

After some years in the making the new Gambling Bill proposes an Act (“**New Act**”) providing a modernised framework for the licensing and regulation of the Gibraltar gambling industry. It has been published today. Below is a summary of the key changes.

KEY CHANGES

Under the New Act “regulated activities” are prescribed by Sections 17 - 19.

The New Act will introduce regulations to underpin new fees for all licence types and verticals prescribed.

There are currently no plans to change gambling duty rates for B2Cs nor to impose gambling duty on B2B operators who will remain exempt to duty under the New Act.

The supply of betting data on its own will not be licensable under the New Act.

Marketing will become a licensable activity (subject to narrow exceptions) and is widely defined under the New Act.

APPLICATION PROCESS AND FEES

The licensing bar will remain a high one and maintaining the reputation of Gibraltar will be a statutory objective under the New Act. The licensing process will continue as present with applicants required to undergo a pre-licensing engagement (draft application) and assessment exercise ahead of an “in principle” decision by the Licensing Authority in order to proceed with the final formal licence application.

Key changes to the licence process are that application fees will be payable in two stages, as follows:

- (a) 50% at the start of the pre licensing stage; and
- (b) 50% on submission of the final (formal) licence application.

Under the New Act the Licensing Authority may at its discretion reduce application fees in respect of simultaneous applications which relate to more than one type of licence or vertical (i.e. B2B, B2C and Gambling Support Services). All application fees are non-refundable. Below is a table of relevant application fees:

Licence Type	Licence Application Fee
BTC	£30,000
B2B Content Aggregator	£20,000
B2B Direct Content Provider	£10,000
Gambling Operator’s Support Services	£8,000

CHANGE OF CONTROL (“COC”)

CoC fees will be chargeable on submission of a CoC application, a fee of £7,500 (“Base Fee”) and following 21 days from submission the Regulator may charge an additional CoC fee of up to £22,500 (“Additional Fee”) commensurate to the complexity and extent of CoC exercise and related due diligence required to consider the CoC application. The Additional Fee is payable to the Licensing Authority within 7 days of the amount being prescribed.

ANNUAL LICENSING FEES: B2C

Separate B2C annual fees will be charged for distinct verticals such as: betting, gaming and lottery.

Licensing fees for start-up and small operators will be tiered based on gross gaming/ betting yield. Please see annual fees table below. For example, a B2C operator that offered a betting vertical (with GGY greater than £300M), and a gaming vertical (with less than £300M GGY, but more than £20M) would pay £300,000 as an annual fee.

A B2C licence includes “white labelling” services to third parties in the categories covered by the relevant B2C licence.

B2C LOTTERY

A special licence for operating an online lottery, regardless of size and whether or not operated for charitable purposes will be introduced by the New Act. Please see table below.

BETTING AGENT

A special licence for betting agents will be introduced by the New Act. Please see table below.

ANNUAL LICENSING FEES: B2B

The New Act provides that eligible externally based suppliers of content should be licensed on the basis that they are supplying Gibraltar licence holders regardless of where the supplier is based or the location of the servers hosting the content.

Gaming and betting software suppliers can supply Gibraltar based B2Cs (or other B2Bs) either through an aggregator or directly as a licensee. All content providers must be approved by the Licensing Authority whether they are servicing an aggregation platform or directly supplying content.

The supply of live gaming content by B2Bs will be considered to be a separate B2B vertical to server-based gaming supply (see table below). Gaming generally will be treated as a single vertical for B2C licences.

APPROVAL OF CONTENT PROVIDERS

A fee of £1,000 will be payable for the approval of any aggregation or direct content provider. Payment should be made before the approval process is commenced, upon seeking approval from the Regulator.

B2B AGGREGATORS

B2B aggregators will be charged a Basic Fee of £85,000 and an Additional Basic Fee of £15,000 per additional B2B vertical under the New Act. Please see table of annual fees below.

