



**Legislation and regulation of new forms of gambling**  
**“Interactive/Remote gambling”**  
**“Pioneered enforcement and regulations”**

**PRESENTED TO GRAF CONFERENCE BY**  
**EDWARD LALUMBE**  
**CHIEF OPERATING OFFICER**  
**GAUTENG GAMBLING BOARD**

## **PRESENTATION OUTLINE**

- 1 REGULATORY APPROACHES TO INTERACTIVE GAMBLING**
- 2 CURRENT STATUS IN SOUTH AFRICA**
- 3 EFFECTIVENESS OF INTERACTIVE GAMBLING BAN IN SA**
- 4 ONLINE KEY RISKS AND REGULATORY CONTROLS**
- 5 CONCLUSION**

## REGULATORY APPROACHES

There are three policy approaches adopted internationally towards interactive or remote gambling namely:

- Prohibition
- Regulation
- Wait and see

The justification generally offered for prohibition fall into three broad categories:

- **Sovereignty Protection**

Each jurisdiction has its own carefully crafted policy on gambling which takes into account the moral, legal and economic considerations that will best address the needs and desires of its population.

- **Consumer and public protection**

Interactive gambling involving casino – style games is not and cannot be controlled to the same degree as gambling within real, brick and mortar casinos.

- **Economic protection**

Interactive gambling competes unfairly with real gambling businesses because it is not locally regulated or taxed. It also creates no local economic benefits, simply siphoning of profits and leaving all resulting social problems to be addressed by others.

## **CURRENT STATUS IN SOUTH AFRICA**

- **Many South African residents already use online gambling services despite statutory prohibition and restrictions.**
- **It is estimated that the size of the industry runs into millions if not billions in South African rands.**
- **The Gauteng Gambling Board during September 2011 won a landmark case against Casino Enterprise (Pty) Ltd trading as Piggs Peak Casino wherein the Supreme Court of Appeal finally clarified the jurisdiction of online gambling transactions in South Africa.**
- **Because of work around such as e-wallets (essentially a payment processor situated between banks and gambling sites), phone based deposits and prepaid credit cards, very few South African based gamblers are not inconvenienced from using their funds for gambling purposes.**
- **Most gamblers are either unaware of the prohibition and many are regularly guided by unregulated online gambling sites towards financial mechanisms so that they can make deposits.**
- **On 23 April 2014 a private member's remote gambling bill was published for comment (introduced by Geordian Gwyn Hill-Lewis).**

## **EFFECTIVENESS OF SOUTH AFRICAN BAN ON INTERACTIVE GAMBLING**

- **The net effect is that South Africa's attempt to prohibit online gambling has instead pushed it offshore.**
- **Sites are regularly available to South African residents through essentially borderless medium of the internet.**
- **The current status results in South Africa being in an unfortunate position of:**
  - ✓ **Incurring all the social costs related to South African residents' online gambling;**
  - ✓ **Exercising no jurisdiction or control over the gaming sites that serve South African residents;**
  - ✓ **Being unable to offer South African residents who choose to gamble on overseas sites any consumer protection or to implement any other harm-reducing strategies; and**
  - ✓ **Being unable to qualify industry participants or even exclude criminal groups from competing for South African based customers.**

# RISKS AND REGULATORY CONTROLS

## ▪ Gambling by minors

- ✓ **Risks:** The primary concern is that underage access to use of online gambling services might increase because it may be difficult to verify age and replicate controls used by bricks and mortar casinos to exclude minors.
- ✓ **Control:** There are several categories of technologies for verifying the age of adults including, registrant's credentials against public databases such as credit reports and criminal history or even biometrics. Examples of technologies includes:
  - Aristotle Inc, a technology consulting firm, produces an identity-and age-verification service called Integrity: which uses a database of government-issued identification to verify age;
  - LexisNexis and its advanced linking technology combines real time access to billions of public records compiled from thousands of public and proprietary sources that can be used to verify age and identity of individuals.
  - Michigan's Liquor Control Commission has approved a "knowledge based authentication" tool for age verification. This online tool develops questions that only the specific individual would know answers to and checks the answers against public records.
  - The Nova Scotia Gaming Corporation (NSGC) commissioned and distributed BetStopper, which is a software program designed to help parents prevent children from visiting online gambling websites.

