in the Online Gambling Act or secondary legislation.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: Yes. Licence condition 4.1.1 of the LCCP which applies to all remote operating licences states that “licensees who hold customer funds must ensure that these are held in a separate client bank account or accounts”. Licence condition 4.2.1 of the LCCP also requires that licensees who hold customer funds must “set clearly in the terms and conditions under which they provide facilities for gambling information about whether customer funds are protected in the event of insolvency, the level of such protection and the method by which this is achieved”.

These codes are extracted in full below:

Licence condition 4.1.1
Segregation of funds

1. Licensees who hold customer funds must ensure that these are held in a separate client bank account or accounts.

2. In this condition ‘customer funds’ means the aggregate value of funds held to the credit of customers including, without limitation:

a cleared funds deposited with the licensee by customers to provide stakes in, or to meet participation fees in respect of, future gambling, b winnings or prizes which the customer has chosen to leave on deposit with the licensee or for which the licensee has yet to account to the customer, and c any crystallised but as yet unpaid loyalty or other bonuses, in each case irrespective of whether the licensee is a party to the gambling contract.

Licence condition 4.2.1
Disclosure to customers

1. Licensees who hold customer funds must set out clearly in the terms and conditions under which they provide facilities for gambling information about whether

customer funds are protected in the event of insolvency, the level of such protection and the method by which this is achieved.

2. Such information must be according to such rating system and in such form the Commission may from time to time specify. It must be provided in writing to each customer, in a manner which requires the customer to acknowledge receipt of the information and does not permit the customer to utilise the funds for gambling until they have done so, both on the first occasion on which the customer deposits funds and on the occasion of any subsequent deposit which is the first since a change in the licensee’s terms in relation to protection of such funds.

3. In this condition ‘customer funds’ means the aggregate value of funds held to the credit of customers including, without limitation:

a cleared funds deposited with the licensee by customers to provide stakes in, or to meet participation fees in respect of, future gambling,
b winnings or prizes which the customer has chosen to leave on deposit with the licensee or for which the licensee has yet to account to the customer, and
c any crystallised but as yet unpaid loyalty or other bonuses, in each case irrespective of whether the licensee is a party to the gambling contract.

9.4. Does national legislation require the licensee to have separate bank accounts for the players’ winnings and the other business of the licensee?

Belgium: No express provision contained in the Gaming Act or the Royal Decrees.

Denmark: Yes. Section 11 of the Executive Order on the provision of betting and Section 12 of the Executive Order on online casinos require that a licence holder has to have a setoff-free bank account for the players’ funds, which must be kept separate from other funds of the licence holder. The funds in the account may solely be payable to players and they must be protected in case of the licence holder’s insolvency. The amount held in the account must always be equal to the total amount deposited on the players’ gambling accounts. When applying for an online casino or betting licence the applicant must attach a declaration from the financial institution about the set-off free account and a description of how it is ensured that the conditions of the Executive Orders are met.

France: No express provision contained in the Online Gambling Act or secondary legislation.

Italy: Yes. Law 88/2009 (Legge Comunitaria) Article 24 (17) (m) has established that operators are under obligation of using a dedicated bank account to manage players’ deposits.

United Kingdom: No. No express provision contained in the Gambling Act 2005. The LCCP provides for segregation of funds in licence condition 4.1.1 (extracted above). All licensees must make sure that the customer funds they are holding are held in a separate client bank account or accounts.

* Gambling Compliance Commentary

The offshore gambling hub of Alderney conducted a review, which, in part, looked at the protection of player funds. The review was brought on by the collapse of Alderney licensee, Full Tilt Poker, after the operator was charged by US authorities in the now infamous ‘Black Friday’ indictments in April 2011. The 15-week review was led by Peter Dean, former chairman of the UK Gambling Commission, looking at a “warts and all” inspection of Alderney’s actions in the wake of the US indictments which eventually led to the demise of Full Tilt Poker and the loss of millions of dollars in player’s funds. With respect to player funds, Alderney made changes - the Alderney eGambling (Amendment) Regulations 2012, came into force in July 2012, and requires Category 1 eGambling licensees to “segregate funds standing to the credit of customers in a separate bank account held solely for that purpose”. Additionally, licensees must submit monthly reports to the AGCC about player funds. Furthermore, the regulations stipulate that licensees must “take reasonable steps to identify any improper attempts to influence the outcome of any event upon which gaming may take place”, as well as report such activity to the AGCC.

Category 10. Regulatory approaches towards multi-currency payment

10.1. Is payment in other currencies allowed? (Explicitly mentioned in the law)

Belgium: No express provisions contained in the Gaming Act and the Royal Decrees. Section 6 of the Royal Decree notified by Belgium to the European Commission on April 22, 2014, however states that a licence holder may offer an international game provided that the player continues to play with the authorised Belgian website.

Denmark: No express provisions contained in the online gambling legislation. In the FAQs for gambling providers published on the website of the Gambling Authority the latter however clarifies that a player may play in various different currencies.

France: According to Article 14 of decree n° 2010-518 of May 19, 2010, the amounts in the player account are expressed in euros. However, currency conversions can occur, suggesting other currencies can be permitted. The currency conversion operations carried out by the operator for the player's account, requires an operator to give exchange rate information applicable prior to the commencement of the game or bet giving rise to the conversion.

Italy: No express provisions contained in the online gambling legislation.

United Kingdom: No express provisions contained in the Gambling Act 2005. However, RTS 2 of the Remote Gambling and Software Technical Standards states that it is "preferable" to display the amount being gambled either in the currency of the customer's account or in the currency of the product. If there are any conversion changes from one currency to another and any conversion rules the customer must be made aware of them. RTS 1A also states that, in relation to Customer Account Information:

"Where customers hold a credit or debit balance, the pages or screens used to move money into and out of accounts or products must be designed to display the customer's current account or product balance, either in the currency of their account or the currency of the gambling product (e.g. dollars, euros or pounds sterling), whenever that customer is logged in."

Category 11. Provisions addressing player accounts in terms of minimum/maximum balance

11.1. Any regulation which sets a maximum balance of a player's account?

Belgium: There are no express provisions contained in the online gambling legislation.

Denmark: No. There are no express provisions contained in the online gambling legislation. However, the Executive Orders for the provision of betting and online casinos respectively provide that for temporary accounts (time between registration of player and full identity check of the player) the customer may only deposit a maximum amount of DKK 10,000 to his account.

France: Yes.

Italy: No. There are no express provisions contained in the online gambling legislation. However, players must be able to set up maximum deposit limits. In this regard the regulations have established that gambling accounts must have a set limit, and there cannot be unlimited funds accounts.

United Kingdom: No. There are no express provisions contained in the Gambling Act 2005. However, a requirement is stated in the Remote Gambling and Software Technical Standards for a gambling system to provide facilities for customers which make it possible to set their own financial limits.

11.2 .If yes, are licensees themselves required to transfer the players' winnings back to his bank account when the maximum balance is exceeded?

Belgium: -

Denmark: -

France: French law requires players to set mandatory win limits when registering their account with the verification code sent in the post by a gambling operator. Article 17 of the Online Gambling Law 2010 states that the player is required to set an amount, over which any winnings will be transferred back to their bank account:

"When entering the secret code mentioned in the first paragraph of Article 5, the operator is required to ask the player to determine an amount beyond which the available winnings from the player account are automatically transferred to their payment account referred in paragraph 1 of section 2. No gambling

operation can be performed until the player has determined this amount. The player must be able to change this amount at any time by an easily accessible device."

Italy: -

United Kingdom: -

11.3. Can players set maximum limits for their own account?

Belgium: There are no express provisions contained in the online gambling legislation.

Denmark: Yes. The Executive Orders on the provision of betting and online casinos provide for deposit limits which players can set. The rules state at Article 15 and 17 respectively that:

"The licence holder must make a function available to the player that allows the player to set daily, weekly and monthly deposit limits. A player's request to set a deposit limit shall be implemented immediately upon request; but see paragraph 2. Paragraph 2. A player's request for an increase of a previously fixed deposit limit may not come into force until after 24 hours have passed."

France: Yes. Players must set mandatory betting limit within 7 days of setting an account. If the player is required to indicate betting limits, the operator cannot fix these limits. The player sets the limits.

Italy: Yes. Online gambling operators are required to allow players to establish limits in their accounts. In those cases in which the players prefers not to establish betting limits the operator will be required to establish those limits. Player's accounts cannot be unlimited or by default. Players must set limits. Any increase in a player's deposit limit can only take effect after seven days from the change, however, decreases in deposit limits a required to take effect immediately.

United Kingdom: Yes. The RTS 12 of the Remote Gambling and Software Technical Standards state that during the registration process (or when the customer makes the first deposit or payment) customers should be able to set their own limits. RTS 12A states:

"[T]he gambling system must provide easily accessible facilities that make it possible for customers to impose their own financial limits. Customers must be given the opportunity to set a limit as part of the registration

process (or at the point at which the customer makes the first deposit or payment)."

In terms of telephone gambling (with the exception of lotteries), when customers register they must be asked whether they would prefer to set a deposit or spend limit. Even after registration customers should be able to request a limit and the limit should be applied as soon as practicable. The customer should also be notified of when the limit is enforced.

In terms of other access media (including internet, interactive TV and mobile) customers should be given the option to choose a deposit/spend limit from a list which may also have a "no limit" selection or they should be able to enter their own limit as part of the registration process or first deposit process.

The types of limit option can include deposit, spend or loss limits. These are outlined in RTS 12 as:

- » "deposit limits: where the amount a customer deposits into their account is limited over a particular duration
- » spend limits: where the amount a customer spends on gambling (or specific gambling products) is restricted for a given period – this type of limit may be appropriate where the customer does not hold a deposit account with the operator
- » loss limits: where the amount lost (i.e. winnings subtracted from the amount spent) is restricted (for instance when a customer makes a £10 bet and wins £8, the loss is £2)."

The duration of the player's limit cannot be less than 24 hours, the technical standards also note that limits may be implemented per customer, accounts, or other methods; as well as either across all product channels or across individual products or channels. Links to limit facilities are also required on an operator's homepage/s, as well as limit facilities being available on deposit pages or linked to from deposit pages. [RTS 12A guidance paragraph d, e).

Should a player wish to increase their limits, a cooling off period of 24 hours applies before these are to come into effect (RTS requirement 12B). Guidance on this requirement states that:

- "a. Increases should not be implemented until a cooling-off period of at least 24 hours from the point at which the request to increase the limit was received. Where it is practicable to do so, the customer should be required to confirm that they still wish to increase the limit at the end of the cooling-off period.
- b. Where possible (for instance, unless systems/technical failures prevent it) limit reductions are to be implemented within 24 hours of the request being received."

*** Gambling Compliance Commentary:** The UK launched a wide ranging consultation in August 2014. One of the proposals is to strengthen financial limit requirements in the technical standards. The Gambling Commission is proposing:

"to strengthen RTS 12B to make it a requirement that before a customer's financial limit is increased they must confirm that they still wish to increase the limit at the end of the cooling-off period. This is therefore elevated from implementation guidance to requirement in the draft below.

We also propose to state that operators should offer customers the choice of selecting the time periods over which a financial limit applies and these should include 24 hours, 7 days and one month."

11.4. Any regulation which sets the minimum balance of a player's account?

Belgium: No. No express provisions contained in the online gambling legislation.

Denmark: No. No express provisions contained in the online gambling legislation. However, according to Section 35 of the Act on Gambling a licence holder shall not extend credit to the player for participation in gambling activities. Also the Spillemyndigheden's technical standards state that the gambling system may not allow a withdrawal which will result in the customer's account balance becoming negative. Accordingly the gambling system shall not allow a stake to be placed in a game that could result in the customer's account balance becoming negative.

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No. No express provisions contained in the online gambling legislation.

United Kingdom: No. No express provisions contained in the Gambling Act 2005 or the Remote Gambling and Software Technical Standards. However, in the technical standards, RTS 1A states, in part, "Where customers hold a credit or debit balance, the pages or screens...." – which does suggest that players can have a debit balance.

11.5. Any regulation which sets a maximum deposit limit (for which period, per game or per month, etc)?

Belgium: Yes. The Royal Decree notified by Belgium to the European Commission on April 22, 2014 provides that:

- » The maximum stake per game for 'slot machine' type games operated by the holder of a Class A+ licence shall be €100.
- » With the exception of interactive poker, the maximum stake per game operated by the holder of a Class B+ licence shall be €25 for games of minimum duration three seconds, and €150 for roulette and card games.
- » The maximum stake per bet organised by the holder of a class F1+ supplementary licence and relating to an event shall be €1000 per bet for an event taking place and €150 per bet placed during the event. Under certain circumstances the F1+ licence holder may authorise no-limits gambling.

Denmark: Yes. The Executive Orders on the provision of betting and online casinos provide that the licensee must make a function available to the player to set daily, weekly and monthly (24 hours, 7 days and 30 days from the time of registration) deposit limits. All three options must be offered to the players, and it must be possible for the individual player to set a nominal amount of their own choice.

Also the Spillemyndigheden's technical standards specify that the gambling system shall give notification or generate a report when a customer makes a deposit or carries out a transaction of DKK20,000 or more (or corresponding amounts in one or more other currencies).

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No. Section 2.4.6 of the Certification Guidance, states that the gambling system must make players set their deposit limits, with the gambling system prohibited from having an unlimited deposit level. This self-imposed deposit limit of a player, is also subject to a rule (Certification Guidance 2.4.6) which requires any increase in a player's deposit limit to take effect only after seven days from the change, however, decreases in deposit limits are required to take effect immediately. Gambling operator are also prohibited from offering default limits to a player, with limits only able to be set by a player, not an operator (Certification Guidance 2.4.6).

United Kingdom: No. No express provisions contained in the Gambling Act 2005 or the Remote Gambling and Software Technical Standards. However, the Remote Gambling and Software Technical Standards provide that limits set by customers could be "in the form of:

- » deposit limits: where the amount of customer deposits into their account is limited over a particular duration
- » spend limits: where the amount a customer spends on gambling (or specific gambling products) is restricted for a given period
- » loss limits: where the amount lost (i.e. winning

subtracted from the amount spent) is restricted (for instance when a customer makes a £10 bet and wins £8, the loss is £2)."

*** Gambling Compliance Commentary:** Spain: According to Spain's Royal Decree 1614/2011 at Article 36, Spanish licensees are required to offer deposit limits to players. While these are self-imposed limits, operators must limit deposits to a maximum of €600 per day; €1,500 per week and €3,000 per month according to Appendix II of Royal Decree 1614/2011. According to 36(2) of Royal Decree 1614/2011:

"Gaming operators must offer participants the option of voluntarily setting limits on their deposits of amounts lower than those generally applicable [as set out in Appendix II, cited above]. Each participant may make such a request expressly and individually. Gaming operators must grant these requests immediately, and therefore must have and offer participants the technical systems needed for these self-imposed limits."

Additional question:

i) What reasoning or logic is behind the maximum stakes per game allowed in Belgium? And behind the maximum set in the player profile in Spain?

Gambling Compliance is unable to point to specific reason for these limits. However, for Spain's limits it should be noted that early drafts of the regulatory framework which contained deposit limits for all the available online gambling activities in the country were established as a player protection measure.

11.6. Can a player request to increase that deposit limit under certain circumstances (wealthy, etc)

Belgium: Yes. The Royal Decree notified by Belgium to the EU Commission on April 22, 2014 provides that the F1+ licence holder may authorise a player for no-limits gambling if the player requests in writing or via electronic means to be exempted from the maximum betting limit. The licence holder shall notify the Gaming Commission of these requests.

The Gaming Commission shall respond within a week following receipt of the request, regarding whether such a request may be granted, based on any indication that the player may be in difficulty with gambling.

Denmark: Yes. However, the Executive Orders on the provision of betting and online casinos provide that a player's request for an increase of a previously fixed

deposit limit may not come into force until after 24 hours have passed.

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: Yes. Considering that there are not set limits by regulation, players are free to set their own limits, however, changes to the deposits are subject to certain rules. In those cases where the change to deposit limits is a request to increase the limit, these can only be effective seven days after the request was made. Lower limits however, must take effect immediately.

United Kingdom: Yes. The Remote Gambling and Software Technical Standards at 12B requires that customers set their own limits but these limits can only be increased upon the customer's request and this can only be achieved after a "cooling-off period of 24 hours has elapsed".

Guidance on 12B states that:

"a. Increases should not be implemented until a cooling-off period of at least 24 hours from the point at which

★ Gambling Compliance Commentary

Spain: If a player wants to increase their deposit limits under Spain's regulations, operators can grant this request only if the following conditions are met (contained in Article 36(3) of Royal Decree 1614/2011):

"a) When it is the first request by a participant to increase or remove any limits, the participant must pass the gambling addiction and responsible gaming tests established for that purpose by the National Gaming Commission. After the tests are passed the new limits will come into effect after seven days.

b) In the case of the second or subsequent request by the same participant to increase limits, the operator must analyse the aspects of the participant's gaming records established by the National Gaming Commission, which will relate to their profile, their form of participation in the games, and whether they show any sign of addictive behaviour in relation to gaming. The new limits will come into force three days after this study returns a favourable result.

c) No increase in the limits established by the participant may be requested if three months have not elapsed since the last change to the self-imposed limits."

the request to increase the limit was received. Where it is practicable to do so, the customer should be required to confirm that they still wish to increase the limit at the end of the cooling-off period.

b. Where possible (for instance, unless systems/technical failures prevent it) limit reductions are to be implemented within 24 hours of the request being received."

Additional question:

i) How does the Belgian gaming commission perform this check? Could you specify the criteria?

Gambling Compliance is unable to provide any additional insight at this time.

11.7. Can players set their own limits with regard to the deposits during a certain time or up to a certain amount?

Belgium: No express provisions contained in the online gambling legislation.

Denmark: Yes. The Executive Orders on the provision of betting and online casinos provide that the licensee must make a function available to the player to set daily, weekly and monthly (24 hours, 7 days and 30 days from the time of registration) deposit limits. All three options must be offered to the players, and it must be possible for the individual player to set a nominal amount of his own choice. When a player sets a limit, the limit needs to take effect immediately, with any increase in an already existing limit only to come into effect after 24 hours has elapsed (Article 15 Executive Orders on the provision of betting; Article 17 Executive Orders on the provision of online casinos).

France: Yes. Players must set mandatory betting limit within seven days of setting an account. If the player is required to indicate betting limits, the operator cannot fix these limits. The player sets the limits.

Italy: Yes. Players are required to also set deposit limits, however, any increased in the limits must take effect only after seven days has elapsed. Decreases in limits apply immediately.

United Kingdom: Yes. The Remote Gambling and Software Technical Standards stipulate that customers must be able to set their own financial limits. Limits can be in different forms, for example: "deposit limits: where the amount a customer deposits into their account is limited over a particular duration." Increases should not be implemented until a cooling-off period of at least 24 hours has elapsed, decreases within 24 hours.

Category 12. Policies specifically aimed at young adults

12.1. Any policies with regard to remote games of chance specifically aimed at young adults (18-24)?

Belgium: Yes.

Denmark: No. No express provisions contained in the online gambling legislation. In Denmark they do not distinguish between young adults and adults over the age of 24. According to paragraph 34 in the Act of gambling, the gambling providers are not allowed to collect stakes or let persons under the age of 18 to participate in any kind of gambling.

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No. No express provisions contained in the online gambling legislation.

United Kingdom: Yes.

12.2. If, yes which?

Belgium: The Gaming Act states that all online games are prohibited to players under 21 years old, except for betting which is prohibited to players under 18 years old. Article 5 of the Royal Decree of June 21, 2011 requires that an online licence applicant has to prove which systems to put in place to stop to hinder socially vulnerable persons from accessing the gambling website.

Denmark: -

France: -

Italy: -

United Kingdom: Code provisions 3 of the LCCP (which are mainly social responsibility provisions in addition to ordinary code provisions) provides for the protection of children and vulnerable persons. The code provision requires all licensees to comply with the advertising codes.

The advertising code (CAP code) relevant to 'Children and Young Persons', is CAP Code 16. Code 16.3.14 states that:

"[Marketing communications must not:] include a child or a young person. No-one who is, or seems to be under-25 years old may be featured gambling. No-one may behave in an adolescent, juvenile or loutish way. Individuals who are, or seem to be under 25 years old

(18-24 years old) may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context."

★ Gambling Compliance Commentary

Estonia: Estonia has different age limits for certain types of gambling. The age limits differ depending on the type of gambling. As Article 34 of the Gambling Act stipulates:

"(2) A person under 21 years of age shall not play a game of chance, a game of chance organised as remote gambling or a game of skill organised as remote gambling. It is also prohibited for a person under 21 years of age to be present in a gaming location for games of chance. A person under 21 years of age may only be present in a gaming location for games of chance located on a ship that is entered in the Estonian register of ships and carries out passenger transport, if the highest possible bet for obtaining the right to participate in a game of chance on a gaming machine or gaming table located there does not exceed €10 and the biggest possible prize that can be won as a result of a game of chance does not exceed €2,000. [RT I, 25.04.2012, 1 – entry into force 01.06.2012]
(3) Persons under 18 years of age shall not play a toto.
(4) Persons under 16 years of age shall not play a lottery."

Category 13. Regulations regarding storage and disposal of player information

13.1. Any specific regulations with regard to the storage of player information/data after a player has unsubscribed from remote games of chance with a licensee?

Belgium: No. No express provisions contained in the Gaming Act or the Royal Decrees, but some requirements are in draft decrees notified to European Commission.

Denmark: Yes.

France: Yes. According to Article 31 of the Online Gambling Act, the gambling operator is required to store in real time, on a physical medium located in France, all the data defined in points 1 to 3 of Article 38 of the Online Gambling Act. The data exchanged between the player and the operator shall transit through this medium. Amendments published in March 2014 further added that these storage requirements will also apply to data related to details of payment account as from July 1, 2015.

Italy: Yes.

United Kingdom: No. No express provisions contained in the Gambling Act 2005 or the Remote Gambling and Software Technical Standards, however, anti-money laundering legislation would apply (Money Laundering Regulations 2007).

13.2. Does a specific retention period for the players' data apply? If, yes how long is it?

Belgium: Yes. The Royal Decree notified by Belgium to the European Commission on April 22, 2014 determines that the online licence holder has to store some information for three years.

Denmark: Yes. Chapter 3 of the Executive Orders on the provision of betting and online casinos provides that the licence holder shall store the identity and control information concerning a registered player for at least five years after the end of the customer relationship. Documents and records relating to customer transactions must be kept so that they can be found together for at least five years after the transactions are made.

Section 28 of the Executive Orders on the provision of betting and online casinos also requires the licence holder to keep all data on the operation of the offering of betting/ the operation of online casinos in the gambling system for at least five years.

According to the Executive Orders licence holders have to establish a special "data warehouse" (SAFE) to which the Gambling Authority has to have access. SAFE is a file server where the licence holder must store gambling data for all games that are carried out at the licence holder.

France: Yes. According to Article 10 of Decree n°2010-509 of May 18, 2010, the data shall be kept for a period of five years. After this period, the operator removes the data. For personal data given by each player, the five years period shall run from the closing of the corresponding player account. However, if no operation of gambling or betting was carried out before the closure of the account, this data is deleted once the account is closed.

Italy: Yes. Players data must be stored for 5 years after the licence expiration date.

United Kingdom: Yes. UK online gambling operators are subject to the Money Laundering Regulations 2007. Section 19 of these regulations is on record keeping and specified a time period of five years to keep records. The section is extracted below in its entirety.

Record-keeping

19. (1) Subject to paragraph (4), a relevant person must keep the records specified in paragraph (2) for at least the period specified in paragraph (3).

(2) The records are—

(a) a copy of, or the references to, the evidence of the customer's identity obtained pursuant to regulation 7, 8, 10, 14 or 16(4);

(b) the supporting records (consisting of the original documents or copies) in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring.

(3) The period is five years beginning on—

(a) in the case of the records specified in paragraph (2)

(a), the date on which—

(i) the occasional transaction is completed; or

(ii) the business relationship ends; or

(b) in the case of the records specified in paragraph (2)

(b)—

(i) where the records relate to a particular transaction, the date on which the transaction is completed;

(ii) for all other records, the date on which the business relationship ends.

(4) A relevant person who is relied on by another person must keep the records specified in paragraph (2)(a) for five years beginning on the date on which he is relied on for

the purposes of regulation 7, 10, 14 or 16(4) in relation to any business relationship or occasional transaction.

(5) A person referred to in regulation 17(2)(a) or (b) who is relied on by a relevant person must, if requested by the person relying on him within the period referred to in paragraph (4)—

(a) as soon as reasonably practicable make available to the person who is relying on him any information about the customer (and any beneficial owner) which he obtained when applying customer due diligence measures; and

(b) as soon as reasonably practicable forward to the person who is relying on him copies of any identification and verification data and other relevant documents on the identity of the customer (and any beneficial owner) which he obtained when applying those measures.

(6) A relevant person who relies on a person referred to in regulation 17(2)(c) or (d) (a "third party") to apply customer due diligence measures must take steps to ensure that the third party will, if requested by the relevant person within the period referred to in paragraph (4)—

(a) as soon as reasonably practicable make available to him any information about the customer (and any beneficial owner) which the third party obtained when applying customer due diligence measures; and

(b) as soon as reasonably practicable forward to him copies of any identification and verification data and other relevant documents on the identity of the customer (and any beneficial owner) which the third party obtained when applying those measures.

(7) Paragraphs (5) and (6) do not apply where a relevant person applies customer due diligence measures by means of an outsourcing service provider or agent.

(8) For the purposes of this regulation, a person relies on another person where he does so in accordance with regulation 17(1).

Additional question:

i) In Denmark, a licence holder must store a player's identity and control information for at least five years. Does this also apply to information on a player's individual playing behaviour?

Denmark: All documents and transactions regarding the player's individual playing behaviour also have to be stored for five years. Regarding information related to player's transactions, Chapter 3, Paragraph 2 of the Executive Order No. 67 of 25 January 2012 on online casinos states that:

"Documents and records relating to customer transactions must be kept so that they can be found together for at least five years after the transactions are made".

★ Gambling Compliance Commentary

Third Anti-Money Laundering Directive: The Third AML directive requires, in Article 30, entities which are subject to it (casinos, including online casinos) to keep the following regarding record keeping and statistical data.

Article 30

"Member states shall require the institutions and persons covered by this Directive to keep the following documents and information for use in any investigation into, or analysis of, possible money laundering or terrorist financing by the FIU or by other competent authorities in accordance with national law:

(a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of at least five years after the business relationship with their customer has ended;

(b) in the case of business relationships and transactions, the supporting evidence and records, consisting of the original documents or copies admissible in court proceedings under the applicable national legislation for a period of at least five years following the carrying-out of the transactions or the end of the business relationship."

