

# ARTICLES

## RESPONSIBLE GAMBLING: THE INTERDISCIPLINARY-BASED MODEL

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## INTRODUCTION

Playing for fun (that amounts to a positive play) is a practical expression of *homo ludens* as it symbolizes a crave for entertainment. Such a crave for entertainment lacks apposite foundation (a material one) to merit legal protection though. The rationale behind such absence of legal protection is tightly interlocked with the lack of economic interest.<sup>1</sup>

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This consideration can neither amount as a nugatory nor a bootless one. There is no such thing as a worldwide penchant for legalizing gambling.<sup>2,3,4</sup> One should not be befuddled by the axiom that Governments display an enhanced

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<sup>2</sup> Every time a government chooses not to do something (in this case: legalizing gambling) one should assume that is putting the *Choice Architecture Theory* to good use, which means that governments are (allegedly) steering citizens through more rational avenues in gaming law. This is called *Libertarian Paternalism*. See Anuj C. Desai, *Libertarian Paternalism, Externalities, and the “Spirit of Liberty”*: How Thaler and Sunstein are Nudging Us Toward an Overlapping Consensus, 36 LAW & SOC. INQUIRY 263, 263, 265 (2011); JOEL FEINBERG, HARM TO SELF: THE MORAL LIMITS OF THE CRIMINAL LAW 3–4 (1986); Miguel R. Aviles, *A Vueltas con el Paternalismo Juridico [Thinking about Legal Paternalism]*, 15 DERECHOS & LIBERTADES [RIGHTS & LIBERTIES] 211, 213 (2006); A.P. SIMESTER & ANDREAS VON HIRSCH, CRIMES, HARMS, AND WRONGS: ON THE PRINCIPLES OF CRIMINALIZATION 148 (2011); Christine Jolls, et al, *A Behavioral Approach to Law and Economics*, 50 STAN. L. REV. 1471, 1474–75, 1541 (1998). For more on the *Choice Architecture Theory*, see Cass R. Sunstein, *The Storrs Lectures: Behavioral Economics and Paternalism*, 122 YALE L. REV. 1826, 1834–36, 1879 (2013). The *Choice Architecture Theory* is tightly locked with the doctrine of debiasing through the law. See Christine Jolls & Cass R. Sunstein, *Debiasing through Law*, 35 J. LEGAL STUD. 199, 199 (2006) (noting that “human beings are often boundedly rational.” In the face of bounded rationality, the legal system might attempt either to “debias law”, by insulating legal outcomes from the effects of boundedly behaviour, or instead to “debias through law”).

<sup>3</sup> Governments must underpin their public choices on the *Three Bounds Theory* whose foundations have been laid by renowned Behavioral Economists. It is not difficult to understand why. People exhibit *bounded rationality*, *bounded self-interest*, and *bounded willpower*—meaning that people often make choices (such as gambling with utter disregard for the astounding house advantage in both table games and Electronic Gambling Machines, also known as *slot machines*) that are seldom aligned with their own best interests. This is called *Bounded Rationality*. Compulsive gambling is a both eloquent and worrisome example of the *Three Bounds Theory*. Christine Jolls, Assistant Professor of Law at Harvard Law School, wrote the following:

Economic analysis of law usually proceeds under the assumptions of neo-classical economics. But empirical evidence gives much reason to doubt these assumptions; people exhibit *bounded rationality*, *bounded self-interest*, and *bounded willpower*. [*Behavioral law and economics*] offers a broad vision of how law and economics analysis may be improved by increased attention to insights about actual human behavior. It considers specific topics in the economic analysis of law and proposes new models and approaches for addressing these topics. The analysis of the article is organized into three categories: positive, prescriptive, and normative. *Positive analysis of law concerns how agents behave in response to legal rules and how legal rules are shaped*. Prescriptive analysis concerns what rules should be adopted to advance specified ends. Normative analysis attempts to assess more broadly the ends of the legal system: *Should the system always respect people’s choices?* By drawing attention to cognitive and motivational problems of both citizens and government, behavioral law and economics offers answers distinct from those offered by the standard analysis.

Christine Jolls et al., *supra* note 2, 1476 (emphasis added).

<sup>4</sup> See generally Herbert A. Simon, *A Behavioral Model of Rational Choice*, 69 Q. J. ECON. 99 *passim* (1955) (advocating the model of rational choice for actors).

reluctance in legalizing<sup>5</sup> the gambling<sup>6</sup> leisure activity.<sup>7</sup> Just look at what is happening in Japan<sup>8</sup> and Brazil.<sup>9</sup>

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<sup>5</sup> In a certain way, whenever governments engage in this type of both defensive and prophylactic behavior (such as prohibiting gambling with a view to curtailing the vast array of criminal activities which sprout from that (seemingly) ludic activity they are (knowingly or not) using the well-known German doctrine of Functionalism. On Functionalism in the remit of criminal law, *see generally* Hans Achenbach et al., *Individuelle Zurechnung, Verantwortlichkeit, Schuld* [Individual Attribution, Responsibility, Guilt], in GRUNDFRAGEN DES MODERNEN STRAFRECHTSSYSTEMS [BASIC QUESTIONS OF THE MODERN CRIMINAL LAW] 135–139 (Bernd Schönemann ed., 1984); Manuel Cancio Melia & Bernardo Feijoo Sánchez, *Prevenir riesgos o confirmar normas? La teoría funcional de la pena de Günther Jakobs. Estudio Preliminar* [Prevent Risk or Confirm Rules: Günther Jakobs Functional Theory of Punishment; Preliminary Study], LA PENA ESTATAL: SIGNIFICADO Y FINALIDAD 15 (Civitas 2006).

