



## **iGaming in Maryland**

Prepared for:

Maryland Lottery and Gaming Control Agency

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# EXECUTIVE SUMMARY

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The Innovation Group was retained by the Maryland Lottery and Gaming Control Agency (“MLGCA”) to develop a report on iGaming for the Maryland General Assembly’s Budget Committees as legislation relating to iGaming is contemplated. In this report, when we refer to iGaming, we specifically mean interactive (online/mobile) slot machines, table games, and poker. We explicitly omit online sports betting from our categorization of iGaming, as Maryland has already adopted online sports betting, and using the colloquial phrase iGaming is simpler than using the more pedantic iCasino and iPoker throughout.

The Innovation Group submitted to the MLGCA a proposal to complete the tasks listed below, with task numbers corresponding to those in the Maryland General Assembly budget bill from which the report was commissioned. For reference, we have included page numbers in the below table to indicate where in the report we address each task. Following this, we present a summary of key findings.

**Table 1. Index of Budget Bill Tasks**

<b>Task</b>	<b>Page #</b>
1. <i>The estimated size and revenue potential of a legal iGaming market in Maryland</i>	19-20
2. <i>The size of and revenue generated by iGaming in other states</i>	12-18
3. <i>The estimated impact of iGaming on revenue generated by Maryland's brick-and-mortar casinos, other gaming venues, and the State lottery</i>	22-28
4. <i>The impact of iGaming on revenue generated by brick-and-mortar casinos, other gaming venues, and the lottery in other states</i>	22-28
5. <i>The experience of other states in implementing iGaming</i>	11-17, 29-35
6. <i>The potential impacts on brick-and-mortar casinos and gaming venues through partnerships with iGaming operators</i>	33-35
7. <i>The potential usage of multi-jurisdictional gaming agreements</i>	35
8. <i>The estimated size of the existing illegal iGaming market in Maryland and methods to transition individuals from the illegal market to a legal market</i>	20-21, 33
9. <i>The consumer protections available for users of legal iGaming, including the verification process for transactions and the ability to limit and monitor those transactions to ensure responsible gaming</i>	36-49
10. <i>The impact of iGaming on problem gambling and methods to encourage responsible gaming and combat the growth of problem gambling</i>	36-49

In addressing tasks 9 and 10, we include a memorandum developed by the Maryland Center of Excellence on Problem Gambling (“COE”) that addresses the available consumer protections for iGaming users and the impact of iGaming on problem gambling, including methods to encourage responsible gaming. We append our own commentary following the inclusion of the memorandum.

## Revenue Potential of a Legal iGaming Market in Maryland

To estimate the market potential for iGaming in Maryland, we built a spend-per-capita model based on iGaming performance in other states. As there are only six states that have launched iGaming to date, we utilized those states. We considered spend per capita across those states, scaled to reflect market maturation over time, noting that each of the comparable states is at a different stage in its development. We then multiplied the scaled figure by forecasts for Maryland’s gambling-age population to project gross iGaming revenue by year for the state. We arrive at a stabilized annual forecast of more than \$900 million in gross revenue (or “casino win”).

**Table 2: Maryland iGaming Gross Revenue Forecast**

Year	Ramp	Population 21+	Spend per Capita	iGaming Gross Revenue (\$MM)
2026	60%	4,751,213	\$112.26	\$533.4
2027	75%	4,772,985	\$140.51	\$670.7
2028	90%	4,794,856	\$168.84	\$809.6
2029	100%	4,816,828	\$187.86	\$904.9
2030	100%	4,838,900	\$188.11	\$910.2
2031	100%	4,861,073	\$188.36	\$915.6
2032	100%	4,883,349	\$188.62	\$921.1

Source: The Innovation Group

## Impact of iGaming on Casinos and Lottery

To estimate the impact of iGaming on land-based casino Gross Gaming Revenue (“GGR”), we compared brick-and-mortar casino performance in 2019 and 2022 between states with and without iGaming. To compare brick-and-mortar casino performance between 2019 and 2022, we calculated ‘baseline growth’ rates for each group (states with iGaming, and states without) based on how much each group’s total population and Gross Domestic Product (“GDP”) changed during the period. We did so to adjust for increases and decreases in a state’s or region’s brick-and-mortar gaming revenues due to changes in population or the overall economic environment.

In all, we observed 2% same-store casino revenue growth in non-iGaming states, versus an 8.2% decline in iGaming states, suggesting a cannibalization rate of approximately 10% of casino gaming revenue.

**Table 3: iGaming Impact on Brick & Mortar GGR**

	Growth
Net GGR Growth, iGaming States	-8.2%
Net GGR Growth, Non-iGaming States	2.0%
<b>Impact of iGaming on B&amp;M GGR</b>	<b>-10.2%</b>

Source: The Innovation Group

Since Maryland’s casino revenue is just over \$2 billion annually, this would amount to a loss of just more than \$200 million in casino revenue, against a gain of \$900 million in iGaming revenue.

Because of the expansion of distributed forms of land-based gaming in West Virginia (taverns) and Pennsylvania (truck stops), and the addition of Category 4 gaming licenses in Pennsylvania, we believe that the 10.2% impact is slightly overstated, and that the actual effect is more likely between 8% and 9%.

We applied the same approach to lottery, where we saw only a negligible difference between lottery performance in iGaming vs. non-iGaming states. This suggests a minimal impact of iGaming on lottery performance.

**Table 4: iGaming Impact on Lottery Sales (Approach #1, using all Lottery States)**

	<b>Growth</b>
Net Lottery Growth, iGaming States	11.9%
Net Lottery Growth, Non-iGaming States	12.0%
<b>Impact of iGaming on Lottery Sales</b>	<b>-0.04%</b>

Source: The Innovation Group

### **Impact of iGaming on Bingo, OTB Facilities, and Racetracks**

We rely on the forecasted impacts of iGaming on land-based casino and lottery to drive our forecasted impacts on bingo and off-track betting (“OTB”), as current iGaming states are not appropriately compared to Maryland. In reading online reviews of the bingo halls in Maryland, we find many references to the “slots” at these facilities – regardless of the technical differences between electronic instant bingo machines and slot machines, players appear to be generally unaware that bingo machines are not slot machines. As such, we anticipate the impact of iGaming on electronic bingo machines to be approximately 10%, in line with the impact on land-based casino gaming. This may overstate the impact slightly, as bingo halls are more community-oriented and as such likely have higher levels of engagement. We also believe that paper-card bingo is likely to experience very little impact on its own, holding that aspect of the bingo business harmless.

The racetrack and OTB environments in iGaming states all have nuances that would render a similar analysis irreparably flawed. However, having studied horse racing and casino databases for decades, we would categorize horse bettors as not having strong demographic overlap with casino clientele, which will skew younger and more female (even in the online realm) than predominantly older, male racing enthusiasts. With OTBs and racetracks offering a very specific product that is not replicated in land-based or online casinos, and given limited overlap in database, we believe that the impact of iGaming on OTBs will be near zero, similar to lottery.

### **Experience and Learnings from Other States**

To uncover best practices enacted in other states, The Innovation Group conducted a series of interviews. We discussed a range of topics related to iGaming legislation with current and former legislators, regulators, land-based casino operators in and outside Maryland, and online gaming operators. We provide a summary table of key bill considerations below.

## **Discussion of Other States and Legislative Models**

Interviewees generally suggest that Maryland should consider adopting aspects of the New Jersey and Michigan legislation, as those states have fostered healthy and burgeoning iGaming markets that produce economic benefit for both the state and the state's existing casinos. Key aspects of the bills in those states include, but are not limited to:

- (1) licenses tethered to existing brick-and-mortar casino licenses,
- (2) a reasonable tax rate,
- (3) gaming board oversight, and
- (4) reasonable responsible gaming requirements.

## **Future-proof the Market**

There were strong suggestions to “future-proof” the market by setting broad frameworks in legislation and allowing the regulators to make adaptable rules that can intelligently evolve to meet changing market conditions, the state needs, and/or the advancement of products and technology.

## **Licenses**

While there were competing viewpoints within Maryland about who should be eligible for iGaming licenses, those we spoke with from other states were generally in consensus that licenses should be tethered to casinos. Besides this being the only real precedent from other iGaming states, experts pointed out:

- That casino gaming is casinos' core business and expertise – they deeply understand slot and table games product, consumers, and the general market;
- The extensive licensure process that key casino employees undergo – they are trusted operators and satisfy the strictest suitability requirements;
- Casino staff experience and mandatory training with Anti-Money Laundering (“AML”) and Know Your Customer (“KYC”) issues;
- The substantial investment that casinos have made in the communities, both in terms of jobs and physical development;
- That host communities are reliant on revenue from revenue share agreements, and the casinos need to be able to fulfill those commitments;
- That planning for major capital decisions and reinvestment in infrastructure is difficult if operators cannot predict what the gaming landscape will look like over the next 5-10 years.
- That cannibalization of land-based gaming revenue can be mitigated with good omnichannel marketing. Mobile apps extend a casino's reach into other parts of the state in a cost-effective way.

## **Skins**

A “skin” is a sublicense of an online betting license. It allows for a license holder to monetize its market access without necessarily operating an online gaming brand. Those we spoke with believed that 12 brands, implying two skins each for six operators, would be sufficient for the market without diminishing the salability of a skin. Several believed that six access points would also be able to sustain a strong market.

## Tax Rate

Ordinarily, we would say that online tax rates should be higher than land-based tax rates given 1) that the land-based operations incur labor costs and physical development costs that exceed those of online gaming, and 2) the job creation associated with ongoing operations and development of land-based operations, and its downstream economic effects on the state. With online gaming, there is some land-based job creation (e.g., head of interactive gaming, studios for live dealer online games), but job creation may be substantially lower than the reduction of variable labor (e.g., table games dealers or slot machine attendants) coming from cannibalization of land-based gaming.

However, to attract the black-market player into regulated iGaming channels, operators must be positioned to aggressively market to this group. With current gaming tax in Maryland at the level it is, it would be challenging to give online gaming a higher tax rate and simultaneously expect operators to aggressively market to players at illegal online casinos.

Lastly, nearly everyone we spoke with favored a blended (not split) tax rate. In other words, they advocated for slots and tables to be taxed at the same rate.

Those interviewees willing to suggest tax rates for the state's consideration offered 10%-20%, 20%-25%, and 25%-30% as reasonable options, and another simply stated that iGaming taxes must be higher than the brick-and-mortar rates.

## Impacts on Casinos through Partnerships with iGaming Operators

As iGaming emerges, casinos are faced with the decision of whether to partner with large brands like FanDuel or DraftKings, or to create their own in-house solutions and brands. Partnerships hold the promise of leveraging the brand reach, advertising prowess, and buying power of the partner. It is important to note that while these partnerships offer significant advantages, each also presents its own set of challenges.

**Table 5: Pros and Cons of Partnership with a National Brand**

<b>Pros</b>	<b>Cons</b>
Brand / Advertising	Economic Leakage
Product Innovation	Reduced Control
Customer Experience / Technology	Dependency
Player Marketing	
Media Partnerships / Sponsorships	
Buying Power and Brand Reach	
Ease	

Source: The Innovation Group

These items are discussed individually later in the report.

## Use of Multi-jurisdictional Gaming Agreements

The Multi-State Internet Gaming Agreement (MSIGA) is the primary multi-jurisdictional agreement of relevance to a legal iGaming market in Maryland.

The MSIGA was established to allow U.S. states to pool their online poker players. This is to ensure that there are enough poker players online at any given time, which helps in sustaining the games and making them more attractive for players. The initial states to sign onto the MSIGA were Delaware and Nevada, joined later by New Jersey and Michigan.

Apart from poker, the MSIGA allows for other iGaming formats to be added to the agreement and offered by Licensees in member states where such iGaming formats are permitted. For example, the agreement permits Licensees to offer progressive slot jackpots that accumulate in size based on play from multiple states (i.e., ‘wide-area progressives’). Even though Michigan and Nevada’s participation in the MSIGA is limited to online poker by respective state laws, this does not preclude the other member states (e.g., New Jersey, Delaware) from offering other gaming types that share players from both states.

Each state continues to regulate and oversee its operators. The MSIGA does not replace a state’s individual regulations but rather provides a framework for states to share players while maintaining their regulatory autonomy. The MSIGA doesn’t centralize taxation but rather leaves it to individual states, though it ensures that states get their appropriate tax revenue.

