

THE GAMBLING LAW  
REVIEW

EIGHTH EDITION

Editor  
Carl Rohsler

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# PREFACE

*O yes, I know about gambling, and am quite used to living on the edge of one abyss or another.  
Incidentally, publishing nowadays is not one of the safer occupations.*

(T S Eliot. Letter to Ormerod Greenwood 1934)

Welcome to the eighth edition of *The Gambling Law Review*.

In the three prefaces to this work since April 2020, my attention has been distracted by the ‘abysses’ of various world events and their bearing on our social and economic lives. In those editions I tried to assess how those events might impact on the landscape of the gambling and entertainment industry. I offered some predictions on how the covid pandemic would change our world of work, our homes, our social interactions, the way that we spend time on leisure pursuits and our use of public and retail spaces.

Of course, the cultural and economic impact of covid-19 is not the only force that has been bearing down on us recently. The spike in energy and grain prices caused by the conflict in Ukraine has also caused the world’s economies to stumble just at the point where they were trending towards recovery. But just as human folly creates crises, human ingenuity is finding ways of stabilising them, by swiftly moving to having less reliance on energy from a single source and indeed less reliance on fossil fuels in general. Perhaps one day we will look back at 2022 as the year that spurred the western world to achieve a greener fuel economy in years, rather than over decades.

The economic earthquakes of pandemic and war are subsiding (at least for most developed economies). We are now dealing with the aftershocks in the form of problems in the global supply chain, resulting inflation and governments’ answer to inflation; higher interest rates. For some months, the cures being offered by government have seemed almost as painful as the disease itself, but with summer coming, we are beginning to see the inflationary curve flatten. Most economic opinion seems to agree that the leading economies will avoid recession, and that 2023 will end with a return to growth, and a much-awaited re-stabilisation of the economic environment. There are also signs of regrowth in some of our old habits towards going back to work and traditional social pursuits. In other words, we are going back to the way that we used to be, albeit armed with the experience of knowing that it is not the only way of working, living or enjoying life. Rigid life patterns have become more flexible, more hybrid.

So, as we emerge as from between abysses both natural and man-made and with the existential threats to the leisure economy now behind us, it is time to look again at gambling with fresh eyes.

In my jurisdiction at least, review and reform have been the watch words for some years, but can hardly be said to have made swift progress. For almost three years, the UK

government has promised a white paper to review gambling law. Initially described as a once-in-a-generation opportunity to reform the law, the review was widely heralded as a way of addressing changes in the gambling market that could not have been anticipated by the legislation in 2005. In late 2020, the government began the process with a call for evidence from operators and interested parties in response to 50 or so written questions. Around 16,000 separate responses were received. That showed, if nothing else, that the reform of gambling law was something that excites public interest.

Limiting the scope of the review to specific questions was, in my opinion, a suboptimal path. Although asking focused questions is important to give order to a debate, it also effectively means that important areas where reform might be needed were excluded from view. Such a technique may suit the government's agenda, but it presupposes that the government knows what areas of the law actually need reform.

If the approach was imperfect, the execution was (until the very last moment), still more disappointing. In the two years since the call for evidence closed, nothing was forthcoming. Why? In our view there were two factors. First was that government fell into crisis: preoccupied by covid-19, Brexit and its own internal political tensions, three prime ministers stood at the helm in a period of less than six months. The cabinet reshuffles that came with each change meant that the responsibility of managing reform of gambling passed through the hands of no fewer than six different ministers. No one was in post long enough to master the issues. Consequently, the public was consistently promised that the white paper would be published 'within a few weeks' for almost a year.

But political turmoil was not the only cause of the delay. What has become increasingly clear over the past two years is that gambling reform is a battleground between the commercial desires of operators to continue their businesses and those whose focus on opposition to gambling is fundamental and visceral. Those who seek to justify gambling largely base their arguments on statistics about low levels of gambling harm, while those who campaign for greater protections rely increasingly on the social policy tool known as 'lived experience'. Lived experience has the benefit of seeing an issue through the intensity of an individual's actual perception and acquires its power from being personal and 'authentic', but its weakness is that it describes a single viewpoint, not a balanced picture.

