

Presentation to the Portfolio Committee on Trade and Industry on the National Gambling Board

Dr. Rob Davies ,MP
Minister of Trade and Industry

13 March 2015



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Presentation Outline

- Ministerial Legislative Authority
- Mandate of the NGB
- Functions of the NGB
- Sanctioning of the forensic Investigation at NGB
- Forensic investigation restrictions and limitations
- Allegations, Findings and Interim Actions by the Administrators
- Future of the NGB
- Strategic Focus of the NGB
- Gambling Industry statistics
- Policy Review Process and Steps
- Conclusion



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Ministerial Legislative Authority

The Minister took office in June 2014 and is the Executive Authority to whom the National Gambling Board (“the NGB”) is accountable, both in terms of the relevant provisions of the National Gambling Act, 7 of 2004, as amended (“the NGA”) and the Public Finance Management Act, 1 of 1999, as amended (“the PFMA”).



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Mandate of NGB

To provide for the co-ordination of concurrent national and provincial legislative competence over matters relating to casinos, racing, gambling and wagering, and to provide for the continued regulation of those matters; for that purpose to establish certain uniform norms and standards applicable to national and provincial regulation and licensing of certain gambling activities; to provide for the creation of additional uniform norms and standards applicable throughout the Republic; to retain the National Gambling Board; to establish the National Gambling Policy Council; to repeal the National Gambling Act, 1996; and to provide for matters incidental thereto.



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Functions of NGB

As determined in Sections 33 and 65 of the NGA

- Evaluating the issuing of national licences by the PLAs;
- Compliance monitoring of licensees by the PLAs;
- Conducting oversight evaluation of the performance of PLAs in order to ensure that the national norms and standards established by the Act are applied uniformly and consistently throughout South Africa;
- Assisting PLAs to ensure that the unlicensed gambling activities are detected;
- Monitor market share and market conduct and research;
- To establish and maintain national registers;
- Conduct Public awareness and Education programmes;
- Monitor Socio Economic patterns of Gambling activity within the Republic;
- Advise the Minister and **the dti** on gambling related matters, and
- Interact with other foreign or international authorities.

Sanctioning of the forensic investigation at the NGB

- During July 2014 the office of the Auditor-General (AG) conducted a statutory audit into the financial affairs, condition of the NGB, and its compliance with all or otherwise with the applicable corporate governance for the financial year ended 31 March 2014.
- The Auditor-General reported on several breaches of the PFMA by the Board members, including a failure to prevent irregular or unauthorized expenditure.
- Minister was entitled to investigate the allegations, and if necessary, take the requisite steps as contemplated in section 83(4) of the PFMA.
- On 19 August 2014 the Minister received a written protected disclosure made to him by an employee of the NGB in terms of section 6 of the Protected Disclosure Act, 2000.

Forensic Investigation

Restrictions and limitations

- The report contains preliminary review, analysis of documentation, information provided and interviews undertaken to date.
- Except in instances where it is deemed necessary and specifically so indicated, the forensic investigators have not verified the authenticity or validity of all the documentation made available to them.
- This presentation is thus solely to inform the Portfolio Committee of the preliminary findings, and is subject to limitations.
- Management comments to the report are pending and all queries require resolution.
- Presentation focuses on systematic issues in general, not allegations relating to individuals.

Allegations and findings

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ Contravention of the PFMA, 1999 and possible irregular, fruitless and wasteful expenditure incurred by the Board as an Accounting Authority. ▪ The Auditor General (AG) has made findings which are contained in the NGB's Annual Report for 2013/14. 	<ul style="list-style-type: none"> ▪ Irregular expenditure of R3 610 263.00 and Fruitless and Wasteful expenditure of R66 115.10 was incurred by the NGB for the financial year ending 31 March 2014. ▪ The accounting authority failed to take effective steps to prevent irregular expenditure, as required by S51(1)(b)(ii) of the PFMA. 	<ul style="list-style-type: none"> ▪ Established internal controls relating management of expenditure. ▪ Verification and Certification of SCM processes and confirmation of budget allocation in each instance by the CFO.