## **Estimated Size of the Illegal iGaming Market and Methods to Transition Players to the Regulated Market**

The Innovation Group completed estimates of unregulated online casino gaming, on a regional basis, for the American Gaming Association in 2022. In brief, we surveyed more than 5,000 U.S. adults aged 21 and older on their gambling behaviors. We asked survey respondents to indicate how often in the past year they played slots or table games, their average budget when playing these types of games, and what percentage of their play occurred online, at a casino, or at distributed locations (e.g., bars, fraternal halls, gas stations, etc.). We also asked respondents about their brick-and-mortar slot and table game spend and legal online slot and table game spend in order to identify respondent tendency to over- or under-report their gambling spend. In other words, we were able to calibrate respondents’ statements about play at land-based regulated casinos to the actual size of the land-based casino market to adjust their collective over- or under-reporting.

Our analysis of this survey data resulted in estimates of illegal online casino revenue, aggregated to the U.S. census region level. In the Northeastern region, which includes Maryland, we found an annual illegal online casino revenue per capita of approximately \$42, implying an illegal online casino market in Maryland of roughly \$197 million in 2022.

**Table 6: Maryland Black/Illegal iGaming Market Estimate**

Northeast Region Population 21+	43.8 million
Northeast Region Estimated Illegal iGaming Revenue	\$1.85 billion
Northeast Region Estimated Illegal iGaming Revenue per Capita	\$42
Maryland 2022 Population 21+	4.7 million
<b>Maryland Estimated Illegal iGaming Revenue (2022)</b>	<b>\$197 million</b>

Source: The Innovation Group, ESRI

To capture the black market, operators need to be taxed at a reasonable level to allow them the latitude for substantial marketing and technology/product improvement. Doing so will give them the opportunity to compete with illegally-operating, untaxed, and unregulated operators that can reinvest heavily in players with marketing and bonusing programs. Second, there needs to be alignment among state officials, including the Attorney General, to prioritize enforcement actions against illegally operating gambling sites. As one interviewee described, success requires “an aggressive and willing attorney general and a good partnership with the regulator.”

Responsible gaming in all its forms – e.g., prevention and mitigation of problem gambling, thoughtful oversight and reporting requirements, consumer protections, public and researcher access to data, and monitoring and strong testing of vendor software – are paramount. We conclude the report with notes and best practices related to responsible gaming from both the Maryland Center of Excellence on Problem Gambling and The Innovation Group.

# THE U.S. iGAMING LANDSCAPE

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Online iGaming proliferates throughout much of the world, including Europe, Latin America, and Asia. However, when evaluating the iGaming market in Maryland, the more nascent iGaming environment in the United States is more relevant for several reasons: (1) the customer profile is similar, (2) the geographic distribution and overall nature of brick-and-mortar casino product is much more similar, and (3) the continued growth of online sports betting in the United States provides a natural impetus for the introduction of iGaming.

Since the repeal of PASPA in 2018, many states have authorized online sports betting, but only seven states have launched legal forms of iGaming: Delaware, New Jersey, Nevada, Michigan, Pennsylvania, West Virginia, and Connecticut (in that order). Rhode Island also has legalized iGaming and will launch as early as March 2024. Nevada has online poker only, so we will focus largely on the other six operating states. Delaware and New Jersey were early adopters of iGaming, launching their first online casino gambling sites in 2013. In July 2019, Pennsylvania became the next state to launch legal online gambling sites followed by West Virginia in July 2020. In 2021, Michigan launched iGaming operations in January, followed by Connecticut in October. Several other states have since introduced iGaming legislation, including New York, Illinois, Indiana, and Missouri.

States implementing iGaming are required to make many decisions regarding regulatory framework, such as who is eligible for licensure, whether license holders may operate multiple brands or “skins,” and tax rates. In all states, licensure for online slots and tables is restricted to only brick-and-mortar casino operators. As will be discussed later, this may be primarily due to factors such as: (1) casino operators have already gone through a stringent licensing process; (2) casino operators already have strict “Know Your Customer” (“KYC”) and “Anti-Money Laundering” (“AML”) regulations, and have been trained on these matters; and (3) casino owners have invested substantially in infrastructure and jobs in the state. The table below summarizes how U.S. states have approached licensing and tax decisions.

**Table 7: Comparison of U.S. iGaming Implementation**

State	Skins per License holder	Tax Rate on iGaming
Delaware <sup>1</sup>	1	57% slots – 20% tables (100% on the first \$3.75m revenue)
New Jersey	5	20%
Pennsylvania	Unlimited	54% slots – 16% tables
West Virginia	3	15%
Michigan	2	20% – 28% (graduated)
Connecticut	1	18%
Rhode Island	1	61% Slots – 15.5% Tables

Source: Various State Gaming Regulatory Bodies

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<sup>1</sup> Delaware’s iGaming is operated by the lottery, so there are no private commercial skins.

## Delaware

Online gambling in Delaware was legalized in 2012 with the passage of House Bill 333<sup>2</sup>, and the first online gambling sites launched in November 2013. Since inception, Delaware has allowed online poker, slots, and table games through a single platform manager. Each of the state’s three brick-and-mortar casinos may offer online gaming, though technology providers are licensed by the state and must go through a selection process with the Lottery. From its launch in 2013, a collaboration of 888 Holdings and Scientific Games was the sole platform provider for online gaming in the state, so each of the three brick-and-mortar licensees utilized this platform for its online gaming product. In 2023, the Delaware Lottery conducted a Request for Proposal (RFP) process for a platform and recently selected Rush Street Interactive to be its sole platform provider.

In 2015, Delaware signed the Multi-State Internet Gaming Agreement (MSIGA) with Nevada, allowing poker players from both states to play against each other. In 2018, New Jersey joined this agreement, and in April 2022, Michigan joined as well.

Revenue data shows the iGaming market continues to grow following brick-and-mortar casinos re-opening post COVID, but the revenue per capita is still much lower than in other states.

**Table 8: Delaware iGaming Trends**

<b>Year</b>	<b>Revenue</b>	<b>Annual Growth (%)</b>
2013	\$251,397	
2014	\$2,091,319	732%
2015	\$1,798,839	-14%
2016	\$2,906,887	62%
2017	\$2,391,940	-18%
2018	\$2,591,128	8%
2019	\$3,569,677	38%
2020	\$8,448,037	137%
2021	\$10,562,586	25%
2022	\$13,630,043	29%
2022 Population (21+)	764,527	
2022 Revenue Per Capita (21+)	\$17.83	

Source: Delaware Lottery

The tax environment for online gaming in Delaware is as follows: the state receives the first \$3.75 million in Gross Gaming Revenue (“GGR”) generated state-wide, and marginal revenue is taxed at 47% for slots and 15.5% for tables. An additional 10% of slot revenue and 4.5% of table revenue goes to the horse racing industry. Prior to 2020, online casino GGR was effectively taxed at 100% since statewide revenue totals had yet to exceed the \$3.75 million threshold.

<sup>2</sup> An Act to Amend Titles 4 and 29 of the Delaware Code Relating to the State Lottery. HB 333 (2012)

## New Jersey

Online gambling in New Jersey was legalized in February 2013 with the passage of Bill A2578<sup>3</sup>, and the first online gambling sites began operating in November of that same year. Each license holder is allowed five skins, or sites. Currently, there are 8 land-based casinos offering an online gaming option and 37 total authorized sites.

New Jersey is by far the leading domestic online gaming market, with a pre-pandemic iGaming market size approaching \$0.5 billion. New Jersey offers a full online casino experience, allowing operators to offer slots, poker, and table games. Players may create and fund an account from anywhere in the world; however, they must physically be in New Jersey to play.

Even as brick-and-mortar casinos re-opened and returned to pre-pandemic revenue levels, New Jersey saw continued strengthening of the iGaming market.

**Table 9: New Jersey iGaming Trends**

<b>Year</b>	<b>Revenue</b>	<b>Annual Growth (%)</b>
2013	\$7,058,061	
2014	\$110,397,924	1464%
2015	\$148,880,180	35%
2016	\$196,719,333	32%
2017	\$245,605,981	25%
2018	\$298,700,902	22%
2019	\$482,695,306	62%
2020	\$970,337,571	101%
2021	\$1,366,902,642	41%
2022	\$1,619,397,607	19%
2022 Population (21+)	7,004,722	
2022 Revenue Per Capita (21+)	\$231.19	

Source: New Jersey Division of Gaming Enforcement

Online gambling GGR is subject to a 15% state tax and an additional 5% of GGR goes to the Casino Reinvestment Development Authority (CRDA). By comparison, brick-and-mortar gaming revenue is subject to an 8% state tax and an additional 2.5% community investment alternative tax. This higher tax rate that NJ chooses to impose on online gaming may reflect two economic realities: first, margins for online gaming ought to be higher than margins for land-based gaming due to reduced labor and reduced facilities costs, though notably there are substantial marketing costs that operators incur to produce robust and competitive iGaming markets. Second, the jobs supporting iGaming, and therefore the downstream economic impacts from associated payroll, are

<sup>3</sup> Authorizes Internet gaming at Atlantic City casinos under certain circumstances. Assembly Bill 2578 (2012-2013)

largely based in other states or other countries. It is therefore reasonable to incentivize land-based operators, who provide jobs and economic benefit locally, with a lower tax rate.

## Nevada

Online poker was legalized in February 2013 with the passage of Assembly Bill 114<sup>4</sup>, and the player pool was restricted to adults located within Nevada. In 2015, the state signed a liquidity agreement with Delaware, allowing poker players from both states to play against each other. Despite many companies applying for poker licenses, only three providers have ever offered licensed real money online poker in Nevada.

Due to the limited number of players, the market struggled to gain traction. Ultimate Poker, which opened to players in early 2013, shut down in November 2014. The other two – WSOP.com and Real Gaming Online Poker – opened in late 2013 and early 2014, respectively. Now, only WSOP.com still exists, and the Nevada Gambling Control Board has stopped publishing revenue reports due to low revenues from online gambling. Online poker revenue is subject to the same 6.75% state tax imposed on land-based gaming revenue.

## Pennsylvania

In October 2017, Pennsylvania legalized online versions of poker, casino games, daily fantasy sports, and sports betting after the state’s unsuccessful attempt in 2013. The state’s first two online casinos launched in July 2019, making Pennsylvania the fourth U.S. state to legalize online gambling. House Bill 271 was the comprehensive bill that brought iGaming and various new forms of gaming to the state<sup>5</sup>. After undergoing multiple revisions throughout the years, the bill’s final version legalized iGaming licenses for each of the state’s land-based casinos for online poker, slots, and table games. VGT’s (video gaming terminals) at truck stops, daily fantasy sports, the construction of ten category 4 (satellite) casinos, and sports betting were also authorized.

**Table 10: Pennsylvania iGaming Trends**

Year	Revenue	Annual Growth (%)
2019	\$33,599,749	
2020	\$565,157,898	1582%
2021	\$1,112,855,937	97%
2022	\$1,364,392,468	23%
2022 Population (21+)	9,866,272	
2022 Revenue Per Capita (21+)	\$137.55	

Source: Pennsylvania Gaming Control Board

<sup>4</sup> Revises provisions governing interactive gaming. Assembly Bill 114 (2013)

<sup>5</sup> An act amending Titles 3 (Agriculture) and 4 (Amusements) of the Pennsylvania Consolidated Statutes, extensively revising gaming provisions as follows. House Bill 271. (2017-2018)

Pennsylvania’s online gaming tax rates vary based on the revenue channel: online table games and poker are taxed at 16% while online slot revenue is taxed at 54%. These are the same rates that apply to brick-and-mortar slot and table revenue.

## West Virginia

West Virginia legalized online casinos in March 2019, with passage of the West Virginia Lottery Interactive Wagering Act<sup>6</sup>. The law allows each of the state’s five land-based casinos to apply for a permit to offer online poker and casino games and offer up to three separate iGaming websites per permit. The state’s first online casino launched in July 2020.

In its first 12-months of operation, West Virginia iGaming operators earned \$30 million in GGR, which pales in comparison to first year revenue numbers for other emerging iGaming markets. A potential explanation for this is weakened consumer confidence around mobile wagering. Prior to iGaming going live, West Virginia experienced a rocky mobile sports betting launch that included outages and disruptions to both in-person and mobile wagering.

