

The recent evolution of the Belgian gambling landscape

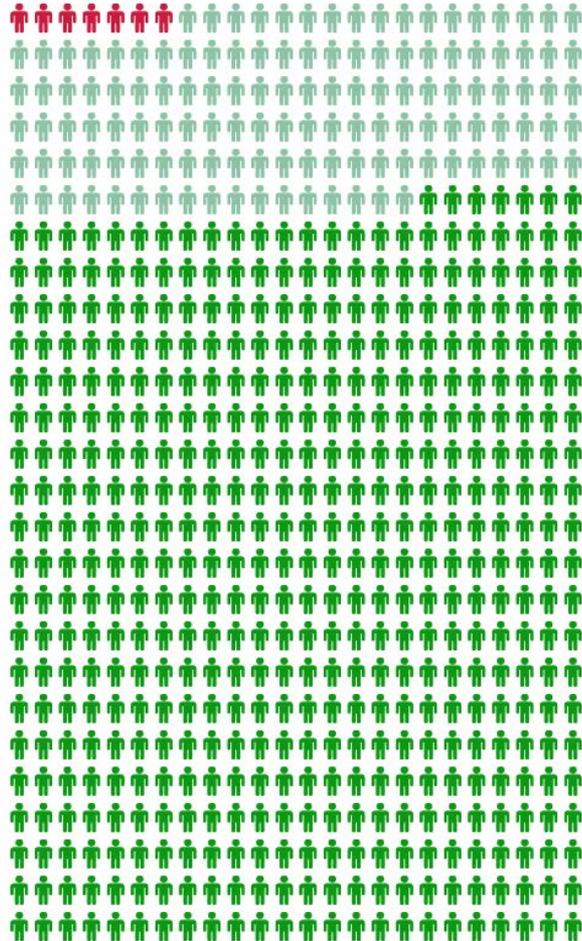
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Agenda

- **Context**
- **Recent developments**
 - Virtual betting
 - Unique website for different licensed games
 - Taxation on gambling
 - Gambling Advertising
 - Prevention campaign
 - Reduction of betting outlets
 - Loot Boxes
 - Gambling prevention and Excluded persons
 - Financing of the regulatory body
 - Special gaming machines
 - Financial limitations
 - Gambling addiction studies
- **Conclusions**



Context – Active licenses in 2018



● Casino ● Gaming hall ● Betting shops

Type of Licences	Valid Licences
Casinos (A)	9
Gaming Hall (B)	176
Drinking places (C)	8593
Personnel (D)*	7451 (4000 still under examination)
Gambling device providers (E)	205
Betting companies (F1)	32
Betting shops (F2)	673 (to be reduced to 600)
Bookmaker (F2)	38
Newsstands (F2)	1822
Hippodromes (F2)	5
Media games (G1)	1

Virtual Betting

Background & Chronology

2015*

- Gambling Commission considers it as a form of betting and authorizes Ladbroke's subsidiary to operate them in bet shops
- Gambling Commission consults the market

2016

- Gambling Commission no more considers virtual betting as a betting but as a gambling and suspends its 2015 decision. Ladbroke allowed to continue till 30/06/2016.

2017

- Gambling Commission prolongs (January) 2016 decision till 30/06/2017
- Complaint lodged (March) by competitor before Court vs Federal Government to stop Ladbroke
- Federal Government approves (July) draft royal decree on virtual betting
- Brussels Court's provisional decision orders under penalty the Federal Government to repeal the provisional decision granted to Ladbroke
- Notification (August) of the Royal Decree to the EU Commission
- Complaint (September) by the bar tenders federation against Ladbroke for unfair competition
- End of the standstill period EU notification (November) without any remarks by Member States but the EU Commission

2018

- Final approval of the Royal Decree (January) by Federal Government on virtual betting
- Final Brussels Court decision (February) to fine the Federal government to not have forced Ladbroke to stop its virtual betting operations
- Ladbroke suspends (April) its virtual betting operations
- Entry into force (May) of the Royal Decree
- Gambling Commission decision to suspend for 24Hrs the Ladbroke license on September 3rd