<sup>6</sup> *See generally* JOHN R. SEARLE, THE CONSTRUCTION OF SOCIAL REALITY xi, 228 (1995) (Governments have the duty to make good choices aimed at both protecting the people and yielding social welfare on a given social community. Why? Because Governments have also the duty to build a social reality in which citizens [both compulsive gamblers and recreational gamblers] can both live and thrive).

<sup>7</sup> *See* JOHN STUART MILL, ON LIBERTY 139 (1859) (writing that (1) gambling was *immoral*, like prostitution, and its existence was undesirable; and (2) government had no business preventing people from gambling; it was unclear, however, whether government should not perhaps prohibit the establishment of gambling houses); *contra* JOEL FEINBERG, HARM TO OTHERS: THE MORAL LIMITS OF THE CRIMINAL LAW 23, 24 (1984) (asserting that the Rawlsian method of seeking an ideally well considered reflective equilibrium in a given society. He asserts that, moral argument is always *argumentum ad hominem*); Richard J. Arneson, *Joel Feinberg and the Justification of Hard Paternalism*, 11 LEGAL THEORY 259, 271 (2005).

<sup>8</sup> *See* Verin W. Valdez, *Ex Ante up: Combatting Problem Gambling and Its Harms in Japan Ahead of the Legalization of Casinos*, 7 UNLV GAMING L. J., 85, 87–88 (2017) (noting that the process of the sought-after legalization of gambling in Japan has not been neither smooth nor straightforward. But just bear in mind how long it is taking the whole gambling legalization process, which dates back to August 2011 and has not reached its conclusion until recently); *see also* Hitoshi Ishihara, *Legalization of Casinos in Japan: The Japan's Casino Implementation Bill*, 14 AM. GAMING L., 1, 26 (Autumn 2018) (“On July 20, 2018, the Act to Implement Specified Integrated Resort Areas (the ‘Casino Implementation Act’) passed the Japanese Diet which legalized gambling to be operated by private entities in Japan.”).

<sup>9</sup> *See* Neil Montgomery & Helena Calderano, *Brazil Continues to Scratch Its Head with LOTEX Flop*, 14 AM. GAMING L., 1, 24 (Autumn 2018), at 24 (“Brazil’s first attempt to privatize government-run lotteries has failed. ... It is always important to remember that Brazil is still the world’s largest Catholic country and that the morality that caused the ban to be instated nearly 80 years ago is still very much present...”); *see also* Natalia Brigagão Ferrer Alves Carvalho, *Catholic Social Thought, Politics and Human Dignity in the Brazilian Constitutional Assembly of 1987-1988*, 59 AM. J. LEGAL HIST. 111, 112–14 (2019) (discussing the importance of Catholic faith on Brazil’s social backbone).

The wide range of social costs<sup>10, 11</sup> (such as organized crime,<sup>12</sup> money laundering,<sup>13, 14</sup> protection of minors<sup>15</sup> [or the lack thereof] and problem gambling)<sup>16</sup>

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<sup>10</sup> Social costs are tightly interlocked with powerful social norms that proscribe harming others. In one of the most striking jewels of his piece of achievement, Adam Smith argues that the “indelible stain” of guilt is worse than pain. Thus, for one man to “unjustly...promote his own advantage by the loss or disadvantage of another, is more contrary to nature, than death, than poverty, than pain, than all misfortunes which can affect him[.]” This *moral sentiment*, reflected in powerful social norms that proscribe *harming others*, could lead some people to evaluate the *costs of others’ pain* as higher than own in a setting where they feel a degree of responsibility for that pain.” ADAM SMITH, *THE THEORY OF MORAL SENTIMENTS*, 5–6 (MetaLibri ed., 6th ed. 2006) (1790).

<sup>11</sup> Social costs derive from social norms. Social norms produce three effects: (1) expression, (2) deterrence, and (3) internalization. See Robert D. Cooter, *Three Effects of Social Norms on Law: Expression, Deterrence, and Internalization*, 79 OR. L. REV. 1, 3 (2000).

<sup>12</sup> Montgomery & Calderano, *supra* note 9, at 24 (“[T]he Brazilian population...fear[s] gambling addiction and mob-like crimes.”); The relationship between gambling and organized crime has shown to be reciprocal. In Macau case law this interplay is crystal-clear. See Decision of the Court of Last Instance of Macau, Processo n.º 40, 1, 1–2, 23, 25 (Dec. 15, 2006) M.C.F.A.R. (Mac.); see Decision of the Court of Last Instance of Macau, Processo n.º 18, 1, 1 (July 15, 2009) M.C.F.A.R. (Mac.); see Decision of the Court of Second Instance of Macau, Processo n.º 978, 1, 1, 5, 15–16 (Dec. 12, 2017) C.S.I. (Mac.).

<sup>13</sup> Not all the laws are to be obeyed though. Laws that enable gambling with little to no regard for its collateral and deleterious effects are to be discarded in the long run. In such cases “laws may be law but too evil to be obeyed. This is a *moral condemnation* which everyone can understand and it makes an immediate and obvious claim to moral attention. [T]hese evil things are not law.” H.L.A. Hart, *Positivism and the Separation of Law and Morals*, 71 HARV. L. REV. 593, 620 (1958); No wonder Japan and Brazil are currently debating the collateral damages arisen from the legalization of gambling; See Valdez, *supra* note 8, at 88 (discussing Japan); see Montgomery & Calderano, *supra* note 9, at 24–25 (discussing Brazil).

