



**REPORT ON THE REGULATORY IMPACT ANALYSIS OF ROYAL
DECREE AMENDING ROYAL DECREE 1614/2011, OF 14
NOVEMBER 2011, WHICH IMPLEMENTS LAW 13/2011, OF 27
MAY 2011, ON THE REGULATION OF GAMBLING, IN RELATION
TO GAMBLING LICENCES, AUTHORISATIONS AND REGISTERS,
FOR THE INTRODUCTION OF A SYSTEM OF JOINT DEPOSIT
LIMITS PER PLAYER AND ROYAL DECREE 176/2023, OF 14
MARCH of 2023, ON DEVELOPING SAFER GAMBLING
ENVIRONMENTS.**

EXECUTIVE SUMMARY

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| Proposing Ministry/Body | Ministry of Social Rights, Consumer Affairs and Agenda 2030. | Date | 02/07/2024 |
| Title of standard | ROYAL DECREE AMENDING ROYAL DECREE 1614/2011, OF 14 NOVEMBER 2011, WHICH IMPLEMENTS LAW 13/2011, OF 27 MAY 2011, ON THE REGULATION OF GAMBLING, IN RELATION TO GAMBLING LICENCES, AUTHORISATIONS AND REGISTERS, FOR THE INTRODUCTION OF A SYSTEM OF JOINT DEPOSIT LIMITS PER PLAYER AND ROYAL DECREE 176/2023, OF 14 MARCH 2023, ON DEVELOPING SAFER GAMBLING ENVIRONMENTS. | | |
| Report Type | Normal. | | |
| SCOPE OF THE PROPOSAL | | | |
| Subject | <p>Establishment of a new deposit limits system for persons participating in online gambling activities at state level applicable to all operators with whom the participant has opened a user registration and compatible with the one currently existing.</p> <p>Other amendments aimed at updating certain contents (update of the amount of the guarantees linked to the licences, modification of the precept regarding the form of constitution of the guarantees, etc.)</p> | | |
| Objectives pursued | <ul style="list-style-type: none">- Reinforce the current system of gambling deposit limits by establishing a single, joint deposit limit system per player for all operators where he/she has a gambling account, allowing for improved player protection. The purpose of establishing this type | | |

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| | <p>of limit system is to set up an effective tool to facilitate the self-control of the deposits made by participants, considering all operators licensed to market online gambling in Spain as a single unit of expenditure in this regard.</p> <ul style="list-style-type: none"> - In the context of safe or responsible gambling policy, this measure will result in an increase the level of protection of gambling participants and strengthen the tools available to users to manage their spending and, ultimately, the prevention of the emergence of addictive behaviour, which is the ultimate objective guiding the establishment of limits and the regulation of online gambling in general terms. - The other amendments are intended to update certain aspects of Royal Decree 1614/2011 of 14 November 2011. |
| Main alternatives considered | <ul style="list-style-type: none"> - There are no alternative solutions to the draft, since the introduction of a system of limits that takes into account all the operators with whom a participant has a user registration requires the inevitable coordination by the gambling regulatory authority, which in turn implies the necessary regulatory provision in regulation of regulatory rank, constituting the amendment of Royal Decree 1614/2011, of 14 November 2011, the appropriate regulatory instrument for this purpose. |
| CONTENT AND LEGAL ANALYSIS | |
| Type of Regulation | Royal Decree. |
| Structure of the Regulation | Preamble, two amending articles, a single additional provision, a single transitory provision and two final provisions. |
| Reports to be collected | <p>During the procedure, the following reports will be requested:</p> <p>Reports under Article 26(5) of Government Law 50/1997 of 27 November 1997:</p> <ol style="list-style-type: none"> 1. Report of the General Technical Secretariat of the Ministry of Social Rights, Consumption and 2030 Agenda, for the purposes of the provisions of Article 26(5)(4). 2. Report of the General Technical Secretariat of the Ministry of Economy, Trade and Enterprise for the purposes of Article 26(5)(1); 3. Report of the General Technical Secretariat of the Ministry of Industry and Tourism for the purposes of Article 26(5)(1); 4. Report of the General Technical Secretariat of the Ministry of Culture, for the purposes of Article 26(5)(1); |

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| | <ol style="list-style-type: none"> 5. Report of the General Technical Secretariat of the Ministry of the Presidency, Justice and Relations with the Courts, for the purposes of Article 26(5)(1); 6. Reports from the General Technical Secretariat of the Ministry of the Interior, for the purposes of Article 26(5)(1); 7. Report of the General Technical Secretariat of the Ministry of Education, Vocational Training and Sport for the purposes of Article 26(5)(1); 8. Report of the General Technical Secretariat of the Ministry of Equality for the purposes of Article 26(5)(1); 9. Report of the General Technical Secretariat of the Ministry of Health for the purposes of Article 26(5)(1); 10. Report of the General Technical Secretariat of the Ministry of Finance, for the purposes of Article 26(5)(1); 11. Report of the General Technical Secretariat of the Ministry for Digital Transformation and the Civil Service, for the purposes of Article 26(5)(1) and (5) (prior approval); 12. Report of the General Technical Secretariat of the Ministry of Territorial Policy and Democratic Memory, for the purposes of Article 26(5)(1); 13. Report of the General Technical Secretariat of the Ministry of Youth and Children, for the purposes of Article 26(5)(1). <p>The following reports will also be requested:</p> <p>Report of the Standing Committee of the Ministerial Commission on Digital Administration of the Ministry of Social Rights, Consumer Affairs and the 2030 Agenda.</p> <p>Report of the General Directorate of Autonomous and Local Legal Regime of the Ministry of Territorial Policy, for the purposes of the provisions of Article 26(6).</p> <p>Report of the Spanish National Markets and Competition Commission, for the purposes of the provisions of the Article 5(2) of Law 3/2013 of 4 June 2013 establishing the Spanish National Markets and Competition Commission received 15 December 2021.</p> <p>Report of the Spanish Agency for Data Protection (AEPD) in accordance with the provisions of Article 5 of Royal Decree 389/2021, of 1 June 2021, approving the Statute of the Spanish Agency for Data Protection.</p> <p>Report of the Council of Consumers and Users, for the purposes of the provisions of Article 26(5)(1);</p> <p>Report of the Office of Coordination and Regulatory Quality of the Ministry</p> |
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| | <p>of the Presidency, Justice and Relations with the Courts, of 27 September 2022, in accordance with the provisions of Article 26(9) of Law 50/1997, of 27 November 1997, of the Government.</p> <p>The draft will be submitted to the Responsible Gambling Advisory Board.</p> <p>The draft will be forwarded to the Gambling Policy Council.</p> <p>The draft will also be sent to the European Commission, with a view to complying with the provisions of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015, with a deadline of 17/01/2021 for the European Commission and the Member States to examine the proposal.</p> <p>The draft will be the subject of the mandatory Opinion of the Council of State</p> | |
| Public information process | <p>The procedures for prior public consultation and public information have been complied with through the website of the defunct Ministry of Consumer Affairs.</p> <p>1- Prior public consultation, for the purposes of Article 26(2) of Law 50/1997 of 27 November 1997 held on 29/03/2023 13/04/2023;</p> <p>2- Hearing and public information, for the purposes of Article 26(6) of Law 50/1997 of 27 November 1997:</p> | |
| IMPACT ANALYSIS | | |
| COMPLIANCE WITH THE DISTRIBUTION OF POWERS | <p>The draft is in line with the system of distribution of competences.</p> | |
| ECONOMIC AND BUDGETARY IMPACT | <p>General impact on the economy.</p> | <p>It has no appreciable impact on the economy in general.</p> |
| | <p>With regard to competition</p> | <p><input type="checkbox"/> The law has no significant effects on competition.</p> <p><input checked="" type="checkbox"/> The law has positive effects on competition.</p> <p><input type="checkbox"/> The law has negative effects on competition.</p> |

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| | From the point of view of administrative burdens | <input type="checkbox"/> It implies a reduction in administrative burdens. Estimated quantification: _____ <input checked="" type="checkbox"/> It incorporates new administrative burdens. Estimated quantification: _____ <input type="checkbox"/> It does not affect administrative burdens. |
| | From the point of view of budgets, the law <input checked="" type="checkbox"/> Affects state budgets. <input type="checkbox"/> Affects the budgets of other Territorial Administrations. | <input checked="" type="checkbox"/> Involves an expense: <input type="checkbox"/> Involves an income. Estimated quantification: _____ Estimated quantification: _____ |
| GENDER IMPACT | The regulation has a gender impact | <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Null <input type="checkbox"/> Positive |
| IMPACT ON CHILDHOOD AND ADOLESCENCE | The impact on childhood and adolescence is zero | |
| IMPACT ON THE FAMILY | The impact on the family is positive. | |
| IMPACT DUE TO CLIMATE CHANGE | The impact due to climate change is zero. | |
| OTHER CONSIDERATIONS | | |



REPORT ON THE REGULATORY IMPACT ANALYSIS OF ROYAL DECREE AMENDING ROYAL DECREE 1614/2011, OF 14 NOVEMBER 2011, WHICH IMPLEMENTS LAW 13/2011, OF 27 MAY 2011, ON THE REGULATION OF GAMBLING, IN RELATION TO GAMBLING LICENCES, AUTHORISATIONS AND REGISTERS, FOR THE INTRODUCTION OF A SYSTEM OF JOINT DEPOSIT LIMITS PER PLAYER AND ROYAL DECREE 176/2023, OF 14 MARCH 2023, ON DEVELOPING SAFER GAMBLING ENVIRONMENTS.

This report of the regulatory impact analysis responds to the provision contained in Article 26(3) of Law 50/1997 of 27 November 1997 on the Government.

For the preparation of the report, account has been taken of the structure provided for in Royal Decree 931/2017 of 27 October 2017 on the Regulatory Impact Analysis Report, as well as the Methodological Guide for the preparation of the Regulatory Impact Analysis Report approved by Agreement of the Council of Ministers of 11 December 2009, as provided for in the first additional provision of the aforementioned Royal Decree.

1.- Timeliness of the standard.

1.1. Rationale.

a) Introduction of a new complementary deposit limit system (Single per player and joint deposit limit system for all operators).

a.1) Current situation and reasons for the proposal.

The gambling regulations provide for various measures to protect players, including limits on the deposits that can be made by participants in online gambling operators at state level¹.

¹ The establishment of deposit and spending limits as an effective measure of responsible or safe gambling has been the subject of a large body of scientific literature, among which the following can be mentioned:

- Hing, N, Russell, A, Thomas, A and Jenkinson, R 2019, 'Hey Big Spender: An Ecological Momentary Assessment of Sports and Race Betting Expenditure by Gambler Characteristics'
https://www.researchgate.net/publication/335728407_Hey_Big_Spender_An_Ecological_Momentary_Assessment_of_Sports_and_Race_Betting_Expenditure_by_Gambler_Characteristics
- Journal of Gambling Issues, vol. 42, pp. 42-61. - Dowling, N., Youssef, G., Greenwood, C., Merkouris, S., Suomi, A., & Room, R. (2018). The development of empirically derived Australian responsible gambling limits. Melbourne, Australia: Victorian Responsible Gambling Foundation.
<https://responsiblegambling.vic.gov.au/documents/406/Responsible-gambling-limits-2018.pdf>
- Ivanova, E., Rafi, J., Lindner, P., & Carlbring, P. (2019). Experiences of responsible gambling tools among non-problem gamblers: A survey of active customers of an online gambling platform. Addictive Behaviors Reports, 9, 100161:
<https://pubmed.ncbi.nlm.nih.gov/31193727/>
- (Rowe, B., De Ionno, D., Holland, J., Flude, C., Brodrick, L., Vinay, A. and Moutos, M. (2017), Responsible Gambling: Collaborative Innovation Identifying Good Practice and Inspiring Change, Revealing Reality).



Under the current system of deposit limits (Article 36 of Royal Decree 1614/2011 of 14 November 2011)², these limits are set separately for each operator, which means that the total volume of deposits that could be made by a gambling market participant depends on the number of operators in which it participates³.

Taking into account the number of licensed operators in the Spanish market, the current operation of the establishment of limits is likely to lead to situations in which, for certain players with presence in more than one operator, the effectiveness of this safe or responsible gambling measure is insufficient.

With this draft, the establishment of a system of joint deposit limits per player is proposed, as an additional and complementary tool to the system of deposit limits per operator. This system would take as a reference the set of deposits made by a participant in the different operators in which he/she had an open account, and which could not exceed a certain threshold in a certain period of time.

a.2) Comparative analysis: regulation of deposit limits in other jurisdictions.

The actions taken by the different jurisdictions at European Union level are based on Commission Recommendation 2014/478/EU⁴, in Articles 24, 27, 29 and 31, which deal with

<https://about.gambleaware.org/media/1581/revealing-reality-igrg-report-for-gambleaware.pdf>.

- Auer, M., Reiestad, S. H., & Griffiths, M. D. (2018). Global limit setting as a responsible gambling tool: What do players think? *International Journal of Mental Health and Addiction*. <https://link.springer.com/article/10.1007%2Fs11469-018-9892-x>.
- Drawson, A. S., Tanner, J., Mushquash, A. R., & Mazmanian, D. (2017). The use of protective behavioural strategies in gambling: a systematic review https://www.researchgate.net/publication/316157749_The_Use_of_Protective_Behavioural_Strategies_in_Gambling_A_Systematic_Review
- Blaszczynski, A., Gainsbury, S., & Karlov, L. (2014a). Blue gum gaming machine: an evaluation of responsible gambling features. *Journal of Gambling Studies*, 30(3), 697–712. https://www.academia.edu/3117926/Blue_Gum_gaming_machine_An_evaluation_of_responsible_gambling_features
- Auer, M. & Griffiths, M.D. (2013). Voluntary limit setting and player choice in most intense online gamblers: An empirical study of gambling behaviour. *Journal of Gambling Studies*, 29, 647-660. https://www.researchgate.net/publication/230797756_Voluntary_Limit_Setting_and_Player_Choice_in_Most_Intense_Online_Gamblers_An_Empirical_Study_of_Gambling_Behaviour
- Wood, R. T. A., & Griffiths, M. D. (2010). Social responsibility in online gambling: voluntary limit setting. *World Online Gambling Law Report*, 9(11), 10–11. <https://irep.ntu.ac.uk/id/eprint/23205/>

² The current regulation of the system of limits on deposits is contained in Article 36 of Royal Decree 1614/2011, of 14 November 2011, which develops the Spanish Gambling Regulation Law (LRJ), regarding gambling licences, authorisations and records:

- operators must set economic limits for deposits,
- default amounts are set at EUR 600 per day, EUR 1 500 per week, EUR 3 000 per month,
- each participant, expressly and individually, may request gambling operators to reduce or increase the deposit limits or the disappearance of any limit it has established for its deposit account.

³ As an example, if the participant registers with five operators and in each of them establishes a daily limit of EUR 600, the participant could make deposits of EUR 3 000 per day.

⁴ 2014/478/EU: Commission Recommendation of 14 July 2014 on principles for the protection of consumers and users of online gambling services and the prevention of online gambling, among minors.



user deposit limits, their compliance and their modification at the request of the users themselves. It mentions the setting of deposit limits at the time of registration of the player (Article 24), the deadlines for making effective the modifications of the limits (Article 29) or the registration of the amounts of deposits and winnings of the users by the operators (Article 31).

In this regards, in most national jurisdictions the existence of limits is voluntary and these are set at the will of the users.

Countries such as Austria, Bulgaria, the Netherlands, Estonia, Ireland, Luxembourg and Slovenia do not impose any formal obligations in this regard. In Spain, as we have seen, the recommendation is fulfilled, in accordance with the provisions of Article 36 of Royal Decree 1614/2011 of 14 November 2011.

As for the European countries that establish in their regulations some measure on deposit limits, the following can be mentioned:

BELGIUM: Set a maximum weekly deposit of EUR 500 per participant. (Royal Decree of 25 October 2018).

FRANCE: The limits are regulated in Articles 26(2) and 16 of Law 2010-476 on gambling, from which participants limit the deposits they can make, but the regulations do not set a maximum deposit amount.

GREAT BRITAIN: In gambling regulations (General Act 2005, or in the LCCP) there is no legal limit on deposits. Similarly to the French case, participants can set their own limits at any time, since online gambling operators must offer instruments so that they can control their gambling patterns (such as, for example, limiting the amount of money they spend).

In the white paper for the reform of the game recently published by the Ministry of Culture, Media and Sports, reference is made to the need to introduce mechanisms that allow the application of protection measures to the player regardless of the number of gambling accounts opened, in the same operator or in several. To this end, they propose a model they call 'Single Customer View'.

ITALY: It regulates the existence of limits set by the participant in the *Decree of the Direttore Generale dell'Amministrazione autonoma dei monopoli di Stato of 5 February 2010 pubblicato sulla G.U. n. 68 of 23 March 2010*, but the maximum amount of the limits is not specified. In the communication of the regulator *Linee Guida per la certificazione della piattaforma di gioco*, of 2018, the rules of modification of the limits by the players are fixed, but for the moment it has not been transferred to a mandatory rule.

FINLAND. Players set limits and can modify them. The only thresholds are the maximum amount allowed on account of EUR 20 000, and fast-play loss limits of EUR 1 000 per day and EUR 2 000 per month. It is regulated in the Regulation of the Ministry of the Interior SMDno/2018/1879.

