AN ASSESSMENT OF THE ONLINE GAMBLING MARKET IN IRELAND AND ITS IMPACT ON GOOD CAUSES FUNDING BY THE NATIONAL LOTTERY

A Report Prepared for Key Stakeholders

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BACKGROUND

While Ireland has a strong affinity to and culture of gambling going back many generations, the Irish gambling sector has been transformed significantly with the advent of e-commerce and the passing of the Betting (Amendment) Act in 2015, which licensed legalised online gambling.

Growth in the sector was driven by the strong economic growth experienced during the Celtic Tiger period. The increase in gambling activity via all channels was stimulated by progressive tax policies and a liberal licensing regime with a lack of regulatory infrastructure, relying instead on operators applying the same level of regulatory obligations as required under license in other jurisdictions.

The recession that commenced in 2008 brought challenges across all aspects of Irish society. The emergence of a number of high-profile problem gambling cases in the ten years since has resulted in a clear change in the overall public and political sentiment towards the gambling industry. Leaving aside the key reasons for a significant regulatory overhaul, not least to address the whole area around problem gambling, from an economic perspective, it is important not to lose sight of the overall value and opportunity offered by the sector within a fit-for-purpose, modern regulatory framework.

To understand these opportunities and the industry in general, this study will examine a number of key areas;

1) Overview of the Irish gambling market
2) Switching the focus – moving from domestic regulation challenges to global economic opportunities for the Irish market
3) The protection of good causes funding associated with the National Lottery

This study, commissioned by European Lotto Betting Association (ELBA) members Lottoland and myLotto24, will examine in detail the Irish online gambling market and the opportunities and challenges that it faces in the future.

KEY FINDINGS

1. The outdated nature of the regulatory regime applicable to online gambling has meant a sizeable historic loss to the Exchequer in additional taxation and licensing income. It has also been the key contributing factor to issues arising in the domestic Irish market, in particular concerns around the scale of problem gambling in Ireland.

2. The increase in betting tax in the recent Budget 2019, without the delivery of the much-needed regulatory overhaul due with the introduction of the Gambling Control Bill, now directly undermines the new investment and economic growth opportunity for the Irish economy that the recent opening of the US Sports Betting market created. The proposed introduction of a new regulatory and licensing framework presents an important opportunity to correct this by allowing the Gross Profits Tax (GPT) for Betting Intermediaries to be extended to all gambling types, aligning the Irish market with the leading licensing jurisdictions in the EU and globally.

3. The generation of important funding for good causes via the National Lottery is a key output of the gambling industry in Ireland, with €226 million generated in 2017. Despite claims to the contrary, there remains no data-based evidence that the recent introduction of online lottery betting or the long-term existence of lottery betting via retail bookmakers presents any threat to these funds, either currently or into the foreseeable future. In 2017, the total draw-based betting turnover of the three leading online lottery betting companies active in Ireland accounted for a mere 0.25 percent of the €559 million draw-based turnover delivered by Premier Lotteries Ireland (PLI). Increased competition in the digital channel is in fact essential to ensure PLI increase their investment and focus in this channel, to close the significant gap that still exists in digital sales versus retail (6.5 percent in Ireland in 2017 v 19.5 percent in the UK), in order to ensure long term stability in the funding delivered for good causes from the National Lottery license.

4. A review of the full range of factors impacting the level of good causes funding generated by the National Lottery highlights the materiality of the strategy and operations of the incumbent license holder. There has been a 16 percent drop in good causes funding from €268 million in 2008 to €226 million in 2017. The change in the treatment of unclaimed prizes as part of the terms of the last license application process is arguably the most critical development in this area. Based on information shared at Oireachtas Committee level in April 2018, up to 2 percent of retail sales or potentially up to €15 million gets returned to PLI annually, offsetting marketing costs and allowing the operator to heavily consolidate its already dominant position in the promotion of its gambling offering across the Irish market. This clear change in terms, diverting the unclaimed prizes which previously would have gone back into the prize funds of future draws back to the operator themselves, is a very different approach to the UK where all prizes unclaimed after 180 days are ringfenced for the Good Causes Fund. This highlights the critical

importance of ensuring that the National Lottery and all licensed gambling operators in the Irish market are fully and fairly regulated under the one modern, fit-for-purpose regulatory framework, to ensure the principles of fairness, transparency and competition are preserved, for the direct benefit of the consumer.

1. OVERVIEW OF THE IRISH GAMBLING MARKET

The modern Irish gambling industry is a multi-billion Euro industry, providing significant employment and tax revenues to the Exchequer. The industry, which covers an ever-increasing range of activities, has evolved under the current outdated legislation that cover;

i. Physical Casino Games & Lotteries excluding the National Lottery - Gaming and Lotteries Act 1956 to 2013
ii. National Lottery - National Lottery Act 2013
iii. Tote Ireland - Totaliser Act 1929
iv. Off Course Bookmakers – Betting Act 1931
v. On Course Bookmakers - Irish Horseracing Industry Act, 1994
vi. Remote Bookmakers – Betting Amendment Act 2015

The responsibility for the regulation of the wider industry is similarly disjointed, with various Government Departments, the National Lottery Regulator's Office and a number of State/Semi-State bodies all playing an active role in aspects of this work.

The varying approach to regulatory and reporting obligations has meant that a consolidated view on size and value of the whole Irish gambling market is hard to come by. Some licensed areas including the on-course betting market, retail bookmaking and the remote betting sector are readily available via the industry data produced and published by the relevant authorities. For other areas, such as online gaming, the private members clubs (effectively casinos) sector and the wider amusement gaming machine market, we are reliant on the estimated market information produced by trade associations and specialist global gaming research agencies such as Gambling Compliance and H2 Gaming Capital.

According to the latest data published by the Tax Working Group[i], tax receipts from betting grew by 3 percent year-on-year in 2017 to €52.2 million. This can be broken down as follows;

Tax receipts from betting grew by 3 percent year-on-year in 2017 to €52.2m	
Category	**Split by category**
Remote betting duty (includes online, mobile & telephone betting)	41%
Traditional off-course betting via licensed betting shops	55%
Betting exchanges (such as market leaders Betfair and Betdaq)	4%

Gambling Compliance, as part of their recently published insight paper on the Irish market[ii], estimated that '*the consolidated betting turnover in Ireland, excluding betting exchanges, reached €5.04bn in 2017, while revenue from betting exchanges settled at €12.3m*.' It was also estimated that remote betting turnover reached €2.14bn in 2017, with a gross gaming yield of circa €214 million based on an assumed industry margin of 10 percent.

