MEMORANDUM ON THE REGULATORY IMPACT ANALYSIS OF THE MINISTERIAL ORDER APPROVING THE BASIC REGULATIONS ON SLOT MACHINES.

EXECUTIVE SUMMARY

Proposing Ministry/Body	Ministry of Finance and Public Administrations.	**Date**	21/07/2014
Name of the regulation	Ministerial Order approving the basic regulations on slot machines.		
Type of Memorandum	Normal ☐ Abbreviated ☒		
PROPOSAL IN QUESTION			
Circumstances regulated	Requirement for prior regulation of this type of gambling as regards its development and operation, in addition to awarding individual licences as set out under Article 11 of Law 13/2011, the Gambling Regulation Act.		
Objectives pursued	Establish the basic regulations on slot machines. Facilitate the awarding of the corresponding individual licence. Open the market to various operators. Protect participants and public interests affected by gambling activities. Revitalise the market.		
Main alternatives considered	----------------------		
CONTENT AND LEGAL ANALYSIS			
Type of regulation	Ministerial Order.		
Structure of the regulation	Four chapters, fifteen articles and three final provisions.		

Reports compiled and compliance sought	- National Markets and Competition Commission. - Ministry of Health, Social Services and Equality. - Directorate-General of Financing, Taxation and Gambling of the Ministry of Finance and Public Administration of the Regional Government of Andalusia. - Directorate-General for Taxation and Gambling of the Department of Economy and Knowledge of the Regional Government of Catalonia. - Directorate-General for Taxation of the Ministry of Finance and Public Administration. - State Secretariat for Finance. - State Secretariat for Budgets and Expenditure - State Secretariat for Public Administration. - Undersecretariat of Finance and Public Administration. - Technical Secretariat General of the Ministry of Finance and Public Administration.	
Hearing proceedings	Public consultation via the Ministry of Finance and Public Administration website.	
IMPACT ANALYSIS		
ADJUSTMENT TO THE ORDER OF POWERS	It does not affect the scope of powers of the Autonomous Communities as it regulates the authorisation and use of remote (or telematic) slot machines at a national level.	
ECONOMIC AND BUDGETARY IMPACT	Impact on the economy in general.	Positive impact, allowing for the exploitation of a type of gambling that is currently unauthorised. No notable negative impact on similar traditional gaming activities.
	As regards competition	☐ The regulation has no significant impact on competition. ☒ The regulation has a positive impact on competition. ☐ The regulation has a negative impact on competition.

	As regards administrative burdens	☐ The regulation represents a reduction in administrative burdens. Estimated amount:___________ ☒ The regulation generates new administrative burdens. Estimated amount: ___€2,279/unit___ ☐ The regulation does not affect administrative burdens.
	As regards budgets, the regulation: ☐ Affects Central Government budgets. ■ Affects the budgets of other Territorial Administrations.	☐ Represents expenditure. ☒ Represents income. Estimated amount: Approximately €5.6 million/year Estimated amount:
GENDER IMPACT	The regulation has the following impact on gender:	☐ Negative ☒ Nil ☐ Positive
OTHER IMPACTS CONSIDERED	None.	
OTHER CONSIDERATIONS	None.	

MEMORANDUM OF THE REGULATORY IMPACT ANALYSIS OF THE DRAFT MINISTERIAL ORDER APPROVING THE BASIC REGULATIONS ON SLOT MACHINES.

1. Abbreviated memorandum

This memorandum has been created pursuant to the provisions of **Article 24.1 a) of Government Law No. 50/1997**, of 27 November and **Article 1.2 of Royal Decree No. 1083/2009**, of 3 July, which regulates the memorandum of regulatory impact analysis.

Its structure complies with the **Abbreviated Memorandum** model referred to in Article 3 of Royal Decree 1083/2009, of 3 July and Section V of the Methodology Guide for creating the memorandum of regulatory impact analysis.

The grounds on which it has been deemed unnecessary to create an ordinary memorandum, without prejudice to its scope, and on which it has been decided to create an abbreviated memorandum is that it is not considered that any scopes to which Article 2 of Royal Decree No. 1083/2009, of 3 July alludes are significantly affected, including impacts on the constitutional order regarding the distribution of powers.

2. Legal basis and legal standing of the draft

This regulatory draft is legally based on the **requirement for prior regulations** that**, in order to award individual licences for each type of gambling**, is set forth in Article 11 of Law No. 13/2011, of 27 May on gambling regulations.

The **legal standing** of the draft is regulated by Article 5 of Law No. 13/2011, of 27 May on gambling regulations, which states that the Ministry of Finance and Public Administration shall, **by Ministerial Order,** set forth **the basic regulations for the development of each type of gambling**.

This basis is reinforced by the provisions of **Article 19 of Law No. 13/2011**, of 27 May on gambling regulations, which recognises the powers of the Ministry of Finance and Public Administration as regards gambling; said instrument also establishes that the Minister of Finance and Public Administration is responsible for establishing basic regulations for each type of gambling.

Pursuant to Article 6 of **Royal Decree No. 256/2012**, of 27 January, which develops the basic organic structure of the Ministry of Finance and Public Administration, the Directorate-General for the Regulation of Gambling is responsible for the regulation, authorisation, supervision, co-ordination, control and, where applicable, sanctioning of state-wide gambling activities. The same Royal Decree, No. 256/2012, of 27 January, attributes powers as regards the regulation of gambling to the Ministry of Finance and Public Administration, namely to the State Secretariat of Finance.

As a result, **the proposing Ministry is the Ministry of Finance and Public Administration.**

3. Basis of the regulation

- **The regulation of online slot machines was not included in the earliest stage of development of Law No. 13/2011**, of 27 May, on gambling regulations. Some time after, **it was deemed appropriate to proceed with its regulation,** in light of a number of **considerations**. On the one hand, the importance of this type of gambling to the consumer. On the other, the corroboration of said importance given the significant presence of slot machines available illegally. Finally, having established the precise implications of slot machine gambling on public interest, in particular public health.

- This type of gambling has traditionally been perceived as representing the greatest risk as regards creating disorderly, compulsive or pathological consumption patterns. **However, the alternative of upholding the ban seems ineffective from a gambler protection standpoint;** this is particularly valid when considering the significance of slot machine gambling and the usual pattern of its consumption online, in addition to other environments.

- On the contrary, **permitting the use of slot machines online** would complement and increase the coherence of the regulated market, making it possible to channel both demand and offer thereto, enhancing player protection, preventing minors and self-excluded individuals from accessing this form of gambling as part of the cross-sectional policy of prevention, detection and treatment of compulsive or pathological gambling. All the above **would enable it to attain this objective on a wider scale.**

- This is the purpose of the draft Ministerial Order in question, for which gambling regulations are proposed with the same **approach and content as other neighbouring countries, such as the United Kingdom, Denmark or Italy**, where such controls have already been developed.

3.1. Context of the initiative

Law No. 13/2011, of 27 May on gambling regulations (LRJ) represents the regulatory milestone based on which state-wide gambling is regulated, particularly when offered via electronic, computer, telematic or interactive channels (hereinafter, on the Internet or online). The **purposes** of this regulation, pursuant to Article 1 of the instrument, are to guarantee the **protection of public order, fight against fraud, prevent addictive behaviour, protect the rights of minors and safeguard the rights of those participating in gambling activities.**

Said law's explanatory memorandum starts by outlining the surge in online betting and gambling as a result of the territorial limits of traditional trade relations having been surpassed. It continues by referring to the lack of appropriate regulatory instruments for responding to the questions stemming from the new market reality, making it necessary to establish mechanisms in the gaming sector that offer legal security to operators and participants in the different games; all the above must be achieved without forgetting the essential protection of minors and individuals that have voluntarily requested not to participate, in addition to the protection of public order and the prevention of money laundering and financing of terrorism.

Pursuant to the aforementioned public interest objectives, after the approval of the LRJ, **Royal Decrees on Development** were approved, one as regards the technical requirements of gambling activities[1], and another on gambling licences, permits and registers[2]. Furthermore, a series of **Ministerial Orders were approved, establishing the basic regulations for each different form of gambling**[3].

The approval of **basic regulations** for the development of each form of gambling via Ministerial Order (currently the responsibility of the Ministry of Finance and Public Administration) is **essential, pursuant to Article 5 of the LRJ, to authorise the marketing of this form of gambling in question in Spain**. Any type of non-regulated gambling will be considered forbidden.

The legalisation of slot machines (or simply, slots)[4] **accessible online was not initially considered**, without prejudice to the significant online presence of this form of gambling.

The time that has elapsed between the approval of the LRJ and the implementation of the regulated market in Spain makes it possible to assess the **impact of online gambling regulations** on the protection of public interest objectives undertaken and the dynamics of the market in general. It also makes it possible to observe the **consequences of certain forms of gambling,** online slot machines for the case in hand, **as a result of a failure to proceed with regulation**. Lastly, this period of

[1] Royal Decree 1613/2011 of 14 November, which implements Law 13/2011 of 27 May on the regulation of gambling with regard to the technical requirements of gambling activities.
[2] Royal Decree 1614/2011 of 14 November implementing Law 13/2011 of 27 May on the regulation of gambling, in regard to gambling licences, permits, and registers.
[3] In total, 12 Ministerial Orders, dated 8 November 2011.
[4] Throughout this Memorandum, the terms "online slot machines", "online slot machine gambling" or "online slots" are used interchangeably.

time has made it possible to address the results of **comparable experiences** that have recently led to the legalisation of online slots in other territories.

In order to appropriately consider these implications, the Directorate-General for the Regulation of Gambling (DGOJ) notified operators of its intention to **consider the approval of the basic regulations for online slots** (in addition to the basic regulations for exchange betting) in November 2012 and, afterwards, in February 2013[5], notifying administrations, operators, agents, associations and observers of interest to submit any comments in this respect. **As a result of this public consultation procedure, 54 responses were received**, which have been subject to analysis by the DGOJ accordingly. The responses received and the evidence and comments contained therein have contributed to the analysis of the background and the potential benefits and risks of any decision to approve regulations on this form of gambling.

After said process**, the DGOJ ended the opportunity to address these regulations in April 2013**[6]. The draft Ministerial Order (POM) in question is the result of that decision.

3.2 Importance of slot machine gambling as part of gambling via remote channels

3.2.a) Consumer perceptions and general evolution and significance of online gambling consumption

Before considering the development of these regulations, an idea of the impact of online slot machine gambling on gamblers and, more broadly, on citizens, needs to be established now that a given period of time has elapsed after the approval of the LRJ.

One way of exploring potential and real demand for this form of gambling in Spain would be analysing the **sociological group studies** carried out on online gambling in the country. Thus:

- The ***Observatory for the Protection of Online Gamblers*** output reports published by the DGOJ demonstrate a significant, growing interest in the legalisation of this kind of gambling[7]. To this end, the report drawn up in November 2013 shows that 40% of those surveyed were in favour of regulation of this form of gambling; in April of the same year, the percentage of those surveyed in favour of regulation was 35%.

- The latest ***Report on the Social Perception of Games of Chance in Spain***, published by the Institute of Politics and Governance at Universidad Carlos III in February 2013, cites the percentage of online slots users in the

[5] Statement of 13 February 2013. http://www.ordenacionjuego.es/es/art-regulacion-nuevos-juegos .
[6] Statement of 19 April. http://www.ordenacionjuego.es/es/art-apuestas-cruzadas-maquinas-recreativas .
[7] Available on the DGOJ website: http://www.ordenacionjuego.es/es/estudios-informes .

3 months prior to the survey was 15.5%[8]. The Observatory Report published in November 2013 cities this figure as 9%[9].

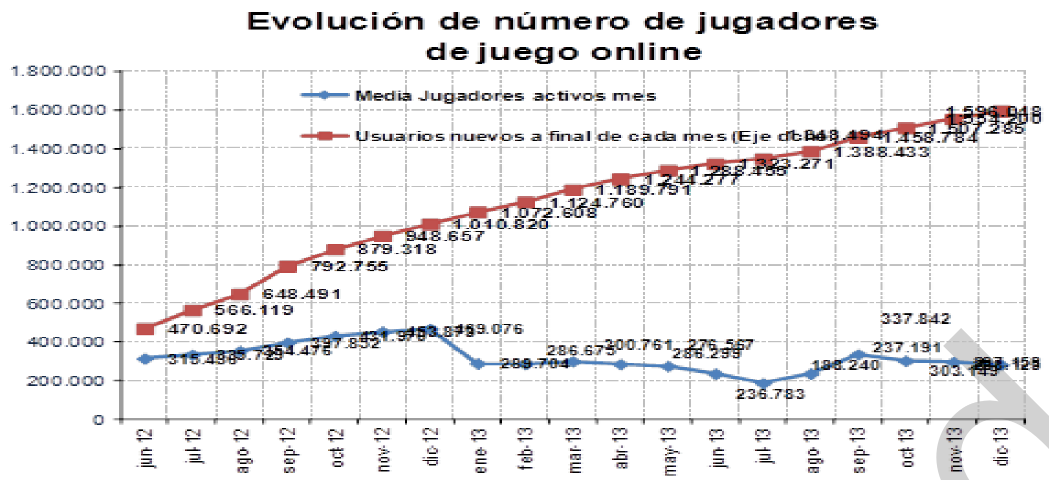
If the data above is relatively indicative of the level of interest in this form of gambling, it is also possible that, due to the sample size and attitudes of those surveyed towards a currently illegal form of gambling, the above data underestimates, to an extent, the magnitude of actual demand for this form of gambling, and that must necessarily be complemented by others.

Thus, in order to establish the number of gamblers potentially affected by legalisation of slot machines available online, it would be appropriate to set out the implications on the consumption of regulated gaming that, from a dynamic standpoint, derive from the lack of limitations on forms of gambling on offer and, in particular, the failure to regulate online slots. It is important to highlight that **the absence of online slot machines from regulated forms of gambling on offer does not encourage gamblers to use illegal slots, but could encourage such individuals to consume other forms of gambling in said environment**. Pursuant to the details provided by the aforementioned reports, online gamblers tend to participate in more than one form of gambling, sometimes simultaneously, and regard multi-gaming offers by operators as a sign of additional quality; this is particularly true of the main types of gambling (betting, poker, casino games, bingo and slots). Evidence of this in Spain can currently be seen in the fact that 25 operators currently offer 4 forms of gambling or more. The absence of one of these main variants is attractive as regards regulated types of gambling and offers a further incentive to gamblers to resort to non-regulated gambling, even preferring such an offer on a permanent basis, abandoning regulated environments.

Although this is not solely attributable to online slots, the former could be one of the causes explaining why, although a substantial number of gamblers proceed with the registration process each month, the number of active gamblers each month has decreased considerably since the third quarter of 2012 and has remained static since, as is shown in the following graph.

Graph No. 1. Evolution of the number of online gamblers: accumulated gambler registrations/active gamblers

[8] From a total of 472 individuals surveyed.
[9] From a total of 1027 individuals surveyed.



Source: DGOJ, 4th quarter of 2013.

In addition to the above, concerning an assessment of the significance of this form of gambling for consumers, including Spanish consumers, it may also be worthwhile establishing an order of magnitude regarding its **economic importance**.