It is impossible to know what evidence was provided in response to the call for evidence (it has not been published), but it can be imagined that it was a combination of generalised statistics showing that problem gambling is rarer in society than many other social evils, set against stories of individuals whose lives have spiralled into addiction and ruin. It is very hard for anyone (still less a freshly appointed minister with little experience of the gambling industry) to find a way of reconciling those two very different 'sources of truth'. Consequently, the government faced some very difficult policy choices – to intervene and be accused of acting like a nanny state, interfering in the personal freedom and leisure of adult citizens, or to take a more liberal approach and face heated criticism from opposition politicians and the press, highlighted with the truly tragic stories of those whose lives are ruined or even ended by addiction.

Conference speaking slots came and went, speculation and leaked drafts did the rounds, and nothing turned up. As time passed in 2023, the publishers of *The Gambling Law Review* were asked to extend the deadline for my own contributions, to the very point where the printing presses were about to whirl into action.

Of course, the day after my deadline, the white paper finally arrived, in a flurry of a mere 93,000 words. What were the odds of that?

It happens that I have managed to provide a few paragraphs of commentary on the proposals in the UK chapter (but there will no doubt be much better analysis written by others in the months to come).

The government's response has been pragmatic: ask interested parties what they want, and then deliver a set of compromises, which seek to steer between the two extremes. However, the absence of a white paper for so long forced me to ask myself what the right approach to deciding a regulatory policy should be.

## **i Understanding what to regulate**

For me, there is a very important initial stage to regulation that is often overlooked. The totemic triumvirate of gambling – betting, gaming and lottery – are seen as immovable concepts rooted in history and tradition and forming the foundations of gambling policy. In seeking reform, we look at the existing position, and ask what can be done to improve it. However, anyone with a historical view of gambling will recognise that the current legal position is layered with artificial distinctions, traditions and terminology that are more a product of history and culture than of good sense and principle. There is no reason to think that the way that products dating back at least as far as the 16th century should survive intact and protected in the 21st century. Why should lotteries involve giving to charity? What are the outside limits of the term 'game'? When does betting blend into speculative investment? What new gambling products are coming to the marketplace? How should social games and pastimes be distinguished from sport and gambling? Why do we encourage children to learn chess, but not poker? How does one define the barrier between betting in the course of a business and betting as a hobby? These are all the types of question best addressed before simply adjusting the existing machinery.

The government's given reasoning behind the white paper is that technology has moved on since 2005, changing the public's ability to access gambling. It may be true that smartphones only really became popularised after the launch of the iPhone in 2007, but in fact the change has been more profound than just more accessible computing power. The public is accessing risk-based activities, some of which are new, and many of which are old but have recently been democratised. Society has many different views about risk-taking, most of which are muddled in one way or another based on a misunderstanding of probability compounded by superficial tropes perpetuated in the media. There is a spectrum of risk-based activities and entertainments, from pastimes to speculative investments to sports and gambling, and each tends to come with a predetermined label, from harmless fun through to dangerous addiction, without any real thought about revising the map of regulation to fit the evidence of potential harm. Our current law therefore sometimes draws sharp regulatory distinctions between activities that are barely distinguishable when viewed through a more neutral lens. Here are some examples from the UK:

- a* The UK imposes a legal requirement on lottery operators to donate a minimum contribution of 20 per cent of proceeds to a good cause, protect customer funds in trust accounts and ensure that the software used to generate the random division of prizes is fair. By contrast, free prize draws and 'skill competitions' (which usually determine winners from a chance-based draw) are subject to none of these restrictions. They may target children and be conducted by those who would never pass the tests of suitability imposed on their regulated counterparts. We do not even measure whether addiction or other harms are caused by such products, because they are not treated as gambling.