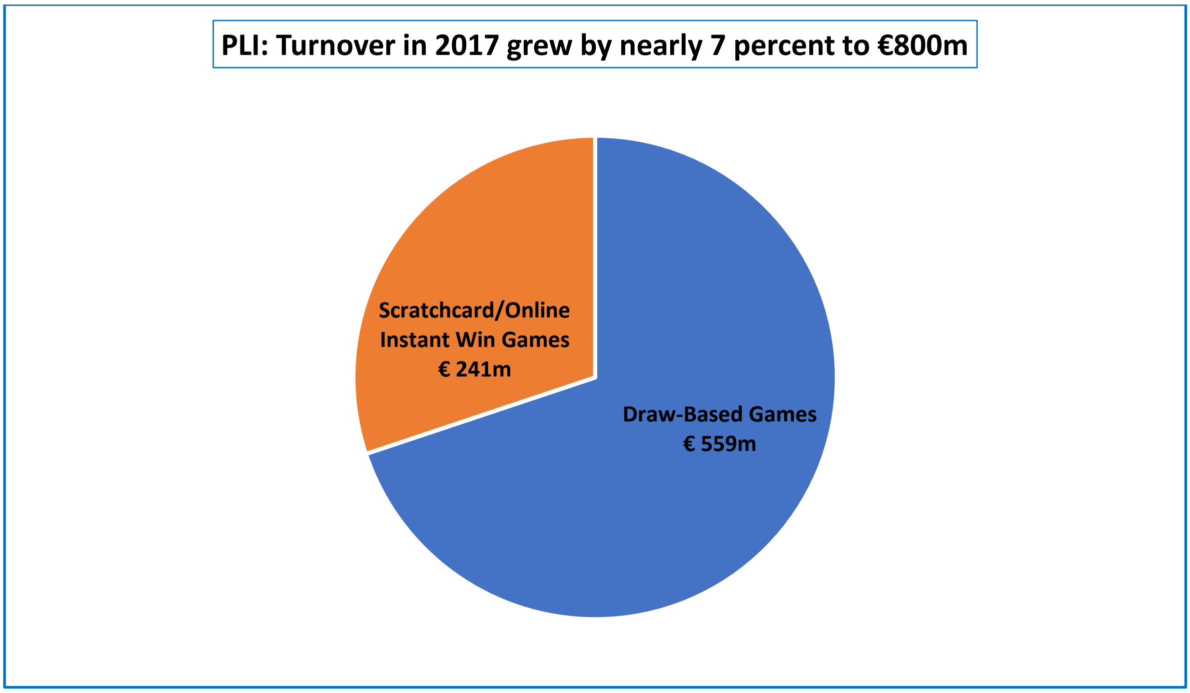
Interestingly, Gambling Compliance also revealed that this would place Ireland as the 'largest regulated online betting market in Europe on a population-adjusted basis, with remote betting GGR per capita of €44.50 comparing with an equivalent €34.40 in the UK, Europe's largest and most mature online market.'

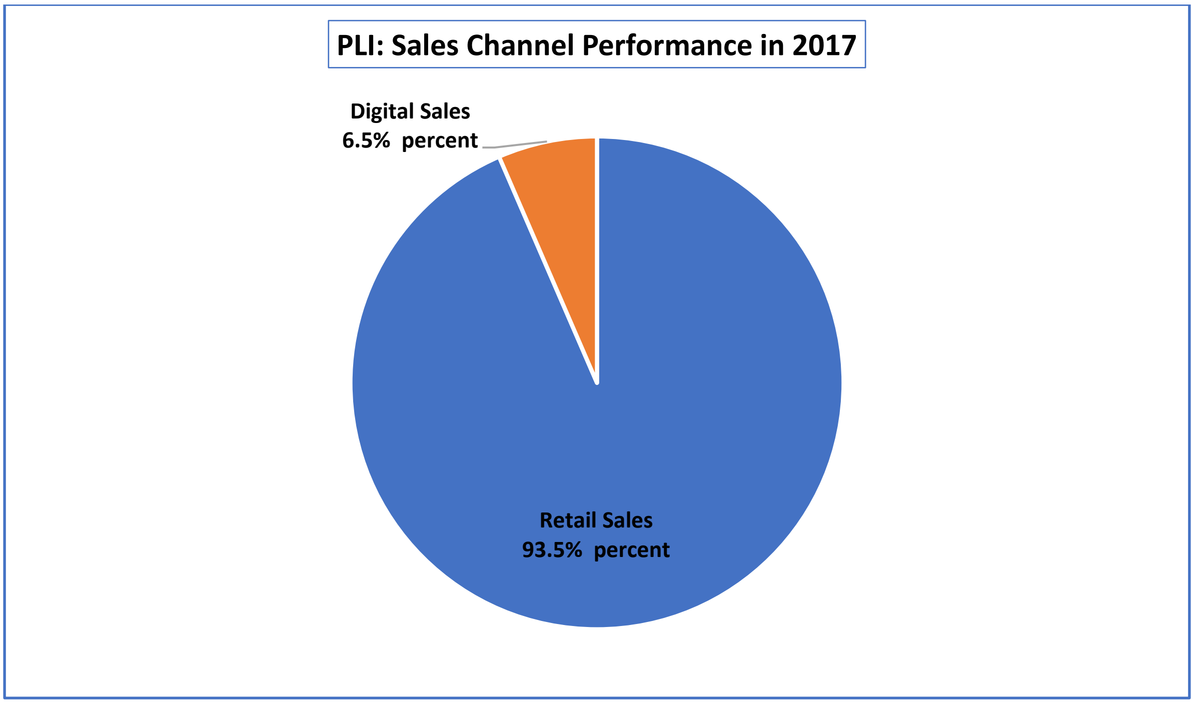
Meanwhile, based on data published by Horse Racing Ireland in their annual factbook[iii], total on-course betting turnover was €171 million in 2017, up year-on-year for the fourth year in a row. The negative impact of the economic crash is illustrated by the fact that even this positive growth lags by nearly 40 percent behind the peak in this sector of €282 million in 2007. Tote betting, largely driven by the on-racecourse retail outlets, accounted for 57 percent of the 2017 on-course total, with traditional rails bookmakers and on-course betting shops contributing the remaining 43 percent.