★ Gambling Compliance Commentary

Fourth Anti-Money Laundering Directive: At Article 39 of the draft Fourth AML directive (which will extend AML requirements to all types of online gambling services), the following are the record keeping and statistical data requirements.

"Member states shall require obliged entities to store the following documents and information in accordance with national law for the purpose of the prevention, detection and investigation of possible money laundering or terrorist financing by the FIU or by other competent authorities:

(a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of five years after the business relationship with their customer has ended. Upon expiration of this period, personal data shall be deleted unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member states may allow or require further retention only if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period after the business relationship has ended shall not exceed ten years;

(b) in the case of business relationships and transactions, the supporting evidence and records, consisting of the original documents or copies admissible in court proceedings under the applicable national legislation for a period of five years following

either the carrying-out of the transactions or the end of the business relationship, whichever period is the shortest. Upon expiration of this period, personal data shall be deleted, unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member states may allow or require further retention only if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period following either the carrying-out of the transactions or the end of the business relationship, whichever period ends first, shall not exceed ten years.

13.3. If yes, which of the players' information/data has to be stored?

Belgium: The Royal Decree notified by Belgium to the European Commission on April 22, 2014 specifies that the holder of a supplementary licence shall hold the following records available to the Gaming Commission for three years:

1. All random numbers generated and the subsequent sequence of play;
2. All stakes, gains and game durations of all players;
3. All transfers to and from players' accounts;
4. All complaints made by players;
5. All game application and game management error messages;
6. All operating system and auxiliary application error messages, particularly those associated with the database engine and authentication;
7. All upgrades and updates both for applications and operating systems;
8. All external and internal intrusion attempts;
9. All important security and encryption reports;
10. All bets placed.

Denmark: According to the Executive Orders licence holders in particular have to store the identity (name, address and ID number) and information concerning a registered player and documents and records relating to the customer transactions and gambling data for all games that are carried out at the respective licence holder, the individual sessions and any significant events.

France: According to Article 38 of the Online Gambling Act, the following players' information/data has to be stored:

- » The identity of each player, address etc
- » The account of each player, including its opening date and details of payment account
- » All gambling and betting events, associated operations and other data involved in the formation of the account balance of the player

- » Events related to the evolution and maintenance of equipment, platforms and software used.

Further details are provided by secondary legislation (Article 8 of decree n°2010-509)

Italy: All the available data, including the complete gaming activity.

United Kingdom: The Money Laundering Regulations 2007 deem that the records consist of (at Section 19(2)): (a) a copy of, or the references to, the evidence of the customer's identity obtained pursuant to regulation 7, 8, 10, 14 or 16(4); (b) the supporting records (consisting of the original documents or copies) in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring.

Category 14. Regulations regarding the payment of bank guarantees by licensees

14.1. Is the licence applicant required to pay a certain amount or to provide a bank guarantee for assurance?

Belgium: Yes. Section 71 of the Gaming Act provides that inter alia A+, B+ and F1+ licence holders have to provide a guarantee at least five days before the beginning of the operation of online gambling. The fee is designed as a bail to secure the payment of certain fees the licence holders have to pay.

Denmark: No. However, the Act on Gambling provides that the licence applicant has to pay an application fee and a licence fee. However, there is no express obligation contained in the gambling legislation requiring the licence applicant to provide a bank guarantee as assurance.

France: No. No express provisions contained in the Online Gambling Act or secondary legislation. However, licence fees applicable.

Italy: Yes. Online gambling operators are required to establish financial guarantees.

United Kingdom: No. The Gambling Act 2005 does not state any express provisions regarding the payment of bank guarantees by licensees, however, under the new point of consumption framework, some categories of operators will require to provide forms of assurance they will meet their taxation obligations. Generally however, operators are required to pay:

- » An operator licence application fee
- » Operating licence annual fee
- » Personal management licence fees

As the UK moves to a point of consumption licensing regime certain non-UK based operators will require to meet the "UK substance requirement". They can do this by appointing a fiscal representative or appointing a security and administrative representative at registration. If an operator chooses to provide a security and administration representative, the HM Revenue and Customs (HMRC) need the security in the form of:

- » paying a securing deposit; or
- » providing a bank guarantee; or
- » providing a performance bond; or
- » setting up a joint account with HMRC.

In HMRC guidance on the substance requirement, HMRC notes that:

"Certain non-UK based operators will need to make provision so that they have enforceable assets in the UK (meaning assets that HMRC can enforce if the operator fails in their tax obligations) and appoint a representative in the UK. This is known as 'the UK substance requirement'.

This requirement will not apply to operators who register as a group or who have a principal place of business in:

- » The UK or EU (for these purposes, the Channel Islands, Isle of Man and Gibraltar are not considered to be in either the UK or EU)
- » A country or state that is subject to the Mutual Assistance in the Recovery of Debt ('MARD') provisions. MARD refers to an arrangement with certain countries which allows HMRC to ask for help with various issues which includes the recovery of a tax or duty debt. MARD arrangements are reciprocal. MARD applies to a range of different countries including Norway, Iceland, the Faroes, New Zealand and South Africa
- » A country with which the UK has an appropriate bilateral agreement. Where HMRC is satisfied that an agreement provides assistance in the recovery of debts relating to GBD, PBD and RGD, they will not apply the UK substance requirement to gambling operators with a principal place of business in that state."

*** Gambling Compliance Commentary:**

Spain: In its first licensing window, Spanish operators were required to pay two different licence guarantees:

- » A fixed amount for general licences.
- » A percentage of the gross or net revenue for singular licences, which are licences for individual games. The quantum of the guarantee was established in each of the games' regulations. The value of the guarantees therefore differed according to each gaming operation.

In Spain, having the required guarantee is a licence condition.

Additional question:

i) In the UK, providers must have a representative as a financial guarantee. How does this provide financial guarantee? Is the representative financially liable?

United Kingdom: The UK regime allows for the option of a financial representative, however, one is not mandatory (in reference to the 'must' in the question). The fiscal representative is jointly and severally liable. Sanctions include both criminal and civil penalties. HMRC guidance on the Fiscal representative (fiscal rep) states that (Gambling Tax Reform 2014 Information Note 3):

"An operator may appoint a fiscal rep in the UK. The fiscal rep will be jointly and severally liable for amounts due from the operator in respect of the tax for which they are appointed.

Operators will need to seek prior approval from HMRC before a person is appointed as a fiscal rep. The approval process will primarily focus on establishing that the fiscal rep can meet potential tax liabilities. HMRC will not object to a fiscal rep solely on the grounds that they are a related company in the UK. HMRC will publish details of the approval process at a later date. HMRC will deal with the approved fiscal rep as though they are the taxpayer."

14.2. If yes, in which amount (how is the amount calculated?)

Belgium: According to Section 71 of the Gaming Act the guarantee to be paid by:

- » The A+ licence holder amounts to €250,000
- » The B+ licence holder amounts to €75,000
- » The F1+ licence holder amounts to €75,000.

Denmark: -

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: Online gambling operators are required to establish a temporary financial guarantee for €300,000 during the licence application process. If a licence application is successful, this guarantee is reduced to a minimum of €100,000, however, the final value of this financial guarantee (which must be maintained by the operator for the duration of the licence) is subject to a sliding scale and depends on the operator's revenue.

United Kingdom: The amount is not specified.

14.3. Any attestation of creditworthiness of the licence applicant required?

Belgium: Yes. According to the Gaming Act and the Royal Decree of June 21, 2011 the licence applicants for online gambling licences have to provide an attestation of creditworthiness (creditworthiness of 40 percent) and financial power.

Denmark: Yes. Pursuant to the licence application forms a gambling business must be operated on an appropriate financial basis. Therefore, when applying for a licence, a licence applicant must enclose documentation that will enable the Gambling Authority to assess the applicant's company's financial position, etc. To this end the licence applicant inter alia has to provide the financial statements and its financing and funding plans.

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: Yes. Pursuant to the licensing conditions established by the Law 88/2009 (Legge Comunitaria) Art 24 Par 15 (a) in order to apply for an online gambling licence, operators are required to have been legally established in one of the EEA states, with a reported turnover of at least €1.5m in the previous reporting period to that of the licence application. In those cases in which applicants are not able to meet the conditions established above a financial guarantee for duration of no less than two years has to be established by the operator. The value of this financial guarantee cannot be less than €1.5m.

United Kingdom: Yes. The Gambling Act 2005 lists in Section 70 'Consideration of application: general principle', some principles the Gambling Commission should follow. Regarding financial robustness, the Section states:

"For the purpose of subsection (1)(b) [that, is, shall form and have regard to an opinion of the applicant's suitability to carry on the licensed activities,] the Commission may, in particular, have regard to—
(a) the integrity of the applicant or of a person relevant to the application;
(b) the competence of the applicant or of a person relevant to the application to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives;
(c) the financial and other circumstances of the applicant or of a person relevant to the application (and, in particular, the resources likely to be available for the purpose of carrying on the licensed activities)."

Moreover, evidence into the solvency in general and financial reserves in particular of a licence applicant can be sought by the Commission (according to Section 70(5)(d) of the Gambling Act 2005).

14.4. Are there any specific requirements the bank guarantee has to fulfil (certain date, certain bank, etc)?

Belgium: No. No express provisions contained in the Gaming Act or the Royal Decrees.

Denmark: -

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No. No express provisions contained in the online gambling legislation.

United Kingdom: No. No express provisions contained in the Gambling Act 2005.

Category 15. Regulations on auto-play and automatically logging off

15.1. What is the regulation with regard to auto-play?

Belgium: No express provisions contained in the Gaming Act or the Royal Decrees.

Denmark: No express provisions contained in the legislation. There is a requirement in the technical standards on the duration between each game.

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No express provisions contained in the legislation. However, Certification Guidelines Version 1.1 could permit auto-play subject to requirement 2.6.1 on the correctness of a game. This requires any automatic game functionality to require the prior acceptance of the player.

United Kingdom: Auto-play functionality is provided for in RTS 8 and RTS9 of the Remote Gambling and Software Technical Standards.

RTS requirement 8A states:

“Auto-play must be implemented in such a way that the customer is able to control the amount gambled through selecting the stake and the number of auto-play gambles. The number of auto-play gambles may not exceed 25 in one batch.”

The following is guidance for implementing the autoplay requirement:

- » “The customer should choose the stake and either the number of autoplay gambles or the total amount to be gambled.
- » During autoplay the customer should be able to stop the autoplay regardless of how many auto-play gambles they initially choose or how many remain.
- » Autoplay should not override any of the display requirements (for example, the result of each gamble must be displayed for a reasonable length of time before the next gamble commences).”

In relation to skill and chance games with autoplay, RTS 9 of the standards require:

“Strategy advice and auto-play functionality must be fair, not misleading and must not represent a poor choice.” In implementing this control, the following should be considered where appropriate:

- » “If there is a standard strategy, for example, for well-known games like blackjack, the standard strategy should be used;
- » Strategies or auto-play should (theoretically) produce at least the average Return to Player (RTP) for the game over time.”

As part of the technical standards, as ‘Information provision annex (IPA) standards’. IPA 4 is on the ‘Use of automated gambling software’. This standard requires at IPA 4A:

“Where operators use programs to participate in gambling on their behalf in peer-to-peer gambling, easily accessible information must be displayed, which clearly informs customers that the operator uses this kind of software.”

Implementation guidance for IPA 4A states that:

- “a. Peer-to-peer(s) gambling operators that use software to gamble on their behalf (for example, poker robots) should display a notice to customers on the home pages or screens and in the game description, ‘help’ or ‘how to play/bet’ pages or screens.
- b. As a minimum, restricted display devices should provide a link to further information on gambling pages/ screens or in ‘help’, ‘about’ or ‘how to bet/play’ pages or screens.”

IPA 4B furthermore states:

“Where peer-to-peer(s) customers may be gambling against programs deployed by other customers to play on their behalf, information should be made available that describes that this is possible, and if it is against the operator’s terms and conditions to use robots, how to report suspected robot use.”

Implementation guidance for IPA 4B states that:

- a. The warning and information about how to complain should be included in game descriptions, rules, terms and conditions, ‘help’, ‘how to play’ or other general product information pages.
- b. The warning should also inform customers that if they use a program to gamble on their behalf, other customers may be able to exploit it.”

The aim of this standard (IPA 4) is to: “make customers in peer-to-peer(s) gambling aware that they may be gambling against a software program (designed to automatically participate in gambling within certain

parameters), rather than another (human) participant. This software is sometimes referred to as a robot or bot.”

* Gambling Compliance Commentary

Changes to UK auto-play: The new point of consumption regime is having an impact on auto-play under the technical standards. This is due to, as the UK Gambling Commission notes, a “significant difference in respect of the requirement on auto-play functionality between the Remote gambling and software technical standards (RTS) and the technical standards in other jurisdictions from where operators can currently legally operate in the British market.” The UK has suspended some of its auto-play requirements and will be consulting on proposed changes. The Gambling Commission has stated the following on auto-play:

“Our requirements limit auto-play gambles to a maximum of 25 in one batch. However, we are aware that other jurisdictions either have higher limits or no limits.

We have considered this position and as a result we will not require compliance with the auto-play requirement as set out in the RTS from the date that licences are issued. Therefore operators will not have to make changes to the auto-play functionality of their games until further notice.

Our requirements around auto-play are intended to ensure customers are still in control of their gambling where this functionality is available. Therefore whilst we will not require compliance with RTS 8 at this time, we will still expect licence holders to comply with the licence conditions and codes of practice and RTS requirements that are intended to protect customers from harm. This means, an operator is expected to monitor the play of their customers and if unusual or excessive gambling activity occurred the operator should take appropriate action.

We intend to consult on changes to RTS 8. The consultation will consider whether changes to the existing requirements should be made. The changes considered during consultation could include changes to the maximum number of auto-play gambles permitted and the introduction of additional customer protection measures.”

This consultation was launched in August 2014, in which the Gambling Commission has proposed:

“to require that players must set an auto-play management control measure - at a minimum the control on maximum loss limit - when using auto-play functionality. These controls will automatically stop the auto-play if triggered and enable the

player to assess their gambling. Alongside these measures we are also proposing to cap the number of auto-plays permissible within a single batch to a maximum of 100.”

The following are player protection controls that we propose will stop the auto-play functionality if triggered:

- » loss limits, ie where the player selects an option to not lose more than X where X is an amount that can be selected by the player;
- » single win greater than Y where Y is an amount that can be selected by the player; and jackpot wins (where applicable).

15.2. What are the reasons for regulating auto-play?

Belgium: -

Denmark: -

France: -

Italy: To ensure that auto-play rules/implications are perfectly known by players before using them. Ensure that there is a clear way to stop auto-play once it has been started. Ensure that using auto-play is always a player’s decision and that it doesn’t start on its own unexpectedly.

United Kingdom: For auto-play functionality, the reason is to make sure that the customer “continues to be in control of the gambling where auto-play functionality is provided”. For skill and chance games with auto-play, the reason is to “minimise the risk that auto-play functionality disadvantages a customer or that auto-play or other strategy advice is misleading”.

15.3. Are there specific regulations in other countries with regard to automatically logging off on the players account after a certain period of inactivity?

Belgium: No. No express provisions contained in the Gaming Act or the Royal Decrees.

Denmark: Yes. The Spillemyndigheden’s technical standards require at 6.3 (‘Access Control’) the “gambling system shall activate a screensaver or automatically log the user out of the system upon inactivity for a longer period of time.”

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: Yes. The Certification Guidelines Version 1.1 require, at 2.2.8, the gambling platform to have an auto-log out function for cases where the gambling account is inactive for longer than 20 minutes.

United Kingdom: No. No express provisions contained in the Gambling Act 2005 or in the Remote Gambling and Software Technical Standards. However, the technical standards do contain provisions on interrupted gambling and time requirements however. For time requirements the aim is to ensure that customers are aware of the time they spend gambling. It is a requirement that “where the gambling system uses full screen client applications that obscure the clock on the customer’s device the client application itself must display the time of the day or the elapsed time since the application was started, wherever practicable”. However, the time requirement does not require an automatic log-off.

Additional question:

i) What duration of inactivity do the Danish consider to be “a longer period of time”?

Denmark: Denmark has not specifically defined “a longer period of time”. Instead, it expects testing organisations to interpret these open-ended requirements in accordance with best practice applicable at the time of the inspection and set out their own specific time period.

Category 16. Regulation on poker/liquidity

16.1. Does national legislation allow for international liquidity (network of players from another country)?

Belgium: Yes. International liquidity is permitted across all sectors: however players must access the pool via a .be website. The Royal Decree notified by Belgium to the European Commission on April 22, 2014 confirms this and further states that the holder of the online licence in Belgium shall guarantee the honesty of the international game.

Denmark: Yes (limited to poker and betting). The Guide on Betting and Online Casino published by the Gambling Authority refers to the concept of shared liquidity as “network platform” being defined as “platforms used for games in which players play against each other (peer-to-peer games) and where exclusively such games are facilitated. Customers are redirected via the licence holder to a network platform, on which the customer may take part in games against or with players from other gambling operators and other countries.”

Network platforms must not, in principle, have a licence to operate gambling in Denmark if the licence holders who use the platform have a licence. It is not a requirement that all gambling operators linked to the network are licence holders in Denmark. Customers from Denmark must, however, always access the network via Danish licence holders.

According to the explanatory notes to the Act on Gambling, online poker providers should be able to offer poker games, in which Danish players may play against poker players from other countries in an open network, to create a poker network with a large cash flow. Within these networks, the games must comply with Danish legislation, be supervised by the Gambling Authority, and the provider must pay duty for the part of the stake that relates to Danish clients.

France: No. However, ARJEL has entered into discussions with other gambling regulators which may result in European liquidity in the future. The French regulator has attended various meetings with gambling regulators from Spain, Portugal, Germany, the UK and Italy, where they have discussed, among other things, the question of pooling poker liquidity. In a declaration from January 16, 2013, ARJEL also indicated its intention to open the market to player pooling within the EU with a number of selected jurisdictions with which agreements would be signed. Although a change of the law would be needed to set up shared liquidity with other EU member states, the first step towards it has been achieved with the implementation of cooperation agreements between the UK, Italy and Spain.

Italy: No. However, the issue of international liquidity has been addressed on several occasions by the gambling authority which has approached other gambling European regulators to discuss the possible implementation of international liquidity for poker.

United Kingdom: Yes. The Gambling Commission, as part of updates to the LCCP, consulted on pooling British and non-British players, creating increased liquidity. This was termed “peer to peer gaming”, with poker networks the activity of interest. The Gambling Commission proposed that it will “introduce a condition that would apply only to B2B networks that provide peer-to-peer gaming (ie poker networks). This condition would seek to mitigate the poker network specific risks, in particular the risk that players attempt to collude and cheat other participants in the poker room and/or chip dump in order to launder money.”

Peer to peer gaming is subject to LCCP provision 3.1.1 (applies to remote casino licences) which stipulates that: “licensees who provide facilities for peer to peer gaming in circumstances in which they do not contract directly with all of the players using those facilities (‘network operators’) must have, put into effect and monitor the effectiveness of, policies and procedures designed to ensure that”, listing the following:

- » Domestic players (in Great Britain) needs to use the facilities pursuant to a contract between the player and the network operator; or pursuant to a contract between the player and another Gambling Commission licensed operator (holding a remote casino licence).
- » Foreign players who participate in games with domestic players, need to use the facilities pursuant to a contract between that foreign player and the network operator; or pursuant to a contract between the foreign player and another Gambling Commission licensed operator (holding a remote casino licence). However, the foreign player can use the facilities pursuant to a contract with an operator not licensed by the Gambling Commission, if that non-Gambling Commission licensed operator meets these requirements:
 - » Holds the relevant authorisations in the jurisdiction it is based or incorporated.
 - » The network operator has approved the operator, after due diligence has been completed into individuals with financial interests in the operator.
 - » The operator has appropriate policies and procedures in place in relation to the identification of players. These procedures need to meet, in the network operator’s reasonable opinion, the customer due diligence requirements set out in

the EU's Third Money Laundering Directive, or subsequent directives.

In addition to the above, arrangements between network operators and Gambling Commission licensed operators or non-Gambling Commission licensed operators, need to be clear as to which operator is responsible for which complaints by players, and have an understanding of how a dispute between players in different jurisdictions will be resolved.

Information sharing arrangements are also required to be in place. These need to address and make sure that the arrangements between network operators and Gambling Commission licensed operators or non-Gambling Commission licensed operators, are such that they enable the following regulatory obligations to be discharged:

- » The prevention of money laundering and terrorist financing and obligations under the Proceeds of Crime Act.
- » Suspected cheating is investigated.
- » Problem gambling is prevented and combated.
- » Complaints by players are investigated.

There is a similar licence condition (condition 3.1.2 applies to remote casino, bingo, betting intermediary and pool betting licences) applicable to 'other networks', which is relevant to licensees which provide gambling facilities for gambling, other than peer to peer gaming, in circumstances in which they do not contract directly with all of the participants using those facilities ('network operators')."

★ Gambling Compliance Commentary 1

European trend: As noted above, international liquidity is a discussion among certain EU regulators. The following is comment from Gambling Compliance in a publication from September 2013:

"In the past year, however, a clear trend towards authorising international liquidity has emerged in Europe, although it has not materialised yet. It is significant that the same four countries which have expressly prohibited international liquidity have held regular meetings since June 2012 in which the question of authorising international liquidity has been discussed.

The French online gambling regulator, ARJEL, along with the Spanish, Italian and Portugal regulators announced in June 2012 that they were in the preliminary stage of discussions on international liquidity matters. At the time, the Spanish DGOJ stated that going in such a direction would be a progress and "would clearly mean a significant improvement in market conditions in our respective countries".

In early July 2013, these regulators met again in Lisbon, joined by the German regulator and for the first time, the UK Gambling Commission. Although the meeting focused mainly on sharing information and good practices concerning online gambling regulation and promoting a wider and closer cooperation among regulators, the participants also considered the issue of international liquidity, 'with the view to identify and prepare the steps to be taken in order to advance the process of sharing liquidity, in a future date'. This issue will be considered in the next regulators' meeting, which is scheduled to take place in Rome in the second half of 2013.

In France, in a declaration from January 16, 2013, ARJEL recommended to open the market to player pooling within the EU with a number of selected jurisdictions with which agreements would be signed, in an effort to create a more attractive legal offering."

★ Gambling Compliance Commentary 2

US emerging stance: In the US, where there has yet to be a federal consensus on online gambling, three states, Delaware, New Jersey and Nevada, have passed legislation to allow internet gambling. As it stands, each state has a right to allow or disallow interstate compacts or shared liquidity agreements.

In February 2014, Delaware and Nevada became the first two parties to join the Multi-State Internet Gaming Agreement. The agreement allows participating states to pool liquidity and players in an attempt to strengthen their internet gaming offerings. Currently, the agreement allows for poker only, but the agreement was crafted to be very flexible, in hopes of enticing other states to join.

So far, New Jersey has not joined the agreement. However, New Jersey's regulations do allow for the state to enter into reciprocal agreements for interstate gaming.

People within the US gambling industry speculate whether larger states, like California, would want to pool liquidity if they were to pass online gambling regulation, or whether the state has a large enough population to sustain a gambling network on its own. In California, the most recent internet poker draft bill expressly prohibited interstate agreements.

16.2. Does national legislation allow for network liquidity (network of players coming from different providers in the same country)?

Belgium: No. No express provisions contained in the Gambling Act or the Royal Decrees.

Denmark: Yes. The Guide on Betting and Online Casino published by the Gambling Authority refers to the concept of shared liquidity as "network platform" being defined as "platforms used for games in which players play against each other (peer-to-peer games) and where exclusively such games are facilitated. Customers are redirected via the licence holder to a network platform, on which the customer may take part in games against or with players from other gambling operators and other countries."

Network platforms must not, in principle, have a licence to operate gambling in Denmark if the licence holders who use the platform have a licence. It is not a requirement that all gambling operators linked to the network are licence holders in Denmark. Customers from Denmark must, however, always access the network via Danish licence holders.

France: No. No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: No. Although there is a generic provision in the national legislation that would allow this (by means of bi- or multi-lateral agreements with other EU jurisdictions), it has not been implemented for online networks yet.
United Kingdom: Yes. However, all operators using the network must be licensed by the Gambling Commission.

Category 17. Regulations on umbrella/organisational licensing

17.1. Does national legislation provide for one remote gaming licence for an entire group of companies or a licence for each company within the group?

Belgium: No express provisions contained in the Gaming Act and the Royal Decrees. Section 4 of the Gaming Act simply states that it is forbidden to operate a gambling establishment or gambling in any form, in any place and any direct or indirect way, without a licence previously granted by the Gaming Commission pursuant to the Gaming Act.

Denmark: No express provisions contained in the Act on Gambling. Although the Act sets out the requirements that an individual or company must meet to obtain a licence to offer gambling services, it does not contain a precise definition specifying what a licence holder is. The Guide on Betting and Online Casino published by the Gambling Authority clarifies that basically, all individuals and companies offering betting and/or online casino services must hold a licence. If a gambling operator has decided, in reality, to offer the various games comprised by one brand from several different companies, all the companies must in principle hold a licence.

The licence holder is responsible for ensuring that the operation of the games offered complies with Danish legislation. The licence holder's rights and obligations include the following:

- » Responsibility, risk and managerial prerogative relating to the operation of games
- » Contracting with players
- » Ownership of player data, including registration of players
- » Player support
- » Ownership of intellectual property rights relating to games
- » Ownership of website/game client
- » Operating the gambling system, including maintenance of hardware
- » Owner or renter of the greater part of the gambling system (gambling infrastructure)
- » Control of colluding etc., money laundering and combat of the financing of terrorism
- » Payment transfer services and underpinning of payment instruments.

France: No express provisions contained in the Online Gambling Act or secondary legislation.

Italy: One remote gaming licence is required for each company.

United Kingdom: The Gambling Commission has published some non-exhaustive guidance on when a company can operate under another company's licence. The Gambling Act 2005 does have a limited exception from being liable for an offence (under Section 33 of the Act) of providing (unlicensed) gambling facilities if: "(a) he acts in the course of a business carried on by a person who holds an operating licence authorising the activity, and; (b) the activity is carried on in accordance with the terms and conditions of the licence (Section 33(3) of the Gambling Act 2005). Section 33 applies to gaming and betting operators, with lotteries having a similar exception in Section 258(3) of the Gambling Act 2005.

The Gambling Commission has noted that it will "accept that a company can come within the scope of this exception and not be required to hold its own licence providing that the company is truly acting in the course of a business carried on by the licence holder". The Gambling Commission has provided some non-exhaustive principles to offer some guidance as to whether a company can come within the scope of another company's operating licence rather than requiring its own licence. These are:

- » The company (seeking the Section 33(3) exception) must be doing the licence holder's work and if it does the same work for other companies, it will be considered to be acting in its own course of business and therefore unable to claim to be working under the protection of one licence holder's licence
- » Company accounts would likely be consolidated with the licence holder's or the licence holder would be the sole client of the company (seeking the Section 33(3) exception)
- » The company would likely be a wholly owned subsidiary of the licence holder
- » The licence holder retains the responsibility for compliance (such as complying with the LCCP) and making sure technical standards are met.
- » The licence holder controls the company through clear governance arrangements.