Finally, special reference should be made to: **GERMANY**, as this is the only jurisdiction with a deposit limit management model partially comparable to that of this draft, since, in the new gambling regulation, which entered into force on 1 July 2021, (*Staatsvertrag zur Neuregulierung des Glücksspielwesens in Deutschland [Glücksspielstaatsvertrag 2021]*) it is



established that, at the time of registration, players must establish a joint individual monthly limit that will apply to all operators. Once the amount of deposits has exceeded this limit, no deposits can be made with any operator.

a.3) Description of the operational operation of the system of joint deposit limits per player.

As indicated, the objective is to establish a system of limits on deposits that a player can make in a certain period, which takes into account their activity on all gambling platforms, **as a mechanism complementary to the limits established in each operator (Article 36 RD 1614/2011)**. In this sense, the system of limits established in each operator will not be altered its operation.

This system includes:

- the initial configuration of limit values and protocols for their modification,
- deposit control.

The operation of the system from an operational perspective is described below:

Initial configuration and modification of limits

The deposit limit management model that is implemented with this draft starts from the establishment *ex lege* for the total base of participants in state-wide online gambling activities of a daily and weekly deposit limit of EUR 600 and EUR 1 500 respectively.

Alterations of the limits thus established or, where appropriate, their cancellation, will be freely available to the participants.

The alteration or cancellation of limits must be requested by the participant by contacting the Directorate General for the Regulation of Gambling, as the gambling regulation authority, through the computer functionality that it makes available to users.

Limit control

Effective control of the joint limits will also be carried out by the Directorate General for the Regulation of Gambling. Thus, before authorising a new deposit of a participant, it will be necessary to verify that the joint limits are not exceeded and for that it will be necessary to know the total deposits accumulated in the period considering the deposits made by the player in all operators.

A description of the operation of the system would be as follows:

1. The player asks to make a deposit to operator A.
2. Operator A, after verifying that the player does not exceed any of the deposit limits established by the player on its system, communicates to the Directorate General for the Regulation of Gambling the player's request for two purposes: (1) obtain authorisation to make the deposit and (2) update the amount of accumulated deposits made by the player. The deposit cannot be completed until authorisation is obtained from the Directorate General for the Regulation of Gambling.



3. The Directorate General for the Regulation of Gambling, from the information of accumulated deposits of the player in the period, calculates the available margin and according to the result transfers to the operator the corresponding information.
4. The Directorate General for the Regulation of Gambling updates the value of the player's accumulated deposits by the amount requested and authorised.
5. Operator A processes the deposit with the payment method. The system of joint limits does not require confirmation of the deposit made.
 - a. Only in case the deposit is not made or is cancelled, the operator will inform the system, so that the actual accumulated deposits in the period are updated. This simplifies the authorisation process and reduces the load on the warehouse control system.
6. During the period of time between the deposit request and the authorisation, the participant may attempt to request another deposit from a different operator (operator B)⁵. Operator B will initiate the consultation process with Directorate General for the Regulation of Gambling which will not allow the action until the transaction of Operator A is finalised.

Information on the set limit defined by the player, the history of joint limit changes or accumulated deposits will be managed by the Directorate General for the Regulation of Gambling without the need for operators to access it for the management of the system.

a.4) Analysis of the number of persons participating in gambling activities likely to benefit from the measure.

In line with other measures taken in the field of safe or responsible gambling, establishing a joint deposit system limits is **target audience the overall total of players registered with online gambling operators** at state level. This scope is fully consistent with the purpose of the system, which is none other than to be an additional tool to the ones existing, facilitating the self-control of the deposits made by the participants, in such a way that their level of protection is increased and their rights and interests are better safeguarded⁶.

However, the very conception of the system means that it is the multi-operator players – that is, those who have an open account with more than one gambling operator – who are likely to benefit the most from this measure.

Although there is no single pattern of player behaviour in relation to deposit limits, it is possible to define some metrics that help us quantify the subjective scope of a possible implementation of a system of joint limits. To do so, the following variables have been taken:

- Number of multi-operator players

⁵ Requesting another deposit at the same operator would not be permitted as long as there is an active unfinished request.

⁶ In this regard, the results of the Survey on the Prevalence of Gambling in Spain 2022-2023 carried out by the Directorate-General for the Regulation of Gambling, which revealed the high percentage of players with the presence of elements of risk (understood as such, those players who have presented at least one of the symptoms listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5)) in the online gambling environment, up to 11.54 %, a percentage that increased significantly when the analysis was focused on the gambling segment (52.6 % on gambling machines, 31.86 % on roulette or 18.28 % on bets).



- Number of players who have exceeded their limits if all deposits made are considered independent of the operator.
- The same variables considering only those participants with a higher level of losses; For this purpose, the 5th percentile of the participants with the highest losses is taken as a reference.

The results for the different scenarios are as follows:

- 31 % of active players are multi-operators and of them, 14 % exceed their maximum limit and 3 5% exceed their minimum limit.
- If the **level of losses** of the biggest losers (5th percentile of losses) it turns out that 76 % of the most losing players are multi-operator and of them 81 % who exceed their minimum limit⁷ and 53 % exceed their maximum limit⁸.

| Criteria | Multi-operator players | % on players | Multi-operator players in the 5th percentile of losses | % on players in the 5th percentile of losses |
|--|------------------------|--------------|--|--|
| Multi-operator players | 468 161 | 31.63 % | 60 823 | 76.35% |
| Multi-operator players who have exceeded their maximum limit | 65 175 | 13.9% | 32 274 | 53% |
| Multi-operator players who have exceeded their minimum limit | 164 586 | 35.16% | 49 478 | 81.34 % |

Segmentation of participants according to their characterization of limits and deposits, with their quantification

It can be observed that the group of players in the 5th percentile of losses has a greater presence in several operators (three out of four are present in two or more operators compared to less than one in three in the players belonging to the rest of the loss percentiles), as well as having a greater tendency to exceed the maximum limits (one in two against almost one in eight) and minimum limits (eight out of ten against less than one in three).

The relevance of this group was already highlighted in the regulatory impact analysis report of Royal Decree 176/2023, of 14 March 2023, which develops safer gambling environments, in which the concentration of most of the operators' revenues in a small number of consumers stood out as a dynamic inherent to the development of the online gambling market.

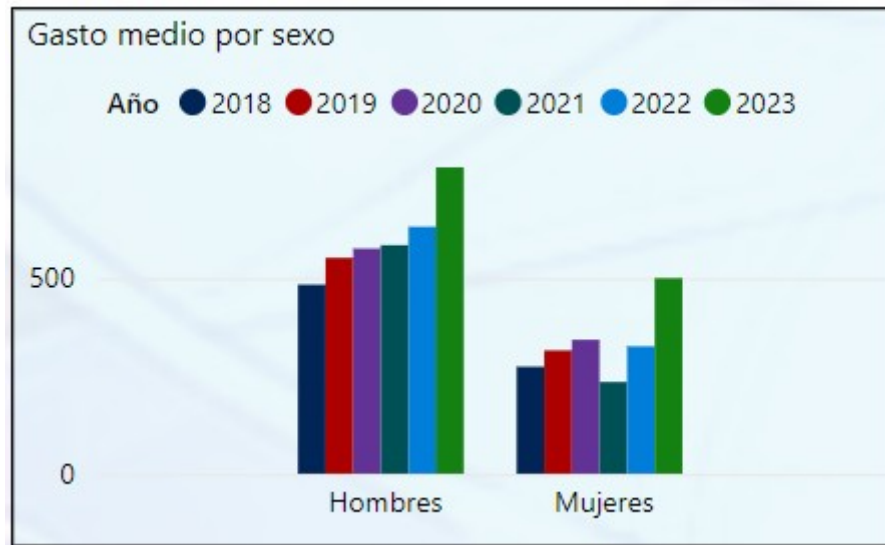
The data on the gambling market published by the Directorate General for the Regulation of Gambling in the report 'Online Player Profile' show how year-on-year increases in the online

⁷ A minimum limit is understood to be the smallest of all the limits that a player has established in the different operators in which he/she is registered.

⁸ A maximum limit is understood to be the highest of all the limits that a player has established in the different operators in which he/she is registered.



gambling market stem essentially from an increase in average spending per player⁹, which has seen very remarkable growth¹⁰:



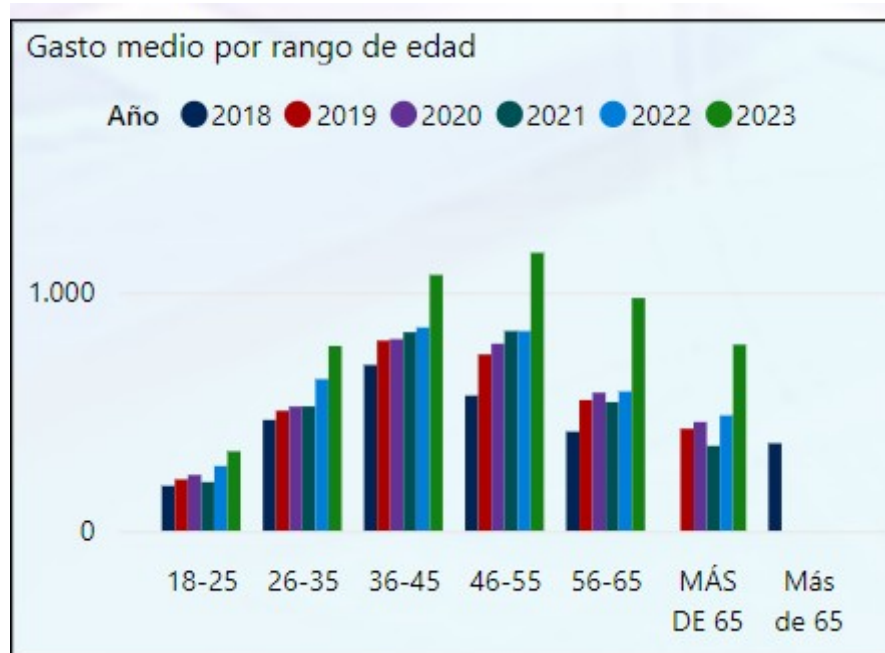
Average expenditure by sex. Source: Directorate General for the Regulation of Gambling, The Online Player Profile in 2023

| | |
|----------------------|----------------------------|
| Gasto medio por sexo | Average expenditure by sex |
| Año | Year |
| Hombres | Men |
| Mujeres | Women |

It is worth noting that this growth has occurred in all age ranges, with a substantially significant percentage increase in 2023:

⁹ As an example and given that the group of younger players (between 18-25) is the second largest of the group of online players (represents 32.36 % of the total players, only surpassed by the group between 26-35 years that represents 32.87 %), which has higher year-on-year growth rates (increase of 4.35% in 2023), in addition to its youth being able to present greater vulnerability, this segment has seen its average net expenditure pass from EUR 188 per year in 2018 to EUR 333 in 2023.

¹⁰ In 2023 the average net expenditure per active player is EUR 736, which means an expenditure of EUR 61.32 per month or EUR 14.15 per week. The average net expenditure of men was EUR 783 per year and that of women EUR 500.



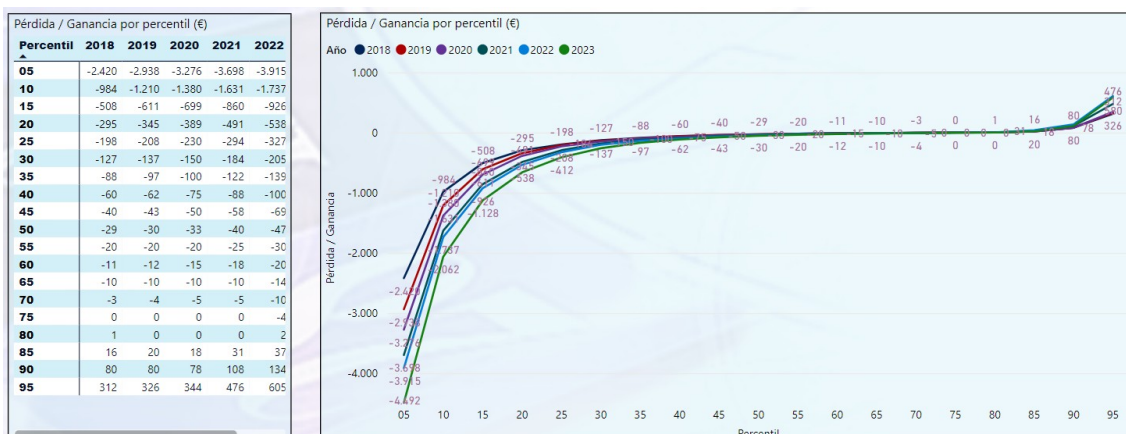
Average expenditure by age range. Source: Directorate General for the Regulation of Gambling, The Online Player Profile in 2023

| | |
|-------------------------------|----------------------------------|
| Gasto medio por rango de edad | Average expenditure by age range |
| Año | Year |
| Más de 65 | Over 65 |

However, this increase is not really significant in the level of spending of most consumers, but comes essentially from a consolidated set of players and, very particularly, from a fairly small number of participants within that set, who experience increasing rates of spending throughout their contractual relationship with operators.

In this sense, the following tables reflect the evolution of the net losses/wins of active players in the years 2018 to 2023, where it can be clearly observed that the economic involvement of the players who, in percentage terms, have incurred more expenses, has been increasing throughout this time series constantly and in a much more intense way than the rest of the participants:

Online gambling market with state licence. Spending distribution.



Source: Directorate General for the Regulation of Gambling, The Online Player Profile in 2023.



| <i>Pérdida / Ganancia por percentil (€)</i> | <i>Loss/win per percentile (EUR)</i> |
|---|--------------------------------------|
| Año | Year |

From the strict perspective of spending, several studies in fact suggest that one of the most notable traits in those players who have developed problematic or pathological gambling behaviour is precisely their level of spending on this activity¹¹.

It should also be borne in mind that gambling-related damage derives in a significant way from the economic losses that occur¹², in fact, the problems caused by gambling tend to be more serious for those who play more frequently or participate with greater financial intensity¹³.

According to this approach, the risk curves indicate that the odds of gambling-related damage increase steadily the more often you play and the more money you invest in gambling¹⁴. In this sense, the amount of money spent in the last 30 days is related to greater damage related to the game and with a greater severity of it¹⁵.

All this information becomes especially relevant when it is observed that much of **the profits of the online gambling industry depend for the most part in Spain on a very small segment of participants**, on which the major part of its income from gambling activities resides.

The following table presents the accumulated losses of the participants grouped by percentile of loss.

¹¹ On the relationship between the level of expenditure of a participant and an increased possibility of risky behaviour in that participant, the following references can be found:

- Hing, N, Russell, A, Thomas, A and Jenkinson, R 2019, 'Hey Big Spender: An Ecological Momentary Assessment of Sports and Race Betting Expenditure by Gambler Characteristics', Journal of Gambling Issues, vol. 42, pp. 42-61.
- Dowling, N., Youssef, G., Greenwood, C., Merkouris, S., Suomi, A., & Room, R. (2018). The development of empirically derived Australian responsible gambling limits. Melbourne, Australia: Victorian Responsible Gambling Foundation.

¹² Castrén, S., Kontto, J., Alho, H. and Salonen, A. H. (2018). The relationship between gambling expenditure, socio-demographics, health-related correlates and gambling behaviour-a cross-sectional population-based survey in Finland. *Addiction*, 113(1), 91-106. doi: 10.1111/add.13929. In any case, it should also be stressed here that the burden of damage caused by this activity, in addition to financial problems, is also transferred to relationships, health, psychological distress, adverse effects on work and education (Abbott, M. W. (2020)). The changing epidemiology of gambling disorder and gambling-related harm: public health implications. *Public Health*, 184, 41-45. doi: 10.1016/j.puhe.2020.04.003).

¹³ Clotas, C., Bartroli, M., Caballé, M., Pasarín, M. I. y Villalbí, J. R. (2020). The gambling industry: a public health perspective. *Revista Española de Salud Pública*, 94, e202006043.

¹⁴ Currie, S. R., Hodgins, D. C., Wang, J., el-Guebaly, N., Wynne, H. y Chen, S. (2006). Risk of harm among gamblers in the general population as a function of level of participation in gambling activities. *Addiction*, 101(4), 570-580. doi: 10.1111/j.1360-0443.2006.01392.x.

¹⁵ Rodda, S. N., Bagot, K. L., Manning, V. y Lubman, D. I. (2019). 'It was terrible. I didn't set a limit': proximal and distal prevention strategies for reducing the risk of a bust in gambling venues. *Journal of Gambling Studies*, 35(4), 1407-1421. doi: 10.1007/s10899-019-09829-0.