The on-course market and its economic output is particularly vulnerable to the vagaries of weather with the first half of 2018 providing a timely reminder of this factor when total on-course betting turnover dropped by nearly 11 percent year-on-year due to a spate of race meeting cancellations.

In July 2018, the Irish Independent revealed key information regarding the large amusement and gaming machine market in Ireland based on Department of Finance released data[iv], showing that 9,612 gaming machine licenses were issued in 2017 (up from 6,088 in 2016 due to a crackdown on unlicensed vendors). The license increase resulted in €2.7 million in excise revenue in 2017, a 50 percent uplift compared to the €1.8m collected in 2016. The size of the gaming machine market segment is not publicly available but based on UK Gambling Commission statistics for the period 2014-2017[v], and the assumption by the Gaming & Leisure Association that Irish gaming machines deliver 50 percent of the gross gaming yield of their UK equivalents[vi] (€7,380 v €14,761), the market size could be as big as €70m in annual gross gaming revenues.

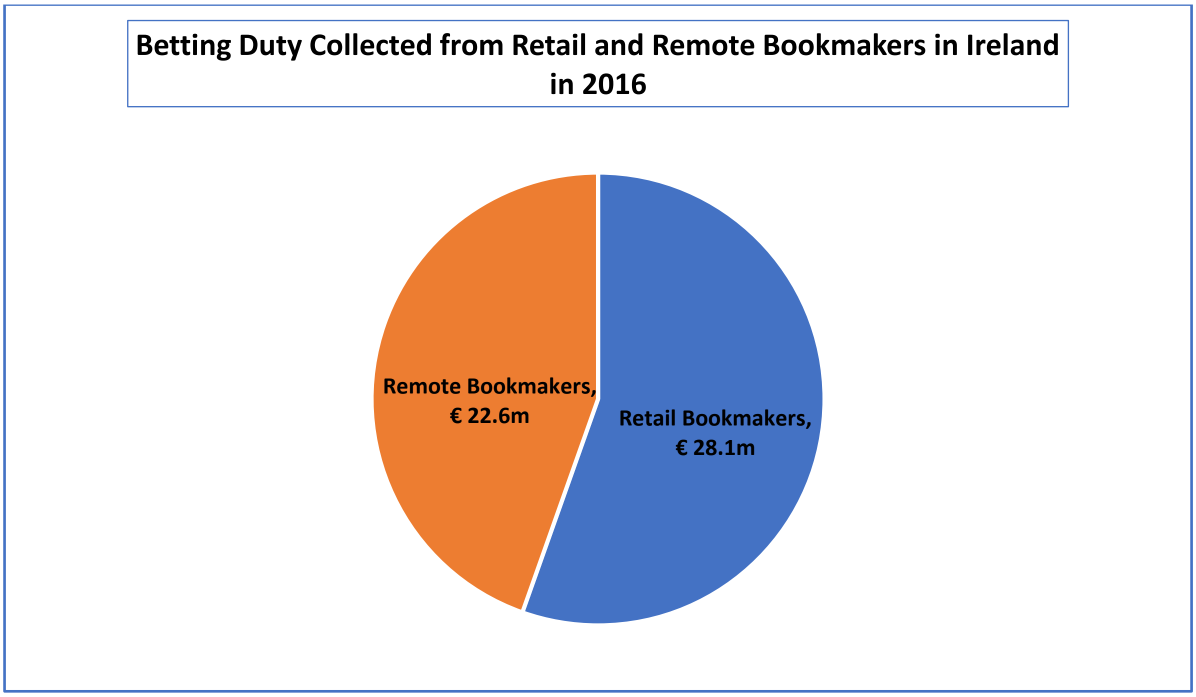
In terms of the National Lottery, according to figures shared by the National Lottery Regulator when speaking to the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach in April 2018[vii], Premier Lotteries Ireland saw their turnover grow by nearly 7 percent to €800 million in 2017, with sales for draw-based games at €559 million and scratchcard/online instant win games sales at €241 million. This performance represented the largest growth in 10 years, reported as part of the 2016 figures. In terms of channel performance, 93.5 percent of sales in 2017 were via retail, with 6.5 percent via digital. The increased number of retail outlets (5,780 at the end of 2017 versus 3,700 when the license started 4 years ago, a 56 percent increase in retail footprint) has been a feature or the PLI strategy since they took over the license and is the key driver of this split.





On the funding of good causes, over €226 million was generated in 2017, up from €218.9 million in 2016 and €193.3 million in 2015. The expectation from the then Minister for Public Expenditure and Reform Brendan Howlin TD on the announcement of the successful licensing bid by PLI was that the funding of good causes could be grown from its then level of €235 million to upwards of €300 million[viii] but unless there has been a dramatic change in 2018, this target remains quite a distance away from being delivered.

For 2016, with a betting duty net receipt of €50.7 million, the size of the retail and remote betting industry in Ireland can be estimated at about €5.07 billion[ix].)



Betting Duty Collected from Retail and Remote Bookmakers in Ireland in 2016
Remote Bookmakers, € 22.6m
Retail Bookmakers, € 28.1m

2. SWITCHING THE FOCUS – MOVING FROM DOMESTIC REGULATORY CHALLENGES TO GLOBAL ECONOMIC OPPORTUNITIES

The current negative political and public sentiment with respect to gambling is in large part connected to long term Government inaction in this area and needs resolving with fresh legislation as soon as possible. The lightning rod in recent times for much of this backlash has been Paddy Power, who's rapid growth, and at one time exemplary commercial success, has been a double-edged sword for Ireland and Irish society. On the one hand, the story of Paddy Power showed what could be achieved where a smart, ambitious executive team married cultural aptitude and a 'go getter' attitude, with smart technology, creative genius and operational excellence. On the other hand, the lack of regulatory controls has created the prevailing conditions for escalated, if unquantified, levels of problem gambling as highlighted by a number of high-profile individual cases.