- b* Nearly identical activities are governed by completely different regulatory protections. Take a bet on a football match, for example. One can place a fixed odds bet or a spread bet on the result (and easily do both with the same organisation at the same time). The fixed odds bet is regulated by the Gambling Commission, which holds the bookmaker to the licence conditions mandating a host of protections including customer self-exclusion, time-outs, a complaint and dispute procedure and a requirement for fairness of contractual terms (and soon, very likely, assessments of affordability or markers of potential harm to be carried out by the operator). The second bet is treated as a contract for difference and regulated by the Financial Conduct Authority. The spread bet is of course the more risky and volatile of the two products, because the gambler's potential loss can massively exceed the deposited stake. And yet, the spread bet is outwith the scope of gambling and not subject to any of the same protections.
- c* The UK views insurance and betting as totally different products. The public is generally encouraged to insure against risk, and is usually warned against excessive betting on it, even though the two activities share almost every attribute. Each is a hazarding of value on a future uncertain event. Each market is operated by a risk manager that seeks to guarantee itself a profit by assessing the actuarial probabilities of an event occurring and then devising a price for customers to pay that means that the organiser will make money at the expense of its customers. In the UK we happily allow the government to operate a form of lottery as an investment entirely outside the rules of gambling regulation in the form of the 86 billion premium bonds currently issued, which are entered into a random draw each month. (Children can own up to £50,000 of premium bonds).
- d* Regulators (rightly) spend much time worrying about the possibility of children and young people gambling on or being influenced into gambling by advertising. At the same time, there is almost no regulation of video games, even where those games include mechanics for chance-based winning that mimic those of slot machine gambling. A child can hone his or her skills playing poker or blackjack, provided he or she is not staking money. He or she can spend money on random draws for prizes so long as those prizes are only valuable in the context of the game and do not have 'real world value'.

We also need to think about whether different gambling products within the same regulatory category should be treated differently. For example, most state lotteries have weekly or daily draws with small stakes, life-changing jackpots and relatively poor returns to players. Consequently, they are thought of as being low-risk products. But if one develops an instant lottery operating online, which pays out 75 per cent of stakes, then it will play and feels more like a slot machine and drive similar behaviours. So why are instant lotteries not regulated like slot gaming? In short, we need to go back to basics on gambling.

## **ii Being honest about how much we want to regulate**

Once one has defined those activities that should be regulated (ignoring whether or not they conform with the historical legal definitions of gambling), the second challenge is to be transparent and honest about what regulation is designed to achieve (and the results that will arise). Some governments will look at gambling from a purely religious perspective, and that is a perfectly proper position to take (albeit one that is based on moral rather than rational

principles). However, most governments seek to regulate based upon either the risk of harm to players or the risk of associated criminal conduct. We know that both of these harms are likely to occur to some extent when gambling is permitted.

In response, it is possible to conceive of a policy based on the principle that the harms caused by gambling are so great that it should be entirely banned. To be clear, my own view is far from that, but I want to acknowledge that it is not an irrational approach: there are plenty of things that our society has decided to ban, because of the perceived risks and harms, even after centuries of use. For example, laudanum (a form of opiate) was freely available for purchase throughout the 18th and 19th centuries in the UK, and was widely used and cheaper than alcohol (and even recommended as a way to calm babies). It was of course addictive and could have very bad side effects, but was seen in working class industrial society as a useful hangover cure. Over time, society decided that it was undesirable for laudanum to be easily available to the public and moved to restrict its availability and (in 1920) ban its sale altogether. Looking back a hundred years, we may find it hard to believe that an addictive and dangerous substance should have been freely available for purchase (even if many used it to 'enjoy it without encountering significant harm'). However, that which was once acceptable to society became impermissible. In the same way, imposing heavy restrictions or a ban on forms of gambling is a possible policy conclusion.

However, once one takes the view that gambling activities are generally to be permitted as part of normal adult activity, then one is implicitly accepting that there will be social costs in terms of addiction and unwise gambling behaviours. That is a price that our society has decided to pay. One must accept the consequences of that decision, and not blame those who provide the product. The political slogan that 'even one problem gambler is one too many' may have a rhetorical flourish to it, but it is intellectually dishonest. When government permits (indeed engages in and itself promotes) an activity that has the potential to give rise to harms, government and society thereby acknowledge that a certain level of harm will inevitably follow and acknowledge that it is an acceptable price. Lest it be said that this is an inflammatory way of looking at the matter, it is no more than our approach to speed limits, ownership of firearms, the purchase of fireworks or the availability of alcohol or high fat foods. We desire the freedom to choose, and accept that there will be resulting harm. Rather than ban, we prefer the possibility of living in a society where state control is exercised by exception only and education and personal responsibility are the general means of control.