Quantifying the economic importance and actual penetration of online slot machines is difficult for Spanish consumers, inasmuch as **it represents a form of gambling that is not currently permitted in Spain, and so no data is available to this end.**

Figures provided by independent international consultancy services[10], from applying estimation methodologies to establish the size of the regulated and unregulated market in other jurisdictions, cited the size of online slots in Spain in 2013 at around €60 million/year as regards GGR[11]; said figures estimate that approximately two-thirds of income from online casino gambling (including both regulated and unregulated environments) comes from online slots.

Enforcing said assumption as regards the ratio of casino games/slots in Spain, and considering the data set out in the latest Quarterly Report on Online Gambling published by the DGOJ (for the fourth quarter of 2013[12]), which states income less prizes (hereinafter GGR) of regulated casino games[13] in 2013 at €33.9 million, **an approximate annual GGR deriving from consumption of online slots,** solely to provide an idea of its possible size, **of €67 million could be made**. It is worth

[10] H2Gaming Capital.
[11] Gross Gaming Revenue (or win), income less prizes.
[12] Published on the DGOJ website.
[13] Roulette, black jack, baccarat, and additional games.

bearing in mind that these approximations aim to measure the economic impact of actual activity that would occur, even when from **unauthorised sources**[14].

In any event, a quick look at the **situation in other countries** to which this type of gambling has led and that is offered by duly licensed operators provides a more realistic approach to the economic scope of this type of gambling, **following its regulation**.

- Thus, in the **United Kingdom**, according to data published by the Gambling Commission in its 2013 annual report[15], online casino games offered by licensees accounted for 5.02% of all remote gambling in GGY[16] for the most recent year available (2012)[17]. As regards casino games, slot machines account for 59.26% of online casino games, representing a total of £24.73 million (€30.15 million) in GGR for the financial year as a whole.

- In **Italy**, online slot machines have been authorised since December 2012. Prior to their introduction, the economic significance of online casino games had levelled out at around €11-13 million/month as regards GGR. It is estimated that the inclusion of slots in the regulated portfolio of online casino games represented an increase of around 60% as regards GGR in 2013; as a result, income from casino games has since been recorded at around €19 million/month. In any case, the most reliable statistics as regards online casino games in the first months since their approval, without including possible increases that correspond to other casino games other than slot machines, provide for an increase of around 40%, as stated by the Italian regulator. This suggests that demand was channelled towards the regulated market very quickly.

- In **Denmark**, the effective provision of online slots started, along with other casino games, in January 2012. There is no public information as regards the distribution of online slots/other casino games. In any event, the GGR for casino games has consistently varied ever since between 15 and 20 million DKK (between €105 and €139 million/year)[18]. Estimating that slots account for 50% of online casino gaming, this would represent income of €50-65 million/year.

The conclusion that can be drawn from the above is that the significance of current or potential online slot machine users may be quantitatively significant in relation to

[14] It must also be noted that this methodology may underestimate actual size, as it only considers income from casino games from authorised operators to calculate the forecast base.
[15] "Industry statistics 2012-2013", published in June 2013 and available on the Gambling Commission website
[16] Gross Gaming Yield. Throughout this report, this term will be considered as interchangeable with GGR; therefore, hereinafter, reference will always be made to the latter, notwithstanding the fact that other authorities may refer to it as GGY.
[17] April 2012-March 2013.
[18] https://spillemyndigheden.dk/en/nyheder/statistik

total gaming via online channels, both as regards the number of gamers and in financial terms.

3.2.b) Illegal provision

Although the provision of this type of gambling is not currently permitted, DGOJ inspections have identified the existence of **providers, often based abroad** and usually from .com domains**, that provide online slot machine gambling to individuals located in Spain without having been granted the corresponding licence**. This type of gambling has not come about in recent years, at least not in its entirety; presumably, it dates back to the period prior to the regulation of remote gaming in 2011, facilitated by the dynamic nature of service provision on the Internet.

Assessed in its own right, said existence is not sufficient to draw significant conclusions as regards the functioning of the penalty system established in the LRJ to this end[19]. However, without prejudice to the notable difficulties deriving from the fight against illegal gambling online, which are common to other trade activities that form part of the eCommerce environment (such as intangible assets with significant intellectual property content), it does demonstrate, on the one hand, **the importance of this gambling mode, as a reflection of consumer preferences,** compared to other forms of online gambling; and, on the other, the **relevance of configuring regulated service provision to weaken and fight illegal gambling effectively.**

Thus, two years after the entry into force of the LRJ and pursuant to the data obtained by the Subdirectorate-General for Inspection at the DGOJ over the whole period as regards the operators analysed, including the preliminary proceedings phase at the start of disciplinary procedures and the disciplinary phase in itself, **77% of the websites inspected between 2012 and 2014 offered slot machine gambling**.

Furthermore, from the range of procedures that are currently in the preliminary proceedings phase, the relevance ratio of online slot machines is 93%.

3.3 Public interest implications as regards online slot machine gambling

Although the same public interest implications affect the regulation of this type of gambling and other forms of regulated gambling, such as the need to protect gamblers by means of regulation, the protection of public order by preventing fraud and money laundering or ensuring the integrity of gambling, as regards online slot machines, **public health implications are of particular importance**.

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[19] In response to said illegal provision, the LRJ sets forth an inspection and penalty system for such activities, classifying the illegal provision of gambling as a very serious infringement in Article 39.a), punishable with a fine of between €1 million and €50 million.

The most serious negative impact of gambling activities[20] is probably the generation of obsessive, compulsive and, finally, pathological consumption behaviour to which participation in this activity can lead. The fundamental cause of such behaviour is the psychological stimulation mechanics that can be generated whilst participating in such activities, disrupting the correct perception of the link between risk and compensation in some gamblers, whose volitional control over their actions decreases and they are unable to stop gambling, despite the negative economic implications which may result from this. Often, it is not only the affected party that suffers the consequences, but his/her immediate family too.

Contributions to the public consultation process started by the DGOJ in relation to this initiative, in addition to the public information procedure to which this draft order was submitted afterwards, highlight a certain level of scientific consensus as regards the fact that **the mechanics and structure of slot machine gambling**, regardless of the channel through which they are offered, make this type of gambling particularly addictive; this is attributable to the way in which behaviour develops over the course of successive games[21], its immediate nature, the cognitive distortions that it produces or the physiological activation in which it results. Said contributions also highlight a series of **social/cultural variables**, mainly true of physical slot machines, that encourage this addictive behaviour (availability, accessibility, simultaneous consumption with other substances).

These contributions even note a series of factors that could further strengthen such negative impacts of online slot machine gambling, such as favouring anonymity, the comfort offered by the environment, the ease of consuming substances and the theoretically greater level of accessibility and availability.

The generation of gambling addictions is a legitimate concern among gamblers and the public in general; this concern has been highlighted in the public information procedure carried out in relation to the Order. **Given its implications on the decision taken, obtaining actual evidence on the rate at which such phenomena occur to this end is essential**.

In this respect, it is first necessary **to clarify the genuine relevance of scientific contributions made as regards the role of online gambling**. Thus, the conclusions of various works focussing on the mechanics and other structural characteristics of this form of gambling and its relation to the generation of disorderly conduct, applicable to both physical and online forms of the game, may be relatively pacifist, notwithstanding the differences between the rate at which these behaviours occur compared to other more crosscutting causes.

[20] This is understood to include any activity involving sums of money, or items of financial value in whatever form, being risked on future and uncertain results that depend to some degree on chance, and that allow these sums to be transferred between the participants, regardless of whether the level of skill of the players is decisive in the results or they depend wholly or fundamentally on luck or chance.

[21] In particular, given its variable-ratio schedule; in other words, the reward on which behaviour depends (in this case, the prize) being activated when the subject performs a variable number of responses (sometimes twice, sometimes four times), that is not set in advance.

However, **it is not as unanimously accepted that online gambling as a phenomenon is the cause of the increase in pathological gambling issues.** Indeed, although previous works established a theoretical and empirical link between the causes of the increase in pathological gambling and online gambling[22], more recent studies rule out such a link[23]. As a result, the supposed impact of

[22] For example, Griffiths, M., Wardle, H., Orford, J., Sproston, K., & Erens, B. (2009). "*Sociodemographic correlates of Internet gambling: Findings from the 2007 British gambling prevalence survey*". CyberPsychology & Behavior, 12(2), 199–202; or McBride, J., & Derevensky, J. (2009). "Internet gambling behavior in a sample of online gamblers". *International Journal of Mental Health and Addiction*, 7(1), 149–167.

[23] For example:

- Philander, K.S. & MacKay. T. (2014): "Online gambling participation and problem gambling severity: is there a causal relationship?", *International Gambling Studies*, DOI: 10.1080/14459795.2014.893585. In this study, based on empirical regression models for statistical estimation from different data sets (with the added reliability that this implies as regards matching results in the primary and secondary series), it can be concluded that there is no causal link between online gambling and gambling disorders; furthermore, it can be stated that adequate regulation of online gambling is more effective than bans when it comes to controlling and reducing gambling disorders. Thus, on page 10 of the article, the authors state: *"The results from this study provide a strong indication that previous ideas about the relationship between online gambling participation and problem gambling severity may be misguided. When endogenous correlation in online gambling participation is corrected, participation appears to be negatively related to problem gambling severity. This is the opposite of the effect that is observed in less robust models, and is indicative of some sort of spurious relationship […]. The absence of a positive causal link between online gambling and problem gambling is an important finding for policymakers. A lack of regulatory standards has perpetuated grey-market business practices and leaves players vulnerable without appropriate consumer protection. A primary force against widespread adoption of Internet gambling has been public health concerns over problem gambling, and this study provides evidence that such behaviour should be reconsidered by policymakers*".

  Furthermore, the article queries whether the crosscutting characteristics attributable to online gaming are inherent to an increased risk of gambling disorders, making reference to the fact that some of those characteristics, such as the option of adjusting bets considered on an individual basis and general expenditure in a more precise way, the option of ending gambling sessions free from environmental conditions, or more immediate access to support materials on the topic of gambling disorders are in fact positive (page 11).

- Gainsbury, S., Russell, A., Wood, R., Hing, N., & Blaszczynski, A., (2013), "How risky is Internet gambling? A comparison of subgroups of Internet gamblers based on problem gambling status". *New Media & Society*. This study compares results between traditional and online gamblers, concluding that the main variable as regards severity of exposure to gambling is the "addition" effect of participating in several types of gambling and that the channel via which gambling is consumed is irrelevant. Thus, in the section on Risk factors for disordered Internet Gambling, the authors state: "*The 2010 British Gambling Prevalence Survey revealed those who used the Internet for multiple types of gambling were more likely to be categorised as problem gamblers compared to Internet gamblers who engaged in fewer internet gambling activities (Wardle et al., 2011). This is consistent with previous findings that versatility (or the number of gambling activities engaged in) and frequency of play are important predictors of gambling problems*".

- Likewise, Wardle, H., et al (2011) *British gambling prevalence study 2010*, identified relatively representative samples of gamblers that exclusively play online and found that none of them fell within the specifications of the problem gambler category set out under the some of the causes that facilitate addictions to online gambling should be applied with caution[24], in particular when assessing regulatory provisions as regards bans and authorisations.

Secondly, **caution must also be exerted when inferring that a specific type of gambling,** even when it involves a greater structural likeliness to generate such problems, **is the primary cause, or is relevant at all, in the generation of such problems.** Thus, recent studies have explored such links between types of gambling and the corresponding disorders, concluding that there is a lack of significance in this regard; furthermore, they suggest that there may be additional explanations to justify the generation of gambling disorders, such as the frequency and participation in different types of gambling. These causes cannot solely be attributed to online forms of gambling[25].

2010 Prevalence Survey published by the Gambling Commission. Thus, on page 11 of the aforementioned survey, the authors state: "*Those who gambled both online and in-person did so more than twice as often (163.3 days) as those who gambled 'online only' (61.5 days) or 'in-person' only (79.5 days)*".

[24] As regards the social/cultural variables, it is worth mentioning that the anonymous nature of gamblers is not comparable to the nature of gamblers using B-type machines. In a regulated online environment, gamblers are fully traceable. As regards regulated online slot machines, gamblers would have to register with a gaming operator that has been granted the perceptive authorisations. The lack of control that is typical of traditional B-type machine gambling is not applicable to online slot machines given the traceability of activities in which gamblers participate. Gaming operators will be able to track each session and game in which a user participates, and will be able to carry out research thereon; as a result, they will be able to establish individual gambling and behaviour patterns, overcoming the issue of anonymity and facilitating the detection of behavioural or pathological gambling disorders in any given individual, communicating such a conclusion to the corresponding participant.

As regards accessibility and availability, although for traditional B-type machines access is not controlled exhaustively, as regards online gambling, participants would have to undergo an identification process, providing, in addition to other factors, their age and confirmation that they are not banned from such activities prior to being provided access. Furthermore, although there is scope for a wide range of gambling options to be made available, unlike B-type machines, in slot machine gambling only somebody wishing to entertain themselves in such a way may do so; however, to do so they must first take the trouble to access their gambling platform of choice, as applicable, register themselves and pass the corresponding controls.

Finally, the extent to which elements such as the convenience of consumption or the freedom as regards elements such as the price of participation will influence gamblers remains unclear; in fact, it remains to be seen whether the impact of such factors will be positive or negative in the generation of disorderly behaviours.

[25] In addition to the articles mentioned above, for example LaPlante, D. A., Nelson, S. E., LaBrie, R. A., and Shaffer, H. J. (2011). "Disordered gambling, type of gambling and gambling involvement in the British gambling prevalence survey 2007", *The European Journal of Public Health*, 21, 532–537. This study asserts, on page 535 (concluding thoughts), that: "*The range of gambling involvement frequently is a better predictor of disordered gambling status than type of gambling. This finding is important because it represents a deviation from the tendency to focus on specific games, such as fruit/slot machines as central to gambling-related problems*".

In any case, **there is currently insufficient reliable data to empirically confirm the ability of online slot machines to generate additions, with both the type of gambling and the channel used serving as overall and distinctive characteristics**; this, at least, is applicable in the case of Spain. In future, it may well be possible to assess the impact more precisely and, in particular, specifically and independently of the global influence of new technologies on the generation and preservation of additions. This is so inasmuch as pathological consumption patterns take years to develop following society's ability to access consumption of the goods or services in question in a significant way.

To this end, it is worth noting that the reaction of **problem gambler and gambling addition associations** to the public consultation regarding the development of this regulation **did not result in a particularly negative perception or understanding** of this initiative from a pathological gambling standpoint, with only two responses having been received from such associations; only one of the two expressly stated its opposition to this type of gambling forming part of the authorised range of gaming. This reaction has been underscored during the public information procedure to which the text of the Order has been subjected.

Notwithstanding the above, **studies have been carried out in other countries on the prevalence of pathological consumption** as regards the entire group of consumers of gaming activities. In the **United Kingdom** the robustness of the methodology, scope and frequency applied is particularly noteworthy, as is the level of consolidation as regards the gambling market, including the online market, which was authorised in the 2005 Gambling Act and fully enforced in 2007. The first of these studies was carried out in 2000 with others following in 2007 and 2010[26]. Furthermore, in 2013 a specific section on gambling was included in the National Health Service survey for both England and Scotland[27].