Thus, it is of interest to explain here that the online gambling industry in 2023 obtains 29.9 % of the gross revenue from participations of 1 % of players, 63 % of 5 % and 79 % of 10 % of players¹⁶.

| Percentil | Número de jugadores | Porcentaje de jugadores | Pérdidas acumuladas | Pérdida acumulada sobre el total de pérdida de los jugadores |
|-----------|---------------------|-------------------------|---------------------|--|
| 5 | 81.892 | 5 % | 958.322.771 | 62.7 % |
| 10 | 163.784 | 10 % | 1.207.968.943 | 79.1 % |
| 15 | 245.676 | 15 % | 1.333.572.202 | 87.3 % |
| 20 | 327.568 | 20 % | 1.404.968.599 | 92.0 % |
| 25 | 409.460 | 25 % | 1.448.162.497 | 94.8 % |
| 30 | 491.352 | 30 % | 1.475.224.168 | 96.6 % |
| 35 | 573.244 | 35 % | 1.492.615.928 | 97.7 % |
| 40 | 655.136 | 40 % | 1.504.243.062 | 98.5 % |
| 45 | 737.028 | 45 % | 1.512.184.339 | 99.0 % |
| 50 | 818.920 | 50 % | 1.517.543.161 | 99.4 % |
| 55 | 900.812 | 55 % | 1.521.207.446 | 99.6 % |
| 60 | 982.703 | 60 % | 1.523.656.674 | 99.8 % |
| 65 | 1.064.594 | 65 % | 1.525.304.959 | 99.9 % |
| 70 | 1.146.485 | 70 % | 1.526.316.458 | 99.9 % |
| 75 | 1.228.376 | 75 % | 1.526.986.369 | 100.0 % |
| 80 | 1.310.267 | 80 % | 1.527.218.909 | 100.0 % |

En el año 2023, el 79.1% del total de las pérdidas se concentra en un 10% de los jugadores.

Source: Directorate General for the Regulation of Gambling, The Online Player Profile in 2023.

| | |
|---|--|
| Distribución por percentiles de jugadores con pérdidas | Percentile distribution of losing players |
| Percentil | Percentile |
| Número de jugadores | Number of players |
| Porcentaje de jugadores | Percentage of players |
| Pérdidas acumuladas | Cumulative losses |
| Pérdida acumulada sobre el total de pérdida de los jugadores | Accumulated loss on players' total loss |
| En el año 2023, el 79.1% del total de las pérdidas se concentra en un 10% de los jugadores. | In 2023, 79.1 % of total losses are concentrated on 10 % of players. |

a.5) Conclusions and amending proposal

In the light of what is stated in the previous section, it can be considered that a tool aimed at improving deposit control, and therefore directly spending control, with general scope for all users of online gambling and particularly in the case of the most intensive group of players in spending can be very effective as a measure of safe gambling.

To this end, the draft contains a second section. Introducing a new Article 36 bis System of joint deposit limits per player:

A new Article 36 bis is introduced, which establishes the existence of a system of limits for the set of deposits that a user can make in the totality of gambling accounts that he/she has associated with the user records of several operators. The system is designed to be **complementary and independent of the systems for the control and management of deposit limits maintained by each operator** (pursuant to Article 36).

¹⁶ Traditionally, the most relevant studies on the players who lose the most in the gambling sector pointed to more contained figures. Thus, to give an example, in 2003 there was a study that pointed out that 15 % of casino players generated 50 % of the total profits of the industry. In 2004, another study noted that 15 % of participants in gambling machines generated 60 % of the total profits of this sector:

- Shook, R. L. (2003). Jackpot! Harrah's winning secrets of customer loyalty. Hoboken, NY: John Wiley.
- Williams, R. J., & Wood, R. T. (2004). The proportion of gambling revenue derived from problem gamblers: Examining the issues in a Canadian context. Analyses of Social Issues and Public Policy, 4, 33-45



The limits will be daily and weekly, and will be available to all users (increase, reduction or elimination).

b) Other amendments

The draft also addresses the following modifications:

Article 1: amending the following articles of Royal Decree 1614/2011 of 14 November 2011:

1- Section 1. Amending Article 13. Requirements of data subjects for obtaining general licences:

The figure of the permanent representative in Spain of foreign operators provided for in Article 13 of the Law is developed in Article 13(1) of Royal Decree 1614/2011, of 14 November 2011. In order to clarify that the scope of representation to be exercised by the permanent representative in Spain of foreign gambling operators is not limited only to the receipt of notifications relating to licensing procedures, it is appropriate to specify in the wording of the aforementioned Article 13(1) of Royal Decree 1614/2011, of 14 November 2011, that the scope of representation of these permanent representatives extends to all aspects related to the development of the activity of foreign gambling operators throughout the period of validity of their qualifying titles.

To this end, a subsection is inserted in the second paragraph of this section to clarify that the permanent representative in Spain has the capacity to receive notifications for 'all purposes'.

2- Section 3. Amending Article 43(1). Form of provision of guarantees:

Among the forms provided for in Article 43 of Royal Decree 1614/2011, of 14 November 2011, for the constitution of the guarantees of gambling operators is the mortgage constituted on real estate located in Spain. The difficulties that, by its very legal nature, the mortgage entails in relation to the assessment of the sufficiency of the guarantee of the operators, and on its maintenance, updating and eventual enforcement, suggest that this form of constitution of the list of forms provided for in the aforementioned Article 43 of Royal Decree 1614/2011 should be eliminated.

For this, the mortgage constituted on real estate located in Spain is eliminated as a possible form of guarantee.

3- Section 4. Amending the tenth additional provision. Electronic processing:

For the purpose of introducing making it obligatory for participants in gambling activities to interact with the gambling regulatory body's deposit limit system through electronic means.

4- Section 5. Amending Annex I on the amount of guarantees attached to licences:

Despite the provision contained in the first final provision, since the adoption of Royal Decree 1614/2011 of 14 November 2011, the amounts relating to guarantees have not been updated. Given the time that has elapsed since then and in order to preserve their real value, this Annex is amended in order to update the amounts to the accumulated inflation over the 11-year period (2012-2023).

The change in the Consumer Price Index between January 2012 and January 2023 was found to have been 20.8 %, after consulting the database of the National Institute of Statistics. Therefore, it is deemed appropriate to update the monetary amounts of the



guarantees of gambling operators, linked to the general licences, taking as a reference the variation experienced by the aforementioned statistical index.

Tabla

Calculo de variaciones del Indice de Precios de Consumo (sistema IPC base 2021)

Variación del Índice General Nacional según el sistema IPC base 2021 desde
Enero de 2012 hasta Enero de 2023

| Indice | Porcentaje(%) |
|----------|---------------|
| Nacional | 20,8 |

El método utilizado para el cálculo de las tasas de variación del IPC se describe en la metodología
[Preguntas frecuentes sobre el IPC](#)

| | |
|--|--|
| Tabla | Table |
| Calculo de variaciones del Indice de Precios de Consumo (sistema IRC base 2021) | Calculation of changes in the Consumer Price Index (base CPI system 2021) |
| Variación del Índice General Nacional según el sistema IPC base 2021 desde Enero de 2012 hasta Enero de 2023 | Variation of the National General Index according to the base CPI system 2021 since January 2012 even January 2023 |
| Indice | Contents |
| Nacional | National |
| Porcentaje(%) | Percentage (%) |
| El método utilizado para el cálculo de las tasas de variación del IPC se describe en la metodología | The method used to calculate the rates of change in the CPI is described in the methodology |
| Preguntas frecuentes sobre el IPC | Frequently asked questions about the CPI |

5- Section 6. Introducing an Annex III concerning the amount of the daily and weekly limits.

1.2. Objectives.

The objective of the draft is the establishment of a system of deposit limit limits that takes into account all operators with whom a participant has a user registration and that is coordinated by the gambling regulatory authority.

The system is in line with Commission Recommendation 2014/478/EU of 14 July 2014 on principles for the protection of consumers and users of online gambling services and the prevention of online gambling among minors, as well as with the public policy of reinforcing responsible or safe gambling measures adopted in Royal Decree 958/2020 of 3 November on commercial communications of gambling activities and Royal Decree 176/2023 of 14 March 2023, developing safer gambling environments.

The adoption of this measure will lead to an increase the level of protection of participants in the games by making available to users a tool complementary to the current model of deposit limits per operator that allows them to better manage their spending, thus contributing to the prevention of the appearance of addictive behaviours, an objective that ultimately guides the establishment of limits and the regulation of online gambling in general terms.

The rest of the amendments are aimed at updating certain aspects of Royal Decree 1614/2011, of 14 November 2023, and the amendment of Royal Decree 176/2023, of 14 March 2023, to introduce the reference to the new system of deposit limits among the information that operators must provide to participants in the games on their web portal or application.



1.3. Alternatives, regulatory and non-regulatory.

From the strict perspective of the regulatory instrument used for the introduction of the system of joint deposit limits per player, there are no alternative solutions to the draft, since the introduction of a system of deposit limits that takes into account all the operators with whom a participant has a user registration requires the inevitable coordination by the gambling regulatory authority, which in turn implies the necessary regulatory provision in regulation of regulatory rank, constituting the amendment of Royal Decree 1614/2011, of 14 November 2011, the appropriate regulatory instrument for this purpose.

The aim of establishing a system of joint deposit limits – to provide a tool that allows better management of the expenditure of participants in gambling activities from the tuitive perspective of safe or responsible gambling – has led to the draft opting for a limit model with the following characteristics:

- With *ab initio* and *ex lege* fixing, a certain threshold of daily and weekly deposit limits applicable to the total pool of participants;
- With full autonomy of the players when determining the subsequent level of limit of joint deposits that you want to establish (enabling the modification of the established ones or even their deletion)
- With a management model of the system of a centralised nature in which the management powers are resided in the Directorate General for the Regulation of Gambling;

This option (which we could define as ‘centralised’ – given the role played by the gambling regulatory authority in its operation – and with ‘establishment of threshold limits’ – has been considered necessary, suitable and proportionate to the purpose pursued, for which the alternatives summarised in the following table have been examined and possibly discarded:

Alternatives to establishing a system of joint deposit limits per player

| Alternative | Implications | Advantages | Disadvantages |
|---|---|--|---|
| Continuation of the current situation | This would mean keeping the system of deposit limits per operator as the only deposit control tool available to players. | Absence of budgetary and economic impacts. | Maintenance of the limited protection situation of the deposit limit system, especially relevant for the universe of multi-operator players and, singularly, those who concentrate on the 5th percentile of losses. |
| Introduction of a decentralised joint boundary system (or between operators without Directorate General for the Regulation of Gambling intervention) | In such a system, the gambling regulatory authority would merely act as a supervisor of the system operating properly. The operation of the system would take place through direct interaction between operators. | Lower degree of performance intervention by the regulatory authority. Greater involvement of operators in the system's operation. | System coordination difficulties. Difficulties in the sharing of information necessary for the proper operation of the system and, in particular, the scope and possibilities of processing personal data. Difficulties in monitoring the operation of the system |



| | | | |
|--|---|--|---|
| | | Widespread scope of the system (target audience consisting of the universe of registered players). | |
| Introduction of a centralised joint limit system without setting thresholds | <p>The gambling regulatory authority would take an identical position to that of the draft option, with the only difference being that participants in gambling activities would be the ones to proactively set their joint deposit limits once the system went live. This would mean making it possible for players to set the starting limit they deem appropriate.</p> | <p>Widespread scope of the system (target audience consisting of the universe of registered players)</p> <p>Greater autonomy of participants in defining the characteristics of their participation.</p> | <p>Risk of the limited scope of the number of players using the system.</p> <p>Difficulties in the degree of knowledge of the system by participants for whom it might be useful.</p> |
| Introduction of a centralised joint limit system with unavailable thresholds for the player | <p>The thresholds of the system would be determined through a regulatory intervention with no possibility for participants to alter them once set (Germany's option).</p> | <p>Widespread scope of the system (target audience consisting of the universe of registered players)</p> <p>Greater ability to control potential spending levels in gambling activity.</p> | <p>No degree of autonomy of the participants.</p> <p>Affecting participants for whom the measure implies an unnecessary intervention.</p> <p>Excessive rigidity of the system.</p> |

First, we start from the current not fully satisfactory situation offered by the system of deposit limits per operator as a safe or responsible gambling instrument available to users. The knowledge accumulated by the Directorate General for the Regulation of Gambling in terms of the characteristics of the online player, the state of the art, the operational opportunities offered by the internal control system of the operators, all these elements make possible an intervention of a performance type such as the one addressed with the establishment of a system of centralised joint deposit limits, that is, managed by the regulatory authority. This centralised option ensures the existence of adequate coordination as the regulatory authority is the only one of the players involved in the gambling market that has access to the information necessary for its proper operation. From this perspective, it spares the disadvantages derived from the inevitable sharing of information that such a system requires for its proper operation, as well as the legal reluctance and limitations that may exist if the public authority responsible for supervision does not intervene directly. Likewise, the problems derived from the possible processing of personal data are minimised, since it will be the regulatory authority alone that in the management and supervision of the operation of the system will have access to them. On the other hand, the establishment of limits with general



scope from the start of the system guarantees the effective availability of all registered users of the tool, eliminating the costs derived from a gradual implementation or the smaller scope, and therefore less effectiveness, which would determine the limits left, from the beginning, to the free initiative of users registered on the operators' platforms. However, and without prejudice to the goodness of this tool being available to the largest number of users since its implementation, it has also been deemed of the utmost importance that it is the participants in the gambling activities themselves who, ultimately, may have access to what are the limiting amounts they wish to establish for their deposits.

In short, the option of a centralised system in which participants can have the system of joint deposit limits according to their characteristics and personal interests has been considered the optimal option compatible with the purposes of safe or responsible gambling in which this measure is embedded.

1.4. Adherence to the principles of sound Regulation.

The Royal Decree complies with the principles of good regulation of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency (Article 129(1) of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations).

1.4.1. Principles of necessity and effectiveness.

In accordance with Article 129(2) of Law 39/2015, 'in accordance with the principles of necessity and effectiveness, the regulatory initiative must be justified by a reason of general interest, be based on a clear identification of the aims pursued and be the most appropriate instrument to ensure that it is achieved'.

The main purpose of this regulatory amendment, as explained in detail in the previous sections, is to reinforce the instruments made available to participants in gambling activities for their protection during the course of their gambling activity. The system, which is conceived as complementary and independent of the currently existing one, will increase the level of security of participants in gambling activities who maintain open accounts with several operators.

1.4.2. Principle of proportionality.

In accordance with Article 129(3) of Law 39/2015, 'under the principle of proportionality, the proposed initiative must contain the regulation necessary to meet the need to meet the standard, after finding that there are no other measures less restrictive of rights, or that impose fewer obligations on recipients'.

In accordance with this principle, an analysis of the measures included in this draft should be carried out below, in order to determine strict compliance with this principle in relation to this draft.

The system of joint deposit limits per player has been characterised as a centralised limit management model, insofar as it is managed directly by the gambling regulatory authority, with daily and weekly limit thresholds established *ex lege* for all users registered on online gambling platforms, fully available to these users in terms of their amount or even their existence.

A system such as that described is considered to comply fully with the sense of proportionality required by the doctrine of the Constitutional Court in its threefold conception:



- a) It is suitable or appropriate to achieve the objective pursued by it, which is none other than to increase the level of protection of the interests of participants in gambling activities in the context of the responsible or safe gambling policy to be developed by gambling operators. This measure is likely to be highly effective in the group of players present in several operators, as well as in the subgroup constituted by the 5 % with the highest losses, in which there is a greater proclivity to exceed the maximum and minimum deposit limits as has already been verified in section 1 of this Report on the Regulatory Impact Analysis (MAIN).
- b) It is necessary, since there is no less harmful model for achieving this end with equal effectiveness (necessity judgement). The analysis of alternative systems offered in section 1(3) exposes the pros and cons of different systems aimed at achieving the purpose pursued with the implementation of the new system. The system is in fact configured as a complementary and independent system of the current system of deposit limits per operator.
- c) These measures are weighted or balanced, as their application results in more benefits or advantages for the general interest than harm to other conflicting assets or interests (proportionality test in the strict sense). The system increases the overall security of the online gambling market from the perspective of its participants by providing them with an additional and complementary tool to the currently existing one with which to improve the management of their deposits. There is no harm to other interests, neither of players nor of operating entities, since the ultimate decision to maintain a predetermined deposit threshold depends on the person participating in these activities (who, if he/she wishes not to be limited in his gambling activity by that threshold, can increase or eliminate it).

1.4.3. Principle of legal certainty.

According to the provisions of Article 129.4 of Law 39/2015 of 1 October 2015, '*In order to guarantee the principle of legal certainty, the regulatory initiative shall be exercised in a manner consistent with the rest of the national and European Union legal system, in order to generate a stable, predictable, integrated, clear and certain regulatory framework, which facilitates knowledge and understanding and, consequently, the actions and decision-making of individuals and companies.*'

As will be seen in the following sections of this MAIN, it explains the national and European Union regulatory framework, as well as the scheme for integrating this regulation into the Spanish legal system as a whole, so it can be said that this rule also complies with the principle of legal certainty.

1.4.4. Principles of transparency and efficiency.

Article 129(5) and (6) of Law 39/2015 of 1 October 2015 state as follows:

'5. In application of the principle of transparency, public administrations shall make it possible to have simple, universal and up-to-date access to the regulations in force and the documents relating to their drafting process, in accordance with the terms laid down in Article 7 of Law 19/2013 of 9 December 2013 on transparency, access to public information and good governance; clearly define the objectives of the regulatory initiatives and their justification in the preamble or explanatory memorandum; and they will enable potential recipients to be actively involved in the development of standards.



6. In application of the principle of efficiency, the regulatory initiative should avoid unnecessary or ancillary administrative burdens and streamline, in its application, the management of public resources.'

This draft also complies with the principles transcribed, since it clearly defines its purpose, both in the preamble and in its articles, and makes it possible for potential recipients to have had an active participation in the elaboration of this standard.

The draft also avoids unnecessary or ancillary administrative burdens. In the corresponding section, a quantification of the identified administrative burden is carried out.

1.5. Annual regulatory plan.

This regulation is included in the 2024 Annual Regulatory Plan, approved by Agreement of the Council of Ministers of 26 March 2024.