### **iii Making regulation effective**

Effective regulation consists of measures that can be shown through evidence as being effective measures against excessive harm and that are no more restrictive than necessary to curtail that harm to the levels that society accepts will exist. That is the test against which all restrictive regulation must be judged. Our current gambling laws and regulations are said to be based upon a principle of risk and, by so saying, we accept that they will not be perfect models. The question must not be 'does this measure reduce the harms of gambling?', because every restrictive measure does that to some extent. The test is rather 'does this measure reduce the harms of gambling without imposing an undue regulatory burden on operators and those parts of the public who do not require protection?'. We must, unfortunately, accept that there is a level of gambling harm that is acceptable, and that any protective policy net will experience failures. Those failures need to be addressed and considered, but they must not (always) be held up as a demonstration that the policy itself is at fault. And since we are balancing the needs of industry with those of its customers, there should be an impact



assessment that evidences the cost of implementing and imposing any particular change to regulation when marked against its benefit. So often, a well-intended change to tighten the law merely leads to an unintended consequence elsewhere. Few would argue, for example, that self-exclusion was a powerful tool to aid the vulnerable. But what of those (foreign) casinos that now actively target customers who have self-excluded? The white paper imposes affordability checks on remote operators, but does that merely encourage those who wish to gamble outside the protective regime to seek out land-based bookmakers who are not subject to the same rules? So innovative solutions may solve old problems, but they tend also to stimulate new ones.

I wish to thank the contributors for their usual careful and detailed analysis of the gambling laws of their individual jurisdictions. I hope that next year's guide will cover still more. In the meantime, it is my great pleasure to present the 2023 review of gambling laws across 23 jurisdictions.

**Carl Rohsler**

Memery Crystal

London

May 2023

# NORWAY

*Brede A Haglund and Alexander Mollan*<sup>1</sup>

## I OVERVIEW

### i Definitions

Norwegian law does not differentiate between online gambling and its land-based counterparts, nor between different types of gambling. The Norwegian Gambling Scheme Act Section 2 utilises the umbrella term ‘gambling schemes’ to cover gambling activities (e.g., casino-styled games, wagering or sports betting or lotteries) that require a stake and may provide prizes as a result of a draw, guess, chance or any other procedure that is partly or wholly determined by a random event (i.e., the presence of total or partial chance).

Norwegian law interprets the condition of stake broadly, in that the provision of private emails or use of a telephone with payment beyond the normal rate will be treated as consideration.

The condition of prize encompasses money, objects or other tangible assets with economic value. In principle, anything of value could be considered winnings within the meaning of the Gambling Scheme Act. It follows from case law that items of negligible value (e.g., simple promotional items and symbols of participation, such as mugs, cups, diplomas, posters and t-shirts) fall outside the concept of winnings.

If the outcome of the activity is beyond the control of the individual, the activity will fulfil the condition of having a total or partial chance. This condition is always met where the winner is selected by draw or guess, such as in traditional lotteries. If the activity consists of several parts, only one part must contain an element of randomness in order for the condition of total or partial chance to be fulfilled. This includes activities where the chance of winning depends on both skill and randomness. It does not matter if the random element is present before or after the part of the activity where participants compete in knowledge or skill.

Pure skill gaming does not have the element of chance; therefore, it is not treated as a lottery under Norwegian law. For instance, chess is not considered gambling under Norwegian law, even though it includes a minor element of chance that could affect the outcome (white starting).

Norwegian law does not distinguish between betting on the results of a draw as opposed to entering it. Betting on the results of a lottery or otherwise partaking in gambling activities (licensed or not) is permitted for persons over the age of 18.

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<sup>1</sup> Brede A Haglund is a partner and Alexander Mollan is an associated partner at Brækhus Advokatfirma DA.

## **ii Gambling policy**

As a general rule, Norwegian gambling legislation prohibits the provision, marketing or distribution of any form of lottery that does not have a licence from the Norwegian Gaming and Foundation Authority in accordance with the Gambling Scheme Act Sections 4 and 6. This licence is generally only attainable where the organisation has a humanitarian or socially beneficial purpose (cf. the Gambling Scheme Act Section 18).

