



## **Summary of Written Submissions on National Gambling Amendment Bill [B27B-2018]**

**[Please note: this document should be read in conjunction with submissions]**

### **A. Introduction**

1. Public participation is one of the constitutional imperatives that form an integral part of Parliament and Provincial Legislatures' work and processes. In particular, the Constitution [1996] in Sections 69 (d) and 72 (1) (a) enjoins the National Council of Provinces (NCOP) to "receive petitions, representations or submissions from any interested persons or institutions" and to "facilitate public involvement in the legislative and other processes of the Council and its committees". Pursuant to this constitutional injunction, the Select Committee on Trade and International Relations invited interested individuals and stakeholders to submit written comments on the National Gambling Amendment Bill [B 27B - 2018].
2. The Bill seeks to amend the National Gambling Act, 2004, so as to amend and delete certain definitions; to provide for the procedure for the forfeiture of unlawful winnings to the National Gambling Regulator; to provide for the quorum to make a final decision in the second meeting with the majority of the members present in that meeting; to provide for the dissolution of the National Gambling Board; to provide for the establishment of the National Gambling Regulator; to provide for the appointment of the Chief Executive Officer and Deputy Chief Executive Officer in the National Gambling Regulator; to provide for the powers of the national inspectorate to curb payments emanating from illegal gambling activities; to enhance the powers and duties of the gambling inspector; to provide for transitional arrangements; and to provide for matters connected therewith.
3. On the closing date for submissions, 18 February 2019, nine submissions were received from the following stakeholders:
  - Banking Association of South Africa (BASA);
  - Ithuba Holdings;
  - Casino Association of South Africa (CASA);
  - South African Bookmakers' Association (SABA);
  - Cliffe Dekker Hofmeyr INC (on behalf of Goldrush Group (Pty) Ltd);
  - Bingo Association of South Africa (BASA);
  - BOSS Gaming Group ("BOSS");
  - Gold Circle; and
  - Dh Van Eeden.

## **B. Summary of Written Submissions**

4. As alluded to above, written submissions were received from the affected stakeholders from the gambling industry and the banking sector. In their written submissions, the stakeholders addressed a number of different issues and while some made minor additional comments, others made varied substantive comments on procedural , definitional (formulation/wording) and implementation (application of the proposed law) issues.
5. The comments are summarized in the table below. However, since the table only offers a brief overview of the issues raised and the recommendations made, the information should be read in conjunction with the written submissions.



STAKEHOLDER	POSITION	ISSUES RAISED	RECOMMENDATIONS
<p>1. <b>Banking Association of South Africa (BASA)</b></p>	<p>Not in agreement with the Bill in its current form</p>	<ul style="list-style-type: none"> <li>➤ There are three remaining critical issues that need discussion, and these are: firstly, the processing of payment transactions for unlicensed gambling activities (new S8(3)); secondly, provision of internet services and technological support for unlicensed gambling activities (new S8(4)) and lastly, location of ATMs on the gambling floor (new S17A(3))</li> <li>➤ The Committee is urged to consider the input on those three matters that, if left unaddressed may lead to unintended consequences and the unfortunate risk that banks will be non-compliant with some of the requirements, purely since it will be impossible to comply</li> <li>➤ The continued inclusion of the sections on the processing of payment transactions for unlicensed gambling activities (new S8 (3)), provision of internet services and technological support for unlicensed gambling activities (new S8 (4)) and location of ATMs on the gambling floor (new S17A (3)), will result in legal obligation being created, with the full knowledge that the banks cannot comply.</li> </ul>	<ul style="list-style-type: none"> <li>➤ It is recommended that the NGR advise acquiring banks, as and when they discover an illegal gambling institution. An efficient system of reporting may be established fairly quickly with the banks and other payment participants to achieve this. Banks and payment participants would thus be acting on the instruction of a regulator</li> <li>➤ Regarding provision of internet services and technological support for unlicensed gambling activities (new S8 (4)), there remains a need to understand and qualify what is meant by “technological support” as it may include a variety of payment components, which will make it impossible to comply with</li> </ul>