<sup>14</sup> Jorge Godinho, *The Prevention of Money Laundering in Macau Casinos*, 17 GAMING L. REV. ECON. 262, 263 (2013) (“The risk of money laundering through casinos has been pointed out by the Financial Action Task Force (FATF). As a result, legislation was created for this purpose, which mostly amounts to an expansion of regulatory patterns created initially for the banking sector and forms part of a broader regulatory apparatus”).

<sup>15</sup> See generally 2 JOEL FEINBERG, *HARM TO OTHERS: MORAL LIMITS OF THE CRIMINAL LAW* 1 (1984); see generally FEINBERG, *supra* note 2, at 23–24, 28, 29, 30, 33–35 (noting that the prevention of harm to the self can be a good reason for criminal law prohibition when the *harm to self*, as occur with the *under aged people*, would arise in a substantially nonvoluntary way).

<sup>16</sup> Valdez, *supra* note 8, at 88.

and moral concerns<sup>17</sup> tightly interlocked with gaming leisure industry premise<sup>18</sup> this widespread reluctance.<sup>19</sup>

The thrust towards the creation of a full-fledged responsible gaming model<sup>20, 21</sup> to grasp the holy-grail of harm-minimization<sup>22</sup> is arguably the aim that one

<sup>17</sup> NEIL MACCORMICK, H.L.A. HART 207 (2nd ed. 2008) (“Some legal systems incorporate some moral criteria.”); see generally also MILL, *supra* note 7,

<sup>18</sup> It is not a secret (let alone a well-kept one) that the decision to legalize gambling in a given jurisdiction is premised on a nuanced cost-benefit analysis. Cass R. Sunstein, *The Real World of Cost-Benefit Analysis: Thirty-Six Questions (and Almost as Many Answers)*, 114 COLUM L. REV. 167, 174–75 (2014) (explaining the importance of a cost-benefit analysis); see Rachel Bayefsky, *Dignity as a Value in Agency Cost-Benefit Analysis*, 123 YALE L.J. 1732, 1741–47 (2014); see Jeffrey N. Gordon, *The Empty Call for Benefit-Cost Analysis in Financial Regulation*, 43 J. LEGAL STUD. S351, S352–55 (2014); see Cass R. Sunstein, *The Limits of Quantification*, 102 CAL. L. REV. 1369, 1372–73 (2014); see Mathew Adler & Eric A. Posner, *New Foundations of Cost-Benefit Analysis*, 3 REG. & GOVERNANCE 72, 72–73 (2009); see generally Thomas J. Miles & Cass R. Sunstein, *The Real World of Arbitrariness Review*, 75 U. CHI. L. REV. 761, 770–71 (2008); see John C. Coates IV, *Cost-Benefit Analysis of Financial Regulation: Case Studies and Implications*, 124 YALE L.J. 882, 885–89 (2015); Eric A. Posner & E. Glen Weyl, *Cost-Benefit Analysis of Financial Regulations: A Response to Criticisms*, 124 YALE L.J. 246, 246–47 (2015); The Cost-Benefit Analysis Theory has been applied by the US superior courts. See *Herring v. United States*, 555 U.S. 135, 141–42, 146 (2009); see *United States v. Cozzi*, 613 F.3d 725, 728 (7th Cir. 2010); *United States v. Fofana*, 666 F.3d 985, 990–91, 994, 996–97 (6th Cir. 2012).

<sup>19</sup> Valdez, *supra* note 8, at 88 (“Opponent groups have fought against the legalization of gambling for years, claiming that it would produce organized crime, money laundering, and gambling addiction. The Draft Act certainly reflects these concerns...which vaguely states that the national government shall address certain matters like crime prevention, advertisement regulations, protection of minors, and adverse effects on visitors of casino facilities. The goal for these measures is to prevent improper acts at casino facilities within IRs, and to eliminate other adverse effects that may result therefrom.”) (internal citations omitted).

<sup>20</sup> This can also be achieved through the use of regulatory nudges in which governments steer parties/citizens through more rational avenues in the realm of gaming law. The use of entry levies (a fee a casino patron must pay to gain access to a casino)—in force in Singapore as opposed to Las Vegas—constitutes a fine example of a regulatory nudge in which the Singapore Government used a given tool (an entry levy) to curb not only incidence of problem gambling but also to substantially reduce the recreational gambling amongst its citizens. On entry levy in Singapore and Las Vegas, see *id.* at 93. On regulatory nudges, see Cass R. Sunstein, *The Ethics of Nudging*, 32 YALE J. ON REG. 413, 312 (2015) (“All over the world, governments are using nudges as regulatory tools.”) (emphasis added).

<sup>21</sup> Governments nudge gamblers, both recreational and compulsive, as they see fit based on the creation of a robust and functional responsible gaming model in a given jurisdiction. More on this in the United States of America doctrine, see generally RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS*, 18 (2009).