* As from 2012 Ladbroke did offer virtual betting based on a tolerance from the Gambling Commission

Virtual Betting

Regulation main provisions



- **Type of betting** : only sports events are allowed, betting on eSports are forbidden. Are also forbidden any reference to existing sporting teams, athletes, coaches, club's logo, championships, etc.
- **Consumer protection measures** : device located in bet shop. Message displayed on the device's screen " this is a fictive game". Average authorised hourly loss : 12,5€
- **Automatic game of chance devices** : limited to 2 devices for virtual betting only. These are mono player device linked to a server licensed to a 1/3 party provider of the game with a secured connection.
- **Data storage**: recordings of the virtual events are stored during 8 weeks. Server should be located in Belgium but the Gambling Commission authorises remote server under certain conditions (data integrity and remote access guaranteed)

Unique website for different licensed games

Background & Chronology



- The Belgian Gambling Act does provide for licensed operators in the physical world the possibility to apply for a supplementary licence to exploit online similar games of chance.
- The Belgian Gambling Act does preclude that different licensed games be exploited in one and same premises (e.g. casinos games cannot be offered together with betting facilities under the same roof) but is quiet about the possibility to exploit different gambling categories using a unique domain name with associated different URLs .
- Since 2011 many brick and mortar operators have been granted a supplementary license to exploit their games online. Some of them have joined forces with operators active in the betting sector to exploit online different licensed games accessible from a unique domain name with associated different URLs
- In 2015, a private operator decided to challenge this situation before the Council of State (Administrative jurisdiction) and attacked the Gambling Commission's decision to grant supplementary licences to competitors to exploit online different licensed games from a unique domain name with associated different URLs .

Unique website for different licensed games

Judicial decisions & consequences



- January 27th, 2016 the Brussels Trade Court ruled the cumulated exploitation of casino games and betting on a same website **is forbidden by the Gambling Act.**
- November 9th 2017 the Constitutional Court ruled in a preliminary ruling based on a question raised by the Council of State **that the current Gambling legislation violates the non discriminatory principles** as it allows one or many operator(s) of different licensed games (supplementary licences) to operate them from a unique domain name and its associated URL's.
- July 19th 2018, the Constitutional Court confirmed that the equality principle should be respected and **considered that the situation that prevails in the physical world where cumulated licenses are prohibited is not different from the one in the virtual world.**
- July 19th 2018, the Constitutional Court **annulled the Gambling Act** as it doesn't prohibit the possibility to cumulate the operation of different supplementary licences from a unique domain name and associated URL's.

As a consequence, operators will have to sever their different licensed gambling operations and operate them from different domain names.

The Gambling Commission issued a directive to invite the operators to implement by September, 15th a measure to force players to log in every time they play another game of chance on the same website. In the meantime the Gambling Commission expects that the Gambling Act will be amended accordingly.

Taxation on gambling

Background & Chronology

- Gambling is subject to taxation in Belgium. The regions are competent to tax the gambling activities (turnover and devices). The communes are eager to levy a tax on the gambling premises (betting outlets). Corporate taxes are levied by the federal government
- Until July 2016, gambling transactions were exempted from to VAT in Belgium. The federal government decided to limit the exemption and introduced VAT for online gambling transactions excepted for lotteries. The measure applied not only to licensed gambling operators but also to illegal operators providing their services towards Belgian players located in Belgium



Regions

Type of game	Taxed basis	Rate
Online gambling and betting	Gross margin	11%
Media games	Gross margin	15%
Horse, dog race and sport betting offline	Gross margin (with EEA area) or Wager s(outside EEA)	15%
Casino games (baccarat and roulette)	Banker's winnings	5,3% (VL) - 4,8%
	Other	3% (VL) - 2,75%
Other casino games (e.g.) Poker)	Gross revenues	33%(< 865.000€)
		44%(>868.000€)
Slot machines	Gross revenues	from 20% up to 50%
Other gambling or betting	Wagers	15%