The exception from Section 33 of the Gambling Act however does not apply to gaming machine and gambling software suppliers and manufacturers.

Category 18. Which regulatory provisions are applicable to bonuses?

18.1. Which regulatory provisions are applicable to bonuses?

Belgium: No express provisions contained in the Gaming Act or the Royal Decrees.

Denmark: Chapter 7 of the Executive Order on online casinos concerns bonuses and provides that:

- » If a licence holder offers the player a bonus for participating in a game, all the conditions shall be explained in a clear, lucid manner within the immediate context of the offer.
- » Payment of a bonus to the player shall occur immediately when the conditions are satisfied.
- » In addition bonuses shall not be given to individual players on terms that differ from deals given to other players.
- » The player shall have at least 60 days to meet any conditions associated with the payment of a bonus.

The Guide on Betting and Online Casino published by the Gambling Authority also deals with bonuses and in particular the marketing of bonuses.

According to the Guide on Betting and Online Casino it is not possible to give a clear definition of what a 'bonus' is as bonuses are offered in many different varieties with just as many different conditions for payout. However, a bonus typically represents an object, money or a service offered to a (potential) player as consideration for an action taken by the player. The consideration may involve registration as a player on the website, depositing money into a gambling account or recruiting other players.

The Guide on Betting and Online Casino explicitly allows licensees to market their games by offering bonuses to new and existing players. It is a requirement that the actual marketing of the bonus is in accordance with general consumer protection and marketing rules.

In its 2013 Annual Report the Danish Gambling Authority noted an enforcement project on the marketing practices of bonuses, as follows:

"we launched an enforcement project in 2013 focusing on gambling operators' compliance with the rules on marketing of bonus offers.

The project's aim was to follow up on whether licence holders comply with the rules about marketing of bonus offers, including the guidelines, thus ensuring that bonus offers are being marketed clearly and precisely in the

future. This move is intended to strengthen consumer protection in this area."

The project has shown that challenges remain in regards to marketing, particularly in the marketing of bonus offers on gambling providers' own websites and banner ads. By the end of 2013, 18 licence holders received a letter from the Danish Gambling Authority regarding the marketing of bonus offers. We expect to follow up on these in the beginning of 2014.

France: No express provisions contained in the Online Gambling Act or in the secondary legislation.

Italy: There are two main provisions:

a) bonuses concur to the tax calculation (that is, tax-wise they are treated just like cash), with the exception of bonuses that have a wagering requirement, that gets taxed only when the requirement is met and they become "normal" bonuses.

b) a high degree of transparency towards the players is required when a bonus is offered (for example, conditions, wagering requirements, expiration date, etc.). All the relevant information must be given to the player before accepting the bonus and made available after that.

United Kingdom: Social responsibility code provision 5.1 ('Rewards and bonuses') of the LCCP (which is applicable to all licensees) sets certain rules on rewards and bonuses. This provision states that if a licensee makes available to any customer or potential customer any incentive or reward scheme or other arrangement under which the customer may receive money, goods, services or any other advantage (including the discharge in whole or in part of any liability of his) (the benefit) the scheme must be designed to operate, and be operated, in such a way that:

- » "The circumstances in which, and conditions subject to which, the benefit is available are clearly set out and readily accessible to the customers to whom it is offered
- » Neither the receipt nor the value or amount of the benefit is:
 - » Dependent on the customer gambling for a pre-determined length of time or with a pre-determined frequency; or
 - » Altered or increased if the qualifying activity or spend is reached within a shorter time than the whole period over which the benefit is offered.
 - » If the value of the benefit increases with the amount the customer spends it does so at a rate no greater

than that at which the amount spent increases; and further that:

- » If the benefit comprises free or subsidised travel or accommodation which facilitates the customer's attendance at particular licensed premises the terms on which it is offered are not directly related to the level of the customer's prospective gambling."

Also, ordinary code provision 5.1.2 ('Proportionate rewards') states that: "Licensees should only offer incentive or reward schemes in which the benefit available is proportionate to the type and level of customers' gambling."

Regarding taxation, currently the HMRC's advises on "promotional schemes such as rake - backs or matched deposit schemes" is as follows:

"It is widespread industry practice for operators to offer incentives such as 'matched deposit' or 'rake back' schemes. These are aimed at both attracting new players to their sites and retaining existing players. These schemes usually take the form of crediting amounts to players' accounts (bonuses) on condition, for example, that players stake a set amount in play, or deposit a certain amount in chip purchases.

Any stakes or payments for gaming made from a player's account are defined as remote gaming receipts. It does not matter whether they come from funds deposited by the player or bonuses credited to the account by the operator. This may have the effect of distorting the duty calculation. In order to remove amounts credited to player accounts under 'rake back' and other incentive schemes from the duty calculation, you should treat such amounts as winnings.

However you should be aware that HM Revenue & Customs have the powers to disallow such credits where this is considered necessary to counter possible abuse of this provision."

During a consultation on the UK's taxation legislation for remote gambling, published in August 2013, the government noted that: "Many respondents had comments on the scope of the reform. The most prevalent of these regarded the tax treatment of marketing costs, including bonuses and free-plays. A number of respondents suggested that these player incentives should be excluded entirely from all gambling taxes.

These respondents argued this would have the effect of making the tax regimes more generous toward operators and would encourage operators to offer promotions, and could also help lessen the distortion in competition between compliant and non-compliant operators."

The Government's response to this was the following:

"As outlined in the consultation document, the reform to gambling taxation will be limited to changes to general betting duty, pool betting duty and remote gaming duty. In most areas the reform will not extend beyond the changes necessary to ensure gambling by UK customers is taxed on a place of consumption basis, although some changes will be made to the administration of the taxes. For example, the Government intends that a quarterly accounting period will be adopted for the three taxes, and that it will be mandatory for ROL holders to register and file returns electronically.

The Government has not been persuaded that changes to the tax treatment of "free plays" or bonuses are appropriate at this time. As such, the Government intends that the tax treatment of player promotions and incentives such as bonuses and free plays for general betting duty, pool betting duty and remote gaming duty will remain unchanged from the current situation for those taxes, as set out in relevant gambling duties legislation."

Part Two

Land-based Casinos

Category 1. Legislation, supervision and general licensing?

1.1. Main legislation containing provisions on the casino market regulation.

Austria: The Glücksspielgesetz, the Austrian Gambling Act, is the central piece of legislation on gambling in Austria, providing the regulatory basis for the operation of lotteries (including “electronic lotteries”), casinos, poker as well as a framework regulation for slot machines which are in detail governed by legislation at state level. The Gambling Act provides for a gambling monopoly and confers the right to issue licences to the Austrian Minister of Finance.

For the latest tendering procedure of the land-based casino licences the Minister of Finance published a booklet clarifying the licensing requirements and further determining the form, among others, in which the licence applications have to be filed (the licensing booklet).

Denmark: The main gambling legislation concerning the regulatory framework for land-based casinos is contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: The main gambling legislation concerning the regulatory framework for land-based casinos is contained in the Gambling Act 2005 which introduced a licensing regime for new large (maximum of 8) and small casinos (maximum of 8) (the government decided not to go ahead with a third category of regional casinos) to be licensed by local licensing authorities (local councils). At the same time, the Gambling Act 2005 has permitted the continued operation of casinos under the Gaming Act 1968 licences.

Switzerland: The main legislation concerning the regulatory framework for land-based casinos is contained in the Federal Law of December 18, 1998 on Games of Chance and Gaming Houses and in the Executive Ordinance Of September 24, 2004 on Games of Chance and Gaming Houses.

Canada: Casinos in Canada are regulated by each province and, therefore, there is no federal uniform casino legislation other than the exemptions in Part VII of the Criminal Code. All provinces where casinos are present have adopted specific casino legislation or have integrated casino gaming into their general gambling acts. Provincial governments derive their casino licensing authority from 1985 amendments to the Criminal Code of Canada which permitted the installation of slot machines in venues licensed by provincial gaming authorities. Dice games were later authorized in 1999.

In Ontario, casino-style gambling is generally regulated under the Gaming Control Act 1992, although various gaming regulations also apply to the sector. In addition, the Alcohol and Gaming Regulation and Public Protection Act 1996 and the Ontario Lottery and Gaming Corporation Act 1999 are also applicable. Under Section 3.8 of the Gaming Control Act, the Registrar of the Alcohol and Gaming Commission is authorized to establish standards and requirements for the conduct, management and operation of gaming sites.

★ Gambling Compliance Commentary

Note for Canada: since Canada consists of a federal framework (with ten provinces and three territories), Gambling Compliance has included pertinent examples from the larger provinces such as Ontario and Quebec among others) for this research.

1.2. Regulation of land-based casino market (licences or monopoly)

Austria: Licences.

Denmark: Licences.

United Kingdom: Licences.

Switzerland: Licences.

Canada: Differs by province, but in general, provinces must conduct and manage commercial gaming establishments. The casinos operate as state monopolies that may be operated by private entities in certain provinces.

In Ontario, The Alcohol and Gaming Commission of Ontario (AGCO) regulates casino-style gambling in Ontario. The AGCO was established on February 23, 1998, under the Alcohol and Gaming Regulation and Public Protection Act 1996. All gaming is conducted and managed through the government business enterprise, the Ontario Lottery and Gaming Corporation (OLG). In short, the AGCO regulates the OLG. Although itself an operator, the OLG has supervisory functions in its oversight of private suppliers.

Casinos in Quebec are operated by the Regie des Alcools des Courses et des Jeux (RACJ). All casinos are operated by Loto-Quebec, a state-owned corporation. This is different than most other national lottery operators in Canada, as it does not only run draws but also controls the operation of four casinos, and owns the province’s video lottery terminals (VLTs).

1.3. Are private operators able to be granted a licence?

Austria: Yes.

Denmark: Yes. However, according to the Gambling Authority’s homepage operators cannot apply for land-based casino licences for the time being. In case a currently issued licence becomes vacant the licence will be advertised and put for tender.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Differs by province. In Ontario, while not granted a “license,” persons can be registered as operators of a gaming site. Although casinos are operated under the umbrella of the OLG, private management agreements are in place with operators to manage the day-to-day operations of the casino. The gaming equipment, however, remains the property of the OLG. In Quebec, the Loto-Quebec controls and manages all gaming at casinos.

Additional question:

i) In Ontario, private management agreements are in place. Is this similar to a franchise construction?

Canada: The Ontario Lottery and Gaming Corporation (OLG) does operate some casinos in the province. However, under private management agreements, day-to-day operations of certain gaming sites are handed over to private-sector operators. In return, the private-sector operators pay taxes to Ontario and the local host communities. This is not franchise construction per se, as it occurs in the fast food industry, however, it is the state leveraging the expertise and skills of private managers to run day-to-day operations while maintaining overall control of the right to offer gaming to residents in Ontario. A more apt term for this would be a public-private partnership than franchise construction.

1.4. Has there been a public tender for the land-based casino licence?

Austria: Yes.

Denmark: Yes.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Differs by province. In some jurisdictions there have been public tenders, and in others there have not been public tenders.

For Ontario, yes. Ontario is currently undergoing a modernization plan across the province for its gaming industry. Information can be found at: <http://www.modernolg.ca/procurement-process/>.

Additional questions:

i) The first 12 licenses (‘city’ and ‘country’) were granted to Casino Austria. Is this still considered to be a competitive market, or is it another method of achieving a monopoly? Could Casino Austria also obtain the remaining three licenses?

Austria: It could be argued that the market is still competitive as there is a possibility that a company other than Casinos Austria can receive a licence. Recent developments supports this case - at the end of June, the three remaining casino licence winning tenders were announced with none of these licences being awarded to Casinos Austria. Regarding these new licence winning tenders, two casinos will be opened in Vienna, one by Novomatic and one by the joint venture of the Gauselmann Group and Stadtcasino Baden AG. Novomatic is permitted to open a further casino in Lower Austria, having won the third tender.

ii) Denmark: it states that a public tender was held for at least 4 licences. In 1.8) it states that in Denmark there is a total of 7 licences (as it states that if 1 out of 7 licences becomes vacant it will be put up for tender). This raises the question how the remaining 3 licences were granted?

Denmark: Further information has been added to answer 1.5 below.

1.5. If yes, when?

Austria: The Gambling Act provides for 15 land-based casino licences which are valid for 15 years. The Minister of Finance decided to offer 12 out of the 15 casino licences in two packages of six licences each (the so-called “city package” and “country package”) and three single licences:

- » The six licences from the city package were granted in December 2012 to the Casinos Austria AG and are effective as of 1 January 1, 2013.
- » The six licences from the country package were granted in October 2013 and will take effect as of 1 January 1, 2016 and have been granted to the Casino Austria AG, too.
- » The tendering process for the three single licences started in November 2012 and licence applications had to be filed by June 2013. The results of these three remaining tenders were announced on June 27, 2014. Two licences have been granted to Novomatic and one licence to the joint venture of the German Gauselmann Group and the Swiss Stadtcasino Baden

AG. However, Casinos Austria has challenged the casino licence decisions with a complaint submitted to the Ministry of Finance in July 2014.

Denmark: As outlined in the 2013 Danish Gambling Authority Annual Report: "The Danish Gambling Authority issues licences to operate land-based casinos while the Danish government determines the precise number of licences that may be issued. Licences have currently been issued for seven land-based casinos in Denmark, six being geographically located in the Zealand, Funen and Jutland regions while one licence has been issued to the DFDS Oslo ferry 'Pearl Seaways'."

The latest tendering procedure was held in 2010 and 4 licences were issued in November 2010. In addition to this, in 2010, "a preliminary licence was granted to operate an additional casino in Copenhagen and a casino in Esbjerg as well as a casino on board the Oslo ferry 'Crown of Scandinavia'" as outlined in the Danish Gambling Authority's Annual Report 2012. These two preliminary licences were not used in 2013, with no licences put to tender during 2013 according to the Danish Gambling Authority's 2013 Annual Report published during March 2014.

United Kingdom: Under the Gambling Act 2005, applications for casino premises licences (under Section 175) are subject to a schedule to the Act (Schedule 9) which requires the licensing authority to before "considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications" (Schedule 9 Section 2 'Competition for licences').

According to the UK Parliament's study: "The Gambling Act 2005: A Bet Worth Taking?" (2012) conducted by the Culture, Media and Sport Committee: "Sixteen local authorities were granted permission by the Casino Advisory Panel to host a new Small or Large Casino. Sixty-eight local authorities originally applied in 2006 for permission to have either a new Small or Large Casino."

Some tender competitions have been completed with others outstanding. The local authorities selected for large casinos were: Great Yarmouth Borough Council; Kingston upon Hull City Council; Leeds City Council; Middlesbrough Borough Council; Milton Keynes Borough Council; Newham London Borough Council; Solihull Metropolitan Borough Council; and Southampton City Council. The local authorities selected for small casinos were: Bath and North East Somerset District Council; East Lindsey District Council; Luton Borough Council; Scarborough Borough Council; Swansea City and County Council; Torbay Borough Council; Wigtown, Dumfries and Galloway Council; and Wolverhampton City Council.

The UK's first large casino under the Gambling Act 2005 opened was opened in London Borough of Newham

in December 2011 (the Aspers casino near the London Olympics venue and large shopping mall of Westfield Stratford), with the second in Milton Keynes during September 2013. Other casinos are in development (tenders completed by no casino development breaking ground to date) with four tenders yet to start. Tenders are run by local authorities.

Switzerland: The first casino tender process was opened after the entry into force of the federal Law on Games of Chance and Gaming Houses on April 1, 2000 and by 2003, 21 casino concessions had been awarded. (Two of the licences have since been revoked). In September 2012 the Federal Council issued two further casino licences. A Class A licence in Zurich to Swiss Casinos and a Class B licence in the region of Neuchâtel to FBAM Neuchâtel SA.

Canada: Differs by jurisdiction. The OLG issued Requests for Pre-Qualification (RFPQs) for six gaming bundles in 2013. Only one of the bundles has been advanced to the next phase of the procurement process, when it issued a Request for Proposal (RFP) for the East Gaming Bundle. Additionally, the OLG is looking to issue a Request for Information (RFI) for a "potential privately-funded, multi-purpose entertainment centre in Niagara Falls.

Additional question:

i) When will the remaining three Austrian licenses be tendered? Or is this yet unknown?

Austria: The information in the Austrian answer above has been updated to reflect the latest developments and winning tender announcements from late June 2014.

ii) Denmark: it states that a public tender was held for at least 4 licences. In 1.8) it states that in Denmark there is a total of 7 licences (as it states that if 1 out of 7 licences becomes vacant it will be put up for tender). This raises the question how the remaining 3 licences were granted?

Denmark: All seven casino licences in Denmark have been awarded by tender offered by the Danish Ministry of Justice

1.6. Licensing authority

Austria: The Austrian Minister of Finance.

Denmark: Licence applications have to be filed with the Gambling Authority which is under the organisation of the Minister of Taxation. According to Section 4 of the Act on Gambling the Minister of Taxation or whomever the latter authorises, shall be the regulatory authority. The Minister of Taxation authorised the Gambling Authority. Therefore the latter is the licensing and supervisory authority in Denmark.

United Kingdom: The UK Gambling Commission issues operating licences, personal management licences and personal functional licences. Local authorities (councils) on the other hand, are responsible for the issuance of premises licences.

Switzerland: The federal government issues licences after a vetting procedure undertaken by the Federal Gaming Board.

Canada: The Alcohol and Gaming Commission of Ontario (AGCO) regulates casino-style gambling in Ontario, including registering.

1.7. Supervisory authority

Austria: The Austrian Minister of Finance.

Denmark: According to Section 4 of the Act on Gambling the Minister of Taxation or whomever the latter authorises, shall be the regulatory authority. The Minister of Taxation authorised the Gambling Authority. The Danish Gambling Authority has been given the remit to supervise and inspect casinos. On supervision, the Danish Gambling Authority noted in its 2012 Annual Report that:

"Our casino supervision is carried out by a Danish Gambling Authority employee who is present during the casino's opening hours. The land-based casinos must cover the expenses relating to casino supervision. As a result of the new gambling legislation, we have taken over the police task of approving persons wishing to work in a land-based casino. In 2012, we approved about 50 people and rejected a handful."

Similarly, in its 2013 Annual Report the Danish Gambling Authority noted:

"An employee from the Danish Gambling Authority is present during the casino's full opening hours, having supervisory responsibilities that include ensuring that the counting of the casino's cash, chips and cards complies with the rules applying.

In 2013 we continued working on a project launched in 2012 designed to assess the current supervision of the land-based casinos. The main focus of the project is to explore whether future casino supervision can be more expediently organised in terms of use of resources and technological advances in the field. The project will continue in 2014."

United Kingdom: The UK Gambling Commission.

Switzerland: The Federal Gaming Board.

Canada: Differs by province. In Ontario, all gaming is conducted and managed through the government business enterprise, the Ontario Lottery and Gaming

Corporation (OLG), meaning AGCO regulates the OLG. Although itself an operator, the OLG has supervisory functions in its oversight of private suppliers.

1.8. Number of available licences

Austria: 15

Denmark: The Act on Gambling and the Executive Order on land-based casinos do not contain a numerus clausus on available land-based casino licences. However on the Gambling Authority's homepage the latter announces that operators currently do not have the possibility to apply for a land-based casino licence. Only if one out of the seven currently issued licences becomes vacant the licence will be put for tender. On the homepage, the Gambling Authority further states that the Minister of Taxation determines the exact number of licences, which corresponds with the information in the Danish Gambling Authority's Annual Report 2013, which states: "[the] Danish Gambling Authority issues licences to operate land-based casinos while the Danish government determines the precise number of licences that may be issued".

United Kingdom: The Gambling Act 2005 does not set a limit on the number of land-based casino licences currently available (including those issued under previous legislation). However, in relation to casino premises licences and new casinos, the 2005 Act sets a limit under section 175 and provides that "no more than one casino premises licence may have effect at any time in respect of regional casinos", that "no more than eight casino premises licences may have effect at any time in respect of large casinos" and with regards to small casinos, "no more than eight casino premises licences may have effect at any time". As noted above, the government opted not to pursue regional casinos.

Switzerland: Not specified in the legislation. According to the Federal Gaming Board, the Federal Council (the government in Switzerland) decides on how many licences for casinos will be granted in Switzerland. In Switzerland there are currently 21 casinos.

Canada: Differs by province.

1.9. Number of licences granted

Austria: 12, the tendering process for the remaining three licences is still pending. Licences are expected to be issued in summer 2014.

Denmark: There are currently six casinos in Denmark and one licensed on-board ship casino. Therefore the overall number of issued land-based casino licences is seven.

United Kingdom: The Gambling Commission notes that

there were over 140 casino premises in operation when the Gambling Act 2005 entered into force during September 2007. These licences were issued under the Gaming Act 1968. The Gambling Act 2005 made available 8 large casino licences and 8 small casino licences (with the one regional casino licence, not pursued by government). Commercially, two casino groups, Genting UK and Rank Group hold the majority of UK casino licences.

Switzerland: There are currently 21 licences. Licences are divided into Class A and Class B licences. Eight Class A licences (mainly in urban areas) and 13 Class B licences (in resorts or smaller communities) have been granted.

Canada: Differs by province. This ranges from a few to over 20 depending on the province.

Additional question:

i) Canada: the number of licences granted differ per province (from a few to over 20 licences). What is the basis (what are the criteria) for granting either a few or over 20 licences?

Canada: This is a policy decision at the provincial level, so therefore many factors, both local and farther afield could be involved. The reasons could involve a balance between having provinces operate as many gaming sites as they can effectively regulate to satisfy demand for gambling in a legal, regulated environment on the one hand; with protection of players, minors and vulnerable on the other. Canada has a strong nationwide focus on problem and responsible gambling, and therefore these factors would be prominent in policy making. Looking at past experiences as an example for granting licences, in Ontario a referendum used to be required in order to establish a gaming site. This regulation has now changed - now establishing a gaming site requires municipal authority approval.

Moreover, for Ontario, Gambling Compliance was told that the carved exception to gambling being illegal is that it is conducted and managed by Government and for charitable purposes. The Ontario Lottery and Gaming Corporation sets the limits on the amount of sites operating and increases and decreases that number as the market allows.

1.10. Duration of licence

Austria: 15 years.

Denmark: Section 14 of the Act on Gambling determines that the licences may be granted for a period of up to ten years.

United Kingdom: The Gambling Act 2005 does not specifically indicate the duration for the casino licences.

However, the Act provides under Section 111, that the Gambling Commission has the right to “determine that operating licences, or a specified class of operating licences, shall cease to have effect at the end of a specified period”.

Switzerland: Licences are granted for a period of 20 years. Under exceptional circumstances licences can be granted for a shorter or longer period. Licences can be extended or renewed.

Canada: Differs by province. Registration must be renewed annually in Ontario.

1.11. Any definition of the term “casino games” in the national legislation?

Austria: No. The Gambling Act does not contain an exhaustive list of games which a casino licensee may/has to offer in its casinos. However, the games typically referred to as casino games, such as black jack, two aces, roulette, baccarat and poker fall within the scope of application of the Gambling Act. In addition, slot machines located in casino premises are covered by the casino licence.

Denmark: No. There is no express definition of the term “casino games”. However, Section 5 of the Act on Gambling inter alia defines the terms lottery, combination games and betting. According to the Act on Gambling the term “gambling” covers lottery, combination games and betting. The explanatory notes to the Act on Gambling clarify that the definition of combination games covers a number of different types of games, e.g. rubber-bridge, poker, backgammon, whist and guessing competitions (where the competition is decided by a draw). Land-based gambling is defined as “gambling activities where a player is meeting physically with a gambling provider or the gambling provider’s distributor.”

Importantly, according to Section 14(10) of the Act on Gambling: “14(1). A licence may be granted for the establishment and operation of land-based casinos. Land-based casinos may provide roulette, baccarat, punto banco, blackjack, poker and gambling on gaming machines offering cash winnings.”

United Kingdom: Yes. The Gambling Act 2005, Section 7, provides that “a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games”. Section 7(2) further stipulates that “casino game” is a game of chance which is not equal chance gaming (the Gambling Commission notes that poker is considered an equal game of chance and these are usually also made available in casinos in addition to gaming machines).

Switzerland: Yes. The Federal Law on Games of Chance

and Gaming Houses, Article 7, provides that “the casino is a company that offers the opportunity to gamble on a commercial basis”.

Canada: No. However, section 207(1)(a) of the Criminal Code authorizes provinces, either alone or in conjunction with one another, to “conduct and manage a lottery scheme.” Under Section 207(4) a “lottery scheme” consists of a:

“[G]ame or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than (a) a three-card monte, punch board or coin table; (b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest; or (c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device or slot machine, within the meaning of subsection 198(3), or a dice game.”

1.12. In particular, is poker considered a casino game?

Austria: Yes.

Denmark: Yes. According to Section 14(1) of the Act on Gambling, land-based casinos are inter alia allowed to offer poker.

United Kingdom: Yes. Poker can be played in casinos. Casinos can also run poker tournaments at temporary venues, for a specified amount of time, using temporary notices.

Switzerland: Yes. The Executive Ordinance on Games of Chance and Gaming Houses, Article 51, permits casinos to offer gambling tournaments. In addition, in 2010, the Supreme Court of Switzerland ruled Texas Hold’em poker tournaments as games of chance. Casinos hold the monopoly over the organisation of poker tournaments.

Canada: Differs by province. Ontario -- poker is considered a lottery scheme.

Additional question:

i) Why is poker considered a lottery scheme in Ontario, Canada?

Canada: Poker is considered a lottery scheme as the definition is broadly defined in Section 207(4) of the Criminal Code, a “lottery scheme” consists of a:

“[G]ame or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than: (a) a three-card monte, punch board or coin table; (b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest; or (c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device or slot machine, within the meaning of subsection 198(3), or a dice game.”

ii) In Canada, poker is a lottery scheme but can it be offered in casinos?

Yes, this is due to the definition of a lottery scheme in Canadian law. In simple terms, a lottery scheme may be defined as any scheme which has the following three components:

- » A prize
- » A chance (to win the prize)
- » Consideration or a fee.

Therefore, a lottery scheme exists if money is paid or some other consideration is given for a chance to win a prize.

1.13. Are there different categories of casino games? If, yes which?

Austria: Yes. The games typically referred to as casino games, such as black jack, two aces, roulette, baccarat and poker fall within the scope of application of the Gambling Act. In addition, slot machines located in casino premises are covered by the casino licence.

Denmark: Yes. According to Section 14(1) of the Act on Gambling, casinos may offer the following games: roulette, baccarat, punto banco, black jack, poker and gaming machines offering cash winnings.