**Table 11: West Virginia iGaming Trends**

Year	Revenue	Annual Growth (%)
2020	\$9,185,010	
2021	\$59,953,010	553%
2022	\$114,000,681	90%
2022 Population (21+)	1,377,604	
2022 Revenue Per Capita (21+)	\$82.75	

Source: West Virginia Lottery

Online gambling revenue in West Virginia is taxed at 15%. By comparison, revenue from video lottery terminals in the state are taxed at 49% and table revenue is taxed at 35%.

<sup>6</sup> West Virginia Lottery Interactive Wagering Act. West Virginia Code Chapter 29 Article 22E. (2019)

## Michigan

In 2019, Michigan passed the Lawful Internet Gaming Act<sup>7</sup> legalizing online casinos. The law allows each of the state’s land-based commercial and tribal casinos to apply for a permit to offer online poker and casino games. Online casinos launched in the state in January 2021 and generated over \$1 billion in gaming revenue during their first year of operation.

**Table 12: Michigan iGaming Trends**

Year	Revenue
2021	\$1,113,999,386
2022	\$1,582,454,458
2022 Population (21+)	7,579,080
2022 Revenue Per Capita (21+)	\$208.79

Source: Michigan Gaming Control Board

Online gambling revenue in Michigan is taxed on a sliding scale ranging from 20 to 28% based on adjusted gross receipts. For context, commercial land-based casino revenue is taxed at 19% (8.1% to the state + 10.9% to the host city).

## Connecticut

In 2021, Connecticut passed House Bill 6451<sup>8</sup> legalizing online casinos and sports betting in the state. While the state does not have any commercial casinos, the law allows the state’s tribal casino operators – the Mohegan Tribe and the Mashantucket Pequot Tribe – to offer iGaming and sports wagering. Online casinos launched in the state in October 2021 and generated \$159 million in GGR during their first twelve months of operation.

**Table 13: Connecticut iGaming Trends**

Year	Revenue
2021	\$36,831,240
2022	\$225,382,371
2022 Population (21+)	2,725,705
2022 Revenue Per Capita (21+)	\$82.69

Source: Connecticut Department of Consumer Protection

Connecticut taxes online casino games at 18%, with the rate rising to 20% five years after launch (2026).

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<sup>7</sup> Lawful Internet Gaming Act. Act 152. (2019)

<sup>8</sup> An Act Concerning The Authorization, Licensing And Regulation Of Online Casino Gaming, Retail And Online Sports Wagering, Fantasy Contests, Keno And Online Sale Of Lottery Tickets. House Bill 6451. (2021)

## Rhode Island

On June 22, 2023, Rhode Island Governor Dan McKee signed Senate Bill 948<sup>9</sup> into law, legalizing iGaming across the state. The bill allows the state lottery to contract with Bally's, which currently operates two casinos in the state, to operate online slots and table games as early as March 1, 2024. Slot revenue will be taxed at 61%, with an additional 1.45% going to the towns of Lincoln and Tiverton, while table games will be taxed at 15.5%, with the same towns receiving an additional 1%.

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<sup>9</sup> Video Lottery Games, Table Games And Sports Wagering. Senate Bill 948. (2023)

# MARYLAND iGAMING ADDRESSABLE MARKET

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In this section, we discuss the potential iGaming market size in Maryland. We summarize the per capita performance in other states, and we use this information to deliver a forecast for Maryland.

## *Maryland iGaming Market Potential*

Below, we show iGaming revenue per adult (21+) by market and year for all legalized U.S. iGaming markets. Delaware, for its part, has had a troubled iGaming launch from the start. It is run through the state’s lottery with no national brands involved in the marketing, and it was never able to get the level of trial that we believe would come from a branded provider with a top-notch product offering. As a result, Delaware’s iGaming revenue per adult is below \$20 – and well below other U.S. states.

**Table 14: 2022 iGaming Revenue per Adult for Legal U.S. iGaming Markets**

<b>State</b>	<b>Full Year of Operations</b>	<b>Revenue per Adult</b>
New Jersey	9	\$231
Michigan	2 <sup>10</sup>	\$209
Pennsylvania	3	\$138
West Virginia	2	\$83
Connecticut	1	\$83
Delaware	9	\$17

Sources: Gaming Regulatory Bodies, ESRI

We believe that the strongest states in per capita revenue – Michigan, Pennsylvania, and New Jersey – will be the most apt comparables for Maryland. West Virginia’s market has significant growth potential, but its sports betting launch in 2019 was fraught with technological problems that created customer service issues and an inability to bet on mobile apps. We believe this, along with only two of the five potential licensees in the state offering mobile and online casino in the early stages of the market (FanDuel and BetMGM launched in 2020, but other licensees waited until 2021), played an important role in West Virginia’s underperformance in years 1 and 2<sup>11</sup>. Meanwhile, Pennsylvania and Michigan achieved per capita revenues in year 1 that exceeded New Jersey’s sixth-year revenues, demonstrating the large revenue opportunity that iGaming represents and the technology and preparedness improvements on the operator side between launching New Jersey in 2013 and launching in emerging states today.

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<sup>10</sup> Michigan launched in January 2021, so we regard 2021 as the first “full year” of operations.

<sup>11</sup> In 2023, West Virginia is performing nearly 40% better year-over-year than in 2022, suggesting that they are overcoming their slow startup.

## *iGaming Market Size in Maryland*

To estimate the market potential for iGaming in Maryland, we modeled spend per capita using average iGaming spend data in comparable states, scaled to reflect market maturation over time, and multiplied the scaled figure by annual forecasts for Maryland's gambling-age population to project gross iGaming revenue by year for the state.

To model spend per capita in Maryland, we assume that gamblers in Maryland will generally behave like gamblers in other states where iGaming is legal and operational. While there are likely regional differences in iGaming spending behavior due to the availability of brick-and-mortar gaming, the structure of the online market, and demographic differences between populations, these differences are likely to be subtle. Further, Maryland is a relative neighbor to multiple states that have legalized iGaming (Pennsylvania, West Virginia, Delaware, and New Jersey), so these regional differences are likely to be even less pronounced. As such, to model spend per capita, we calculate aggregate per capita spend across all legal iGaming states (except Nevada), summing 2022 iGaming spend across states and dividing by the sum of the 2022 population over 21 years old in those states. This results in a spend per capita of approximately \$169 in 2028.

While this number captures the spending behavior of the individuals in various states, it's important to note that each of these states is at a different stage of market development – it's unlikely Maryland will realize this full per capita spend metric in its first full year of operation. In other words, it is common for spend per capita to increase somewhat rapidly, or 'ramp,' in the first several years of operation and then to level off.

There is considerable disparity in comparable states in the ramp to full market development. States like Pennsylvania and Michigan appear to be growing revenue per capita more slowly, suggesting that they realized much of their market growth within a few years of launching. In contrast, New Jersey had a slower start and has grown at a steadier pace. Even after ten years, New Jersey iGaming revenue per capita is still growing. West Virginia's growth seems to more closely mirror the largely post-COVID markets of Pennsylvania and Michigan, though its iGaming revenue per capita is much smaller. Delaware presents a difficult comparable, given its poor adoption. With the recent selection of Rush Street Interactive to partner with Delaware Lottery, we expect to see Delaware's iGaming revenue take on a more traditional growth trajectory, though the launch may have less luster given the past decade of unremarkable offerings.

Based on recency, we believe that Maryland is likely to follow a ramp to market maturity that looks more similar to Michigan's, Pennsylvania's, and West Virginia's and less like New Jersey's or Delaware's. As such, we believe that our modeled per capita spend figure of \$169 represents what is achievable in the third full year of iGaming operation in Maryland, and our models suggest that this number represents approximately 90% of total ramped spend per capita. We model 2026 as the first full year of operation based on the earliest possibility of a referendum in Maryland and the subsequent regulatory development and licensure of technology providers. This results in total iGaming revenue of approximately \$905 million with a fully ramped market in 2029 – i.e., growth from 2030 forward will mirror adult population and Gross Domestic Product ("GDP") growth. Our projections of revenue by year are below.

**Table 15: Maryland iGaming Gross Revenue Forecast**

Year	Ramp	Population 21+	Spend per Capita	iGaming Gross Revenue (\$MM)
2026	60%	4,751,213	\$112.26	\$533.4
2027	75%	4,772,985	\$140.51	\$670.7
2028	90%	4,794,856	\$168.84	\$809.6
2029	100%	4,816,828	\$187.86	\$904.9
2030	100%	4,838,900	\$188.11	\$910.2
2031	100%	4,861,073	\$188.36	\$915.6
2032	100%	4,883,349	\$188.62	\$921.1

Source: The Innovation Group, ESRI

## *Illegal Market Size*

The Innovation Group has previously completed estimates of unregulated online casino gaming on a regional basis for the American Gaming Association<sup>12</sup> in 2022. In brief, we surveyed more than 5,000 U.S. adults aged 21 and older on their gambling behaviors. We asked survey respondents to indicate how often in the past year they played slots or table games, their average budget when playing these types of games, and what percentage of their play occurred online, at a casino, or at distributed locations (e.g., bars, fraternal halls, gas stations, etc.). We also asked respondents about their brick-and-mortar slot and table game spend and legal online slot and table game spend in order to identify respondent tendency to over- or under-report their gambling spend. In other words, we were able to calibrate respondents' statements about play at land-based regulated casinos to the actual size of the land-based casino market to adjust their collective over- or under-reporting.

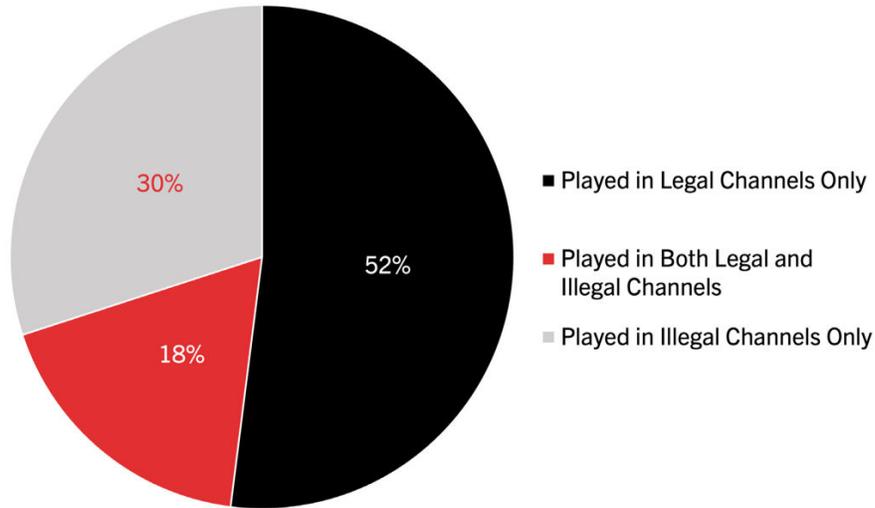
We asked respondents who indicated that they played slots or table games online to select from a list of 22 prominent online slot and table game providers (including both legal and illegal sites) the sites on which they played and the percentage of their play on each site. We included an option for respondents to write-in sites on which they bet that were not included in the list and are comfortable that the list captured the most popular online slot and table game providers.

The chart below shows the nationwide percentage of iGaming respondents who reported betting only in legal channels, in both legal and illegal channels, and in only illegal channels.

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<sup>12</sup> "Sizing the Illegal and Unregulated Gaming Markets in the United States" American Gaming Association. November 2022. <https://www.americangaming.org/wp-content/uploads/2022/11/Sizing-the-Illegal-and-Unregulated-Gaming-Markets-in-the-US.pdf>

**Figure 1: Percentage of Players who Participated in iGaming in Legal vs Illegal Channels**



Our analysis of this survey data resulted in estimates of illegal online casino revenue aggregated to the U.S. census region level. In the Northeastern region, which includes Maryland, we found an annual illegal online casino revenue per capita of approximately \$42, implying an illegal online casino market in Maryland of roughly \$196.7 million in 2022.

**Table 16: Maryland Black/Illegal iGaming Market Estimate**

Northeast Region Population 21+	43,768,409
Northeast Region Estimated Illegal iGaming Revenue	\$1,849,130,416
Northeast Region Estimated Illegal iGaming Revenue per Capita	\$42.2
Maryland 2022 Population 21+	4,665,897
<b>Maryland Estimated Illegal iGaming Revenue (2022)</b>	<b>\$196,668,484</b>

Source: The Innovation Group, ESRI

## *iGaming Impact on Brick-and-Mortar Casino Market*

A core component of this work is to gauge the impact of iGaming on the brick-and-mortar gaming market. To accomplish this, we performed our own internal modeling of how the launch of iGaming affected brick-and-mortar casinos in other markets.