Taxation on gambling

Judicial decision & consequences



- **July 2016** federal legislation implementing VAT for online gambling transactions was attacked before the Constitutional Court by gambling operators and the Walloon region.
- **March 2018** The Constitutional Court had first to sort out the repartitioning of the gambling taxation competences between the Regions that are competent to tax gambling activities and the federal government to implement VAT on goods and services. **The Court recognised that the decision to tax or not gambling falls under the competence of the federal state but the taxation modalities are an exclusive competence of the Regions.** The Court recognises that the VAT decision as such didn't modify the already existing regional tax on gambling and betting but has negatively impacted the yield of that tax for the regions.
- The Constitutional Court **decided to annul the federal law introducing the VAT for online gambling transactions** leaving the effects of the annulment provisions untouched.
- => as of now all gambling transactions on/off line are VAT exempted

Gambling Advertising

Background & Chronology



- The Belgian Gambling Act provides for a Royal Decree to be adopted for online gambling advertising. By default of a specific regulation, it is the consumer protection rule that applies to gambling activities.
- Gambling advertising is also subject to self-regulation codes adopted by the industry. The Belgian National Lottery adopted in the '90 a code of ethical advertising enforced by the national advertising self regulation body JEP.
- **In 2016** the Gambling Commission under the aegis of the Ministry of Justice initiated a process to draft a gambling advertising self-regulatory code for the whole industry. The discussions collapsed for no consensus was found on the limitation of the usage of bonuses. The private operators under their trade association BAGO adopted an ethical advertising code which is not endorsed by JEP
- October 2017, the federal government approved a draft Royal Decree intended to regulate advertising for online gambling. The text was notified to the European Commission
- May 2018, parliamentary initiative to forbid any form of advertising and sponsoring for online gambling

Gambling Advertising

Regulatory development



- **The Draft Royal Decree provides that**
 - Advertising for online gambling can **only be done on the website** exploited by the licensee or via personalised email sent to customers who have opted in
 - Emailing containing commercial offers **cannot be sent to excluded persons**
 - Content of the advertising message shouldn't i.a. incite to play, exaggerate winning possibilities, to show positive attitude while gambling etc.
 - Advertising should bear the minimum age to play and a message "play with moderation"
 - **TV advertising** shouldn't be broadcasted during live sport competitions, 15 minutes prior and after children broadcasts, **no broadcast before 08:00 pm** for online betting
 - Betting advertising shouldn't be addressed to the youngster (media dedicated the youth, movie theatre, etc)
 - Gambling advertising cannot disclose the player's identity nor his/her picture
 - Gambling operator cannot offer bonus outside their website (max 275€/month)

Prevention campaign

Football World Cup campaign



- The Belgian Gambling Commission launched a prevention campaign prior to the 2018 FIFA World Cup to inform the general public about the danger of gambling addiction



LES DANGERS DU JEU | LES FACTEURS DE RISQUE | TÉMOIGNAGES | TROUVER DE L'AIDE

FRANÇAIS

FC LOSERS 2018

LE SEUL CLUB DONT VOUS
NE VOULEZ PAS FAIRE PARTIE !

#FAUTAIMERPERDRE

LANCEZ LA VIDÉO

Prevention campaign

Football World Cup campaign



Activity report from the Gambling Commission.

- Players and wagers

- During the World cup period (14-06-2018 til 15-07-2018) **150.127** new registered players and **302.862** unique players (having an account and first time play during World Cup)
- Youngster 21-29 yrs are the most represented category
- Total wagers registered (off-line) during that period amounts to +/- **€130Mio** and (Online) **€203 Mio** (average wage per player €673 during World Cup)

- The campaign

- The campaign has been viewed on social networks (Youtube, Facebook, snapchat) on traditional website, on TV and radio