United Kingdom: Yes. Casinos offer games such as American roulette, punto banco (baccarat), blackjack, poker in addition to gaming machines is also available. Some casinos may also offer electronic games and games of equal chance. According to the Gambling Act 2005, large casinos are permitted to offer betting and bingo facilities. Small casinos are also allowed to offer betting.

Switzerland: Yes. The law makes a distinction between casino games by dividing them into two types: games of skill and games of chance.

Canada: Differs by province. Ontario -- no.

1.14. Are there specific licences for each category of casino games or simply a general casino games licence?

Austria: There is simply a general casino licence (15 such licences for land-based casinos and three licences for land-based poker halls).

Denmark: The Danish gambling legislation provides for general land-based casino licences. However, according to Section 14(3) of the Act on Gambling land-based casino licences may be limited to one or more types of gambling activities.

United Kingdom: The Gambling Act 2005 provides for general land-based casino licences (such as operating, premises licences).

Switzerland: There are Class A and Class B licences. Class A licences are for the operation of table games and gambling machines. The Class A licence also entitles its holder to link the games in the casino or among casinos, especially for the formation of jackpots.

Class B licences are for the operation of a maximum three table games as well as gambling on gambling machines with low loss and winnings potential. The number of gaming machines is limited to 250 in one Class B casino, the Federal Gaming Board can exceptionally, however, give permission for more machines. According to the Executive Ordinance on Games of Chance and Gaming Houses the linking of games is prohibited in class B casinos.

Canada: Differs by province. In Ontario, the Gaming Control Act lays out three different types of registrants: operators, gaming-related supplier and non-gaming related supplier. Any individual who "manufactures, provides, installs, tests, maintains or repairs gaming equipment or who provides consulting or similar services directly related to playing of a lottery scheme or the operation of a gaming site" must be registered as a gaming-related supplier.

1.15. Requirement for casinos to offer all casino games within a category provided for by law (in particular table games and slots)?

Austria: No. However, Article 21(7) of the Gambling Act only states that the casino licensee is required to offer "Lebensspiele", being interpreted by Austrian courts as games in which the casino staff is involved in the game process (like black jack and roulette). The Austrian Ministry of Finance understands that this provision means that a licensee must not only offer gaming machines in its premises but has to offer other casino games as well.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: No. Section 7 of the Gambling Act 2005 provides that a casino "is an arrangement whereby people are given an opportunity to participate in one or more casino games." Therefore the offering of a simply one casino game would be required.

Switzerland: Yes. Article 11 (2) of the Executive Ordinance on Games of Chance and Gaming Houses stipulates that an operating permit can only be granted if the proportion between the number of gambling tables and the number of machines equals or exceeds 1:25. From this provision follows that both table games and gaming machines are required to be operated.

Canada: Differs by province. Not specifically addressed by regulations/laws in Ontario.

1.16. If yes, is there any minimum or maximum requirement for casinos to offer a certain variety of games within a certain category (for example a casino has to operate at least five and a maximum of ten slot machines, etc)?

Austria: No express provisions contained in the Gambling Act. However, in the licensing booklet the Minister of Finance clarified that there should not be an excessive concentration of gambling in one location. To this end the Minister of Finance considers that more than 500 gaming machines per location are too much.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: Yes. The Gambling Act 2005 introduced a ratio between gambling machines and gaming tables.

According to the Gambling Act 2005, for an operator to run a small casino, there is a ratio of 2:1 regarding number of gaming machines to gaming tables. That is, the number of gaming machines cannot be more than twice the number of gaming tables, with an operator allowed a maximum of 80 gaming machines from category B1 to D (excluding category B3A) (Section 72(5)). In relation to large casinos, there is a ratio of 5:1 regarding the number of gaming machines to gaming tables. That is, the number of gaming machines cannot be more than five times the number of gaming tables, with an operator allowed a maximum of 150 gaming machines from category B1 to D (excluding category B3A) (Section 72(4)). Similar ratios applied to a regional casino however, these casinos have not been implemented.

Further, small casinos require a minimum table gaming area of 500 square metres is required as well as a

minimum non-gambling area of 250 square metres (for a total customer area of 750 square metres); and for large casinos the minimum table gaming area should be 1,000 square metres with at least 500 square metres non-gambling area (for a total customer area of 1500 square metres).

Switzerland: Yes. Class B casinos are only allowed to offer at most three table games and the number of gaming machines is limited to 250 in a Class B casino. The Federal Gaming Board can exceptionally, however, give permission for more machines in Class B casinos. Article 11 (2) of the Executive Ordinance on Games of Chance and Gaming Houses stipulates that an operating permit for both Class A and Class B casinos can only be granted if the proportion between the number of gambling tables and the number of machines equals or exceeds 1:25.

Canada: Differs by province. No express provisions contained in the regulations/laws in Ontario.

1.17. If yes, what are the reasons for setting these requirements?

Austria: According to the licensing booklet the Minister of Finance wants to avoid excessive concentration of gambling in one location.

Denmark: -

United Kingdom: No express provisions contained in the Gambling Act. However, according to the UK Parliament's study: "The Gambling Act 2005: A Bet Worth Taking?" (2012) "There were two reasons for linking machine numbers to tables. One was that it would encourage punters to take a break from machine play and turn to table play, which is less intensive. It was also thought that forcing Small Casinos to have a large floor space would prevent their proliferation on the high street. Providing tables to break up machine-based play assumes, however, that the same people will play on tables and machines, which may not be the case. Furthermore, we have seen no evidence that the ratio of tables to machines was developed on the basis of sound evidence. John Penrose MP, Minister for Tourism and Heritage, told us that "an awful lot of the numbers in the Act were plucked out of the air and were altered on an unscientific basis as the Bill went along". However, DCMS argued that the ratios of machines to tables should not be changed, because there was no evidence for any alternative being any better." (at paragraph 167)

Further, the report noted that:

"Concerns were expressed during the passage of the Gambling Act that the Small Casino model was not economically viable. This was in part due to their table/machine ratio. The National Casino Industry Forum argued that a uniform 5:1 machine to table ratio capped

at 150 machines should apply to both Small and Large Casinos.

The Act has created a situation where the Small Casino model is not considered financially viable. This is partly because a Small Casino must possess a larger floor-area for table play than a Large Casino in order to maximise its machine allowance. We note that not one Small Casino has been developed. It was not Parliament's intention in 2005 to make Small Casinos completely unviable. Given the fact that all casinos are highly regulated and access is limited regardless of the size, we see no rationale for the different gaming machine allowance. As 5:1 is the ratio presently in the legislation, we recommend that the Government introduce a single ratio of five machines to one table for both Small and Large Casinos. Local authorities should have the power to increase the number of machines permitted per table if they wish to do so and an operator requests it." (at paragraph 168-169)

Switzerland: The Federal law on Games of Chance and Gaming Houses, Article 8 sets a limit to a maximum of three table games for Class B casinos. For Class A casinos, these restrictions do not apply.

Canada: -

1.18. Minimum/maximum requirements with regard to the number of table games in a casino?

Austria: No express provisions contained in the Gambling Act.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: Yes. Section 7 of the Gambling Act 2005 provides that a casino "is an arrangement whereby people are given an opportunity to participate in one or more casino games." Therefore the offering of a simply one casino game would be required, and consequently one casino table would be required.

Switzerland: Yes (for class B casinos). In class B casinos the number of slot machines is limited to 250; the Federal Gaming Board can exceptionally give permission for more machines. Class A casinos can operate an unlimited number of machines.

Canada: Differs by province. No express provisions contained in the regulations/laws in Ontario.

Additional question:

i) Can class A casinos operator more than ten tables? (For example, if they have more than 250 machines).

Switzerland: Yes. Both Class B and Class A casinos can operate more than 10 table games as long as they operate at least one table per every 25 slot machine.

Class B casinos can only offer three types of table games.

The 1:25 table to machine ratio is a minimum requirement and therefore there can be more than only one table per each 25 slot machines.

1.19. Minimum/maximum requirements with regard to the number of slot machines in a casino?

Austria: No express provisions contained in the Gambling Act. However, in the licensing booklet the Minister of Finance clarified that there should not be an excessive concentration of gambling in one location. To this end the Minister of Finance considers that more than 500 gaming machines per location are too much.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: Yes. Large casino (machine/table ratio of 5:1 up to maximum) - maximum 150 machines from categories B to D. Small casino (machine/table ratio of 2:1 up to maximum) - maximum 80 machines from categories B to D. Casinos established under the Gaming Act 1968 (no machine/table ratio) - maximum of 20 machines from categories B to D or any number of C or D machines.

Switzerland: Yes. The Federal Law on Games of Chance and Casinos regulates that the relationship between the number of table games and the number of slot machines is 1 table to 25 machines. Specifically for Class B casinos these are limited to a maximum of 250.

Canada: Differs by province. Ontario, no express provisions contained for minimum or maximum requirements in the Gaming Control Act or the regulations dealing with casino gaming. In Manitoba, through its provincial budget, the moratorium on letting certain facilities was removed, and some commercial sites were allowed to add up to 40 more VLTs.

1.20. Minimum/maximum requirement with regard to the number of player seats in a casino?

Austria: No express provisions contained in the Gambling Act.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: No express provisions contained in the Gambling Act 2005.

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province. Not specifically addressed by regulations/laws in Ontario.

1.21. Minimum/maximum requirement with regard to the floor area (square metres) of a casino?

Austria: No express provisions contained in the Gambling Act 2005.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos. However, Section 31 of the Act on Gambling requires that when determining whether to grant a land-based casino licence emphasis has to be attached to the maintenance of public order and the size and location of the establishment.

United Kingdom: Yes. For an operator to run a small casino, the minimum table gaming area of 500 square metres is required as well as a minimum non-gambling area of 250 square metre. In relation to big casinos, the minimum table gaming area should be 1,000 square metres with at least 500 square metres non-gambling area.

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province. Not specifically addressed by regulations/laws in Ontario.

1.22. Minimum/maximum requirement with regard to the height (in euros) of jackpots?

Austria: No express provisions contained in the Gambling Act.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: No express provisions contained the Gambling Act 2005.

Switzerland: Yes (for class B casino). For Class A casino licensees the amount of the jackpot is not limited. For class B casino licensees the maximum jackpot amounts to €164,000 (CHF200, 000).

Canada: Differs by province. No express provisions contained in the regulations/laws in Ontario.

1.23. If yes, what are the reasons for the above minimum/maximum requirements?

Austria: -

Denmark: -

United Kingdom: -

Switzerland: According to the Federal Gaming Board, "the difference between the two categories of casinos has to do with historical reasons, the B Casinos were the formal "Kursaals"."

Canada: -

Additional question:

i) Switzerland: what are "Kursaals"?

Switzerland: It is the traditional German term for the smaller type of casinos (now called Class B casinos), used by the regulator in their answers to our questions.

Category 2. Taxation and Fees

2.1. Which costs are imposed on licensees on a yearly basis?

Austria: The Gambling Act provides that the following costs apply to the casino licensee:

- » A special casino tax;
- » Licence fee;
- » Application fee;
- » The Minister of Finance's costs for supervising the casino licensee.

Denmark: The Gaming Duties Act and the Act on Gambling only refer to a gambling tax that land-based casinos have to pay. In addition, Section 42(6) of the Act on Gambling states that the Minister of Finance may lay down rules governing the payment of fees for processing applications and issuing licences and annual fees to cover costs associated with the administration of licences, supervision of the licence holder and monitoring of the gambling market in order to prevent the provision, organisation or promotion of participation in gambling activities in Denmark without a licence. In addition the explanatory notes to the Act on Gambling suggest that the land-based casinos will have to bear the costs for the Gambling Authority's supervision of the casino market.

United Kingdom: Based on the Gambling Act 2005, the first annual fee for a casino operating licence will be payable six months after the licence has been issued. For a small casino, the operating licence annual fee is £51,877, whereas for a large casino the annual fee is £108,132. If the licence holder is not operational, the annual fee will be reduced by 50 percent. With regards to the Gambling Act 1968, the first year annual fee for a casino operating licence will be reduced by 25 percent.

Switzerland: Gambling Tax: The base of the casino tax is gross gaming revenues (GGR). The basic casino tax rate is 40 percent, which applies for GGR up to CHF10m, for every additional million Swiss Francs the taxation rate rises by 0.5 percent up to a maximum taxation rate of 80 percent. The tax is due to be paid every year on January 31.

Supervision fee: Is calculated based on the effective costs, which occurred during the past year in regards to the supervision and it also commensurate with the GGR achieved by the casino. The exact amount of the supervision fee is stipulated every year for each individual casino.

Other fees for the individual services of the Federal Gaming Board.

Canada: Differs by province. In Ontario, casinos are

taxed and operators and suppliers must also pay annual registration fees. In Manitoba, operators of casinos must pay C\$425 per VLT.

2.2. In particular, does a gambling tax apply to land-based casinos?

Austria: No. The Gambling Act provides that no gambling tax applies to land-based casinos, however a special casino tax is applicable.

Denmark: Yes.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Yes.

2.3. If yes, what is the tax rate and the tax basis (GGR or turnover)?

Austria: The cost basis for the casino tax licence fee is the annual GGR of each casino operation, in the case of payouts by gaming machines, the annual GGR from gaming machines in each casino operation, less VAT. Annual GGR are the stakes received by a casino operation during a calendar year and payments made by players for gaming equipment provided, less winnings paid out by the casino. The tax rate amounts to 30 percent.

Denmark: Casinos are subject to a tax of 45 percent of revenues up to DKK4m and 75 percent for any portion of revenues above this amount.

United Kingdom: The UK gaming duty applies to land-based casinos and it is calculated on the following basis (effective from April 1, 2013): the first £2,242,500 of GGY (Gross Gambling Yield) - 15 percent. The next £1,546,000 of GGY - 20 percent. The next £2,707,500 of GGY - 30 percent. The next £5,714,500 of GGY - 40 percent. The remainder - 50 percent. Regarding the calculation of gross gambling yield, the Gambling Commission has provided this guidance via a FAQ:

"The annual gross gambling yield as calculated in accordance with the following formula:

$A + B - C$
where:

A) is the total of any amounts that will be paid to the licensee by way of stakes in the relevant period in connection with the activities authorised by the licence
B) is the total of any amounts (exclusive of value added tax) that will otherwise accrue to the licensee in the relevant period directly in connection with the activities

authorised by the licence

C) is the total of any amounts that will be deducted by the licensee in respect of the provision of prizes or winnings in the relevant period in connection with the activities authorised by the licence."

Switzerland: The base of the casino tax is gross gaming revenues (GGR). The basic casino tax rate is 40 percent, which applies for GGR up to CHF10m, for every additional million Swiss Francs the taxation rate rises by 0.5 percent up to a maximum taxation rate of 80 percent. The tax is due to be paid every year on January 31.

Canada: Differs by province.

Ontario: Additionally, they are subject to a hosting fee formula for host municipalities:

- » 5.25 percent of the first C\$65m of slot revenues.
- » 3.0 percent of the next C\$135m of slot revenues.
- » 2.5 percent of the next C\$300m of slot revenues.
- » 0.5 percent of slot revenues above C\$500m.
- » 4.0 percent of table game revenues.

In Quebec, all profits are given to the province's Treasury as Loto-Quebec is the sole licensee permitted to operate casinos in the province.

Additional question:

i) Could you provide the motivation regulators have behind setting the specific tax rates?

Gambling taxation is a policy issue, established by government more so than regulators which implement policy. There are many differing opinions regarding what is and is not an appropriate taxation regime, what motivations should be addressed; and if these motivations are completing, balanced. This is particularly the case when jurisdictions regulate online gambling, however, it is also a 'live' issue when regulating land-based casinos, particularly in instances where casino gambling is already available in the region, such as across Europe. The following is a quote from "The Regulation of Commercial Gaming" (Cory Aronovitz, 5 Chapman L Rev. 181 (2002); extracted in 'Indian Gaming Law Cases and Materials', Kathryn R L Rand and Steven Andrew Light, California Academic Press (2008) at page 16) which summarizes the competing tensions at play, policy issues and the balancing of ensuring a viable, attractive gaming offers within other policy constraints:

"Tax revenue is perhaps the primary economic benefit that a jurisdiction derives from the authorization of gaming. Gaming taxes typically focus on the patron and the casino. Taxes on patrons include admission, sales, and income taxes. Casino taxes include state and local taxes on gross, adjusted gross or net revenues; the quantity of games or gaming devices; the size of the

casino floor; of the license privilege. When determining how much tax should be assessed, jurisdictions must consider competing markets and other leisure activities. If gaming taxes are too high, then casinos may pass the expense on to the customer in the form of higher costs, making the gaming product less attractive in comparison to other activities and gaming markets."

Switzerland's Federal Gaming Board provided the following quote which indicates a balance between profitability of the casino operation with revenue generation (which is similar in aspects to the above quote): "the setting of the specific tax rates was based on the reflection that the profitability on the own resources of the casinos have to be appropriate. Higher gains should be skimmed. The system that was chosen is fulfilling that aim. The actual results confirm that the estimations that were taken when the law was adopted were correct."

* Gambling Compliance Commentary 1:

Denmark re-regulated both online gambling and land-based casino gambling and became subject to a state-aid case before the European Commission with respect to differential taxation rates (European "Commission Decision of 20.09.2011 on the measure No C 35/2010 (ex N302/2010) which Denmark is planning to implement in the form of Duties for Online Gaming in the Danish Gaming Duties Act'). The Commission's ruling provides quotes from contemporaneous memorandums which provide insights regarding the reasoning behind policy decision with respect to taxation rates and differentials between land-based and online gambling taxation. These are extracted below, with a link to the decision in the accompanying sources document:

"35. With regard to the different tax rates applicable for online and land-based gambling activities, the Danish authorities explained that they are confronted with a legislative and regulatory dilemma. On the one hand, they could no longer maintain the current monopolistic situation and delay the liberalisation of the online gambling market. On the other hand, providing for a uniform tax level for online and land-based gambling activities would undermine the policy objectives pursued in this field by the legislator.

36. In particular, the Danish authorities argued that setting a uniform tax level for all gambling activities would lead to inconsistent solutions, regardless of the tax model opted for. If the Danish authorities relied on a model based on a lower, uniform 20 per cent tax rate, this would result in a strong incentive for gambling in land-based casinos, which would be contrary to the general interest of consumer protection.

37. Conversely, providing a model based on a higher

uniform tax rate similar to the one applied to land-based gambling would dissuade online operators from seeking a licence to provide services from Denmark, thus defeating the liberalisation objectives of the law. This would also be contrary to the general interest of consumer protection since no effective control of the online gambling activities would be possible.

38. In support of their position, the Danish government provided a memorandum from the Ministry of Taxation of 6 March 2010 to the Policy Spokesmen of the political parties of the Danish Parliament regarding the setting of the level of duty. The memorandum shows that the current differential tax treatment should be regarded as the result of a balancing exercise aiming to ensure, on the one hand, that the law is upheld, while on the other hand, maximising the tax revenue and maintaining consumption of gambling at a moderate level.

....

131. In the memorandum submitted by the Danish Ministry of Taxation of 6 March 2010 to the Policy Spokesmen of the political parties of the Danish Parliament regarding the setting of the level of duty⁷², the choice of the lower tax rate of 20 per cent of GGR for the online gambling was justified by reference to the following criteria:

(a) The gambling provided under Danish licences should be adjusted to the current offering from online gambling providers abroad, i.e. the tax rate needs to be adjusted in order to match the high pay-out ratios offered by foreign online gambling providers, inducing them to actually apply for a licence.

(b) The total number of games offered should be increased leading, overall, to a corresponding increase in turnover.

(c) The gambling products should be so attractive that players do not want to gamble on sites of foreign (illegal) operators.

(d) Blocking instruments should be used to ensure, in combination with item (a) - (c), that gambling on the sites of illegal operators is reduced to a minimum.

132. In this memorandum, the Danish authorities note that the legislation in the UK, which should be regarded as being very close to the Danish gambling regulation, provides for a tax rate of 15 per cent for online gambling. The Danish government considered that the tax rate for online gambling could be set at a higher level than the UK one insofar as in contrast to the UK, Denmark will also introduce complementary blocking measures to make it more difficult for players to gamble on sites of foreign operators that have not obtained a Danish licence.

133. In the same line, the Danish government refers

to the examples of France and Italy, which have liberalised their market and set out rates of duty higher than the British ones. The Danish government notes that these markets are significantly bigger than the Danish market. The size of a market can have a tangible impact on the operators' willingness to enter a market even if there is a higher tax rate, as costs which are always associated with setting up operations in a new market tend to be comparatively higher for entering smaller markets.

134. In this memorandum, a simulation of the possible revenue consequences is also made for tax rates of 15, 20 and 25 per cent, taking also into account the potential changes in the gamblers' gambling patterns and the operators' actions. The simulation exercise concludes that a tax rate of 20 per cent will presumably still make it sufficiently attractive for gambling provides to apply for a Danish licence, and for gamblers to get an attractive offer. If the tax rate is set at a higher level (i.e., 25 per cent), the pressure on payout rates may be expected to be bigger and the positive revenue consequences of a 25 per cent rate may therefore turn out to be lower than those of a 20 per cent rate.

135. The Danish legislator came therefore to the conclusion that if the tax rate for online gambling were set at a higher level, this would most likely result in a gambling product that would not be attractive enough to gamblers, leading also to a turnover drain which may be equal to the immediate prospect of higher tax revenues."

✳ **Gambling Compliance Commentary 2:** Singapore was a jurisdiction which has implemented a casino policy in 2006 of large-scale 'integrated resorts', replacing its prohibitive stance on casinos. The casino policy had its legislative base in the Casino Control Act 2006. The second reading speech by the (then) Deputy Prime Minister and Minister for Home Affairs, Wong Kan Seng, on February 13, 2006 noted, the following on taxation (as well as gambling contracts and investors), highlighting the issue in Singapore's case of the need to balance the investment in constructing casinos with taxation and the success of casinos:

"Investors' Feedback

.....

14. In response to feedback, the Government also decided to enact the Casino Control Bill early so that potential investors will have a better idea of our regulatory regime and what they can and cannot do. In addition, through this Casino Control Bill, the Government is committed to a number of measures to provide greater certainty and support to investors of our Integrated Resorts. This is because the Integrated Resorts require heavy

investments. We want them to succeed after the investors have committed to spend billions of dollars on the projects. For instance, the casino tax rates will remain unchanged for 15 years. The two casino operators will also enjoy an exclusivity period of 10 years. During this period, no new casinos will be allowed. The lease of the land on which the Integrated Resorts will be sited will be for 60 years and they be allowed to operate a casino for 30 years, subject to the suitability of the casino operators to run them.

....

Casino Tax and Enforceability of Gaming Contracts

59. Let me now turn to the casino tax and enforceability of gaming contracts. Section 146 to 152 of Bill shall provide for tax rates of 5 percent and 15 percent to be levied on the gross gaming revenue from premium players and non-premium players respectively. This is on top of the existing corporate and goods and services taxes that the casino operator shall have to pay. As mentioned earlier, the tax rates will remain unchanged for 15 years as part of our commitments to the Integrated Resorts.

60. Section 202 of the Bill shall also make a related amendment to the Income Tax Act to impose a withholding tax of 3 percent of the commissions earned by the junket promoters.

61. Separately, the Section 40 of the Bill will allow gambling contracts made in casinos enforceable in courts. To put it simply, the winner can take the loser to court if the loser does not pay his dues. Similarly, credit extended by casino and licensed junket promoters to patrons for the purpose of casino gaming in a manner that complies with the Casino Control Bill are also enforceable. This is needed to provide assurance to our casino operators that they will have legal recourse to recover their earnings.

62. For consistency, Section 201 of the Bill will make a related amendment to the Civil Law Act to also make enforceable, gambling contracts between patrons and other legal gambling operators in Singapore, such as Singapore Pools and Singapore Turf Club. However, unlike the casinos and junket operators, gambling contracts issued by the other legal operators that are based on credit shall continue to be unenforceable. This means that if Pools or Turf Club decide to take bets based on credit and if the patron subsequently defaults in payment, Pools or Turf Club will not be able to take the patron to court to reclaim the payment. This is to ensure that the local gambling operators do not promote gambling to locals by giving out credit."

2.4. Is the gambling tax applicable on a yearly basis?

Austria: Yes.

Denmark: No. According to Section 21 of the Gaming Duties Act the duty period for the gambling tax shall be one calendar month.

United Kingdom: No. The person who is registered on the gaming duty register is required to make two returns and payments in each six month accounting period. (According to HM Revenue & Customs)

Switzerland: Yes, due to be paid every January 31.

Canada: Yes.

2.5. Does the gambling tax rate vary depending on the category of casino game?

Austria: No.

Denmark: No.

United Kingdom: No.

Switzerland: No.

Canada: Differs by province. In Ontario, yes. Table game revenues are taxed differently than slot revenues.

Additional question:

i) Table games and slots are taxed differently - are slot revenues taxed higher than table games?

Canada: In Ontario, the taxation rates vary. The first C\$65m of slot revenues are taxed at 5.25 percent, the next \$135m of slot revenues are taxed at 3.0 percent. The tax rate for slot machines continues to lessen on higher slot revenue. In general, if the taxation rates differ, slot machine taxation tends to be higher.

This is becoming a more common trend that can be seen in the United States as well. For example Pennsylvania taxes about 55 percent for slot machine revenue and about 14 percent for table games. In general, slot machines require less labour and provide higher margins for casinos.

2.6. In particular, does a licensing fee apply to land-based casinos?

Austria: Yes.

Denmark: No. The gambling legislation does not explicitly provide for a licensing fee for land-based

casinos. The Gaming Duties Act and the Act on Gambling only refer to a gambling tax that land-based casinos have to pay. In addition, Section 42(6) of the Act on Gambling states that the Minister of Finance may lay down rules governing the payment of fees for processing applications and issuing licences and annual fees to cover costs associated with the administration of licences, supervision of the licence holder and monitoring of the gambling market in order to prevent the provision, organisation or promotion of participation in gambling activities in Denmark without a licence.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Differs by province. In Ontario, there are registration fees to operate a gaming site, or be a supplier to a gaming site. In Quebec, there are not licensing fees.

2.7. If yes, in which amount and how and on which basis is the licence fee calculated?

Austria: Section 59a of the Gambling Act determines that a fee in the amount of €100,000 is payable by the licence applicant that will be granted the licence as soon as the licence applicant is granted the licence.

Denmark: -

United Kingdom: Different licence fees apply. The licence fee for a casino operating licence is paid annually. The annual casino operating licence fee for a small casino is £51,877 and for a large casino, the fee amounts to £108,132 in relation to licences under the Gambling Act 2005. For personal management licences, the fee is £370. The fee requires a five-year maintenance check.