		<ul style="list-style-type: none"> <li>➤ There is a challenge for individual banks to comply with the proposed amendments for monitoring and acting in the NGR in the short-term, both on an individual basis and collectively</li> <li>➤ Compliance with the intended S 8(3) poses a challenge for the sector, because it is generally impossible to identify “payment transactions for any gambling activities that are not licenced in terms of this Act” for a number of reasons.</li> <li>➤ Whilst a bank can ensure that initial placement of an ATM should adhere to the requirements of S17A(3), the visibility requirement cannot be controlled by any bank, as any changes to the gambling floor plan/layout of the premises is under control of the gambling institution/premises landlord. Banks (and their service providers) cannot be held accountable to adhere to this requirement in respect of initial placement in relation to layout/floor plan of the gambling institution at the time.</li> </ul>	<p>this section, as the mechanics of the payment system cannot detect activities relating to unlicensed gambling activities.</p> <ul style="list-style-type: none"> <li>➤ On-going implementation challenges should be discussed in detail and addressed accordingly to align expectations and arrive at practical solutions.</li> </ul>
<b>2. Ithuba</b>	No objection to this Bill	<ul style="list-style-type: none"> <li>➤ It is important and necessary that that the National Gambling Regulator (NGR) needs to be constituted and established to ensure that like the lottery regulator, all forms of gambling in the country are closely monitored and effectively regulated.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Provisions on cooperation in the Bill can be easily enhanced to create better uniformity and avoid unnecessary intergovernmental litigation.</li> </ul>