2.- CONTENTS, LEGAL ANALYSIS AND DESCRIPTION OF THE PROCESSING

2.1 CONTENT.

This Royal Decree is made up of a preamble, a first article, amending Royal Decree 1614/2011, of 14 November 2011, implementing Law 13/2011, of 27 May 2011, on the regulation of gambling, as regards gambling licences, authorisations and registrations, composed of six sections; a second article amending Royal Decree 176/2023 of 14 March 2023 on developing safer gambling environments; and composed of a single section, a final implementing provision, a single additional provision on the 'Scheme for the updating of securities lodged', a single transitional provision on the 'Trial period and information to participants', a first final provision on the 'Regulatory implementing power' and a second final provision on the entry into force.

The first article, amending Royal Decree 1614/2011 of 14 November 2011, is composed of the following sections:

Section 1. Amending Article 13. Requirements of data subjects for obtaining general licences: a subsection is inserted in the second paragraph of this section to clarify that the Permanent Representative in Spain has the capacity to receive notifications for 'all purposes'.

Section 2. Introducing a new Article 36 bis. System of joint deposit limits per player: a new Article 36 bis is introduced, which establishes the existence of a limit system for all deposits that a user is able to make on all gambling accounts associated with the user registrations of several operators. The system is designed to be complementary and independent of the systems for the control and management of deposit limits maintained by each operator (pursuant to Article 36). The limits will be daily and weekly, and will be available to all users (increase, reduction or elimination).

Section 3. Amending Article 43(1). Form of provision of guarantees: the mortgage constituted on real estate located in Spain is removed as a possible form of guarantee.

Section 4. Amending the tenth additional provision. Electronic processing: for the purpose of introducing an obligation for participants in gambling activities to relate to the deposit limit system of the gambling regulatory authority by electronic means.

Section 5. Amending Annex I on the amount of guarantees attached to licences: despite the provision contained in the first final provision, since the adoption of Royal Decree 1614/2011 of 14 November 2011, the amounts relating to guarantees have not been updated. Given the



time that has elapsed since then and in order to preserve their real value, this Annex is amended in order to update the amounts to the accumulated inflation in the period.

Section 6. Introducing an Annex III concerning the amount of the daily and weekly limits.

Article 2, amending Royal Decree 176/2023 of 14 March 2023 on developing safer gambling environments, amends Article 9(2)(d) concerning the information to be provided by gambling operators in the 'Safer Play' section of their portals in order to specify that the information relating to deposit limits must refer both to the limits set by the participants in each operator, pursuant to Article 36, and to the system of joint deposit limits per player of the gambling regulatory authority.

Single additional provision. Regime for updating securities lodged.

By specifying the way in which the guarantees that were already constituted will be updated.

Sole transitional provision. Test period and information to participants.

Prior to the entry into force of the Royal Decree, a trial period is established that allows operators and the Directorate-General for the Regulation of Gambling to carry out the technical checks necessary to guarantee the operation of the system, as well as the actions to disseminate its entry into operation among players at the end of that period.

First final provision on the power to implement legislation.

Second final provision concerning the entry into force of the standard.

2.2 LEGAL ANALYSIS.

2.2.1 Regulatory framework.

In line with the measures related to safe or responsible gambling adopted in Royal Decree 958/2020, of 3 November 2020, on commercial communications of gambling activities and in Royal Decree 176/2023, of 14 March 2023, on developing safer gambling environments, which represented a real paradigm shift in the conception of the protection of participants in gambling activities, since they imply a shift of the focus of attention of the protective measures from the purely subjective perspective, in which the weight of protection fell on the individual responsibility of the player/consumer, to an objective or structural perspective, in which a significant part of the protection guarantees depend on the appropriate design of the offer of gambling services by the operator, this draft aims to develop in a systematic and coherent way the provisions of Law 13/2011, of 27 May 2011, on gambling regulation, which directly connect with the protection of consumers and, in particular with those vulnerable groups or groups at risk, starting from the fact that this activity is a complex phenomenon where preventive, awareness-raising, intervention and control actions must be combined, as well as reparation of the negative effects produced, establishing certain obligations for operators.

2.2.2 Legal basis and status of the regulation.

a) For establishing a system of joint deposit limits.

The legal basis for the proposed regulation with regard to the establishment of a system of joint deposit limits per player is contained in Article 8 of Law 13/2011 of 27 May 2011 regulating gambling, which states:



'Article 8. Consumer protection and responsible gambling policies.

1. The policies of responsible gambling provide that the operation of gambling activities shall be approached following an integral policy of corporate social responsibility that considers gambling as a complex phenomenon which requires a combination of measures of prevention, sensitisation, intervention and control, as well as the repair of any negative effects produced.

Preventive measures shall concern sensitisation, information and the dissemination of good gambling practices, as well as the possible effects of improper gambling.

Gambling operators shall draw up a plan of measures relating to the mitigation of possible harmful effects that gambling may have on individuals, and shall incorporate the basic rules of responsible gambling policy. As regards consumer protection:

a) Paying due attention to at-risk groups.

b) Provide the public with the necessary information so that they can make a conscious selection of their gambling activities, promoting moderate, non-compulsive and responsible gambling attitudes.

c) To publicise, according to the nature of and means used in each game, the prohibition of participation by minors or persons included in the General Register of Prohibitions from Access to Gambling or the Register of Persons Associated with Gambling Operators.

2. Operators may not grant loans or any other form of credit or financial assistance to participants.

3. The Government shall establish a General Registry of Access to Gambling Interdictions and shall urge the various regional authorities responsible for the corresponding registers of access to gambling interdiction (registration of prohibited), within the scope of their competences, to sign collaboration agreements for the automated interconnection between the different information systems of the aforementioned registers, as well as to carry out the computer developments and the regulatory modifications necessary for the implementation of the same.'

Thus, Article 8 of the aforementioned Law contains a general mandate of 'consumer protection' (title of the precept) consisting of responsible gambling policies assuming a perspective in which gambling is considered a complex phenomenon against which preventive, awareness-raising, intervention and control actions are combined, as well as reparation for negative effects. It is the Government of the Nation that is responsible for implementing the legal regulatory framework with regard to consumer protection and, singularly, the definition of the policy of responsible or safe gambling in the aforementioned dimensions (preventive, awareness, intervention and control and reparative), for its exercise by operators from a comprehensive perspective of corporate social responsibility. This public policy may take the form of various regulatory or other instruments (subsidy lines, advertising campaigns, training activities, etc.).

Equally relevant is Article 21(9) – Duties – which lists among the duties of the gambling regulatory authority that of: '9. Ensure that the interests of participants and vulnerable groups



are protected... and in connection with this, section 16 *'16 Protect groups of players at risk by evaluating the effectiveness of measures on responsible or safer gambling aimed at these groups that, in compliance with the applicable regulatory obligations, must be developed by gambling operators.'*

Reference should also be made to the provisions of Article 24(1) and (3) of the Law on 'Inspection and Control':

'Article 24. (Inspection and control)

1. To guarantee the provisions of this law and its supplementary provisions, the National Gambling Commission shall be responsible for the auditing, monitoring, inspection and control of all aspects and administrative, economic, procedural, technical, computer, telephonic and documentation standards in relation to the performance of the activities pursuant this law.

...

3. The National Gambling Commission may control the user account of the participant in gambling activities subject to this Law, as well as operators or providers of gambling services. The National Gambling Commission shall have access to the personal data collected in the user account of the participants, respecting at all times the provisions of Organic Law 15/1999, of 13 December 1999, on Data Protection and its implementing regulations.

The Public Administrations shall grant the National Gambling Commission access to their databases in order to verify the identity of the participant and, in particular, his or her status as an adult'.

Finally, Article 15(f) and (j) – Rights and obligations of participants in games – which provide that participants in games have the following rights:

' ...

f) To know the amount played or bet at all times, as well as the balance of any user accounts they may have opened with the gambling operator.

...

i) To receive information about responsible gambling practice.'

From this perspective, the SLDCJ contributes to providing these rights with additional material content, by expanding the information available to the participant in all operators and allowing him or her to better manage his or her expenditure.

In short, this draft deals with an amendment to Royal Decree 1614/2011, of 14 November 2011, which will contribute to strengthening the ability of participants in gambling activities to control the volume of expenditure by introducing a deposit limit applicable to all the accounts that they have open with different operators.

b) For establishing the obligation of participants in gambling activities to relate to the System of joint deposit limits per player established by the gambling regulatory authority.



The draft modifies the tenth additional provision of Royal Decree 1614/2011, of 14 November 2011, introducing a new section that establishes the obligation of participants in gambling activities at state level to interact with the gambling regulatory authority for the modification or cancellation of the joint deposit limits through the computer system that this authority establishes for that purpose.

The legal basis is found in Article 14 of Law 39/2015, of 1 October 2015, on the Common Administrative Procedure of Public Administrations, which after affirming the power held by natural persons to choose whether to communicate with public administrations through electronic means or not, provides in section 3 an exception in the following terms:

'3. According to regulations, the Administrations may establish the obligation to relate to them through electronic means for certain procedures and for certain groups of individuals who, due to their financial or technical capacity, professional dedication or other reasons, can demonstrate that they have access to and availability of the necessary electronic means.

However, in the case of persons participating in state-level gambling activities carried out through websites, applications or other electronic, computer, telematic or interactive channels, it is the case that, taking into account the nature of the gambling activity covered by Law 13/2011 of 27 May 2011 on the regulation of gambling (which is particularly the one carried out through electronic, computer, telematic and interactive channels), it is a group made up of natural persons who have access to and availability of the necessary electronic means, since the gambling activity they carry out is carried out through the use of these means and, therefore, they have the necessary technical capacity to interact with the SLDCJ.

In this way, all natural persons who wish to access the online offer of operators with an enabling title must do so through electronic devices through which they proceed to open a user registration to which a gambling account is associated.

2.2.3 Repeal of regulations

In so far as the draft merely amends Royal Decree 1614/2011 of 14 November 2011 and Royal Decree 176/2023 of 14 March 2011, it does not entail any legislative derogation.

2.2.4 Entry into force.

In accordance with the provisions of Article 23 of Government Law 50/1997, it provides in general terms that '*Without prejudice to the provisions of Article 2(1) of the Civil Code, the provisions for the entry into force of laws or regulations, the adoption or proposal of which is the responsibility of the Government or its members, and which impose new obligations on natural or legal persons engaged in an economic or professional activity as a result of the exercise of that activity, shall provide for their entry into force on 2 January or 1 July following their adoption*'. The second section of that provision provides that '*The provisions of this article shall not apply to royal decree-laws, nor when compliance with the deadline for transposition of European directives **or other justified reasons so advise, and this fact must be duly accredited in the respective Report***'.

This Royal Decree implies the realisation of technological developments that allow the adaptation of the technical systems of the Directorate General for the Regulation of Gambling and the operators for the fulfilment of their requirements. The period provided will allow the



appropriate development of the platform that will house the system of joint limits and through which the different communications between the operators and the SLDCJ managed by the Directorate General for the Regulation of Gambling will be made. Furthermore, the provision for a probationary period prior to entry into force underlines the need to defer this entry into force.

That is why, in order to provide a sufficient period of adaptation, a general entry into force of the Royal Decree is provided for 12 months after its publication in the Official State Gazette.

2.3. DESCRIPTION OF THE PROCESS

This Royal Decree has gone through the following procedures:

a) Public consultation:

Prior public consultation, for the purposes of Article 26(2) of Law 50/1997 of 27 November 1997: held between 29/03/2023 and 13/04/2023.

On 13 April 2023, the public consultation period ended so that all interested persons can make their contributions on the draft Royal Decree amending Royal Decree 1614/2011 of 14 November 2011 implementing Law 13/2011 of 27 May 2011 on the regulation of gambling, as regards gambling licences, authorisations and registrations.

During this public consultation period, a total of 11 stakeholders contributed to the draft:

1. SERGI LOLO Safer Gambling Lead - Rank International (Citizen)
2. Julio - CITIZEN
3. FEJAR (Spanish Federation of Rehabilitated Gamblers)
4. PAF INTERNATIONAL ABP
5. CODERE ONLINE SAU
6. JDIGITAL (Spain's Digital Gaming Association)
7. AEJAD, Spanish Association of Sports Betting Players
8. CEJUEGO - Gambling Business Council
9. BEATYA ONLINE ENTERTAINMENT PLC
10. GAMESYS SPAIN SAU
11. ENTAIN (ELECTRAWORKS CEUTA SA)

On 19 April 2023, therefore, contributions from Skill On Net were received out of time.



A brief summary of the meaning of the input received during the public consultation is set out below:

In general, it can be noted that both associations representing the interests of gambling operators and almost all of them (with a single exception) consider it is necessary that prior to the introduction of new regulatory measures such as those contemplated in the draft an assessment is made of the impact that the measures incorporated in the recently approved Royal Decree 176/2023 of 14 March 2023, which develops safer gambling environments.

In addition, more specifically, they have raised the following questions:

- 1- The potential impact and inherent risks of a system of joint deposit limits on the protection of personal data. In this regard, one trader noted his fear that *'Players may perceive that their sensitive personal information, as well as identifying data and financial history, are available to third parties. In addition, the collection and storage of this personal data could also put at risk the misuse or theft of customers' personal information at risk, especially if the data is not properly protected'*.
- 2- The need to avoid a purely financial approach in setting capping amounts, privileging instead a focus on issues strictly related to the health or potential risk of the players.
- 3- From a purely operational and technical development perspective, the importance of the technical conditions for the implementation of such a centralised system and the possible consequences (also from the perspective of possible liability) of the system malfunctioning is emphasised. In this regard, one of the operators highlighted *'The technical complexities that arise from a system that relies on the connection with the regulator or with a third party to obtain an answer on which the treatment or status of the players depends are already observed in the Player Verification Web Service for game operators. Response times and the technical difficulty of obtaining a response approaching real time should be considered'*.
- 4- Potentially undermining the conditions of competition in the market to the benefit of operators with the largest market share. From this perspective, some operators have pointed out:
 - a. That as a result of the advertising restrictions introduced by Royal Decree 958/2020, on commercial communications of gambling activities, the tendency will be that participants must choose *in which operators they will deposit their money, favouring those who already have a name in the market, and hindering the growth of the remaining operators*.
 - b. In line with the above statement, another operator noted that *'... a system such as that described would probably have a harmful effect on less relevant operators in the market, in that players – having a deposit limitation – would probably choose to focus their deposits on operators offering a greater variety or typology of products'*.
 - c. Similarly, another operator ventured that a measure such as the one envisaged could *'Deterring players from withdrawing their winnings on one website and re-depositing the money on other websites could hinder free and fair competition between operators'*.

In a position that diverges from the general line shown both by the associations representing gambling operators and by them, one of the operators considered the adoption of the planned measure to be positive ... *convinced that a system of joint limits will increase consumer*



protection'. This operator also considered in its contribution '*... that the draft will contribute to a more balanced and moderate marketing climate in Spain. As player deposit limits will be shared among all licensed gambling operators, earnings per customer are likely to decrease and as a result gambling operators are very likely to adjust their marketing investments proportionately*'.

For its part, the contribution of the Spanish Federation of Rehabilitated Players of Chance calls for a reduction in the daily, weekly and monthly deposit limits, in addition to limiting the spending ceiling for young people (under the age of 25).

The Spanish Association of Sports Betting Players proposes that the system of joint deposit limits to be adopted be based on the voluntary nature and availability for the player, on the freedom to establish the amount in which the limit consists and on the facility for its eventual modification. It also encourages the Directorate General for the Regulation of Gambling to establish the criteria for determining what constitutes risky behaviour.

b) Hearing and public information.

Hearing and public information, for the purposes of Article 26(6) of Law 50/1997 of 27 November 1997: the public information period was held between 01/09/2023 and 16/10/2023, having received allegations made by persons, bodies and entities

1. PAF INTERNATIONAL ABP
2. JDIGITAL (Spain's Digital Gaming Association)
3. ARTXIBET 2022 S.A.
4. GOLDEN PARK GAMES, S.A.U MGA GAMES
5. ONCE (Spanish National Organisation of the Blind)
6. Flutter Entertainment PLC
7. CODERE ONLINE SAU
8. Sociedad Estatal Loterías y Apuestas del Estado, S.M.E., S.A
9. AEJAD (Spanish Association of Sports Betting Players)
10. ASENSI ABOGADOS SLP
11. PREMIER MEGAPLEX PLC
12. DZBT Deportes S.A.
13. GAMESYS SPAIN S.A.U.
14. UNIVERSITY OF VALENCIA Research Unit: Game and Addictions Technology
15. ACONCAGUA JUEGOS S.A.
16. WAGERFAIR S.A

A summary of the claims and their assessment is attached at the end of this MAIN.

c) Reports of ministerial departments.

Reports under Article 26(5) of Government Law 50/1997 of 27 November 1997:



1. Report of the General Technical Secretariat of the Ministry of Social Rights, Consumption and 2030 Agenda, for the purposes of the provisions of Article 26(5)(4).

(to be requested)

2. Report of the General Technical Secretariat of the Ministry of Economy, Trade and Business for the purposes of Article 26(5)(1).

It makes a number of normative technique suggestions in line with what is suggested by other Ministries that are included.

In addition, it points out that the most relevant aspects of the procedure, such as the consultations carried out and the main reports drawn up, must be completed in the expository part, an aspect that is included in the expository part.

3. It also suggested expanding information on technological developments that differed from the entry into force of Article 23 of the Government Act. The MAIN is strengthened in this respect. Report from the General Technical Secretariat of the Ministry of Industry and Tourism, for the purposes of Article 26(5)(1).