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Allegations and findings CONT...

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<ul style="list-style-type: none"> ▪ Contravention of the PFMA, 1999 and possible irregular, fruitless and wasteful expenditure incurred by the Board as an Accounting Authority. ▪ The Auditor General (AG) has made findings which are contained in the NGB's Annual Report for 2013/14. 	<ul style="list-style-type: none"> ▪ Appointment of a law firm by the NGB for R2 211 600.00 is irregular as it is not in accordance with S217 of the Constitution, S68 of the NGA and Supply Chain Prescripts. SLA when signed on 2 September 2014 was backdated to 22 August 2014. Resulted in misrepresentation of facts. Irregular expenditure incurred R507 871.86. ▪ R435 229.63 irregular expenditure was incurred in the irregular procurement of another legal firms in 2013/14 in contravention of the supply chain prescripts and the Treasury regulations in 2014/15. 	<ul style="list-style-type: none"> ▪ Cancellation of contracts and /or mandate giving rise to irregular expenditure. ▪ Internal controls established for appointment of legal firms and/or representatives through the Office of the State Attorney.



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Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ Contravention of the National Gambling Act, 2004, in particular section 67 i.e. continued involvement of former Board members without Ministers approval and such members having drawn large payments as reported in the annual report for 2013/14 which was also reported in the AG's findings. 	<ul style="list-style-type: none"> ▪ Contravention of S67 of the Act, former Board members continued to serve on the Board as Board members beyond term expiry without the Ministers approval. ▪ The Board failed to comply with SCM prescripts in procuring the consulting/other services from previously appointed Board members. ▪ R140 280.88 Irregular expenditure was incurred. Payments since 1 January 2014 to former Board members is accordingly not in compliance with Practice Note 8 of 2007/2008 as reflected in the 2013/14 Annual Financial Statements. ▪ The accounting authority failed to take effective steps to prevent irregular expenditure, as required by S51(1)(b)(ii) of the PFMA. 	<ul style="list-style-type: none"> ▪ Further possible irregular claims currently held in abeyance.



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Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<p>▪ Opening and administration of a trust account, which is in violation of the Treasury Regulations. (Forfeiture of illegal winnings held in the trust account).</p>	<ul style="list-style-type: none"> ▪ A Trust established in contravention of S16(3) of the NGA. The NGB failed to ensure that the Trust was deregistered in terms of Board resolution and after receiving the Chief State Law Advisors legal opinion dated 26 October 2012. ▪ No approval was sought from the Minister of Finance to open the NGB Trust Account. Two accounts were opened in the name of the trust i.e. Fund Managers R3 991 063.91 and Trust Cheque Account R34 091.98. ▪ The NGB failed to discharge its duties in terms of S16(4) of the NGA to apply to the High Court for declaratory orders to declare the illegal winnings to be forfeited to the State. 	<ul style="list-style-type: none"> ▪ The Trust has been deregistered ▪ Closed irregularly opened trust account ▪ Initiated process to obtain declaratory orders for illegal winnings to be forfeited to the State.



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Allegations and findings CONT...

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<p>▪ Opening and administration of a trust account, which is in violation of the Treasury Regulations. (Forfeiture of illegal winnings held in the trust account)</p>	<ul style="list-style-type: none"> ▪ The NGB failed to ensure compliance with the Framework for Strategic Plans and Annual Performance Plans and failed to disclose the existence of the Trust and its activities timeously to the relevant stakeholders. ▪ The NGB and the Trustees failed to ensure that the trustees kept proper account of all assets of the Trust and that Annual Audited Financial Statements (AFS) for the Trust were prepared since the Trust was founded in 2007. This is required in terms of Paragraph 10.11 the Trust Deed. 	<ul style="list-style-type: none"> ▪ New account has been opened and monies are currently held in trust in compliance with S 16(3) of the NGA. ▪ Set of Annual AFS for the deregistered trust will be prepared together with the NGB 2014/2015 AFS.

Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<p>▪ The NGB's use of a bank overdraft (The report of the Auditor-General in respect of the Annual Report of the NGB for the year ended 31 March 2014 contained, inter alia, the following matter, "The bank overdraft were (sic) not approved in writing by the Minister of Finance or an official authorized by the Minister, as required by the S66 (5) of the PFMA.")</p>	<ul style="list-style-type: none"> ▪ NGB does not have an overdraft facility. ▪ NGB's Banking institution, at its discretion, allowed the account to be overdrawn on 5 occasions at the banks risk. The maximum amount to which the account was overdrawn was R125 268.54. ▪ The NGB failed to exercise adequate oversight and ensure proper cash flow planning and to ensure that the NGB's bank accounts are not overdrawn and credit cards facilities were not used for bridging cash flow purposes, which is in contravention of the PFMA. ▪ The NGB transferred an amount of R150 000 on 8 April 2014 from the credit card account into the NGB current account for cash flow contrary to the PFMA. 	<ul style="list-style-type: none"> ▪ Budget allocation was reprioritised in areas where there was possible over-expenditure. ▪ Approved a revised budget with projection of a surplus as at end of the 2014/15 financial year.

Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> Procurement of the National Central Electronic Monitoring System (NCEMS) and establishment of the NGB NCEMS subcommittee. 	<ul style="list-style-type: none"> The NGB formed a new subcommittee called NCEMS subcommittee and appointed 9 persons to the Board. (6 Board members and 3 former Board members as “consultants”). No minutes and recordings of the majority of the NCEMS Committee meetings are available as the meetings were held as in-committee. The management of the process for the sourcing of the next NCEMS operator was flawed. 	<ul style="list-style-type: none"> Internal operational NGB project team has been established.

Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ The unusually large number of Board and sub-committee meetings. 	<ul style="list-style-type: none"> ▪ 13 (2012/13 – 5) Board meetings and 10 (2012/13 – 4) audit committee meetings were held in the financial years. The allegation of a substantial increase in Board meetings during 2014 is correct. ▪ The significant increase in meetings was not warranted and led to year on year fee increment per certain Board members at 21%, 29%, 21%, 56% and 58% respectively. 	<ul style="list-style-type: none"> ▪ Ministerial intervention through appointment of the Administrators has reduced the administrative regulatory burden and cost. ▪ Await further recommendations.



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Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ Investigation of current office Lease 	<ul style="list-style-type: none"> ▪ The Department of Public Works space norms calculation indicate the NGB required 714 square metres of space and leased a building of 1800 square metres. ▪ The office space is grossly underutilised and the current premises is approximately three (3) times that which it occupied at the dti campus. ▪ The NGB, contrary to the PFMA, failed to ensure that funding was approved prior to committing to a ten (10) year lease. ▪ The 2012 tender process for the current premises was merely concluded to regularise the selection and appointment of the lessor. ▪ The current leased premises was already identified and visited in 2010 through a quotation process despite the lease expenditure exceeding R500 000. 	<ul style="list-style-type: none"> ▪ Measures have been considered to rectify the under utilisation of office space. ▪ Await further recommendations.



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Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ Investigation of current office Lease 	<ul style="list-style-type: none"> ▪ Two (2) of the three (3) bids evaluated were from the same group of legal entities. ▪ On 20 April 2012 the NGB informed the lessor that it had been appointed as the preferred service provider for the current office lease yet the NGB approved the entering into a lease on the 17 September 2012. ▪ NGB was committed to the revised budget for tenant installations and relocation of approximately R14,000,000.00 and is found to be irregular. ▪ It was irregular for the NGB to condone and consent to an almost 100% fee and service increase with a service provider during conclusion of the contract subsequent to an award in a bidding process. Such additions conform to a substantial alteration/increase of the bid specifications. 	<ul style="list-style-type: none"> ▪ Measures have been considered to rectify the under utilisation of office space. ▪ Await further recommendations.