## **RISKS AND REGULATORY CONTROLS**

- **Defrauding of consumers by site operators**
  - ✓ **Risks: Gambling websites, which deal with large amounts of money in a virtual setting, have the potential for fraudulent activity and unfair dealings. These can take the form of unlicensed gambling websites that either refuse to return customers' deposits or operate unfair games, modeling of the fraudulent website after a licensed site to siphon players from the more reputable operator and insiders within reputable websites and exploit inside information to cheat players without the knowledge of the larger organisation.**

## RISKS AND REGULATORY CONTROLS

### ▪ Defrauding of consumers by site operators - continued

✓ **Controls:** Most regulatory regimes address the issue of operator fraud. For example:

- The Gambling Control Commission of Alderney, a Channel Island, requires sites to have “provisions enabling the customer to address complaints and disputes to an independent body.”
- The Isle of Man, require site operators to maintain either financial reserves or a bond to ensure that players are paid their winnings.
- Antigua’s and Barbuda’s regulations require a site operator to maintain “investments that have a market value ... of not less than the aggregate amount of all its outstanding prizes and monies held on account for players”.
- The British Gambling Commission sets forth rules governing licensed gambling website operators, including one that requires that licensees (1) inform customers as to whether their funds are protected in the event of insolvency and (2) “be able to provide evidence to the [UK Gambling] Commission, if required, showing how they satisfied themselves that their terms are not unfair.”
- Tasmania’s regulator sets technical standards and uses independent accredited testers to verify compliance before approving new software, and for some types of operations also requires that player funds be held in a trust for the protection of players.
- Gibraltar’s regulator requires licensees to have strong internal controls and also requires independent testing of gambling software to ensure integrity

## RISKS AND REGULATORY CONTROLS

### ▪ **Cheating or defrauding by other players**

- ✓ **Risks:** A simpler form of cheating involves collusion on online poker tables, in which two or more players work together to share information to gain an unfair advantage over unsuspecting players. Another example includes where a person uses multiple accounts to enter a tournament as two or more different players and gather information in a similar way to collusion.
- ✓ **Controls:**
  - Operators can utilise technology to store and analyse data to enable detection of cheating and collusion by players or anomalous betting patterns.
  - Operator site terms and conditions often explicitly preclude potentially fraudulent behaviours.
  - Regulators may require operators to have detailed procedures for handling customer complaints and disputes and also have arrangements for disputes to be referred to an independent third party.

### ▪ **Money laundering by players**

- ✓ **Risks:** A major concern of law enforcement authorities is money laundering facilitated by online gambling. The process entails three stages namely placement stage been the first entry of illegal money into financial institution or the retail economy. The layering stage consisting of activities meant to hide the trail of money (transfer of money among multiple entities) and the integrated stage being the process when illegal funds are reintroduced into the economy to appear as though they were legitimate.

## RISKS AND REGULATORY CONTROLS

### ✓ Controls:

- **Anti-money laundering regime for interactive gambling may be modeled on the current regulatory structure for traditional bricks and mortar, for example, (1) use of technology for the preservation of audit trail and analyses; (2) implementation of customer identification standards; (3) controls to prevent anonymous structure transactions; (4) establishment of an anti-money laundering programme; (5) training of all appropriate personnel; (6) compliance with all relevant anti-money laundering requirements.**
- **Alderney requires operators of online gambling websites to implement business risks assessments, customer due diligence procedures, monitoring of transactions and other activity, suspicious activity reporting procedures, employee screening and training procedures, and record-keeping procedures.**
- **The South African Parliament has enacted the Financial Intelligence Centre Act, to detect money laundering. Under this Act, all reporting institutions are required to implement prescribed procedures aimed at dealing with the incidents of money laundering.**