DIRECT SOFTWARE SUPPLIERS

A tiered licence fee system (per annum) will be introduced by the New Act for Direct Software Suppliers as follows:

Tier 1	will authorise unrestricted direct integrations to Gibraltar B2C’s approved.
Tier 2	is tailored for suppliers with less than £550,000 gross sales to Gibraltar licensed B2Cs or limited to no more than (3) three approved integrations with Gibraltar licensed B2Cs.

Tier 3

is tailored for suppliers with gross sales of less than £200,000 to Gibraltar licensed B2Cs or no more than (2) two approved integrations with Gibraltar licensed B2Cs.

Please note that **“Gross Sales”** will be treated as the amount of money a software supplier earns from selling its products and services under its Gibraltar B2B licence. Please see annual fees table below for further details.

B2B PLATFORM SUPPLIERS

This B2B licence would not apply to an operator’s proprietary platform or intra group supply, but relates to B2B businesses who supply a partial or full service platform to Gibraltar licensed B2Cs considered “critical” to that business. The location of the platform is irrelevant. This also applies to any business that engages in platform supply in or from Gibraltar (to other B2C operators operating outside Gibraltar) under the New Act.

Where a B2B business supplies a platform for either betting or gaming purposes it will fall within the scope of licensing. A licensed B2B content aggregator will not be required to separately licence the platform from which its approved content is served. All providers to the platform of in licensable services (i.e. supply of gaming and betting software/ platform) will need to be either licensed or approved by the Regulator. Please see table below.

MANAGED TRADING SERVICES, TRADING RISK MANAGEMENT AND VIRTUAL/ SIMULATED CONTENT

Data supply on its own is not licensable under the New Act. In addition to the supply of data, some businesses also provide managed trading services/betting risk management services. Where such services are provided to Gibraltar licensed B2Cs, then a B2B licence will be required by that business to conduct such activity.

Where betting data suppliers (or others) supply virtual/ simulated content for the purposes of gambling they will be required to hold a B2B licence, see table below for details. The platform, managed trading services and provision of virtual and simulated content will be subject to one B2B licence and one annual licence fee - authorised under one licence. Please see table below.

OTHER B2B REGULATED ACTIVITIES

Section 19(2) of the New Act will apply to those who supply certain other support services to licence holders or carry out certain functions on an outsourced basis. This licence would not be required when such services are performed for a licence holder intra group/ internally.

Genuine third-party suppliers of consultancy services and suppliers of regulatory technology for AML/CFT/CPF purposes will not fall within scope of licensing under the New Act, on a case by case basis.

The test for licensing **“other B2B regulated activities”** will turn on whether the supplier of fraud, risk management or compliance services controls or processes customer data which is capable of identifying an individual and whether or not such functions are outsourced or treated as an integral part of the B2Cs own risk management processes. Please see table below for relevant annual fees.

MARKETING

Marketing is widely defined by S17(vi)(a) of the New Act as: **conducting, managing, arranging, booking, facilitating or providing advertising or marketing services for gambling wherever in the world gambling takes place.** Whilst gambling-related marketing will be a regulated activity under the New Act, a relatively restrictive approach will be taken limiting the issue of such Licences.

Under the New Act, Gibraltar B2C licensed operators will be able to conduct group marketing activity in Gibraltar under their existing Remote Gambling Licence. Gibraltar B2Bs will need a separate Marketing Licence to promote their B2B products but these will be considered favourably and won't attract an additional licence fee.

There will be a presumption against the grant of such marketing licence, unless the Minister (as licensing authority) exercises its discretion on grounds that the public interest, including the good reputation of Gibraltar would not be prejudiced or threatened by the giving of such a licence. The effect of this is that even having substance and management control of the marketing activity in Gibraltar will not in itself create a right to the grant of a marketing licence but the level of substance and real economic activity in Gibraltar will be critical to convincing the Minister, as licensing authority, that such a licence should be granted.