For personal functional licence fee, the cost is £185 and is payable every five years. The annual fees for licences under the Gaming Act 1968 are based on gross gaming yield and are as follows: A (less than £5.5m) - £17,378; B (£5.5m-£27.5m) - £23,112; C (£27.5m - £110m) - £74,112; D (£110m-£275m) - £329,711; E (£275m+) - £443,526.

Switzerland: The sample of the concession document states that a one-off licensing fee is applicable. However, the amount of the licensing fee is not disclosed. The Federal Gaming Board confirmed to GamblingCompliance that casino licensees have to pay a licence fee.

Canada: Differs by province. In Ontario, annually, an operator must pay a C\$100,000, a gaming-related supplier must pay C\$15,000, and a non-gaming-related supplier must pay \$2,000.

2.8. In particular, do licence applicants have to pay an application fee?

Austria: Yes.

Denmark: No express provisions contained in the gambling legislation in regards to an application fee for land-based casinos.

United Kingdom: Yes.

Switzerland: No express provisions contained in the regulation. However, as the Federal Gaming Board explained to GamblingCompliance:

“For the application procedure to obtaining a licence, the applicants have to pay an application fee in advance. After the decision the applicants have to pay an amount corresponding to the work of the authority in examining their files.”

Canada: Differs by province. In Ontario, registration fees (outlined above) are required at the time of application. Applicants may be required to pay the reasonable costs of an investigation to register an individual.

2.9. If yes, what is the amount and how and on which basis is it calculated?

Austria: Section 59a of the Gambling Act determines that the licence application fee for a single casino licence amounts to €10,000. Therefore the licence fee for the city and the country package amounted to €60,000.

Denmark: -

United Kingdom: The licence application fee for a small casino is £28,641 and for large casino is £37,591 under the licence regime under the Gambling Act 2005. In relation to the Gaming Act 1968, the application fees are based on gross gaming yield and are as follows: A (less than £5.5m) - £6,509; B (£5.5m - £27.5m) - £9,763; C (£27.5m-£110m) - 19,528; D (£110m-£275m) - £19,528; E (£275m+) - £19,528.

Switzerland: -

Canada: Differs by province. In Ontario, annually, an operator must pay a C\$100,000, a gaming-related supplier must pay C\$15,000, and a non-gaming-related supplier must pay \$2,000.

Additional question:

i) For Canada, could you define what ‘gaming-related’ and ‘non-gaming-related’ suppliers are?

Canada: A gaming-related supplier is defined as “a person who manufactures, provides, installs, tests, maintains or repairs gaming equipment or who provides consulting or similar services directly related to the playing of a lottery scheme or the operation of a gaming site.”

A non-gaming related supplier is defined as “a person who provides goods or services that related to the construction, furnishing, repair, maintenance or business of a gaming site or a related business but that, in the Opinion of the Registrar, are not directly related to the playing of a lottery scheme or the operation of a gaming site.”

2.10. When do licence applicants have to pay such application fee?

Austria: When filing the licence application.

Denmark: -

United Kingdom: The fees are paid when submitting the operating licence application.

Switzerland: As the Federal Gaming Board explained to GamblingCompliance: “For the application procedure to obtaining a licence, the applicants have to pay an application fee in advance. After the decision the applicants have to pay an amount corresponding to the work of the authority in examining their files.”

Canada: Differs by province. In Ontario, applicants pay at the time of applying/renewing registration.

2.11. Is the application fee a one-time payment or payable on a regular basis (for example every year)?

Austria: The licence application fee has to be paid only once when applying for the licence.

Denmark: -

United Kingdom: The application fee is a one-time payment; however, annual licence fees apply (£51,877 for a small casino and £108,132 for a large casino under the Gambling Act 2005).

Switzerland: According to the Federal Gaming Board: “It was a one-time payment (actually 2 down payments and the balance at the end of the procedure).”

Canada: Differs by province. In Ontario, registration fees are paid annually.

2.12. In particular, do any other (administrative) costs apply to the licensee(s) or licence applicants?

Austria: Yes.

Denmark: No. The gambling legislation does not explicitly provide for any other (administrative) costs

land-based casinos have to pay. However, Section 42(6) of the Act on Gambling states that the Minister of Finance may lay down rules governing the payment of fees for processing applications and issuing licences and annual fees to cover costs associated with the administration of licences, supervision of the licence holder and monitoring of the gambling market in order to prevent the provision, organisation or promotion of participation in gambling activities in Denmark without a licence.

United Kingdom: Yes. For instance, Gambling Commission guidance notes for an operating licence application form notes that: “The fee payable is based on the overall operating licence category into which the activities fall. There will be additional fees on top of this if more than one of the three activities is applied for to address the additional complexity of regulating a combination of these activities.”

Switzerland: Yes. According to the Federal Gaming Board: “Licensed casinos have to pay fees to cover the cost of supervision of the Federal Gaming Board. They are determined for each year on the basis of the cost of supervision from the previous year. The Federal Gaming Board will also assess fees for its orders to cover its expenses. It can request payments in advance.”

Canada: Differs by province. In Ontario, applicants may be required to pay the reasonable costs of an investigation to register an individual.

2.13. If yes, what is the amount and how and on which basis is it calculated?

Austria: Section 29 of the Gambling Act provides that the Minister of Finance - as supervisory authority - has the right to enter the casino licensees’ premises at all times. The costs for supervising (costs for the Ministry’s staff entering the casino, etc) shall be borne by the casino licensee. The licensing booklet requires the licensee to provide a guarantee (in cash or from a bank, etc) of at least 10 percent of the licensee’s stock capital valid for the term of the licence. The exact amount of the guarantee will be determined in the licence granting decision.

Denmark: -

United Kingdom: No specific amount is listed.

Switzerland: According to the Federal Gaming Board: “Licensed casinos have to pay fees to cover the cost of supervision of the Federal Gaming Board. They are determined for each year on the basis of the cost of supervision from the previous year. The Federal Gaming Board will also assess fees for its orders to cover its expenses. It can request payments in advance.”

Canada: Differs by province.

Category 3. Licensing specifics

3.1. Specific licensing requirements for land-based casino applicants?

Austria: Section 21 of the Gambling Act provides for the following licensing requirements:

- » The licence applicant has to have the form of a joint stock company having a supervisory board.
- » The licence applicant's articles of association may not contain any provisions that could endanger the security and proper performance of the games
- » The licence applicant's minimum capital has to be at least €22m and the licence applicant has to prove the proper/legal source of the finances. Furthermore this capital has to be available for the board of directors and the casino offer in Austria.
- » Those who hold shares and have a dominant influence on the licence applicant have to satisfy a series of requirements in order to ensure the sound and prudent management of the licence applicant and its reliability from the point of view of regulatory policy
- » The licence applicant's managing directors have to have the required professional background and the personal qualifications and experience required to run a land-based casino.
- » Regarding the licence applicant's seat, operators are not required to be a joint stock company based in Austria, or to establish a joint stock company in Austria in case they receive a licence, provided that they are based in the EU/EEA and have a comparable casino licence and can be controlled through the cooperation of authorities.
- » Further requirements have been set concerning experience, addiction prevention, player protection, money laundering and crime prevention, quality of service, supervision inside the company, general infrastructure, general development provisions as well as overall operation security.
- » Each of the abovementioned requirements have to be fulfilled. In case of non-compliance with one of the requirements, the application can only be considered if all other applicants failed to meet one of the requirements.

Denmark: Sections 25 to 31 of the Act on Gambling set certain licensing requirements:

With regard to natural persons the following requirements apply:

- » They have to be 21 or older.
- » They are not under guardianship.
- » They have not filed for reconstruction, bankruptcy or debt restructuring and are not under reconstruction, bankruptcy or debt restructuring.

- » They have not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling
- » They do not have unpaid, outstanding debt to the public sector.
- » They are resident in the EU or EEA or have appointed a representative.

With regard to companies and legal persons the following requirements apply:

- » They are established in Denmark or in another EU or EEA country, or have a representative
- » They have not filed for reconstruction, bankruptcy or debt restructuring and are not under reconstruction, bankruptcy or debt restructuring
- » They have not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling
- » They do not have unpaid, outstanding debt to the public sector
- » The members of the board of management and the board of directors fulfil the requirements applicable to natural persons mentioned above.

In general the Act on Gambling states that a licence to provide and organise gambling can only be granted to applicants that are assumed to be able to carry out gambling activities in a sound financial and professional manner.

Furthermore the Act on Gambling stipulates when issuing land-based casino licences that emphasis may be attached to the maintenance of public order and the size and location of the gambling establishment.

The day to the day operation of a land-based casino must be conducted by the licence holder (in case of a natural person holding the licence) or a manager (in case of a legal person holding the licence). According to Section 37 of the Act on Gambling the regulatory authority shall approve the manager prior to employment. It is a condition for obtaining such approval that the manager is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. The manager cannot be approved if the manager or others who can exert a controlling influence on the manager's work has behaved in such a way that gives reason to assume that the gambling establishment will not be operated in an acceptable manner.

According to Section 39 of the Act on Gambling also employees of land-based casinos shall be approved by the regulatory authority prior to their employment. It is a

condition for obtaining such approval that the employee is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. An employee cannot be approved if the conduct of the employee or others who can exert a controlling influence have behaved in such a way that gives reason to assume that the employee will not carry out his work in an acceptable manner.

United Kingdom: When deciding whether an applicant is suitable to be granted a licence, the Gambling Commission takes into account the following elements:

- » The identity and ownership of the applicant
- » The financial and other circumstances of the applicant
- » The "integrity element" of the applicant
- » The competence and expertise, as well as the qualifications and history of the applicant
- » Criminality – whether the applicant has a criminal record.

Switzerland: The licensing requirements are contained in both the Federal Law on Games of Chance and Gaming Houses and the Executive Ordinance on Games of Chance and Gaming Houses.

The licensing requirements contained in the Federal Law on Games of Chance and Gaming Houses are the following:

- » According to Article 10 of the federal law, a location concession is required in order to establish a casino at a certain location whereas for the operation of the casino, the operator needs to apply for an operating concession. Article 11 provides that applicants must be either: 1) a public-law legal person; 2) a joint-stock company under Swiss law, whose share capital is divided into registered shares and the directors must be residing in Switzerland; 3) cooperatives under Swiss law whose members are residing in Switzerland.
- » Article 12 further stipulates that a concession is granted only when the applicant has sufficient capital, have a good reputation, can provide assurance of diligent business conduct and can prove the origin of the funds available.
- » Article 14 provides that an operating licence can only be granted if the applicant is able to guarantee that they will abide and comply with all legal requirements and the games rules; when the applicant provides a security policy and a social concept; when it can be proved that the casino will be economically viable; when the applicant is able to show that the necessary measures in regards to the conditions for the disposition of the casino tax have been taken. The security concept must clearly show the measures to be taken by the casino to ensure the safe operation of the games as well as what steps will be taken in order

to combat crime and money laundering. The social concept must demonstrate what measures the casino will undertake in order to prevent harm inflicted from gambling and the methods that will be used to provide help with gambling problems.

- » With regard to location concessions, Article 13 of the federal law provides that a licence can only be granted if the canton or the municipality recommends it; and if the applicant can demonstrate the economical use that the casino will have on the location.

The licensing conditions contained in the Executive Ordinance on Games of Chance and Gaming Houses are the following

- » Article 7 provides that in regards to the location concessions, the commission will submit the application to a home canton who will then consider the application with the local municipality. A location concession is only granted with the approval of both the local canton and the local municipality.
- » Article 12 of the ordinance sets out further requirements an applicant needs to comply with. The applicant must demonstrate: 1) that the executive board members as well as the senior staff have the required expertise and sufficient knowledge in managing a casino; 2) that an effective quality management system is in place; 3) that an electronic accounting and control system is in place. Further requirements include: a business plan; information on the construction of the casino which includes the location of the games; the casino rules and all other rules required by the ordinance; employment contracts and all other agreements with those who are put in charge with the management as well as confirmation that all of the staff have good reputation.

Canada: Differs by province. In Ontario, Regulation 81/12 outlines the requirements for establishing a gaming site. Approval of the municipal authority is required.

To receive a license, project expenditure must exceed C\$10m.

Ontario Regulation 78/12 outlines the requirements for registration of gaming suppliers. A gaming supplier is defined as "a person who manufactures, provides, installs, tests, maintains or repairs gaming equipment or who provides consulting or similar services directly related to the playing of a lottery scheme or the operation of a gaming site."

3.2. Are these licensing requirements determined by law or by regulations, etc?

Austria: The Gambling Act determines the licensing requirements. The licensing booklet specifies the particular licensing requirements.

Denmark: The mentioned licence requirements are determined by the Act on Gambling and the Executive Order on land-based casinos.

United Kingdom: The UK's licensing objective include keeping gambling crime free, keep gambling fair and open and protect minors and vulnerable people from being harmed or exploited by gambling, is found in Section 1 of the Gambling Act 2005. However, licensing requirements are determined by regulation as well as Licence Conditions and Codes of Practice. A licensing, compliance and enforcement policy statement of September 2009 can be found on the Commission's website.

Switzerland: The licensing requirements are contained in both the Federal Law on Games of Chance and Gaming Houses and the Executive Ordinance on Games of Chance and Gaming Houses.

Canada: Differs by province. In Ontario, these requirements are outlined in Ontario Regulation 81/12 and Ontario Regulation 78/12, not the Gaming Control Act.

3.3. Does the national legislation allow individuals (natural persons) to apply for a land-based casino licence?

Austria: No. The licence applicant has to be a stock company.

Denmark: Yes. According to Section 25(1) of the Act on Gambling a land-based casino licence may be granted to persons and companies, etc (legal persons).

United Kingdom: Yes. There is nothing in the Gambling Act to the contrary. The Gambling Act 2005 only states that applications cannot be made by: An application may not be made by a child or young person, or a group that includes a child or young person." (Section 69(3)). Practically however, the tender requirements to compete for licences may make it difficult to foresee an individual meeting or beating companies in a tender competition.

Switzerland: No.

Canada: Differs by province. In Ontario, individuals can apply to be operators of a gaming site.

3.4. In case of legal persons applying for a licence does national legislation also set forth certain licensing requirements for individuals (board of the licence applicant, shareholders of the company, etc).

Austria: Yes. Section 21 of the Gambling Act in particular provides that:

- » Those who hold shares and have a dominant influence on the licence applicant have to satisfy a series of requirements in order to ensure the sound and prudent management of the licence applicant and its reliability from the point of view of regulatory policy.
- » The licence applicant's managing directors have to have the required professional background and the personal qualifications and experience required to run a land-based casino.

Denmark: Yes. Section 28 of the Act on Gambling requires the members of the board of management and the board of directors to fulfil certain conditions (age requirement, certain suitability requirements).

United Kingdom: No express provisions contained in the Gambling Act 2005. However, the schedule pertinent to casino premise applications (Schedule 9) states that "Before considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications." These may contain further provisions and requirements.

The Gambling Act 2005 contains some general principles when assessing licence applications (Section 70), these include, the Commission having regard to:

- » "...the licensing objectives,
- » ...an opinion of the applicant's suitability to carry on the licensed activities,
- » ...the suitability of any gaming machine to be used in connection with the licensed activities, and
- » ...the suitability of any other equipment to be used in connection with the licensed activities (by reference, in particular, to
- » ...any relevant provision of standards established under section 89 [these are relevant for remote gaming licences]."

Switzerland: Yes. The Executive Ordinance of 2004, Article 5a1 sets out the requirements for legal persons. These include: a) a document from the commercial register; b) a document from the share register or list of cooperative members; c) a document from the debt collection and bankruptcy register; d) an up-to-date audit report with all financial statements; e) an Annual report; f) a consolidated financial statement and a group's organization chart; g) an overview of the financial

investments; h) a list of any criminal investigations and any criminal or civil proceedings for the last five years; and i) a list of any proceedings or decisions related to operational and professional practice for the last ten years.

Canada: Differs by province. Ontario's Gaming Control Act defines Category 1 gaming assistants and Category 2 gaming assistants. Officers, directors or partners of the operator are not allowed to play a lottery scheme in their gaming site.

3.5. In which form and where does the licensing authority publish the call for tender (language, are there supporting documents further specifying or even adding licensing requirements, are all documents publicly available)?

Austria: A public tender for land-based casino licences was held in 2011 for the first time. The Minister of Finance published a licensing booklet in German language only in a special area of its homepage. Those who wanted to access the document had to register and log in to download the document.

Denmark: There are no express provisions with regard to the tendering process for land-based casino licences contained in the gambling legislation. According to the website of the Gambling Authority, the tender will be published in the daily press.

United Kingdom: Tender competitions for premises licences are run through the select local authorities (councils). GamblingCompliance is unsure of the availability of past tender documents however, these would need to be transparent and open which could be satisfied by registering to receive documents or documents being publicly available.

Moreover, as noted in Schedule 9 of the Gambling Act, competition for licences: "Before considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications."

Switzerland: Although the legislation does not expressly contain provisions as to , where the call for tender has to be published, in the 2010-2011 tender process the call for tender was published on the website of the Federal Gaming Board, in the federal official gazette, in the official gazette of commerce and in the official gazettes of the cantons, where the casinos were planned to be located. The Federal Gaming Board further explained the process to GamblingCompliance: "the call for tender is published in the Federal Gazette in the three languages German, French and Italian. The licence requirements are defined in the Federal Law on Games of Chance and Casinos."

Canada: Differs by province. In Ontario, the OLG has a procurement page on their website. (www.olg.ca/about/procurement/index.jsp). The OLG also has a separate page for its modernization plan, where a large portion of the plan is to find new operators for commercial gaming facilities. (www.modernolg.ca)

3.6. Does the national legislation require any technical certifications in the course of the licence application?

Austria: Yes. The licensing booklet specifies that the licence applicants' organisation, operation and equipment shall live up to the highest standards of integrity and security. The licence applicant shall be used to working with certified standards and shall prove that the licence applicant has received the necessary certificates.

Denmark: Yes. Chapter 6 of the Executive Order on land-based casinos concerns the gaming machine technology and in particular requires that for each roulette wheel installed and each gaming machine there must be a declaration from an accredited testing company approved by the Danish Gaming Authority. In addition, gaming machines that pay out winnings have to be connected to a national monitoring system and have to be configured that they cannot function when they are disconnected from the national monitoring system.

Section 22 of the Executive Order on land-based casinos also requires the casino management to ensure daily that the gaming technology equipment works flawlessly.

United Kingdom: No. The Gambling Act 2005 does not contain provisions on technical certifications (these are contained in separate documents). However, the consolidated version of the Licence Conditions and Codes of Practice of May 2014 (in force since August 4, 2014) provides that "licensees must comply with the Commission's specifications for casino equipment."

Switzerland: No.

Canada: Differs by province. In Ontario, when deciding whether or not to approve gaming equipment, the Registrar of the AGCO may approve equipment if it has been approved in another jurisdiction where gaming is legal. Critical software involved in a particular game must be approved by the AGCO before the game is made available for patron play.

3.7. Specific requirements land-based casino licensees have to meet?

Austria: Yes. Section 24 of the Gambling Act in particular states that:

- » A land-based casino licensee may not establish any

- » branches outside of Austria;
- » The acquisition of qualified majority shares in another company requires approval of the Minister of Finance;
- » The licensee has to inform the Minister of Finance immediately in case somebody's (direct or indirect) interest in the licensee exceeds 25 percent of its shares. The Minister of Finance may even oppose in case an decrease of the casino tax is expected.
- » The licensee's enlargement of purpose of business has to be approved by the Minister of Finance as well.

Denmark: Yes. Part 8 of the Act on Gambling concerns the revocation and voiding of licences. Section 44 of the Act on Gambling provides that the regulatory authority may revoke a land-based casino licence if the licence holder or his representative:

- » Is guilty of gross or repeated violation of the Act on Gambling, secondary legislation established in accordance with the Act on Gambling or terms of the licence;
- » Has been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling activities;
- » Is no longer assumed to be able to carry out gambling activities in a sound financial and professional manner;
- » The conduct of the licence holder, members of the board of directors or the board of management or others who can exert a decisive influence on the operation of the enterprise have behaved in such way that there is reason to believe that the enterprise will no longer be operated in an acceptable manner;
- » Grossly or repeatedly fails to report duties in pursuance of the Gambling Duties Act;
- » Grossly or repeatedly fails to pay outstanding duties or does not provide security;
- » Fails to pay outstanding fees;
- » Has unpaid outstanding debt to the public sector in excess of DKK 100,000; or
- » Has not applied for registration of the enterprise with the customs and tax administration within four weeks after the licence was granted.

Furthermore, a licence to provide gambling activities may be revoked if the licence holder's provision or organisation of gambling activities causes significant disturbance of public order.

Section 45 of the Act on Gambling provides that a licence to provide gambling activities is void if:

- » The licence holder notifies that he no longer wishes to provide gambling activities;
- » The provision of gambling activities has not been commenced within 12 months after the licence was granted by the regulatory authority;
- » Gambling activities are not provided for a continuous period of more than six months, unless the provision

- is seasonal;
- » If the licence holder dies or no longer fulfils one of the suitability conditions stipulated by the Act on Gambling; or
- » The Bankruptcy Court, upon request from the Commerce and Companies Agency, has ordered that the enterprise be compulsorily dissolved.

Section 26 of the Executive Order on land-based casinos in particular requires casinos to prepare an Annual Report. The annual accounts have to be certified by the auditors.

United Kingdom: Yes. Apart from meeting tender competition requirements of local authorities and minimum floor space requirements and gaming machine/gaming table ratios, operating licences for casinos have the same conditions as operating licences for other forms of gambling. Guidance on operating licence applications is available and include information such as management structure of applicant, management and ownership details among others.

Under Section 120 of the Gambling Act 2005, a licence may be revoked under the following circumstances: a) if a licensed activity has been performed in such a way that it is consistent with the licensing objectives, b) if the licence conditions have been breached, c) if the licence holder has not cooperated in the prescribed manner, d) if the licence holder is found to be unfit to carry on the licensed activities.

Switzerland: See answer 3.1 above.

Canada: Differs by province. The Ontario Regulation 81/12 lays out the requirements for the authorization of a gaming site in Ontario:

1. The Corporation prepares a business case for the proposed gaming site that,
 - i. sets out the cost of establishing the proposed gaming site,
 - ii. demonstrates the viability of the proposed gaming site and the adequacy of responsible gaming features for the proposed gaming site, and
 - iii. sets out or demonstrates any other matter that the Corporation considers appropriate.
2. The Corporation gives a copy of the business case, and any other information requested by the Minister or by the Minister of Finance, to the Minister and the Minister of Finance for review.
3. In the case of a proposed gaming site to be established at premises in a municipality or on a reserve,
 - i. the municipal council or the council of the band, as the case may be, seeks public input into the establishment of the proposed gaming site and gives the Corporation, in writing, a description of the steps it took to do so and a summary of the public input it received, and

- ii. the municipal council or the council of the band, as the case may be, passes a resolution supporting the establishment of the gaming site in the municipality or on the band's reserve and gives a copy of the resolution to the Corporation.

4. The Minister and the Minister of Finance agree to the business case prepared by the Corporation.

5. The Corporation publishes a notice in a newspaper or on the Corporation's website, or both, as determined by the Corporation, advising that the proposed gaming site is to be established and containing the information that the Corporation considers appropriate.

3.8. With which requirements must a (prospective) bidder comply in order to be able to participate in auction (or beauty contest) in order to obtain a licence for exploiting a casino?

Austria: The Gambling Act states that a land-based casino licence may solely be granted to an applicant that fulfils all the licensing requirements specified in Section 21. For further details on the specific licensing requirements please refer to the Section on the licensing requirements above.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos. However, Part 4 of the Act on Gambling (criteria for providing games) provides for certain requirements which licence applicants have to meet. Licences can only be issued to applicants that meet these requirements. For further details on the licensing requirements please refer to the respective section above.

United Kingdom: No express provisions contained in the Gambling Act 2005, however, the Act's licensing objectives would need to be adhered to.

✳ Note: GamblingCompliance has attempted to find current tender documents available on one of the relevant local authority's website as a specimen, however, none are public, if in existence.

Moreover, as noted in Schedule 9 of the Gambling Act, competition for licences: "Before considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications." Therefore such criteria for casino premises and tender competitions will be made by the relevant local authority.

Switzerland: See answer 3.1 above.

Category 4. Player Protection and Responsible Gambling

4.1. Minimum requirements with regard to the prevention of gambling addiction provided by law/regulation?

Austria: Yes.

Denmark: Yes.

United Kingdom: Yes. Licence Codes and Conditions of Practice apply which stipulate player protection requirements. These include requirements on combating problem gambling; access to gambling by children and young persons; information on problem gambling; customer interaction; self-exclusion; provisions relating to credit; and identification of customers, among other requirements. The LCCP is divided into 'ordinary code provisions' and 'social responsibility code provisions' – with the breach of a social responsibility code provisions deemed a breach of an operator's licence condition and therefore a criminal offence. Many player protection codes are social responsibility code provisions.

Switzerland: Yes.

Canada: Differs by province. In Ontario, yes. Section 3.8(1) of the Gambling Control Act allows the Registrar to establish standards concerning the protection of players and responsible gambling. Additionally, one of the four purposes of the OLG's enabling statute is to: "promote responsible gaming." (Ontario Lottery and Gaming Corporation Act, 1999, S.O. 1999, C 12, Sch. L). Nova Scotia has been progressive in its problem gambling policies. According to a 2011 responsible gaming strategy released by the government, the province spends more on problem gambling — C\$6.41 per capita — than any other province, with the average being C\$3.53.

4.2. If yes, what are these requirements?

Austria: Section 25 of the Gambling Act requires that:

- » Only persons of 18 years or older who have properly proofed their identity may enter the casino;
- » The land-based casino has to store information on the player's identity for five years;
- » A land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction body;
- » If a casino observes that EU/EEA citizens gamble in an excessive manner that is beyond their means, it is obliged to advise players about their behaviour and to draw their attention to available gambling addiction help. If players continue their behaviour despite the

warning, the casino has to exclude the players for a given time or restrict the number of their visits. If the casino neglects its obligation to do so, it can be made responsible for the losses of the player under limited circumstances.

The licensing booklet further requires the licence applicant to demonstrate which mechanisms it has in place with regard to the prevention of gambling addiction and its cooperation with gambling addiction bodies.

Denmark: The Act on Gambling and the Executive Order on land-based casinos contain certain requirements land-based casinos have to meet with regard to the prevention of gambling addiction.

According to Article 15 of the Act on Gambling, land-based casinos are only accessible to persons over the age of 18 years. According to Article 34(1) of the Act on Gambling, acceptance of stakes in gambling activities from persons under the age of 18 and other promotion of such persons' participation in gambling activities is not permitted.

According to the Executive Order on land-based casinos, casinos can be open daily, from 10.00am to 5.00am.

Specific rules on opening hours may be stipulated in each licence for the operation of a land-based casino.