		<ul style="list-style-type: none"> <li>➤ However, the bill misses the opportunity to enhance co-operation between the NLC and the NGR</li> <li>➤ Submits that all forms of gambling should be regulated by one national regulator, thus on a national level, the NLC and NGR should be one entity.</li> <li>➤ It appears that provincial and national laws are sometimes not harmonized and differences exist in the application of the legal framework between provinces, resulting in a lack of uniformity. The inconsistencies and differences impact negatively on the industry, and create weak spots in the regulatory framework that can be exploited by less scrupulous operators.”</li> <li>➤ One of the biggest challenges Ithuba as the lottery face is unfair exploitation of its proprietary product by several licenced Bookmakers (who are licenced by the Provincial Gambling Boards), these Bookmakers are offering a bet on the lottery result and this is in contravention of the Lotteries Act. If the existing gambling legislation is properly enforced this situation could have been avoided with effective implementation and enforcement of the current legislation by the responsible regulators.</li> <li>➤ The Bill can strengthen the cooperation between the regulators in the gambling industry.</li> <li>➤</li> </ul>	<ul style="list-style-type: none"> <li>➤ The Committee should consider the proposal by the Gambling Review Commission of a merger of both national regulators for the lottery and gambling, i.e. the NLC and NGR.</li> <li>➤ The Committee should consider the position recommended by the Gambling Review Commission (GRC) that the roles of the NGB and the NLB will need to be reviewed and consideration should be given to the continued need for two separate bodies</li> <li>➤ Encourage the Committee to ensure that the NGR is constituted.</li> <li>➤ Regarding insertion of section 10A in Act 7 of 2004 dealing with the Register of unlawful gambling operators, Ithuba submits that if someone is on this register, they should also be excluded from obtaining a lottery licence or any other kind of licence in the gambling industry, thus the ambit of this</li> </ul>
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			<p>section 10 A (2) should be broadened, which can be done by a simple insertion of the words, "or a lottery licence"</p> <ul style="list-style-type: none"> <li>➤ Regarding amendment of section 36 of Act 7 of 2004, Ithuba submits that this section should be enhanced to allow the Council to also facilitate between the NLC and one or more provincial licensing authorities as well.</li> <li>➤ Regarding amendment of section 62 of Act 7 of 2004, Ithuba submits this section could also be enhanced to cover disputes between the NGR and or provincial licensing authority and the NLC and or the National Lottery Operator.</li> <li>➤ Regarding insertion of section 66A in Act 7 of 2004 on "Inter-governmental relations in relation to gambling activities, Ithuba submits that this section should include the NLC, even though it could be suggested that this is</li> </ul>
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			implied, we believe it should be explicit.
<b>3. Casino Association of South Africa (CASA)</b>	Not in agreement with the Bill in its current form	<ul style="list-style-type: none"> <li>➤ In July 2008, the President assented to the National Gambling Amendment Act, No.10 of 2008, which provided the amendment of the Act so as to legalise and regulate interactive gambling. However, the 2008 Amendment Act has never been brought into operation and is at odds with the National Gambling Policy approved by the Cabinet and published by the Department of Trade and Industry in 2016 (“The National Gambling Policy), which concludes that online gambling should remain illegal.</li> <li>➤ The DTI’s response that the “legal position is to be retained”, that the 2008 Amendment Act is an “Act of law” and it will not be repealed is, with due respect, misguided. There is no point in retaining an Act of Parliament if there is no intention to bring it into operation</li> <li>➤ While CASA shares the apparent misgivings as to the National Gambling Board (NGB) current level of effectiveness, it is most unclear why the Bill’s drafters believe that the National Gambling Regulator (NGR) will be more effective than the NGB in not only performing the range of responsibilities and functions currently conferred on the NGB in terms of the Act (many of which have not yet been executed) but also in undertaking the additional functions contemplated in the Bill.</li> <li>➤ CASA supports the objective of enhancing the effectiveness of gambling regulation and</li> </ul>	<ul style="list-style-type: none"> <li>➤ In the event that the 2008 Amendment Act is brought into operation, this should be clarified through the insertion of a provision, which at least repeals the provisions of the 2008 Amendment Act which contemplate interactive gambling</li> <li>➤ CASA proposes that the NGB should not be replaced with the NGR. Replacing the NGB with a newly established regulatory body will only serve to cause further delays in the implementation of the Act</li> <li>➤ The difficulties with regard to the effective operation of the NGB should rather be addressed by ensuring that persons with the appropriate expertise are appointed to the board of the NGB and that it is adequately staffed and resourced</li> <li>➤ CASA proposes that the definition of “cash</li> </ul>