Our review of iGaming's impact on casinos compares revenue growth from 2019 to 2022 in states with iGaming against those without it. In 2020, while brick-and-mortar casinos were closed, iGaming revenues soared. They show no signs yet of slowing down despite U.S. casinos having been reopen now for some time.

To estimate the impact of iGaming launching, we compared brick-and-mortar casino performance in 2019 and 2022 between states with and without iGaming. In selecting our non-iGaming states for this study, we excluded:

- Markets with heavy tourism play (e.g., Nevada),
- Markets with major non-pandemic related changes (e.g., new property opening), and
- Markets with significant tribal competition, as these properties are not required to report revenue.

For the non-iGaming group, these states were: Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Maine, Missouri, New York, Ohio, and Rhode Island. We take a blended average of population, GDP, and gross gaming revenue in each state in order to model the overall growth in the gaming industry during the period in question. While individual gaming markets fluctuate for a variety of reasons, a weighted average across many markets reduces the noise produced by regional variation.

To compare brick-and-mortar casino performance between 2019 and 2022, we calculated 'baseline growth' rates for each group (states with iGaming, and states without) based on how much each group's total population and GDP changed during the period. We did so to adjust for increases and decreases in a state's or region's brick-and-mortar gaming revenues due to changes in population or the overall economic environment. Our findings are substantially the same even if we omit the normalization by GDP and population growth.

The charts below contain brick-and-mortar gaming revenue performance data for non-iGaming states during our analysis window. Revenues stated exclude sports betting revenue and include only commercial gaming revenue from casinos on a same-store basis. Among these states, while there is state-to-state volatility, in aggregate the brick-and-mortar gross gaming revenue in 2022 has grown approximately 10.6% on average versus 2019 levels for non-iGaming states. After accounting for baseline growth in population (3.1%) and GDP (5.4%), the net growth in gaming revenue for these states is 2.0%.

**Table 17: Commercial Brick & Mortar Gaming Revenue (\$ millions): Non-iGaming States**

State	2019 GGR	2022 GGR	GGR Growth	Baseline Growth	Net GGR Growth
Colorado	\$833.7	\$1,060.0	27.1%	10.6%	16.6%
Florida	\$574.6	\$694.0	20.8%	15.1%	5.7%
Illinois	\$1,354.2	\$1,348.7	-0.4%	4.0%	-4.5%
Indiana	\$2,059.6	\$2,317.2	12.5%	7.8%	4.7%
Iowa	\$1,467.5	\$1,765.2	20.3%	5.3%	15.0%
Kansas	\$416.2	\$401.6	-3.5%	6.7%	-10.2%
Maine	\$145.2	\$165.1	13.7%	11.3%	2.4%
Missouri	\$1,729.5	\$1,748.4	1.1%	5.6%	-4.5%
New York	\$2,537.1	\$2,655.9	4.7%	8.3%	-3.6%
Ohio	\$1,941.5	\$2,332.8	20.2%	6.8%	13.4%
Rhode Island	\$504.8	\$508.8	0.8%	8.8%	-8.1%

Sources: Various State Gaming Regulatory Bodies, US Bureau of Labor Statistics, US Census

**Table 18: Non-iGaming State Brick & Mortar GGR Growth Summary**

	2019	2022	Growth
Brick & Mortar GGR	\$13,563,835,022	\$14,997,532,676	10.6%
GDP (\$MM)	\$5,289,229	\$5,572,528	5.4%
Population	68,971,306	71,081,611	3.1%
<b>Casino GGR Growth Net of Population and GDP Growth</b>			<b>2.0%</b>

Source: The Innovation Group, ESRI, US Bureau of Labor Statistics

The charts below contain brick-and-mortar gaming revenue performance data for states with iGaming. Among these states, brick-and-mortar gross gaming revenue in 2022 is slightly lower than 2019 levels, or -2.4%. After accounting for baseline growth in population (3.1%) and GDP (2.7%), we find a net brick-and-mortar gaming revenue growth of -8.2%.

**Table 19: Commercial Brick & Mortar Gaming Revenue (\$ millions): iGaming States**

State	2019 GGR	2022 GGR	GGR Growth	Baseline Growth	Net GGR Growth
Connecticut	\$982.3	\$843.0	-14.2%	2.1%	-16.3%
Delaware	\$366.0	\$405.3	10.7%	7.1%	3.7%
Michigan	\$1,454.3	\$1,257.0	-13.6%	6.9%	-20.5%
New Jersey	\$2,686.6	\$2,775.5	3.3%	9.9%	-6.6%
Pennsylvania	\$2,363.1	\$2,390.8	1.2%	4.4%	-3.2%
West Virginia	\$604.6	\$585.8	-3.1%	-0.7%	-2.4%

Sources: Various State Gaming Regulatory Bodies, ESRI, US Bureau of Labor Statistics

**Table 20: iGaming State Brick & Mortar GGR Growth Summary**

	2019	2022	Growth
Brick & Mortar GGR	\$8,456,791,889	\$8,257,307,281	-2.4%
GDP (\$MM)	\$2,130,162	\$2,187,998	2.7%
Population	28,492,507	29,368,993	3.1%
<b>Casino GGR Growth</b>			
<b>Net of Population and GDP Growth</b>			<b>-8.2%</b>

Source: The Innovation Group, ESRI, US Bureau of Labor Statistics

For the period between 2019 and 2022, non-iGaming states grew at 2% relative to baseline, while iGaming states grew at -8.2% relative to baseline, implying an impact of -10.2% on brick-and-mortar gross gaming revenue from iGaming.

**Table 21: iGaming Impact on Brick & Mortar GGR**

	Growth
Net GGR Growth, iGaming States	-8.2%
Net GGR Growth, Non-iGaming States	2.0%
<b>Impact of iGaming on B&amp;M GGR</b>	<b>-10.2%</b>

Source: The Innovation Group

In 2022, brick-and-mortar casinos in Maryland earned a total of approximately \$2.05 billion in GGR. Assuming Maryland population and GDP continue to grow at their recent pace, Maryland brick-and-mortar gaming revenues would be expected to reach approximately \$2.14 billion by 2029 in the absence of iGaming.

With a fully ramped iGaming market, a -10.2% impact means that brick-and-mortar gross gaming revenue would be expected to drop to approximately \$1.92 billion in 2029, or a loss of approximately \$218.5 million dollars. This \$218.5 million dollars of brick-and-mortar GGR loss is approximately 24.2% of expected 2029 iGaming revenues of \$904.9 million, implying

approximately 75.8% of iGaming revenue, or \$686.3 million, is incremental to the overall gaming market.

**Table 22: Maryland iGaming Cannibalization and Market Growth**

Year	B&M GGR, Expected with No iGaming	B&M GGR, Impacted by iGaming	B&M GGR Loss Due to iGaming	iGaming GGR	Overall Increase in Gaming Revenue (All Channels)
2029	\$2,137.6	\$1,919.0	\$218.5	\$904.9	\$686.3
2030	\$2,150.2	\$1,930.4	\$219.8	\$910.2	\$690.4
2031	\$2,163.0	\$1,941.9	\$221.1	\$915.6	\$694.5
2032	\$2,175.8	\$1,953.4	\$222.5	\$921.1	\$698.6

Source: The Innovation Group

During the time period being studied, there were expansions of land-based gaming in both West Virginia and Pennsylvania. With only six iGaming states to study, and with Pennsylvania and West Virginia being Maryland’s neighbors, we completed the analysis including those states. However, we note that both states had an expansion of distributed forms of land-based gaming – taverns in West Virginia and truck stops in Pennsylvania – and that Pennsylvania issued Category 4 casino licenses for facilities to operate up to 750 slot machines. Since this gaming expansion surely had some adverse impact on the existing land-based casinos, we believe that the 10.2% impact is slightly overstated, and that the actual effect is more likely between 8% and 9%.

### *iGaming Impact on Lottery Sales*

We also ask the question of whether iGaming will impact the sale of lottery products within the state. We take the same approach in our analysis of iGaming’s impact on lottery sales as we do in our brick-and-mortar impact analysis. We compared lottery sales data in 2019 and 2022 between states with and without iGaming, adjusting for baseline growth in population and GDP. For this analysis, we used data from all states that offered lottery products except Mississippi, which launched its lottery in 2019 (Alabama, Alaska, Hawaii, Nevada, and Utah are the remaining US states without lotteries).

The following tables summarize GDP, population, and lottery sales growth for iGaming and non-iGaming states between 2019 and 2022. Lottery sales growth net of baseline in non-Casino states was approximately 12.0%, while the same metric in iGaming states was approximately 11.9%.

**Table 23: iGaming State Lottery Sales Growth**

	2019	2022	Growth
Lottery Sales (\$MM)	\$13,598	\$16,016	17.8%
GDP (\$MM)	\$2,130,162	\$2,187,998	2.7%
Population	28,492,507	29,368,993	3.1%
<b>Lottery Sales Growth Net of Population and GDP Growth</b>			<b>11.9%</b>

Source: The Innovation Group, ESRI, US Bureau of Labor Statistics, Various State Lottery Organizations

**Table 24: Non-iGaming State Lottery Sales Growth**

	2019	2022	Growth
Lottery Sales (\$MM)	\$62,756	\$75,716	20.7%
GDP (\$MM)	\$15,778,179	\$16,617,680	5.3%
Population	199,560,561	205,965,628	3.2%
<b>Lottery Sales Growth Net of Population and GDP Growth</b>			<b>12.0%</b>

Source: The Innovation Group, ESRI, US Bureau of Labor Statistics, Various State Lottery Organizations

The above growth rates in states with and without iGaming are nearly equal, as shown in the following table. This implies that there is little-to-no impact of iGaming on lottery, i.e., that lottery players are unlikely to change their lottery behavior as a result of the introduction of online casinos.

**Table 25: iGaming Impact on Lottery Sales (Approach #1, using all Lottery States)**

	Growth
Net Lottery Growth, iGaming States	11.9%
Net Lottery Growth, Non-iGaming States	12.0%
<b>Impact of iGaming on Lottery Sales</b>	<b>-0.04%</b>

Source: The Innovation Group

We understand that the choice of comparative states could plausibly impact the magnitude and directionality of this result. In particular, this analysis includes in lottery sales those states that offer iLottery products, which may more plausibly be cannibalized by competing online gaming offerings. Given the state of Maryland does not offer iLottery products, we repeat our analysis, this time excluding states from the non-iGaming group that offer iLottery (Georgia, Illinois, Kentucky, New Hampshire, North Carolina, North Dakota, Rhode Island, and Virginia). Since iLottery states have grown lottery revenue faster than non-iLottery states, by removing the former from the analysis, we actually see *stronger* retail lottery growth in states with iGaming than we do in states without iGaming and without iLottery.

**Table 26: Non-iGaming State Lottery Sales Growth – iLottery States Excluded**

	2019	2022	Growth
Lottery Sales (\$MM)	\$49,255	\$58,820	19.4%
GDP (\$MM)	\$13,063,194	\$13,763,079	5.4%
Population	163,002,408	168,218,738	3.2%
<b>Lottery Sales Growth Net of Population and GDP Growth</b>			<b>10.7%</b>

Source: The Innovation Group, ESRI, US Bureau of Labor Statistics, Various State Lottery Organizations

**Table 27: iGaming Impact on Lottery Sales – iLottery States Excluded**

	<b>Growth</b>
Net Lottery Growth, iGaming States	11.9%
Net Lottery Growth, Non-iGaming States	10.7%
<b>Impact of iGaming on Lottery Sales (Approach #2, Excluding iLottery States)</b>	<b>+1.2%</b>

Source: The Innovation Group

However, we believe that it is unlikely that iGaming would bolster lottery sales. We interpret this figure, in combination with our assessment above, to suggest that iGaming has no material impact on lottery.

### *iGaming Impact on Bingo, OTB Facilities, and Racetracks*

We rely on the forecasted impacts of iGaming on land-based casino and lottery to drive our forecasted impacts on bingo and off-track betting (“OTB”).