This understandable change in sentiment towards gambling in Ireland may have its justifiable reasons but the key requirement at this stage is to stabilise the situation with the delivery of the required regulatory framework. The introduction of the expected National Social Fund, if delivered in a transparent and properly resourced way, can ensure the necessary research and monitoring around problem gambling, directing the resulting funds to optimum effect in addressing the issues at hand. The effective licensing of operators and the development of coherent codes of practice around advertising, sponsorship and marketing of gambling can also deliver a sustainable, responsible market in the best interests of the consumer, the State and the operators.

Also, importantly, separating the domestic issues associated with regulatory inaction from the latest global economic opportunity in the development of Ireland as a hub for online gambling, possibly the 'Silicon Valley' of online betting, is crucial.

Back in May, the long-awaited liberalisation of the US sports betting market began, with the U.S. Supreme Court enabling individual states to introduce legislation allowing sports betting by striking down the Professional and Amateur Sports Provision Act 1992 (PASPA) that had essentially prohibited it. The resulting market opening, which Gambling Compliance estimate could be worth between US$2-5.8 billion annually in gross gambling revenues over the next five to seven years[x], has seen a huge interest focussed on the US by the leading European and global sports betting operators, including Paddy Power Betfair, who made a strong strategic statement of intent by purchasing leading daily fantasy draft brand Fan Duel in a deal valued at $465 million.

According to the previously published 'Economic Assessment of a Regulated Casino Gaming Sector' report by the Gaming and Leisure Association of Ireland, the value of the global market is currently estimated at €44 billion, growing to €150 billion by 2020. By capturing 5 percent of this market, Ireland's share could be worth €2.2 billion, growing to €7.5 billion by 2020.

The advantages for Ireland are heavily aligned to our overall attractiveness for foreign direct investment (FDI), with the track record of the IDA allied to the key USPs of the Irish market including a competitive corporation tax regime, a skilled workforce, EU membership, English language and once delivered, a modern, fit-for-purpose regulatory framework. Globally, gambling is a growth industry, with a strong overlap of other key focus areas such as technology and financial services, helping Ireland to further diversify our very concentrated economic model.

In particular, with the unique positioning of Ireland in terms of FDI from US companies, particularly companies such as Facebook and others that will be the main drivers in the adoption of online sports betting in the US, the opportunities for Ireland to become a global leading hub for online gambling are significant. If Ireland does not, then a more agile jurisdiction will, with existing hubs in the Caribbean (Curacao), Europe (Malta) and even Asia (Macau) all likely to move quickly to grab first mover advantage in this multi-billion euro opportunity.

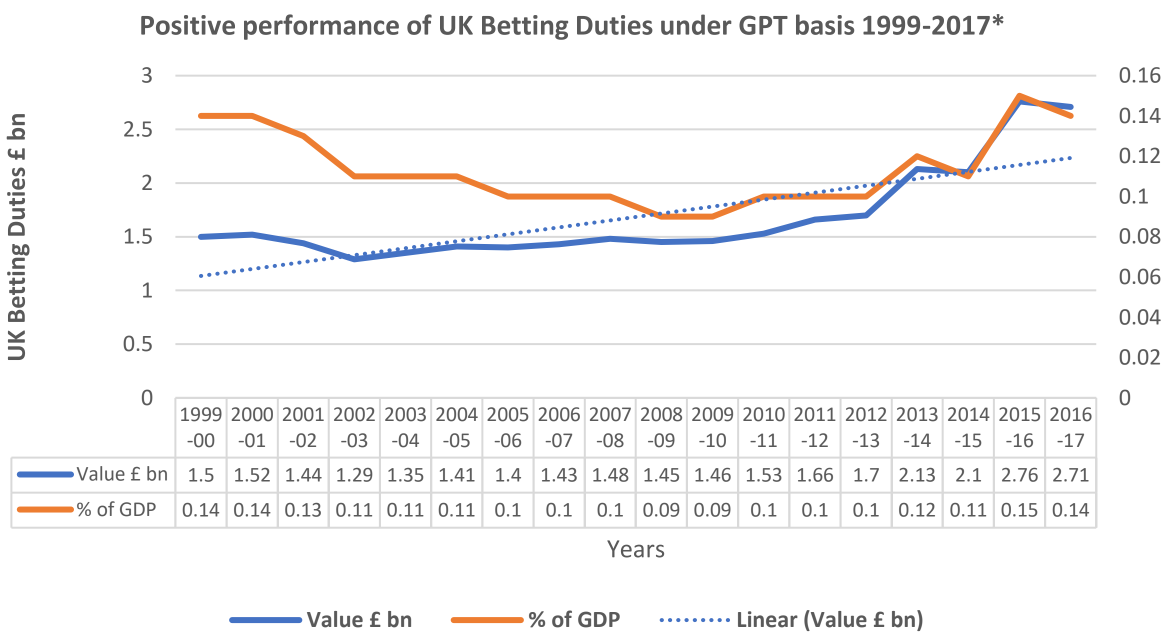
However, we've been here before, and a review of submissions to the Department of Justice back as far as 2009 present clear evidence to the lack of traction gained by the highlighting of such opportunities in the past. The recently announced increase in betting tax as part of Budget19 (from 1 to 2 percent turnover tax and 15 percent to 25 percent for betting intermediaries) seems a likely regressive economic measure, posing a real risk to the opportunity for global investment in the sector. Based on the political soundings on the matter, the increase was driven by a motivation to address problem gambling in the market but with the heads of the 2013 Gambling Control Bill suggesting that 0.1 percent of industry turnover should be directed to this a Social Fund, the question is what is the rest of the tax increase intended to be used for?

Aside from the clearly negative signals it sends internationally to potential investors in Ireland, serious questions must be asked about whether such a move will deliver the straight-line doubling in betting duties, from €53.3m in 2018 to €103m in 2019, predicted by both the Working Tax Group and the Budget itself. A report produced by economist Colm McCarthy on behalf of the Alliance for Racing and Breeding likewise predicted this outcome but the modelling for this was based on industry margins of between 10 to 15 percent (making the previous 1 percent turnover tax the equivalent of a 7-10 percent gross profits tax). However, this simply doesn't equate to the margins being achieved by the leading operators who drive the vast majority of the duties in the industry.

