

Policy Paper on Amending the Return to Player Minimum Percentage

Malta Gaming Authority

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1 Introduction

1.1 Context

The scope of the Policy Paper (hereinafter 'Paper') is to evaluate the proposed change to Article 22 of the Player Protection Directive (Directive 2 of 2018) (hereinafter the 'Directive') in relation to the Return to Player (hereinafter 'RTP') percentage threshold. More specifically, the Malta Gaming Authority (hereinafter 'Authority') considered the removal of the discrepancy between the requirements applicable to land-based gaming premises operators and remote gaming operators and therefore, establish consistency between both sectors.

2 Cross-jurisdictional research analysis

The MGA recognises the importance of research and evidence-based decision making. In light of this, a cross-jurisdictional analysis was carried out on the applicability of the RTP percentages, which highlighted the different scenarios one may find throughout the European Union (hereinafter the 'EU') and outside of the EU. The research was conducted using various sources across ten (10) countries to provide the Authority with a larger landscape of RTP measures, if any, adopted within the relevant jurisdictions. Moreover, it allowed the Authority to conclude that most of the jurisdictions that were evaluated, do not establish a specific RTP percentage that is to be abided by operators in relation to online casino-type games. In Malta, the minimum RTP percentage for land-based gaming premises operators is set at an average of eighty-five per cent (85%) for gaming devices housing games using repetitive generated random selection for determining winning combinations to players, and a minimum average pay out of ninety-two per cent (92%) for Business-to-Consumer (hereinafter 'B2C') licensees offering games online which use repetitive generated random selection for determining the winning combinations to players.

The results of the research analysis are attached herewith and marked as 'Annex 1'.

3 Consultations

The MGA recognises that responsible decision-making involves obtaining and considering the views of those parties whose interests are likely to be affected by a significant regulatory decision. In May 2021, a closed consultation was carried out on the viability of the lowering of the RTP percentage to 85%. The consultation involved a number of industry stakeholders, namely, consultants, B2C operators and Business-to-Business (hereinafter 'B2B') operators.

B2B operators were included in the consultation in light of the fact that although the law obliges B2C licensees to set minimum RTP percentages, any change to such RTP percentages inevitably impacts B2B operators. This is due to the B2C licensees' product offering (unless it is developed in-house) being based on the technical systems developed by B2B operators. Therefore, the implementation of the new RTP percentage (from a technical point of view) is very dependent on and relevant to, B2B operators.

All respondents welcomed the MGA's proposal to lower the RTP to eighty-five per cent (85%) stating that different rates would be applied to various games and jurisdictions to ensure optimal playing experience for customers and allow the operator to run business in a profitable way. Furthermore, it was commented that only specific products might require the RTP as low as eighty-five per cent (85%), however in most cases, the RTP will remain higher than the proposed threshold as the market conditions will drive the industry to maintain an appropriate RTP standard. The proposed change to the minimum RTP threshold will provide flexibility to operators that would be free to apply various RTPs as desired based on, inter alia, market conditions and competition levels.

B2B operators highlighted that the process of introducing various RTPs might take several weeks and resources, therefore suggesting a streamlined process that would allow game providers to approve amended RTP in a fast and cost-effective manner.

The consultation process enabled the Authority to gain a better understanding of the views adopted by the consultation participants. The questions included in the consultation and a summary of the outcome of the consultation is attached herewith and marked as 'Annex 2'.

4 Reduce RTP percentage to eighty-five per cent

In view of the above-mentioned cross-jurisdictional analysis and the consultation held with different MGA-licensed operators, the policy measure consists of the streamlining of the RTP percentage applicable to both remote and land-based operators, in order for the RTP percentage to be set at eighty-five per cent (85%). As a result, Article 22 of the Directive would be amended as follows:

“A B2C licensee offering games online which use repetitively generated random selection for determining winning combinations to players, in accordance with the way in which the games offered thereby are designed, shall pay out on average a prize amounting to eighty-five per centum (85%) or more of the money or money’s worth wagered, or any such higher percentage as may be stipulated through a condition of the licence.”

In this manner, the discrepancy between the land-based and remote gaming sector in relation to minimum RTP requirements is removed.