According to Section 4, para 11 of the Executive Order on land-based casinos, a player may not bet less than DKK5 or more than DKK50,000, except for games on gaming machines where a player may not bet less than DKK1 or more than DKK20. Each casino has the obligation to set minimum and maximum bets for each game, which must be seen at each game table.

The Executive Order on land-based-casinos also adds requirements for the registration of customers, including video registration, and for the storing of data. Every guest must provide identification on request and every casino must record information about every arriving guest's name, address, and date of birth, nationality and an indication of each guest's arrival time. The casino must store this information for five years. The casino must also make a video recording of the incoming guest, which must be stored by the casino for two months from the time the guest visited the casino.

United Kingdom: The national legislation makes it an offence for someone who is under 18 years old to enter a casino. According to the Gambling Commissions' rules about self-exclusion, licensed operators are required to

"take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling."

LCCP conditions address: access to gambling by children and young persons; information on problem gambling; customer interaction; self-exclusion; provisions relating to credit; and identification of customers, among other requirements. These can be extracted by GamblingCompliance if required.

Switzerland: The detailed rules regarding the prevention of gambling addiction are to be found in Section 3 of the Executive Ordinance on Games of Chance and Gaming Houses entitled 'Social Protection'. Among the requirements are that casinos have to draw up a social concept in which it outlines the measures to be taken in regards to gambling addiction prevention, the early recognition of addiction, the training of the staff, the exclusion from gambling and the collection of data related to gambling addiction. This section further provides that casinos must display warning messages about the risks of addiction, must provide for an adequate and continuous training of staff, must ban or exclude players if necessary and must report to the Federal Gaming Board on their gambling addiction prevention measures annually. Casinos are prohibited from giving loans, credits or advances.

Canada: In Ontario, Section 3.8(1) of the Gambling Control Act allows the Registrar to establish standards concerning the protection of players and responsible gambling.

Also, the OLG along with its partners have created a responsible gaming strategy and a responsible gaming Code of Conduct. (The Alcohol and Gaming Commission of Ontario, "Registrar's Standards for Gaming – November 2013" (AGCO Standards))

Additional questions:

i) **Austria:** is a casino not obligated to observe how non-EU/EEA citizens gamble? Why not?

There is no guidance in the law with respect to non-EU/EEA nationals. The law explicitly provides this obligation of casinos in regards to citizens of the EU/EEA. According to Article 25 (3) of the Gambling Act (unofficial translation) "If in case of a citizen of a member state of the European Union or a member state of the European Economic Area there is evidence to suggest that the frequency and intensity of their gambling behaviour during the time period during which they play with this frequency and intensity, endangers their subsistence level" the casino is obliged to undertake the measures listed above in this report. (We have sent a request to the regulator to find out the reasons behind limiting this player protection measure to the citizens of the EU or the EEA, this response remains outstanding).

ii) **Austria:** it states that if the casino neglects to exclude players for a given time or restrict the number of their visits (when they have observed that a player gambles in an excessive manner) that they can be made responsible for the losses of the player under limited circumstances. By whom is this assessment made? Based on which criteria? What are the limited circumstances?

According to Article 25 (3) of the Austrian Gambling Act the casino can be made liable for the losses suffered by the player during the period the casino has neglected its obligation. The liability has to be asserted in court within three years after the loss has been sustained. The casino management is not liable if under questioning the player provides false or incomplete information and the incorrectness or incompleteness of the information is not obvious or if the casino's negligence is only minor.

4.3. In particular, is there any requirement for the casinos to inform their customers about available addiction treatment?

Austria: No. The Gambling Act does not expressly contain such requirement. However the licensing booklet requires the licence applicant to demonstrate which mechanisms it has in place with regard to the prevention of gambling addiction and its cooperation with gambling addiction bodies.

Denmark: Yes. Section 5(5) of the Executive Order on land-based casinos requires that if a player has (voluntarily) excluded himself from participation in a licensee's game, the licensee shall inform the player about the possibility of counselling and treatment of problem gambling in a Danish treatment centre.

United Kingdom: Yes. While the Gambling Act 2005 does not expressly contain such requirement, these are found in underlying codes. The LCCP condition (ordinary code provision) 3.5.2.1, provides that before a player self-excludes himself, licensees are required to "provide or make available sufficient information about what the consequences of self-exclusion are". In addition, in condition (social responsibility code provision) 3.3 of the LCCP ("Information on how to gamble responsibly and help for problem gamblers"), the licence holders are further required to cover information about responsible gambling information to customers. The information needs to cover and be directed at all customers "whether or not licensees also make available material which is directed specifically at customers who may be 'problem gamblers':

- » "any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
- » timers or other forms of reminders or 'reality checks'

where available

- » self-exclusion options
- » information about the availability of further help or advice.”

Moreover, for gambling premises, which would include casinos, condition 3.3.1.4 states: “For gambling premises, information must be available in all areas where gambling facilities are provided and adjacent to ATMs where these are not located in a gambling area. As a minimum, information must be displayed prominently on posters appropriate to the size and layout of the premises and contained in leaflets that may be taken away. Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly.”

Switzerland: Yes. Article 38 of the Executive Ordinance on Games of Chance and Gaming Houses provides that casinos must make available easily understandable and easily accessible information on the risks of the game, measures to help, such as the opportunity for exclusion, the address of places where addiction help can be found as well as self-assessment material.

Canada: Differs by province. In Ontario, yes. Sections 2.3 and 2.4 of the AGCO Standards:

“2.3 Information about the risks of gambling and where to obtain additional information or assistance shall be made readily available to all patrons.

Requirement – At a minimum:

1. Responsible gambling materials and information about obtaining help, including Ontario’s Responsible Gambling Help Line, shall be available, visible and accessible to all patrons.
2. Information about setting betting limits, if applicable, shall be made available to all patrons.
3. Information about self-exclusion programs shall be available, visible and accessible to all patrons.
4. Advertising and marketing materials shall, where effective, contain a responsible gambling message.
5. All information related to responsible gambling shall be regularly and periodically reviewed and updated to ensure that it is accurate, up to date and in line with industry good practice.”

“2.4 Patrons shall be provided with meaningful and accurate information to enable them to make informed choices.

Requirements – At a minimum:

1. Meaning and accurate information on the rules of play shall be clearly stated and made available to patrons.
2. Meaningful and accurate information on the odds of winning, payout odds or returns to patrons shall be clearly stated and made available to patrons.”

4.4. In particular, are casinos required to register their customers and observe and analyse the behaviour of players and intervening in (potential) risk behaviour of a player?

Austria: Section 25 of the Gambling Act requires that land-based casinos have to make sure that only persons of 18 years or older who have properly proven their identity may enter the casino. The land-based casino has to store information on the player’s identity for five years.

Denmark: The Executive Order on land-based casinos determines requirements for the registration of customers, including video registration, and for the storing of data. Every guest must provide identification on request and every casino must record information about every arriving guest’s name, address, and date of birth, nationality and an indication of each guest’s arrival time. The casino must store this information for five years. The casino must also make a video recording of the incoming guest, which must be stored by the casino for two months from the time the guest visited the casino. However the gambling legislation on land-based casinos does not contain an express requirement that the casinos have to observe and analyse the behaviour of players and intervening in (potential) risk behaviour of a player.

United Kingdom: The Money Laundering Regulations 2007 specify for casinos at Section 10:

- (1) A casino must establish and verify the identity of—
 - (a) all customers to whom the casino makes facilities for gaming available—
 - (i) before entry to any premises where such facilities are provided; or
 - (ii) where the facilities are for remote gaming, before access is given to such facilities; or
 - (b) if the specified conditions are met, all customers who, in the course of any period of 24 hours—
 - (i) purchase from, or exchange with, the casino chips with a total value of 2,000 euro or more;
 - (ii) pay the casino 2,000 or more for the use of gaming machines; or
 - (iii) pay to, or stake with, the casino 2,000 euro or more in connection with facilities for remote gaming.

- (2) The specified conditions are—
 - (a) the casino verifies the identity of each customer before or immediately after such purchase, exchange, payment or stake takes place, and
 - (b) the Gambling Commission is satisfied that the casino has appropriate procedures in place to monitor and record—
 - (i) the total value of chips purchased from or exchanged with the casino;
 - (ii) the total money paid for the use of gaming machines; or

(iii) the total money paid or staked in connection with facilities for remote gaming, by each customer. Section 19 Money Laundering Regulations 2007 on record keeping specifies a five year time period for the retention of records.

Moreover, LCCP condition (social responsibility code provision) 3.5.1.6 requires licence holders to take measures to ensure that those individuals who have self-excluded cannot have access to gambling. These measures include: a) appropriate record kept of those who have self-excluded themselves (name, address, other details and any membership or account details) b) photo identification and a signature c) staff training so that each staff can enforce the system and d) to ensure that those players who are found on the gambling area are removed from the premises.

There is also a LCCP condition (social responsibility code provision) 3.4.1 on customer interaction. This states that:

“Licensees must put into effect policies and procedures for customer interaction where they have concerns that a customer’s behaviour may indicate problem gambling. The policies must include:

- a identification of the appropriate level of management who may initiate customer interaction and the procedures for doing so
- b the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment
- c the circumstances in which consideration should be given to refusing service to customers and/or barring them from the operator’s gambling premises
- d training for all staff on their respective responsibilities, in particular so that they know who is designated to deal with problem gambling issues.”

Switzerland: Article 38 (2) of the Executive Ordinance on Games of Chance and Gaming Houses stipulates that the casino has to draw up monitoring criteria (a check list), with help of which players, who are under a risk of gambling addiction can be identified and the necessary measures can be taken. Casinos must record their observations and the measures taken.

Canada: Differs by province. In Ontario, yes. Section 2.5 of the AGCO Standards:

“2.5 Support shall be provided to persons showing signs of potentially problematic gambling behavior.

Requirements – At a minimum:

1. All employees who interact with players shall receive training in a Registrar-approved program designed to identify and respond appropriately to players who may be showing signs of problem gambling.

2. Players shall be provided with easily accessible contact information of at least one organization dedicated to treating and assisting problem gamblers.
3. OLG shall develop and enforce responsible gambling policies, procedures and training, ensure they are available, kept up to date and relevant, and that the Operator complies with them.
4. Responsible gambling policies shall be reviewed periodically for effectiveness.”

In Nova Scotia, there is a system called “My-Play” that is mandatory for VLT players. The system monitors a player’s activity, including in-progress activity and historical activity, lets players set limits on money and time, and lets players set cooling off periods.

4.5. Does national legislation provide for specific procedures which casinos have to follow with regard to the prevention of gambling addiction?

Austria: Yes. Section 25 of the Gambling Act requires that:

- » Only persons of 18 years or older who have properly proofed their identity may enter the casino;
- » The land-based casino has to store information on the player’s identity for five years;
- » A land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction body;
- » If a casino observes that EU/EEA citizens gamble in an excessive manner that is beyond their means, it is obliged to advise players about their behaviour and to draw their attention to available gambling addiction help. If players continue their behaviour despite the warning, the casino has to exclude the players for a given time or restrict the number of their visits. If the casino neglects its obligation to do so, it can be made responsible for the losses of the player under limited circumstances.

The licensing booklet further requires the licence applicant to demonstrate which mechanisms it has in place with regard to the prevention of gambling addiction and its cooperation with gambling addiction bodies.

Denmark: Yes. Section 5(5) of the Executive Order on land-based casinos requires that if a player has excluded himself (voluntarily) from participation in a licensee’s game, the licensee shall inform the player about the possibility of counselling and treatment of problem gambling in a Danish treatment centre.

United Kingdom: No. The Gambling Act 2005 does not expressly contain such requirement. However, the Licence conditions and codes of practice (LCCP) condition (social responsibility code) 3.4.1. provides that licence holders are required to adopt “policies and procedures for customer

interaction where they have concern that a customer's behaviour may indicate problem gambling". These policies include: "an identification of the appropriate level of management who may initiate customer interaction and the procedures for doing so; the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment; the circumstances in which consideration should be given to refusing service to customers and/or barring them from the operator's gambling premises; and training for all staff on their respective responsibilities, in particular so that they know who is designated to deal with problem gambling issues."

Switzerland: Yes. The legislation provides for the procedures of banning and excluding players. Other measures are required to be outlined in the social concept of the operator.

Canada: No. Canadian federal law does not set up specific responsible gaming requirements for provinces to follow.

4.6. Is there a national exclusion list for players who are addicted to gambling?

Austria: No.

Denmark: Yes.

United Kingdom: No. However, the LCCP condition (ordinary code provision) 3.5.2.8 provides that licence holders "should retain the records relating to a self-exclusion agreement at least until the agreement has been formally ended."

According to the UK Parliament's study: "The Gambling Act 2005: A Bet Worth Taking?" (2012) conducted by the Culture, Media and Sport Committee, on self-exclusion: "One way in which individuals can attempt to tackle any problem gambling behaviour is by opting to be denied access to gambling premises—so-called 'self-exclusion'. The ability of customers to self-exclude from gambling premises is a significant feature of programmes to tackle problem gambling behaviour. The Gambling Commission also requires all except ancillary and software licence holders to provide information pertaining to self-exclusion options.

However, there is currently no nationwide, cross-industry system for customer self-exclusion. Some of the international regulators from whom we heard evidence called into question the effectiveness of current (off-line) self-exclusion systems. Graham White, Chairman of the Jersey Gambling Commission said:

"You can walk into one casino and self-exclude—a week and two days later, you can go into another one. You can go into a bookmaker and self-exclude—a week and

two days later, you can go into William Hill as opposed to Coral, for example. That is the weakness of the exclusion system.

... We recognise the significant practical challenges that introducing a national "universal" self-exclusion system would involve, including confidentiality and legal issues. However, the Government should support the development of a system which would allow a customer to self-exclude from all forms of gambling regulated by the Gambling Commission." (at paragraphs 78 and 81)

Regarding the LCCP, condition 3.5.1.3 (social responsibility code provision) requires licence holders to "take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent) , within two days of receiving the completed self-exclusion notification".

Switzerland: Yes.

Canada: Differs by province. There is not a national self-exclusion list in Canada.

All gaming sites in Ontario maintain a self-exclusion program. The program applies across all gaming sites and is indefinite in nature; however, one can apply to be removed from the list after six months. An individual may exclude himself or herself, personally; no one can exclude another person. In 2011, Ontario rolled out facial recognition systems to help enforce self-exclusion bans.

Self-exclusion materials can be found at http://www.olg.ca/about/responsible_gaming/self_exclusion.jsp.

4.7. What is the procedure for players to get included into this list?

Austria: -

Denmark: Section 5 of the Executive Order on land-based casinos states that anyone may ask the casino to register himself, upon application, and information to the effect that the person in question must be refused admission to the casino. The request can be written and in person and must come from the relevant person himself. Registered persons may ask to have the registration deleted. Requests for deletion take effect eight days after receipt of the request by the casino.

United Kingdom: According to the Gambling Commission, a customer who has decided to self-exclude himself should be able to do so immediately and he needs to complete a self-exclusion notification. The self-exclusion lasts for at least six months.

Switzerland: Article 22 of the Federal Law on Games of Chance and Gaming Houses stipulates that the casino bans players of which based on their own perceptions or information received from third parties the casino knows or must assume that they are:

- » In debt or are unable to meet their financial obligations.
- » Risks bets which are not in proportion with their income or their wealth.
- » Players who interfere with the ordinary operation of the game.
- » A player can choose to self-exclude himself at any time as well.

Canada: Differs by jurisdiction. In Ontario, if you choose to register for Self-Exclusion, an individual must have a private meeting with a member of OLG staff who will help the individual through the process. The individual can attend the meeting on their own or bring someone with you—like a family member or friend. At the meeting, the individual's personal information will be recorded and picture taken for registration. To complete the process a signature is required.

An individual can also sign up for self-exclusion at a problem gambling or debt counsellor's office. This way, they are guaranteed immediate, confidential support from trained professionals. Off-Site registration is offered on specific days each month, and an appointment can be set up by contacting the Security department of a local OLG slots or casino facility.

4.8. Requirement for casinos to check player's name against the national exclusion list before the player can enter the casino?

Austria: -

Denmark: Yes.

United Kingdom: No. There is no such national list in existence to check.

Switzerland: Yes. (Art. 28 (1) of the Executive Ordinance on Games of Chance and Gaming Houses)

Canada: Differs by jurisdiction and there is no nationwide list. In Ontario, yes, there is a province wide self-exclusion list. Section 2.6(5) of the AGCO Standards: "5. Operators shall take active steps to identify and, if required, remove self-excluded persons when they are found to be in breach of their self-evaluation agreement." Ontario was one of the first provinces to begin using facial recognition software to help keep excluded players out of gaming areas.

★ Gambling Compliance Commentary

United Kingdom: While currently there is no nationwide exclusion scheme, the UK casino industry is aiming to "break the gold standard" with a new national exclusion scheme. The following insight is from a recent Gambling Compliance report on this development from July 1, 2014:

"Political pressure in the UK is pushing different sectors to show they are boosting efforts to help problem gamblers and strengthen policies and standards.

The National Casino Forum (NCF) has signed British technology company Software for Data Analysis (SDA) to develop the Playing Safe SENSE program.

Under the scheme, which will be piloted from the fourth quarter, players wishing to self-exclude will be able to do so from any of the UK's casinos for the first time.

Information about self-excluders will only be searchable by registered users and care providers, but will be shared between casinos operated by different companies in the same area.

The NCF said that if the pilot proves successful, it would introduce the database to all its members from 2015.

Roy Ramm, the chairman of Playing Safe, told Gambling Compliance: "The entire casino sector has come together behind this initiative; it is voluntary and nobody has compelled us to do it.

"We don't just want this to be the casino industry gold standard; if we can make this work effectively it will be the first time something like this has been done by the industry itself rather than being imposed."

Offering self-exclusion is a requirement for every casino operator and each has their own individual scheme.

The NCF, formed in 2009, said it cherry picked the best parts from each to combine and sit inside a central database.

Remote operators hope to have a separate self-exclusion programme in place "by Christmas" to coincide with the launch of the UK's new online gambling licensing regime after calls for better protection of problem gamblers in parliament.

Last week the UK Gambling Commission criticised online bookmaker bet365 for weaknesses in its player protection controls found in 2013, and said

investigations were ongoing against other operators.

The commission rebuked casino chain Aspers and several other high-profile operators last year for failings, and said it would take uncompromising action against any gambling company it felt was slacking in player protection.

Tracy Damestani, chief executive of the NCF, said that Playing Safe SENSE had been the result of two years' intense and meticulous hard work.

She told GamblingCompliance: "This is not a knee-jerk reaction to anything coming out of the Gambling Commission or the Department for Culture, Media and Sport, it is a sincere, consistent approach that operators have been striving to reach.

"It has required a huge commitment of time and effort from all operators to agree how the system should work and to be prepared to accept that all companies will have to change what they do to a greater or lesser extent to make the scheme effective."

Labour's shadow minister for sport, Clive Efford, who has called for greater controls on player protection, said: "The move to improve self-exclusion by the casino industry is welcome and the Gambling Commission should look at what the casino industry is doing to see whether it can be applied in other parts of the industry, particularly online gambling."

Efford's sharpest criticism over problem gambling has previously been directed at bookmakers as part of his wider campaign against the high-stake roulette gaming machines found in their betting shops.

Ramm said there were "unquestionably" pressures on casinos as well.

He said: "The whole debate about gaming, and seeing things that were once upon a time only found in casinos, like roulette for example in high-street venues, has made the whole issue of gambling more of a hot potato.

"Any change in regulation now needs to be completely supported with evidence that it is not going to cause undue harm, we do need change in the industry."

The Playing Safe system will circulate photographs and biographical information, as well as making use of information from companies' loyalty cards, vouchers and other marketing tools.

This will allow automatic checks to be made of the central system to identify self-excluders who may breach the agreement.

Malcolm Bruce, director and co-founder of Gambling Integrity Services consultancy firm, said the industry was "unfortunately on the back foot" about player protection, but he saw the initiative as "good news".

Bruce said: "Seeing as self-excluders are likely to be folk with an established and possibly severe gambling problem, it is really important that links to care agencies are established as part of this scheme, and that excluders are actively encouraged to seek help so that if and when they return they will be better able to play responsibly.

"Self-exclusion is a pretty blunt tool however and really needs to be rigorously enforced with a national scheme run by the government, so that casino excluders don't go tripping off to the bookies, arcades, internet or bingo halls in desperation."

The Gambling Commission said it backed the scheme and was very supportive of proactive new ways to protect gamblers who recognise they need help."

4.9. Relationship between casino operator and addiction care professionals

Austria: Section 25 of the Gambling Act requires that a land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction care body.

The licensing booklet further requires that the licence applicant has to demonstrate its relationship with addiction care bodies, if any.

Denmark: No express provisions contained in the Danish gambling legislation concerning land-based casinos.

United Kingdom: No express provisions contained in the Gambling Act 2005, however, the LCCP condition (social responsibility code provision) 3.1 "Combating problem gambling" require licensees to have "policies and procedures for socially responsible gambling must include but need not be confined to:... a commitment to and how they will contribute to public education on the risks of gambling and how to gamble safely." Moreover, the Gambling Commission requires "all licensed operators, including society lotteries, to make a contribution towards research, education and treatment of problem gamblers."

The Responsible Gambling Trust is funded by contributions from the gambling industry. It notes that it is the UK's "leading charity in the UK committed to minimising gambling-related harm. As an independent national charity funded by donations from the gambling industry, the Responsible Gambling Trust funds education, prevention and treatment services and commissions research to broaden public understanding of gambling-

related harm. The aim is to stop people getting into problems with their gambling, and ensure that those that do develop problems receive fast and effective treatment and support.

The Responsible Gambling Trust raises a minimum of £5million each year from the gambling industry operating in Britain within a voluntary (donation based) system and funds research, education, prevention and treatment services."

Switzerland: The Executive Ordinance on Games of Chance and Gaming Houses, Article 37(2) provides that for the implementation of the social concept, the casino works in cooperation with an addiction prevention centre and a rehabilitation centre. The casino can also cooperate with other casinos or with third parties for this purpose.

Canada: Differs by province. In Ontario, two percent of gross slot machine revenue from casinos and slots at racetracks fund the province's problem-gambling strategy. In particular, the Ontario government collaborates with the Centre for Addiction and Mental Health, the Responsible Gaming Council, the Ontario Problem Gambling Research Centre, among other addiction care professionals, to carry-out the province's responsible gaming strategy.

4.10. Required cooperation between the licensee and addiction care professionals and/or the licensing authority and the addiction care professionals?

Austria: Yes. Section 25 of the Gambling Act requires that a land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction care body. Also the licensing booklet states that the licensee is required to cooperate with the department of addiction care in the Ministry of Finance.

Denmark: Yes. Section 5(5) of the Executive Order on land-based casinos requires that if a player has excluded himself from participation in a licensee's game, the licensee shall inform the player about the possibility of counselling and treatment of problem gambling in a Danish treatment centre.

United Kingdom: No. No express provisions contained in the Gambling Act 2005. However, LCCP condition (social responsibility code provision) 3.1 "Combating problem gambling" require licensees to have "policies and procedures for socially responsible gambling must include but need not be confined to:... a commitment to and how they will contribute to public education on the risks of gambling and how to gamble safely." Moreover, the Gambling Commission requires "all licensed operators, including society lotteries, to make a contribution towards

research, education and treatment of problem gamblers."

Switzerland: Refer to the answer above at 4.9.

Canada: Differs by province. In Ontario, the Provincial Problem Gambling Strategy requires the government to work closely with external services.

4.11. Does national legislation require licensees to contribute financially with regard to the financing of addiction care and/or the prevention of gambling addiction?

Austria: No express provisions in this regard (legal obligation) contained in the Gambling Act.

Denmark: No express provisions concerning land-based casino licensees contained in the Danish gambling legislation. However, for 2013 the Danish Finance Act allocated funds for the research and treatment of problem gambling. On this the Danish Gambling Authority has noted: "In 2012 about DKK 20 million from the proceeds of the duty on gaming machines (AWP) was distributed to research and treatment of problem gambling, of which 2/3 was given to treatment. In 2013 the funds for this is allocated directly in the Finance Act."

United Kingdom: Yes. The Gambling Act 2005 Section 123, provides for a levy to be introduced on licensed operators to provide financial assistance to the addiction of gambling as well as any other forms of harm which is related to gambling. Currently this levy is voluntary but can be made mandatory.

According to the UK Parliament's study: "The Gambling Act 2005: A Bet Worth Taking?" (2012) conducted by the Culture, Media and Sport Committee, on self-exclusion: "Under the 2005 Act, a voluntary levy was introduced on the gambling industry to fund research, education and treatment (RET) programmes to tackle problem gambling. There is provision under the 2005 Act to make the levy mandatory if the Government were to decide that not enough money was being raised from the industry on a voluntary basis. Some witnesses argued that there was cause to introduce a compulsory levy on the gambling industry on the basis that it was not giving enough money to research, education and treatment programmes. Others argued that, so far, the simple threat of a mandatory levy—described by the Evangelical Alliance as a "Damocles sword"—had proved sufficient incentive for the industry to provide the funding required.

...The voluntary levy for research, education and treatment has thus far been successful at raising the target of £5 million per annum. An important lever for obtaining funds from the gambling industry is the potential for reputational damage if insufficient monies were raised or if a compulsory levy were deemed necessary. While

it is important that the option of enforcing a compulsory research, education and treatment levy be maintained, we recommend that the current voluntary levy is continued. However, should one or more sectors of the gambling industry fall short in their duty to fund research, education and treatment programmes, the Government should implement a compulsory levy on those sectors.” (at paragraphs 82 and 84)

In addition LCCP condition (social responsibility code provision) 3.1 “Combating problem gambling” require licensees to “contribute to public education on the risks of gambling and how to gamble safely.” Moreover, the Gambling Commission requires “all licensed operators, including society lotteries, to make a contribution towards research, education and treatment of problem gamblers.”

Switzerland: No.

Canada: Differs by province. In Ontario, two percent of gross slot revenue funds the Provincial Problem Gambling Strategy.

4.12. Does national legislation require the state to contribute financially with regard to the financing of addiction care and/or the prevention of gambling addiction?

Austria: No express provisions contained in the Gambling Act.

Denmark: No express provisions contained in the Danish gambling legislation concerning land-based casinos. The explanatory notes to the Act on Gambling, however, suggest that the Gambling Authority must seek information in connection with the various research projects in the area of gambling addiction, inter alia by participating in reference groups linked to the projects. Furthermore, the Danish Gambling Authority must maintain close contact with the various treatment institutions and stay updated on preventive measures in the area. Also there must be links on the Gambling Authority’s website to the various treatment institutions and information about gambling addiction that may be relevant to the players. Furthermore the explanatory notes to the Act on Gambling assume that by the liberalisation of the online gambling market the gambling area will get an additional approx. DKK 12 million to be used for prevention and treatment of gambling addiction and for research into the area. This will strengthen the entire gambling addiction area and particularly the prevention area which has not previously had a share in these funds.