		<p>the coordination of national and provincial regulation.</p> <ul style="list-style-type: none"> <li>➤ However, CASA is concerned that the envisaged change from the NGB to the NGR is likely to undermine, rather than promote, this objective. In particular, an NGR headed up by an individual (the CEO), as opposed to a collective decision-making body, will have less capacity and less institutional legitimacy.</li> <li>➤ It is unlikely that replacement of the NGB with the NGR will yield the intended objectives of facilitating policy cohesion regarding gambling, coordinating the development and implementation of much needed national norms and standards, and attending to the implementation of similar measures which are long overdue, such as the national register of gambling devices and the database of excluded persons.</li> <li>➤ The NGR's ability to meaningfully contribute advice on national gambling policy and national norms and standards, as envisaged in the Act, will be compromised in circumstances in which it does not consist of multiple persons who are able to provide input on these issues relying on a diverse range of expertise, experience and perspectives</li> <li>➤ The absence of a governing board which has ultimate decision-making responsibility and which consists of persons with demonstrable levels of expertise in areas which are relevant to its functional areas, will not only compromise the NGR's capacity and the</li> </ul>	<p>dispensing machine" be replaced with the term "automated teller machine". The reference to "cash dispensing machine" in section 17(1) of the Act should be amended to refer to "automated teller machine"</p> <ul style="list-style-type: none"> <li>➤ In Section 27(1)(a), the word "condition" is too broad and may lead to confusion and as such it is recommended that it is replaced with the phrase "irregularity or defect"</li> <li>➤ The Council should be disbanded and the provisions in the Act relating to the Council should be repealed. However, if the Council is to continue functioning, given its consultative and participative nature, it should be mandatory for a quorum to be achieved on every occasion on which decisions affecting the industry are to be made</li> <li>➤</li> </ul>
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		<p>quality of its decision-making but will also have adverse implications for corporate governance. This will place too much power in the hands of a particular individual with increased risks for the abuse of such power.</p> <ul style="list-style-type: none"><li>➤ The NGR will also be institutionally compromised in exercising its statutory evaluation and oversight functions in respect of provincial licencing authorities (PLAs) if it is governed by a single individual in that it will be required to interrogate the actions of those authorities, which are based on collective decision-making.</li><li>➤ Governance structure which vests the governance of the NGR in the hands of a couple of individuals, rather than in a composite board, will leave the NGR vulnerable to changes in personnel. If, for example, the CEO and the Deputy CEO were to leave in quick succession, the functioning of the NGR would be severely compromised, which would have grave implications for the effectiveness of gambling regulation.</li><li>➤ Welcome the establishment of a register of unlawful gambling operators as contemplated in section 10A</li><li>➤ There is no need to develop a new National Central Electronic Monitoring System (NCEMS) for casinos, that will no doubt involve considerable time and expense.</li><li>➤ The NCEMS should not be extended to casinos</li></ul>	
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<p><b>4. South African Bookmakers Association (SABA)</b></p>	<p>Not in agreement with the Bill in its current form</p>	<ul style="list-style-type: none"> <li>➤ The Bill purports, at various junctures, to amend certain provisions of the National Gambling Act, No. 7 of 2004, as amended by the National Gambling Amendment Act, No. 10 of 2008. In this regard, SABA records that the latter Act has not yet come into effect, as pursuant to the provisions of Section 89 thereof, such Act was to come into operation on a date to be fixed by the President by proclamation in the <i>Government Gazette</i>. As no such date has yet been proclaimed, the relevant provisions have not been brought into effect, with the result that there is a fundamental mismatch between numerous clauses of the Bill in relation to the sections and subsections of the Act which purport to amend and/or to delete and/or to insert therein. This requires further consideration from a legal perspective.</li> <li>➤ Section 10A is ill-conceived and inchoate. The section makes no provision for the manner in which the listings for which it makes provision are to be carried out, or the</li> </ul>	<ul style="list-style-type: none"> <li>➤ Provisions on the creation of NCEMS are not required and should be deleted</li> <li>➤ Sections 61, 62 and 63 of the Act should be deleted in their entirety.</li> <li>➤ Rather than being retained, the Council should be disbanded</li> <li>➤ The proposed section on meeting quorum should be deleted</li> <li>➤ Rather than providing for a new, more limited body (in terms of structure) to perform the extremely extensive functions assigned to the NGB, attention should rather be focused on identifying the root causes for the failure</li> </ul>