5 Concluding remarks

As delineated throughout this Paper, the lowering of the existing RTP percentage has been identified as the most suitable policy measure as it creates a sense of consistency in relation to the requirements laid out for the land-based and remoting gaming sectors, removing the discrepancy that exists between both sectors.

The Authority acknowledges that all respondents noted that the games are likely to be offered at a RTP percentage higher than the minimum established at law. Whilst the law does not effectively preclude operators from maintaining a higher level of RTP, the amendment to Article 22 of the Directive creates a level playing field for all MGA-licensed operators which use repetitively generated random selection for determining winning combinations to players.

Annex 1 Cross-jurisdictional research analysis

	Online casino-type games	
	Slot RTP Provisions	Poker RTP Provisions
Malta: Online B2C Operators	Article 22 of the Player Protection Directive (Directive 2 of 2018) establishes that <i>“a B2C licensee offering games online which use repetitively generated random selection for determining winning combinations to players, in accordance with the way in which the games offered thereby are designed, shall pay out on average a prize amounting to 92 per cent or more of the money or money’s worth wagered, or any such higher percentage as may be stipulated through a condition of the licence.”</i>	RNG-based Poker: Article 22 of the Player Protection Directive, (Directive 2 of 2018) establishes that <i>“a B2C licensee offering games online which use repetitively generated random selection for determining winning combinations to players, in accordance with the way in which the games offered thereby are designed, shall pay out on average a prize amounting to 92 per cent or more of the money or money’s worth wagered, or any such higher percentage as may be stipulated through a condition of the licence.”</i>
Malta: Gaming Premises Operators	Article 21 of the Player Protection Directive (Directive 2 of 2018) establishes that <i>“gaming premises operators shall ensure that gaming devices housing games using repetitively generated random selection for determining winning combinations to players, in accordance with the way in which the games offered thereby are designed, pay out on average a prize amounting to 85 per cent or more of the money or money’s worth wagered, or any such higher percentage as may be stipulated through a condition of the licence.”</i>	RNG-based Poker: Article 21 of the Player Protection Directive (Directive 2 of 2018) establishes that <i>“gaming premises operators shall ensure that gaming devices housing games using repetitively generated random selection for determining winning combinations to players, in accordance with the way in which the games offered thereby are designed, pay out on average a prize amounting to 85 per cent or more of the money or money’s worth wagered, or any such higher percentage as may be stipulated through a condition of the licence.”</i>
Italy	<p>Section 2.6.5 of the technical standards provides the RTP percentages.</p> <p>For fixed-odd games, the total RTP (including the RTP of the second phase of the games) must be at least 90 per cent of the total net amount collected from the jackpot.</p> <p>Source: Gambling Compliance Italy Q&A</p>	<p>Tournament card games must be at least 80 per cent of the total net amount collected from the jackpot.</p> <p>Card games played between players, other than a tournament, the RTP must be at least 90 per cent of the total net amount collected from the jackpot.</p> <p>Card games played by single players, the RTP must be at least 90 per cent of the total net amount collected from the jackpot.</p> <p>Source: Gambling Compliance Italy Q&A</p>