The Norwegian gambling monopoly and the acts upon which it depends are based on the notion that 'lotteries [and other gambling activities] should be conducted so as to prevent gambling addiction and other negative consequences of gambling, ensure that gambling is conducted in a responsible and safe form and otherwise facilitating the proceeds from gambling to non-profit purposes' (cf. the Gambling Scheme Act Section 1).

## **iii State control and private enterprise**

While any organisation may apply for a licence, licences to operate commercial gambling activities are not granted, as the state-owned companies Norsk Tipping (gaming) and Norsk Rikstoto (totalisator betting) hold the exclusive rights to provide commercial gambling services in Norway by virtue of the Norwegian gambling monopoly. Norsk Tipping is the sole legal provider of, inter alia, commercial casino-style games, igaming, wagering and sports betting, while Norsk Rikstoto offers horse race betting.

Licences to hold lotteries, land-based poker tournaments and bingo games may be granted to local, regional or nationwide organisations who have a humanitarian or socially beneficial purpose within the area in which the lottery is held.

## **iv Territorial issues**

Gambling is regulated on a national level.

## **v Offshore gambling**

Norwegians can legally gamble on foreign-based websites hosted by foreign-based gambling operators without violating Norwegian law, regardless of the legality of the gambling services being offered.

The Norwegian Gaming and Foundation Authority may pierce the veil if it suspects that a Norwegian operator with a predominantly Norwegian customer base locates its operations abroad in order to circumvent Norwegian law or where foreign-based operators align and facilitate their business in such a way to provide their services towards customers in Norway, for example by providing gaming services and customer support in the Norwegian language.

While a foreign-based operator might legally offer its services to Norwegian consumers, the Norwegian Gaming and Foundation Authority may still seek to hinder its business by enacting resolutions prohibiting Norwegian-based financial institutions and payment service providers from facilitating gambling-related payments between gambling operators (or their payment providers) and their customers.

## II LEGAL AND REGULATORY FRAMEWORK

### i Legislation and jurisprudence

Gambling within Norway is governed by the Norwegian Gambling Scheme Act, encompassing gaming schemes related to sporting events and other competitions, lotteries and horse racing and appurtenant betting activities. These acts govern the prohibition and licensing requirements concerning gambling offerings.

### ii The regulator

The Norwegian Gaming and Foundation Authority regulates and supervises gambling in Norway.

### iii Remote and land-based gambling

As a general rule, the provision, marketing or distribution of any form of unlicensed gambling activity that has not been authorised by the Norwegian Gaming and Foundation Authority is prohibited (cf. Sections 2 and 4 of the Gambling Scheme Act). Norwegian law does not differentiate between land-based and online gambling.

### iv Land-based gambling

Land-based casinos are prohibited under Norwegian law.

### v Remote gambling

As a general rule, the provision, marketing or distribution of any form of unlicensed gambling activity that has not been authorised by the Norwegian Gaming and Foundation Authority in accordance with Section 6, Paragraph 1 of the Lottery Act or Section 2 of the Gaming Scheme Act is prohibited.

### vi Ancillary matters

Manufacturers or suppliers of gambling-related equipment are not subject to specific requirements under Norwegian gambling law.

There are no licences for individuals, although they may be subject to requirements under the various authorisation regimes. For example, applicants for licences may be required to submit:

- a* a police certificate of good conduct of the organisation's chair of the board, the proprietor or other participants;
- b* financial statements, annual reports and an auditor's report; and
- c* articles of association.

Licences may be revoked if the licence holder has breached the terms of the licence or Norwegian law. Licences may also be revoked where a gambling device used in the gambling activity does not perform satisfactorily or where the holder has breached the public order or otherwise facilitated the creation of an environment harmful to children and adolescents.

**vii Financial payment mechanisms**

There are no specific restrictions on certain types of payment mechanism for gambling.

**III THE LICENSING PROCESS**

**i Application and renewal**

Private organisations may apply for authorisation to provide private lotteries, bingo and poker games under certain conditions. Lottery and bingo licences are valid for one year. The Norwegian Gaming and Foundation Authority may also grant three-year licences to operate an annual, land-based, for-profit and national poker championship, with up to five regional qualification tournaments. Licences are required for both the operator of the gambling service, as well as the proprietor of any fixed location offering the service.