Prevention campaign

Football World Cup campaign

- BAGO the gambling trade association committed to not broadcast advertising for their online betting during the first 3 competitions from the Belgian Red Devils but due to sponsoring partnership with the Flemish public broadcaster, UNIBET advertising were broadcasted before and during the Red Devils competitions. It has given rise to a debate before the Flemish Parliament about the role played by public broadcaster and gambling advertising



Reduction betting outlets

Regulatory development

- In 2009 were a maximum of 1000 betting outlets authorised and 60 mobile betting outlets. The evolution of the number of betting outlets : 363 outlets in 2011, 460 in 2012, 521 in 2013, 618 in 2014, 661 in 2015 and 697 in 2016.
- The Gambling Commission pleaded to reduce the number to 600 outlets which will allow them to control effectively these locations where there are many infractions committed nowadays (e.g. selling of alcohol beverages, betting unregistered above 1000€, etc.) and where automatic gambling machines, including virtual betting are operated too.
- Royal Decree April 28, 2018 provided that the number of betting outlets is limited to 600 and that expired licences won't be renewed.

Loot boxes

Regulatory development



- April 25th, 2018 the Belgian Gaming Commission published a report whereby the games “Overwatch”, “Star wars Battlefront II”, “FIFA18” and “Counterstrike: global offensive” were analysed.
- The loot boxes used in these games were found to be illegal by the Belgian Gaming Commission as did their Dutch counterparts previously.
- In the report, only Battlefront was considered not in violation of the Belgian gaming laws, purely because EA completely reworked the title’s loot boxes before while the other three titles have been branded “games of chance” and are therefore illegal under current regulations.
- According to the report, *“the lack of regulation and control of these video games is particularly problematic with regard to minors and gambling addicts, who can take part in games of chance without any protection”*. Furthermore, *“the monitoring of the video game sector and the lack of effective regulations for games of chance is in stark contrast to the regulated gambling sector for adults”*.

Gambling prevention excluded persons

Regulatory development

- On February, 2015 an excluded player attacked before the Council of State the Gambling commission's decision to exclude him from online and offline gambling arguing that the decision was not motivated and there was no proof of addiction even though logs of his casino and gambling halls visits were showed.
- In its decision the Council of State (May 12th 2016) stated **that the level of visits to casinos and gambling halls is by nature to proof that the player has a gambling problem** and the law doesn't prescribe that additionally the players should also have financing problems, even though that they can be taken into account to exclude a player.

Financing of the regulatory body

Regulatory development

- The financing of the Gambling Commission is organised by the Gambling Act. The licensees are paying a yearly fee to cover the functioning of the public body. The positive balance between the costs and revenues was transferred to a gambling commission fund which was managed apart from the State general budget. The Federal state decided by Law to repatriate the accrued **sums up to €15,7 Mio to the 2016 General budget.**
- The trade association Belgian Gaming Association **challenged the law before the Constitutional Court** on the grounds that the yearly fees should be qualified as a tax and not a retribution which implies that the Federal state is not competent to adopt that law.
- On March 29, 2018 the Court ruled that the yearly fees should be considered as a contribution as they offset the services provided by the Gambling Commission. **The accrued surplus are qualified as a tax as there was a discrepancy between the services provided and the paid fees. The Court ruled that the law should be annulled and that the sums be either returned to the Gambling Commission fund to exclusively compensate the functioning costs, to the licensees or to be deducted from future fees to be paid by licensees.**

Special gaming machines

Regulatory development

- The Gambling Act does not consider that certain categories of automatic gaming machines are falling under the scope of the Gambling Commission supervision. These machines are considered as entertainment devices by fiscal authorities and thus do not need a licence from the Gambling Commission. Their number per location is unlimited.
- The number of installed machines approximates **8000**.
- A Draft Royal Decree has been adopted by the Federal government in June 2018 to submit those entertainment devices to a licence granted by the Gambling Commission. These devices will be operated in bar and pub only along with the bingos.