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Allegations and findings CONT...

Allegation(s)	Finding(s)	Interim action(s) taken by the Administrators
<ul style="list-style-type: none"> ▪ Governance and capacity within the NGB and the lack of approved Policies and Procedures and the poor retention of information 	<ul style="list-style-type: none"> ▪ Not all the required approved policies and procedures are in place to guide the operations of the entity and ensure compliance with relevant legislation, regulations and good governance. ▪ The lack of signed minutes, missing minutes, missing recordings etc. are indicative of poor governance at the NGB. ▪ The holding of regular in-committee meetings without recordings and signed minutes at the NGB is contrary to best practice and good governance. This was most prevalent at NCEMS subcommittee and Board meetings. ▪ The attendance by former Board members whose terms had expired as at 3 February 2014 is a governance irregularity. 	<ul style="list-style-type: none"> ▪ Finance and ICT policies have been reviewed and are to be approved. ▪ Await further recommendations.



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Future of the NGB

- **the dti** has finalised a draft Gambling Policy Review Document which was tabled at National Gambling Policy Council on 5 September 2014 and 2 March 2015.
- Proposals include amendments to reposition the NGB as a *Regulator* in the gambling industry, *not a Board*, as its function does not include issuing of licenses like provincial gambling boards.
- As a *trading entity* of **the dti**, its effectiveness to deal with illegal gambling, problem gambling and research will be enhanced.
- The Board as a structure will be removed in line with the decision of **the dti** to remove Boards in regulatory entities to improve effectiveness.

Strategic Focus of the NGB

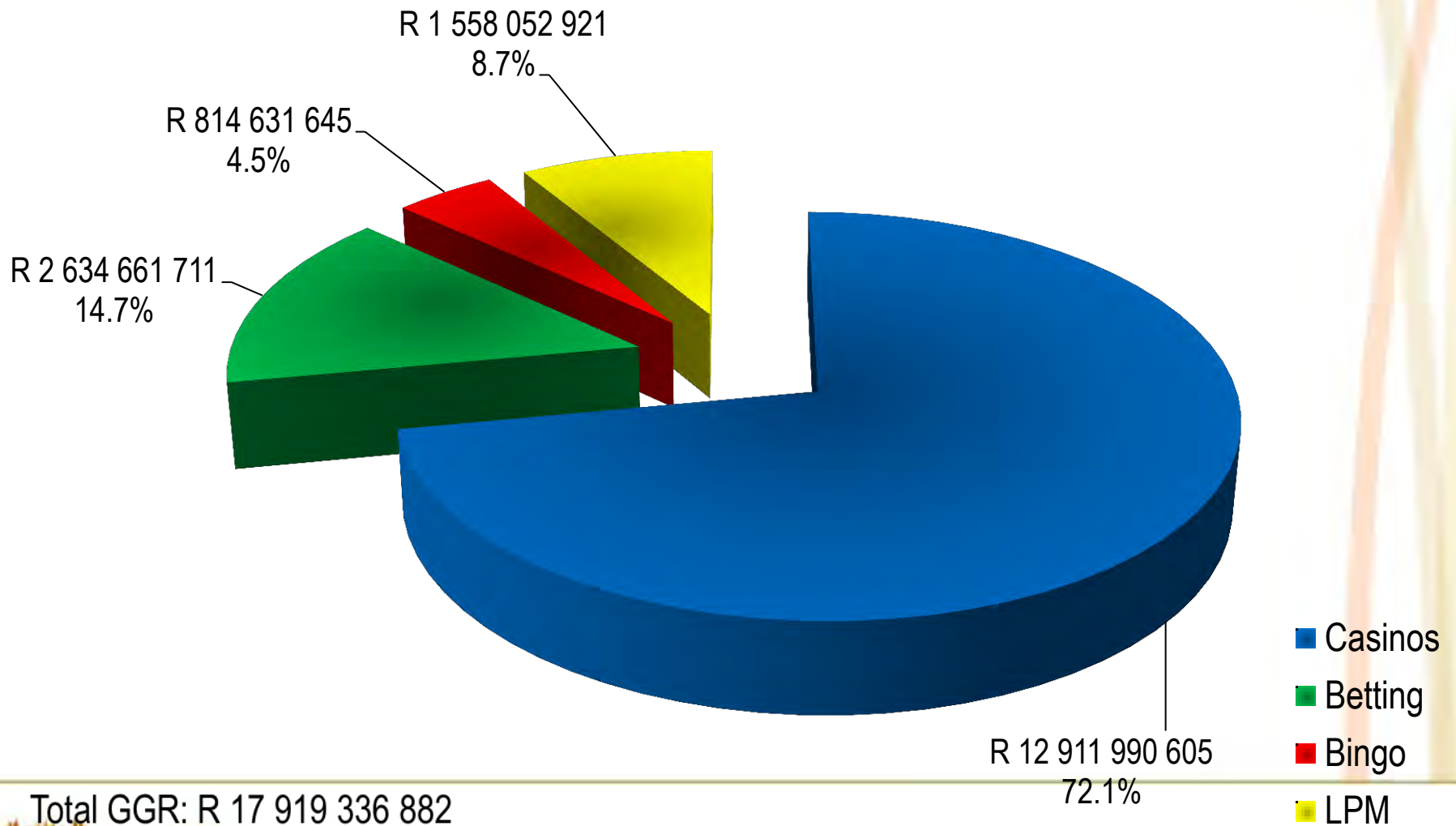
- The *strategic direction and mandate* of the NGB will focus on the following aspects:
 - Oversight function to facilitate policy coherence and coordination between national and provincial
 - Research and Trend Analysis
 - Education and Awareness
 - Combat Illegal Gambling
 - Problem Gambling and Oversight in respect of National Responsible Gambling Program
 - Ensure Effective Operation of Central Monitoring System
 - Norms and Standards
- Trends in the industry have been reviewed in finalising policy proposals and future role of NGB