The data gathered under said studies allow us to make number of **statements** in response to the above **regarding the impact of slots and online gambling on the identification and prevention of problem gambling in particular.**

- In 2013, the percentage **of gamblers that had played online slots** in the preceding year was 10% of men and 5% of women. This is a little more than double the number of individuals that played these games in 2010 (4% and 2%, respectively, and 3% in total).

Likewise, although less recent, Welte, J. W., Barnes, G. M., Tidwell, M. O., and Hoffman, J. H. (2009). “The association of form of gambling with problem gambling among American youth”. *Psychology of Addictive Behaviors*, 23(1), 105–112.

[26] Available at: http://www.gamblingcommission.gov.uk/gambling_data__analysis/gambling_participation_and_pre/bgps.aspx .

[27] Available at: http://www.gamblingcommission.gov.uk/gambling_data__analysis/gambling_participation_and_pre/problem_gambling/health_survey_for_england-1.aspx ; y http://www.gamblingcommission.gov.uk/gambling_data__analysis/gambling_participation_and_pre/problem_gambling/scottish_health_survey-1.aspx .

- In line with the 2010 data, online slot machine gambling is the second most **prevalent cause of problem gambling**: 9.1% of users that have gambled in the last year would consider themselves to be problem gamblers. Under these criteria, the prevalence of problem gamblers as regards online gambling in general would be 5.3%. In turn, the 2013 data for England and Scotland reveal that the prevalence of this type of gambling is 6.3%, occupying seventh place when distinguishing by type of game, considering both traditional and online gambling[28].

- The 2010 data reveals a certain level of **correlation between the number of games played by gamblers and problem gaming patterns**. As the number of games consumed increases, so does the prevalence rate. Thus, when playing only 1-2 games, the prevalence rate is 0.3% (0.7% for 3-4 games); those playing between 7-8 games showed a prevalence rate of 9.6% and those playing 9 games or more showed a prevalence rate of 12.7%. In the 2013 data, those values were recorded as 0.1%, 0.6%, 2.5% and 8.6% respectively (no data exists for gamers playing 9 games or more)[29].

- Furthermore, more than 75% of gamblers playing online slots that could be considered problem gamblers **also** play 6 **other different games** (therefore, less than 25% play at 6 games or less)[30].

The above details enable a number of conclusions to be drawn. Firstly, that it is impossible to ignore the prevalence of problem gambling amongst consumers playing online slots. Secondly, the consideration that the above should be associated with the fact that it is normally a type of gambling consumed in conjunction with other types of gambling may explain, in part, said greater relative importance. Thirdly, the number of gambling activities consumed appears to be strongly related to the prevalence rate of problem gambling amongst gamblers participating in a particular type of gambling; as a result, the vast majority of problem gamblers that play online slots online also play many other games. The overall conclusion drawn from these findings is that **prohibiting a particular type of gambling, consumed in conjunction with others, may be ineffective,** or at least not as effective as other types of decisions, **to prevent or dissuade the risk of generating gambling addictions more generally, in promoting responsible gambling**, inasmuch as the gambler may project this behaviour to other types of gambling.

[28] See *Gambling behavior in England & Scotland: Headline findings from the Health Survey for England 2012 and Scottish Health Survey 2012*, page 23. Slots are included in the same set as other online casino games and bingo. Ranking pursuant to the combined ratio of DSM-IV/PGSI rates.
http://www.gamblingcommission.gov.uk/pdf/Headline%20Report%20to%20GC%20v2.0.pdf .
[29] Ibid*., Gambling behavior in England & Scotland: Headline findings from the Health Survey for England 2012 and Scottish Health Survey 2012*, page 24. Op.cit.
[30] These figures are consistent with those established by the Observatory for Online Gamblers in November 2013.

3.4 Alternatives

From the above, it is possible to draw the following conclusions:

- Several years after the entry into force of the LRJ, slot machine gambling has a **significant presence online**. From a demand standpoint, it can be assumed that it is highly consumed amongst gamblers, also amongst gamblers in Spain; this does not solely apply to the number of gamblers, but the financial importance of this type of gambling; this is particularly true for those accustomed to its presence in the sphere of interactive gambling prior to the 2011 regulation under the LRJ. From a supply standpoint, it is a key form of gambling to which operators licensed to offer gambling activities in Spain have no access; the scope of illegal slot machine gambling detected is particularly noteworthy, as are the consequences on the corresponding levels of gambler protection.

- Slot machine gambling has a number of **public interest implications**, in particular public health. It is commonly assumed, although with certain biases, that this form of gambling is more related than others to disorderly or compulsive consumption patterns. This also applies to remote channels. However, considering that the profile of such problem gamblers, at least on the Internet, is associated with the consumption of various types of gambling, the causal link between consumption of online slots and these problems is not as clearly defined.

The above **poses the question whether the current situation,** which involves denying access to gamers interested in this type of gambling, the economic significance of which is considerable, as part of a regulated market, **is satisfactory as far as best protecting the subset of current or potentially problem gamblers is concerned.** This also leads us to **reflect on whether the best way of protecting general interests as regards consumption of this type of gambling** (both generic consumers and those considered as having potential or actual gambling problems)**,** whilst reinforcing the functionality of the regulated market, **is to take appropriate regulatory measures or to maintain the ban** that is currently in force due to the lack of regulation.

The alternative of **maintaining the ban does not seem feasible from a consumer protection standpoint**, inasmuch as it would be difficult to eradicate the ease of access enjoyed by gamers in Spain to forms of gambling offered by non-licensed operators in Spain, regardless of the penalty system functioning correctly. This reality is shared by all forms of eCommerce, which must influence the regulatory criteria as regards banning an activity and the effectiveness with which this is achieved. What is more, given the importance of this type of gambling, a ban may increase a consumer's interest in unregulated forms of gambling to the same extent that it may inhibit channelling consumption to regulated forms, reducing the capacity of legal operators to provide integrated and attractive forms of gambling.

Alternatively, these studies on the prevalence rate of compulsive and pathological gambling, showing a particularly high rate as regards slot machines, demonstrate that to generate and preserve such activities, there are more appropriate indicators than incidence rates per type of game, such as the number of gambling activities consumed by a single gambler. They also suggest that, even though a ban on a certain type of form of gambling is effective from a gambler access standpoint, problem gamblers will divert their attention to other types of gambling. The implications of the above are that **it is more effective to implement a cross-sectional prevention, detection and treatment policy** as regards compulsive and pathological gambling, applicable to all types of gambling and without prejudice to the reinforced specificities that form part thereof, rather than a mere ban.

To address this situation, **the inclusion of this type of gambling within regulated supply**, as undertaken in nearby countries such as the United Kingdom, Denmark, Belgium and Italy, or as part of Autonomous Community regulations, such as those in Madrid, which has already provided for the regulation of online slot machines, **would facilitate the channelling of both supply and demand to a regulated environment**, in line with the Communication of the European Commission to the European Parliament on 23 October 2012[31]. This significantly facilitates decreasing the size and incident rate of the illegal market, which would also serve to underscore the proactive fight against illegal gambling; in turn, this would comply with the main objective of the regulation, the protection of the rights of participants and those of individuals considered most vulnerable.

In particular, from a **protection of public health** standpoint, regulation would involve:

- **Applying preventive cross-sectional responsible gaming policies and measures**, to raise awareness and facilitate intervention and control, similar to those to which other forms of gambling are subject; such policies and measures benefit both general and problem gamblers. Amongst the regulatory policies and measures applied, the following are particularly worthy of mention: The requirement for the participant to identify him/herself in advance, access control for minors and self-excluded gamblers, or provisions regarding temporary restrictions to participants' deposits. Likewise, regulation will make it possible to include this form of gambling under other regulatory or non-regulatory measures that may be implemented in the future.

- Marrying the above with the **additional corporate social responsibility measures** as regards gambler self-control and the detection of disorderly

[31] Communication of the European Commission to the European Parliament (COM(2012)596 final) of 23 October 2012: *"[…] the development of an attractive range of legal gambling opportunities is also key to effectively prevent consumers from going on unregulated sites.* Therefore, action at EU level should aim at adequately protecting all citizens in Europe within a balanced regulated environment".

conduct that operators may establish on an individual basis, maximising their impact.

- **Likewise, aligning both the applicable advertising and commercial communication regime** that apply to all other regulated forms of gambling, without prejudice to the particularities that may exist as regards different types of gambling.[32]

- Complementing **aspects** shared by all modes with others **specifically adapted to the type of gambling in question** especially information and prevention, that form part of the basic regulations, **thus making it possible to address specific risks** that may arise from this type of gambling.

Furthermore, from a more comprehensive gamer protection standpoint as regards protection of public order and the functionality of gambling on offer, there are other aspects that would be substantially improved, including:

1. ***Eliminating unfair, dishonest and corrupt gambling***

   ✓ *Gambling integrity*
   ✓ *Banning the provision of loans to gamblers or between gamblers*
   ✓Access control for affected individuals and other subjective bans

2. ***Improving the security of the gambler's environment***

   ✓ *Integrity, confidentiality and availability of information*
   ✓ *Guarantees as regards deposits, prizes and participation restrictions*
   ✓ *Enhanced guarantee of compliance with contracting conditions*
   ✓ *Reduced risk of failure as regards the security of communications*
   ✓ *Reduced risk of phishing*
   ✓ *Measures to control privacy and personal data*

3. ***Reduced risk of criminal activity***

   ✓ *Reduced risk of money laundering*
   ✓*Reduced risk as regards fraudulent use of personal data, phishing and, in general, the use of gambling platforms for criminal activities*

4. ***Reduction of distortions to the market***

   ✓*Complementing the range of gambling activities supplied with an important product, providing a more coherent and integrated framework for the*

[32] In particular, those corresponding to the application of the Code of Conduct as regards gambling publicity and regulatory measures taken under Articles 7 and 8 of the LR, as regards advertising and responsible gambling.

exploitation and consumption of such activities
- ✓ *Reduction of illegal competition from the black market*
- ✓ *Promotion of effective competition between licensed operators and the positioning of non-prominent operators*
- ✓ *Rationalisation of tributary income generated by activities*

It has been definitively established that **the net result as regards protection of public health to be tackled by these regulations is evidently positive for the purposes of social well-being.**

4. Content

4.1 Description and structure

The Ministerial Order is divided into four chapters, fifteen articles and three final provisions.

Chapter I contains the general provisions and includes the definitions that are useful for suitably understanding the text.

Chapter II refers to the permits that operators interested in developing and operating slot machines must have, establishing that they must obtain a general licence for the "Other Games" category and the corresponding individual licence. This chapter also stipulates that the individual licence will be valid for five years (the maximum period permitted under Law No. 13/2011, of 27 May on gambling regulations), renewable for periods of an identical length, and empowers the Directorate-General for the Regulation of Gambling to determine the guarantee associated with the aforementioned licence through a resolution.

Chapter III establishes the framework for relations between the operator and participants. It also refers to the procedure for addressing and resolving complaints and grievances implemented by the operator and made available to participants. Moreover, it specifies several informational obligations on gambling operators in respect of participants, authorises the promotion of gambling under the provisions of Article 7 of Law No. 13/2011, of 27 May on gambling regulations, and regulates the channels and means of participation.

Chapter IV establishes guidelines for the development of slot machine games, determines the financial restrictions on participation and the development of the game, as well as the determination, allocation and payment of prizes.

The **Appendix** to the Order approves the limits of the amount of the guarantee linked to each individual licence for the operation of this type of gambling, which will be set between 5 and 12% of operators' net income from activity under the individual licence for the preceding year. Where appropriate, this percentage will be specified pursuant to financial cost criteria in relation to the volume of activity.

The establishment of said guarantee seeks to ensure coverage of the obligations that the different gambling operators may assume in the development of gaming activities with participants or with Public Administrations. As a result of the implicit risk that this type of gambling activity entails, it may only be offered by solvent companies.

The Ministerial Order contains three final provisions. The first relates to the ability of the Directorate-General for the Regulation of Gambling to establish the procedure for authorising gambling activities of an occasional nature; the second relates to the provision of services by duly approved technical system providers; and the third relates to the entry into force of the Order.

4.2 Justification of the regulatory approach

Pursuant to the principles of good regulation established in Article 4 of Law No. 2/2011, of 4 March on Sustainable Economy, the provisions contained in regulatory initiatives should be, in particular:

- Necessary, justifiable on the grounds of general interest, in particular public health and linked to the attainment of said objectives.

- Proportionate, guaranteeing the attainment of the objectives pursued, having ensured that there are no other less restrictive and less distortionary measures that serve to obtain the same results.

- Facilitators, making stability and forecastability possible, generating a level of certainty that facilitate players' and operators' actions and the adoption of their financial decisions.

- Efficient, having clearly identified the objectives pursued, establishing direct objectives, and avoiding unnecessary burdens and accessories in the attainment of said final objectives.

From this perspective, as explained above, the regulation of online slot machines is conceived as a way of channelling both supply and demand to a regulated environment, and **the provisions set forth therein must be necessary, proportionate, predictable and efficient** in attaining this objective.

4.2.a) Main commercial variables

Accordingly, **the starting point is the regulation** that, having achieved satisfactory results, has been developed **in countries like the United Kingdom** (2007), **Denmark** (January 2012) and **Italy** (December 2012), in order to provide a regulatory response to this objective; this responds to the reality of the online market, and in particular gambler preferences, in addition to ensuring a firm commitment as regards responsible gambling.

Thus, in line with these regulations, the basic regulations proposed aim to adjust the establishment of the provisions required to offer gambling services to the operator's chosen margin in configuring the basic commercial variables. This freedom is considered key in order for the regulation to obtain its objective of effectively channelling demand for this type of gambling to the regulated supply, which has been positively assessed by the corresponding Spanish authority in the report issued on the draft Order.

In this regard there is a notable lack of planning requirements for gambling cycles, which will enable the operation of games equivalent to those that, in the context of traditional gambling, are associated with "C-type" machines; such devices may only be installed at casinos and, furthermore, are subject to additional limitations as regards prizes and amounts per game.

It must also be noted that, as regards granting said commercial margin, the Order aims to **align itself with regulatory developments established in neighbouring countries** where this type of gambling has been regulated, as mentioned above; for example, granting **freedom concerning certain elements**, such as the presentation of the game, the cost per game, the mechanics for providing the game or establishing prizes. The table below offers a comparison between the abovementioned approaches, providing evidence of said assimilation.

Table No. 1. Compared online slot machine systems. Main commercial variables

Commercial variable	DENMARK	ITALY	UNITED KINGDOM	SPAIN
Game definition	Wide (electronic machine offering games with opportunity to win prizes)	Wide (part of games of chance at a fixed fee)	Wide (machine designed for gambling in exchange for a prize)	Wide (opportunity for different gaming features)
Maximum price per game	No	No	No	No
Minimum price per game	No	No	No	No
Establishment of programmed cycles	No	No	No	No
Maximum or minimum return to player restrictions (RTP)	No	Minimum 90%	No	No
Limit to financial value of prizes	No	No	No	No
Limit to financial value of jackpots	No	No	No	No

Source: compilation based on different relevant standards.