## **RISKS AND REGULATORY CONTROLS**

- **Involvement of organised crime in gambling operations**
  - ✓ **Risks:** Casino gambling in which nearly all transactions are in cash, is particularly susceptible to skimming, in which profits are removed by the owners or other insiders before being declared.
  - ✓ **Controls:** In bricks-and-mortar casinos, background checks and verification for site operators and employees are standard procedures in most jurisdictions. Applicants must prove their financial stability and integrity; the financial integrity of their investors or backers; their good character, honesty, and integrity; and their business ability and casino experience. They must also submit to a criminal background check. Each casino employee must obtain a valid casino employee licence, which involves providing his or her name, address, and fingerprints; and consent to a criminal background check. These controls can be replicated in an interactive environment.

## **RISKS AND REGULATORY CONTROLS**

- **Problem gambling**

- ✓ **Risk:** Problem gambling is a term without a specific definition that refers to the fact that some individuals who gamble do so irresponsibly and damage or disrupt personal, financial, or social pursuits. Policy makers have expressed concerns of fear that legalisation of online gambling incidence by facilitation of; (1) unlimited access and availability of gambling platforms; (2) anonymity, which would allow gamblers to participate without fear of stigma; (3) gambling under the influence; (4) decreased perception of value of money; and (5) isolation.
- ✓ **Controls:** It is commonly believed that the current legal restrictions on online gambling have deterred would-be gamblers from engaging in the interactive version of gambling. It can be argued that the lifting of the prohibition itself is unlikely to have any significant impact on would-be gamblers' willingness to gamble online because the absence of any enforcement against online gamblers may have diluted the deterrent effect of legal restrictions on would-be gamblers.

## RISKS AND REGULATORY CONTROLS

- **Violation of jurisdictional restrictions or prohibitions**
  - ✓ **Risk:** Key concern of some policymakers is the ability of regulated online gambling sites to adhere to various jurisdictional restrictions and prohibitions. Specifically the ability to preclude gambling website operators from operating from, or serving customers within, specific states or territories.
  - ✓ **Control: Geolocation technology:** It entails using “internet infrastructure information to determine the geographic location of Internet Protocol (IP) addresses associated with Internet-connected devices.” When an Internet user types website address into a Web browser, the browser sends an access request to the server of the requested website. This request reveals the IP address of the user, which the requested website forwards to a geolocation provider. Public-source geolocation data can often identify the location of IP addresses at country, state, and even city levels.

## RISKS AND REGULATORY CONTROLS

- **Breaches of data confidentiality**

- ✓ **Risk:** One of the challenges for a regulator is to ensure that personal information is used only for legitimate purposes and is not disseminated or accessed improperly. Online gambling websites often hold personal and confidential information of their customers, including credit card and bank accounts numbers, names, addresses, and other sensitive information.
- ✓ **Control:** The key technologies for gambling websites security are the same as those used by other on-line merchants. These include (1) network firewalls on isolate databases, administrative systems, and development systems from the Internet, (2) high-quality servers with up-to-date security patches, (3) a system over the Internet, (4) secure database and transactional software, and (5) the use of secure, encrypted protocols for communications between users and the gambling website.

## **CONCLUSION**

- **Legislative restrictions have failed to prevent South African gamblers from engaging in online gambling. Rather, those restrictions have led to additional business for interactive gambling operators beyond the regulatory reach of South Africa.**
- **The current environment lacks responsible gaming features and safeguards offered to gamblers and limits publicly funded resources to educate the populace about problem gambling.**
- **The regulators should be able to design sufficient protections to prevent any significant growth in problem gambling that results from legalisation.**