Sweden	<p>There is <u>no RTP percentage under the Swedish Gambling Act</u>. Pursuant to Chapter 10 of the Gambling Authority’s Technical regulations and general advice on the accreditation of bodies to inspect, test and certify gambling operations, the minimum pay out percentage must be indicated to the player for games with progressive winnings. The gambling system must have a function to monitor the pay out percentage of each individual game while the data that is generated must be stored and kept available for audit.</p> <p><i>Source: Gambling Compliance Sweden Q&A</i></p>	<p>There is <u>no RTP percentage under the Swedish Gambling Act</u>. Pursuant to Chapter 10 of the Gambling Authority’s Technical regulations and general advice on the accreditation of bodies to inspect, test and certify gambling operations, the minimum pay out percentage must be indicated to the player for games with progressive winnings. The gambling system must have a function to monitor the pay out percentage of each individual game while the data that is generated must be stored and kept available for audit.</p> <p><i>Source: Gambling Compliance Sweden Q&A</i></p>
Spain	<p>The Spanish regulatory regime does not establish RTP percentages. These must be established by the operators and notified to the regulator accordingly.</p> <p><i>Source: Gambling Compliance Spain Q&A</i></p>	<p>The Spanish regulatory regime does not establish RTP percentages. These must be established by the operators and notified to the regulator accordingly.</p> <p><i>Source: Gambling Compliance Spain Q&A</i></p>
Denmark	<p>The Danish regulatory regime does not establish specific RTP percentages that are required from the operator.</p>	
United Kingdom	<p>The Remote Gambling and Software Technical Standards do not stipulate a specific RTP percentage.</p> <p><i>Source: Gambling Compliance United Kingdom Q&A</i></p>	<p>The Remote Gambling and Software Technical Standards do not stipulate a specific RTP percentage.</p> <p><i>Source: Gambling Compliance United Kingdom Q&A</i></p>
Belgium	<p>The Belgian regulatory regime does not establish specific RTP percentages that are required from the operator.</p>	<p>The Belgian regulatory regime does not establish specific RTP percentages that are required from the operator</p>
Netherlands	<p>The new draft of the Online Gambling Act 2019 does not envisage any RTP percentages.</p>	<p>The new draft of the Online Gambling Act 2019 does not envisage any RTP percentages.</p>
Ireland	<p>No licensing regime in place for online gaming machines.</p>	<p>No licensing regime in place for online card rooms.</p>
Gibraltar	<p>No reference to specific RTP percentages that must be implemented through Gibraltar’s relevant legislation.</p>	<p>No reference to specific RTP percentages that must be implemented through Gibraltar’s relevant legislation.</p>

	<i>Source:</i> https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling	
Isle of Man	<p>No reference made to a specific RTP percentage in the Isle of Man's Online Gambling Regulation Act, as well as the Online Gambling (Participant's Money) Regulations.</p> <p><i>Source:</i> https://www.gov.im/about-the-government/statutory-boards/gambling-supervision-commission/legislation/</p>	<p>No reference made to a RTP percentage in the Isle of Man's Online Gambling Regulation Act, as well as the Online Gambling (Participant's Money) Regulations.</p>

Annex 2 Consultation on the proposed changes to the RTP percentage in terms of Article 22 of the Player Protection Directive

1 Context

In terms of the Directive, licensees offering games online are required to pay out, on average, a prize amounting to ninety-two per cent (92%) or more of the money or money's worth wagered. On the other hand, land-based operators are required to pay out, on average, a prize amounting to eighty-five per cent (85%) or more of the money or money's worth wagered. During May 2021, the Authority carried out closed consultations in order to gather feedback on the proposed measure aimed to lower the minimum RTP percentage to eighty-five per cent (85%) for remote gaming operators and streamline the RTP requirements applicable to the aforementioned sectors.

2 Respondents

The MGA has received responses from gaming companies holding B2C and/or B2B licences as well as consultants to the gaming industry replying on behalf of various clients holding MGA's licence. There was significant support from respondents to the consultation proposal. This document provides a summary of the feedback received.

3 Summary of responses

Below are the consultation questions with a summary of the responses received.

Q1. In our experience, most operators have an RTP that is above the minimum percentage prescribed by the Directive. What would you envisage the minimum RTP to be and why?

Respondents welcome the MGA's proposal to support a level playing field by aligning the online RTP percentage with the land-based sector. Various RTPs were mentioned by operators; whilst some respondents envisaged the RTP to be as low as seventy-five per cent (75%), others suggested higher percentages (up to ninety-two per cent (92%)). These suggestions reflected the respective operations pertaining to the consultation participants, such as the targeted markets. The feedback received

outlines that some consultation participants that opt for a lower RTP percentage will employ other measures to remain profitable, such as the revision of the bonus strategies and lowering the cost of sales.

Several respondents stated that operators should have the ability to set their own RTP within prescribed ranges, in order to remain profitable in view of the various changes in national tax regimes and rising compliance costs. It has been acknowledged that the alignment with the land-based sector will give the online operators the option to decide on the optimal RTP based on the game type and the targeted customer segment, whilst keeping the games sufficiently attractive for players.