In its report, the Ministry of Industry and Tourism has raised the following issues:

a) Formal and policy issues

The Ministry proposes a series of corrections of a formal nature, syntactic improvement and normative technique in accordance with the provisions of the Resolution of 28 July 2005, of the Subsecretariat, which gives publicity to the Agreement of the Council of Ministers, of 22 July 2005, adopting the regulatory technique Guidelines.

All of them have been incorporated into the text.

b) It proposes the introduction of a limitation to the modification of the limits on a voluntary basis by each participant and a possible introduction of this type of procedure for these modifications.

Not accepted. It is considered that it would make the system excessively rigid and would limit the scope of autonomy of the participants.

As regards the procedure for this amendment, it will be carried out through a system managed by the Directorate-General for the Regulation of Gambling.

4. Report from the General Technical Secretariat of the Ministry of Culture, for the purposes of Article 26(5)(1).

No comments

5. Report of the General Technical Secretariat of the Ministry of the Presidency, Justice and Relations with the Courts, for the purposes of the Article 26(5)(1).

It suggested a number of formal amendments that had been made to the text.

6. Reports from the General Technical Secretariat of the Ministry of the Interior, for the purposes of Article 26(5)(1).



It suggested a number of formal amendments that had been made to the text.

7. Report of the General Technical Secretariat of the Ministry of Education, Vocational Training and Sport for the purposes of Article 26(5)(1).

No comments

8. Report of the General Technical Secretariat of the Ministry of Equality for the purposes of Article 26(5)(1).

In its report, It mentioned a single provision, namely the reformulation of a paragraph in the expository part of the standard with the aim of introducing inclusive language.

9. Report of the General Technical Secretariat of the Ministry of Health for the purposes of Article 26(5)(1).

No comments.

10. Report of the General Technical Secretariat of the Ministry of Finance, for the purposes of Article 26(5)(5) (prior approval).

The following issues have been raised by the Ministry of Finance:

a) Economic issues

The Ministry of Finance first points out two points regarding the technological development of the draft. First, that the development of the platform through which the player will be able to carry out the procedures related to the new system of limits would be financed by the Transformation and Resilience Recovery Plan. However, there is no financial provision, nor is there any in the Ministry's budget proposal.

Second, it is noted that the costs of maintaining that platform are not taken into account.

Response: Appropriate modifications are made in the descriptive section of the economic impact to clarify these points.

b) With regard to the enactment formula, and in accordance with the provisions of Article 26(5) of the Government Act, prior authorisation currently belongs to the Ministry of Digital Transformation and the Civil Service.

Accepted and amended in the text.

c) In the first section of the single article amending Article 13, the Ministry suggests the reference to physical notification since only legal persons subject to the obligation of electronic communication may participate in the procedure.

Not accepted. The original provision already contains the provision for notification not only in electronic form, and the aim is to clarify that all types of notifications can be made.

d) It suggests the possibility of making the technical specifications of the service available to operators prior to the standard entering into force.

A transitional probationary period is provided for in order to overcome technical difficulties.



11. Report of the General Technical Secretariat of the Ministry for Digital Transformation and the Civil Service, for the purposes of Article 26(5)(1)

This Ministry points out that it is necessary to calculate the administrative burdens in accordance with the Simplified Method of Measuring Administrative Burdens in the MAIN and to include as an administrative burden for users their management with the Limits Service.

The above-mentioned calculation of administrative burdens is accepted and entered in the MAIN.

12. Report of the General Technical Secretariat of the Ministry of Territorial Policy and Democratic Memory, for the purposes of Article 26(5)(1).

a) It suggests a number of amendments of a formal and technical nature which have been introduced into the text.

b) With regard to the area of competence, and after an in-depth analysis of the distribution of competences in the field of gambling, it points out:

- It cannot be inferred from the MAIN that the autonomous communities were consulted in the processing of the draft.

The autonomous communities will be consulted by sending the draft legislation to the Gambling Policy Council. The Gambling Policy Council, within the framework of the provisions of Article 34 of Law 13/2011, of 27 May 2011, on the Regulation of Gambling, and Articles 147 to 152 of Law 40/2015, of 1 October 2015, on the Legal Regime of the Public Sector, is the body for cooperation, participation and, where appropriate, coordination in the field of gambling of the General State Administration, the autonomous communities and the Cities of Ceuta and Melilla.

- It points out that it would be appropriate to delete the title of competence indicated in the second final provision of the draft insofar as Royal Decree 1614/2011 does not provide for any title of competence.

Accepted

13. Report of the General Technical Secretariat of the Ministry of Youth and Children, for the purposes of Article 26(5)(1).

No comments.

d) Other reports.

1. Report of the Ministerial Committee on Digital Administration of the Ministry of Social Rights, Consumer Affairs and the 2030 Agenda

(To be requested)

2. Report of the Spanish National Markets and Competition Commission, for the purposes of the provisions of Article 26(5)(1).

The CNMC issued its REF report: IPN/CNMC/006/24 dated 30/04/2024.

In its report, the CNMC considers that in the light of the arguments put forward in the MAIN '*... from this Commission it is considered that the legislative text, in general, does not present unjustified restrictions on competition, insofar as it is based on an overriding reason in the public interest (prevention of addictive behaviour) and is correctly aligned with the principles of good regulation.*', without prejudice to which, and as expressed in the MAIN, the system will



tend to encourage the multi-operator user to concentrate its activity on its main operator, which will result in a greater concentration of the gambling operators market.

The following observation is made:

- Deadline for making effective the changes to the financial limits (36.bis 5): considers that the period of 7 working days differs from that laid down for the limit on deposits per operator (Article 36), since this is 3 calendar days, and considers that, for consistency, the treatment should be the same.

Assessment: accepted.

3. Report of the Council of Consumers and Users, for the purposes of the provisions of Article 26(5)(1).

The Consumers and Users Council in its report of 12/04/2024 informs that it does not make any claims.

4. Report of the National Data Protection Agency

On 28/06/2024, N/REF: 0028/2024, and in accordance with the provisions of Organic Law 3/2018 of 5 December 2018 on the Protection of Personal Data and the Guarantee of Digital Rights – LOPDGDD – in conjunction with Article 57(1)(c) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) – GDPR, the Spanish Data Protection Agency issued its report. In its report, the AEPD considers that the legitimate basis for the processing implied by the reference draft has been correctly identified. *‘... the legitimate basis of Article 6(1)(e) GDPR is based on the provisions of Article 8 – under which responsible gambling activity is protected – Article 21 – which establishes the duties of the gambling regulatory authority – Article 24 – which covers the inspection and control duties of the latter – and Article 15 – which establishes specific provisions on the rights of participants in the games to which the Joint Deposit Limit System gives materiality’*. (page 5). It also considers that *‘From the analysis of the text submitted to the report, the determination of the body responsible for the processing is extracted with due clarity’*. (page 5), which will be the Directorate-General for the Regulation of Gambling.

However, and although it considers that *‘... the draft report contains a complete regulation concerning the “protection of personal data” of the persons concerned ...’*, it considers that:

‘However, in the context of the specific specification of the data relating to the identity of the participants, it suffers from the necessary specificity, which must be required both by reason of the principle of legal certainty and by reason of the guarantee of the provisions of Article 5 of the General Data Protection Regulation (“principles relating to processing”).

Thus, the processing of data by the data controller must comply with the principles relating to the processing of data laid down in Article 5 GDPR and, in particular, with the principle of data minimisation (by virtue of Article 5(1)(c)), according to which personal data must be ‘(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (“data minimisation”)’.



Thus, coinciding on this point with the observations made by the Data Protection Officer of the consulting Ministry himself – in his report of 10 June 2024 – it can be observed that the reference in Article 36 bis(3) to ‘data relating to the identity of the participants’, without further specification, is vague, imprecise and incomplete.

In this regard, the consulting body must incorporate into Article 36 bis of the draft report, the specific list of ‘data relating to the identity of the participants’ of which it intends to make use in the context of its activity as responsible, not sufficing – for these purposes – the mere mention of the prohibition of the processing of any data ‘that is irrelevant or unnecessary’, as maintained in the current version of the draft.

Likewise, the inclusion in the analysed Article 36 bis is recommended, and a normative text is proposed as a suggestion, as follows:

The processing of personal data of natural persons shall be carried out in strict compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of their personal data and on the free movement of such data and the rest of the legislation on the protection of personal data.

Both aspects – both the insertion of the proposed paragraph and the specification of the personal data being processed – are taken into consideration and incorporated into the draft.

The AEPD report also states its opinion on the ‘Data protection impact assessment’ carried out by the draft body and which accompanied the request for a report to the AEPD, stressing that it is appropriate and noting that although ‘... the detailed examination of the DPIA that accompanies the documentary dossier that makes up the consultation proposed, would exceed the limits of this report ... its correct system and methodology, coherence and solidity are appreciated, both in its budgets and in its conclusions’.

Finally, as regards the amendment of the tenth additional provision of Royal Decree 1614/2011 of 14 November 2011 introducing a new section establishing the obligation for participants in gambling activities at national level to interact with the gambling regulatory authority in order to modify or cancel the joint deposit limits through the computer system established by that authority for that purpose, the AEPD considers that in the case of persons participating in gambling activities at national level developed through websites, applications or other electronic, computer, telematic or interactive channels ‘the fact that, having regard to the nature of the gambling activity covered by Law 13/2011 of 27 May 2011 on the regulation of gambling (which is particularly the activity carried out through electronic, computer, telematic and interactive channels), it is a collective made up of natural persons who have access to and availability of the necessary electronic means, since the gambling activity they carry out is carried out through the use of these means and, therefore, they have the technical capacity necessary for interaction with the system’. (page 13).

e) Reports provided by the members of the Responsible Gambling Advisory Council.

The draft will be forwarded for information, in accordance with the provisions of Article 2(2) of the Communicated Order of the Minister of Finance establishing the Responsible Gambling Advisory Council, of 25 October 2018.

f) Reports provided by members of the Gambling Policy Council

The opportunity will be given for the draft to be informed by the autonomous communities within the Gambling Policy Council.



g) Notification to the European Commission under the Technical Regulations Information System (TRIS).

The draft will also be sent to the European Commission, with a view to complying with the provisions of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015, with a deadline of 17/01/2021 for the European Commission and the Member States to examine the proposal.

h) Report of the Office of Coordination and Regulatory Quality of the Ministry of the Presidency, Justice and Relations with the Courts, in accordance with the provisions of Article 26(9) of Law 50/1997, of 27 November 1997.

(To be requested)

i) Opinion of the Council of State.

Pursuant to the provisions of Article 22(3) of Organic Law 3/1980, of 22 April 1980, of the Council of State, the mandatory opinion of the Council of State will be requested.

3.- Compliance with the distribution of powers.

1. Analysis of the title of competence:

The Constitution does not mention the matter of 'play' among the powers expressly conferred on the autonomous communities or the State in Articles 148 and 149 of its text, but the doctrine of the Constitutional Court has recognised the full competence of the autonomous communities in matters of gambling and betting from the provisions of the clause of Article 149(3) EC.

Constitutional Court Judgement 134/2012 states that: *'the subject of gambling, despite not being mentioned in Articles 148(1) and 149(1) EC and in the Statutes of Autonomy, has been attributed to the autonomous communities under the uniform title of 'casinos, games and betting, excluding Mutual Sports-Benefit Bets', in their respective Statutes. [Consequently], in accordance with Article 149(3) EC, and given that Article 149(1) does not expressly reserve this matter to the State, it can be said that the autonomous communities, in accordance with their Statute of Autonomy, have exclusive competence over casinos, games and bets, with the exception of sports betting (Constitutional Court Judgement 52/1988 legal basis 4), and that it includes that of organising and authorising the holding of games in the territory of the Autonomous Community (Supreme Court Rulings 163/1994, legal basis 3; 164/1994, legal basis 4), precisely in that territory; but not, of course, that of any game throughout the national territory, since the Statutes of Autonomy limit to the territory of the Community the area in which it has to develop its competences'.* (legal basis 4).

For its part, Constitutional Court Judgement 171/1998 (legal basis.6) provides that the autonomous competence assumed by statute under the title of 'casinos, juegos y apuestas con exclusion de los Apuestas Mutuas Deportivo-Benéficas', *'includes the organisation and authorisation of games in the territory of the Autonomous Community'* (Supreme Court Rulings 163/1994, legal basis 3. 164/1994, legal basis 4) but not, of course, that of any game throughout the national territory since Article 25(1) of the Statute of Autonomy limits to the territory of the Community the area in which it has to develop its competences. On the other hand, neither the silence of Article 149(1) of the Spanish Constitution with regard to gambling, nor the fact that the Statutes of Autonomy, including that of Catalonia, classify as exclusive the autonomous competence with regard to gambling and betting can be interpreted as determining a total disempowerment of the State in the matter, since certain activities which,



under other headings, Article 149(1) of the Spanish Constitution attributes to the State, are closely linked to gambling in general and not only that reserved to it by Article 149(1)(14) of the Constitution with respect to the management and operation throughout the national territory of the National Lottery Monopoly, without prejudice to the competences of some Autonomous Communities in the field of gambling' (Supreme Court Rulings 163/1994, legal basis 4; 164/1994, legal basis 5.; 216/1994, legal basis 2. and 49/1995, legal basis 3.)'.

Thus, the Constitutional Court uses as criteria of State competence:

- That of the fiscal monopoly and its configuration as a source of revenue of the Public Treasury of a non-tax nature, which is linked to the fact that gambling has as its scope the entire national territory (Supreme Court Rulings 164/1994, of 26 May 1994, 216/1994, of 14 July 1994, and 171/1998, of 23 July 1998), referring to State Lotteries.
- The concurrence of the general interest (not territory) supra-autonomous, admitted in the Constitutional Court Judgement 216/1994, of 14 July 1994.
- The regulation of gambling activity, in its different forms, to be implemented at the state level.

For their part, the autonomous communities have assumed statutory competence over 'Casinos, gambling and betting, with the exception of Mutual Beneficial Sports Betting'.

2. Analysis of the most relevant competition issues.

In the area of casinos, gambling and betting, there have been numerous disputes between the State and the autonomous communities, most of them already resolved by the Constitutional Court, in judgements 49/95, 163/94, 164/94, 171/98, 216/94, 204/2002, 134/12, among others.

However, Law 13/2011, of 27 May 2011, on the regulation of gambling, Royal Decree 958/2020, of 3 November 2020, on commercial communications of gambling activities and Royal Decree 1614/2011, of 14 November 2011, implementing Law 13/2011, of 27 May 2011, on the regulation of gambling, as regards licences, authorisations and registrations of gambling, have not given rise to jurisdictional disputes at constitutional level.

The draft aims to strengthen a responsible gambling measure, such as the system of limits on deposits of participants, as well as the updating of certain aspects related to guarantees, being fully respectful of the order of distribution of competences between the State and the autonomous communities in this matter.

In this regard, the draft has been the subject of a report by the Directorate-General for the Autonomous and Local Legal Regime of the Ministry of Territorial Policy and Democratic Memory (19/03/2024), which expressly states that *'... the state level of the draft and the establishment by the draft of the limits on deposits that may be made by participants in online gambling operators within this supra-autonomous area, prevents the draft from having an impact on the regional competences in the field of gambling, so it is considered that the State has competence to dictate the draft under consideration'*.

As regards the draft's compliance with Law 20/2013 of 9 December 2013 on the guarantee of market unity (LGUM), that report does not make any observations in that regard.



4.- Impact Analysis.

4.1. Economic and competition impact.

When dealing with an analysis of the economic impact of the draft, it is necessary to distinguish its potential influence from the perspective of demand and the structure of supply.

As regards the influence on demand, the draft is likely to influence the overall gambling activity of the market to the extent that the establishment is envisaged *ex lege* daily and monthly limit thresholds for the universe of players registered with the various operators (almost 1.6 million).

As explained in point 1.1.a(4), it is multi-operator players – players who have an open gambling account with more than one operator – who benefit most from this measure and, in particular, players with higher levels of deposits and losses who will have an additional tool allowing them to control their level of spending. According to 2022 data, 468,161 active players are multi-operators (31 % of players). If the **level of losses** of the biggest losers there are 60 823 players in the 5th percentile loss of the most losing players who are multi-operators (representing 76 % of the total players in the 5th percentile).

Despite these considerations and the hypothetical economic impact on the demand for gambling activity of the new model, it is impossible to determine *a priori* the ultimate real impact due to the very characteristics of the model, since it is ultimately the participants in gambling activities who have the joint limit thresholds they wish to set (or even withdraw).

Regarding the influence on the structure of supply in the market or competition between operators, the draft Royal Decree could affect the overall gross margin of the market since the measure is mainly aimed at the most intensive players and as mentioned above, in online gambling 10 % of players accumulate 80.8 % of gross revenues per game.

This potential reduction in gross gambling revenue, resulting from greater self-control of spending by more intensive players, could have the following impacts on operators and the structure of the offer:

- Operators can implement policies that attempt to compensate for the loss of revenue from the most intensive players by expanding the player database (through recruitment strategies) or by increasing the individual spending of those players who do not limit themselves (through loyalty strategies).
- Moving to other gambling markets outside the regulated online sector of those players who reach self-imposed limits and who decide to go to other markets without identity control and limits.
- Restructuring of the market in the case of operators who could not reach a sufficient margin (GGR) to be able to sustain business activity. This could result in some operators deciding to leave the Spanish gambling market or join others in merger operations between the authorised operators.