		<p>manner in which they should be made known to the persons affected thereby. Nor is any attention given to the juncture at which a person may be listed (i.e. whether this could be done prior to the conviction of a person on a charge of this nature is open to serious question, as it offends against the presumption of innocence)</p> <ul style="list-style-type: none"> <li>➤ The proposed register will serve no meaningful purpose, but will ultimately increase regulatory red tape, and potentially result in a challenge from a constitutional perspective, without securing any meaningful regulatory benefit</li> <li>➤ It is an indisputable fact that all gambling and betting transactions which take place in licensed establishments throughout the country are monitored and accurately stored on systems which must comply with the requirements of the relevant standard. Therefore gaming regulators can access this information, at any time and for any regulatory purpose.</li> <li>➤ Accordingly, there is no scope for the conclusion that regulators are unable to access relevant information in relation to betting transactions from a compliance, fair play or tax-generation perspective. It should be noted that this very information forms the basis for the compliance and taxation-related audits, which are routinely conducted by every PLA in the performance of its mandate</li> <li>➤ The term “significant event” is defined in the Bill as being “a condition which makes a</li> </ul>	<p>by the NGB to deliver on its statutory mandate, and that measures should be put in place to address and effectively to eliminate these.</p> <ul style="list-style-type: none"> <li>➤ It is imperative that a balanced and pragmatic approach is adopted in support of a responsible and sustainable operating environment for the South African industry.</li> <li>➤ This requires the exploration and formulation of legislative provisions that can effectively address the challenges facing the industry and any operational and compliance concerns in this regard without jeopardising its development, as well as maintaining the respective roles of the industry, on the one hand, and the citizens which are served by its operations.</li> </ul>
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		<p>game unplayable or affects the outcome of a gambling activity and is recorded in a gambling machine or gambling device". The only conceivable environments in which these conditions might arise are in licensed casinos, bingo outlets and on LPM sites, where the "games" referred to in the definition are played, and the outcome thereof is determined, on gambling machines and/or devices.</p> <p>In the licensed bookmaking environment, on the other hand, bookmakers' use certified wagering systems purely to capture, record and store the details of betting transactions on external events, which exist and occur completely independently of the bookmaker's wagering system</p> <p>Accordingly, it is not possible, in the bookmaking environment, for conditions to arise, which would either make a game unplayable, or which would affect the outcome of the game, which as previously stated is an independent external event or contingency on which the betting is struck. It is therefore apparent from the definition in the Bill itself, that the fundamental differences between the casino, bingo and LPM environments, on the one hand, and the bookmaking and totalisator sector, on the other are not understood.</p> <p>➤ There is therefore no scope for the contention that the extension of the CEMS to cover all other gambling modes would be more accurate in determining the taxation of</p>	
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		<p>gambling operators or strengthen the oversight responsibility of the NGR</p> <p>Correspondingly, the proposal to develop a single NCEMS for all gambling modes stands in direct contradiction to the requirements entrenched in the Act in relation to the prevailing technical specifications for gambling devices</p> <ul style="list-style-type: none"> <li>➤ There is manifestly no need to develop a further, single, national system which would effectively supplant all the prevailing technical standards, at great cost to all sectors of the industry, which would deliver no identifiable regulatory benefit and moreover would not prove to be commercially feasible. SABA therefore submits that the proposed provision is not required and should be deleted.</li> <li>➤ SABA is unable to support the proposed Section 63A, in view of the well documented failure of the Council to function effectively in the past</li> <li>➤ To the best of SABA's knowledge, there has been no improvement in the record of the Council in more recent years.<sup>1</sup> SABA respectfully submits that the dti disclose and confirm the number of meetings successfully held by the Council during the past eight years.</li> <li>➤ Regarding the proposed structure of the NGR, and the functions and powers proposed to be conferred on its Chief Executive Officer pursuant to the proposed Section 65B (which include, without being limited to, all the</li> </ul>	
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		<p>existing powers and functions of the NGB), SABA submits that the mandate proposed to be conferred on it is too extensive to be effectively carried out by a single functionary, in the person of the CEO.</p> <ul style="list-style-type: none"> <li>➤ SABA is of the view that the structure which the Bill puts in place for the NGR, in terms of which it will be a trading entity of the Department of Trade and Industry (“the dti”), which will operate under the leadership of a Chief Executive Officer, is likely to impede, rather than to enhance, its effectiveness and its ability to carry out the extensive legislative and regulatory mandate conferred on it by the Bill.</li> <li>➤ The proposed structure of the NGR has numerous adverse implications in the context of corporate governance</li> <li>➤ It is considered unlikely that the NGR will succeed where the NGB has failed.</li> <li>➤ The appointment of a Board with a fixed number of members commanding particular skills sets, and with the appropriate level of parliamentary oversight and accountability, would eliminate these difficulties, and would ensure consistent and predictable decision-making processes, as well as ensuring the containment of costs</li> <li>➤ The DTI commissioned an Agency Rationalisation Study, with a view to determining whether the various agencies of the DTI (including the National Gambling Board) were performing their respective</li> </ul>	
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		<p>statutory mandates effectively, and if not, to identify the root causes and make focused recommendations, including in relation to the optimal structuring of such entities, with reference to a benchmarking exercise. A Report was produced, setting forth the outcome of the above Study (“the Report”).</p> <p>The lack of transparency regarding the provision to affected stakeholders of the Report is a source of material concern. This is so because the position taken in the Report in respect of the optimal structuring of the NGB/NGR differs fundamentally from the intended structure for the NGR for which the Bill makes provision.</p> <p>There is accordingly a material mismatch between the recommendations in the Report and the proposed structure for the NGR set forth in the Bill itself. Against this backdrop, SABA submits that it is reasonable to conclude that there are no compelling grounds for the proposed structural reconfiguration of the NGR, which, as the Bill currently stands, vests all the powers and functions conferred on the NGR in its Chief Executive Officer.</p> <ul style="list-style-type: none"> <li>➤ The interests of uniformity and legal certainty would not be served by empowering the national inspectorate to “ensure compliance of gambling institutions with the provisions of the Act”.</li> <li>➤ It is inherently undesirable for the holder of a provincial licence to be subjected to compliance monitoring by two different bodies, in the form of the relevant PLA, on</li> </ul>	
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		<p>the one hand, and the NGR, on the other. One of the likely unintended consequences of this would be that licensees would be subjected to different sets of standards, based on different interpretations of the nature and scope of their compliance-related obligations.</p> <ul style="list-style-type: none"> <li>➤ The proposed subsection (3) is superfluous, in as much as the relevant prohibitions are already contained in the Financial Intelligence Centre Act, No. 38 of 2001</li> </ul>	
<p><b>5. Cliffe Dekker Hofmeyr (on behalf of Goldrush Group)</b></p>	<p>Not in agreement with the Bill in its current form</p>	<ul style="list-style-type: none"> <li>➤ Goldrush is concerned about the decision of the National Assembly Committee to split the process of consideration of the Bill.</li> <li>➤ The other amendments to the Act contained in the draft Bill and the original Bill 27 are no longer part of the Bill and have disappeared from view. The amendments that have been placed on the back burner are matters of extreme importance to the gaming industry as a whole and to the provincial licencing authorities.</li> <li>➤ It is far from clear why the process of amendment of the Act should be split in this way and why all attention must be focused on matters that principally are of concern only to the national authorities</li> <li>➤ Have concerns about the following aspects of the Bill: <ul style="list-style-type: none"> <li>- Amendment of section 27- proposed extension of the National Central</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ The principles of co-operation and co-ordination of gambling policy between the provinces and between the provinces and the national government must be placed at the forefront. The proposed amendment to clause 26 must therefore be amended in a manner that does not undermine the Constitutional principles and should be amended for example to allow for decisions to be made by a round robin method or proxy votes.</li> <li>➤ The NCOP not to proceed with the proposed extension of the NCEMS</li> <li>➤ Consultation between all licensees, role players, PLAs and the NGR needs to take place to discuss this</li> </ul>