United Kingdom: No express provisions contained in the Gambling Act 2005. However, according to the Gambling Commission, fundraising targets for the gambling industry are agreed between the government and the Responsible Gambling Strategy Board.

Switzerland: No express provisions contained in the national legislation. The national legislation does not require the state to contribute financially with specific regard to addiction care or the prevention of gambling addiction. However, Article 106(6) of the Swiss Constitution provides that a certain part of revenues from gambling is to be used for charitable purposes, in particular in the fields of culture, social projects and sport.

Canada: Differs by province. In Ontario, two percent of gross slot machine revenue from casinos and slots at racetracks fund the province’s problem-gambling strategy.

4.13. Does national legislation provide for any suitability requirements a casino’s staff have to meet? In the affirmative, which?

Austria: Yes. Section 27 of the Gambling Act states that a land-based casino’s staff is not allowed to purchase or acquire shares from the casino licensee and that the staff may not present any gifts or donations from players in the casino.

Denmark: Yes. The day to the day operation of a land-based casino must be conducted by a licence holder (in case of a natural person holding the licence) or a manager (in case of a legal person holding the licence). According to Section 37 of the Act on Gambling the regulatory authority shall approve the manager prior to employment. It is a condition for obtaining such approval that the manager is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. The manager cannot be approved if the manager or others who can exert a controlling influence on the manager’s work has behaved in such a way that it gives reason to assume that the gambling establishment will not be operated in an acceptable manner.

According to Section 39 of the Act on Gambling also an employee at a land-based casino shall be approved by the regulatory authority prior to the employment. It is a condition for obtaining such approval that the employee is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. An employee cannot be approved if the conduct of the employee or others who can exert a controlling influence have behaved in such a way that it gives reason to assume that the employee will not carry out his work in an acceptable manner.

United Kingdom: Yes. The Gambling Act, at Section 55, contains some provisions on employment in casinos. The section states that:

Employment in casino, &c.

(1) A person commits an offence if he employs a child or young person to perform any function on premises in respect of which any of the following have effect—
(a) a casino premises licence,
(b) a betting premises licence, and
(c) an adult gaming centre premises licence.

(2) But subsection (1) does not apply—
(a) to employment at a time when no activity is being carried on in reliance on the premises licence, or
(b) to employment on a part of premises which are being used for a regional casino at a time when that part is not being used for the provision of facilities for gambling.

(3) The Secretary of State may for the purposes of subsection (2) by regulations make provision for—
(a) distinguishing between one part of premises and another;
(b) determining when use is being made of a part of premises.

(4) A young person commits an offence if he is employed in contravention of subsection (1).

Moreover, certain key officials at casinos would require personal management licences (PMLs), ensuring probity and to take all reasonable steps so as not to put a licensee at risk of breaching licence conditions. A specific section of the LCCP apply to PMLs (Part III).

The LCCP condition 10.1.1, in relation to personal licence holders, they “must only permit tipping of staff holding personal licences where a tronc system is operated; that is to say, where all tips are pooled and distributed amongst the employees concerned. A separate tronc may be operated for each of a number of categories of licensed staff”.

The LCCP also contained various provisions on staff training.

*** Gambling Compliance Commentary**
The UK’s HMRC define a tronc as: “A tronc is a special pay arrangement used to distribute tips, gratuities and service charges. Commonly a tronc is a central pool of funds in which some or all of the tips and service charges paid by customers are distributed to employees. How such arrangements work is entirely a matter for the business. How amounts paid from the tronc are distributed is a matter for the troncmaster, tronc committee (if one exists) and or tronc members.”

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province Ontario’s Gaming Control Act defines Category 1 gaming assistants and Category

2 gaming assistants. They have their own licensing requirements set forth in the Gaming Control Act. In particular, Section 11 allows the Registrar of the AGCO to deny registration to a gaming assistant if: (a) there are reasonable grounds to believe that the applicant will not act as a gaming assistant in accordance with law, or with integrity, honesty, or in the public interest, having regard to the past conduct of the applicant or persons interested in the applicant; or (b) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of [the Gaming Control] Act, the regulations, the standards and requirements established by the Registrar under section 3.8 or the terms of the registration.

In Nova Scotia, the Video Lottery Retailer Responsible Gambling Training Program is set up to educate video lottery retailers and their staff about responsible gambling and how to support players in making informed decisions when playing video lottery. This year, according to the Nova Scotia Provincial Lotteries & Casino Corporation, 100 percent of video lottery retailers have completed the annual training.

4.14. Any minimum requirements with regard to the training of staff (in order to timely observe risky/obsessive player behaviour)?

Austria: Yes. Section 25 of the Gambling Act requires that a land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction care body. Also the licensing booklet states that a licence applicant has to demonstrate whether or not it has any training for staff in place and give details on the special training, if applicable.

Denmark: Yes. The gambling legislation on land-based casinos contains requirements regarding casino staff (for example, an employee may not engage in games at the casino). However the gambling legislation does not contain an express provision on the training of staff with regard to the prevention of player addiction.

United Kingdom: Yes. The LCCP contains various provisions relating to staff training. Regarding customer interaction, LCCP provision 3.4.1 states that:

“Licensees must put into effect policies and procedures for customer interaction where they have concerns that a customer’s behaviour may indicate problem gambling. The policies must include:

- a identification of the appropriate level of management who may initiate customer interaction and the procedures for doing so
- b the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment

c the circumstances in which consideration should be given to refusing service to customers and/or barring them from the operator's gambling premises
d training for all staff on their respective responsibilities, in particular so that they know who is designated to deal with problem gambling issues."

Switzerland: Yes. The Executive Ordinance on Games of Chance and Gaming Houses, Article 39 provides that those responsible for the social concept as well as those involved in the gambling operations or its supervision must complete a basic training and a further annual education courses on gambling addiction. Other employees receive training suitable for their role, which enables them to detect the early signs of gambling addiction and to apply the procedure provided for in the social concept.

Canada: Differs by province. In Ontario, regulations require training. Section 2.5(1) of the AGCO Standards:

"1. All employees who interact with players shall receive training in a Registrar-approved program designed to identify and respond appropriately to players who may be showing signs of problem gambling."

In Nova Scotia, the Video Lottery Retailer Responsible Gambling Training Program is set up to educate video lottery retailers and their staff about responsible gambling and how to support players in making informed decisions when playing video lottery. This year, according to the Nova Scotia Provincial Lotteries & Casino Corporation, 100 percent of video lottery retailers have completed the annual training.

4.15. Do casinos have to monitor a player's gambling behaviour (money invested, time spent in the casino, etc)?

Austria: No. However, Section 25 of the Gambling Act requires that land-based casinos have to check the players' identity before they enter the casino. Also a land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction body. Furthermore, if a casino observes that EU/EEA citizens gamble in an excessive manner that is beyond their means, it is obliged to advise players about their behaviour and to draw their attention to available gambling addiction help. If the players continue their behaviour despite the warning, the casino has to exclude the players for a given time or restrict the number of their visits. If the casino neglects its obligation to do so, it can be made responsible for the losses of the player under limited circumstances.

Denmark: No. However, the Executive Order on land-based-casinos contains requirements for the registration of customers, including video registration, and for the

storing of data. Every guest must provide identification on request and every casino must record information about every arriving guest's name, address, and date of birth, nationality and an indication of each guest's arrival time. The casino must store this information for five years. The casino must also make a video recording of the incoming guest, which must be stored by the casino for two months from the time the guest visited the casino.

However the gambling legislation on land-based casinos does not contain an express requirement that the casinos have to monitor a player's gambling behaviour (money invested, time spent in the casino, etc).

United Kingdom: Yes. The LCCP provision (social responsibility code provision) 3.4.1.1 stipulates that some of the measures licence holders are required to implement is "the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment". However, no specific indicators such as money invested are mentioned.

Switzerland: Yes. Article 22 of the Federal Law on Games of Chance and Gaming Houses contains the provisions regarding the exclusion of players. The provision states that casinos are obliged to ban players if among other sources based on their own observations they know or must assume that the player suffers from gambling addiction. From this provision follows that casinos must monitor their players.

Furthermore, Article 28 (4) of the Executive Ordinance on Games of Chance and Gaming Houses stipulates that the casino in order to create a loyalty card or for marketing purposes may in particular acquire and evaluate the following data according to the prior notification and consent of the casino visitor: name, date of birth and address; type and number of the official identity document; date and time of visit, the games used and stakes wagered.

Canada: Differs by province.

In Ontario, yes. Section 2.12 of the AGCO Standards requires players must have the means to track the passage of time. Further, Section 2.11 requires "[g]ames shall not encourage players to chase their losses, or increase the amount they have decided to gambling, or continue to gamble after they have indicated that they want to stop." In Nova Scotia, there is a system called "My-Play" that is mandatory for VLT players. The system monitors a player's activity, including in-progress activity and historical activity, lets players set limits on money and time, and lets players set cooling off periods.

4.15. Are casinos allowed to grant loans to players?

Austria: No express provisions contained in the Gambling Act.

Denmark: No. According to Section 35 of the Act on Gambling a licence holder shall not extend credit to the player for participation in gambling activities.

United Kingdom: No. Section 81 of the Gambling Act 2005 deals with credits and inducements. With respect to land-based casinos this section states that:

"A non-remote casino operating licence or a non-remote bingo operating licence shall by virtue of this subsection be subject to the condition that the licensee may not—
(a) give credit in connection with gambling, or
(b) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling."

While not credit, but rewards (such as reward schemes), LCCP provision 5.1.2 (ordinary code provision) provides that licence holders "should only offer incentive or reward schemes in which the benefit available is proportionate to the type and level of customers' gambling." Moreover, LCCP ordinary code provision 3.8.1 relates to money-lending in casinos. It states that:

"1 Licensees should take steps to prevent systematic or organised money lending between customers on their premises.

2 While the nature of those steps will depend to some extent on the layout and size of the premises, they should cover matters such as:
a systems for monitoring for such activity
b instructions to staff concerning what they should do if they spot what they believe to be significant money lending and to managers about the ways in which they should handle and act on any such lending
c excluding from the premises, either temporarily or permanently as appropriate, any person whom the evidence suggests has become involved in organised or systematic money lending.

3 There should be appropriate arrangements in place to cover any cases where it appears that the lending may be commercial in nature or may involve money laundering. In the latter case, the requirements in respect of reporting suspicious transactions must be followed. In all cases where the operator encounters systematic or organised money lending, a report should be made to the Commission."

Switzerland: No. The Federal Law on Games of Chance and Gaming Houses, Article 27, strictly prohibits casinos from granting any loans. This is further stipulated in the

Executive Ordinance on Games of Chance and Gaming Houses, which states that "the granting of loans, credits and advances is forbidden in the casino".

Canada: Differs by province. In most Canadian provinces, casinos may not offer credit to players. This includes Quebec, Ontario and Manitoba.

4.16. Any policy with regard to the prevention of gambling addiction specifically targeting young adults (18-24)?

Austria: No express provisions contained in the Gambling Act.

Denmark: No express provisions contained in the Danish gambling legislation.

United Kingdom: No.

Switzerland: No express provisions contained in the legislation.

Canada: No. However, no individual who is under 19 years of age shall enter or remain in a gaming site, except for an individual acting in the course of employment. GCA Part I.1(3).

4.17. If yes, which?

Austria: -

Denmark: -

United Kingdom: While the Gambling Act 2005 has provisions relating to children (under 16 years old) and young persons (not a child but less than 18 years old), there are no provisions for young adults.

However, the LCCP does contain some provisions relevant for young adults. Ordinary code provision 3.2.2 provides that

"Licensees should put into effect procedures that require their staff to check the age of any customer who appears to them to be under 21."

With respect to advertising, LCCP ordinary code provision 5.1.6 states that:

"All advertising of gambling products and services should be undertaken in a socially responsible manner. In particular, licensees should comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services, and for media not explicitly covered should apply the principles included in these codes of practice as if they were explicitly covered. Licensees

should also follow any relevant industry code of practice on advertising.

However, the particular restriction on allowing people aged under 25 to appear in adverts need not be applied to point of sale advertising material, provided that the images used depict the sporting activity that may be gambled on and not the activity of gambling itself and do not offend any other aspect of the advertising codes."

Switzerland: -

Canada: -

Category 5. Information to players, advertising, staff training, operating hours and location requirements

5.1. Minimum requirements with regard to information which is to be provided towards a player (i.e. gaming rules, pay-out ratio per game, manner of payment)?

Austria: Yes.

Denmark: Yes.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Differs by province.

In Ontario, yes.

5.2. If so, which?

Austria: The Minister of Finance has to approve the gaming rules to be provided by the licensee. The Gambling Act requires the licensee to make the rules of the game including information on minimum and maximum stakes and winnings, game times, etc available. The game rules have to be approved by the Minister of Finance.

Denmark: Section 33 of the Act on Gambling requires that the licence holder makes all relevant information about the gambling activities, including rules of the game, easily accessible to the player and the authorities. Section 11 of the Executive Order on land-based casinos requires that information on minimum and maximum stakes on every game must be posted at each table game.

In addition, Section 36 of the Act on Gambling contains various rules which apply to the marketing of gambling activities (chance of winning has to be presented in a correct and balanced manner, marketing shall not aim at young people under the age of 18, etc).

United Kingdom: LCCP provision (social responsibility code provision) 4.2.1, requires licence holders to ensure that the following are included: A) the rules of each type of casino game B) a player's guide to the house edge C) a player's guide to the rules of any available equal chance games. The LCCP also contains staff training obligations as mentioned above.

Switzerland: According to Article 58 of the Executive Ordinance on Games of Chance and Gaming Houses the casino has to draft a short and easily understandable

version of the games rules and has to place them in the table area, on each gaming machine or show it on request.

Canada: In Ontario, Section 2.8 of the AGCO Standards outlines that game designs and features shall be clear and shall not mislead the player.

Requirements – At a minimum:

"1. Where a game simulates a physical device, the theoretical probabilities and visual representation of the game shall correspond to the features and actions of the physical device, unless otherwise disclosed to the player.

2. Game design shall not give the player the perception that speed of play or skill affects the outcome of the game when it does not.

3. After the selection of game outcome, the game shall not make a variable secondary decision which affects the result shown to the player. If the outcome is chosen that the game will lose then the game shall not substitute a particular type of loss to show the player (i.e. near miss).

4. Where the game requires pre-determined pattern (for example, hidden prizes on a map), the locations of the winning sports shall not chance during play, except as provided in the rules of plays.

5. Games shall not display amounts or symbols that are unachievable.

6. Games shall not contain intentionally programmed subliminal messaging.
Etc..."

Section 4 of the AGCO Standards outlines game integrity and player awareness.

5.3. Any rules on how this information has to be made available?

Austria: Yes. Section 26 of the Gambling Act requires that the game rules have to be made available in an appropriate manner to the consumers.

Denmark: Yes. The Act on Gambling requires that the information is "easily accessible to the player and the authority". Section 11 of the Executive Order on land-based casinos requires that information on minimum and maximum stakes on every game must be posted at each table game.

United Kingdom: Yes. The Gambling Act 2005, at Section 24, provides that in relation to the codes of practice which the Gambling Commission issues, one of the purposes the codes of practice serve is to ensure that “gambling is conducted in a fair and open way”. Moreover, LCCP licence condition 9.1.1 on ‘rules of casino games’ states that:

“Licensees must not offer or permit to be played casino games that appear on any list of games prohibited by the Commission.” Furthermore, LCCP social responsibility code provision 4.2.1 (Display of rules) states that:

“In complying with any condition on a casino premises licence requiring the display of rules about gaming, licensees must ensure that the following are included:
 a the rules of each type of casino game available to be played
 b a player’s guide to the house edge
 c a player’s guide to the rules of any equal chance games which are made available.”

Switzerland: Yes. According to Article 58 of the Executive Ordinance on Games of Chance and Gaming Houses the casino has to draft a short and easily understandable version of the games rules and has to place them in the table area, on each gaming machine or show it on request.

Canada: Differs by province. In Ontario, the regulations/standards do not specify how this information is to be made available. The AGCO Regulations just require the rules are made “available, visible and accessible to all patrons.”

In many of the gaming locations throughout Ontario there are Responsible Gaming Resource Centres (RGRC). These centres provide patrons with information on safer gambling practices as well as assistance and local referrals for help with gambling-related problems.

In British Columbia, the British Columbia Lottery Corporation operates a program called GameSense. It teaches players about their odds of winning, how games work, when to stop and how to recognize if gambling is becoming a problem for them. GameSense is available online, at all lottery retail outlets and at the interactive GameSense Info Centre or satellite GameSense Info Centre in every casino and community gaming centre in the province. Further, help-line stickers and posters promoting responsible gambling and the Problem Gambling Program are available at all casinos, commercial bingo halls and lottery retail outlets.

5.4. Any minimum requirements with regard to the material used (of table games, slot machines, etc)?

Austria: No express provisions contained in the Gambling Act. However, the licensing booklet specifies that the

licence applicants’ organisation, operation and equipment shall live up to the highest standards of integrity and security. The licence applicant shall be used to working with certified standards and shall prove that the licence applicant has received the necessary certificates.

Denmark: Yes. Section 41 of the Act on Gambling provides that the Minister of Taxation lays down detailed rules regarding the gambling activities and the conduction of such, including rules for stakes and winnings in the gambling activities, payback percentages, control measures necessary for implementation of the Act on Gambling, approval and location of technical equipment used to provide gambling activities, information obligations, registration of players, storage of data, measures to protect the players’ money, appeals processing requirements, participation in gambling activities by employees of the licence holder and detailed rules regarding transmission of payments in connection with stakes and winnings to and from an illegal provider of gambling activities.

Accordingly, Chapter 6 of the Executive Order on land-based casinos concerns the gaming machine technology and in particular requires that for each roulette wheel installed and each gaming machine there must be a declaration from an accredited testing company approved by the Gambling Authority. In addition gaming machines that pay out winnings have to be connected to a national monitoring system and have to be configured that they cannot function when they are disconnected from the national monitoring system.

Section 22 of the Executive Order on land-based casinos also requires the casino management to ensure daily that the gaming technology equipment works flawlessly.

Gaming tokens shall be provided with the logo of each individual casino.

United Kingdom: Yes. LCCP licence condition 2.3.3 (Casino equipment specifications) requires: “Licensees must comply with the Commission’s specifications for casino equipment.”

Similarly LCCP licence condition 2.3.1 (technical standards) applies to gaming machines: “Licensees must comply with the Commission’s technical standards and with requirements set by the Commission relating to the timing and procedures for testing.”

The Gambling Commission currently has ‘gaming machines technical standards’ and ‘bingo and casino equipment technical requirements’ (http://www.gamblingcommission.gov.uk/shared_content_areas/gaming_machines_technical_stan.aspx)(<http://www.gamblingcommission.gov.uk/pdf/Bingo%20and%20Casino%20Technical%20Requirements%20-%20July%20>

2008.pdf), with 13 approved test houses as of June 2014, some of which can test for gaming machines and bingo and casino equipment.

Switzerland: Yes. According to Articles 65-67 of the Executive Ordinance on Games of Chance and Gaming Houses casinos are only allowed to put gaming equipment into operation, which complies with the technical requirements. Casinos are required to provide the commission any documentation, which is necessary to assess the technical conformity of the gambling equipment. Casinos are also required to make a statement that the gaming equipment complies with the technical requirements.

Canada: Differs by province.

In Ontario, the technical standards for electronic gaming, server-assisted and server-based gaming and general standards for gaming can be found at http://www.agco.on.ca/en/whatwedo/standards_registrar_commercial.aspx.

5.5. Any restrictions with regard to the content, time, form and place of advertising of licensees in national legislation?

Austria: Yes.

Denmark: Yes.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Differs by province. In Ontario, yes.

5.6. In the affirmative, what are these?

Austria: Section 56 of the Gambling Act simply stipulates that licensed operators have to keep a responsible scale regarding their advertising activities.

Denmark: Section 36 of the Act on Gambling concerns the marketing of gambling activities and states that a licensee’s marketing:

- » shall present the chance of winning in a correct and balanced manner that does not create an impression that the chance of winning is greater than it actually is;
- » shall focus on gambling as a form of entertainment;
- » shall not aim at children and young people under the age of 18, neither in its communication form nor in the choice of media;
- » shall not by using well-known personalities suggest that participation in gambling activities has contributed to their success when that is not true; and
- » shall not have a content that conveys the impression

that participation in gambling activities helps provide a solution to financial problems or improves the player’s social acceptance.

The Minister of Taxation may lay down further detailed rules governing the marketing of gambling activities.

The Marketing Practices Act contains additional specifications. For example, Section 8 of the Marketing Practices Act states that “marketing directed at children and young people shall be designed with specific reference to their natural credulity and lack of experience and critical sense, as a result of which they are readily influenced and easy to impress”.

United Kingdom: LCCP ordinary code provision (Compliance with advertising codes) 5.1.6 states that: “All advertising of gambling products and services should be undertaken in a socially responsible manner. In particular, licensees should comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services, and for media not explicitly covered should apply the principles included in these codes of practice as if they were explicitly covered. Licensees should also follow any relevant industry code of practice on advertising.

However, the particular restriction on allowing people aged under 25 to appear in adverts need not be applied to point of sale advertising material, provided that the images used depict the sporting activity that may be gambled on and not the activity of gambling itself and do not offend any other aspect of the advertising codes.”

Licensees are subject to a number of advertising codes. According to the Gambling Commission’s guidance, “Advertising is subject to the CAP and BCAP advertising codes. The CAP and BCAP codes are administered by the Advertising Standards Authority (ASA). Operators should also follow the Gambling Industry Code for Socially Responsible Gambling. The Gambling Industry Code for Socially Responsible Gambling was published on 7 August 2007 and is monitored by the Review Group for Socially Responsible Advertising.”

The Advertising Standards Authority notes that the relevant rules are, that gambling ads must not:

- » “Portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.
- » Exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.
- » Suggest that gambling can be a solution to financial concerns.
- » Link gambling to seduction, sexual success or enhanced attractiveness.
- » Be of particular appeal to children or young persons,

especially by reflecting or being associated with youth culture.

- » Feature anyone gambling or playing a significant role in the ad if they are under 25 years old (or appear to be under 25)."

* Gambling Compliance Commentary

During April 2014 the Committee of Advertising Practice (CAP) published terms of reference for a review gambling ads.

Switzerland: The Federal Law on Games of Chance and Gaming Houses, Article 33 provides that a casino should refrain from "outrageous" advertising.

Canada: Differs by province. In Ontario, Section 2.1 of the AGCO Regulations outlines these restrictions:

"Advertising and marketing materials and communications shall not target underage of self-excluded persons to participate in lottery schemes and shall not include underage individuals." The standards then prohibit placing advertisements on billboard or other outdoor displays directly adjacent to schools or other primarily youth-oriented locations, using children to promote gambling, using cartoon figures or other promotions whose primary appeal is to minor, and appear in media and venues directed primarily to minors.

5.7. Any provisions on advertisements of land-based casino operators located in another country?

Austria: Yes. EU-based casinos are allowed to advertise their services in Austria. Under Section 56 of the Gambling Act, advertising is permitted by operators in the EU or EEA where their licence corresponds to Section 21, i.e., land-based casino licences. In addition, player protection standards must correspond to Austrian domestic standards. Approval must be obtained by the Minister of Finance.

This system of preliminary authorisation and the requirement of being based in a country where the level of player protection rules corresponds to the level of player protection rules in Austria was contested by the Slovenian HIT casinos at the Court of Justice of the European Union (CJEU). The CJEU found in its HIT and HIT LARIX C-176/11 case that such provision could be considered proportionate with the laws of the EU provided that the national court found that the Austrian Gambling Act requires the player protection rules of the other member state (in this case Slovenia) to be "in essence equivalent" to the Austrian player protection provisions. However if the national court found that Austria in fact required Slovenian player protection provisions to be "identical", such requirement would be disproportionate.

Denmark: No express provisions contained in the land-based gambling legislation. However, the Act on Gambling provides for sanctions for advertising of/for operators not holding a licence in Denmark.

United Kingdom: The Gambling Act 2005 contained a provision on foreign gambling which for non-remote gambling (such as casinos) permitted advertising of casinos in EEA member states as there was only a prohibition on: "non-remote gambling which is to take place in a non-EEA State". However, the recently passed (In May 2014) Gambling (Licensing and Advertising) Act 2014 (which effective provision are yet to come into force) will repeal the relevant section of the Gambling Act on foreign gambling (Section 331), therefore the advertising of casinos based in another country will not be permitted once this is in effect.

Switzerland: No express provisions contained in the legislation.

Canada: No express provisions contained in the legislation.

5.8. Any minimum requirements with regard to staff of a casino (integrity and training of the staff)?

Austria: Yes. Section 25 of the Gambling Act requires that a land-based casino has to train its staff with regard to gambling addiction and to this end has to work with at least one gambling addiction care body. Also the licensing booklet states that a licence applicant has to demonstrate whether it has any training for staff in place or not and give details on the special training if applicable.

Denmark: Yes. The day to the day operation of a land-based casino must be conducted by a licence holder (in case of a natural person holding the licence) or a manager (in case of a legal person holding the licence). According to Section 37 of the Act on Gambling the regulatory authority shall approve the manager prior to employment.

It is a condition for obtaining such approval that the manager is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. The manager cannot be approved if the manager or others who can exert a controlling influence on the manager's work has behaved in such a way that it gives reason to assume that the gambling establishment will not be operated in an acceptable manner.

According to Section 39 of the Act on Gambling also an employee at a land-based casino shall be approved by the regulatory authority prior to the employment. It is a condition for obtaining such approval that the employee

is 21 or older, is not under guardianship and has not been convicted of a criminal offence that gives reason to believe that there is a clear risk of abuse of the access to work with gambling. An employee cannot be approved if the conduct of the employee or others who can exert a controlling influence have behaved in such a way that it gives reason to assume that the employee will not carry out his work in an acceptable manner.

Section 8 of the Executive Order on land-based casinos states that an employee may not participate in games in the casino other than in cases where the employee's function at the casino is to participate in operating the game.

Section 9 of the Executive Order on land-based casinos prohibits that employees accept gifts or other favourable benefits from casino guests.

United Kingdom: Yes. In addition to the more generic training requirements in the LCCP, LCCP social responsibility code provision 4.2.5 provides that licence holders shall "have and put into effect policies and procedures designed to ensure that proper supervision of gaming tables is carried out by supervisors, pit bosses and croupiers in order to ensure the integrity of the gaming is not compromised. Such policies and procedures must take into account, but need not be limited by, any mandatory premises licence conditions relating to the layout of premises".

Switzerland: Please refer to answer 4.3 in relation to the training requirement.

Canada: Differs by province. In Ontario, regulations require training. Section 2.5(1) of the AGCO Standards:

"1. All employees who interact with players shall receive training in a Registrar-approved program designed to identify and respond appropriately to players who may be showing signs of problem gambling."