HOLDING ENTITIES

The New Act defines what constitutes a **“gambling group holding entity”**. Authorisation will be required whenever a holding entity (legally or beneficially) owns shares in a gambling company outside Gibraltar which, if it carried on its business in Gibraltar, would be licensed in Gibraltar. This applies regardless of where in the ownership structure the Gibraltar-linked holding entity features (whether the interest is held directly or indirectly). Please see table for annual fees.

HOLDING OR MANAGING CUSTOMER FUNDS

Holding or managing customer funds will not require a separate licence when done by a gambling licence holder or by a licensed financial institution under the New Act. When done by a person that is not the holder of a B2B or B2C licence it will require a Gambling Support Services Licence. Please see table.

REGULATED INDIVIDUALS

Sections 57-77 of the New Act govern **“Regulated Individuals”**, their functions and licensing. A key individual will be approved to carry out one or more regulated functions at a particular operator. Whilst a regulated individual's licence will attach to the individual and that individual's role within the licensed operator it is not transferable automatically by the individual to another licensed operator. Where an individual acquires new and different regulated functions within the same operator, such new functions become notifiable and subject to additional approval. Please see table below.

LICENCES AND ANNUAL FEES

B2C Gambling Operator's Licence (Bookmaker) (real event betting, fixed odds betting on the outcome of a lottery, betting, E sports and pool betting)	Annual Gross Betting Yield of over £300 million: £200,000 Annual Gross Betting Yield of over £20 million: £100,000 Annual Gross Betting Yield of less than £20 Million: £50,000
B2C Gambling Operator's Licence (Gaming) (server-based gaming, live gaming, slots, numbers betting and bingo)	Annual Gross Gaming Yield of over £300 million: £200,000 Annual Gross Gaming Yield of over £20 million: £100,000 Annual Gross Gaming Yield of less than £20 Million: £50,000
B2C Betting Intermediary, betting exchange and/or betting agent	£100,000

B2C Remote Lottery Operator	£100,000
Betting Agent	£50,000
B2B Gaming Aggregator - single vertical. Note: for additional vertical under the same licensed entity: (i.e. live event betting, live gaming, server based gaming, lottery, lottery betting, Virtual/simulated betting content, e sports)c.	£85,000 ("Basic Fee") plus £15,000 ("additional basic fee" per additional vertical)
B2B Direct Software Suppliers Tier 1 Licence Tier 2 Licence Tier3 3 Licence	 £85,000 £50,000 £20,000
B2B Platform (Third Party)	Single Vertical £85,000
Covering betting, e-sports, virtual or simulated content, managed trading services or supply of real event data, event content or odds. Note: Each additional vertical under the same licensed entity: (i.e. live event betting, live gaming, server-based gaming, lottery, lottery betting, Virtual/simulated betting content, e-sports).	£15,000 per additional vertical
B2B Supply of managed trading services, virtual and simulated content	£85,000
B2B Other Regulated Activities Provision of fraud prevention, risk management, customer due diligence or compliance, customer identification verification and/or customer relationship functions or services (but not consultancy or advisory services)	£50,000
Gambling Marketing services (including gambling affiliate and CRM services) conducted in or from Gibraltar (where entity is not otherwise licensed). Under £200K of invoiced services per annum.	£50,000 £25,000
Gibraltar related holding entity for gambling carrying on business elsewhere.	£5,000
Holding/ managing customer funds (other than licence holder or financial institution)	£50,000
Regulated Individual - First Approval (licence to run for 5 years).	£500 one-off fee for five years.
Regulated Individual - Material changes to a particular 5-year approval.	£200 per material change

Note:

1. The contents of this note does not constitute advice. It is provided for information purposes only strictly on a non-reliance basis.
2. A paper may be issued by the Regulator in due course in relation to arrangements for transitioning between the current law and New Act in relation to both licensing and licensing fees payable.

Feel free to contact us should you have any specific queries.

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