In this context of analysis of the possible effects on competition, it is important to bear in mind that the measure is voluntary and aimed at those players wishing to increase their control over the deposits they make on any gambling platform, that the system applies to all authorised operators and that for its operation the operator does not need to know the identity of the players who have been established limits, nor the amount of limit that has been established each, since the system will be managed centrally by the Directorate General for the Regulation of Gambling.



Finally, as regards the SME test, in certain cases some gambling operators may be deemed SMEs. In these cases, different difficulties in the implementation of the measure foreseen in the draft compared to large companies cannot be appreciated *a priori*, since many of these entities use third-party technology providers that provide a significant part of the technical services necessary for implementing them. Similarly, in another number of cases, although these entities may be deemed SMEs, they are integrated into business groups capable of providing sufficient technical support. Likewise, all the entities participating as gambling operators in the Spanish market have had to overcome, in the licensing process, the high levels of requirement in the standards related to the accreditation of sufficient technical, economic and financial solvency to respond to the required regulatory requirements. In short, in the light of these considerations, it is considered that the measures taken would not have an appreciable differential impact vis-à-vis large companies.

4.2. Budgetary Impact.

The management of the system of limits will require the development, by the Directorate General for the Regulation of Gambling, of a web portal that will allow the player to define the maximum limit of deposits that can be made on any of the authorised gambling platforms in a certain period of time – daily or weekly. The player will be able to manage and consult the aforementioned deposit limits overall through the web portal, while it will be the operators who validate or not, through the system of joint limits, the player's activity based on whether or not these limits are exceeded.

The system must take into account the player's activity on all gambling platforms on which the player is registered.

a) Development costs

The technological development required is the subject of a 'Contract for the supply of the licence for use in the cloud and the implementation of the system of joint deposit limits of the Directorate-General for the Regulation of Gambling', the purpose of which is the supply, installation and initial configuration of licences for the administrative use of infrastructure and storage in the cloud (public or private) to cover the needs of the aforementioned direct centre in terms of the establishment of the system of limits, for a period of 12 months. The estimated cost of the contract, for the 12-month period, is **EUR 372 680.00 with VAT**.

The development cost of the joint cloud deposit limit services involves a tender amount of EUR 163 826.42 (VAT included).

The financing of the same will be made from the fee for the administrative management of the game provided for in Article 49 Law 13/2011, of 27 May 2011, on the regulation of gambling (imputation to the application 29.10 496M 621.). No direct personnel costs are anticipated.

b) Annual service-maintenance costs

The estimated maintenance cost of the service will include the cost of supplying the cloud solution, worth EUR 372 680.00 (VAT included) per year plus the maintenance cost of the service, which is estimated at EUR 81 913.71 (VAT included) for a team consisting of three profiles, a draft manager, a DevOps/microservices architect, and a programmer analyst, all part-time.



The Directorate General for the Regulation of Gambling will assume this expense through the revenue derived from the gambling fee.

4.3. Impact on data protection.

The processing of data derived from implementing the system of joint deposit limits per player finds the basis for its legitimization in several rules.

In general, Article 6(1)(e) of the GDPR provides that processing is lawful where '*necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller*'.

In that regard, there is no doubt that there is a public interest behind the purpose pursued by the processing of data carried out in the SLCD, which is to provide the participants in gambling activities with tools enabling them to better control their level of expenditure and, therefore, to ensure that they are adequately protected in the context of the general policy of protecting consumers and participants in gambling activities (responsible gambling), thereby contributing to the prevention of the occurrence of addictive behaviour (in accordance with the Explanatory Memorandum to Law 13/2011 of 27 May 2011 on the regulation of gambling, '*guardianship and social protection of minors and participants in games*' is an 'unavoidable objective')

The legitimate basis constituted by Article 6(1)(e) of the GDPR is also based on the provisions of Article 8 (under which responsible gambling activity is protected), Article 21 (duties of the Directorate General for the Regulation of Gambling), Article 24 (which covers the inspection and control duties of the Directorate General for the Regulation of Gambling) and Article 15 (with specific provisions on the rights of participants in the games to which the SLCD provides materiality).

Thus, Article 8(1) – Consumer protection and responsible gambling policies – provides for the following:

'1. The policies of responsible gambling provide that the operation of gambling activities shall be approached following an integral policy of corporate social responsibility that considers gambling as a complex phenomenon which requires a combination of measures of prevention, sensitisation, intervention and control, as well as the repair of any negative effects produced.

Preventive measures shall concern sensitisation, information and the dissemination of good gambling practices, as well as the possible effects of improper gambling.

Gambling operators shall draw up a plan of measures relating to the mitigation of possible harmful effects that gambling may have on individuals, and shall incorporate the basic rules of responsible gambling policy. As regards consumer protection:

a) Paying due attention to at-risk groups.

b) Provide the public with the necessary information so that they can make a conscious selection of their gambling activities, promoting moderate, non-compulsive and responsible gambling attitudes.



c) To publicise, according to the nature of and means used in each game, the prohibition of participation by minors or persons included in the General Register of Prohibitions from Access to Gambling or the Register of Persons Associated with Gambling Operators.'

In addition, Article 21(9) and (16) – Duties – of Law 13/2011 of 27 May 2011 and Article 24 – Inspection and control – (especially sections 1 and 3) of the same law, in 'compliance with a legal obligation applicable to the data controller', provide for: 'The National Gambling Commission has the following duties:

...

9. To ensure that the interests of participants and vulnerable groups are protected, ensuring compliance with all laws, regulations and principles by which they are regulated, to uphold public order and to prevent unauthorised gambling.

...

16. Protect groups of players at risk by evaluating the effectiveness of measures on responsible or safer gambling aimed at these groups that, in compliance with the applicable regulatory obligations, must be developed by gambling operators.'

And the aforementioned sections of Article 24 – Inspection and control – provide as follows:

Article 24. (Inspection and control)

1. To guarantee the provisions of this law and its supplementary provisions, the National Gambling Commission shall be responsible for the auditing, monitoring, inspection and control of all aspects and administrative, economic, procedural, technical, computer, telephonic and documentation standards in relation to the performance of the activities pursuant this law.

....

2.

3. The National Gambling Commission may control the user account of the participant in gambling activities subject to this Law, as well as operators or providers of gambling services. The National Gambling Commission shall have access to the personal data collected in the user account of the participants, respecting at all times the provisions of Organic Law 15/1999, of 13 December 1999, on Data Protection and its implementing regulations.

The Public Administrations shall grant the National Gambling Commission access to their databases in order to verify the identity of the participant and, in particular, his or her status as an adult'.

Finally, Article 15(f) and (j) – Rights and obligations of participants in games – which provide that participants in games have the following rights:



'...

f) To know the amount played or bet at all times, as well as the balance of any user accounts they may have opened with the gambling operator.

...

i) To receive information about responsible gambling practice.'

In this sense, and as explained in the section on the motivation of the rule, the SLDC is a tool that facilitates the control of deposits made by participants in the gambling activity (therefore, a tool that enables the player to perform a better management of their spending in interaction with operators), and represents a measure that fits into the context of the public policy of safe or responsible gambling, with the ultimate purpose of protecting the rights of these participants, also contributing to the prevention of the appearance of addictive behaviours. From this tuitive perspective, the adoption of this measure contributes not only to the materialisation of the provisions of Article 8, 21 or 24 of the Spanish Gambling Regulation Law (LRJ), but also to the content of rights such as those provided for in points (f) and (j) of Article 15 Spanish Gambling Regulation Law (LRJ), since the tool that the SLDC allows a better management of the amounts that the participants in the game are willing to use in this activity, as well as increasing the level of information available to them for an effective responsible practice of gambling.

On 10/06/2024, and in the light of both the text of the draft Royal Decree and the Impact Assessment carried out by the proposing unit, the Department's Data Protection Delegate issued a report in which he/she made the following observations, all of which have been accepted:

- There is a discrepancy between the legal basis for processing – Article 6(1)(e) GDPR – fulfilment of a public mission – and the preamble of the draft which contains a reference to the legal basis being compliance with a legal obligation (Article 6(1)(c) GDPR);
- Specific identification of the data is recommended;
- It is suggested that the text specifies that the data will be limited to those necessary for the fulfilment of the purposes described (minimisation principle).

4.4. Finally, the draft has been the subject of the AEPD – N/REF report: 0028/2024 – the main features of which have been reproduced in the section on processing. Administrative burdens.

Administrative burdens are those activities of an administrative nature that companies and citizens must carry out to comply with the obligations derived from the regulations. In the case of undertakings, administrative burdens are the costs that undertakings have to bear in order to comply with the obligations to provide, keep or generate information on their activities or production, to be made available and approved, where appropriate, by public authorities or third parties.

a) Estimated administrative burdens for players.

The system of joint limits is created as a reversible player protection tool, specially designed for the most intensive players who play on several operators. Given its ultimately voluntary



nature, it is understood that there are no administrative burdens for its inclusion in the system, as this is done by the Directorate-General.

However, since a deposit limit is initially set for all players, multi-operator players who have extended or eliminated their limits with any operator will have to extend or eliminate their default joint limit if they want to maintain their game operability.

Population:

Taking as a reference the data available in the Directorate-General for the Regulation of Gambling, as of 31 December 2022, 90 400 players out of 468 161 multi-operator players had extended some of their limits, presenting all or some of their limits above those established in the regulation.

| Type of limits set at 31/12/2022 | Category: Single-operator players | Multi-operator players | Total players |
|----------------------------------|-----------------------------------|------------------------|---------------|
| 1. Pre-set | 74.83 % | 56.12 % | 68.92 % |
| 2. Below | 16.52 % | 24.57 % | 19.07 % |
| 3. Above | 8.04 % | 13.34 % | 9.71 % |
| 4. Above and below | 0.61 % | 5.97 % | 2.30 % |
| Overall total | 100 % | 100 % | 100 % |

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Unit cost

As regards the simplified method of measuring administrative burdens, the submission of an electronic application has a unit cost of EUR 5. It should be stressed that this management will be carried out voluntarily by the player through a web platform and, therefore, will be solely electronic.

Frequency:



Since it is not possible to know *a priori* the number of limit modifications that players will make, if we take as a reference the realisation of a single initial modification – to adjust the limits to the reality of the new system and adapt it, therefore, to the experience and practice of players themselves – the total cost for those multi-operator users who had increased their limits beyond the pre-established would be EUR 452 000.

b) Estimated administrative burdens for operators.

The implementation of the system of joint deposit limits requires the development by the Directorate General for the Regulation of Gambling of a web service (API) that will be made available to gambling operators, so that they can request authorisation to make a deposit and obtain the response from the Directorate General for the Regulation of Gambling and, where appropriate, communicate to the Directorate General for the Regulation of Gambling the cancellation of a previously authorised deposit. The Directorate General for the Regulation of Gambling shall make available to gambling operators the technical specifications for the development necessary for the use of this service.

In estimating the impact on operators, it should be noted that gambling operators already have services in production similar to that necessary for consulting the system of joint deposit limits and therefore have technical profiles familiar with these technologies. In particular, operators are integrated with the web services for player identity verification and consultation of the general register of gambling bans.

Due to the system's nature, its criticality for service continuity and the need for it to support high traffic rates, queries to the service have been designed responding to criteria of efficiency and simplicity, limiting the data to be exchanged as much as possible. The data necessary to launch the request to the system are data known to the operator: player ID document, date of birth and amount of deposit requested. The operator must develop the process logic according to the response obtained (authorised, partially authorised for a quantity, refused, request waiting or unverified user, etc.). And finally, the operator must develop the communication to the Directorate General for the Regulation of Gambling of the cancellation of a previously authorised deposit, in accordance with the technical specifications that are approved.

Cost:

Taking into account these specifications, it is considered a necessary effort on the part of the operator for the development of the integration with the system, of three profiles during 5 days with different dedications:

| Cat. Professional | No of persons | Dedication | No of hours | Cost/hour | Cost excluding VAT | Cost with VAT |
|--------------------|---------------|------------|-------------|-----------|---------------------|---------------------|
| Project Manager | 1 | 40 % | 16 | EUR 57.51 | EUR 920.16 | EUR 1 113.39 |
| Functional analyst | 1 | 100 % | 40 | EUR 52.51 | EUR 2 100.40 | EUR 2 541.48 |
| Programmer analyst | 1 | 100 % | 40 | EUR 36.09 | EUR 1 443.60 | EUR 1 746.76 |
| TOTAL | | | | | EUR 4 464.16 | EUR 5 401.63 |



Taking into account the Simplified Method of Administrative Burdens, and to the extent that this new system is deemed to fit within the category of XXXXXXXX, it would have a unit cost of XXXXXXXX

Population:

There are currently 58 active operators with user registration (B2B operators and contest operators without a gambling account have been excluded).

On the other hand, if we take into account that some operators share a gambling platform provider, economies of scale may apply. Of the 58 operators, there are 38 gambling platform solutions.

Frequency:

This adaptation to the new system will be carried out only once, at the time the system initially enters into force, since, subsequently, the communications and consultations that will be made to the platform managed by the General Directorate of Gambling Regulation will be carried out in an automated way.

So the estimated total development cost is estimated at $38 \times \text{EUR } 5\,401.63 = \text{EUR } 205\,262.08$.

4.5. Gender impact.

In accordance with Article 19 of Organic Law 3/2007 of 22 March 2007 on effective equality between women and men, this draft has no impact in this area, in which there is no evidence of gender inequalities or, consequently, the need to adopt measures in this regard.

Thus, according to the data that emerge from the **Analysis of the online player profile for 2022**, the number of active players by sex is distributed in 1 327 906 men (83.3 %) and 267 187 women (16.7 %).¹⁷ If we compare these data with respect to the information for 2016 – 235 158 women (18.4 %) and 1 041 555 men (81.6 %), we see that, in percentage terms, there is a decrease in the number of women players in recent years (from 18.4 % of the total number of players in 2016 to 16.7 % in 2022), with an average expenditure of EUR 626 for men and EUR 320 for women (EUR 353 for men in 2016 and EUR 133 for women).

These being the global figures of active players in online gambling, it is convenient to analyse this information from the perspective of the different segments of regulated gambling. Thus, this distribution in 2022 is as follows:

- ✓ Betting 1 096 447 active users (85.87 %) and 180 390 active users (with a quota of 14.13 % of the total number of players, with the percentage of 2016 being 16.43 % of the total number of active players).
- ✓ Bingo: 46 546 active users (53.13 %) and 41 056 active users, that is, a total of 46.87 % of users of this online game modality. (in 2016 the percentage of female players was 37.49 %).
- ✓ Casino games 595,692 men (83.02 %) and 121 875 women players, or 16.98 % of the total number of active players. In 2016, the percentage of female players in casino games was 17.75 %).

¹⁷ <http://www.ordenacionjuego.es/es/informe-jugador-online>



- ✓ Poker: 288 913 active users (88.99 %) and 35 752 active users, with a percentage of 11.01 % of the total number of players in this gambling segment (with a percentage of 15.31 % in 2016).

- - Forecast of results:

In accordance with the data contained in the previous section, it can be concluded that **women participate substantially less in gambling activities** than men, except in certain segments of activity, where participation is more balanced between the sexes (such as with bingo).

However, to the extent that this Royal Decree does not contain any provisions that may tend to promote or enhance treatment of inequality, discrimination or lack of protection in relation to the situation of women and men or gaps in equal treatment, it is deemed that the Royal Decree will not have any negative impact on the economic and social conditions related to gambling activity at the state level, from a gender perspective.

- Assessment of gender impact.

Therefore, **the affect** on the underlying situation arising from the adoption of the Royal Decree **shall be null and void** to the extent that there is no negative or positive impact on economic or social conditions from a gender perspective.

4.6. IMPACT ON EQUAL OPPORTUNITIES, NON-DISCRIMINATION AND UNIVERSAL ACCESSIBILITY FOR PERSONS WITH DISABILITIES.

The draft has no significant impact on equal opportunities, non-discrimination and universal accessibility for persons with disabilities.

4.7. Impact on children and adolescents.

In accordance with the provisions of Article 22 quinquies of Organic Law 1/1996 of 15 January 1996 on Legal Protection of Minors, partially amending the Civil Code and the Code of Civil Procedure, this Royal Decree will have no appreciable impact on children or adolescents.

4.8. Impact on the family.

In accordance with the tenth additional provision of Law 40/2003 of 18 November 2003 on the Protection of Large Families, this Royal Decree is expected to have a positive impact on the family.

The introduction of a system of deposit limits that takes into account all operators with which a person is registered reinforces the protection measures in the field of safe gambling. To the extent that this new tool enables participants in gambling activities to better manage their deposits, allowing them greater direct control of spending on this activity, and taking into account the potential detrimental effects of gambling activity, it is estimated that the draft Royal Decree will have a positive impact on the family environment of participants in gambling activities.

4.9. Climate change impact.

The impact due to climate change is zero.



4.10. Other impacts

This draft does not generate any other specific impact.

5.- Ex post assessment.

An ex post assessment of the operation of the new system of joint deposit limits per player is foreseen. For this assessment, the data of the Internal Control System of the operators will be used (analysis of the different spending variables per player).

This assessment shall be carried out 2 years after the entry into force of the measure.