<sup>22</sup> Attempts to attain this laudable goal have been made in the past with promising results. The Reno Model (and its widespread use all over the world) constitutes a striking example. See generally Alex Blaszczynski et al., *A Science-Based Framework for Responsible Gambling: The Reno Model*, 20 J. OF GAMBLING STUD. 301, 302–

ought to unremittingly<sup>23</sup> bear in mind<sup>24, 25, 26</sup> in this purview.<sup>27</sup> This aspiration cannot be attained<sup>28</sup> without both an multidisciplinary engagement and an atmosphere of trust<sup>29</sup> and trustworthiness between the creators of knowledge (or knowledge creators)<sup>30</sup> (amongst whom quick-witted scholars, sharp-witted

316 (2004); Hugo Luz dos Santos, *Responsible Gaming in the United States of America: The Reno Model*, 12 AM. GAMING LAW., 1, 27 (Spring 2016).

<sup>23</sup> Hugo Luz dos Santos, *Responsible Gaming in Canada: The Nova Scotia Legal Framework as a Model for the World?*, 9 CANADIAN GAMING LAW. MAG., 10, 12 (Summer 2016) (showing that the Responsible Gaming Model brought forth in Nova Scotia, Canada constitutes a fine example of the tireless pursuit of excellence and proficiency as far as the relentless combat of problem gambling is concerned).

<sup>24</sup> Like self-imposed win limits to recreational gamblers with a view to avoiding the gambling activity to spiraling out of control. See Douglas M. Walker et. al, *Stopping When You're Ahead: Win Limits and Responsible Gambling*, 1 RESPONSIBLE GAMBLING REV. 1, 2–8 (2015) (explaining that a win limit “is a self-imposed precommitment that a player will stop gambling and leave the casino when they have accumulated net wins of a certain amount during that outing. Since casino games all have a negative expected value, the common element of loss, time, and *wins limits* that helps mitigate gambling losses is that they reduce the time played, relative to a player who sets no limits.”) (emphasis added).

<sup>25</sup> See Micheal Auer & Mark D. Griffiths, *Self-Reported Losses Versus Actual Losses in Online Gambling: An Empirical Study*, 33 J. GAMBLING STUD. 795, 795–96, 804 (2017) (noting the importance of self-reported losses in online gambling is of paramount importance as to contribute to ebbing problem gambling).

<sup>26</sup> See Micheal Auer et al., *Global Limit Setting as a Responsible Gambling Tool: What Do Players Think?*, 18 INT’L J. OF MENTAL HEALTH AND ADDICTIONS, 1, 1–2 (2018) (assembling that the input of players do count when it comes to assessing the effectiveness [or the lack thereof] of global limit setting as an apposite? [or not so much] responsible gambling tool. This is of utmost importance as to contribute to dwindle problem gambling worldwide).

<sup>27</sup> See RONALD DWORKIN, *LAW’S EMPIRE*, 225–26 (1986) (noting that the *concept of law* should be primarily regarded as *law as integrity*).

<sup>28</sup> Attaining this goal is instrumental in granting an advanced and enhanced protection to problem gamblers. That is to say to appositely protect their human dignity. On the protection of human dignity in an overarching sense, in German doctrine, Paul Tiedemann, *Vom inflationären Gebrauch der Menschenwürde in der Rechtsprechung des Bundesverfassungsgerichts* [*On the Inflationary Use of Human Dignity in the Case Law of the Federal Constitutional Court*], 15 DÖV 606 (2009); in French doctrine, Charlotte Girard & Stéphanie Hennette-Vauchez, *La Dignité de la Personne Humaine: Recherche sur un Processus de Jurisdiction* 28–238 (Paris Presses Universitaires de France eds., 2005); in Spanish doctrine, Pedro Serna, *La Dignidad Humana en la Constitución Europea*, 52 PERSONA Y DERECHO 13, 38 (2005); in Portuguese doctrine, BENEDITA DA SILVA MAC CORIE, OS LIMITES DA RENÚNCIA A DIREITOS FUNDAMENTAIS NAS RELAÇÕES ENTRE PARTICULARES 68 (Coimbra Almedina eds., 2013).

<sup>29</sup> See generally, Jason A. Colquitt & Jessica B. Rodell, *Justice, Trust, and Trustworthiness: A Longitudinal Analysis Integrating Three Theoretical Perspectives*, 54 ACAD. OF MGMT. J. 1183, 1183 (2011) (discussing the relationship between trust and trustworthiness was shown to be reciprocal).

<sup>30</sup> See e.g., Michael Auer et al., *An Empirical Study of the Effect of Voluntary Limit-Setting on Gamblers’ Loyalty Using Behavioural Tracking Data*, 18 INT’L J. OF MENTAL HEALTH & ADDICTION 9 (2019) (noting that “[v]oluntary money limits

researchers,<sup>31</sup> dexterous medical doctors) and a bevy of paramount stakeholders that constitute the linchpin of gambling leisure activity (such as casinos, regulatory bodies allotted with the incumbency to oversee gambling leisure activity, counsellors, psychiatrists, psychologists) whose overriding goal is to sap problem gambling in a given a jurisdiction.

To the best of our recollection, few to none research papers have proficiently merged the legal side with other correlated sides (such as the psychological side, the psychiatric side, the neurological side,<sup>32</sup> sociological side<sup>33</sup>), aiming at drastically curbing the both worrisome and deleterious issue of problem gambling in a given jurisdiction. To shape a robust, sound, functional, and full-bodied responsible gaming model is of paramount relevance to address (and to hopefully tackle the issue of) problem gambling in an multidisciplinary manner as opposed to a monolithically-based manner.<sup>34</sup> This paper is deemed the Interdisciplinary-

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are not useful if the limits chosen are much higher than the actual gambling habits because they will not help the player to control excessive gambling.” This is a major breakthrough in the remit of problem gambling, which was due to the excellent research performed by top notch researchers and further adds plausibility to our point that an interdisciplinary-based model of problem gambling is not only needed but utterly unavoidable in the forthcoming future).