Licences are only granted to local, regional or nationwide organisations or foundations that are registered with the Norwegian Central Coordinating Register for Legal Entities. To apply for a gambling licence, an application is filed using the applicable form provided by the Norwegian Gaming and Foundation Authority. All licence applications must carry out a risk assessment of their own gambling offer to ensure responsible and safe gambling. The applications must also have routines in place outlining how they will adhere to the requirements for gambling schemes.

Norwegian law differentiates between small and large gambling scheme lotteries. Large gambling scheme lotteries have a yearly turnover from 200,000 kroner to 100 million kroner and require a licence from the Norwegian Gaming and Foundation Authority. Such licences are generally contingent on the allocation of any proceeds from the gambling scheme to a non-profit purpose. The term non-profit-based means that the activity should not have a profit as its purpose, and that the purpose should not generate profit for those who run the activity. As such, the proceeds of the lottery must generally be allocated to the non-profit purpose.

There are three types of large gambling scheme lotteries: pre-drawn or post-drawn lotteries, or a combination of both.

Only the Norwegian Gaming and Foundation Authority may conduct the drawing of post-drawn lotteries. However, it is the licence holder's obligation to announce the draw results, (e.g., on the licence holder's website).

None of the lotteries can be offered on digital platforms. Digital solutions for paying stakes and distributing raffle tickets are still permitted so that raffle tickets can, for example, be ordered and a receipt received via email, the organisation's website or social media and paid via a digital payment solution.

The player must not be able to choose the time at which the draw will take place, and the player must not be given the impression that the player him or herself can influence this.

When purchasing lottery tickets, players must be informed that the game has permission from the Norwegian Gaming and Foundation Authority, the number of tickets that are allowed to be sold and whether unsold tickets will be included in the draw, the time and place of the draw and the announcement of the draw result, and when and where the prizes can be collected at the latest. The main prize of such lotteries cannot exceed 2 million kroner, and the combined value of all prizes must amount to at least 25 per cent of the lottery's allowed turnover. This information must appear on the lottery ticket or the receipt that the player receives upon purchase. The licence holder must report the accounting from the gambling to the Norwegian Gaming and Foundation Authority within four months after the lottery has ended.

In certain cases, licence holders may apply for a yearly extension of its turnover from 100 million kroner to 360 million kroner, provided that the licence holder has international activity that accounts for at least 50 per cent of the organisation's total accounted operating costs, the organisation has at least 20 million kroner annually in accounting operating costs for its international activity and the gambling has a low risk of gambling problems.

Small gambling scheme lotteries have a yearly turnover below 200,000 kroner and are exempt from the requirement of a licence from the Norwegian Gaming and Foundation Authority. Such gambling schemes must allocate all proceeds to a non-profit purpose or socially beneficial purpose.

None of the lotteries can be offered on digital platforms, although the use of electronic and digital solutions for payment and distribution is allowed.

Small gambling scheme lotteries must have a local or regional scope, and the use of third-party companies is not allowed. Such gambling scheme must limit its prizes and entail a low risk or no risk of problem gambling.

The Norwegian Gaming and Foundation Authority may grant a five-year licence to host land-based Norwegian championship poker tournaments, provided that the licence holder:

- a* has little or no income from gambling;
- b* has drawn up satisfactory game regulations for the tournaments and has the necessary routines for the completion of the tournaments;
- c* has determined the time and place for the tournaments; and
- d* has appointed a person who has the main responsibility for the implementation of the tournaments and can document that it has acquired the relevant poker expertise to organise the Norwegian championship.

The value of the main prize cannot exceed 2 million kroner. The maximum number of participants is 5,000 and all participants must be over 18 years of age. Finally, the licence holder must receive a minimum of 5 per cent of the tournament's gross turnover. The licence holder may recuperate costs incurred by engaging a third party to arrange the tournament, with a limit of 20 per cent of the turnover.

Non-profit organisations may apply for a licence to operate bingo games. As a main rule, the annual turnover of such games cannot exceed 700,000 kroner and the licence holder must receive a minimum of 15 per cent of the profits (of which 30 per cent is from electronic bingo and pre-drawn bingo games). Local organisations with 1,000 active members under the age of 18 can get one extra licence. Local organisations with over 2,000 active members under the age of 18 can get two extra licences.