Financial limitations

Regulatory development



- The Gambling Act does not provide so far for gambling financial limitations (losses, wages, credit) regarding online gambling. As of today limits are provided in the physical world such a loss limit per hour of 70€ for casino games, 25€ in gambling halls, 12,5€ in bar and pubs for gambling machines and 12,5€ in betting outlets for gambling machines.
- A Draft Royal Decree has been adopted by the Federal government in June 2018 which foresees that licensees of online gambling should put in place a **500€ limit per week per player** to gamble and bet. The possibility exists to lower this cap or to increase this cap. Any request to increase this amount should be electronically addressed to the Gambling Commission which will check against the National Bank database if the requestor is subject to financial redress. If the player doesn't represent any risk, the authorisation will be effective after 3 days. The checks are done every month with possibility for the Gambling Commission to repeal her authorisation.
- It also provides the possibility for the player to request a temporary exclusion which will oblige operators to stop sending promotional to the self-excluded player
- It also forbids the usage of credit cards to feed his/her player's account

Gambling addiction

Studies

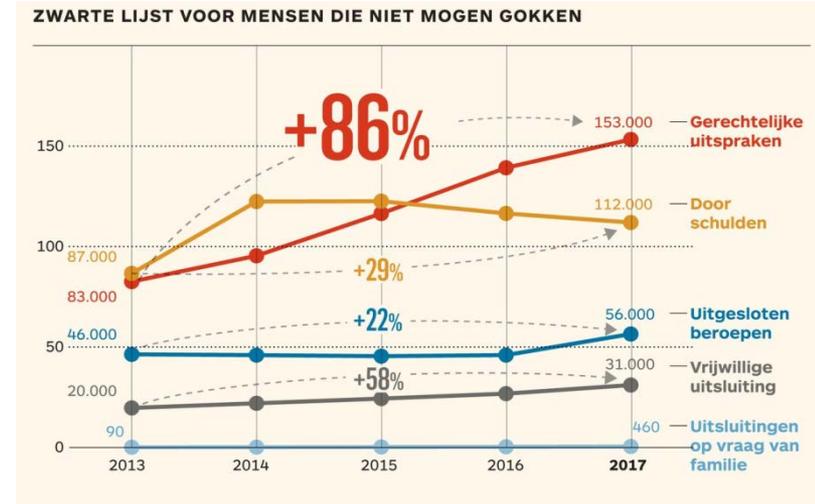
- Leuven University Instituut voor Mediastudies (Zaman, De Cock) (November 2017) made a study funded by the National Lottery on gambling behaviour and the youth showed that gambling is already a reality for the 10-12yrs old. Among the findings, the fact that many children are playing video games or games having a flavour of casino games with a possibility to put a wager is symptomatic. The study found that lottery scratch cards are also popular among the respondents (45% received it as a gift, 30% are playing with their parents and 10% are delegating someone else to buy in a shop for them)
- In 2016 Federal Health Public Service Departement set up a working group on gambling addiction that made a study about the situation in Belgium. It came to the conclusion that little is known, that there is a lack of figures to evaluate the impact of this problematic. The working group is currently working on a vision note for the coming years to tackle the issue of problem gambling



Gambling Addiction

Excluded persons

- The number of excluded persons has increased during the last 5 years to amount **353.312 excluded persons compared to 235.321 in 2013**
- Not all these persons are problematic gamblers. Some people are excluded due to
 - Professional status (magistrate, police forces, notary, etc.) **56.000**
 - Collective debt arrangement **112.000**
 - Court decision (e.g. prolonged minority) **153.00**
 - Self-exclusion request **31.000**
 - Family request **460**



Conclusion

The Belgian model is almost 10 years old and has been copied in many other jurisdictions. Nevertheless, it is far from perfect when we see the explosion of the gambling offer and the number of excluded persons. The national regulator who has been put under pressure by the market forces has struggled to correctly fulfil his mission due to a lack of means and the shortage of staff to cope with the technological evolution as well as the new gambling patterns. Let's hope that the coming decade will be more in line with its mission to channel the players to a safe and trustworthy gambling offer that diminishes the attractiveness of illegal operators.