Thus, the idea of what a slot machine represents in all circumstances is very wide-reaching; in the case of Spain, this translates consistently with the concept of gambling established in the provisions of Article 3 of the LRJ (under which not only an element of chance is required in order to consider a certain type of activity as a form of gambling) as there is no firm definition that chance must be involved as regards gambling dynamics when defining what slot machine gambling represents. To this end, a number of contributions received as part of the public information procedure to which the order has been subjected demonstrate the desire to specifically highlight that gambling subject to the Order should depend exclusively on chance. However, the decision has been taken to maintain the definition open, both as regards compliance with Article 3 of the LRJ and, furthermore, the reluctance to unjustifiably interfere in the operator's commercial decisions.

The former is clearly an element that does not affect the possibility of installing physical terminals to develop these forms of gambling at certain establishments. Such an issue lies squarely within the scope of competencies of the Autonomous Communities of the corresponding territorial region in which such terminals would be installed, pursuant to the criteria they establish, for example the level of chance involved in games, or elements that may influence randomness. As will be addressed later, the Order fully respects the competence of the Autonomous Communities to install terminals in specific physical locations, even establishing that via said physical terminals only types of gambling that comply with the technical specifications and restrictions per game, prize and return applicable in each case can be offered, based on the installation site in line with Autonomous Community regulations.

Likewise, neither the proposed regulations nor those in force in the abovementioned countries establish additional maximum or minimum prices for each game other than those established by the operator in its corresponding rules. Furthermore, none of the aforecited legislation makes mention of the physical presentation of the game, the number of rolls or graphic combinations, the need to establish programmed cycles pursuant to which prizes are awarded, the number of lines awarded, or the maximum and minimum return percentages established (other than in Italy, where the minimum percentage is 90%). Nor is any limitation set forth as regards the total financial value of the jackpots.

4.2.b) Gambler protection measures and the promotion of responsible gambling

However, the proposed regulations also introduce certain **measures that regulate how the game works or its environment**, or user access conditions. These measures serve to protect the gambler and **promote responsible gambling, in addition to raising self-awareness when taking the decision to gamble or continue gambling, in addition to the transparency and accessibility of information.**

The level of alignment of these elements as regards those set out in the comparative regulations mentioned above can be seen in the following table.

Table No. 2. Compared online slot machine systems. Responsible gambling and gambler information measures

Measure	DENMARK	ITALY	UNITED	SPAIN

Type of gambling and games			**KINGDOM**	
Periodic, automatic notice to the gambler as regards the time played and the amount of money gambled	No	No	No	YES
Overview of the result of each game available for the gambler to consult at any time	YES	YES	YES	YES
Prior configuration of expenditure during the session	No	YES	Depending on the user's preference, provided that the operator offers this option	YES (with automatic session closure if this is exceeded with the option of starting a new session)
Financial restrictions during gambling sessions	No	YES (expenditure of €1,000)	No	No
Prizes and jackpots				
Limits to prizes	No	No	No	No
Are jackpots allowed?	YES	YES	YES	YES
Types of jackpots allowed	All types of jackpots, provided that they are related to the result of the game itself and do not depend on external elements	Progressive	Progressive	Progressive (financed in full by money gambled as part of the game)
Is there a maximum jackpot?	No	No	No	No
Are in-game deposits restricted?	No	No	Depending on the user's preference, provided that the operator facilitates this option	NO (general deposit restrictions apply)
GAMBLING TIME				
Prior configuration of session time	No	No	No	YES (with automatic session closure if this is exceeded with the option of starting a new session)
Restriction as regards the duration of each game	Yes, minimum 3 seconds	No	No	Yes, minimum 3 seconds
Restriction as regards the amount of time that should elapse between games	NO	No	No	No
Restriction as regards the amount of time that should elapse between sessions	No	No	No	No
Restriction as regards overall gambling time	No	No	No	No
Notice when the user is reaching a time or financial restriction[(1)]	No	No	No	YES
Repeat gaming notice (if the gambler reconnects within the 60 minutes following closure of the previous session)[(1)]	No	No	No	YES

Possibility of voluntarily configuring a gambling rest period when pre-established restrictions have been reached[(1)]	No	No	No	YES
Automatic game				
Is automated gambling allowed?	YES	YES	YES	YES
Automated gambling restrictions	No	No	YES	YES
Restrictions on automated gambling duration[(1)]	No	No	25 games (repeatable or reconfigurable when expressly desired by the gambler)	100 games (repeatable or reconfigurable when expressly desired by the gambler)

Source: compilation based on different relevant standards.

[(1)] *Measures included or amended after the public information procedure to which the Order was subjected.*

The regulation contains measures on self-awareness, gambler information and prior voluntary restrictions as both recent research on the matter [33] and international discussions on gambling regulations [34] recommend them as being **more effective for gambler protection, in particular in an online environment.**

As can be seen, **in general** the measures included in the Order are **unanimously in line with the provisions of the benchmark regulations**; this applies, for example, to certain **information obligations** on the development of games and the fundamental elements of gambling (maximum and minimum price per game, structure and value of prices, percentage of prizes returned). To these measures, in the case of Spain, the ability to configure a session that is specifically designated for slot machine gambling is added; based on this measure, periodic and automatic notices may be issued regarding the time spent gambling and the amount gambled by the user during the session. This serves to compound gamblers' knowledge of their situation as regards this type of gaming in particular. This responds to the

[33] For example, Gainsbury, S., Parke, J. and Suhonen,, N. (2013), "Consumer attitudes towards internet gambling: perceptions of responsible gambling policies, consumer protection, and regulation of online gambling sites'" *Computers in Human Behavior*, vol. 29, no. 1, pp. 235-245, available at: http://dx.doi.org/10.1016/j.chb.2012.08.010. This study, based on a survey of 11,000 online gamblers across 96 countries supports the assertion that gamblers appreciate the existence and effectiveness of responsible gambling measures that: allow the user to establish restrictions as regards amounts deposited or gambled over a specific period; involve warnings being shown as regards gambling over a prolonged period or high expenditure; offer self-assessment exercises as regards gambling behaviour; provide information on the consequences of problem gambling and the probability of winning; allow the user to proceed with self-exclusion measures; or offer clear information on expenditure and the results of games during a single session and accumulated information as regards the gambler's habits over a period of time.

[34] The Group of Experts formed by the European Commission and the gambling regulators of member states are worthy of particular mention; they serve as a forum for discussion, cooperation and preparation as regards the European Commission Recommendations on this matter, for example, on consumer protection issues.

desire to ensure the gambler receives information as an instrument for providing prior knowledge of the game mechanics and configuration, in addition to the financial risk undertaken when choosing to gamble.

To reinforce the above, following the public consultation procedure, the following notices have been added:

- Repeat gaming notice, understood as the notice issued during the 60 minutes following the end of the previous slot machine gambling session.
- Notice when the gamer is reaching a time or financial restriction set out in the previous configurations of the session to ensure that the participant anticipates and appropriately closes the session.

In some respects, the decision has been taken to introduce **limits that are already recognised under such regulations**: This is the case as regards the duration time limit per game of 3 seconds (applicable in Denmark), or the limit to the number of games in automated mode, (although this does not affect a cycle being repeated or reconfigured at the gambler's initiative), as is the case in the United Kingdom. In both instances, the goal is to limit the trend of automation or excessive speed in the generation of games, elements that may lead to the risk of disorderly behaviour, as established by social and healthcare research.

Concerning the automated number limit, and considering that it serves to protect the gambler from uncontrolled gambling and the economic impacts thereof, following the public consultation procedure, the maximum number of games has been increased to 100; this is because, based on some of the contributions, a higher limit than initially foreseen can actually encourage more responsible gambling. An excessively strict limit may encourage gamblers who wish to develop a more consistent consumption pattern when playing the maximum number of games possible during a short period of time (between one and five minutes) to choose to play in manual mode, in which the active, voluntary and quick repetition of games over a prolonged period of time may increase the compulsive nature of consumption, reinforcing the psychological elements that are the causal factors of the particular concern as regards this type of gambling. Therefore, the limit established prevents automatic mode from being extended by more than five minutes, considering that the minimum duration of each game is 3 seconds and that there would be no time lapse between one game and the next.

In addition to the above, and to facilitate self-imposed limits and, in any case, promote gambler' awareness of their own actions, the operator will be forced to include the option of **configuring the duration of a gambling session specifically dedicated to said activity in addition to the corresponding time** when the gambler first accesses the game or block of slot machine games. It has been decided not to include a penalty for failing to comply with the self-imposed obligation (other than automatically closing a session, which can be reopened) inasmuch as this could discourage the gambler from imposing strict limits as regards these parameters. Notwithstanding the above, the definitive version of the order includes the possibility of the participant voluntarily self-imposing limits as regards future participation in this gambling activity; it allows the user to set a rest period or a period in which it is impossible to access this form of gambling for cases in which slot machine sessions are automatically closed down once the limits established when setting up previous configurations are reached.

Likewise, as a relative containment measure regarding the total **jackpot** amounts, and on the lines of practical implementation that has been developed by other jurisdictions like Italy on this matter, it solely refers to these **as being progressive and financed in whole by gamer participation** in the game in question; therefore, the operator may not divert resources other than those generated by the jackpot for this purpose. This provision also allows for the charging the financial amount of jackpots to the amounts gambled, with the corresponding benefits in terms of accounting transparency and taxation of said sums.

On the other hand, Italy has enforced a €1,000 spending limit per session; this option has been ruled out considering that the measure mentioned above, along with the general deposit limit per day established by Royal Decree No. 1614/2011, of 14 November, attains a similar objective.

Likewise, and in order to enhance the fight against illegal gambling (an objective that must undoubtedly be sought as regards gambler protection), the second final provision includes a clause on the **obligation of licensed operators in Spain to ensure that its products and services**, including its platforms, gaming software and other technical system elements, **are not offered in Spain by unlicensed third parties.** The purpose of introducing said provision as regards this type of gambling in particular, as part of which there is a wide range and many types of games, is to reduce the risk of games or interfaces created by operators licensed to offer gambling activities in Spain being made available to the public via unlicensed environments.

4.2.c). Implementation channels

Lastly, the concern for responsible gaming is further apparent in the text provided to be used on participation channels and media through which gamers can access this form of gambling, specifically as regards the option of offering it via physical accessory terminals. This option is possible under the provisions of Article 9, section 1, paragraph 3 of the LRJ, which establishes that the installation or opening of physical locations open to the public or equipment that facilitates participation in gaming must first receive administrative authorisation from the Autonomous Community, when the corresponding regional legislation so requires.

To this end, Article 10 of this order, in line with the other basic regulations on the different types of gambling approved, stipulates that the installation of such terminals shall require authorisation, pursuant to the corresponding Autonomous Community regulations. This implies that the conditions under which a terminal may be located in a specific physical location will depend on the provisions that have been established by the corresponding Autonomous Community on the grounds of general interest, including public health measures and, more specifically, responsible gambling.

The public information process has demonstrated the sensitivity of Autonomous Communities, industry and gamblers' associations as regards the possibility of the Order involving a circumvention of the Autonomous Community limits established to this end; said sensitivity was particularly acute as regards this type of gambling. As a result, following said procedure, an explanatory provision has been introduced that stipulates that only games that respect the technical specifications and, in particular, the limits set by the applicable regional regulations as regards the price per game, prizes and returns to player may be offered by these terminals.

In addition to the above, in the interest of technical improvements, **the wording of the precept has been amended as regards the provisions set out in Law No. 20/2013, of 9 December, on the Guarantee of Market Unity (LGUM)** and, in particular, Articles 17.1.b), 20.4 and 21.3 therein, to facilitate compatibility between the existence of such regional authorisation, where applicable, and the provisions of said Law. The joint application of these precepts establishes that regional authorisation regarding the installation of a gambling terminal at a given location, where applicable, shall not readdress elements that have already been approved by the original authority, in this case, the Directorate-General for the Regulation of Gambling.

Specifically, by eliminating the reference to “applicable state regulations” in the wording of the orders, the objective is to clarify that the granting or denial of regional authorisation, where applicable, cannot be based on exercises to check compliance with state regulations on gambling. At the same time, failure to comply with said state regulations cannot be used by an Autonomous Community as a reason for denying authorisation to install the terminal within its territorial boundaries.

In short, it is believed that **the measures provided for are justified in terms of their necessity and proportionality and that they respond to the unmistakable objective of effectiveness, both concerning the aspects in which the regulation is aligned to the regulations of other countries, and the aspects that seek to enhance gambler protection and the promotion of responsible gambling.**

5. Processing

The processing of this regulatory provision started with the announcement of the **Gambling Policies Council** for the project in question at the meeting held on 19 February 2014. In response, the Autonomous Communities of Castilla-La Mancha, Castilla-León and the Basque Country presented their comments in writing.

The first of which highlighted the lack, at the time, of justification and assessment reports on the impact of the draft, an aspect that has been addressed by this report. Secondly, and finally, it requested clarification as regards the concept of the machine (Art. 2), highlighting the possible direct competition with lottery gaming given the existence of large jackpots and suggested that a minimum prize return percentage should be established

Castilla-León, firstly, highlighted the lack of social, economic and political expediencies to regulate slot machine gambling. Secondly, it made comments on the articles, specifically Articles 2 and 14, proposing clarification as regards the concept of games of chance and suggesting that a minimum prize return percentage should be established, in addition to the prizes awarded from the jackpot.

Finally, the Basque Government stated that it did not oppose the regulation of slot machines, without prejudice to the fact that it believed that greater consensus and more widespread agreement between state and regional public administrations would have been desirable. Thereafter, it made comments on the articles, in particular, rejecting the option of offering said type of gambling via physical accessory terminals. In turn, it proposed that: information should be made available in all official languages; maximum and minimum game and prize limits should be established; there should be a default prior configuration for sessions; the clause regarding claims before the gambling operator should be deleted in favour of being presented before the regulator; and that provisions regarding access for individuals with visual and hearing impairments should be included.