Certain licences are only granted by public application, namely post-drawn or pre-drawn lotteries where the licence holder has a humanitarian or socially beneficial purpose, and provided that the annual turnover does not exceed 1 billion kroner and the licence holder receives a minimum of 20 per cent of the turnover. Only five such authorisations may be valid at the same time. No new licences are expected to be granted until 2025;

All licence applicants are required to submit:

- a* a police certificate of good conduct of the organisation's chair of the board, the proprietor or other participants;
- b* financial statements, annual reports and an auditor's report; and
- c* articles of association.

After submission of an application, the Norwegian Gaming and Foundation Authority will issue a non-binding preliminary evaluation, with a final decision to be expected within six and 12 months.

Certain gambling services are exempt from both the requirement of a licence, as well as the requirement of having a non-profit purpose, as follows:

- a* gambling in private gatherings with a low risk of gambling addiction and with a total turnover of less than 20,000 kroner per gathering;
- b* private poker games held in private homes with 20 participants who must all be over 18 years of age. These games must not have an organised or professional character, and the entry fee cannot exceed 1,000 kroner per person; and
- c* wheels of fortune and vending machines at fairgrounds and amusement parks where, for a stake, you can win a product prize that is awarded automatically after a wholly or partially random draw, provided that gambling forms a small part of the overall activity offer and that the product prizes do not consist of vouchers or gift cards.

## **ii Sanctions for non-compliance**

Gross negligent or wilful violations of the prohibition in the Gaming Scheme Act Section 4 on the provision, marketing or distribution (including facilitation of payments) of any form of non-licensed gambling are punishable by fines and, in severe instances, imprisonment up to one year (cf. Section 37 of the Gambling Scheme Act). Serious violations are punishable by imprisonment for up to three years. Violations of the prohibition against pyramid schemes will always be considered serious.

Internet service providers that merely permits access may not be held liable under the e-Commerce Act Section 16-18, which provides an exemption of liability for information society service providers that transmit information as a 'mere conduit' over an electronic communications network or otherwise cache or host this information.

It is legal for Norwegians to utilise non-licensed gambling services.

## **IV WRONGDOING**

Any entity applying for a gambling licence must submit a police certificate of good conduct of the organisation's chair of the board, the proprietor or other participants.

Licences may be revoked if the licence holder has breached the terms of the licence or Norwegian law.

Money laundering measures are supervised by the Norwegian Financial Supervisory Authority.

## **V TAXATION**

Winnings from gambling that exceed 10,000 kroner may be considered incidental prizes, which are taxable at a rate of 27 per cent under Section 5-50(1) of the Taxation Act.

For professional gamblers, winnings may be considered income through self-employment. These gamblers will be taxed as a tradesperson and can deduct costs incurred through this activity. Norwegian tax law does not differentiate between winnings from foreign and Norwegian-based operators.

For lotteries held for the benefit of a humanitarian or socially beneficial aim (e.g., those provided by Norsk Tipping and Norsk Rikstoto), winnings are exempt from taxation. The exemption also applies to winnings from gambling operators based in other European Economic Area countries, provided that their gambling services are subject to public oversight and control and otherwise comparable to the gambling activities or lotteries that are legally available in Norway.

## **VI ADVERTISING AND MARKETING**

The Norwegian prohibition on unlicensed gambling applies not just to the provision of the gambling activity itself, but also to appurtenant services such as advertising and marketing. As such, the advertising or marketing of unlicensed gambling activities carry the same liability exposure under Norwegian law as the provision of gambling itself. See Section I.v for the distinction between tacitly providing gambling services and the targeting of Norwegian gamblers.

## **VII THE YEAR IN REVIEW**

On 1 January 2023, the Gambling Scheme Act entered into force. The Act provides the Norwegian Gaming and Foundation Authority with new enforcement powers and expands its sanctions regime, for example by allowing for the ordering of domain name system blocking of websites and the issuing of administrative fines.

## **VIII OUTLOOK**

With the enactment of the new Gambling Scheme Act, the Norwegian Gaming and Foundation Authority is expected to ramp up its enforcement activities towards foreign-based operators that the Authority considers to be targeting Norwegians in violation of the Gambling Scheme Act.