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GGR, ALL MODES: FY15 (APR 14 – DEC 14)



Total GGR: R 17 919 336 882

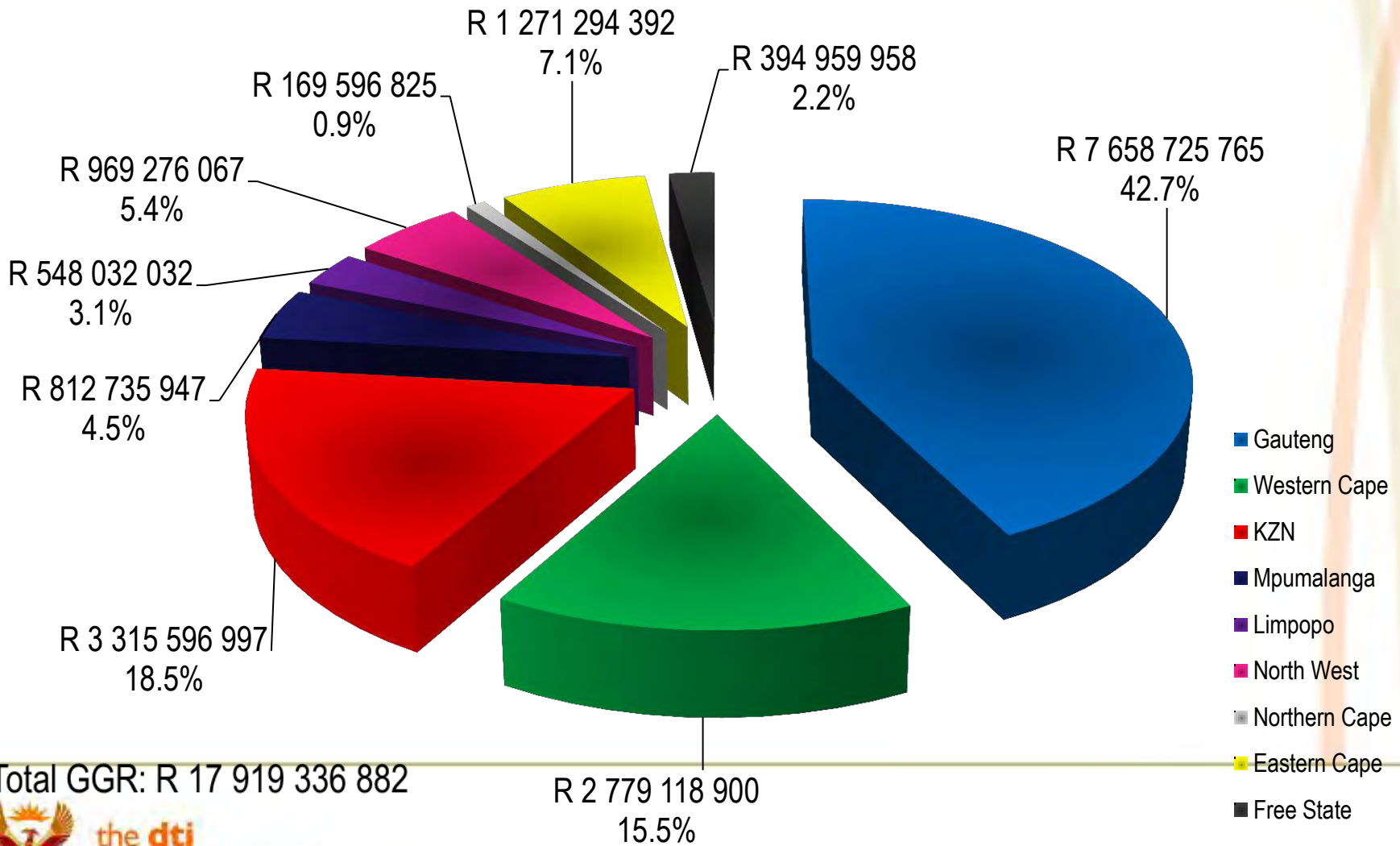


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Source: NGB

GGR, ALL PROVINCES: FY15 (APR 14 – DEC 14)