Said announcement was followed by the **public consultation** process. This draft ministerial order was published on the Ministry of Finance and Public Administration website on 10 March 2014, granting a period of 15 working days in which interested parties could submit any observations they deemed fit. As a result of this procedure, submissions were received from the following individuals, bodies and organisations:

- Spanish Federation of Rehabilitated Gamblers (FEJAR)
- Bingosoft, S.A.U.
- Directorate of Gaming and Events of the Basque Regional Government.
- Spanish National Organisation for the Blind (ONCE)
- Zitro On Line, S.A.U.
- Bwin.party Digital Entertainment PLC (BWIN)
- GLI Europe B.V. (GLI)
- Operadora Internacional de Recreativos, S.A. (OPIRESA)
- Greentube Malta LTD
- Net Entertainment Group (NET ENT)
- Spanish Association of Amusement and Slot Machine Operators (ACUEOMARA)
- Madrid Association of Amusement Machine Entrepreneurs (AMADER)
- Gambling Business Council (CEJUEGO)

- Business Association of Amusement Machines, AZEMAR ARAGON
- Gambling Enterprises Employers' Association of Catalonia (PATROJOC)
- Trade Union Association of Coin-Operated Machine Operators (ACOMAM)
- Association of Amusement Machines of Castilla-La Mancha (FAMACASMAN)
- Associated Online Gambling Entrepreneurs (EJOA)
- Association of Amusement and Slot Machine Entrepreneurs of the Community of Valencia (ANDEMAR C.V.)
- Spanish Digital Gaming Association (J.DIGITAL)
- PT Entretenimiento Online, EAD.
- WHG Spain, PLC (William Hill)
- Prima Networks Spain, PLC
- 888 Spain, PLC
- Federation of Amusement Machine Associations (FAMAR)
- International Game Technology, INC. (IGT)
- Bally Technologies, INC.
- G2 Gaming Spain, S.A.
- Eurojuego Star, S.A.
- Spanish Association of Amusement Machine and Arcade Entrepreneurs (ANESAR)
- Association of Gambling and Amusement Arcade Entrepreneurs of the Balearic Islands (SAREIBA)
- Independent Association of Amusement Machine Operators (EUROPER)
- Catalan Association of Amusement Machine Operators (ACORDJOC)
- Catalan Association of Amusement Arcades and New Gambling Technologies (GRECOJOC)
- Association of Bingo Entrepreneurs of Catalonia (AEJEA)
- Catalan Association of Amusement Machine Entrepreneurs (ANDEMAR)
- Association of Gambling and Amusement Arcade Entrepreneurs of Madrid (AEJOMA)
- National Federation of Amusement and Slot Machine Operators (FEMARA)
- Catalan Association of Social Addictions (ACENCAS)
- Spanish Confederation of Gambling Entrepreneurs (COFAR)
- UGT Confederal Executive Committee
- Premier Megaplex, S.A.
- Association of Amusement Machines (AEMAR).
- Association of Amusement Arcade Entrepreneurs of Castilla y Leon (SA.JU.CAL)
- Golden Park Games, S.A.
- Spanish Association of Casinos (AECJ).
- D. Mariano Chóliz and Mr. Jerónimo Sáiz, respectively, Director of the Research Unit: “Addiction to Gambling and Technological Addictions” at the University of Valencia and Chief Psychiatrist and Director the Gambling Unit

at the Hospital Ramón y Cajal, Dean of the University of Alcalá de Henares, respectively.

- Andalusian Association of Amusement Machine Vendors and Distributors (ACODISA).
- Andalusian Federation of Amusement Machines, Arcades and Leisure (ANMARE).
- Andalusian Federation of Amusement Arcades (ANDESA)
- Catalan Association of Amusement Machine Operators (ACOMAR)
- Federation of Amusement Machine Associations of Castilla y León (FAOCALE).
- Spanish Confederation of Bingo Entrepreneur Organisations (CEJ)
- Association of Amusement Machine Vendors and Distributors (ASEDICO).
- Regional Association of Amusement Machine Entrepreneurs of Tenerife (APEMARTE).
- Association of Amusement Entrepreneurs of Málaga (ERMA).
- Spanish Confederation of Labour Unions (CCOO).

Despite the high number of participants, the comments received can be conceptually divided into a number of similar groups. On the one hand, traditional gambling operator associations, whose considerations (often literally the same) for the most part query the need to address this regulation and legalise such gambling in an online environment, given the impact on the corresponding industry. On the other hand, comments made by online operators, both those currently active and those interested in offering activities in Spain, who refer to the content of the draft, requesting the deletion or relaxing of certain elements that they believe affect or impose restrictions on commercial freedom, in addition to a number of clarifications and technical improvements. Lastly, a number of contributions from gambling associations and members of the science-healthcare community, who highlight the risks concerning public health and generation of compulsive gambling that they believe arise from addressing this regulation; furthermore, they contain contrasting opinions as to whether the solution would be to completely refrain from regulating this type of gambling, or strengthen the gambling limit and protection measures in the order.

The content of the draft was also made public by the **Responsible Gambling Advisory Council** at its meeting of 20 March 2014.

Furthermore, this draft was submitted to the European Commission, pursuant to the provisions of Directive 98/34/EC and, domestically, via Royal Decree No. 1337/1999, of 31 July, which regulates the disclosure of information as regards technical regulations and standards and regulations concerning information society services; the purpose of doing so was to provide operators and gamblers with the legal certainty that the regulation is fully compatible with Community Law and, in particular, the freedom of establishment and freedom to provide services. As a result of this process, before notifying the European Commission, observations on the draft were received from the Directorate-General Support Policies on Disability at the Ministry of Health, Social Services and Equality (DGPAD) and the Spanish Agency for Consumer Affairs, Food Safety and Nutrition (AECOSAN).

Following the deadline of the Royal Decree, pursuant to the provisions of Article 8 of the Directive, no detailed opinion has been received from any Member States. Comments were only received from the European Commission on 19 June requesting clarifications as regards the expected impact of certain gambler protection measures included in the draft regulation, such as the possible implementation of spending limits per session or the degree of clarity for the gambler to establish self-configurable financial and time limits for gambling sessions. Likewise, Malta made general observations querying the need to subject operators who, without being licence-holders in Spain, are licensed to offer this type of gaming according to the other jurisdictions of the European Economic Area to an additional licence or, in the absence thereof, identical requirements. The Directorate-General for the Regulation of Gambling responded to these comments made by the European Commission and Malta as part of the framework provided for by the abovementioned Community Directive, providing clarifications accordingly.

Likewise, the draft has been **made public, following its formal disclosure** by the Directorate-General for the Regulation of Gambling, **by the Ministry of Health, Social Services and Equality through its Technical Secretariat General, and by the National Markets and Competition Commission (CNMC).**

The first of these reports reflects the observations made by the Spanish Agency for Consumer Affairs, Food Safety and Nutrition, as part of which it argued that free gambling applications installed on the platform may lead to gambling addictions as they feature direct links to chargeable versions; furthermore, it stated that it does not believe the regulation makes it clear whether access control on participation will be employed using physical terminals. This body believes that said terminals foster gambling addictions, as it is possible to gamble from different devices. Furthermore, daily financial and time limits have been proposed for this type of gambling per session. Lastly, the report issued by ONCE as part of the consultation process was attached to the aforementioned report.

The National Markets and Competition Commission report welcomes the decision to regulate slot machine gaming, as it seeks to eliminate unfair competition from illegal operators towards those operating in the regulated environment, encouraging fair and effective competition between operators and increasing the potential number of operators interested in offering the activity. It also highlights the importance of ensuring that the draft regulation does not grant initial privileges in advance to operators that are already present in other types of regulated gambling, stating its preference for competitive neutrality. Likewise it welcomes the balance that the draft regulation strikes between the operator's freedom of choice amongst numerous variables related to gambling operations and the marketing policies and security offered to gamblers. It also welcomes the fact that the regulatory draft enters into force on the publication date of the Ministerial Order that approves the tender specifications that regulate the general licence notification, as it ensures that all operators are subject to the same conditions. Furthermore, it makes a number of detailed observations regarding the articles concerning: The requirement as regards the need for both general and individual licensing systems (Article 3); the validity period (Article 4); the additional guarantee (Article 5); the impossibility of offering guaranteed jackpots (Article 14); the authorisation of gambling activities of an occasional nature (first final provision); and the requirement for gambler location control (second final provision).

Likewise, this draft Ministerial Order has been subject to the **procedure set forth the additional provision four of Law No. 13/2011**, of 27 May on gambling regulations, as regards the inclusion of Autonomous Communities in the approval of ministerial orders that establish new types of gambling or that amend existing forms of gambling, Article 81 of the Andalusian Statute of Autonomy and Article 141.2 of Organic Law No. 6/2006, on the reformation of the Catalan Statute of Autonomy. As a result, the draft was forwarded to these Autonomous Communities in order for said authorities to issue the corresponding non-binding report.

The Directorate-General of Financing, Taxation and Gambling of the Ministry of Finance and Public Administration of the Regional Government of Andalusia and the Directorate-General for Taxation and Gambling of the Regional Government of Catalonia issued the corresponding mandatory reports, which contained a number of general considerations as regards the appropriateness and impact of the draft and competence considerations; in the case of Andalusia, these were accompanied by a number of specific comments concerning Articles 2 (definitions), 5 (individual licence guarantee), 6 (specific rules), 10 (channel and means of participation), 12 (financial restrictions), 13 (participation), 14 (implementation of the game) and 15 (payment of prizes). As a result of these reports, the corresponding Bilateral Committee meetings were held to share and discuss the draft with the aforementioned Autonomous Communities on 16 and 18 June 2014 respectively, during which the comments made were discussed and those deemed applicable were considered.

Lastly, as regards the **internal ministerial procedure**, approval was requested from the State Secretariat of Finance, the State Secretariat for Budgets and Expenditure, the State Secretariat for Public Administration and the Undersecretariat of Finance and Public Administration. Likewise, the corresponding report was received from the State Secretariat of Finance of the Ministry of Finance and Public Administration.

6. Repealed regulations

This Order **does not repeal any prior regulations**.

7.Economic impact and impact on competition

The approval of the future Ministerial Order will have an undoubtedly **positive impact from an economic viewpoint and on competition** as regards the remote gambling industry in Spain. Likewise, it is expected that **the impact of the Order on the traditional gambling industry will be marginal or non-existent, in that:**

- **The degree of economic substitutability** between one channel and the other **remains to be seen and, in any case, is not perfect**; furthermore, there are certain aspects related to the preferences of consumers that may contribute to highlighting the difference between traditional and online channels in Spain.
- The **economic evolution of traditional amusement machines with prizes and games of pure chance in Spain** does not appear to have been influenced by the advent and consolidation of online gambling as has happened with other types and forms of gambling, such as sports betting.
- It does not appear that **the legalisation** of online slot machines **in any of the countries that have implemented similar regulations to the regulation proposed, has had any impact** on the evolution of the traditional industry.
- The **order of magnitude** between traditional and online gambling is not comparable; the latter is considerably smaller than the former, and this trend has remained over time, with or without online slots.
- The Order remains **neutral as regards** the possibility of developing **business models** that favour the merger of traditional and online industries, **and respects regional powers** as regards approving the installation of physical terminals that offer this form of gambling from specific physical locations.

7.1. Economic impact and impact on competition in the remote gambling industry

As regards the economic impact that the approval of the Order may involve, the details mentioned above demonstrate that the measure will have a **positive economic impact on the online industry as a whole**.

Estimating the economic scope of this type of gambling following its regulation would be dependent on experience relative to the size of the licensed market in the United Kingdom, where this type of gambling has been subject to regulation for a longer period of time. Based on said example, regulated provision of this type of gambling may account for, in the medium term, 60% of current casino games (in the United Kingdom, slots represented 61% and 59.3% of online casino games in 2011-

2012 and 2012-2013 respectively). This would support the estimate made by international analysts as regards the potential economic scope of this type of gambling in Spain, as mentioned previously.

However, it is believed that **a more realistic approximation of the initial impact of opening up this type of gambling to regulation would be the Italian model**, where online slots accounted for almost 39% of all types of casino gambling in the first months following regulation.

If, to this end, we estimate that this form of gambling as regards all future casino gambling in Spain will account for 40% of the total, considering that the total amount gambled in casino games in Spain in 2013 came to €1.2 billion and a GGR of €33.8 million, this type of gambling could represent €814 million in terms of amounts gambled, and a GGR of €22.5 million. Evidently, this figure is merely approximate, and it does not take into account other variables such as the evolution of other types of gambling and the circumstances in each market.

Nevertheless, this would represent a **significant increase in yield from so-called online casino gambling**[35]; in 2013, this represented 22.4% of all online gambling (excluding reserved games), its relative growth having slowed down since licensing began in mid-2012. Thus, the total value of these games went from €468 million in the second half of 2012 (18.9% of the online market), rising to over €603 million in the first half of 2013 (22.5% of the online market, which represents an increase in income of 30% compared to the previous six-month period); this levelled out at €617 million in the second half of 2013 (22.4% of the market total and an increase of 2% compared to the previous period).

As justified above, **the economic impact** of introducing online slot machines will, in principle, **be attributable to the channelling of consumption of such games from unregulated environments to regulated operators**; however, this substitution effect may be complemented by a creation effect, deriving from the consumption of this product amongst gamblers who previously did not consume it, as it was previously unregulated in Spain or because they had previously not been included in figures on gambling consumption.

The regulation of this type of gambling will, in large part, serve to round off the range of gambling activities supplied, which may have **various added economic impacts on other online gambling products** that are currently available; therefore, the above estimates should be viewed with caution.

- Firstly, it cannot be ruled out that the introduction of online slots may affect the **relative economic importance of any of the most similar forms of gambling**, such as other online casino games.

[35] As part of the regulated supply in Spain, in addition to slot machine games, the following games would be included: Roulette, black jack, baccarat and additional games. All the above would be encompassed within the general “Other Games” licence.

- Secondly, consistent with the above, the coherence with which the portfolio of games is treated would make it possible **to increase the attractiveness of games offered by operators** to gamblers, inasmuch as it favours the grouping of the most powerful products on the same platform. This may also result in an increase in consumption of other games available in the environment of operators offering this type of service.

The net impact of these two aspects cannot be foreseen beforehand; however, it should, in any event, be considered as similar to the impact that online slot gambling may have. It is therefore realistic to presume that the impact will be positive.

As regards the **impact on competition**, it is noteworthy that the Order in itself **does not entail negative impacts**.

- The requirements as regards **access to the online gambling market** in Spain (need for a general and individual licence and the economic and administrative implications of said procedure) are not covered by this order, but by the corresponding legal and regulatory standards (LRJ and Royal Decree No. 1614/2011, of 14 November); therefore, they are in line with the system set out for other types of regulated gambling. In any case, the justification of needs and proportionality was performed when said standard was processed.

- The requirements regarding **pursuit of the activity** set forth by the basic regulations to be approved under the Order, **which may limit operators' capacity to compete**, are closely related to developing the game and are based on entrepreneurial freedom to establish the main competitive variables (such as the configuration of games to which this order applies, the price of games or prizes to be awarded) and do not include limitations on the scope for decision-making pursuant to which operators may undertake their commercial policy. Limitations to this end, such as limits on non-progressive jackpots (in particular guaranteed jackpots) are exceptional and are fully justifiable as regards the public interest objectives that the regulation seeks to attain, in particular public health interests. In any event, they are deemed proportionate to this purpose, without the net impact on general well-being being more harmful than would be the case should said provision not be included.

- In general, **there are no regulatory provisions in the Order that may limit the operators' incentive to compete**. As regards information made available to gamers on the fundamental commercial variables, such as the price per game or the prize return percentage, given the set-up of the market and the high number of operators potentially interested, it is not believed that this may end up restricting competition. In any event, it is believed necessary to protect public health and, proportionate in that it is the gambler him/herself, and no other operators, that have access to said information.

- Lastly, from a factual standpoint, access and implementation requirements **are established on an equal basis for all operators interested** in offering gambling activities, as there are currently no suppliers of such activities as the provision of this type of gambling is currently not regulated. As a result, **no asymmetries or discriminations will be taken into account between current providers and new operators**. All those interested in accessing these types of gambling activities must comply with the established access and implementation requirements.