		<p>Electronic Monitoring System ("NCEMS"),</p> <ul style="list-style-type: none"> <li>- Amendment of section 64- the establishment of the National Gambling Regulator as a public entity led by the CEO.</li> <li>- Insertion of Section 76A- the additional powers of the National Gambling Inspectors to act with or without provincial inspectors to investigate illegal gambling activities.</li> <li>- Insertion of 63A- the proposal to amend the quorum requirement for meetings of the National Gambling Policy Council</li> </ul> <ul style="list-style-type: none"> <li>➤ There has been inadequate consultation with the industry on the NCEMS</li> <li>➤ There is no justifiable rationale for the NCEMS beyond funding the NGR</li> <li>➤ The NCEMS will impose a further administrative and financial burden on the industry but will not achieve any benefits</li> <li>➤ The proposed reconfiguration does not meet any justification to do away with the National Gambling Board and it is undesirable that such power vest in one person without the benefit of accountability that arises from decisions taken by a lawfully appointed Provincial Gambling Board.</li> <li>➤ The proposed inclusion of section 76A if effected will undermine the provincial governments powers to regulate gambling as required to do so in terms of Schedule 4 of the Constitution</li> </ul>	<p>proposal and the contention that "PLAs struggle to collect information".</p> <ul style="list-style-type: none"> <li>➤ The Bill as a whole (and not just the limited focus areas of Bill 27B) should be considered thoroughly and with the full and informed participation of industry stakeholders.</li> <li>➤ The principles of corporate governance must be maintained in terms of the quorum of meetings of the national gambling policy council. The challenge brought about by inquorate National Gambling Policy Council meetings can easily be resolved by passing resolutions by way of round robin with at least two thirds of eligible voting members of the National Gambling Policy Council</li> </ul>
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<b>6. BOSS Gaming Group (“BOSS”).</b>	Not in agreement with the Bill in its current form	<ul style="list-style-type: none"> <li>➤ Similar submission with Goldrush’s written submission above (perhaps prepared by the same law firm)</li> <li>➤ Also have concerns about the following aspects of the Bill: <ul style="list-style-type: none"> <li>- Amendment of section 27- proposed extension of the National Central Electronic Monitoring System (“NCEMS”),</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ The regulation of information which NCEMS seeks to achieve is better placed with the PLAs as PLAs are the primary regulators within the provinces and are responsible for the compliance of licence holders. Such information</li> </ul>