<sup>31</sup> Whose laudable research has spawned major breakthroughs in gaming law. The personalized feedback constitutes a striking example of that. *See e.g.*, Michael Auer & Mark D. Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling: A Brief Overview*, 1 RESPONSIBLE GAMBLING REV. 27, 27–32 (2014); *see also* Auer et al., *An Empirical Study of the Effect of Voluntary Limit-Setting on Gamblers' Loyalty Using Behavioural Tracking Data*, *supra* note 30, at 9 (emphasize the effects of responsible gambling tools on loyalty and coming to the conclusion that “gamblers who use voluntary limit-setting features remain more loyal...compared to those who do not...”).

<sup>32</sup> There are lingering myths in gaming leisure industry that are in dire need of quashing. One of them is that by maximizing the money collected from problem gamblers, casinos can keep going in the long run. Either they have been misled or they are making the wrong assumption. The positive players (the ones who play for fun and recreational purposes) are the ones who will keep going to casinos as opposed to problem gamblers. This type of mindset can be deemed as *zero-sum mindset* as opposed to a *positive-sum mindset*. The zero-sum mindset and positive sum mindset derive from the field of mathematics. Both were harvested from the seminal game theory. *See generally* JOHN VON NEUMANN & OSKAR MORGENSTERN, *THEORY OF GAMES AND ECONOMIC BEHAVIOR* 220, 537 (Princeton Univ. Press 60th Anniversary eds., 2004)

<sup>33</sup> People are sense-makers. Everything they do is aimed at making sense. With regard to problem gambling, sense-making amounts to preventing recreational gamblers from becoming problem gamblers. On sense making from a sociological standpoint, *see generally* LUDWIG WITTEGENSTEIN, *PHILOSOPHICAL INVESTIGATIONS* 189–243 (*P.M.S. Hacker & Joachim Schulte trans.*, 4th ed., 2009); *see also* D. J. T. Sumpster, *The Principles of Collective Animal Behaviour*, 361 *PHIL. TRANSACTIONAL ROYAL. SOC'Y. B* 5, 12, 18 (2006) (*canvassing the foundations of sense making through both social and cultural lens*).

<sup>34</sup> Which would prevent valuable research to surface in the first place. For examples of valuable research, *see generally* Brett Abarbanel et al., *Influence of Perceptual Factors of a Responsible Gambling Program on Customer Satisfaction with a*

based Model of Responsible Gaming, and laying out its foundations is the over-riding goal.

## I. BACKGROUND – WHAT IS PROBLEM GAMBLING?

How can one attain the laudable to lay out a both punctilious and clear-cut definition<sup>35</sup> of problem gambling or a problem gambler?

In spite of the existence of problem gambling,<sup>36</sup> there have been unending difficulties with articulating an agreed-upon definition<sup>37</sup> of this deleterious mental disorder.<sup>38</sup> Despite being widely (and extensively) used, the legal parlance of “responsible gambling” and “responsible provision” are also scantily defined.<sup>39</sup> Although, “differences in definition are important because they impact on solutions provided to overcome the problem.”<sup>40</sup> As such, due to the nonconformity of definitions, it is not startling that:

The Productivity Commission (1999) included a range of definitions of problem gambling that variously emphasized either symptoms (e.g.[.] loss of control, chasing debts) or effects (e.g.[.] disruption and damage to personal, family or work life). One widely accepted definition is that adopted by the Victorian Casino and Gaming Authority (VCGA) which states that problem gambling occurs

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*Gambling Firm*, 7 ECON. BUS. LETTERS 144, 145, 148–153 (2018); Michael Auer et al., *The Effects of Loss-Limit Reminders on Gambling Behaviour: A Real-World Study of Norwegian Gamblers*, J. BEHAV. ADDICTIONS 1056, 1060–65 (2018).

<sup>35</sup> See generally Andrew Tottenham, *Gaming in the Age of Populism: The Demonization of Gaming Machines* 22 GAMING LAW REVIEW AND ECONOMICS 309, 312–13 (2018) (alluding to some drawbacks on the transfer of knowledge of research related to problem gambling, such as the fact that “[a]ny research that did not give the anti-gambling lobby the answers they wanted was castigated as being tainted and unreliable”).

<sup>36</sup> See Mark D. Griffiths & M. Auer, *Becoming Hooked? Angling, Gambling, and “Fishing Addiction”*, 1 ARCHIVES BEHAV. ADDICTION 1, 1–2 (2019) (renowned researchers establish a parallelism between addictive patterns displayed in both fishing and compulsive or excessive gambling “including salience, withdrawal symptoms, conflict with job and/or relationships, relapse, and tolerance”).

<sup>37</sup> David C. Hodgins et al., *Gambling Disorders*, 378 LANCET 1874, 1874 (2011); see also LEIGHTON VAUGHAN WILLIAMS ET AL., BRITISH GAMBLING PREVALENCE SURVEY 2007: SECONDARY ANALYSIS, GAMBLING COMMISSION 4, 11 (2008) (documenting the ongoing effort to attain a clear-cut definition of problem gambling and what that mental disease consists of).