In their 2017 Annual Report, Paddy Power Betfair reported online sportsbook margin of 7 percent (up from 6.6 percent in 2016) and retail sportsbook margin of 12.4 percent (up from 11.6 percent in 2016). Meanwhile, the biggest online sportsbook licensed in Ireland, Bet365, reported £2 billion in revenues on a £46 billion turnover in filed accounts covering the 12-month period to 31 March 2017, giving them a 4.3 percent margin in their digital only business. Based on that margin, the doubling of the betting tax to 2 percent would be the equivalent of a 45 percent gross profits tax, making this one of the least competitive tax regimes in Europe. It is not difficult to see a scenario prevail where some of the current Remote Bookmaker licensed brands decide not to renew their license, significantly reducing the betting duties delivered in this sector and creating a whole new compliance headache, with associated costs, for the Revenue Commissioners. Add in the predicted independent betting shop closures and expected turnover-suppressing marketing cuts by the leading retail brands, and one would have to question how much of the targeted €103m tax take for 2019 actually materialises.

The question here is what can be done if this tax decision does prove to be fundamentally flawed, not only in its objectives for the domestic market but also in its implications for the economic opportunity to be exploited globally? The simple answer is provided by the UK precedent, where the adoption of gross profits tax (GPT) has allowed the Government there to effectively tax the wider industry and its products in all their forms. This has not been without its challenges, with the prevailing tax rate for different products needing modification over time to ensure a balance between competitiveness for the industry operators and productiveness for the Exchequer.

The below graph, from UK Office of Budgetary Responsibility[xi], illustrates the positive performance of UK betting duties in the nearly 20 years since the introduction of the GPR tax model. As Professor Leighton Vaughan Williams, a leading UK academic in the study of gambling markets, observed in his analysis paper 'Tax Policy in the UK: An examination of the implications of Betting Tax reforms for the Taxation of UK Equity Markets', the benefits of the GPT approach are clear and proven, with "*a theoretical modelling of the taxation of betting showing that under reasonable assumptions, a shift from a tax on turnover to a tax on margins leads to greater allocative efficiency, more economic welfare, and will lead to increased output and lower prices.*"



	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Value £ bn	1.5	1.52	1.44	1.29	1.35	1.41	1.4	1.43	1.48	1.45	1.46	1.53	1.66	1.7	2.13	2.1	2.76	2.71
% of GDP	0.14	0.14	0.13	0.11	0.11	0.11	0.1	0.1	0.1	0.09	0.09	0.1	0.1	0.1	0.12	0.11	0.15	0.14

Following the 2003 UK Budget, a full evaluation report of the new tax was published by HM Customs & Excise entitled "The modernisation of gambling taxes: a report on the evaluation of the gross profits tax on betting" in May 2003, concluding that "reform of betting tax is a big success … the new gross profits tax has been proven as more effective, fair and sustainable than the previous regime."

The proposed introduction of the Gambling Control Bill will give the relevant Government Departments the opportunity to robustly review the implications of the recent tax increase and look at the best way to ensure that smart long-term tax policy delivers the best possible return for Ireland in the long term.

3. THE PROTECTION OF GOOD CAUSES FUNDING ASSOCIATED WITH THE NATIONAL LOTTERY

The National Lottery was launched in Ireland with the passing of the National Lottery Act 1986, with one of the primary objectives being the raising of funds for good causes.

Boosts to the National Lottery's popularity over the years came from new draw nights, promotions, products such as the EuroMillions and changes to the format.

The peak financial performance of the National Lottery came in 2008[xii] when total sales reached €840 million.

Breakdown of National Lottery total sales (€840m) in 2008 by product category		
Category	Sales (€)	% Sales
Lotto Games	€501.7m	59.7%
Scratchcards	€170.3m	20.3%
EuroMillions	€142.1m	16.9%
Other Games (including Millionaire Raffle and Monday Million)	€26.1m	3.1%

The numbers of players also peaked with an estimated 2.3 million players (over 65 percent of the adult population), who played exclusively through a network of 3,675 retailers, as the National Lottery's digital offering remained yet to launch until 2009.

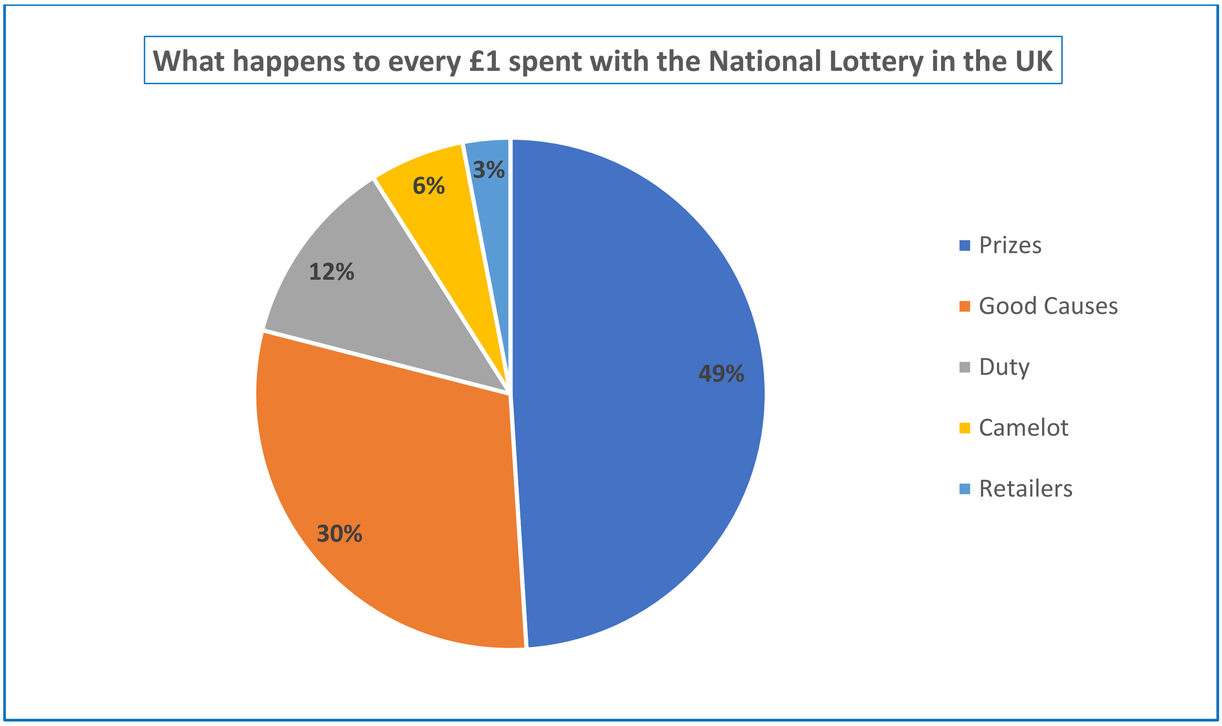
In 2011, it was decided that the National Lottery license would be included in a list of state assets that could be sold to offset pressures on the public finances. By May 2013, the Government had enacted the National Lottery Act 2013 to allow for the sale of the National Lottery license, providing for the establishment of a new independent lottery regulator, and eliminate some restrictions on Internet gambling to allow for the growth of online lottery sales. The bidding process was concluded in early 2014, when a new provider Premier Lotteries Ireland (PLI) was successful in securing the 20-year term license for a reported sum of €405 million. PLI is a consortium made up of majority shareholders, the Ontario Teachers' Pension Plan (owner of the Camelot Group, operators of the UK National Lottery), plus minority shareholders in the form of An Post and An Post Pension Funds.