		<ul style="list-style-type: none"> <li>- Amendment of section 64- the establishment of the National Gambling Regulator as a public entity led by the CEO.</li> <li>- Insertion of Section 76A- the additional powers of the National Gambling Inspectors to act with or without provincial inspectors to investigate illegal gambling activities.</li> <li>- Insertion of 63A- the proposal to amend the quorum requirement for meetings of the National Gambling Policy Council</li> </ul> <ul style="list-style-type: none"> <li>➤ The NCEMS will impose a potentially crippling administrative and financial burden on the industry but will not achieve any tangible benefits</li> <li>➤ There is no rationale for running dual monitoring systems which will come at great expense to the licensee. This will have to be added to the existing systems and also installed on individual gambling machines and bingo terminals.</li> <li>➤ There has been no research done whatsoever to establish whether it is even technically possible to have two systems running in parallel and if so, what would the cost of such technical development would be.</li> <li>➤ It must be borne in mind that each gambling sector operates and functions within different parameters. The current state of NCEMS will be required to be amended/changed to cater for all these different gambling sectors and to take into consideration a spectrum of distinct</li> </ul>	<p>must therefore be within the reach of the PLAs to ensure that monitoring and enforcement of the legislative compliance is done timeously and completely within the control of the PLAs. Having regard to the aforesaid, we submit that the Provinces should manage the CEMS' as PLAs and not the NGR as the oversight body of the gambling industry.</p> <ul style="list-style-type: none"> <li>➤ The principles of co-operation and co-ordination of gambling policy between the provinces and between the provinces and the national government must be placed at the forefront.</li> <li>➤ The proposed amendment to clause 26 must therefore be amended in a manner that does not undermine the Constitutional principles and should be amended for example to allow for decisions to be made by a round robin method or proxy votes</li> <li>➤ NCOP not proceed with the proposed extension of the NCEMS.</li> </ul>
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		<p>"significant events". Who will pay for all these unnecessary development costs?</p> <ul style="list-style-type: none"> <li>➤ The development of a NCEMs system that can compute and analyse the different gambling sectors will naturally be extremely cumbersome, time-consuming and cost-intensive, while delivering no identifiable benefit to any of its end-users. None of this has been considered and discussed with the industry in the development of the final Policy or the latest draft of the Bill.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Consultation between all licensees, role players, PLAs and the NGR needs to take place to discuss this proposal and the contention that "PLAs struggle to collect information".</li> <li>➤ Other methods of funding the NGR ought to be considered rather than imposing on the gambling industry the burden of paying for and accommodating an unnecessary extension of the NCEMS</li> <li>➤ The principles of corporate governance must be maintained in terms of the quorum of meetings of the National Gambling Policy Council</li> </ul>
<b>7. Bingo Association of South Africa (BASA)</b>	Not in agreement with the Bill in its current form	<ul style="list-style-type: none"> <li>➤ Similar submission with BOSS Group and Goldrush's written submission above (perhaps prepared by the same law firm)</li> <li>➤ The proposed amendments to the National Gambling Act will have a direct impact on all bingo licensee's business,</li> <li>➤ Also have concerns about the following aspects of the Bill: <ul style="list-style-type: none"> <li>- Amendment of section 27- proposed extension of the National Central Electronic Monitoring System ("NCEMS"),</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Same recommendations with Goldrush Group and BOSS Gaming Group above</li> </ul>