<sup>38</sup> AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM-5) 25, 585 (2013) (stressing that compulsive gambling or excessive gambling is a mental disorder); see also Hugo Luz Dos Santos, *Problem Gambling: An Interplay Between Law and Medicine and A Platform to an Interdisciplinary Approach to This Mental Health Disease*, 4 J. PHYSICAL FITNESS MED. & TREATMENT SPORTS 001, 001 (2018).

<sup>39</sup> Helen Breen et al., *The Responsible Gambling Code in Queensland: Implementation and Venue Assessment*, NAT. ASSOC. FOR GAMBLING STUD. (AUSTRALIA) 37, 39 (2003).

<sup>40</sup> *Id.* at 38.

‘where a person’s gambling activity gives rise to harm to the individual player, and/or to his or her family and may extended into the community.’<sup>41</sup>

A Problem Gambler, as far as the Canadian doctrine is concerned, is widely viewed as any individual whose ability to keep the irresistible temptation to gamble (or to place a seemingly anodyne bet) at bay has been severely impaired or whose gambling has squandered, severed, or harmed personal family,<sup>42</sup> or related vocational pursuits.<sup>43</sup>

Though gambling leisure activity may be depicted by the overwhelming majority of recreational gamblers as a riveting form of entertainment and thrilling leisure pursuit, at its core there are staggering risks involved.<sup>44</sup> Those risks often cause the destruction of the problem gambler.<sup>45</sup> Problem gambling appears once a gambler runs out of money.<sup>46</sup> That is to say, problem gambling (PG) occurs:

when an individual gamble in a manner that exceeds their means, for...more money than they can afford and spending excessive time gambling, both of which can cause deleterious effects on the lives of the gambler. Such effects may include neglecting family, health, hygiene, and employment,...as well financial obligations, which highlights PG as not only an issue at the individual level, but also for wider society. Indeed, for every PG there is potential for a multitude of individuals to be negatively impacted.<sup>47</sup>

This paper adheres to Griffiths-grid on fishing addiction (which can be equally transplanted to problem gambling):<sup>48</sup> (1) *Salience*: this often occurs when gambling becomes the “single most important activity in the person’s life”<sup>49</sup> and completely dominates their thinking.<sup>50</sup> (2) *Mood modification*: “[t]his refers to the subjective experience that people report as a consequence of” gambling and can be seen as a coping strategy.<sup>51</sup> (3) *Tolerance*: “[t]his is the process whereby increasing amounts of time spent”<sup>52</sup> gambling are required to achieve the former mood modifying effects.<sup>53</sup> (4) *Withdrawal symptoms*: these relate to the

<sup>41</sup> *Id.* (noting the deleterious effects of problem gambling on families which were ripped apart by this noxious social phenomenon) (internal citation omitted).

<sup>42</sup> William V. Sasso & Jasminka Kalajdzic, *Do Ontario & Its Gaming Venues Owe a Duty of Care to Problem Gamblers?*, 10 GAMING L. REV. 552, 552 (2006).

<sup>43</sup> *Id.*

<sup>44</sup> Breen, *supra* note 40, at 38.

<sup>45</sup> Andrew Harris & Adrian Parke, *Empirical Evidence for the Differential Impact of Gambling Outcome on Behaviour in Electronic Gambling: Implications for Harm-Minimisation Strategies*, 1 RESPONSIBLE GAMBLING REV. 10, 11 (2015).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Mark Griffiths, *A ‘Components’ Model of Addiction within a Biopsychosocial Framework*, 10 J. SUBSTANCE USE 191, 194 (2005); Griffiths & Auer, *supra* note 37, at 1–2, and accompanying text.

<sup>49</sup> Griffiths & Auer, *supra* note 37, at 4.

<sup>50</sup> Griffiths, *supra* note 49, at 193.

<sup>51</sup> *Id.* at 193–94.

<sup>52</sup> Griffiths & Auer, *supra* note 37, at 4.

<sup>53</sup> Griffiths, *supra* note 49, at 194.

unpleasant feeling or physical effects<sup>54</sup> that occur when the person is unable to stop gambling quite simply because he or she is ill,<sup>55</sup> on holiday, or engaged in another activity unrelated with gambling.<sup>56</sup> (5) *Conflict*: this refers to the conflicts between the problem gambler and those around him or her (interpersonal conflict).<sup>57</sup> (6) *Relapse*: “[t]his is the tendency for repeated reversions to earlier patterns of excessive”<sup>58</sup> gambling to recur and for even the most extreme patterns typical<sup>59</sup> of the height of excessive or compulsive gambling to be swiftly restored after periods of control.<sup>60</sup>

## II. BACKGROUND – PROBLEM GAMBLING: AN OVERALL SHIFT OF PERSPECTIVE IN RELATION TO RESEARCH AND THEORY?

Problem gambling is an ever-evolving field.

Over the last 15 years or so, the field of responsible gambling (RG) has developed from a basic interest in minimising gambling problems, to a fast-growing field of research, theory, and practice covering all aspects of the gambling experience. Even in the recent past, RG was typically the remit of perhaps one or two individuals in an organisation, maybe just a minor part of their primary role. However, over the last few years and in many gaming companies, RG has become a concept embraced at all levels from the CEO down to the point-of-sale retailer, and all those in between. Whilst some of this focus has been driven through regulatory policy and an increased awareness of problem gambling across many jurisdictions, much of the interest stems from a realisation that problem-free players make for a better business. That is, long term customers are going to be those who continue to play, without problems, primarily for reasons of leisure. In short, proactive gaming companies have developed socially responsible business models, that are based on increasing the number of moderate-spending, long-term repeat customers and, that strive to avoid custom from players with gambling problems.<sup>61</sup>

“The burgeoning growth of Responsible Gaming practice has been accompanied by an overall shift of perspective in relation to research and theory.”<sup>62</sup>

Previously, RG was largely influenced by a view of gambling problems that primarily adopted a medical and/or disease model, with little control or power attributed to those that were most negatively affected. However, increasing support for individual autonomy has become the important issue. This position, was

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<sup>54</sup> Griffiths & Auer, *supra* note 37, at 4.