As reported widely at the time of the deal announcement, the expectation was that approximately 50 percent of the €405 million generated would go towards the building of the new National Children's Hospital, with the Minister for Public Expenditure and Reform Brendan Howlin TD quoted as saying, "*We have a new operator that brings together valuable domestic expertise together with international experience. I think Premier Lotteries will grow the business in a responsible manner and we can look forward to a greater annual* *revenue stream for good causes*.” The Minister indicated in his press briefings that he believed that the funding for good causes could be grown from its then level of €235 million in 2014 to €300 million within five years as the new operator began to address a previously restricted online channel (with only 2.6 percent of sales as per the 2014 National Lottery annual report, the last annual report published publicly on the relevant section of their website https://www.lottery.ie/about/annual-reports).

Since the awarding of the new license, the financial performance of the National Lottery has hit an upward curve, driven by an aggressive retail expansion focussed strategy, ongoing marketing investment and two major price increases, delivered by PLI, the first in September 2015 (the first in 9 years[xiii]) when the Lotto main draw was changed to add two numbers and increase the minimum play by €1 to €4 plus more recently with the changes to the price of the Lotto Plus games in September 2018[xiv]. From the baseline of the 2013 sales performance of €635 million, the new license holder has now achieved total sales of €800 million in 2017, a 20.6 percent growth in four years. This has seen the negative sales trend from 2008 to 2013 reversed, stabilising overall performance and the funding of good causes. The performance of the digital channel improved to 6.5 percent or €52 million in 2017, up from 2.6 percent or €16.2 million for the 11-month reporting period in 2014. This, however, is a far cry from the predicted target of 15 percent of sales by 2019 that the then MD of Camelot Global Services, Alex Kovach, told the Irish Times[xv] on launching the new license in February 2014 and even further behind the 19.5 percent of sales delivered by the UK National Lottery in 2017.

In terms of global comparisons, apart from the digital sales under-indexing, the financial performance of the National Lottery in Ireland compares favourably to other major markets on a per capita basis. The World Lottery Association, an industry body representing regulated lottery operators globally across 148 full (including PLI) and 74 associate members, announced total global revenues of US$273bn in 2016, with US$80bn raised for good causes[xvi]. The closest comparable market for national lottery performance is the UK, where the National Audit Office published a report in December 2017[xvii] that gave a detailed overview of the recent performance of the Camelot (100 percent owned by the Ontario Teachers' Pension Plan[xviii]) operated license there.

The key findings showed a sales slump in 2016, with gross sales down 9 percent from £7.595 billion to £6.925 billion, which had a knock on impact on the amount of good causes funding generated (down 15 percent to £1.633bn). The possible reasons cited in the report for this dip included “…*consumers’ reaction to recent changes to Lottery games, increased competition and consumers moving away from playing draw-based games*.” Interestingly, the commercial strategy being delivered by operators Camelot since 2009 had seen the company’s profits increase (from £39 million to £71 million or 122 percent) proportionately greater than the respective increases in both Lottery sales (up 27 percent) and returns for good causes (up 2 percent).