Recalling that our approach has been to measure gaming growth in iGaming states versus growth in non-iGaming states, a problem with a bingo analysis is that electronic/video bingo games are not permitted in most states. In reading online reviews of the bingo halls in Maryland, we find many references to the “slots” at these facilities. As a result, regardless of the technical differences between electronic instant bingo machines and slot machines, players appear to be generally unaware that bingo machines are not slot machines. As such, we anticipate the impact of iGaming on electronic bingo machines to be approximately 10%, just as with the impact on land-based casino gaming. This also may be overstating the impact for three reasons. First, bingo halls tend to be smaller, community-oriented facilities, and the high levels of engagement that come along with community-building may garner additional loyalty. Second, the bingo facilities have a paper-card bingo business to go along with their electronic bingo, and we anticipate that the electronic instant bingo machines would be much more heavily impacted than the paper-card bingo side of the business. Lastly, as we’ve already noted, the 10.2% impact for casinos may be slightly overstated to begin with.

A similar problem exists in trying to measure the impact that iGaming has on OTBs and racetracks. Surveying the six states with iGaming, we see a variety of scenarios, as follows.

- Pennsylvania: Migrated all of its race wagering into casinos or mini-casinos
- New Jersey: Saw large increases in visitation at racetracks due to sports betting licenses being granted to racetracks
- Delaware: All race wagering is at casinos
- West Virginia: All race wagering is at casinos
- Michigan: Only offers race wagering at one track, others had closed by 2018/2019

This would leave us with Connecticut as a potential comparable, but it only introduced iGaming very recently.

Having studied horse racing and casino databases for decades, we would categorize the horse betting fans as not having strong overlap with casino clientele, which will skew younger and

more female (even in the online realm) than typically older male racing enthusiasts. With OTBs offering a very specific product and with limited overlap in database, we believe that the impact of iGaming on OTBs will be near zero, similar to lottery.

## BEST PRACTICES

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To uncover best practices enacted in other states, The Innovation Group conducted a series of interviews. We discussed a range of topics related to iGaming legislation with current and former legislators, regulators, land-based casino operators inside and outside of Maryland, and online gaming operators. In all, we interviewed at least 32 individuals representing at least 17 organizations. We provide a topical review of key considerations below.

### Discussion of Other States and Legislative Models

Should passage of iGaming become a priority for Maryland, it is possible that the bill will take inspiration from aspects of other states' existing iGaming bills. Interviewees generally suggest that Maryland should consider the New Jersey and Michigan legislation, as those states have fostered healthy and burgeoning iGaming markets that produce economic benefit for both the state and the state's existing casinos. Key aspects of the bills in those states include, but are not limited to: (1) licenses tethered to existing brick-and-mortar casino licenses, (2) a reasonable tax rate, (3) gaming board oversight, and (4) reasonable responsible gaming requirements.

As discussed earlier in the report, the iGaming environments in West Virginia and Delaware are challenged, and Connecticut is small, new, and only has two casinos/licenses. One interviewee commented that "no one really tried" to create a market in Delaware and that the economics of the deal for the casinos were such that a substantial investment in operations and marketing would not be worthwhile (though, overall, there was some optimism about the pending transition of vendor to Rush Street Interactive). It was also pointed out that the three states with lottery oversight of iGaming – West Virginia, Delaware, and Connecticut – are the worst performing. Though most interviewees believed that it was appropriate for iGaming to fall under the oversight of a gaming commission, some believed that governance could successfully fall to the lottery so long as the staff charged with that responsibility was dedicated to and experienced with iGaming. We note that Maryland has a joint Lottery and Gaming Commission that has experience in both lottery and gaming operations.

Despite a growing market, when asked why Pennsylvania shouldn't be the model for Maryland, the typical concerns cited by interviewees were its high tax rate and split tax structure between slots and tables. These will be discussed further in the subsection on tax.

Lastly, there were strong suggestions to "future-proof" the market by setting broad frameworks in legislation and allowing the regulators to make adaptable rules.

### Cannibalization of Brick-and-Mortar Gaming

In this report, we have provided our forecasts of cannibalization of brick-and-mortar gaming. While some interviewees held similar views as to the magnitude of such cannibalization, some others believed that there was little-to-no cannibalization of the brick-and-mortar casino. Among the interviewees, a common theme was, "we believe there will be a small amount of cannibalization eventually, but we don't see too much in the data yet." One interviewee said that in other states that offer iGaming, they don't feel that there was cannibalization at their property.

Another made the case that operators that have both brick-and-mortar and online offerings see mostly new-to-brand consumers on the online side, citing 2017 testimony<sup>13</sup> by David Satz of Caesars Entertainment to the Pennsylvania legislature where he mentioned that in New Jersey, 80% of their online consumers were new-to-brand, i.e., not already in the Caesars database. And of the remaining 20%, nearly half (46%, or 9.2% of the total) were inactive players that Caesars was able to get to return to one of its brick-and-mortar properties by utilizing the online platform and associated cross-marketing opportunities to reengage those customers. To this end, many casino operators with brick-and-mortar and online presences also utilize the casino cage as a deposit and withdrawal point. Unsurprisingly, as one operator mentioned, consumers who withdraw at the casino cage are likely to have casino play on the same day. Many also mentioned that even if there is modest cannibalization, the aggregate of online casino and land-based casino is substantially larger than land-based casino alone, benefitting both the operators (under a model where online licenses are tethered to land-based licenses) and the state.

Others strongly believe that cannibalization of land-based casinos is evident in existing markets and that there will be cannibalization of land-based gaming in Maryland. Some provided arguments that were variations of the approach that we provided above in our assessment of cannibalization. Others argued philosophically that we've seen online business disrupt land-based business in nearly every retail sector, so clearly online gaming will pull some fraction of players out of casinos. Some discussed staffing declines at their properties, though this is an industry-wide phenomenon at present and may not be attributable to the rise of online gaming.

Several interviewees pointed to individual state performances to underscore their views on cannibalization. Among those claiming that there is no cannibalization, New Jersey was generally cited. However, in the early days of online gaming in New Jersey, Atlantic City was in decline due to Pennsylvania's emerging land-based gaming industry. In more recent years, Atlantic City has benefitted from the opening and subsequent stabilization of new casinos, particularly Ocean and Hard Rock. Similarly, one interviewee argued that West Virginia casinos have declined in slot revenue from 2018 to 2022 due primarily to expansion in "LVLs" or Limited Video Lottery machines at bars and taverns, as the expansion of land-based gaming through LVLs provides would-be casino goers an alternative form of physical gaming. We provide these examples to caution that individual state performance figures always require the context of the regional land-based gaming market dynamics and legislative changes.

## **Tax Rates and Structure**

If an online gaming bill were to be drafted in Maryland, the proposed tax rate is certain to be a topic of discussion. Many experts, including ourselves, have generally argued that philosophically, online tax rates should be higher than land-based tax rates based on the land-based operations incurring labor costs and physical development costs that exceed those of online gaming. Moreover, those land-based gaming jobs are within the state, and the development produces construction jobs in the state, so there is more labor-based economic impact in the state from land-

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<sup>13</sup> [https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2017\\_0032T.pdf](https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2017_0032T.pdf)

based gaming than from online gaming. With online gaming, there is land-based job creation (e.g., head of interactive gaming, studios for live dealer online games), but job creation may be substantially lower than the reduction of variable labor (e.g., table games dealers or slot machine attendants) coming from cannibalization of land-based gaming.

However, online gaming requires customer acquisition, and this is expensive. Operators need operating capital to market to consumers who are new to online casino, but also those who are currently playing on sites that are illegal and unregulated in Maryland. Moreover, operators need to constantly reinvest in their technology so that they can bring a product offering and customer experience that is a competitive option versus unregulated sites that pay no tax and offer no consumer protection.

With Maryland’s existing land-based gaming tax at current levels, the general view from operators has been that an online gaming tax in excess of land-based gaming tax would force operators to reduce marketing or reduce the competitiveness of their intended product, causing them to underperform market size estimates and to be less competitive versus the black market. Those interviewees willing to suggest tax rates for the state’s consideration offered 10%-20%, 20%-25%, and 25%-30% as options, and another simply said that taxes have to be higher than the brick-and-mortar rates.

The following table presents an illustrative view of net taxes to the state of Maryland at different tax rates assuming iGaming GGR is held constant. We acknowledge that tax rate is not independent of market size, though we present it as such for illustrative purposes in the table below. Indeed, in several European sports betting markets with exorbitant taxes, operators abandoned the market altogether. We use an estimated brick-and-mortar tax rate of 45%, taking into account the different tax rates imposed on VLTs at each of the state’s casinos and the 20% tax rate imposed on table games in the state.

Notably, a 10% tax rate results in a forecasted overall reduction in net taxes to the state, while other tax rates result in net gaming tax increases to the state.

**Table 28: Forecasted Net Taxes by Tax Rate for 2029**

	10%	15%	20%	25%	30%	35%	40%	45%
iGaming GGR (Total)	\$904.9	\$904.9	\$904.9	\$904.9	\$904.9	\$904.9	\$904.9	\$904.9
<b>iGaming Tax</b>	<b>\$90.5</b>	<b>\$135.7</b>	<b>\$181.0</b>	<b>\$226.2</b>	<b>\$271.5</b>	<b>\$316.7</b>	<b>\$362.0</b>	<b>\$407.2</b>
Brick & Mortar GGR (w/o iGaming)	\$2,137.6	\$2,137.6	\$2,137.6	\$2,137.6	\$2,137.6	\$2,137.6	\$2,137.6	\$2,137.6
Brick & Mortar Cannibalization	\$218.5	\$218.5	\$218.5	\$218.5	\$218.5	\$218.5	\$218.5	\$218.5
<b>Lost Brick &amp; Mortar Tax (at 45%)</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>	<b>\$98.3</b>
<b>Net Gaming Taxes</b>	<b>-\$7.8</b>	<b>\$37.4</b>	<b>\$82.7</b>	<b>\$127.9</b>	<b>\$173.1</b>	<b>\$218.4</b>	<b>\$263.6</b>	<b>\$308.9</b>

Source: The Innovation Group

## Licenses and Distribution

Probably the most contentious question in the bill-drafting process will be who should receive online gaming licenses.

The casinos we spoke with believe that licenses should be tethered to land-based casino licenses, and there was a divide between those who believe that each casino should get one “skin” – technically a sublicense, but in practice a brand associated with the license – and those who believe that two skins are more appropriate to create 12 online gaming options for consumers. We see 8-10 companies generating nearly all of the revenue in states with “open” markets (this is particularly evident in sports betting), so having this many allows for a combination of industry powerhouses and a (possibly) rotating array of smaller operators that may have niche product or niche audience, ensuring that emerging technology and approaches can be market tested.

Casinos argue that it is crucial that licenses go to land-based casinos for several reasons, including:

- Casino gaming is their core business and expertise – they deeply understand slot and table games product, consumers, and the general market;
- Extensive licensure process that key casino employees undergo – they are trusted operators and satisfy the strictest suitability requirements;
- Experience and mandatory training with AML and KYC issues;
- Substantial investment that casinos have made in the communities, both in terms of jobs and physical development;
- Host communities are reliant on revenue from revenue share agreements, and the casinos need to be able to fulfill those commitments; and
- Planning for major capital decisions and reinvestment in infrastructure is difficult if operators cannot predict what the gaming landscape will look like over the next 5-10 years.

Note that all states thus far have tethered licenses to casinos, so this approach is the only real precedent.

In our interviews, we also spoke with a bingo hall that believed that the bingos should receive licenses. Their arguments primarily were that (1) casinos had nearly decimated visitation to bingo halls, and (2) online sports betting substantially cannibalized retail sports betting, so they are expecting substantial cannibalization of electronic bingo if online slots come available. They pointed out their large minority workforce and cited the state’s significant Diversity, Equity and Inclusion (DEI) efforts.

## **Demographics and Player Profile**

From the interviewees we spoke with, we understand that online gaming personas tend to look very much like the casino database, with a slightly younger skew attributed to their willingness to adopt technology. Some anecdotes we were told include: “we see more participation by 30-to-50-year old women than we do in the casino” and “our online database used to skew younger and more male than casino, since we were migrating them from sports, and our lookalike models for customer acquisition programs made this a self-fulfilling prophecy. But more recently, as we’ve evolved, our online casino database looks more like a traditional land-based database, particularly in the male-female mix, even if we skew a little younger.”