<sup>55</sup> Griffiths, *supra* note 49, at 194.

<sup>56</sup> Griffiths & Auer, *supra* note 37, at 4.

<sup>57</sup> Griffiths, *supra* note 49, at 195.

<sup>58</sup> Griffiths & Auer, *supra* note 37, at 4.

<sup>59</sup> Griffiths, *supra* note 49, at 195.

<sup>60</sup> *Id.*

<sup>61</sup> Richard T.A. Woods & Mark D. Griffiths, *Putting Responsible Gambling, Theory and Research into Practice: Introducing the Responsible Gambling Review*, 1 RESPONSIBLE GAMBLING REV. 1, 1 (2014).

<sup>62</sup> See generally Luz dos Santos, *Problem Gambling*, *supra* note 39, at 2.

outlined in detail by the “Reno Model”<sup>63</sup> which argues that responsible gambling programs should be based upon two fundamental principles: (1) decisions to gamble reside with the individual and represent a choice, and (2) in order to make good decisions, individuals need to be well informed.

This shift in perspective also reflects wider social and cultural changes that have seen more of an emphasis on the importance of consumers making informed purchase choices across a variety of products and services.... [On the other hand,] technological developments have become a driving force, for both the design of games and gambling environments, as well as for tools and services that can assist players to play responsibly.<sup>64</sup>

Whilst there has been a significant development in research and technological breakthroughs in responsible gaming, the translation of valid “research into wide-spread practice has sometimes been slower to take effect” than initially expected.<sup>65</sup>

This portrays a huge (and vivid) gap between the above-mentioned knowledge creators and end-users. This gap surely needs to be bridged, but how? By engaging in an interdisciplinary path connecting both sides of the gambling industry (medical doctors, gambling leisure industry, lawyers) would significantly boost the benefits of the global innovation in the gaming leisure industry.<sup>66</sup> There is no other way forward. This particular issue will be addressed later.

### III. BACKGROUND – PROBLEM GAMBLING AS A REPOSITORY OF INTERDISCIPLINARY CONTRIBUTES: THE CARDINAL IMPORTANCE OF EMPIRICAL EVIDENCE IN THE CONTEXT OF ELECTRONIC GAMBLING MACHINES (EGMS)

Electronic Gambling Machines (EGMs) are at the heart of gambling activity.<sup>67</sup> “It is widely accepted that EGMs are the core of gambling leisure industry, except in the casinos of Macau where the table games, namely Baccarat,<sup>68</sup> heavily outweigh EGMs.”<sup>69</sup> With this backdrop in mind, it should not come as a surprise that EGMs have been the inspirational source for a batch of the empirical

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<sup>63</sup> See generally Blaszczyński, *supra* note 22, at 302.

<sup>64</sup> Woods & Griffiths, *supra* note 62, at 1–2.

<sup>65</sup> *Id.* at 2.

<sup>66</sup> See generally Sarah E. Nelson et al., *Real Limits in the Virtual World: Self-Limiting Behavior of Internet Gamblers*, 24 J. GAMBLING STUD. 463, 476 (2008).

<sup>67</sup> Kevin Johnson, *The House Advantage: Trade Secret Protections on the Casino Floor*, 8 UNLV GAMING L. J. 121, 121 (2018) (asserting that “[a]s long as there have been slot machines, there have been slot cheats”); Tottenham, *supra* note 35, at 309 (stating that gaming machines, particularly the infamous fixed-odds betting terminals (FOBTs), are often dubbed as the “crack cocaine of gambling”).

<sup>68</sup> Desmond Lam, *An Observation of Chinese Baccarat Players*, 11 UNLV GAMING RES. & REV. J. 63, 63 (2007).

<sup>69</sup> See Luz dos Santos, *Problem Gambling*, *supra* note 39, at 002.

evidence aimed at gauging the differential impact of gambling outcome on behavior in slot machines.<sup>70</sup>

The findings harvested (on and arisen from) that body of empirical research have spawned the axiom according to which EGMs are at the heart of addictive patterns of gambling behaviour. Most notably, because EGMs augment exponentially the illusion of control of the players as far as the outcome of the game or bet is concerned.<sup>71</sup>

It hardly amounts to a bewildering finding that EGMs are the terrain the *loss-chasing behaviour*,<sup>72</sup> a foundational characteristic of Problem Gambling.<sup>73</sup> This very finding (which is to briskly morph to an axiom) would never surface if it were not for the invaluable contribute (and educated input of) multidisciplinary research in the remit of EGMs. The rationale behind such a statement (EGMs play a pivotal role in breeding loss chasing behaviour) can be summarized as follows:

Approximately 13% of EGM gamblers meet diagnostic criteria for problem gambling (PG) which is one of the highest rates of among all other forms of gambling....