ANNEX I

STATEMENTS OF THE INTERESTED PARTIES IN THE PROCESSING OF PUBLIC INFORMATION

JDIGITAL

Preliminary consideration:

The interested party considers that *'... it is necessary to wait for all the measures of the aforementioned Royal Decree 176/2023 to enter into force and to be able to assess, in a more reliable way, the effect they have had on the online gambling market'*.

ASSESSMENT: this draft is fully compatible and consistent with the measures on safe gambling, without its implementation being in a relationship of dependency with the measures already taken.

Unnecessary nature of the measure:

It considers that, in order to give adequate reasons for the relevance of the measure, *'... the issue is not that a high percentage of losses are concentrated in a low percentage of players, but what differential effect is intended to be achieved by adding this new measure to the existing ones'*. And, in line with the above concludes *'... that the fact that a high % of losses – not deposits – is attributable to a small % of players is disconnected from the object or effect of this measure, as these players are expected to continue their current behaviour without being challenged by the system of joint limits'*.

ASSESSMENT: not shared. Without prejudice to which users or groups of users may be the most benefited by this measure, as specified in the MAIN, the target audience is the overall total of online players, who are equipped with an additional tool to existing ones that allows them to better self-monitor the deposits they make with game operators.

Disproportionate nature of the measure:

The non-proportionality of the measure adopted is based on the following grounds:

- In the opt-out nature of the system: i.e. that all registered participants are part of the system from its inception, and that they unsubscribe only by their own decision;
- In the deferral of fundamental issues relating to the operation of the system: considers that the availability to the user of the threshold change at all times *'... should not be left to the development of technical specifications'*.
- In the match between the quantities of the default joint limits and the current limits per operator

ASSESSMENT: not shared. The MAIN sufficiently justifies the option of a system of joint limits with the establishment *ex lege* and *ab initio* of minimum thresholds available to players.

Negative effects on responsible gambling policies (RDCC and RD safer gambling environments):

The submitting entity considers that, to the extent that operators will not know what the joint limit threshold established by the participants is (*'an uncertain variable in user behaviour and one that cannot be anticipated'*), this will mean that *'the first objective of the operators will be that the money within that limit ... is deposited as soon as possible on their platform ...'*, which will result in *'... an incentive to promotional activity not only in relation to intensive players ... but with the rest of the players'*.



It also notes the competition analysis carried out in the MAIN which anticipates possible competitive effects – for example, that operators resort to policies to increase average income in the non-limited player segment, as a risk contrary to the public interest that the draft promotes.

ASSESSMENT: not shared. Without prejudice to the purely speculative nature of the claim, it is necessary to consider the existence of various elements that allow the scenarios raised to be put into perspective. Thus, on the one hand, the existence of a regulation of the advertising and promotional framework – Royal Decree 958/2020 of 3 November 2020 on commercial communications of gambling activities – and of safe gambling – Royal Decree 176/2023 of 14 March 2023 on developing safer gambling environments – which regulate these areas of activity, and, on the other hand, the existence of an obligation of corporate social responsibility in the development of their responsible or safe gambling policies to which operators are obliged pursuant to Article 8 of the Spanish Gambling Regulation Law (LRJ).

The system fault liability regime:

The interested party considers that a new article – or section – should be included that clarifies the liability regime in case of failure of the system.

ASSESSMENT: not accepted. The system of liability for the operation of public services shall be that provided for in the administrative laws in force.

The data protection regime:

The interested party demands ‘the submission of a technical report by the Spanish Data Protection Agency in this regard’.

ASSESSMENT: the MAIN subject to public information procedure already provides for the AEPD report.

Possible distortions in the field of competition:

It considers it necessary to request a detailed report from the CNMC, in view of the asymmetry of the impact of the measure on the market structure, which will benefit large operators.

This is because the obligation of joint limits ‘it is much easier for large operators to manage’, both in view of reasons of demand (since they are operators in which more activity is concentrated and the joint limits generate an incentive for the player to concentrate his activity on them) as reasons of offering (since large operators ‘... can accommodate these potential revenue losses and incorporate this element into their business risk duty more comfortably’.

ASSESSMENT: the MAIN subject to public information procedure already provides for the CNMC report.

On voluntarism and flexibility mechanisms:

It considers that the voluntarism of the system should also extend to the establishment of limits for all players. To this end, they propose amending Article 36 bis(1) with the introduction of a subsection clarifying this optional nature:

1. *The gambling regulatory authority shall establish financial limits for the set of deposits that each participant may make in the totality of the gambling accounts associated with the user records that he/she maintains with any of the gambling operators with state-wide licences. These limits shall be those set out in Annex III. **The establishment of such limits will be, in any case, voluntary for each participant***



It considers it necessary to inform the participants of the possibility of modifying the pre-established limits.

ASSESSMENT: Not accepted. Reference is made to MAIN for justification of the model.

Insufficient legal basis:

It considers that the Spanish Gambling Regulation Law (LRJ) does not cover the regulation in regulation of regulatory rank of what it entails '*... a paradigm shift in user protection and should therefore be contemplated by law*'.

ASSESSMENT: Not accepted. Reference is made to the section 'Legal analysis' of the MAIN.

On the transitional period – introduction of a probationary period:

It requests the introduction of a probationary period (from 6 to 9 months) once the rule has entered into force as a whole. This period would serve to verify the effectiveness of the systems, the resolution of doubts and failures that were discovered, as well as to implement information and awareness actions of the players.

ASSESSMENT: A trial period is accepted and introduced.

Putting forward series of queries of a technical nature:

Finally, the pleadings document points to a number of doubts related to the specific operation that would take place once the system came into operation.

A trial period is accepted and introduced.



PAF

About the system:

According to the experience of the interested party, players with problematic gambling behaviours are not voluntarily limited, so it suggests that players can change the limits of the system, but not eliminate them.

It stresses that net deposits would reflect a clearer picture of players' current losses than gross deposits.

ASSESSMENT: Without prejudice to which users or groups of users may be the most benefited by this measure, as specified in the MAIN, the target audience is the overall total of online players, who are equipped with an additional tool to existing ones that allows them to better self-monitor the deposits they make with game operators.

On access to the system:

More information is requested on how players will access the system and how they will make changes to their personal limits.

It does not recommend a process that requires an electronic certificate or PIN.

ASSESSMENT: As stated in the MAIN, the system follows a centralised model, provided by the Directorate General for the Regulation of Gambling as responsible for its management.



ARTXIBET 2022 S.A.

1. The risks arising from the processing of personal data:

Disproportionate processing of personal data resulting from the system of joint limits is considered: disproportionate, not justified by the public interest.

It considers, in any case, that if there is a tool such as the proposal it should be a voluntary application (such as the RGIAJ).

ASSESSMENT: the MAIN subject to the public information procedure provides for the request for the AEPD report.

2. On the complexity of development at the technical level:

It highlights the high investment for operators and administration that developing the system will entail, as well as the concern about possible malfunctions. It believes that this could result in an increase in illegal gambling.

ASSESSMENT: not shared. Please refer to MAIN for justification of the proposed model.

3. Totally disproportionate burdens and costs:

It considers that the budgetary impact and annual costs are exorbitant taking into account the measures already in place. It considers that there are other less burdensome measures (without specifying them) and points out that administrative burdens should not be increased.

ASSESSMENT: not shared. Please refer to MAIN for justification of the proposed model.



GOLDEN PARK AND MGA GAMES

1. On the political context of public information:

It considers it irregular and illogical for the RD to be proposed with a government in office.

ASSESSMENT: the status of acting government does not prevent the carrying out of impulse procedures such as public information of a regulatory draft.

2. Article 8 Spanish Gambling Regulation Law (LRJ) as a legal basis:

It considers that Article 8 – Consumer protection and responsible gambling policies – is not a valid legal basis for the adoption of the proposed measures as it is not a measure of the operator's corporate social responsibility or consumer protection.

ASSESSMENT: Not accepted. Reference is made to the section 'Legal analysis' of the MAIN.

3. Inconsistency of the measure vis-à-vis other measures put in place:

It considers that it would have been prudent to await the full entry into force of Royal Decree 176/2023.

ASSESSMENT: this draft is fully compatible and consistent with the measures on safe gambling, without its implementation being in a relationship of dependency with the measures already taken.

4. Effects on business management:

It considers that the measure complicates sound business risk management and the calculation of certain fundamental variables (income per user; cost for customer acquisition and retention).

5. Effects on market structure and competition:

It considers that the measure is not neutral, and will have a different impact depending on the size of the operators, benefiting the largest operators and those who already have a name on the market, with the consequent concentration of the market.

ASSESSMENT: refers to the considerations of the MAIN under 'Economic and competition impact'. The CNMC's request for a report is foreseen.

6. Effects on responsible gambling:

It considers that the introduction of the capping system will intensify the current dynamics in terms of promotional and marketing practices.

ASSESSMENT: not shared. Without prejudice to the purely speculative nature of the claim, it is necessary to consider the existence of various elements that allow the scenarios raised to be put into perspective. Thus, on the one hand, the existence of a regulation of the advertising and promotional framework – Royal Decree 958/2020 of 3 November 2020 on commercial communications of gambling activities – and of safe gambling – Royal Decree 176/2023 of 14 March 2023 on developing safer gambling environments – which regulate these areas of activity, and, on the other hand, the existence of an obligation of corporate social responsibility in the development of their responsible or safe gambling policies to which operators are obliged pursuant to Article 8 of the Spanish Gambling Regulation Law (LRJ).

7. Doubts as to the usefulness of the measure from the point of view of the target player who is affected:



They consider that if the target audience of the measure is to protect particularly the % of players who bear a large % of losses, this will not be achieved, as these players are unlikely to change their behaviour, since if they wanted to, they could already make use of the current limit system.

ASSESSMENT: not shared. Without prejudice to which users or groups of users may be the most benefited by this measure, as specified in the MAIN, the target audience is the overall total of online players, who are equipped with an additional tool to existing ones that allows them to better self-monitor the deposits they make with game operators.

8. Need to ensure the voluntary and available nature of the system by the user:

It considers that the system should be voluntary from the beginning, targeting only the user who wants it.

ASSESSMENT: not shared. Please refer to MAIN for justification of the proposed model.

9. Disproportion of the default limits in relation to those set out in the current Annex II of Royal Decree 1614/2011 on deposit limits per operator:

It considers that the joint limits should be above those set by the operator.

ASSESSMENT: the disproportionate nature of the measure is not shared, as the limits are fully available to participants.



ONCE (Spanish Association for the Visually Impaired)

1. Need for the draft to clarify that it does not apply to the scope of the state lottery reserve:

It considers that '*... the Project is not sufficiently clear as to whether or not the joint deposits will include those corresponding to the operators in the reserved area, which creates legal uncertainty. Therefore, this aspect should be clarified in the standard, clarifying that its scope does not affect the reserved area of lotteries*'.

2. The draft could not be applicable to ONCE:

It considers that '*... in the event that the system of joint deposits to be arbitrated included the reservation of lotteries, it could never do so with respect to those marketed by ONCE through its online channel, insofar as the Directorate General for the Regulation of Gambling (DGOJ) lacks, with respect to the Organisation, the powers that the Project attributes to it, in accordance with the provisions of the Spanish Gambling Regulation Law (LRJ) and Royal Decree 1614/2011 itself, which it is contemplated to modify*'.

The reason would be that the regulatory basis of the Deposit Limit System is based on Article 24 of the LRJ, according to which it corresponds to the DGOJ: '*The audit, surveillance, inspection and control of all aspects and administrative, economic, procedural, technical, computer, telematic and documentation standards related to undertaking the activities provided for in this law.*', and to the extent that section 3, second additional provision of the LRJ, provides:

'Three. In order to preserve strict public control of ONCE's gambling activity, the powers conferred by this Law to the National Gambling Commission and the head of the Ministry of Economy and Finance in relation to with the activities subject to reservation, shall be exercised in relation to ONCE by the Council of the Protectorate, with the exception of the competences that correspond to the Council of Ministers'.

It considers that it would fall outside its scope.

Consequently, it considers that '*If the rule were to be extended to the reserved area, it would be necessary to clearly and expressly exclude ONCE from the regulation insofar as the DGOJ could not exercise with respect to the Organisation the powers that the Project attributes to it. Such clarification could be included in the draft text itself or in the MAIN*'.

Subsidiarily, it considers that '*... in the event that the ONCE were to be included in the scope of the proposed system, the conformity of the Project with the LRJ and with the regulatory framework applicable to the Organisation that it enshrines would require the approval of a specific regulation that would address its application in the case of the ONCE and that would include, among other aspects: the articulation of the relationship between the DGOJ and the Protectorate Council and the sharing of information in that direction or between both, the data protection regime or the applicable operating system, in addition to the surely necessary budgetary allocation in favour of the Protectorate Council to address the exercise of this specific competence*'.

ASSESSMENT: the entity is included in the application of the system, without prejudice to the duties conferred on the Protectorate Council under Additional Provision 2 LRJ.

3. On the true character of limits and their practical effectiveness:



It considers doubtful the practical operability of the proposed system (to the extent that the limits are available to players), which contrasts with the likely cost of implementation for operators and DGOJ.

ASSESSMENT: not shared, see opportunity aspects of the MAIN

4. Lack of clarification on maximum reporting deadlines:

It considers that the notification of the operator to the DGOJ in the event that the deposit is not made or is annulled, implies the existence of a period that the draft does not determine, nor does it clarify whether it will be established by a subsequent regulation.

ASSESSMENT: a trial period is introduced.



FLUTTER (Betfair, Pokerstars, Tombola)

1. Nature, scope and coexistence of different deposit limit systems:

a) The interaction between the SLDC and the operator's system of limits:

It raises a number of questions such as: should traders verify joint deposit limits when a customer requests an increase in the operator limit? Should operators check the joint deposit limit at the time of registration?

ASSESSMENT: the joint limit management model is complementary to and independent of the deposit limit management and control systems put into place by operators. The verification operation will take place when the participant requests the making of a deposit (see MAIN).

b) Proportionality:

The brief raises as doubt, if the limits are managed centrally how could the risk assessment part of any request from a player to increase their deposit limits be carried out?

ASSESSMENT: to the extent that the joint limit management model is complementary to and independent of the deposit limit management and control systems put in place by operators (by virtue of Article 36), operators must continue to carry out the risk assessment checks provided for in that Article.

c) About messages to the customer:

In relation to Article 36 bis(2), it considers that the message from operators to customers about deposit limits should be single and unified for all operators, and they should be involved in their drafting and validation.

ASSESSMENT: this provision is already included in the draft Royal Decree.

2. On the protection of personal data:

Flutter recommends involving the AEPD as soon as possible in the draft to ensure respect for personal data, before continuing to advance this initiative.

ASSESSMENT: the MAIN subject to the public information procedure provides for the request for the AEPD report.

3. Operational considerations:

Is concerned about the technological performance of the centralised tool – SLCD – in view of the inconsistency of the DGOJ's technical response on other issues (self-prohibited treatment).

With regard to payment methods, and taking into account the different processing times between them, it considers that this should be clarified. *'... when the expected deposited sum is to be accounted for against the joint limits, either at the time when the deposit request is made or, subsequently, at the time when it is credited to the gambling account'*.

In relation to the information to be provided on whether or not the deposit limit is exceeded, it considers that from the user's perspective it can be a very negative experience not knowing the reason why that deposit is rejected, so it considers that the reason for the rejection must be disclosed to the customer (i.e. if the operator's deposit limit or the joint limit has been exceeded).

ASSESSMENT: there will be a single message approved by the DGOJ informing customers of the reason why the deposit cannot be made.



4. Competition:

It considers that the implementation of the SLCD could lead to an impairment of competition to the detriment of consumers and to the benefit of operators with a market share greater than that of others, and therefore requests that the CNMC inform it.

ASSESSMENT: the MAIN subject to public information procedure already provides for the CNMC report.

5. Date of entry into force:

It considers that it should be weighed up that the given period of entry into force – 12 months – should be adequate for its technical planning.

ASSESSMENT: a trial period is introduced.



CODERE ONLINE S.A.U

1. The merits of the approval of the draft:

It considers the regulatory initiative premature, insofar as it is still pending to implement Royal Decree 176/2023 and Royal Decree 958/2020, which represent and have entailed significant investments.

ASSESSMENT: this draft is fully compatible and consistent with the measures on safe gambling, without its implementation being in a relationship of dependency with the measures already taken.

2. On the need for the system:

The MAIN justifies the relevance of the measure in that '... a very high percentage of losses – not deposits – are concentrated in a very low percentage of players', according to the applicant, 'However, in order to justify this relevance, ... the question is not whether a high percentage of the losses are concentrated in a low percentage of the players, but what differential effect is intended to be achieved by adding this new measure to the existing ones.'

ASSESSMENT: Without prejudice to which users or groups of users may be the most benefited by this measure, as specified in the MAIN, the target audience is the overall total of online players, who are equipped with an additional tool to existing ones that allows them to better self-monitor the deposits they make with game operators.

3. The failure to provide for regulation of the liability of the public administration and operators in the event of non-diligent conduct:

It considers that the draft should:

- Establish, where appropriate, a clear framework of responsibilities and guarantees on the part of the Directorate General for the Regulation of Gambling;
- Regulate the liability of operators who, intentionally, or due to lack of due diligence, carry out conduct aimed at affecting the conduct of players, for the benefit of themselves or third parties.

ASSESSMENT: not accepted.

The system of liability for the operation of public services shall be that provided for in the administrative laws in force.

The responsibilities for any conduct that operators may develop must be determined within the framework, and with the guarantees, of the sanctioning regime provided for in the LRJ.

