



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

## TERMS OF REFERENCE

### ESTABLISHMENT OF THE GAMBLING REVIEW COMMISSION IN THE GAMBLING INDUSTRY IN SOUTH AFRICA

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#### 1. INTRODUCTION

With the emergence of the first democratic administration in 1994, and the concurrent evolution of our economy, the Government of the Republic of South Africa has set out to review many existing policies, to assess their relevance to the new South African era. The gambling industry was one of the sectors reviewed, with the establishment of the Wiehahn Commission.

In South Africa, the gambling industry was legalised after 1996, by the enactment of the National Gambling Act (the Act), which came into operation on 1 November 2004. The fundamental principles, which form the basis of the Act, were enunciated in the Wiehahn Report on Gambling (1995).

The Act largely deals with the regulation of casinos and limited payout machine (LPM) sectors, traditional bingo, and a recently adopted gambling activity, interactive gambling. The Commission's report did not, however, take into account issues such as the evolution of technology and its impact on the industry amongst others, thus creating not only loopholes in the legislation but also gaps within the gambling regulatory regime.

The South African gambling industry and Government of the Republic of South Africa recognise that the regulation of the gambling industry should not be exclusively limited to these legalised activities, but consideration be given to new forms of gambling, without ignoring the economic and social impact thereof.

#### 2. BACKGROUND

It is a fact that as the industry grows, issues unfold and remain a hurdle in the regulatory structures. The establishment of a Review Commission will consider if the currently legalised gambling activities can/ should be expanded or curtailed considering the number of casinos, limited payout machines and bingo out lets already licensed.

The gambling industry has evolved technologically and many new activities are introduced in various jurisdictions. Within the South African context, new activities include the use of electronic bingo terminals, faffee, person-to-person betting exchanges, and the introduction of harness and dog racing. Technological

advancements, especially in respect of legalised activities in South Africa, is playing an important role, as the gambling industry is highly dependent on technology. Such advancements have evolved from the use of traditional paper and pen bingo games, to electronic bingo machines, which in itself has resulted in ambiguous legislative interpretation. At the same time, however, there are socio-economic consequences attached to gambling, such as problem gambling, youth gambling and other social concerns.

### **3. MAIN AIM AND RESEARCH OBJECTIVES**

The main objective of the study is to review and revisit the current legislation on legal gambling activities and determine whether the South African gambling industry conforms to the objectives of the Act.

The research will focus on:

- 3.1 A review of the industry, holistically since 1996, to assess the impact of the industry on society and the economy, taking into account the demography of participants, problem gambling, addiction to gambling, youth gambling, strategies in place mitigating the negative effects of gambling, and the efficiency and effectiveness of these strategies. In addition, it will focus on ascertaining commercial growth of the gambling industry in South Africa versus the contribution of the industry towards social responsibility, and provide recommendations for the improvement of strategies already in place or new strategies to address the social ills of gambling.
- 3.2 Assess the proliferation of the gambling in South Africa, taking into account legalised and illegal gambling activities; the relevance of legalised activities to the industry, in light of technological developments; and the viability of the industry to accommodate further roll-outs of new activities (such as animal racing, person-to-person betting, etc.). In addition, it will focus on the expansion of already existing gambling activities, taking cognisance of the efficient and equitable allocation of resources to the provinces.
- 3.3 Assess the legislative objectives regarding enforcement mechanisms in the gambling industry, and determine if regulatory bodies put in place are effectively achieving these objectives; and recommend intervention measures to best regulate the industry.
- 3.4 Benchmark with other jurisdictions on best-policy approaches in the gambling industry, thereby discussing and deliberating best-practice case models on regulatory aspects.
- 3.5 Recommend policy positions in the gambling industry, based on these research findings.

### **4. SCOPE OF RESEARCH**

The Commission will look at the South African gambling industry holistically, taking into account all the legalised gambling, proposed activities by industry role-players, as well as illegal gambling activities.

A sample of best practice countries may be selected for consultations. At least 10 key global cases in this industry should be consulted, for benchmarking purposes.

The Commission is required to advise the Minister of Trade and Industry (**the dti**) on any relevant recommendations that include, but are not limited to:

- Further controls or mechanisms to be considered in achieving the objectives outlined in the research goals and intent of current legislation;
- Transitional mechanisms, prior to the implementation of proposed recommendations; and
- A manner to implement the recommendations, in respect of existing and operational sectors of the gambling industry.

## **5. DELIVERABLES**

Key deliverables of the research study should be in the form of one original copy of the report, and presentations to the Consumer and Corporate Regulation Division (CCRD), Exbo and the Minister of Trade and Industry (**the dti**).

This research report should cover the following key areas:

- **An executive summary, providing a synopsis of key results emanating from the research study;**
- **Clear identification of the problem areas of the subject and the relevant statistics supporting these problems;**
- **Addressing key concerns of the study, including areas raised in the objectives of the study; and**
- **Include supporting documentation, such as surveys, interviews, responses, etc. as the basis for the verification of the study outcomes.**

## **6. METHODOLOGY**

The method of study should include both primary and secondary research of a qualitative and quantitative nature, such as desktop research (literature review), personal in-depth interviews with identified stakeholders, such as key industry and global role-players, suppliers, manufacturers and operators, and other relevant interest groups. Quantitative research methods, such as telephonic surveys, may also be conducted.

## **7. COMMISSION EXPERTISE**

- (a) The Commission team will comprise a Chairperson, who shall be a person with applicable knowledge and experience with regard to matters concerning the South African gambling industry, policy formulation, research skills and government policies; and

- (b) Four (4) other members, with at least a proven public service background, experience in policy formulation, business acumen, applicable knowledge of the industry, experience in matters connected to Broad-Based Black Economic Empowerment (B-BBEE), and experience in dealing with the social ills of the industry, social development and legal expertise.

## **8. TIME SCHEDULE**

The proposed time schedule, over which the Commission of enquiry will be conducted, is estimated to take 12 months.

A project plan, based on the above scope, will be developed and submitted to the Deputy Director-General (DDG) for approval. Progress reports will be conducted monthly, in addition to adherence to the agreed timeframes stipulated in the project plan.

## **9. CONTACT PERSON**

<b>Project Manager:</b>	Ms Mpho Mosing
<b>Directorate:</b>	Director: Regulated Industries (CCRD)
<b>Tel:</b>	(012) 394 1504
<b>E-mail:</b>	MMosing@thedti.gov.za
<b>Website:</b>	<a href="http://www.thedti.gov.za">www.thedti.gov.za</a>