Whilst not proposed during the consultation, two respondents suggested self-regulation as an ideal solution for operators to choose their own RTP, albeit noting that factors such as entertainment, customer experience, competitive product offering, profitability and commercial viability, would mean that a RTP percentage that is, concurrently, sustainable for players and commercially competitive would still be maintained by the industry. One respondent clarified that removing the RTP requirement does not mean that operators will no longer strive to maintain adequate RTP levels to avoid risks relating to the well-being of customers, as the market conditions will force the industry to maintain an appropriate RTP standard. Another respondent pointed that other licensing jurisdictions have a lower RTP than that envisaged in the Maltese legal framework, with some not even requiring adherence to a minimum RTP requirement; according to this respondent, this might have an impact on the competitiveness of the Malta licence.

[Q2. If article 22 of the Directive is amended to reflect the change to 85%, in accordance with the MGA's proposal, would you lower the RTP?](#)

All respondents stated that they would lower the RTP levels if Article 22 of the Directive is amended as proposed. The minimum percentage that would be set up by the licensees mainly depends on the following factors:

- Jurisdiction where the game is offered – games with lower RTP will only be offered in specific markets.
- Game – the licensees would only lower the RTP for specific games in order to ensure good players' experience and have a competitive offering that goes with a sufficient level of RTP.

Respondents stated that only specific products might require the RTP as low as eighty-five per cent (85%), however in most cases, the RTP will remain higher than the proposed threshold. Respondents indicated various RTP brackets, ranging between eighty-five per cent (85%) to ninety-six per cent (96%) with the former being applied in jurisdictions with taxation requirements that necessitate lower RTP percentages and the latter applied to all other jurisdictions where the high RTP gives customers optimal playing experience and allows the operator to run business in a profitable way.

Furthermore, some respondents raised concerns that unreasonably low RTP might have an impact on the competitiveness of the licensed operators vis-à-vis black market operators who will not be paying any taxes and can operate similar games at much higher RTP levels in the same market.

The respondents stated that the industry is dependent on third-party game providers who would presumably lower the RTP to meet customer-facing operators' needs in view of the upcoming changes in other jurisdictions' tax regime.

Q3. Do you envisage the lowering of the minimum RTP to affect any of the below:

- a. The offering of your product
- b. Your operations
- c. Your competitive positions

Question 3 asked for respondents' views on the possible impact of lowering the minimum RTP on the licensees' products' offering, operations and competitive positions. Respondents tended to provide the answer for all three categories at once and, as such, responses were grouped and summarised below to reflect the overall feedback.

a. Product

The respondents do not envisage the offering of the product to change across all markets and game portfolio. Several respondents commented that the lower RTP does not affect the product and its functioning in any way if all the essential aspects of randomness and fairness are kept intact. One respondent noted that depending on the game, some game mechanics will be minimally impacted when running at a lower RTP whereas other games would not give a good player experience. Another

respondent commented that the lowering of the RTP may bring changes in player behaviour, which would be monitored carefully.

b. Operation

Respondents generally commented that the proposed change to the minimum RTP would positively impact their operations as it would allow companies to operate in jurisdictions where the current nine–two per cent (92%) RTP requirement is not commercially viable.

One respondent stated that offering multiple versions of the RTP in different markets would require new operational processes and some level of changes to the technology behind their product offering. In addition, suppliers would need to recertify their games on a new RTP level which takes time and is costly; therefore, this is expected to be done only for a handful of games. Another company clarified that the entire process of introducing various RTPs might take several weeks, largely depending on the company’s technical set–up and available resources. In view of this, one respondent suggested that a streamlined process is required whereby game providers are able to approve amended RTP in a fast and cost–effective manner. It was further suggested to have a list of games provided with the revised RTP without the need to resubmit a “New Game” notification to the Authority.

c. Competitive position

Operators agreed that the lowering of the RTP would have an impact on their competitive position. The customer–facing operators have expressed concerns that lower RTP might have a negative effect on the gaming experience and/or make operators less competitive if the wider market retains higher RTP. Therefore, the impact will have to be monitored and the extent of it is yet to be seen. One respondent stated that the proposed change will provide flexibility to operators that would be free to apply higher RTPs as desired based on, inter alia, market conditions and competition levels. Other respondents stated that the competitive position would be strengthened by not having significantly less games available than other competitors who do not need to abide by the minimum RTP levels.

From the suppliers’ perspective, being able to offer products at a lower RTP percentage will keep such companies in competition in jurisdictions where some local suppliers, or suppliers based elsewhere in

Europe, do not have to abide to any RTP minimum and can roll out the RTP levels dictated by regulatory costs.