We also understand that companies that dominate the sports betting space will have easier access to the younger male population and therefore their gaming database will have more contribution from table games than an online casino that launches under a casino brand and is more slot

dominant. Incidentally, this suggests that a split tax rate between online tables and online slots may disproportionately benefit the strongest sports betting operators if table games tax is lower and may disproportionately harm the strongest sports betting operators if the slot tax is lower.

Attracting a younger set of consumers is a large benefit of iGaming. For decades, the gaming industry has struggled to attract young people, and casinos have seen aging databases. Online casino and sports betting have brought about a resurgence of interest in gambling, and particularly with sports, have brought gambling into the media and popular culture.

## **Responsible Gaming and Public Health**

Nearly all interviewees expressed a need for robust responsible gaming measures. Two interviewees expressed concern at the rise in gaming “helpline” calls in Pennsylvania and New Jersey and suggesting new studies coming out of those states show significantly higher incidences of problem gambling than nationwide averages that have remained stable for decades. These higher incidences, if accurate, certainly make sense, since there are many decision points and hurdles between going from a place of residence to a physical casino. There is considerably less friction to open up an online casino on a mobile phone or tablet. Additionally, concerns were raised about the access from underage persons, since player ID verification is typically only done at account setup.

Others noted that there are many organizations dedicated to responsible gaming and that the industry at large recognizes the possibility for harm and provides substantial support to these programs, financially and otherwise. They also note that Maryland already has a strong responsible gaming program that will be expanded with the introduction of online gaming in the state.

## **Capturing the Illegal Market**

Discussion of the illegal market is difficult since there is not good public data about the operators, their revenues, market participation, etc. However, we presented a 2022 estimate of illegal online gaming revenue in Maryland of nearly \$200 million. When asked about how best to capture the illegal market, most interviewees suggested a two-pronged approach: first, operators need to be taxed at a reasonable level to allow them the latitude for substantial marketing and technology/product improvement to compete with illegally-operating, untaxed, and unregulated operators that can reinvest heavily in players with marketing and bonusing programs. Second, there needs to be alignment between the state officials, including the Attorney General, that make a priority of bringing enforcement actions against illegally operating gambling sites. As one interviewee described, “it takes an aggressive and willing attorney general and a good partnership with the regulator.”

## ***Partnerships***

### **Casinos with Online Operators**

As iGaming emerges, casinos are faced with the decision of whether to partner with large brands like FanDuel or DraftKings, or create their own in-house solutions. Partnerships hold the promise

of leveraging the brand reach, advertising prowess, and buying power. This section briefly discusses the pros and cons of such collaborations, including brand reach and advertising, third-party operator benefits, customer experience, player marketing, and media partnerships/sponsorships. It is important to note that while these partnerships offer significant advantages, each also presents its own set of challenges.

### **Brand Reach and Advertising**

Partnering with national iGaming brands instantly grants access to a vast audience. FanDuel and DraftKings, for instance, have a significant online presence and extensive advertising budgets. This reach allows casinos to tap into a broader market and attract a more diverse player base. Indeed, several interviewees pointed out that their casinos had received visits from new land-based consumers that had been acquired first through digital channels.

### **Product Innovation**

Established iGaming brands leverage their suite of products across multiple markets. This allows them to amortize the cost of product innovation across a range of jurisdictions, meaning that they will be more efficient and tech-forward than an in-house brand in most cases.

### **Customer Experience**

National brands often bring with them cutting-edge technology and a user-friendly interface. This can enhance the overall customer experience, making it more attractive for players and increasing retention rates.

### **Player Marketing**

National iGaming brands are often more adept at data analytics and player profiling. This can lead to more targeted marketing efforts, resulting in increased player engagement and loyalty.

### **Media Partnerships/Sponsorships**

Collaboration with major brands can open doors to lucrative media partnerships and sponsorships. This exposure can boost brand recognition and attract new customers. In sports betting, this effect is most apparent in negotiations with sports teams in sponsorship deals.

### **Leveraging National Footprint for Buying Power and Brand Reach**

Often large iGaming companies have preferred (lower) pricing for content, data, advertising, etc. Some of these cost savings can be passed directly on to the casino partners.

### **Economic Leakage**

A significant drawback of these partnerships is that not all economic benefits stay within the casino or the state. A substantial portion of revenue generated through iGaming is likely to be channeled to the national brand's headquarters or shareholders, reducing the overall economic impact on the local community.

### **Reduced Control**

Partnering with national brands means ceding some control over the iGaming operation. This can limit the casino's ability to take quick action, such as cross-marketing some on-property promotions.

## **Dependency**

Reliance on a national brand may be risky. If the brand's reputation suffers or it faces regulatory challenges, the casino could be adversely affected by extension.

## **Multijurisdictional Agreements**

The Multi-State Internet Gaming Agreement (MSIGA) is the primary multijurisdictional agreement of relevance to a legal iGaming market in Maryland.

The MSIGA was established to allow states in the U.S. to pool their online poker players. This is to ensure that there are enough poker players online at any given time, which helps in sustaining the games and making them more attractive for players. The initial states to sign onto the MSIGA were Delaware and Nevada, joined later by New Jersey and Michigan.

Apart from poker, the MSIGA allows for other iGaming formats to be added to the agreement and offered by Licensees in member states where such iGaming formats are permitted. For example, the agreement permits Licensees to offer progressive slot jackpots that accumulate in size based on play from multiple states (i.e., 'wide-area progressives'). Even though Michigan and Nevada's participation in the MSIGA is limited to online poker by respective state laws, this does not preclude the other member states (e.g., New Jersey, Delaware) from offering other gaming types that share players from both states.

The MSIGA includes a board with representatives from each member state. This board is responsible for overseeing collaborative efforts, handling disputes between states, and ensuring that all member states comply with the agreement's rules. The member states have formed an Association, which has the authority to amend the agreement, add new member states, and ensure the overall integrity and success of multi-state online gaming.

Each state continues to regulate and oversee its operators. The MSIGA does not replace a state's individual regulations but rather provides a framework for states to share players while maintaining their regulatory autonomy. Operators must be licensed and regulated in each state they wish to offer games. This means a poker site can't serve New Jersey players unless they're licensed in New Jersey, even if they're licensed in Nevada or Delaware. Player protection, game integrity, and anti-fraud measures are crucial components of the agreement. States work together to ensure these standards are met across the board.

The MSIGA doesn't centralize taxation but rather leaves it to individual states. The agreement ensures that the rake (the portion of a poker pot taken by the operator) from a hand involving players from multiple states is allocated proportionally based on where the players are located. This ensures that states get their appropriate tax revenue.

The success of the MSIGA provides a blueprint for other states that might be considering online poker legalization. As more states see the benefits of shared liquidity and understand that it's possible without sacrificing regulatory oversight, the MSIGA could expand further.

# CONSUMER PROTECTIONS & RESPONSIBLE GAMING

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To address best practices for consumer protections and responsible gaming, the Maryland Center of Excellence on Problem Gambling (“COE”) contributed the following memorandum addressing two key areas:

- (1) The consumer protections available for users of legal iGaming, including the verification process for transactions and the ability to limit and monitor those transactions to ensure responsible gaming, and
- (2) The impact of iGaming on problem gambling and methods to encourage responsible gaming and combat the growth of problem gambling.

The Innovation Group commentary follows their memorandum.

## Feedback from Maryland Center of Excellence on Problem Gambling

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The consumer protections available for users of legal iGaming, including the verification process for transactions and the ability to limit and monitor those transactions to ensure responsible gaming.

To date, six states (CT, DE, MI, NJ, PA, WV) have legalized iGaming while Nevada has regulations specific only to online poker. Each of the seven states includes some or all of the following consumer protection recommendations.

### UNDERAGE GAMBLING

As with other forms of gambling in Maryland, the legal minimum age to play on an iGaming site, whether free or paid, should be 21. Sites have an affirmative obligation to put in place technical and operational measures to prevent access by those who are underage. The age verification process should be required as a part of registration and prior to deposit of any funds. Such measures include requiring the site to use a reputable independent third party that is commonly in the business of verifying an individual’s personal identity information. When underage players are identified, their play should be immediately stopped and their accounts closed. The site policy should clearly describe any other consequences including how any winnings or funds in the account are handled.

### POLICY

Corporate policy makes a clear commitment to responsible gambling and identifies expectations for corporate leadership ensuring that the prevention of gambling-related harm is included in all

strategic decisions. Example: Connecticut<sup>14</sup> regulations state “Patron protection information shall be readily accessible to the patron. The patron protection information shall contain at a minimum: (1) Information about potential risks associated with excessive participation in gaming, and where to get help related to responsible gaming education and compulsive gaming support; (2) Self-imposed limitations invoked by the patron; (3) A list of the available patron protection measures that can be invoked by the patron, such as self-imposed limits and self-exclusion, and information on how to invoke those measures; and (4) Mechanisms available to the patron to detect unauthorized use of the patron’s account, such as reviewing credit card statements against known deposits and for unknown charges.”

The operator has a responsible gambling strategy with defined goals and a clear plan of action that is evaluated annually for progress and a report made publicly available. Example: Nevada<sup>15</sup> law requires operators to establish, maintain, implement, and comply with...minimum safety standards that incorporate “robust and redundant identification methods and measures in order to manage and mitigate the risks of non face-to-face transactions inherent in interactive gaming.”

A portion of the organization’s internet gambling revenue should be dedicated to reducing the social costs of gambling addiction. Example: New Jersey<sup>16</sup> law requires a casino licensee with an internet gaming permit to pay \$250,000 each year to be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services, \$140,000 of which shall be allocated to the Council on Compulsive Gambling of New Jersey and \$110,000 of which shall be used for compulsive gambling treatment programs in the State.

#### STAFF TRAINING

Name a person to be responsible for implementation of responsible gambling policies and regularly remind staff about the organization’s responsible gambling policies and general updates on industry best practices. Example: West Virginia<sup>17</sup> requires operators to employ an Interactive Gaming Manager responsible for the operation and integrity of interactive gaming and for the review of all reports of suspicious activity.

All staff should be trained every year on responsible gambling, including but not limited to, definitions of key terms, myths and facts and where to get help, with content updated as necessary. Customer-facing staff should have enhanced annual training in player protection and responsible gambling interventions. These staff members are taught skills and procedures specific to their

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<sup>14</sup> Regulation of the Department of Consumer Protection Concerning Online Casino Gaming, Retail and Online Sports Wagering, Fantasy Contests, Keno and Online Sales of Lottery Tickets. February 1, 2022. <https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7bD0C8B67E-0000-CD11-9A92-ED3A4245349E%7d>

<sup>15</sup> REGULATION 5A. OPERATION OF INTERACTIVE GAMING. <https://gaming.nv.gov/modules/showdocument.aspx?documentid=15427>

<sup>16</sup> ARTICLE 6C. INTERNET GAMING. [https://www.nj.gov/casinos/law/act/docs\\_article06c/cca-article06C.pdf](https://www.nj.gov/casinos/law/act/docs_article06c/cca-article06C.pdf)

<sup>17</sup> West Virginia Interactive Wagering Rule. April 6, 2021. <https://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=54046&Format=PDF>

position to respond to situations where a player is in distress. Staff knowledge of responsible gambling should be tested as part of the training. Training should be developed or evaluated by an unaffiliated third party with experience in gambling addiction and responsible gambling. Example: West Virginia<sup>18</sup> requires a training that includes: how to recognize the nature and symptoms of problem gambling behavior; How to assist players in obtaining information about help for a gambling problem; How to provide information about individual interactive gaming operator self-exclusion and Lottery statewide self-exclusion programs; How to respond to patrons who may disclose that they have a gambling problem; and How to respond to reports from third parties, such as family members, about patrons who may have a gambling problem.

#### SUPPORTING INFORMED DECISION MAKING BY PLAYERS

Players should be provided with highly visible and readily accessible tools and information to help them make more informed decisions about their gambling. The information should be presented in a way that can be clearly understood by a player with a sixth-grade reading level. The responsible gambling information should include, but is not limited to, player-focused information on practical tips on how to keep gambling within safe limits:

1. Common myths associated with the applicable games
2. How the site's individual games work, including randomness, house edge, odds of winning and payout ratios, where applicable
3. Preventing access to a player's accounts by underage, unregistered, unauthorized or excluded players
4. How to use the site's responsible gambling tools and features
5. Risks associated with gambling
6. Signs of a potential gambling problem for themselves or their loved ones
7. How to access personal data on responsible gambling
8. Direct links to at least one organization dedicated to helping people with potential gambling problems. Regular testing for functionality occurs for all links to help services.