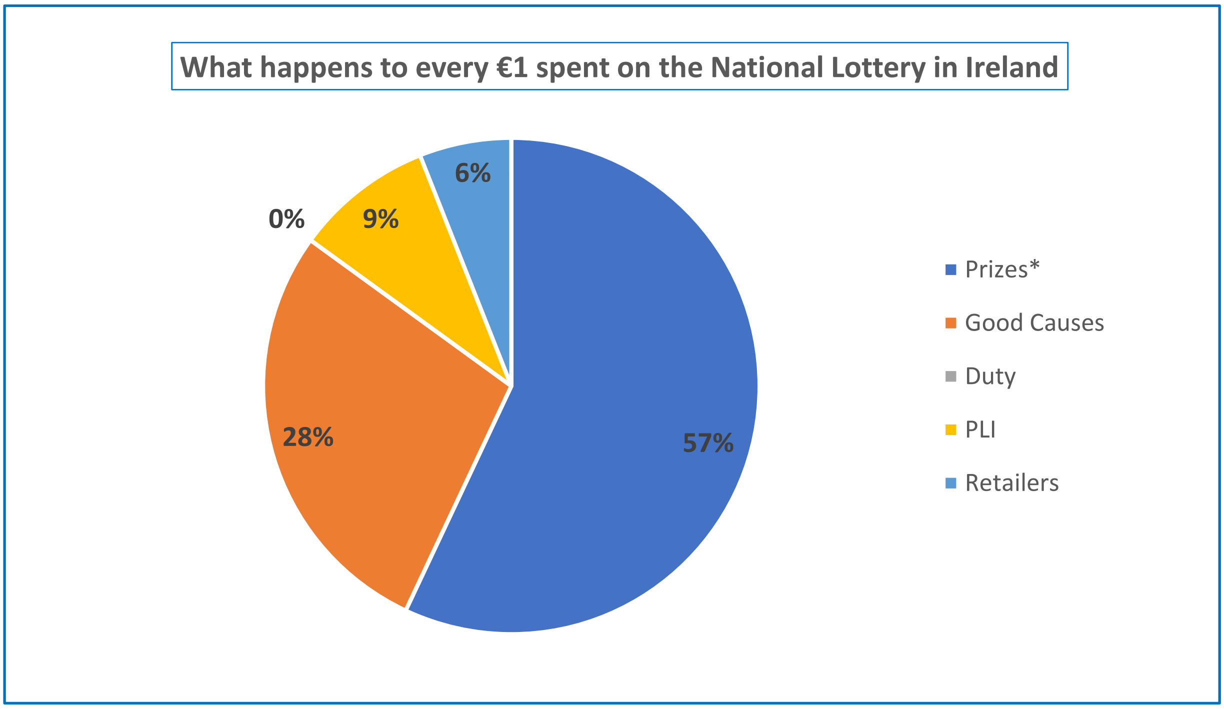


Figure 1 – Comparison of the split of £1 v €1 spent on the respective National Lotteries in the UK and Ireland (sources UK National Audit Office report https://www.nao.org.uk/wp-content/uploads/2017/12/Investigation-National-Lottery-funding-for-good-causes-.pdf & PLI's LinkedIn account https://www.linkedin.com/feed/update/urn:li:activity:6451357303550676992) .

**The prizes percentage for Ireland includes the unclaimed prizes from the retail channel that return to PLI as part of the license terms, which based on estimates discussed in the April 2018 Overview of Operations of the National Lottery: Discussion of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach could be worth as much as €15m per annum*

As outlined previously, Premier Lotteries Ireland delivered good causes funding of €226 million in 2017, up from €219 million in 2016 but down from a high of €268 million in 2008. However, this remains a significant and valuable source of charitable funding in the Irish market, with over €5 billion raised since the inception of the National Lottery. Under the terms of the license, prizes must, on average across the portfolio of national lottery games, be at least 50 percent of sales. The amount allocated to good causes is 65 percent of the difference between sales after free ticket prizes and retailer's commission, and prizes.

PLI drive significant national and regional PR coverage from the awarding of funding from these good causes monies, with particular visibility and cut through coming from the backing of a huge number of grassroots club capital grant projects. Quite where this will sit long term in light of the GAA Congress vote in February 2018[xix] that saw the passing of Motion 1 prohibiting "*the sponsorship by a betting company of any competition, team, playing gear or facility*" remains to be seen.

PLI launched the National Good Causes Awards in July 2018, inviting applications from across 7 categories (Sport, Health and Well Being, Arts/Culture, Heritage, Community, Youth Affairs & Irish Language), with each category winner receiving €10,000 and the overall Good Cause of the Year will receive an additional €25,000 prize at the inaugural Gala Awards Dinner in November[xx].

Given the past fluctuations in the level of good causes funding in Ireland and the stagnation of the levels in the UK, the long term securing of this money is a serious concern for all stakeholders. With the overdue but now impending overhaul of the gambling regulatory infrastructure in Ireland, there are some specific areas that require assessment in terms of their impact on the future of good causes funding, including;

- <u>Competition</u>

PLI have been aggressively lobbying political stakeholders and the media[xxi] in the last 12 months regarding what they argue is the serious threat of online lottery betting companies such as ELBA members Lottoland and myLotto24 to not only PLI's commercial position but also the funding of good causes.

These companies offer betting markets on the outcomes of a wide variety of global national lottery draws including the Irish Lotto and EuroMillions, as well as the major global lottery draws US PowerBall and MegaMillions plus proprietary draws such as Bitcoin Lottery and Lottoland's own WorldMillions. Whilst there has been a tradition since the late 1990's in Ireland of the major bookmaking brands offering betting markets on lotteries via their retail shops and more recently online offerings (with no significant public objection from the National Lottery license holder[xxii]), the difference in the new lottery betting offering is that through new risk management capabilities (including traditional insurance and insurance linked securities (ILS) or physical hedging backed by institutional investors) these new operators can now match the payout values at the highest jackpot prize tier levels of a range of global draws. The recent example of a German customer winning a Guinness World Record online gaming payout of €90 million on Lottoland's EuroJackpot product in June 2018[xxiii] is a case in point.

A number of notable, if unsubstantiated, claims have been made by PLI in relation to the new wave of lottery betting operators.

- *PLI claim that there are 15 operators currently active in the Irish market* – based on the latest list of licensed Remote Bookmakers available on the Revenue Commissioners' website[xxiv], there are only 6 licensed online lottery betting operators;

  License #1014315 - Jinni Lotto
  License #1011284 – Lottoland
  License #1012916 – Jackpot.com
  License #1012552 – MultiLotto
  License #1011839 – myLotto24
  License #1012449 – Annexio

- *PLI claim that cannibalisation of up to 20 percent has occurred in other lottery markets* - based on 2017 figures provided by the three leading European Lotto Betting Association (ELBA) members licensed and active in Ireland (Lottoland, myLotto24 and lottogo.com), the total draw-based betting turnover for this group was €1.4 million, 0.25 percent of the €559 million draw-based sales turnover delivered by PLI in 2017. This is despite being active and, according to PLI media comments, aggressively marketing to the national lottery target base. In addition, Lottoland has gone public with the fact that they have yet to exceed 0.5 percent of the sales of the respective National Lotteries in the UK or Australia. As part of the Department for Digital, Culture, Media & Sport (DCMS) consultation on the impact of lottery betting in the UK, an Econometric Analysis report produced by a leading financial research company on behalf of Lottoland, showed that "*the number of bets placed on EuroMillions by UK customers at Lottoland, Lottoland's advertising expenditure, it's formal entry to the market in 2015 and offering of enhanced EuroMillions prizes have had no statistically significant effect on UK EuroMillions ticket sales*".

In fact, the long-term presence of these operators should actually have a beneficial impact on the overall market and on the funding of good causes by creating more competition, choice and innovation in what is effectively a market dominated by a monopolist. PLI effectively has a virtual monopoly in the market and is regulated by its own regulator, which is funded by a levy paid by PLI.

The classical theory of monopoly power is that monopolists operate a product of limited or diminishing returns to the market and charge a higher price than in a market where proper competition exists. The State took a view back in 1986 that it desired a monopoly situation and despite some indirect competition creeping in via the lottery betting offered via betting shops, this is the situation that has been largely maintained with the awarding of the current 20-year license.