Indeed, considering the lack of negative impacts, **the impact on competition will be unmistakably positive, both statically or immediately as well as dynamically or in the medium-to-long term.** Firstly, the order entails the **opening of a regulated market** to a form of gambling that is currently banned. Secondly, the **non-interventionist nature** of the regulation will make it possible to include the activity within a large number of approaches to gambling and alternative business models, integrating the marketing of gambling in different potential mixes and offering consumers another instrument of differentiation. Thirdly, regulating this type of gambling will offer an **incentive to innovation and improve the quality and attractiveness of games**, favouring the positioning of non-predominant operators inasmuch as it is a product in which the attractiveness of the environment and the mechanics of the game take precedence and the success of which does not depend exclusively on, for example, the scale or base of gamblers or the value of prizes. Fourthly, the commercial potential of this game may be **attractive** to **new operators** currently not present in the market; as a result, they may consider accessing the Spanish market, increasing the already existing competitive pressure. Finally, the cautions adopted as regards the entry into force of the order by means of the final provision established to this end will ensure a certain level of **competitive neutrality** concerning the moment at which the different operators may start offering this form of gambling.

The aforementioned opinion issued by the National Markets and Competition Commission, which analyses the impact on competition, confirms the assessments made above.

7.2. Impact on traditional gambling

One of the concerns recorded as part of the public consultation on the appropriateness of introducing this regulation, by traditional gambling industry associations and operators, is the **impact of introducing online slots on the current structure of traditional gambling,** and in particular on amusement machines with prizes and games of pure chance known in Spain as types B and C, respectively. These bodies consider the legalisation of this type of gambling will have a “cannibalisation” effect, whereby such a decision would be closely linked to a significant decrease in the consumption of said types of gambling in a traditional environment and therefore, the corresponding financial revenues.

The scope of said concern amongst the aforementioned associations and operators, in addition to the severe nature of the conclusions reached to this end, recommend **a particularly detailed analysis of this issue**.

It would be appropriate to examine the existence and depth of such an impact from various perspectives:

- The level of **economic substitutability** between traditional gambling and online gambling.
- The actual degree of certainty of said factor as part of the **structure of the Spanish market**.
- The impact on the structure of the traditional market that, if appropriate, has resulted from the legalisation of online slots based on **recent and observable comparative experiences**.
- **Corresponding orders of magnitude**, based on financial importance, between the traditional and online industries and the evolution thereof, once again addressing experience both with and without online slot machines; and
- Lastly, the **possibility of a future merger** between both ways of offering this type of gambling and the regulatory instruments to facilitate or prevent this from happening.

7.2.a) The level of substitutability between traditional and online gambling

In all industrial contexts involving the exchange of goods and services, the advent and development of online channels has submitted more traditional business models, based on physical trade, to significant pressure arising from: changes in consumption patterns; the relationship between suppliers/distributors and consumers using eCommerce, in particular when electronic or intangible assets are involved (mainly as regards immediacy); the different cost structure typical of such forms of trade, and; the ease of delocating supply.

These pressures, in some cases extreme (consider for example the uptake in e-mail and its impact on tradition forms of postal mail; and the recording and publishing industries), are in general attributable to the evolution of consumer preferences as the availability and importance of electronic means increases. Likewise, established operators employing more traditional models have sought to adapt their offer by: Seeking cost efficiencies and added value in the traditional line of business; optimising the opportunities offered by new technologies to develop an additional line of eCommerce; and developing business models based on the merging of goods and services. The above has undoubtedly led to a change in the productive structure of said operators and differing levels of success, depending on the speed with which they have been able to undertake such changes.

The above demonstrates that in the gaming industry, like in other industries, **it is not possible nor logical to deny the potential of electronic channels to catalyse traditional distribution structures; ultimately, it is the end consumers of the goods and services that benefit from these dynamics.** This also considerably reduces the effectiveness of any regulatory response that aims to eliminate or reduce said impact, without prejudice to the increased or decreased justification for the regulation pursuant to these bases.

Undertaking this general approach, it must still be noted that **establishing the precise level to which development of online gambling reduces participation in traditional gambling**, or to which, applying the terms used above, the first "cannibalises" the second, **is much more difficult**, and much caution should be employed when drawing conclusions on such an impact.

Assessing the extent to which products and services are offered via these traditional and online channels are substitutes for one another, in particular from a demand standpoint, would depend on consumer sensitivity to changes in the main competitive variables that are not necessarily substantial but that are sustained over time (such as the price per game or prize achievable); in other words, the cross-elasticity between both elements. **If the elasticity ratio is high** (i.e., whether an increase of 5 to 10% in the price of a product offered via one channel, would result in demand transferring to the other channel), **it can be concluded that the goods and services offered via both channels are substitutes; otherwise, they would belong to different markets**.

To date, the application of such methods to the link between traditional and remote gambling, whether as a mere framework for qualitative analysis or as a result of applying econometric models in line with empirical data, **has been inconclusive**.

Thus, on the one hand, **the conclusions of analyses carried out by Spanish and European competition authorities**, which tend to include this type of consideration, mainly in awarding State assistance or control of mergers, **are not consistent.** On occasions, it has been deemed that online and traditional gambling are different product markets [36]; on others, that both channels belong to a single de

[36] Thus, for example:

- As regards slot machines: Decision of the European Commission dated 14/3/2003, COMP/M 3109, Candover/Cinven/Gala. This precedent even highlights the fact that slot machines comprise a different market to other gaming.
- As regards poker: Competition Authority Notice No. 11-A-02 of 20 January 2011 as regards the online gambling and games of chance industry. This precedent underlines the fact that physical poker does not form part of the same market as online poker, as it involves certain differential features as regards the game on offer, in addition to higher costs and geographic limitations.
- As regards betting, the decision adopted by the UK's Office of Fair Trading is worthy of mention, as regards an economic merger, which distinguishes between betting houses and bets placed over the phone or via the Internet. Office of Fair Trading, Decision ME/1716-05 of 15 August 2005 as regards the purchase of Stanley Plc betting houses by William Hill.

facto legal framework. Based on such a conclusion, said competitive pressures should be accepted under the abovementioned terms, notwithstanding the fact that the regulatory differences that may be established between said forms of gambling must be compatible with Community law[37].

On the other hand, academic **studies** carried out to date on a range of empirical data **have also been unable to categorically establish a substitutive effect between online and traditional gambling**. The conclusions of work done vary greatly based on, for example, the data series taken or the countries analysed; those that suggest a certain substitutive effect are not applicable to the current Spanish situation as they fundamentally refer to unregulated environments and are also affected by certain limitations as regards the data used (a consequence of the above circumstance) and exercises undertaken.

As an example of the nature and limitations of said exercises, we can take a 2011 study[38] on the situation in the United States between 1999 and 2006, when online gambling was expressly banned in that country[39]. The study analyses the elasticity of income/profits between the two channels as regards casino games[40], reaching the conclusion that there is a relative level of elasticity between the GGR generated in both categories[41]. This conclusion was reached under strict hypotheses relating the US market at the time; the same cannot be applied to the regulated Spanish market and, in fact, these hypotheses are typical of the unregulated, illegal market: non-existent regulation, no traditional operators in the off-line environment, and easy and immediate entry into the marketplace. It is worth noting that the study itself also reduces the robustness of the conclusion as regards adopting public interest decisions (in particular, when they affect a single product, as is the case

[37] Note in particular the European Commission *Danish Casinos* Decision, of 20 September 2011, on the compatibility of the fiscal system applicable to online gambling in Denmark, which offers more benefits than the system applicable to traditional casinos in the view of the Community regulations on State aid. (measure C35/2010).
It must be taken into account that said Decision, which establishes the compatibility of the Danish measure with Community law, was adopted within the framework of deciding whether a fiscal measure represents a selective economic advantage; this is essential for verifying the existence of State aid. To this end, the EC, recognising the differences in cost structure, platforms, financial margins, consumer experience, providers or products, concluded that, as regards taxation on this activity, both channels are "comparable in law and in fact" in view of the equivalence between casino games, regardless of the channel. The EC did not carry out a substitutability study, stating that the reasons provided by Denmark at the time to establish that the online channel was different to the traditional channel, such as the psychological profile of the consumer or the evolution of different markets, were not invalid in themselves, but were inconsistent with other statements made by said Member State over the course of the procedure in question; therefore, they were worthless in demonstrating said lack of substitutability. See, in particular, paragraphs 87 to 94 inclusive of said decision.

[38] Philander, K. (2011), "The Effect of Online Gaming on Commercial Casino Revenue", *UNLV Gaming Research & Review Journal*, Volume 15, Issue 2, pp. 23-34.

[39] From the Unlawful Internet Gambling Enforcement Act (UIGEA), in force since October 2006.

[40] Income elasticity is an indicator as to the extent to which two products theoretically subject to the same competitive pressures end up as relatively immediate or remote competitors.

[41] Specifically, it concludes that the increase in online gambling income leads to a correlated decrease in income at traditional casinos of between 27 and 30 cents per US dollar.

with slot machines), in view of a series of elements related to the methodology applied[42].

In particular, said study highlights that, when legalising a form of gambling, the primary impact anticipated is that consumers of illegal gambling would transfer to the regulated environment; as a result, the cross impact on traditional forms of gambling is lower, and may even lead to greater opportunities for joint and complementary marketing for traditional and remote gambling, in addition to reducing the substitution effect. The author also believes that it would be necessary to address the orders of magnitude of traditional and online gambling to establish the actual, or marginal, effect of the change[43]. This would seem to be in line with the conclusions of other studies, which have ascertained that the nature of the relationship between online and traditional forms of gambling is more complementary than substitutive[44].

As far as we know, at the publication date of this report, there are no exercises that specifically address the nature of the abovementioned factors on the economic relationship between traditional and online forms of slot machines in particular. In any case, going down to this level of product disaggregation, to the recognised difficulty of attributing an exact figure to income elasticity between traditional and online gambling, in broad terms, a number of **factors could be added that affect the consumption patterns of consumers;** this is particularly applicable to traditional slot machines, whether games of pure chance (in Spain, C-type machines) or gambling machines (B-type), **which would further distort the interchangeability of these games between online and traditional channels,** without prejudice to whether a number of gamblers consume games via both channels[45]. To a certain extent, these different consumption patterns (or consumer patterns) between online and traditional channels would be in line with the conclusions of scientific works as regards the nature of the relationship between both channels in the field of eCommerce in general[46].

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[42] In particular, the quality and size of the online gambling data on which the analysis is based. It is also noteworthy that, due to the characteristics of the model, the results of which are contingent upon the data used, the inferences made as regards the degree of elasticity are directly linked to the actual size of the online market compared to the traditional market identified in the case in hand (which may change in each situation and as a result of it generating so many inconsistent outcomes).

[43] See in particular pages 30-31.

[44] For example, another 2012 study focusing exclusively on poker establishes the absence of substitutability and, indeed, the complementary nature of traditional and online channels, based on data taken from the USA and Canada (Philander, K. and Felder, I. (2012), "Online poker in North America: Empirical evidence on its complementary effect on the off-line market", *Gaming Law Review and Economics*, Volume 16, nº7-8, pp. 415-423.

[45] The Observatory for the Protection of Online Gamblers Report highlights that 73% of online slot machine consumers (a sample of 95 people surveyed), therefore from illegal environments, also play traditional slot machines. This proportion is only surpassed by online slot machine gamblers who also play lotteries and football pools (84% and 86%, respectively). See slide 16.

[46] See Kollmann, T., Kuckertz, A., & Kayser, I. (2012). "Cannibalization or synergy? Consumers' channel selection in online-offline multichannel systems". *Journal of Retailing and Consumer Services*, 19(2), pp 186-194. Regarding the gambling industry in particular, the following work is

In the particular case of slot machines, one of said aspects may be lie in the **profile of gamblers' motivations towards gambling.** The *4th Report on the Social Perception of Games of Chance*, drawn up by the Institute of Politics and Governance at Universidad Carlos III in 2013, analyses the main factors that lead to demand for gambling, distinguishing between types thereof[47]. The study is restricted to physical types of gambling, and distinguishes the following as factors: The excitement of winning a prize; habit; entertainment; the motivation of winning money; the exhibition of skill; and competition with other gamblers. It highlights that, for slot machines, excitement (a variable that may be linked to the frequency of prizes) is the main factor for many (main motivation for 59.4% of those surveyed), whilst entertainment, linked to quality or distinguishing feature variables, is a much more moderate factor: 25%[48]; the motivation of winning money, attributable to the size of the prize, accounts for just 6.3%, the lowest of all the types of gambling.

Other such elements may provide a response to the different **requirements applicable to gamblers when accessing regulated online forms of gambling**, such as user registrations and traceability of operations. Accessing and controlling gambling consumed via traditional gambling machines with random prizes (on which the user does not need to introduce his/her identification when accessing the machine or retrieving prizes and there is no way to trace operations), or machines of pure chance in casinos (on which, apart from when retrieving prizes, there is no form of traceability) is completely different in the case of online gambling. This may further condition the preferences of gamblers for online forms of gambling, as demonstrated by the fact that statistical evidence shows that machine gamblers, in general, are less indifferent to being identified than consumers of said products[49].

Lastly, official reports and comparative studies undertaken recognise other elements that differentiate demand for traditional and online forms of gambling, such as **the sociodemographic profile of consumers** (gender, age, professional, standard of living, etc.)[50].

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particularly interesting: Gainsbury, S., Wood, R., Russell, A., Hing, N., & Blaszczynski, A. (2012). “A digital revolution: Comparison of demographic profiles, attitudes and gambling behavior of Internet and non-Internet gamblers”. *Computers in Human Behavior*, 28, 1388-1398. doi: 10.1016/j.chb.2012.02.024

[47] See pages 29 to 32 inclusive. The report awards great relevance to tracing said motivational profile to this distinction.

[48] In fact, the lowest of all forms of gambling, with the exception of the lottery and football pools.

[49] 4th Report on the Social Perception of Games of Chance in Spain 2012/2013.

[50] For example, the aforementioned prevalence study published by the Gambling Commission in 2010, or in academic spheres, the work by Parke, J., Parke, A. J., Rigbye, J. L., Suhonen, N., & Williams, L. V. (2012). The eCOGRA global online gambler report. Included in R. J. Williams, R. T. Wood & J. Parke (Eds.), *Routledge International Handbook of Internet Gambling* (pp. 140-160).. In any event, the report mentioned above as regards the situation in Spain (DGOJ Observatory of Online Gamblers and the Report on the Social Perception of Games of Chance), have been unable to fully endorse the Spanish trend as regards some of these variables; this is particularly applicable to age, as both channels are somewhat similar in this respect.

All the above would suggest that the diversion of economic flows from traditional gambling channels towards online gambling is far from a foregone conclusion, even in the case of games that are, in principle similar[51]. **Even under the assumption that there is a certain substitution effect that applies to both channels, in the quantification of which we must proceed with extreme caution, this does not mean that products offered via both channels are particularly close competitors, nor that the evolution of one form is inversely correlated to the other in any significant way**.

7.2.b) The structure of supply in Spain: The evolution and impact of online gambling

Looking at the **evolution of traditional gambling in Spain in recent years**, and in particular gambling machines or games of pure chance, it is plain to see that there is **insufficient evidence that clearly links the financial results of said form of gambling with the advent and consolidation of online gambling[52]**.