5.9. In particular, do employees have to observe a player's behaviour with regard to fair play, etc?

Austria: No express provisions contained in the Gambling Act.

Denmark: Yes. The Executive Order on land-based casinos contains certain requirements concerning the observance of the player's behaviour:

- » Section 7 of the Executive Order on land-based casinos requires casinos to keep documents and records relating to transactions for at least five years after the implementation of the transaction.
- » Section 32 of the Executive Order on land-based

casinos requires that there is a device installed in each casino that makes it possible simultaneously to carry out video surveillance of all of the exchange booth's transactions relating to the conduct of all games at the gaming tables.

- » Section 33 of the Executive Order on land-based casinos provides that the casino management, security personnel and other employees who are engaged in actual casino activities must pay special attention to transactions and exchanges that may be related to money laundering or financing of terrorism. In the event of a suspicion that a transaction or exchange is or has been connected to money laundering or the financing of terrorism, the casino shall investigate this in more detail. In the event that the suspicion of the transaction or exchange being or having been connected to money laundering or the financing of terrorism cannot be disproved immediately; the Public Prosecutor for Serious Economic Crime must be notified immediately.
- » Section 35 of the Executive Order on land-based casinos states that a casino shall prepare written internal rules on adequate monitoring and communication procedures, including customer identification, reporting, record keeping, communication and control in order to forestall and prevent money laundering or financing of terrorism. A casino shall also prepare training and instruction programmes for employees. A casino has to ensure that employees engaged in identification, exchange and actual casino activities are made aware of these internal rules. Every quarter, the casino shall send information to the Danish Gaming Authority concerning the number of reports to the Public Prosecutor for Serious Economic Crime, and how many employees have undergone training and instruction programmes.

United Kingdom: Yes. See above. Also, the Gambling Act 2005's licensing objectives would relate to this issue, as would the offence of cheating at gambling at Section 42 of the Gambling Act.

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province. In Ontario, yes. Section 4 of the AGCO Standards requires operators place mechanisms to deter, prevent and detect collusion and cheating. Further, these activities must be logged. The standards also require players are easily and readily able to report activities related to collusion and cheating.

In Manitoba, Section 9.1 of the Manitoba Gaming Control Act states that each registered gaming operator must adopt and implement a responsible gaming policy, including training programs in responsible gambling for employees.

5.10. Are there any regulations with regard to the opening hours of a casino?

Austria: No express provisions contained in the Gambling Act.

Denmark: Yes. The Executive Order on land-based casinos states that casinos are allowed to be open daily between 10am and 5am. Specific rules on opening hours may be stipulated in each land-based casino licence.

United Kingdom: No. While there are default opening hours set by local authorities, there are no legislated for or mandated opening times. Moreover, in evidence to the Culture, Media and Sport select committee during July 2011 the Casino Operators Association noted on opening hours that:

“With regards to the third Licensing Objective of ensuring that children and vulnerable people are protected, at the same time as introducing a slew of supposedly protective measures (which are mainly just time consuming for the operator and serve to absolve gamblers of any personal responsibility), instead of maintaining the casino opening hours of 12pm until 6am as a mandatory licence condition (which would have ensured a national closed/ “cooling-off” period for all customers), the Act left opening hours as a default condition at the discretion of the local authorities. The result has been that, without a nationally applicable closing period, gamblers are gambling until they can do so no more and their money is all spent. Not all of them will be problem gamblers but it has been noticeable that customers are simply wiped out by prolonged gambling in a way that did not happen when there was a short break in their activities.

The UK now has 24 hour gambling in most areas as local authorities are unwilling and ill-equipped to oppose 24 hour licence applications by powerful operators and, due to market demand, even smaller operators opposed to 24 hour gambling have been forced to follow suit.”

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province. In Ontario, no.

In Manitoba, casinos throughout the province vary in operating hours, however, most casinos are open until around 3am most nights.

5.11. Are there any regulations concerning minimum distance requirements between casinos?

Austria: No express provisions contained in the Gambling Act. The licensing booklet, however, restricts where land-

based casinos may be operated (that is, certain city, part of the country or even part of the city).

Denmark: No. No such provisions with regard to land-based casinos are contained in the Act on Gambling or the Executive Order on land-based gambling. However, Section 31 of the Act on Gambling requires that when determining whether or not to grant a land-based casino licence emphasis has to be attached to the maintenance of public order and the size and location of the establishment.

United Kingdom: No express provisions contained in the legislation. However, the fact that only certain licensing authorities can have large or small casinos will put a curb on new developments (not under 1968 Act licences).

Switzerland: No express provisions contained in the legislation.

Canada: Differs by province. Regulations and laws in Ontario were silent as to this issue. However, this is likely a factor to consider when deciding whether to establish a new gaming site.

Category 6. Anti-money laundering and terrorist financing, staff AML training

6.1. Any minimum requirements for licensees with regard to monitoring and reporting suspicious (financial) transactions provided by law?

Austria: Yes.

Denmark: Yes.

United Kingdom: Yes.

Switzerland: Yes.

Canada: Yes.

6.2. If so, which?

Austria: Section 25 of the Gambling Act requires casinos to report any suspicion concerning money laundering or the financing of terrorism to the Bundeskriminalamt (Federal Criminal Bureau). Further casinos have to report any suspicion that the player does not act on his own behalf. In this case the casino has to request the identity of the person on behalf of whom the player is actually acting. In general, casinos have to abide to the rules laid down in EU Directive 2005/60 EG applicable to casinos.

In addition, casinos are required to undertake customer due diligence measures at the entrance of the casino independently from where the person will engage in financial transactions in the casino. Further customer due diligence measures have to be undertaken when a foreign exchange of more than €15,000 is performed in the casino and there is a general monitoring threshold of €700.

The licensing booklet further specifies that as part of the licence application the licence applicant has to demonstrate its AML and anti-terrorist financing concepts.

Denmark: The AML regulations in relation to land-based casinos are not in the Danish Act on Anti-Money Laundering but in the Executive Order on land-based casinos:

- » Section 6 of the Executive Order on land-based casinos states that any casino that detects cheating or other criminal offences in connection with the progress of the games can register the persons committing or being an accessory to such acts if the acts are reported to the police at the same time. During such registration the casino may refuse access to the casino to the person in question.

- » Section 7 of the Executive Order on land-based casinos requires casinos to keep documents and records relating to transactions for at least five years after the implementation of the transaction.
- » Chapter 5 of the Executive Order on land-based casinos deals with the control of cash at the gaming table in a casino and inter alia provides that the content of a cash box at a gaming table has to be counted on a daily basis and furthermore sets certain conditions how and when the content has to be counted.
- » Furthermore Chapter 5 contains provisions on how winnings have to be paid out and concerning the exchange of tokens and money.
- » Section 32 of the Executive Order on land-based casinos requires that there is a device installed in each casino that makes it possible simultaneously to carry out video surveillance of all of the exchange booth's transactions relating to the conduct of all games at the gaming tables
- » Section 33 of the Executive Order on land-based casinos provides that the casino management, security personnel and other employees who are engaged in actual casino activities must pay special attention to transactions and exchanges that may be related to money laundering or financing of terrorism. In the event of a suspicion that a transaction or exchange is or has been connected to money laundering or the financing of terrorism, the casino shall investigate this in more detail. In the event that the suspicion of the transaction or exchange being or having been connected to money laundering or the financing of terrorism cannot be disproved immediately, the Public Prosecutor for Serious Economic Crime must be notified immediately.
- » The Executive Order on land-based casinos requires that a controller who is independent of the casino shall be present at all times throughout the opening hours of the casino. The controller shall be employed by the Danish Gaming Authority. If the controller becomes aware of circumstances that are presumed to be connected to money laundering or the financing of terrorism, he shall notify the Public Prosecutor for Serious Economic Crime.
- » If the casino's management, security personnel or other employees who are engaged in actual casino activities suspect the existence of irregularities in connection with the operation of gaming, they shall immediately inform the controller.
- » The casino's management, security personnel and other employees who are engaged in actual casino activities, as well as auditors and others who perform special functions for the casino, shall be obliged to

keep secret the fact that a suspicious transaction has been reported, or that an investigation is being or will be opened concerning money laundering or the financing of terrorism.

- » Section 35 of the Executive Order on land-based casinos states that a casino shall prepare written internal rules on adequate monitoring and communication procedures, including customer identification, reporting, record keeping, communication and control in order to forestall and prevent money laundering or financing of terrorism. A casino shall also prepare training and instruction programmes for employees. A casino has to ensure that employees engaged in identification, exchange and actual casino activities are made aware of these internal rules. Every quarter, the casino shall send information to the Gambling Authority concerning the number of reports to the Public Prosecutor for Serious Economic Crime, and how many employees have undergone training and instruction programmes.
- » In addition the Gambling Authority published guidelines on preventive measures against money laundering and terrorist financing in the casino sector (Guidelines). According to the Guidelines the casino is obligated to report to the State Prosecutor for Economic and International Crime on for example customers who have financial funds whose origin cannot be directly explained, even though the transaction itself will not immediately contribute to money laundering.
- » Pursuant to the Guidelines the casino company must appoint a person from management who must secure that the company complies with the AML regulations.
- » The regulations stipulate that a casino must have sufficient internal rules about controls, risk assessment and communication, also called risk management. The casino's risk management in relation to money laundering should be based on the casino's business model and the possible risks of the casino being abused for money laundering or terrorist financing purposes. There are no specific reporting thresholds. The latter should be set based on the overall risk assessment of the casino.

United Kingdom: The Money Laundering Regulations 2007 specify for casinos at Section 10:

- (1) A casino must establish and verify the identity of—
 - (a) all customers to whom the casino makes facilities for gaming available—
 - (i) before entry to any premises where such facilities are provided; or
 - (ii) where the facilities are for remote gaming, before access is given to such facilities; or
 - (b) if the specified conditions are met, all customers who, in the course of any period of 24 hours—
 - (i) purchase from, or exchange with, the casino chips with a total value of 2,000 euro or more;
 - (ii) pay the casino 2,000 or more for the use of

- gaming machines; or
 - (iii) pay to, or stake with, the casino 2,000 euro or more in connection with facilities for remote gaming.
- (2) The specified conditions are—
- (a) the casino verifies the identity of each customer before or immediately after such purchase, exchange, payment or stake takes place, and
 - (b) the Gambling Commission is satisfied that the casino has appropriate procedures in place to monitor and record—
 - (i) the total value of chips purchased from or exchanged with the casino;
 - (ii) the total money paid for the use of gaming machines; or
 - (iii) the total money paid or staked in connection with facilities for remote gaming, by each customer.
- Section 19 Money Laundering Regulations 2007 on record keeping specifies a five year time period for the retention of records.

According to the Gambling Commission's guidance (Money laundering: the prevention of money laundering and combating the financing of terrorism, Guidance for remote and non-remote casinos, July 2013) casinos must establish and verify the identity of all customers before entry to the premises. In addition, casinos may, subject to conditions, verify the identity of customers before or after a purchase, exchange, payment or stake takes place. Furthermore, casinos are required to "maintain where necessary, records of customers and transactions that meet the needs of law enforcements investigations tackling money laundering and terrorist financing."

Switzerland: Reporting obligations are included in the Federal Act on Combating Money Laundering in the Financial Sector (Anti-Money Laundering Act) of October 10, 1997 and the Executive Ordinance of June 12, 2007 regarding the duty of due diligence applying to casinos in the fight against money laundering. Casinos can identify all entrants when they first enter the casino but can also opt to fulfil their identification obligation in case of transaction involving large sums, the amount of which is specified as CHF5,000.

Canada: The Proceeds of Crime and Terrorist Financing Act is the major law regarding the reporting of suspicious transactions in Canada.

6.3. Which information are licensees required to report to the supervisory/licensing authority with regard to fraud, criminal activities and money laundering?

Austria: No express provision contained in the Gambling Act. However, casinos are obliged to undertake customer due diligence measures at the entrance of the casino independently from where the person will engage in financial transactions in the casino. Further customer due

diligence measures have to be undertaken when a foreign exchange of more than €15,000 is performed in the casino. There is also a general monitoring threshold of €700.

Denmark: No express provisions contained in the Act on Gambling and the Executive Order on land-based casinos. Reporting is based on the overall risk assessment, each casino must set a limit of its own. The limit should be set according to a risk assessment of how vulnerable the casino is with regard to money laundering and terrorist financing.

United Kingdom: See previous question on reporting thresholds.

In addition casino employees are required to report to their nominated officer of any suspicion of money laundering by customers, guests or other employees.

Furthermore, as far as licensed operators are concerned, they have to maintain written risk-based policies and procedures in regards to: Customer due diligence (CDD) measures and ongoing monitoring; reporting; record keeping; internal control; risk assessment and management; training; monitoring and management of compliance with the policies and procedures.

LCCP licence condition 15.2.1 (Reporting key events) requires casinos to have: "a position the holder of which is responsible for the licensee's anti-money laundering procedures, including suspicious activity reporting." (Commonly known as a money laundering reporting officer (MLRO).

Switzerland: According to Article 9 of the Anti-Money Laundering Act, if a casino has suspicions that the assets can potentially be of fraudulent origin, it is obliged to immediately inform the Money Laundering Reporting Office Switzerland (MROS) at the Federal Office of Police (fedpol) and freeze the assets.

Canada: Each employee who handles a large cash transaction of C\$10,000 has to report it, and any employee who extends credit to C\$3,000 or converts currency worth C\$3,000 also has to report it. Even if the amount is lower, the person may be required to fill out a signature card if the casino employee has any reason to believe the transaction is suspicious. Suspicion may arise in a situation where a player cashes in chips on multiple occasions or uses the casino's currency exchange facility without playing. A suspicious transaction can also arise in circumstances where a client attempts to avoid triggering a large cash transaction report by stopping play just before reaching the C\$10,000 threshold.

6.4. What are the minimum requirements for the training of employees in order to observe risks regarding fraud, criminal activities and money laundering?

Austria: No express provisions contained in the Gambling Act.

Denmark: Section 35 of the Executive Order on land-based casinos states that a casino shall prepare written internal rules on adequate monitoring and communication procedures, including customer identification, reporting, record keeping, communication and control in order to forestall and prevent money laundering or financing of terrorism. A casino shall also prepare training and instruction programmes for employees. A casino has to ensure that employees engaged in identification, exchange and actual casino activities are made aware of these internal rules. Every quarter, the casino shall send information to the Danish Gaming Authority concerning the number of reports to the Public Prosecutor for Serious Economic Crime, and how many employees have undergone training and instruction programmes.

United Kingdom: All casino employees are required to receive training so they can be alert to risks of money laundering and terrorist financing. Operators, on the other hand, must ensure that they implement clear policies and procedures in order to ensure that their employees are familiar with their legal obligation in regards to combating money laundering and terrorist financing.

Switzerland: The Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector, Article 8 stipulates that financial intermediaries must "in particular ensure that their staff receives adequate training and that checks are carried out."

Furthermore, Article 18 and 19 of the Ordinance on the Due Diligence Obligations of Casinos for the Combat of Money Laundering stipulates that the casino nominates one or more qualified persons to the money laundering body of the casino. Among the tasks of the money laundering body of the casino are the planning and monitoring of the internal money laundering training. The casino has to provide for training to new employees as well as for the regular money laundering training of existing employees. Canada: Casinos are required to have a money laundering reporting officer (MLRO), but this employee's responsibilities were not clear until the 2008 amendments. The amendments dictate that casino MLROs have to enforce a number of procedures, including:

- » Developing written compliance policies and procedures manuals.
- » Assessing and documenting the risk related to money laundering and terrorist activity financing.

- » Developing and maintaining money laundering compliance training programs for casino employees and agents.
- » Establishing and documenting a review of the casino's policies and procedures, risk assessment and training program every two years by an internal or external auditor.

Category 7. Compliance and enforcement

7.1. Which instruments provided for by national legislation allowing the national authorities to supervise and enforce the compliance of licensees?

Austria: Section 31 of the Gambling Act states that the Minister of Finance has to supervise the licensee's compliance with Austrian law and any decisions rendered applicable to the licensee. To this end the Minister of Finance can inspect the licensee's books and documents and is allowed to enter the casino's premises at all times.

Denmark: According to Section 46 of the Act on Gambling the Gambling Authority supervises the compliance of land-based casinos with the Act on Gambling and any secondary legislation in this regard. The Gambling Authority in particular has to approve the land-based casino's employees and managers and the independent controller who has to be at each land-based casino during the opening hours is an employee of the Gambling Authority. The Act on Gambling also provides for cooperation with the regulatory authority and the police, tax administration and other public national and foreign authorities for the purpose of supervision.

Regarding enforcement:

- » Section 47 of the Act on Gambling provides that without a court order and upon showing legitimate identification the regulatory authority has at any time the jurisdiction to inspect premises used by the licence holder in relation to provision and organisation of gambling activities and to inspect their technical equipment and accounting records and associated documents that may be of relevance to the inspection, no matter if these are available as hardcopy or in electronic form.
- » The regulatory authority may order the licence holder to disclose information about the gambling activities and request submission of certain material.
- » Third party suppliers of equipment used for the provision of gambling activities shall provide the regulatory authority with information regarding their deliveries to the licence holders covered by the Act on Gambling.
- » Fines may apply in case a licence holder infringes certain provisions of the Act of Gambling. The licence may be revoked and voided, too.

With reference to the Danish Gambling Authority employee at casinos, the Authority's Annual Report for 2013 noted that:

"An employee from the Danish Gambling Authority is present during the casino's full opening hours, having

supervisory responsibilities that include ensuring that the counting of the casino's cash, chips and cards complies with the rules applying.

In 2013 we continued working on a project launched in 2012 designed to assess the current supervision of the land-based casinos. The main focus of the project is to explore whether future casino supervision can be more expediently organised in terms of use of resources and technological advances in the field. The project will continue in 2014."

United Kingdom: The Gambling Act 2005 at Section 27 authorises the Gambling Commission to assess compliance:

The Commission may undertake activities for the purpose of assessing—
 (a) compliance with provision made by or by virtue of this Act;
 (b) whether an offence is being committed under or by virtue of this Act.

At Section 303 of the Gambling Act 2005 the Gambling Commission can designate enforcement officers. Moreover, the LCCP provides (which are authorised by Section 24 of the Gambling Act 2005) the framework for the Gambling Commission to stipulate expected codes of conduct and conditions through which casino operates. The Money Laundering Regulations 2007 as amended provide for compliance to anti-money laundering rules, in addition to the LCCP.

Local authorities and police are also be involved in enforcement actions.

Switzerland: Article 48 (3) of the Federal Law on Games of Chance and Gaming Houses stipulates that the board carrying out its regulatory tasks can request the necessary information and documents, use experts, issue particular orders to the independent auditor, establish online connection to the equipment of casinos and to submit a complaint at the Federal Supreme Court against the decisions of the Federal Administrative Court regarding the application of the gambling law and the related secondary legislation.

Article 49 stipulates that the Gaming Board and the administrative and criminal prosecution authorities of the cantons support each others' work and provide each other the necessary information in regards to gambling supervision.

Article 120 of the Executive Ordinance on Games of Chance and Gaming Houses outlines the supervisory

powers of the Federal Gaming Board, which include the right to request business records, documents and information, check the technical equipment and the control and monitoring systems, conduct tests, undertake protective measures, issue confiscation orders and to suspend the operation of table games, gaming machines and jackpot systems. The board can also make use of the help of experts.

Article 51 stipulates that if the licensee contravenes the concession or a legally binding order to its own advantage, it shall be debited with an amount up to three times the profit made through the breach. If there is no profit or it cannot be determined, the fine is up to 20 percent of gross gaming revenues in the last financial year.

Canada: Casinos are required to record and report electronic transfers to the Financial Transactions and Reports Analysis Centre (FINTRAC) when they are for the transfer of C\$10,000 or more outside Canada. These reports must include the name, address and account or reference number of the person who requested the transfer.

Another requirement is the undertaking of risk assessment procedures by casino operators regarding the integrity of their financial systems. Cooperation with money laundering and terrorist financing intelligence-sharing among enforcement agencies is also required.

7.2. Which instruments provided for by law allowing the national authorities to supervise and enforce the national gambling legislation with regard to non-licensed operators?

Austria: According to the Gambling Act, it is an administrative offence to operate, organise, promote or to make unlicensed gambling available to Austrian players and it is punishable with a penalty of up to €22,000.

Section 168 of the Austrian Criminal Code provides that organising, or facilitating the organisation of, illegal gambling, as well as the participation in it as a regular source of income, can be punished with imprisonment of up to six months or a fine.

Denmark: Section 59 of the Act on Gambling states that anyone who intentionally or by gross negligence provides, organises or promotes gambling activities in Denmark without a licence shall be liable to a fine or imprisonment. Section 65 of the Act on Gambling provides that the transmission of payments of stakes and winnings to and from an illegal provider of gambling activities as well as transmission of information via a communication network to an illegal gambling system is not permitted.

In pursuance of Section 203 of the Criminal Code it is a criminal offence to make a living by gambling or betting of

a similar nature for which a licence has not been granted or by promoting such gambling, regardless of whether such gambling takes place in private or in a public place.

In pursuance of Section 204 of the Criminal Code it is a criminal offence to provide accommodation for or make arrangements for gambling in a public place when a licence has not been obtained for such gambling.

The provision in this Section 204 is not limited to the commercial provision of games, which is the case for Section 203. Participation in gambling for which a licence has not been obtained is a punishable offence. Gambling and betting of a similar nature mean traditional gambling for not entirely insignificant economic values, the outcome of which is almost solely a matter of chance and for which a stake is payable to participate.

The explanatory notes to the Act on Gambling further state that in order to maintain an effective protection of the legal gambling market, the Gambling Authority is required to continuously monitor the gambling market and take initiatives in stopping the provision of or giving of publicity to illegal games through recommendations and reports to the police.

United Kingdom: The Gambling Act 2005, Section 33, provides that it is an offence for a person to be providing gambling facilities in Great Britain without a relevant licence, permit, notice, or exemption included under the Act. Further, Section 37 of the Act, states that it is an offence to be using premises to provide gambling facilities from, or causing them to be provided, without a relevant licence under the Act.

Switzerland: Article 50 of the Federal Law on Games of Chance and Gaming Houses provides that in case the provisions of the law are violated the Federal Gaming Board takes all necessary steps to remedy the situation. It may order provisional measures for the time of the investigation; in particular it may suspend the licence. The board may intervene in the operation of a casino if it is necessary.

If an enforceable order of the board is not fulfilled despite a previous warning, the board can execute the ordered action itself at the expense of the casino or publicly announce that the casino opposes the enforceable order. Article 55 of the Federal Law on Games of Chance and Gaming Houses stipulates that it is punishable with imprisonment of up to one year or with a fine of up to CHF1m to purposely to operate a casino without a licence, to get a licence by providing false information or in other fraudulent manner, who contravenes his due diligence obligations related to money laundering and who evades taxes. These penalties can be increased in grave cases, to up to five years imprisonment in a so called 'Zuchthaus', which is a stricter type of prison in Switzerland or at least one year imprisonment. The amount of the penalty can be

raised to up to CHF2m. In the case of negligence, only a fine of up to CHF500, 000 is applicable.

Article 56 provides for custody or a fine of up to CHF500,000 (In cases of negligence the fine is up to CHF250 000) for those, who:

- » Organises gambling outside of licensed casinos.
- » During a licensing process or when seeking permission submits untrue information and influences the procedure this way.
- » Puts gaming machines or gaming systems into operation without the assessment of their compliance and permission.
- » Fails to notify the board on something, although it would be their obligation.
- » Ignores the request of the board to remedy a violation.
- » Lets people play, who are subject to exclusion.
- » Informs persons or third parties that a message to the supervisory authorities or the competent law enforcement authorities has been sent or an investigation has been initiated (tipping off).
- » Through false statements or another fraudulent way cause an incorrect assessment of the gambling tax.

Canada: Section 206(1) of the Criminal Code of Canada defines illegal gambling.

On August 5, 2010, the Canadian government adopted regulations to give police and prosecutors additional powers to shut down illegal gaming venues as well as clamp down on illegal bookmaking. The regulations, put in place by the Conservative government in August 2010, are not formal amendments to the Criminal Code but cabinet-level decrees which can be adopted when parliament is not in session. Attorney General Rob Nicholson stated that the rules were needed because criminals were benefiting from a number of loopholes that made their prosecution difficult and costly. Among the new gambling offenses considered serious crimes are:

- » Keeping a common gaming or betting house.
- » Betting, pool-selling and bookmaking.
- » Committing offenses in relation to lotteries and games of chance.
- » Cheating while playing a game or in holding the stakes for a game or in betting.

7.3. Are these enforcement measures successful?

Austria: There are no public indices to address this, however, in a Mutual Evaluation Report for Austria's anti-money laundering regime published in 2009 it was noted that suspicious transaction reports for casinos from 2004-2007 totalled four. This was the second lowest of the Designated Non-Financial Business or Professions in the evaluation (second only to accountants).

Denmark: There are no figures available on the Danish black market for land-based casinos. However, in its 2013 Annual Report the Danish Gambling Authority noted that:

"If we look at the conformity with regulations, we are pleased that we continue to estimate the illegal gambling market in Denmark to be of a modest size... [O]verall, the Act is fitting, necessary and proportionate in terms of meeting the above objectives to combat problem gambling and abuse of gambling for money laundering, fraud or other criminal activities."

United Kingdom: In its 2013/2014 annual review the Gambling Commission noted that it made over 140 referrals regarding suspected illegal activities to relevant licensing authorities for action as well as multi-agency operations regarding illegal gaming machines.

An example of recent multi-agency enforcement was that of Big Bluff Poker. This resulted in a conviction in June 2014 and involved a local authority's Licensing Enforcement and Trading Standards Teams, the Gambling Commission and the Metropolitan Police. The Gambling Commission's director of regulatory operations, said of the case that:

"This is an excellent example of how a local authority with Gambling Commission support is dealing with illegal gambling in whatever guise it is presented."

Switzerland: In its 2013 Annual Report the Federal Gaming Board noted that gambling operations in casinos became more compliant in recent years, a reason being due to the installation of high definition cameras.

The board also reported that a case is currently ongoing and is pending before the Federal Supreme Court, with respect to action against a casino for allegedly failing in protecting a player. In the case a casino is challenging a CHF5m fine, which the board imposed on a casino for not excluding a player who was clearly gambling above his means.

Canada: There are no public indices to address this, however, in a report on Money Laundering and Terrorist Financing Typologies and Trends in Canadian Casinos, it was observed that the casino sector (over 2008-2009) was used in cases of money laundering / terrorist financing purposes in 20 percent of the cases. This compares with 95 percent of cases involving financial institutions, 35 percent involving money services businesses, 15 percent trust companies, 12 percent law firms, four percent internet payment systems and one percent prepaid card services (note: different sectors can be used at the same time).



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