However much this new indirect online competition causes angst for PLI, there is no evidence-based data or legal principle for a legitimately licensed Remote Betting operator to be restricted in their offering of lottery betting any more than sports or political betting. It is true that there is a finite customer spending power on gambling in the Irish market but this has always been the case and despite the overall competition for the consumer spend, PLI have performed strongly in the 3 reported years since they began operating the license, delivering strong sales growth by aggressively leveraging the much-loved brand via heavy media investment, focussing on rapidly growing an already strong retail presence and shrewdly investing the proceeds of the unclaimed prizes in the retail channel which came from the changes in the licensing process.

However, one must return to the fact that on all existing evidence-based data from Ireland and other key markets, there is no proof that online lottery betting materially damages the funding of good causes. Sue Owen, Permanent Secretary at DCMS, who spoke at the UK's Public Accounts Committee into declining National Lottery Funding[xxv], clearly stated that very little impact has been shown to have been made to the National Lottery in the UK by both the advent of online betting on lottery operators and the competition from society lotteries combined.

As outlined previously, the context in the Irish market is unique with the existence of a mature and well-established lottery betting culture in retail bookmaking shops, while the clear Irish and EU competition law principles involved and the simple irrefutable fact, shown in other areas of the Irish economy, that competition, particularly in the online space, is really important to create and maintain a healthy functioning market.

It is noted that Deputy Jim O'Callaghan FF recently published a National Lottery (Protection of Central Fund) Bill 2018[xxvi] that is currently before Dáil Éireann, at First Stage and has called for the implementation of a ban on the taking of bets on Lottery games. In the supporting memorandum for the Bill, it argues that "*Such prohibition is proportionate and reasonable in light of the public interest in preserving and protecting the Lottery Fund. Consequently, it is not an unreasonable or disproportionate restriction on any constitutional rights of bookmakers to offer bets on certain events.*" This action would represent a clearly anti-competitive measure, with as yet no evidence-based data supporting the claim that the Lottery Fund is in jeopardy from the licensed betting on lottery activity in retail or online. That is not to say that there aren't other issues that pose a real threat to good causes funding that need proper investigation but proportionately, transparency and fairness should be the guiding principles governing such proposed legislation.

The advent of online lottery betting operators, however small in size, should drive healthy competition and force all operators, even indirect monopolies within a different part of the same sector, to behave differently. The best outcome would be for increased competition to drive product and marketing innovation, competitive pricing, operational efficiency, a stronger online presence, and ultimately deliver an enhanced offering to an engaged and satisfied consumer across the entire gambling market. Healthy competition should actually improve the efficiency of the national lottery operator in the digital channel, accelerating the effort needed to get closer to the UK levels of digital sales (19.5 percent), in a genuine bid to secure the long-term stability of the funding of good causes rather than 'betting the house' on the short-term profiteering offered by saturating an already heavily leveraged retail market.

- Economic Outlook

Clearly the prevailing economic conditions will have a direct impact on the performance of all sectors of the economy, with the National Lottery and the funding of good causes unlikely to avoid a buffeting in what appear to be troublesome times to come. With the as yet unknown form or specific impacts of Brexit, the ever-climbing economic pressures in the Dublin market and more general prevailing bearish market dynamics internationally, one can reasonably expect consumer sentiment and spending to take a hit in the not-to-distant-future. The National Lottery, under its previous license holder rebounded from its Celtic Tiger struggles to reach a peak sales performance at the height of the last recession in 2008 and this would tend to point to a more economically resilient business model than most. The big difference this time around would be in the digital channel, where consumer behaviour is more transient, loyalty is less likely and external pressures from banks and lending institutions are more likely to count against regular online gamblers, even those supporting the National Lottery through regular play.

- PLI's commercial strategy

By the end of 2016, PLI had racked up losses of over €60 million despite its operating margin in Ireland hitting 14.3 percent, up from 7.3 percent in 2015. The operating margin of UK National Lottery in 2017 was only 8.6 percent by comparison. In terms of business strategy, PLI have laid their cards out pretty clearly in the first four years of operation – maximise margin by an aggressive retail-first expansion, deliver price increases as and when possible, deliver a base level of good causes funding with increased PR coverage and maintain a competitive, if secondary, focus on growing digital activity. The irony of the fanfare that PLI attempted to make around the recent Lotto Plus price changes and increased chances of winning is that a major beneficiary of this with be PLI themselves with all unclaimed prizes in the National Lottery's ever-increasing retail network (having added Lidl Stores to the network in 2018[xxvii]) returning to PLI where it is unclear how much goes into marketing or simply gets absorbed into their bottom line.

The treatment of unclaimed prize money has changed under the license granted to PLI. Representatives from the regulator's office speaking at the Overview of Operations of the National Lottery: Discussion in front of the Joint Committee on Finance, Public Expenditure and Reform in April 2018[xxviii]confirmed that before the 2014 license was granted, all unclaimed prizes were ring-fenced and went directly into topping up jackpots, but this has changed since 2014. Under Clause 692 of the current license, three uses to which the unclaimed monies may be put are specified. Some shall be used for the purposes of top-up or additional prizes, some may be used for incremental marketing, and some may be used for other methods of promoting the national lottery as agreed with the regulator.

The operator is obliged to submit an unspecified base marketing budget to the regulator every year, and any additional marketing is described as incremental marketing and this can be paid out of unclaimed prizes.

The Chairperson of the Oireachtas Committee cited evidence from the previous operator that up to 2 percent of sales ended up as unclaimed prizes. Over the lifetime of the 20-year license, if the sales channels mix remained unchanged, this could amount to over €320 million, covering a large chunk of the initial licensing cost paid. However, given the likely reduction of the retail channel-based sales over the full license term, it is clear that the primary benefits of this licensing condition will be front loaded, especially when aligned with the retail expansion and pricing increases seen during the term to date. This money could be put towards the promotion and marketing budget, making it unavailable for good causes and would give the operator a very strong competitive advantage in the marketplace.

The Regulator argued that marketing brought increased business, which in turn provided more resources for the good causes funded by the Lottery. But this argument is circular and dubious with, on balance, it appearing clear that both prize money and the funding of good causes has suffered as a result of the current treatment of unclaimed prize monies. In the UK, National Lottery players have 180 days to claim prizes on winning tickets, after which the prize money is donated to the Good Causes fund.

There are no unclaimed prizes in the digital channel. This gives another source of unfair advantage to PLI's operations.

APPENDIX

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[xv] As per ix
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