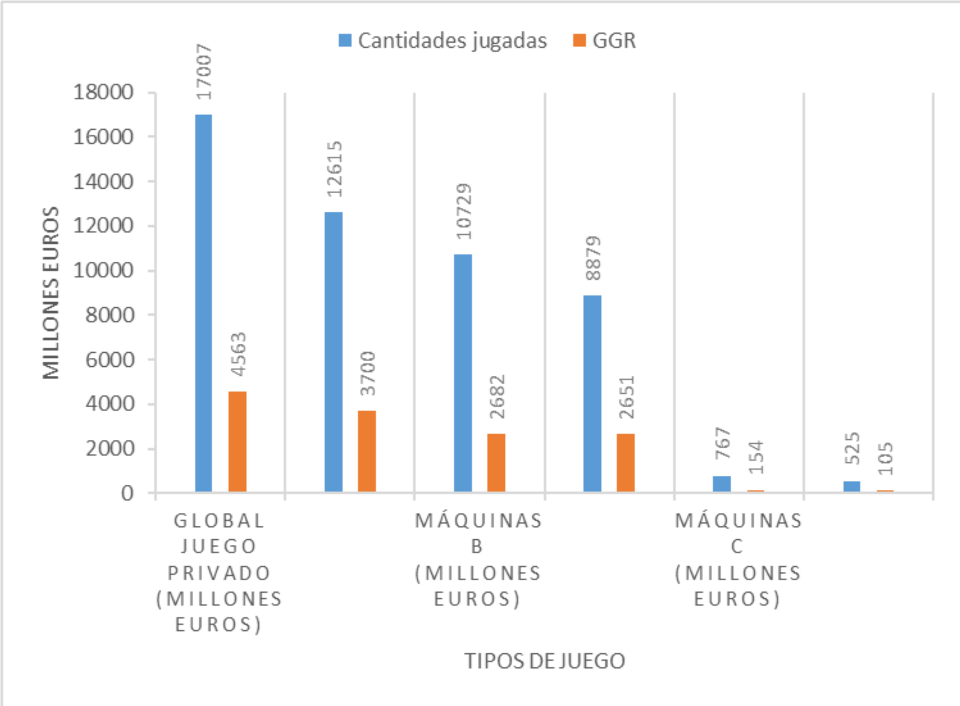
Conservatively speaking, it can be considered that **online gambling as a commercially significant phenomenon has existed in Spain since 2005-2006**[53]; thereafter, the channel has continued to develop, prior to its regulation in 2011 and the full effectiveness of the corresponding licensing programme in mid-2012. The following graph depicts the overall evolution of private gambling and the subsectors of B-type machines (including special bingo and arcade machines) and C-type machines, for the 2005-2012 period (2007-2012 for C category machines).

Graph No. 2. Economic evolution of online gambling and slot machines and games of chance. Evolution 2005-2012[1]

[51] The same conclusion was also reached in recent academic works, such as those by Forrest, D. (2012), “Internet Gambling: an economics perspective”, in Williams, J. et al, *Routledge International Handbook of Internet Gaming, Routledge,* p.29; or Cotte, June and Katherine Latour (2009), "Blackjack in the Kitchen: Understanding Online Versus Casino Gambling*," Journal of Consumer Research*, 35(5), 742-758. The latter, based on interviews with a panel of consumers focussing on traditional and online casino games, demonstrates that gamblers view both forms as different experiences in terms of added value: Traditional gambling given its environmental characteristics, and online gambling given the greater comfort it offers.

[52] Throughout this section, data is taken from the 2012 Annual Report of the Directorate-General for the Regulation of Gambling (published in July 2013), and the 2012/2013 Annual Gambling Report in Spain, published by the Institute of Politics and Governance at Universidad Carlos III and the Codere Foundation (November 2013). In the event of discrepancies between the two publications as regards specific data (in any case of minimal significance), the data contained in the latter publication will be used, given that it was released more recently.

[53] In 2007, a provision was included in the Spanish General State Budget Law for the following financial year in anticipation of the regulation of online gambling.



Source: Compilation of data from the DGOJ Report and the 2012/2013 Annual Gambling Report in Spain.
[1] *In the case of C category machines, the period covers 2007 to 2012.*

An annual breakdown of said evolution for B- and C-type machines may also be useful. Starting from 2007, the results would be as follows:

Table No. 3. Aggregate evolution on a national scale of GGR and number of machines. 2007-2012

Year		2007	2008	2009	2010	2011	2012
GGR	B-type machines	3.760,29	4.318,97	3.982,26	3.376,96	3.026,87	2.651,60
	C-type machines	153,53	146,40	131,57	126,99	106,50	105,10
	TOTAL	**3.913,82**	**4.465,37**	**4.113,83**	**3.503,95**	**3.133,37**	**2.756,70**
Number of machines	B-type machines	252.051	252.422	246.649	239.992	228.434	215.383
	Type C-type machines	2.281	2.379	2.266	2.291	2.411	2.348
	TOTAL	**254.332**	**254.801**	**248.915**	**243.283**	**252.545**	**217.731**

Source: Compilation of data from the DGOJ Report and the 2012/2013 Annual Gambling Report in Spain.

During this **period from 2005-2012** (the last financial year for which aggregate data on a national scale is available), **income as regards amounts gambled (gross income) from private, traditional gambling evolved** from €17,07 million to €12,615 million a year. In other words, in current terms[54], there was a 28.5% **decrease in income** from amounts gambled 25.8%. In terms of GGR, income has dropped from €4,563 million to €3,700 million, a decrease of 18.9%. At the start of the period, a clear upward trend was visible, peaking in 2008 when the amounts gambled increased to €20,160 million and GGR to €6,085 million.

In turn, income for the **slot machine subsector (B-type machines)** from 2005-2012 went from €10,729 million to €8,879 million a year, in terms of amounts gambled, a decrease of 17.25% throughout Spain. The number of machines installed for the period dropped from 245,966 to 215,383; i.e., a decrease of 12.4%. For the same period, GGR went from €2,682 million to €2,651 million; a decrease of 1.14%. This **relative decrease,** is **slightly lower than the decrease in the private gambling sector in general**. The difference in the evolution of amounts gambled (or even the decrease in the number of machines) and that of GGR, which was slightly less acute, is worthy of mention; thus, if, in 2005, the percentage of GGR on amounts gambled via slot machines stood at 25%[55], from 2007 to 2012, this proportion is almost 20% higher, with GGR for said financial year reaching 29.8% of the total amount gambled.

Similar to the results recorded for overall private traditional gambling, the revenue from B-type machines increased prior to 2008, when a figure of almost €15,000 million was recorded in amounts gambled and €4,319 million in GGR, gradually decreasing thereafter.

In addition to the above, the trend in revenue for **C-type machines located in casinos**, in 2007[56] income in terms of amounts gambled totalled €767 million; by 2012, this figure had dropped to €525 million. This represents a drop of 31.5%. GGR decreased from €154 million to €105 million, similar to the figure recorded in 2007 in relative terms as regards the amounts gambled. Likewise, despite said drop, the relationship between amounts gambled and GGR between 2007 and 2012 remained constant, at 20%. The evident negative trend during the period can be attributed to other factors, such as the decrease in overall casino income for the period based on GGR being significantly higher (41.5%, from €2,551 million to €1,490 million); as a result, the proportional importance of C-type machine income in the structure of casino income increased (from 27.4% to 34.2%). Furthermore, the number of machines installed in 2012 was slightly higher than the figure recorded in 2007 (2,348 compared to 2,281). All the above indicates that the

[54] These trends are shown over current turnover to ensure consistency with data extracted from the sources and inasmuch as, for the purposes in hand, establishing a measurement of evolution in constant terms is unnecessary, whereas addressing the trend of certain subsectors, comparing said trend to others, and verifying to what extent certain regulatory challenges modify them is necessary.
[55] In 2006, the proportion was the same as in 2005.
[56] First year in which all data used in this paragraph is available for C-type machines.

negative trend has been less pronounced for C-type machines in particular than it has for the overall performance of the casinos subsector.

When analysing evolution at an **Autonomous Community level**, a number of interesting observations can be made, comparing the situation in the Community of Madrid (where use of online slots has been authorised since April 2011 and services have been offered by 2 authorised operators), and other Autonomous Communities. Evolution between Autonomous Communities is very different: For example, as regards B-type machines, the descent ranges from between 11.6% in the Balearic Islands compared to its 2007 GGR (€112 million) and the most pronounced, without taking into account Ceuta and Melilla, in the Canary Islands: 54.20%. However, the drop recorded in the Community of Madrid was one of the smallest: Just 19.4%, the third least pronounced and well below the overall average of 29.5%. Likewise, as regards the evolution of C-type machines, said region, despite a significant drop in GGR of 41.1%, is far from the regions with the sharpest decreases for the period, Aragon and Murcia (with a descent of 66%) or Cantabria (50%).

On other hand, employing the data available for Spain it is impossible to establish the potential impact of legalising online slot machines, given that said legalisation is still pending, it is possible to address the opposite: the **impact on traditional forms of gambling that would result from a ban on online slot machines** following the entry into force of the 2011 Gambling Regulation Act. To this end, the data displayed in the above table is interesting; it establishes that not only is the evolution of B- and C-type machines, both as regards GGR and as regards terminals, irrespective of the aforementioned regulatory milestone (which changed the regulatory environment of online slot machines, resulting in them being banned (in fact, they recorded an increase at the start of the period), furthermore, the **rates of descent compared to the preceding years remain high for 2011 and 2012, when the ban on offering online slot machines fully took root.** Thus, as regards GGR, in aggregate terms, decreases of 10.5% for 2011 and 12.8% have been recorded for 2012; this is not totally dissimilar, especially in the case of the latter, to the peak for the period (14.8% from 2009 to 2010). In aggregate terms for terminals, the decrease recorded is 5% and 6% respectively, the largest for the period.

A number of **conclusions** can be drawn from the above data:

- The **trend in income in traditional gambling machines, both B- and C-type machines, is clearly diminishing**; however**, it is no more so than recorded in other traditional forms**, as is the aforementioned case of casinos and bingo (recording a decrease of 52% as regards amounts gambled, and a similar impact as regards GGR between 2005 and 2012).

- The former would seem to suggest that **the main causes of the decrease** in these financial results is not attributable to the special features of this type of gambling, but **features that affect the sector as a whole and are shared** by different gaming activities, such as the unfavourable macroeconomic situation and its impact on leisure products and services, both for gamblers (less consumption) and operators (less innovation), or certain regulatory elements that particularly affect traditional gambling or consumption in hotels and bars.

- It also seems reasonable to conclude that the machine subsector, both B- and C-type machines (but particularly B-types), have been able to absorb the descent in amounts gambled, reducing the impact on income after prizes (GGR). In line with the comments above, this would suggest that the **product is somewhat distinct and non-homogeneous** as regards other games and channels that offer this form of gambling in a traditional format; consequently it would be less sensitive than other forms (for example, other casino games) to change, even when significant, in consumption patterns.

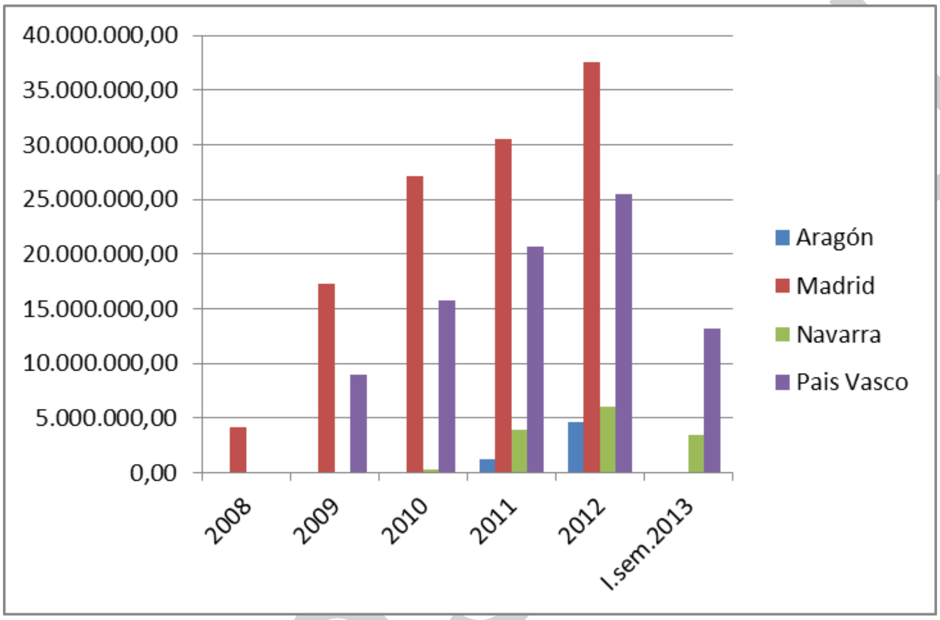
- Lastly, it would appear that **from all the possible causes** responsible to a greater of lesser extent **for the drop in income, the phenomenon of online gambling does not appear to be amongst the main causes**, insofar as the traditional industry demonstrated a positive trend despite the existence of said form of gambling prior to 2008; **the legalisation of slot machines**, evidently, does not appear amongst the main causes, as it has still not been applied nation-wide. Furthermore, it seems that conclusions cannot be drawn to the contrary as regards the effectiveness of the 2011 regulation, which resulted in a ban on online gambling machines.

As regards the latter, when analysing the impact of a possible shock resulting from the introduction of a gambling product in one channel on the same product in another channel, it may be worthwhile to consult the experience of **another traditional subsector that has undergone this change: The betting market.** Betting (in particular sports bets against the house) represent the most consolidated form of online gambling; in the United Kingdom it accounts for 78% of the market in terms of GGR and in Spain, in 2013, it recorded net income of €1,911 million and GGR of €113 million, a 49.3% share in all forms of online gambling. It can therefore be concluded that this form of gambling has a significant online presence; furthermore, using this example it is possible to assume a particular sensitivity amongst consumers to the price variable (odds received per monetary unit bet), which would foster a greater level of substitutability between the channels.

Thus, **the presence, consolidation and predominance of this product online has nevertheless failed to compromise the successful recent introduction and development of this form of gambling, with a high level of penetration, in the traditional format in some Autonomous Communities.** This is the case, for example, of the Community of Madrid, which is currently home to 304 betting houses. In other Autonomous Communities, the regulation allowing for said forms of gambling to be offered has been approved recently or is still in the final stages of processing[57].

For regions in which at least a minimal appraisal is possible, it can be established, as per the following graph, that **traditional forms of betting have undoubtedly grown since they were introduced.** This observation becomes more significant if we consider that this has taken place within a troubled economic environment.

Graph No. 3. Traditional betting. Economic trend



Source: Compilation of data from the DGOJ Report, the 2012-2013 Annual Gambling Report in Spain and others.

This demonstrates the rapid growth and current importance that traditional betting is experiencing. The percentage changes over the period as a whole, from when records began to 2012[58] have been spectacular: 183% in the Basque Country; 268% in Aragon; 810% in the Community of Madrid, and 2022% in Navarre. When breaking this down year-by-year, it does not seem that the regulation of online gambling in 2011-2012, including bets against the house, has reversed said trend. What is more, it is believed that 2013 data will confirm this undeniably positive trend[59].

The above demonstrates that **the consolidation in the importance of certain types of online gambling, with the prominence of bets against the house in this case, is fully compatible with the development of traditional business**

[57] For example, Valencia, Catalonia, Extremadura or the Canary Islands.
[58] The time series differs in each instance, considering 2012 as the end of the series.
[59] For example, according to recently published data, the 2013 figures for the Community of Madrid forecast net income of €191 million. See: http://sectordeljuego.com/detalle_recorte.php?id=6540 .

models based on the same games; furthermore, there appears to be no negative link between the results of one and the existence, or legalisation, of the other.