4. Infringement of competition on the market:

It considers as possible negative effects of the SLCD with legally defined limits from the beginning the following:

- Possible adoption of aggressive marketing and promotion measures by operators;
- Harmful effect on less relevant operators in the market due to the possible transfer of demand to operators with a greater variety of products.

It therefore requests a report from the CNMC.

ASSESSMENT: the MAIN subject to public information procedure already provides for the CNMC report.



5. On the protection of personal data:

The relevance of the use of personal data for the operation of the system means that participation in the development of the AEPD draft is requested. In this regard, it points out that a similar regulation in Germany has been challenged in the courts for this reason.

ASSESSMENT: the MAIN subject to public information procedure already provides for the AEPD report.

6. On the lack of concreteness in the obligation for the participants:

It considers that the mandatory or voluntary nature of the SLCD is not clear.

ASSESSMENT: refers to the section on the operation of deposit limits and regulatory and non-regulatory alternatives in MAIN.

7. The situation of defencelessness:

It considers that the legislative initiative puts the interested party in a 'situation of helplessness' as a result of the lack of input from '*... the technical documentation that allows us to understand the technical and operational difficulty, as well as the scope of the measures to be implemented*'.

ASSESSMENT: not accepted. The MAIN adequately justifies the scope, purpose and operation of the measure that is introduced, and has a period of entry into force of the same adequate for the development of the technical requirements that it may require. Without prejudice to this, a probationary period is introduced.

8. The purpose of the transitional period:

It considers the deadline of entry into force, 12 months, appropriate, however calls for a trial period that guarantees operators a degree of legal certainty, allowing to examine the effectiveness of the systems and the possibility of resolving any possible failures that may arise.

ASSESSMENT: a trial period is introduced.



SELAE

1. On the amendment of Royal Decree 1614/2011, section 2, which introduces a new Article 36 bis:

It is proposed to amend section 2(2) of this new Article 36 bis in order to specify that personal data will be transferred by legal imperative. The article amended as proposed by SELAE would read as follows (drafting proposal added in italics):

'The communications of personal data between operators and the authority in charge of the regulation of gambling, as well as the processing of personal data carried out in the system have their legitimating basis in compliance with a legal obligation applicable to the data controller'.

ASSESSMENT: partially accepted and the legitimating basis of the processing will be reflected in the expository part.

2. On the update of guarantees:

It considers that it should be specified whether the update of guarantees will apply to existing ones or only from the entry into force of the RD.

If it were to all operators, it is suggested to specify:

- How they should be updated (e.g.: by means of an additional guarantee for the remaining amount or a replacement guarantee for the updated total amount).
- A reasonable transitional period should be granted.

ASSESSMENT: a provision on updating securities lodged is accepted and introduced.

3. Technical implementation of the draft RD:

It is suggested that the service technical specifications (STS) be included in an annex to the final text. Since it will not be possible to initiate technical modifications until the technical specifications of the service (API) are published, it is suggested to specify *'... that operators have 12 months from the moment of publication of the API service technical specifications – in case they are published at a time after the publication of the RD – to adapt their technical systems'.*

ASSESSMENT: a trial period is introduced.



SPANISH ASSOCIATION OF PLAYERS (AEJAD)

1. Establishing a definition of the criteria characterising risky behaviour:

The interested party considers that the draft is a good opportunity to establish a set of criteria that determine the characterisation of risky behaviour, criteria that must take into account the nature of the games, the variable of joint real losses in a sufficiently long period of time, in addition to the economic capacity of the player.

ASSESSMENT: not accepted. It goes beyond the scope of the project.

2. Verification of the origin of the funds:

Calls for a definition of a standardised procedure for the verification of the origin of funds in cases where due diligence measures are applied in accordance with Article 7(6) of Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing.

ASSESSMENT: not accepted. It goes beyond the scope of the project.

3. On Article 36 *bis* - SLDC:

- Requests that the system have no start deposit limits.
- It considers that an explicit wording should be included indicating that withdrawals from an operator increase the joint limit, as a deposit with negative value or simply as a refund of the amount that can be deposited until the established limit is reached again.
- It has no logic or technical justification that the reduction of joint limits is immediate as long as the modification to higher values or the disappearance of the limits is effective after 7 working days.
- Idem, due to it not being possible to alter the limits upwards until 3 months have elapsed.

ASSESSMENT: not accepted. See MAIN.



ASENSI lawyers

To the proposed wording of Article 13(1) – requirements of data subjects for obtaining general licences

In order to avoid interpretations that could extend the legal responsibilities of permanent representatives to other areas beyond the mere receipt of notifications, it is proposed as an alternative wording:

‘Article 13(1) ‘Reliably accredited legal persons in the form of a public limited company or similar company form in the European Economic Area with the sole corporate purpose of organising, marketing and operating games may participate in the procedure for granting general licences for the exploitation and marketing of games that are not occasional.

*When the legal entity does not have a registered office in Spain, it must designate a permanent representative in Spain **with the ability to receive notifications for all purposes**, both physically and electronically’.*

ASSESSMENT: accepted.



PREMIERE MEGAPLEX, PLC

1. General comments:

The applicant considers that the implementation of the SLDC has a high potential to impede competition on the market, since users will tend to concentrate their deposits on large operators.

ASSESSMENT: the MAIN subject to the public information procedure provides for the request for a report from the CNMC.

It also considers that the system does not address the problems of gambling addiction, because – in short – there are already alternative measures offered by operators and there are other products (lottery tickets and scratch cards) that are outside the scope of the proposed amendment.

ASSESSMENT: this draft is fully compatible and consistent with the measures on safe gambling, without its implementation being in a relationship of dependency with the measures already taken.

2. Remarks on Article 36 bis System of joint deposit limits per player:

Proposes the non-approval of the system due to its complexity and possible malfunctions, with the consequent risks and legal costs with claims and demands from customers.

Should the approval go ahead, it proposes to increase the limits to EUR 1 200 per day and EUR 3 000 per week.

ASSESSMENT: not accepted. To the extent that the amounts of the limits are fully available to the participants, they are considered proportionate.

3. Remarks to Article 36(4) and (5) of Article 36 bis System of joint deposit limits per player:

In the interested party's view, it is not clear whether responsibility for the management of the SLCD lies with the operators or with the Directorate General for the Regulation of Gambling (in which case, it considers that it may not be able to meet all the requests within the required time frame).

A number of questions relating to the operation of the system are raised below.

ASSESSMENT: not accepted. The system of liability for the operation of public services shall be that provided for in the administrative laws in force.

4. Observations to Article 4.4 Administrative burdens, section b – Estimated administrative burdens for operators (page 46):

It raises a number of issues relating to the operation of the system.



DZBT Deportes S.A.

1. Comments on Article 36 bis SLDC in relation to Article 14 RD 176/2023 (live betting):

It considers that account should be taken of the possibility that falls or technical interruptions may occur just before an event offered by an operator, which would prevent customers from placing bets. This system failure requires an effective and timely solution that does not disrupt participation in gambling activities.

ASSESSMENT: a trial period is introduced.

Comments on the deadline for increasing the deposit limits set (Article 36 bis(6)):

The interested party suggests the deletion of the three-month period in order to be able to carry out a further increase of limits in the event that limits lower than those desired can be established due to an error.

ASSESSMENT: not accepted. The Participant shall be responsible for the limiting thresholds at which it wishes to limit its deposit capacity.

3. Comments on Annex III. SLCD limits:

It suggests that the limits laid down in Annex III should be abolished due to the freezing of the regulatory status of this Annex and the consequent difficulties in amending it further.

ASSESSMENT: not accepted. Thresholds will be available to participants. And its possible modification is planned that can be made by resolution of the Directorate General for the Regulation of Gambling. In any case, and with regard to the freezing in regulation of the limiting thresholds, the draft foresees that by resolution of the Directorate General for the Regulation of Gambling and previous technical studies that are necessary may be revised.



GAMESYS SPAIN S.A.U

1. Remarks on Article 36.bis(1):

It considers that the joint economic limits of deposits should not be enforced by default but should communicate this new tool to users and that it is they who ultimately decide to implement it.

ASSESSMENT: not accepted. Reference is made to MAIN, section on alternatives.

2. Remarks on Article 36 bis(2):

It considers the interested party:

- That it is not specified what the necessary technical means must be on the part of the operators to comply with this new obligation.
- That it is not clearly and unequivocally established who is responsible to the final consumer for the operation of the connection between gambling operators and the regulatory authority. Proposes that the following wording be added to the section:

'the regulatory authority shall at all times be responsible for the connection with the gambling operators' control systems and for defining the operators' action protocols for establishing, modifying or removing the joint deposit limits'.

ASSESSMENT: not accepted.

A trial period of the system is introduced.

The system of liability for the operation of public services shall be that provided for in the administrative laws in force.

3. Remarks on Article 36 bis(4) and (5):

In section 4, the interested party considers that it is not established whether these modifications of joint deposit limits that must be satisfied automatically are the responsibility of the operator or the authority in charge of the regulation of gambling, causing legal and technical uncertainty.

ASSESSMENT: not accepted. The articulation is clear that the system is managed by the gambling regulatory authority and that participants interact with that system. In no case are the operators responsible for the approval or refusal of a deposit.

As regards section 5, it considers that the time limit for the modification of deposit limits is different from that provided for the limits set by each operator, thus causing confusion for the player. It proposed that the time limit should be 3 days, as provided for in Article 36.

ASSESSMENT: accepted.

4. Remarks on Article 36.bis(7):

It considers that a clear protocol should be established for the action of the operators or the authority in charge to comply with the provisions of sections 4, 5 and 6, in particular in relation to the way in which the player accesses the functionality, the way in which the player communicates to the operator the establishment or modification of the joint limits, the information or documentation requirements that the regulatory authority will request for the modification of the limits and the personal information that the operator must share with the authority.



ASSESSMENT: these are aspects related to a direct relationship between player and gambling regulatory authority, through the application managed by it and that will be made available to users.

5. Extension of the transitional period:

Request to be extended to 18 months.

ASSESSMENT: a trial period is introduced.



UNIVERSITY OF VALENCIA (Research unit: Gambling and technological addictions)

The University of Valencia appreciates the limitation of deposits, as 'it is one of the most appropriate ways to prevent gambling addiction in society and also serves to mitigate in some way the negative effects that gambling has on people who already suffer from this mental disorder'.

However, they make a substantive observation: the unavailability of funds on the part of players. In its opinion, they must be immutable, so that they meet the main objective for which they were designed, which is the prevention of gambling disorder in society and the reduction of the negative impact that gambling has.

The University of Valencia argues for these approaches by establishing that the gambling market already has rules unavailable to the player and fixed, and that the fact that not all people who bet eventually develop a gambling disorder does not mean that the game does not have risk, and, therefore, the unavailability and limits would be a responsible game measure useful for all players.

Based on this approach, it makes a series of proposals to the articles of the Royal Decree set out in the amendment of Article 36 bis(4) and (5).

- **Not accepted. In the terms proposed, the measure is deemed disproportionate.**

Second, the University of Valencia opposes the limits laid down in Annex II to the Royal Decree as excessive. Therefore, they advocate a system that takes into account the salaries of players and, based on this, it is indicated that no more than 50 % of the average monthly salary should be allocated to gambling.

- **Not accepted. In the terms proposed, the measure is considered inapplicable and disproportionate.**

Finally, the University of Valencia proposes the deletion in Article 36 bis(3) of the expression 'as well as any other data that is irrelevant or unnecessary'. They justify this elimination in that the prohibition of personal data indicated in section 3 is, in our opinion, sufficient for compliance with the Organic Law on the processing of personal data, while there may be data that the authority is interested in knowing at a certain time for the prevention of gambling disorder, which do not violate the data protection law, but that being considered 'irrelevant' or 'unnecessary' makes access to them difficult.

- **Not accepted. The proposed deletion is merely an expression of the data minimisation principle required by the GDPR.**



ACONCAGUA JUEGOS S.A.

1. Observations on the time taken for the processing of the draft and the essential suspension of the procedure:

The entity Aconcagua expresses its '*unease and expressly requests that the procedure initiated be suspended until Spain has a new government .*' and considers that, since the government is in place, the proposal should not have been pushed forward, because it '*... waste the time of those interested in it when there is a very high probability that the effort will be useless*' and because '*... studying a draft and making observations on it means for all gambling operators to dedicate human and, of course, economic resources that could be allocated to another class of activities more beneficial to the operator and society and that, for what we consider a major error by the Ministry of Consumer Affairs and that General Directorate, have had to be allocated to work that is very unlikely to bear any fruit whatsoever*'.

ASSESSMENT: not accepted. The draft management centre, which is the body of the General State Administration responsible for carrying out the supervisory and regulatory duties in the State-owned gambling sector, is not affected by the position of acting Government.

2. General comment:

It considers the draft '*... essentially unfocused ..., introduces a system which, ..., will cause confusion among participants and unnecessary harm to gambling operators and which, in practice, is an amendment to the system of particular deposit limits*'.

It considers that '*... it is not acceptable to maintain two systems with a very similar purpose and which, precisely because of this, are liable to incur serious contradictions*'.

ASSESSMENT: not shared. Reference is made to the motivational aspects of the draft and analysis of alternatives contained in the MAIN.

3. On the coexistence of two systems:

It considers that '*The creation of a system of joint limits should entail the elimination of the particular limits of each operator ... Maintaining both systems also means maintaining a regulatory risk in each of the operators without any additional advantage for a participant ...*'.

ASSESSMENT: not shared. The system is conceived as an additional tool to the existing ones that allows them a better self-control of the deposits they make in the gambling operators.

4. On the subjective scope of the establishment of joint limits and the establishment of default limits:

It considers that '*a system of joint deposit limits should not be configured as a universally applicable tool, at least not without the express will of the participant*'.

It considers that the optimal system should be '*that from the websites of the gambling operators the participants were offered the possibility of accessing the configuration of the tool for the setting of joint limits ... For example, at the same time of the participant's registration, from the operator's website, through a gateway with the system offered by the Directorate General for the Regulation of Gambling ...*'.

It disagrees with the establishment of default limits, which, in any case, should be determined, from the beginning, by the players according to their wishes.

ASSESSMENT: not shared. Reference is made to the motivational aspects of the draft and analysis of alternatives contained in the MAIN.



5. On the amendment of Article 43(1) of Royal Decree 1614/2011 (mortgage guarantee):

It considers that mortgage guarantee should be retained as an option for gambling operators.

ASSESSMENT: not accepted. The amendment aligns the guarantee arrangements with those laid down in similar legislation.

6. On the modification of the tenth additional provision RD 1614/2011 (obligation of participants to interact with the system by electronic means):

It considers that the '*... imposition of electronic processing must be qualified as a complete nonsense that, in addition, violates the provisions of Article 14(3) of Law 39/2015 while the draft does not incorporate the accreditation required by the Law in these cases*'.

Thus, it considers that this measure will have as a practical consequence '*... impeding access to the system for the vast majority of participants*', as the majority of the Spanish population lacks '*means of electronic identification*' in addition to starting from the budget that the participants in the online gambling activities are '*a homogeneous group that can be treated in a uniform manner*' or that it is sufficiently prepared to be granted access by electronic means.

Finally, in line with what has already been stated in the previous remark, it reiterates its proposal '*... that the system of joint limits is organised as a system of a private nature and that, regardless of the necessary involvement of the Directorate General for the Regulation of Gambling, it is not configured as a procedure of an administrative nature, with access to participants being facilitated by the means of authentication and access provided on the websites*'.

ASSESSMENT: not shared. Reference is made to the motivational aspects of the draft and analysis of alternatives contained in the MAIN.

7. On the amendment of sections 1 and 2 of Annex I RD 1614/2011 (increase in the amount of securities):

It considers that the need to adjust the amount of the guarantees to the price increases experienced since their original establishment has not been established since they have so far demonstrated their sufficiency.

ASSESSMENT: not accepted. The proposed increase does not imply a real increase in guarantees since they are simply adjusted for changes in the CPI, so that, as indicated by MAIN, they can retain their real value and respond effectively to the duties assigned to them by law.

8. On the introduction of an Annex III to Royal Decree 1614/2011 (amount of joint limits):

It considers it nonsense that '*... the intention is to set as the joint deposit limit what remains today the individual deposit limit for each operator*', which in addition '*... involves, for practical purposes, reducing these particular limits, as a minimum, by the average number of operators in which a participant has a gambling account*'.

It takes the view that joint limits should not be conceived as '*a system of mandatory application by default*', but if they decide to do so, '*the default limits set out in Annex III should correspond to a figure appropriate to the reality of the market and should be established, as a minimum, in the result of multiplying the limits in Annex II by the average number of operators in which a participant has a gambling account*'.



In addition, it considers that if the model of mandatory application of the system of joint limits is maintained '*... without prior intervention of the participant*' it considers that account should be taken of the particular limits set by users, at least at the initial start-up of the system.

ASSESSMENT: not accepted. Limit thresholds are fully available to participants.

9. On the entry into force:

It proposes the introduction of a subsection stating that '*... without prejudice to the entry into force of the Royal Decree, the system of joint limits shall be implemented within 6 months of the date on which the Directorate General for the Regulation of Gambling has put into production the software that will support the said system and formally transferred the specifications thereof to the operators, all without prejudice to the prior performance of any joint tests that may be necessary*'.

ASSESSMENT: It is partially accepted and a trial period is introduced.



WAGERFAIR S.A.

The observations made are identical to those made by Aconcagua, and the assessments made therein are therefore deemed to be reproduced.