		<ul style="list-style-type: none"> <li>- Amendment of section 64- the establishment of the National Gambling Regulator as a public entity led by the CEO.</li> <li>- Insertion of Section 76A- the additional powers of the National Gambling Inspectors to act with or without provincial inspectors to investigate illegal gambling activities.</li> <li>- Insertion of 63A- the proposal to amend the quorum requirement for meetings of the National Gambling Policy Council</li> </ul>	
<b>8. Gold Circle</b>	Not in disagreement with the Bill	<ul style="list-style-type: none"> <li>➤ Only concern pertains to the proposed extension of the National Central Electronic Monitoring System to apply to the monitoring of betting activities</li> <li>➤ The proposed definition of the term “significant events” is broad and vague (“a condition which . . . affects the outcome of a gambling activity . . .”) and accordingly it is not clear from the definition precisely what evil the section seeks to address</li> <li>➤ No explanation has been provided regarding the rationale for the monitoring system, the consequence for a betting operator if a significant event is detected or indeed the technical feasibility of establishing the monitoring system.</li> <li>➤ While there are similarities between limited pay-out machines, electronic bingo terminals and casino slot machines, betting systems operate very differently and so it is not understood how a national central electronic</li> </ul>	<ul style="list-style-type: none"> <li>➤ The references to “betting activity” in subsections (1)(a) and (3)(d) ought to be deleted</li> </ul>

		monitoring system could be developed to monitor all of these forms of gambling in a single system.	
<b>9. DH VAN EEDEN</b>	Not in disagreement with the Bill	<ul style="list-style-type: none"> <li>➤ Have no comment on the 10 points under discussion (as advertised); which are under dispute<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>➤ The following rules should be added to regulate the National Lottery (Lotto and Power Ball): <ul style="list-style-type: none"> <li>- The main stakeholders in the National Lottery (e.g. Ithuba Holdings RF (Pty) Ltd) should cast the dices free from any tampering (digital tampering included): The Company will be obliged to cast gambling numbers in such a way that no-one - or a computer can pre-empt, foresee and/or change the outcome.</li> <li>- If the public did not succeed in winning the Jackpot on that particular day, the prizemoney should only roll over for a maximum of 3 (three) consecutive casts. On the third day the closest participant/participants</li> </ul> </li> </ul>

<sup>1</sup> This is not clear, more clarity from the submitting individual is needed.

			should win the Jackpot.
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**C. Conclusion**

- 6. The written submissions from a number of industry stakeholders is welcomed. The response of the industry stakeholders bears testimony to a reality that the country's parliamentary democracy is deepening and continues to grow by leaps and bounds. The written submissions, which offer varied legal considerations, strategic insights and operational and perspectives, will definitely go a long way in guiding and/or shaping the deliberations in the Committee on this Amendment Bill.
- 7. In their submissions, some stakeholders expressed interest in making oral representations and undoubtedly, the Committee can benefit from such oral representations from the industry subject matter experts.