Make readily accessible to players their gambling history including amounts wagered, won, and lost; time and money spent; games played; net wins/losses as well as session information. Players have access to their account details including all deposits, withdrawals, movement of funds between products, bonus information, restrictions such as exclusion events and limits, and net outcomes including total won or lost over a defined period. This information should be readily available across all platforms (including web, desktop, app). Provide live updates during play about time and money spent and account balances in cash, not credits. Example: Connecticut<sup>19</sup> law

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<sup>18</sup> Ibid.

<sup>19</sup> Regulation of the Department of Consumer Protection Concerning Online Casino Gaming, Retail and Online Sports Wagering, Fantasy Contests, Keno and Online Sales of Lottery Tickets. February 1, 2022. <https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7bD0C8B67E-0000-CD11-9A92-ED3A4245349E%7d>

states, “Electronic wagering platforms shall provide an account statement with account details to a patron immediately on demand, which shall include detailed account activity for at least the 12 months preceding the request unless the patron requests a shorter period. In addition, an electronic wagering platform shall, upon request, be capable of providing a summary statement of all patron activity since the internet gaming account was established. Information to be provided on the summary statement shall include, at a minimum, the following: (1) Deposits to the internet gaming account; (2) Withdrawals from the internet gaming account; (3) Win or loss statistics, including monetary amount won or lost; (4) Beginning and ending account balances; and (5) Self-imposed responsible gaming limit history, if applicable.”

Allow players to set a variety of limits and encourage/incentivize the player to do so. These limits must be clearly signposted when a player joins the site. Example: New Jersey<sup>20</sup> requires that a patron be allowed to establish: a deposit limit offered on a daily, weekly, and monthly basis that specifies the maximum amount of money a patron may deposit into their internet gaming account during a particular period of time; a spend limit shall be offered on a daily, weekly, and monthly basis that specifies the maximum amount of patron deposits that may be put at risk during a particular period of time; and a time-based limit offered on a daily basis that specifies the maximum amount of time, measured hourly from the patron’s log in to log off, that a patron may spend playing on an internet gaming system, provided, however, that if the time-based limit is reached a patron will be permitted to complete any round of play, or active or prepaid tournament.

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<sup>20</sup> N.J.A.C. 13:69O-1.4.

## ASSISTING PLAYERS

Every state includes policies for assessing and handling situations where players indicate they are in distress or experiencing problems. Such policies may monitor player activity for signs or triggers of problem gambling and include a procedure to address third party (e.g., spouse, relative) concerns about player's gambling behavior. Example: Pennsylvania<sup>21</sup> law states "an interactive gaming certificate or interactive gaming operator applicant shall submit a compulsive and problem gambling plan for review at the time of submission of the application". This plan must include "procedures to identify registered players and employees with suspected or known compulsive and problem gambling behavior."

## SELF-EXCLUSION

Called voluntary exclusion in Maryland, self-exclusion is a player-initiated restriction on the player's ability to play on the site. The self-exclusion functionality should be no more than three clicks from any game. The ban length is variable, and players have options to select the length; however, all bans, no matter what length, should be irrevocable until the expiration of the exclusion term. Players who exclude also receive information about available help and prevention services. Every state with legalized iGaming has a self-exclusion law but the recommendation would be to include iGaming into Maryland's existing Voluntary Exclusion Program.

## ADVERTISING AND PROMOTION

The operator should have a clearly articulated commitment to advertising that does not mislead or target people with gambling problems or vulnerable populations such as minors. Advertising and promotions are not on any online pages that are geared towards responsible gambling. Advertising is not misleading about outcomes of gambling and does not misrepresent the odds of winning/losing. Example: Delaware<sup>22</sup> requires it's regulatory agency to review advertising materials to confirm they would not result in an appearance which reflects adversely on the agency, would not reasonably be expected to offend a substantial number of people, does not contain inaccurate or misleading information, or is otherwise inappropriate.

## GAME AND SITE FEATURES

Games should always display bets, wins, losses, and account balances as cash, not credits or points. No states with legal iGaming have this requirement but all states require these statistics to be made available upon request and some states also require the statistics to be sent to players on a regular basis.

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<sup>21</sup> Pennsylvania Code Title 58 Chapter 814a. Compulsive and Problem Gambling Requirements.  
<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/058/chapter814a/chap814atoc.html&d=reduce>

<sup>22</sup> Internet Lottery Rules and Regulations. Delaware State Lottery Office.  
<https://www.delottery.com/More/iGaming#14>

The site should not allow players to play games automatically using an auto play feature. Example: New Jersey<sup>23</sup> law states that “game play shall be initiated only after a patron has affirmatively placed a wager and activated play.”

Players should not be allowed to have multiple accounts on the same site and should be signed in before free or demonstration games become available to play. Example: Pennsylvania<sup>24</sup> law states, “a player shall have only one interactive gaming account for each interactive gaming certificate holder or interactive gaming operator. Each interactive gaming account must be nontransferable, unique to the player who establishes the account, and distinct from any other account number that the player may have established with the interactive gaming certificate holder or interactive gaming operator for noninteractive gaming activity.”

Players must not be encouraged to play with winnings rather than withdraw them. Communications with players do not intentionally encourage players to: (a) increase the amount they play with, (b) gamble continuously, (c) re-gamble winnings, and/or (d) chase losses. Example: Connecticut<sup>25</sup> law states that “an electronic wagering platform shall not induce a patron to continue placing wagers when play is in session, when the patron attempts to end a session, or when the patron wins or loses a bet. If a patron has initiated a withdrawal request, the gaming entity licensee may not offer anything of value to reverse the withdrawal request.” Also, “an electronic wagering platform shall not induce a patron to continue placing wagers when play is in session, when the patron attempts to end a session, or when the patron wins or loses a bet.”

## PAYMENTS

Players should be able to set limits on their gambling-related financial transactions, including amount and frequency of deposits. Example: West Virginia<sup>26</sup> allows player to set limits including deposit and spending limits on a daily, weekly, and monthly basis.

Data on payments made by all players should be publicly available through the regulatory agency to qualified researchers and to individual players seeking their own account information. Example: New Jersey’s<sup>27</sup> Division of Gaming Enforcement distributes an annual report on the impact of internet gaming on problem gamblers and gambling addiction in New Jersey.

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<sup>23</sup> N.J.A.C. 13:69O-1.5

<sup>24</sup> Pennsylvania Code Title 58 Chapter 812a. Interactive Gaming Player Accounts.

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/058/chapter812a/chap812atoc.html&d=reduce>

<sup>25</sup> Regulation of the Department of Consumer Protection Concerning Online Casino Gaming, Retail and Online Sports Wagering, Fantasy Contests, Keno and Online Sales of Lottery Tickets. February 1, 2022.

<https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7bD0C8B67E-0000-CD11-9A92-ED3A4245349E%7d>

<sup>26</sup> West Virginia Interactive Wagering Rule. April 6, 2021.

<https://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=54046&Format=PDF>

<sup>27</sup> ARTICLE 6C. INTERNET GAMING. [https://www.nj.gov/casinos/law/act/docs\\_article06c/cca-article06C.pdf](https://www.nj.gov/casinos/law/act/docs_article06c/cca-article06C.pdf)

## The impact of iGaming on problem gambling and methods to encourage responsible gaming and combat the growth of problem gambling.

The impact of iGaming on problem gambling is the same as any form of internet gambling, "the integration of online gambling in the home can more easily turn gambling behavior into a component of a consumer's everyday life, like watching television," said Kathryn LaTour<sup>28</sup>, associate professor at UNLV's William F. Harrah College of Hotel Administration. "When online gambling becomes a routine daily behavior, it is easier for consumers to engage in mindless consumption of that activity, ultimately resulting in addiction and resultant financial losses."

Internet gambling also has some unique features that may pose additional risks for harm, particularly for vulnerable populations, including<sup>29</sup>:

- Constant availability
- Easy access
- Ability to bet for uninterrupted periods in private
- Interactive and immersive environment
- The use of digital forms of money like credit cards and e-wallets making it easier to overspend
- Online problem gamblers are significantly less likely to seek formal help as compared to land-based problem gamblers

In a recent study<sup>30</sup>, a team of researchers in Norway tracked and compared gambling behavior over a six-year period from 2013-2019 between online and offline gambling. The team found an increase in online gambling with the largest increase by those gambling on a cell phone. This is consistent with other studies and with anecdotes from helplines across the country.

In truth, studies like these are still few in number but as research increases, there are common themes to be found throughout. The vast majority of studies to date show that online gamblers report more gambling problems than offline (physically entering a casino). The convenience factor of online gambling cannot be overlooked as a reliable predictor of problem gambling. Strong regulations as listed above can help to both encourage responsible gambling and combat the growth of problem gambling.

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<sup>28</sup> New Study Shows Online Gambling More Addictive than Casino Gambling. UNLV Media Relations. July 16 2008. <https://www.unlv.edu/news/release/new-study-shows-online-gambling-more-addictive-casino-gambling>

<sup>29</sup> Gainsbury S. M. (2015). Online Gambling Addiction: the Relationship Between Internet Gambling and Disordered Gambling. *Current addiction reports*, 2(2), 185–193. <https://doi.org/10.1007/s40429-015-0057-8>

<sup>30</sup> Pallesen, S., Mentzoni, R. A., Morken, A. M., Engebø, J., Kaur, P., & Erevik, E. K. (2021). Changes Over Time and Predictors of Online Gambling in Three Norwegian Population Studies 2013-2019. *Frontiers in psychiatry*, 12, 597615. <https://doi.org/10.3389/fpsy.2021.597615>

## The Innovation Group Feedback

The Innovation Group has reviewed this memorandum and commends the COE on providing a thorough review of the areas laid out. Our comments below serve simply to clarify points discussed in the COE memorandum as well as offer context and our perspective from our experience and stakeholder interviews.

- (1) Responsible Gaming:** Throughout the past two decades, publicly-funded problem gambling services have received increasing support in the United States. The total number of states that reported publicly-funded problem gambling services increased from 37 in 2010 to 41 in 2021, and the total amount of public funding allocated to problem gambling services increased from \$60.6 million in 2013 to over \$93 million in 2021. Among the states that provided funding, the most commonly supported services were problem gambling awareness programs, counselor training, helplines, and problem gambling treatment. Despite the continued growth of problem gambling efforts throughout the United States, in 2016, only about one quarter of one percent of people who needed problem gambling treatment received publicly-funded care from a gambling treatment specialist.

Responsible gambling/gaming programs take several forms in an effort to combat and prevent gambling-related harms. Instances of problem gambling manifest in two categories of harm: (1) personal harm, including effects on health, well-being, and relationships, and/or (2) economic harm. Research on responsible gaming falls short of the levels of scientific analysis necessary to develop responsible gaming “best practices.” While various publications have attempted to synthesize existing research on common responsible gaming and harm minimization practices, the broader field of research often lacks peer-reviewed scientific analyses.

In their current form, the most common responsible gaming practices reflected in the field of research are self-exclusion programs, gambling help lines, tracking behavioral characteristics, setting gambling limits, providing responsible gaming-oriented game features, and employee training. Arguably, in the online gaming space, there is considerably more opportunity for early intervention into problem gaming, rather than solely treatment after the fact. Since all play can be tracked, and since rule-based and AI tools are being improved upon continuously, the iGaming space offers a digital landscape that allows for real-time analysis of player behavior and instant communication with players.

As a condition of licensing, commercial casino states may mandate that casinos prepare and submit for approval a wide-ranging plan for addressing responsible gaming issues. Required elements of the plan often include employee training and public awareness efforts along with other policies that various states have addressed specifically through standalone statutes, or regulations, that address only a single subject. The required elements of these plans vary by state.