7.2.c) The introduction of online slot machines in other countries: Notable consequences

Observing and comparing the evolution of the traditional gambling and amusement machine sector in Spain and their trend in **neighbouring countries that have recently regulated online slots, under similar regulatory models to the one proposed, has demonstrated that said regulation has no consistent link to negative impacts, and much less a causal link, with the evolution of the former.** Precisely, it is the more precise differential effect that should be assessed as regards approving the Order.

As mentioned above, the **neighbouring countries** that have proceeded with the regulation of online slots, in similar content and scope as the proposed regulations, are the United Kingdom (2007), Denmark (January 2012) and Italy (December 2012). A quick look at the trend in the official figures published by the corresponding regulatory bodies makes it possible to conclude the following:

In the case of the **United Kingdom**, the oldest information available dates back to 2008[60], when online slot machines had already been introduced. In any case, the evolution of the traditional gambling machine industry from 2008 to 2012 recorded constant growth in GGR, from £1, 789 million the first year to £2,320 million in the last (€2,274 million and €2,807 million, respectively), an increase of 23.45%, mainly attributable to a significant increase (of over 50%) in turnover from marketing such an option through betting houses, which may, pursuant to British law, install up to 4 such machines each. This data is even more revealing considering that online slot machine figures recorded for licensed operators in the United Kingdom has continued to increase: From £5.11 to £24.79 million in terms of GGR. In other words, an increase of 484% from 2008 to 2012.

In **Denmark**, the evolution of traditional machines has been very similar to the case provided above for Spanish B-type machines. Thus, if in 2006, GGR came to €301 million, in 2012 it totalled €244 million, a decrease of 18.9%. However, it is worth noting that the trend reported in the most recent year, 2011 to 2012, coincides with the introduction of online slot machines, resulting in an increase of 1.7% in GGR for traditional machines.

In turn, for **Italy** there is no detailed public data to the end of the period in question; however, data available would not seem to imply an inverse relationship between the results of traditional and online slot machines. From 2006 to 2012, prior to the introduction of online slots, the traditional machine industry recorded a significant

[60] In the United Kingdom, the annual breakdown runs from April to March, however, it references the calendar year (for example: “2008”, in reality, addresses April 2008 to March 2009) for the purposes of consistency with other data and on the grounds that this assimilation does not impact the analysis of the series.

upward trend, of over 250%, between the start and end of the period. This growth stalled in 2013; nevertheless, the year-on-year negative variation was no more than 5%. However, the legalisation of online slot machines in December 2012 coincided with a 25% increase in the tax on the most economically significant traditional machines (the so-called VLT), from 4% to 5%; this tax is paid on amounts gambled. This may largely explain, said stall, inasmuch as it involves subtracting billions of euros from income; this may well have been offset by operators by offering a lower percentage in prizes. This order of magnitude is much greater than the estimated annual GGR for Italy as regards online slots (around €120 million). In any case, the expected decrease in traditional forms is relatively much lower than the increase represented by slots as regards remote casino gaming; as mentioned above, this form of gambling has been quoted at around 40% according to official information on the first 4 months since legalisation (December 2012 to March 2013).

In short, it is possible to draw the following conclusions:

- **In none of the countries has any significant pattern been seen following the inclusion of online slots within the framework of regulated forms of gambling.**

- **The economic evolution of slot machines, in some instances, has in fact been positive** (United Kingdom and Denmark in the most recent period), **despite or regardless of the introduction of online slot machines.**

7.2.d) Relative economic importance of traditional and online gambling

In addition to the above findings, the fact that **the orders of economic magnitude as regards the traditional and online are different** must be taken into account; the traditional industry is much greater in size than the online industry, and the relative economic importance of the online industry is experiencing contained growth in consolidated markets of around 5% and 15% of all gaming, as regards GGR, in these countries.

- Thus, in **Spain**, when analysing the most recent data available regarding slot machine for both traditional and online channels, applying, for the latter, the estimate made in the economic impact section based on casino game income[61], for the amounts gambled, the size of the traditional market (€9,404 million) would account for 92.05% of the entire market, while the online market (€814 million), would represent 7.95% of the total. However, in terms of GGR the online market would account for 0.81% (€22.6 million).

[61] The data for traditional amusement machines relates to 2012, and the estimates for online slots has been made based on 2013 casino gambling data.

- In the **United Kingdom** (2012), the share of traditional/online gambling in terms of GGR of all gambling, excluding lotteries, is 84%/16%, respectively; this represents the peak of online share since 2008. In particular, the share between traditional and online slot machines, is 99%/1%.

- In **Denmark**, based on GGR (2012), online gambling accounts for 11.6% of the total and 20.6% when disregarding lotteries[62].

- In **Italy** (2013), according to the Italian regulatory body, it is estimated that total GGR for online slots represents 1.2% of the GGR for traditional machines, and the relative importance of online gambling in general has varied in recent years, accounting for between 12% and 17% of the total.

Previous comparisons demonstrate, in short, that **the difference in economic importance between both channels is significant; this should be taken into consideration along with the comments already made above when further establishing the potential nature of this impact, which is considered to be low.**

7.2.e) The future merging of the two channels

Previous estimates and projections are based on a static context, according to which the main parameters for offering forms of gambling via traditional and online channels remain, as to date in Spain, relatively different. However, **the evolution of business models, along with the opportunities that the regulation presents**, both in traditional and remote environments, may facilitate **the partial integration or merger of the two channels with regard to user experience and operational and commercial exploitation;** this would be in the interest of consumers and therefore provide companies in the sector choosing to follow said strategy with economic value, and the corresponding impact in terms of income.

In this respect, and although it does not represent the only way of focussing said merger, particularly noteworthy is the possibility provided for by Article 1, section 10, paragraph 2 of the Order 10, like all the other Orders that approve basic regulations for different types of gambling, for **gambling to be exploited by physical accessory terminals** that operators may install at certain locations. In such an instance, authorisation may first be required from the corresponding Autonomous Community, based on the applicable regional regulations.

It has been the traditional operator associations that have quoted this provision as one of the most problematic and damaging as regards the interests of those they represent, insofar as the installation of said terminals close to other regulated machines authorised by the Autonomous Communities, subject to different conditions, may represent **excessively aggressive competition**.

[62] There is no disaggregated data for online slot machines in order to compare them to traditional slot machines.

To this end, it is believed that the **corresponding regulatory provision**, whilst **fully respecting Autonomous Community powers** as regards installation (allowing Autonomous Communities to decide the most suitable location, if appropriate, to install said terminals, or prohibiting such installations when the requirements in the corresponding regulations are not met and, in particular, if the restrictions set forth as regards prizes, price per game, return to player and any other technical specifications that the Autonomous Community may establish to determine the appropriateness of offering a specific game in a specific place are not complied with), from a state-wide regulatory standpoint, it remains completely **neutral as regards the future evolution of business models**, without enforcing or preventing such developments.

In any event, and irrespective of the extent to which such a merger may or may not take place, the approval of this Order is separate from the assessment of the level to which the regulatory framework applicable to traditional gaming facilitates, or on the contrary, strictly prevents the development of business models that make it possible to enhance its competitiveness and install it as an unmistakable added value channel as regards the preferences of said consumers, compatible with the online channel, as appears to be the case of the online betting market.

8. Budgetary impact

The approval of this type of gambling would result in a **positive net budgetary impact**, without negatively affecting the regional finance departments directly linked thereto.

8.1 Impact caused by the increase in remote gambling

As mentioned above, the legalisation of online slot machines would result in a **net increase in online gambling income**; this would automatically be reflected in tax revenue, deriving from the Tax on Gambling Activities established under Article 48 of Law No. 13/2011, of 27 May. Said article established a tax rate of 25% on the operator's net income (gross income less prizes awarded).

To estimate said impact, we can use the projections used previously on the **significance of this type of gambling within the framework of casino games**. Pursuant to the estimates made previously, considering the experience resulting from the immediate impact of **legalising** online slot machines in Italy, **slots would**

account for 40% of all casino games (this percentage remained consistent over the following months in said country). This approximate figure is believed to be the most appropriate in the short-medium term.

The following table shows the calculations made based on GGR recorded in 2013 for all casino games[63], coming to €33,862,312.

Table No. 4. Estimate of tax income/year following the legalisation of online slot machines (EUR)

Scenario	**2013 GGR - casino games**	**Criteria**	**Total casino games (with online slots)**	**Total online slots**	**Tax income**
Short-medium term	33.862.312	Slots represent 40% of the online casino games total	56.437.186,65	22.574.874,66	**5.643.718,67**

Source: DGOJ data and estimates

Pursuant to the above scenario, **, tax income would be in the region of €5.6 million.** *Caeteris paribus* (for example, if tax income from other types of regulated income does not increase as a result of the synergies deriving from the inclusion of online slot machines in regulated gambling; or, inversely, if tax income of certain forms of currently regulated games does not decrease, for example, all other casino games) **this would result in an increase of approximately 10% as regards the DGOJ estimates on income for this type of tax in 2013.**

On the other hand, as regards the **income from state-level taxes paid for the start of activities**, the estimate cost thereof is contained in the following section on administrative burdens. In any case, an estimate of aggregate income for this concept has not been included as it is impossible to forecast the number of operators that may eventually request the corresponding licences.

8.2. Impact on regional finance departments

As is the case with all other State-level gambling, it is reasonable to assume that **the estimated increase in income would be transferred almost in its entirety to the various regional finance departments**, in compliance with the regulations governing allocation to the fiscal residence of gamblers, pursuant to Article 48 Section 11 of the LRJ. Only a very small percentage would be payable to the central finance department, for gambling income obtained from gamblers for whom a permanent residence in Spain cannot be established (for non-residents).

The above, as regards the lack or marginal nature of the economic impact resulting from the regulation of online slot machines on traditional machines is considered as sufficient evidence to assert that there will be **no negative budgetary impact on**

[63] Roulette, black jack, baccarat, additional games.

regional finance departments, which could be caused by the feared reduction in income as a result of gamblers abandoning the traditional market in favour of the online alternative.

From this standpoint, rather than a negative budgetary impact, it would be more appropriate to assume that there will be an **additional increase in income**; such an increase would undoubtedly be more modest than the increase resulting from total tax income from traditional gambling machines and games of chance, given the different significance of both forms. Nonetheless, the increase would be aligned to the tax-intensity, which, strictly as regards taxes on gambling, is applied to traditional machines on their GGR[64].

9. Administrative burdens

- The Ministerial Order entails **new administrative burdens for operators interested in offering** online slot machines, which will now be a permitted type of gambling.
- These burdens correspond to the start-up of the activity; said burdens are **justified pursuant to the objectives that Law No. 13/2011, of 27 May** establishes as fundamental to its implementing regulation.

The proposed regulation entails the **generation of administrative burdens** as it involves the generation of currently non-existing circumstances: The possibility of marketing this form of gambling. That is to say, this administrative burden **will only affect legal entities that, as of the entry into force of the Order, wish to implement and offer slot machines via remote channels at established terminals**.

As regards forecasting the administrative burdens to be generated following the approval of this draft, the following **considerations** must be taken into account:

- Pursuant to Law No. 13/2011, of 27 May, there are two **types of licences** that operators may request to offer the service: On the one hand, the **general licence** to operate and market types of gambling; and on the other hand, the **individual licence** for each form of gambling.

[64] In this regard, the state-level tax pressure on B- and C-type machines as regards win or GGR, assessed pursuant to their individual economic significance, would, in line with the DGOJ estimate made based on data published in 2012, be slightly lower than 22% based on the arithmetic average of the different Autonomous Community situations, and almost 28% when including the economic significance of each Autonomous Community to establish the average. This calculation would employ the GGR corresponding to traditional B- and C-type machines obtained in 2012 for each Autonomous Community, on the one hand, and the taxation borne per type of machine in each Autonomous Community, multiplied by the number of machines installed in 2012, on the other.

- Applications from those interested in the **general licence** will be conditioned by a **notification published by a Ministerial Order** that approves tender specifications proposed by the Directorate-General for the Regulation of Gambling.
- Operators that are already in possession of the **general licence for other gaming** shall only have to request the **individual licence for slot machines.**
- The **administrative burdens of the general licence** were booked when approving Order EHA/3124/2011, of 16 November, which approved the tender specifications that regulate the general licence notification to offer and market gambling activities under Law No. 13/2011, of 27 May.
- The **assessment as regards the cost of administrative burdens** has been carried out on maximum amounts bearable by an interested party that already holds a general licence for the activity and that does not have to request two licences. As a result, this solely applies to **individual licences.**
- The **documents and procedures to be followed,** against which the administrative burdens have been assessed, are set out by the Resolution of the Directorate-General for the Regulation of Gambling of 16 November 2011, which sets out the request and approval procedure for individual licences.

The following table establishes the **valuation of burdens** pursuant to the criteria set forth in the Methodology Guide for Creating the Memorandum of Regulatory Impact.

The licence only need be requested once and will remain valid for a renewable period of 5 years (Article 4.1 of the draft Ministerial Order).

The cost of the set of additional burdens for each affected subject is €2,279. When calculating the affected population, based on the fact that this type of gambling has never been regulated, an estimate has been made taking into account the number of operators that currently hold a general licence for other gaming (42); said operators would immediately be able to include this type of gambling within the range of gaming they offer, on attainment of the individual licence. To this number we must add half the total, corresponding to operators currently not present in the marketplace who would potentially be interested in offering this type of gambling in response to the corresponding notification procedure as regards general licences.

Table No. 5. Estimated cost of administrative burdens required to request an individual slot machine licence.

ADMINISTRATIVE BURDEN	COST	UNITS	FREQUENCY	POPULATION	SUBTOTALS
Submission of a request in person	€80	1	1	63	€5,040

Conventional submission of documents, invoices or requirements	€5	15	1	63	€4,725
Submission of details	€2	7	1	63	€882
Submission of a report and memorandum	€500	4	1	63	€126,000
Conventional entry of a record	€110	1	1	63	€6,930
TOTAL					**€143,577**

Source: Directorate-General for the Regulation of Gambling compilation

The generation of new administrative burdens is an **unavoidable consequence of the option of offering this type of gambling** as set out in the Order, as, to date, offering this type of gambling in Spain has been prohibited, pursuant to the provisions of Article 5, Section 3 of the LRJ.

As regards the above legal rights that the aforementioned Law seeks to protect (public order, the fight against fraud, the prevention of addictive behaviour, the protection of the rights of minors and the rights of those participating in gambling activities), different administrative mechanisms must be designed to provide the Administration with sufficient information to establish, prior to the start of activities, that said activities do not represent a danger to citizens' rights and interests. To this end, a **prior authorisation system** has been created, to which operators of this type of gambling activity will be subject.

Likewise, and in line with the scope of the damage that such an activity could cause if the provision does not comply with the parameters set out in the ministerial order, establishing an **individual licence renewal system** is recommended in order to ensure that the conditions in place when the authorisation was granted remain in place over time.

In short, **new administrative burdens will be created, although they can be justified in light of the objectives set out by Law No. 13/2011 as fundamental to the implementation of regulations.**

10. Gender impact

The draft has **no gender impact**, as it does not contain any measure that could affect equal opportunities between men and women.