Total GGR: R 17 919 336 882



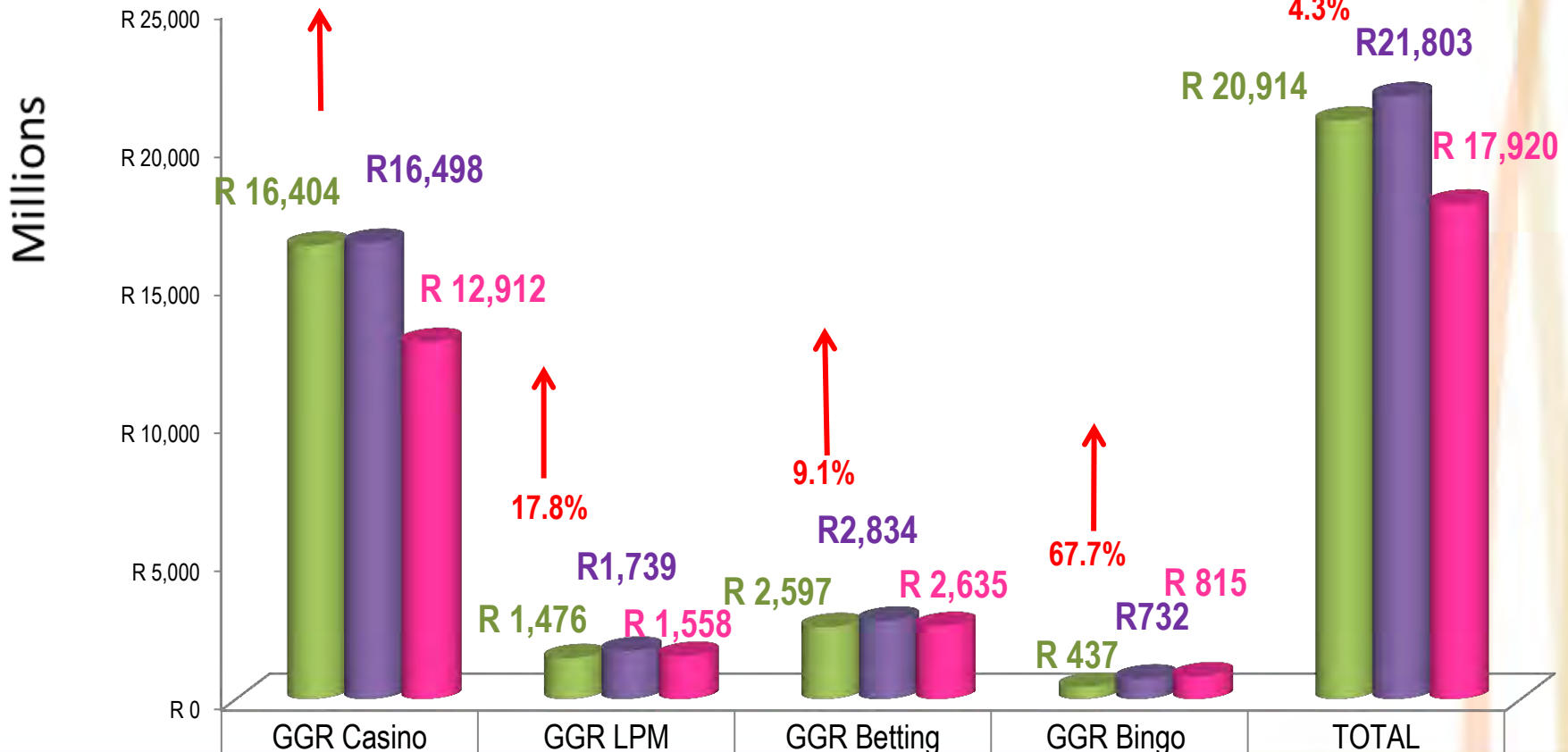
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Source: NGB

GGR: FY13, FY14 & FY15 (Quarter 1, 2 & 3 only)

(R'Millions)



	GGR Casino	GGR LPM	GGR Betting	GGR Bingo	TOTAL
■ GGR, FY13	R 16,404	R 1,476	R 2,597	R 437	R 20,914
■ GGR, FY14	R16,498	R1,739	R2,834	R732	R21,803
■ GGR, FY15	R 12,912	R 1,558	R 2,635	R 815	R 17,920



Policy Review Process and Steps

- Policy review proposes that *no new forms of gambling* should be allowed at this point, and that focus be on *enhancing the regulation of the existing modes*.
- Choices made having regard to *contribution to economy*, social impact, *job creation* and capacity to monitor.
- A framework for electronic bingos with limitation on number of licenses, sites and seats in bingo halls. Specific improvements in horse racing, limited payout machines and casinos are recommended.
- After go ahead by National Gambling Policy Council, **the dti** will *consult the public and affected stakeholders*, the revised policy proposals and bill will be tabled for approval.
- The final draft policy and bill will be processed through Cabinet for introduction into Parliament (*National Assembly* and the *National Council of Provinces* as gambling is subject to concurrent jurisdiction).
- It is expected that policy and bill will be published for public comments by April 2015.



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Conclusion

- **the dti** remains committed to strive to achieve **0%** of irregular expenditure and eradicate fruitless and wasteful expenditure.
- Optimal oversight desired by **the dti** is within its reach and can be optimised or achieved through collaboration, interfacing, regular communication between the management so tasked and the NGB.
- **the dti** will assess final findings and recommendations and ensure implementation of measures to prevent irregularities.



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THANK YOU !



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