In Maryland, for example, a responsible gambling program must consist of mechanisms that both mitigate the effects of problem gambling in the State and maximize the access of individuals with a gambling problem to problem gambling resources.<sup>31</sup>

Massachusetts makes the issuance of gaming licenses contingent upon the submission of a plan to “address lottery mitigation, compulsive gambling problems, workforce development and community development [,] and host and surrounding community impact and mitigation issues.”<sup>32</sup> The State intends for these requirements to advance its objective of providing a gaming environment that is safe and productive for all stakeholders. In furtherance of this objective, Massachusetts prompts gaming licensees to develop plans that train employees to identify patrons exhibiting problems with gambling, and prevention programs for vulnerable populations.<sup>33</sup>

Other states, such as Ohio, connect their responsible gaming plans to other mitigation mechanisms, such as voluntary exclusion programs, to better protect vulnerable groups.<sup>34</sup> Overall, the development of responsible gaming plans serves to establish concrete frameworks to better promote safe gaming.

We reviewed the National Association of Administrators for Disordered Gambling Services’ *2021 Survey of Publicly Funded Problem Gambling Services in the United States*<sup>35</sup>. In this, we found that Maryland already ranks 9<sup>th</sup> in the nation<sup>36</sup> for publicly funded problem gambling services, with a per capita (21+) spend of \$0.91 and \$4.1 million in total spend, versus a nationwide (population-weighted) average of \$0.44 per adult 21+. However, the nation-wide average rises to \$0.70 (population-weighted) or \$0.94 (unweighted) when considering only the states that have authorized online casino.

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<sup>31</sup> Maryland responsible gaming plan statute. COMAR 36.01.03.07(B).

<sup>32</sup> Massachusetts responsible gaming statute. M.G.L. Ch. 23K, § 15(6).

<sup>33</sup> M.G.L., Ch. 23K, § 18(6)

<sup>34</sup> *See e.g.*, Ohio Regulation 3772-12-06.

<sup>35</sup> [https://naadgs.org/wp-content/uploads/2022/06/NAADGS\\_2021\\_Survey\\_of\\_Publicly\\_Funded\\_Problem\\_Gambling\\_Services\\_in\\_the\\_United\\_States\\_v2.pdf](https://naadgs.org/wp-content/uploads/2022/06/NAADGS_2021_Survey_of_Publicly_Funded_Problem_Gambling_Services_in_the_United_States_v2.pdf)

<sup>36</sup> Our figures differ slightly from those provided in the report, since our calculations use 21+ population as the basis for per capita calculations.

**Table 29: Problem Gambling Services Budgets – iGaming States**

<b>State</b>	<b>Total Annual Funding</b>	<b>Per Capita Funding (21+)</b>
Pennsylvania	\$ 6,369,000	\$ 0.65
Michigan	\$ 5,515,300	\$ 0.73
New Jersey	\$ 3,150,000	\$ 0.47
Connecticut	\$ 2,609,799	\$ 0.96
West Virginia	\$ 1,453,840	\$ 1.00
Delaware	\$ 1,389,842	\$ 1.84
<b>iGaming State Average (pop-weighted)</b>		<b>\$ 0.70</b>
<b>iGaming State Average (unweighted)</b>		<b>\$ 0.94</b>
<b>Maryland</b>	<b>\$ 4,132,375</b>	<b>\$ 0.91</b>

In context, the Maryland problem gambling services budget looks comparable to iGaming states. However, Maryland problem gaming services funding is tied to the number of VLTs and table games in the state, and recent post-COVID gaming position reductions have resulted in a reduction of funding for problem gambling services of about \$1 million. Moreover, recent reports from New Jersey (see, for example, Nower, et. al. *The Prevalence of Online and Land-Based Gambling in New Jersey*) suggest recent increases in self-reported problem gambling. We do not know whether this is due to the prevalence of sports wagering, COVID-led increases in online gaming, better publicity of problem gambling resources, or other causes. Regardless, Maryland may consider a gaming expansion as an opportunity to bolster the increasingly needed services. Massachusetts, with 5.3 million adults, for example, has the nation’s largest problem gambling services budget at \$10.2 million and has a strong problem gambling research program.

- (2) **Self-Exclusion:** Voluntary self-exclusion programs, typically operated by casinos and online gambling sites or gaming regulators, give individuals the ability to exclude themselves from gambling activities. Many states require that patrons have the ability to authorize a casino to refuse their right to gamble and to expel them if they are found gambling or, in some cases, otherwise found on the premises. Program management models vary. In some cases, they are run by the state or a state-appointed group, in others they are managed directly by licensees. State statutes vary in the length of the self-exclusion periods available – typically ranging from a six month ban to lifetime restriction – and in the procedures for reversing self-exclusion. In some states, third parties can even voluntarily exclude patrons exhibiting problem gambling behavior. Many state laws specify that, in addition to banning play, the casino must also eliminate direct promotional outreach to these individuals as well as exclude them from complimentary offerings (“comps”) or access to credit. Such programs illustrate efforts to mitigate the potential social harms of expanded gaming in a state, including mental health issues, relationship

concerns, and financial and work problems resulting from problem gambling.<sup>37</sup> As one of the most investigated responsible gaming strategies, self-exclusion programs benefit from a robust body of research conducted around the world.

Generally, the research on the effectiveness of self-exclusion programs concludes that this method is a safe and, for some gamblers, effective form of intervention against problem gambling. As one study suggests, self-exclusion may have similar outcomes to counseling and may reduce harm in the short-term. Additional research has indicated that self-excluded persons who also engage in treatment, self-help groups, or other forms of support experience more positive outcome than those who do not. This research suggests that self-exclusion programs that serve as a gateway to treatment are most successful for individuals harmed by problem gambling. Research has also indicated that problem gamblers appear to be more receptive to self-exclusion mitigation strategies when compared to self-led efforts to seek professional help.<sup>38</sup> Ultimately, self-exclusion has transitioned from a “punitive” enforcement model to one that aims to provide individual assistance in order to connect vulnerable persons with counseling and other support services.

Challenges interfere with the effectiveness of self-exclusion. For example, the number of gambling facilities within a jurisdiction may make the enforcement of self-exclusion impractical; if alternative facilities can be easily accessed, the effectiveness of self-exclusion may be compromised. This is especially true in online gaming settings. We certainly believe that it is a best practice to provide a self-exclusion mechanism for players. Where possible, we believe that it is best practice to have the ability to self-exclude from all of the platforms at once, rather than having to go through a process for each online gaming platform. While in many tribal jurisdictions the existence of tribal sovereignty and disparate regulatory bodies can make the implementation of a centralized self-exclusion system a logistical challenge, with a centralized regulator this becomes much easier. Even in the heart of tribal country, Oklahoma has implemented a statewide self-exclusion program and serves as a model for other tribal jurisdictions seeking to implement similar programs.

Individual compliance poses another well-documented challenge to the effectiveness of self-exclusion programs. For example, one study determined that more than half of the participants for whom self-exclusion was still in effect had returned to a casino or breached their contracts by the six-month follow-up interview. Additionally, a study of self-excluded individuals in Missouri found similar breaches, indicating that the benefits of the program were attributable more to the act of enrollment than to enforcement. This research has led to the frequent conclusion that responsibility for self-exclusion lies with both the gaming industry and the self-excluding individual. In online settings with centralized self-

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<sup>37</sup> Nerilee Hing, Barry Tolchard, Elaine Nuske & Louise Holdsworth, *A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the Perspective of Excluders and Non-Excluders*, 12 INTERNATIONAL JOURNAL OF MENTAL HEALTH AND ADDICTION 509, 510 (2014), [10.1007/s11469-014-9482-5](https://doi.org/10.1007/s11469-014-9482-5).

<sup>38</sup> Hing, *supra* note 5, at 510.

exclusion, however, self-excluded players will not be able to access online casino products via their own accounts.

Maryland offers a voluntary exclusion program for land-based casinos that conforms to most of these best practices: two-year or lifetime bans, applies across all casinos, marketing to players on the list is restricted, names are not made public, and excluded players cannot cash checks or use credit cards in the casino. Some Maryland casinos extend the ban to their nationwide portfolio of properties. There is a similar sports betting voluntary exclusion list that restricts excluded players from land-based or mobile sports betting. Exclusion from sports betting is sufficient to exclude a player from casinos, as sports betting is conducted in the casino. However, casino exclusion may not extend to online sports wagering. New Jersey's self-exclusion program allows players to select exclusion from both physical and online casinos and sportsbooks or exclusion from online casinos and sportsbooks only.

- (3) Advertising and Promotions:** Across gaming jurisdictions worldwide, governments and gaming providers have recognized the importance of providing patrons sufficient information to make informed decisions about their gambling. While individuals retain the ultimate responsibility over their gambling choices and level of participation, optimal decision-making depends significantly on the availability of reliable and comprehensive information. This concept of the “informed decision” is pervasive in systems of law and economics and remains an essential component of effective problem gambling mitigation efforts.

Several environmental factors may influence gambling behavior simultaneously, making it difficult to determine the local impact of any one factor. Advertising to promote problem gambling awareness, for example, has attempted to influence gambling behavior and reduce gambling-related harm. Various studies have concluded that the impact of advertising is not likely to be overt, and it may be difficult to measure the impact of advertising efforts to promote problem gambling awareness.

States may require that casinos post signs and/or offer brochures identifying the risks of gambling, signs of gambling disorder, the odds of casino games and/or toll-free phone numbers and other resources for assistance. Common practices among the states include requirements that gambling facilities ensure their advertisements display problem gambling help-line phone numbers. Additionally, some states, like Maryland, require that radio, television, and video advertisements contain a gambling assistance message.<sup>39</sup>

Some states provide regulations that specifically address risk-related advertisements for internet and mobile gaming. Delaware, for example, mandates that internet lottery websites include advertisements for and links to information for treatment, education, and assistance

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<sup>39</sup> Maryland advertising requirements. COMAR 36.03.06.03(B)(5).

of compulsive gamblers and their families.<sup>40</sup> Similarly, West Virginia requires online sportsbooks and mobile gambling applications to display links to responsible gaming resources.<sup>41</sup>

Gaming jurisdictions have acknowledged that different messaging approaches may work better for different groups. One Canadian study prospectively detailed the most effective messaging approach for different styles of gaming. For casual gamblers (new and occasional gamblers), programs that enhance gambling literacy, including key safeguards and main risk factors, are essential. Frequent gamblers (i.e., those that gamble at least once per month, but not weekly) need a deeper understanding of how gambling works, including information on house edge, randomness, and independence of events. Finally, the study concluded that intensive gamblers (i.e., those who gamble weekly or more often) need to be informed of their play activity, offered self-assessment tools that draw attention to the consequences of their gaming habits, and made aware of the options available for help in addressing gambling-related problems.

The COE made a comment that “an electronic wagering platform shall not induce a patron to continue placing wagers when play is in session, when the patron attempts to end a session, or when the patron wins or loses a bet.” We caution about this type of restriction, as it may inadvertently prohibit operators from offering marketing that would occur in the normal course of casino operations. While we agree that offering promotions specifically to discourage withdrawal is inappropriate, we do not believe that all mid-session promotions/incentives are problematic. We would encourage a thorough review of Maryland’s language by the regulator, taking to heart operator feedback as well. Moreover, as with many decision points, we believe that it is a best practice to include such provisions in regulation, rather than in legislation, since it is easier to adjust regulations that have unintended outcomes (or become outdated or obsolete) than it is to re-legislate. “Future-proofing” the industry is a best practice.

**(4) Payments Data and the Public Domain:** Lastly, regarding the availability of payments data, we agree that consumers should have access to their own deposit and withdrawal transaction histories. Casinos already typically provide annual win/loss statements (aggregated gaming behavior) to players for tax purposes. We believe that it is the COE’s intent that the “data on payments made by all players” that it suggests “should be publicly available through the regulatory agency to qualified researchers...” be aggregated and/or anonymized before being released to the public or to researchers. We believe providing anonymized data is appropriate. Gaming and payments data are particularly sensitive, so releasing player-level data for study should be done with the utmost care. Anonymized player-level data, however, can help researchers shed light on behaviors related to, among other things, problem gambling. Today, for example, researchers are utilizing anonymized

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<sup>40</sup> Delaware advertising requirements. 29 Del. C. § 4826.

<sup>41</sup> West Virginia advertising requirements. WV CSR § 179-9-13.4.

payments data freely contributed by payment processing firms to explore uses of AI in characterizing gambling behavior<sup>42</sup>.

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<sup>42</sup> Ghaharian, K., Abarbanel, B., Kraus, S. W., Singh, A., & Bernhard, B. (2023). Players gonna pay: Characterizing gamblers and gambling-related harm with payments transaction data. *Computers in Human Behavior*, 143, 107717. <https://doi.org/10.1016/j.chb.2023.107717>