EGMs are interactive, computerised gambling platforms found in many licensed betting offices, casinos, and other leisure facilities. They adopt variable ratio schedules of reinforcement that subject a player to addictive patterns of gambling behaviour. EGMs have been shown to instil and maintain irrational and superstitious beliefs, as well as distort concepts of randomness and probability that can contribute to illusions of control. Such features may act in maintaining or indeed contribute to the onset of PG behaviours. In addition, EGMs offer high maximum stake and prize sizes, where an individual can bet up to £100 [approximately US \$130] on a gambling event and win jackpots equalling £500 [approximately US \$650]...and the fact that accessibility of EGMs are abundant on the high-street, means even inexperienced and leisure gamblers are at risk of increased rate and volume of loss, irrespective of whether they would be classed as PG or not.

A rapid speed of play provided by EGMs offer fewer opportunities between bets to break trancelike dissociative states gamblers experience, as well as less time to consider ones decisions in an informed and controlled manner. The rapid event cycle in EGM play also allows for a high rate and volume of loss, which is allowed to further exacerbate if one engages in *loss-chasing behaviour*—a core characteristic of PG. Loss chasing may not however, be limited to PGs, and there is potential for the fast-paced characteristics of EGM play to negatively impact on recreational and less experienced gamblers.<sup>74</sup>

Which brings us to the interplay between losses and wins in EGMs and the extent to which impacts (and, foremost, impairs) problem gambler's rational

<sup>70</sup> Hugo Luz dos Santos, *Responsible Gaming in Indian Country*, 12 AM. GAMING L. 34, 34 (Autumn 2016).

<sup>71</sup> *Id.*

<sup>72</sup> Harris & Parke, *supra* note 46, at 11.

<sup>73</sup> See generally Walker et. al, *supra* note 24, at 2.

<sup>74</sup> Harris & Parke, *supra* note 46, at 11 (internal citations omitted).

decision making. Conversely, to which degree such an interplay begs for the timely implementation of harm-minimisation strategies to ebb problem gambling.

Renowned scientists investigated how these EGM characteristics interact with winning and losing outcomes and the resulting gambling behavior. These researchers determined that “there is a wide body of evidence outside of gambling research that suggests gains and losses have an asymmetrical impact on affect and arousal, as well as cognitive capacity and decision making - essential components to controlled<sup>75</sup> and rational (and reasonable) gambling<sup>76</sup> decisions.”<sup>77</sup> According to that empirical research, losses<sup>78</sup> squarely compared to the bulk of wins have a larger (and prolonged) effect on physiological arousal.<sup>79</sup> “Hochman and Yechiam (2011) reported significantly larger pupil diameter and increased heart beat in response to losses compared to equivalent sized wins.”<sup>80</sup>

Which prompts the statement according to which if losses boost a psychological arousal, this may lead to the gambler’s optimal level of arousal being utterly surpassed.<sup>81</sup> Unsurprisingly, this would prove detrimental to *rational decision making*,<sup>82</sup> which is paramount as to stave off immediately further gambling endeavours. More likely than not, the impairment on rational decision making will cause a loss of control during gambling “where the fast-paced and high stakes features of EGM play may exacerbate the harm caused by a loss of control.”<sup>83</sup>

Against the backdrop of this insightful body of empirical evidence, it is crucially important to put in place harm-minimisation strategies that enable the gambler to stay in control during the gambling session so that gambling-related decisions are made in an utterly rational manner.<sup>84</sup> Those strategies amount as harm-minimisation strategies.<sup>85</sup> A set of harm-minimisation strategies that the

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<sup>75</sup> *Id.* at 11–12.

<sup>76</sup> See Blaszczyński, *supra* note 22, at 311.

<sup>77</sup> Harris & Parke, *supra* note 46, at 12.

<sup>78</sup> Auer & Griffiths, *Self-Reported Losses*, *supra* note 25, at 804.

<sup>79</sup> Harris & Parke, *supra* note 46, at 12.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> See generally RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* (1998) § 1.4; see also Jolls, *supra* note 2, at 1471 (highlighting that people are more or less rational in their social interactions. This view has been tarnished by the proceedings of the empirical research conducted by Behavioral Law and Economics evangelists which state, as previously shown, that “*Economic analysis of law* usually proceeds under the assumptions of neoclassical economics. But empirical evidence gives much reason to doubt these assumptions; people exhibit *bounded rationality*, *bounded self-interest*, and *bounded willpower*”).

<sup>83</sup> Harris & Parke, *supra* note 46, at 12.

<sup>84</sup> Blaszczyński, *supra* note 22, at 308–309.

<sup>85</sup> See Filipa Calado & Mark D. Griffiths, *Problem Gambling Worldwide: An Update and Systematic Review of Empirical Research (2000–2015)*, 5 J. BEHAV. ADDICTIONS 592, 610 (2016).

legal side of a prospective interdisciplinary-based model of responsible gambling should never lose sight of. A set of timely harm-minimisation strategies that the leisure gambling industry should not be loath to confer enhanced validity. The next chapter will prove invaluable in this regard.

IV. BACKGROUND – THE IMPORTANCE OF EMPIRICAL EVIDENCE IN THE CONTEXT OF ELECTRONIC GAMBLING MACHINES (EGMS) AND THE HARM MINIMISATION STRATEGIES: THE POP-UP MESSAGES AND THE PERSONALISED FEEDBACK

The foregoing implementation of harm minimisation strategies are in order. Time (foremost: the quick-witted use of it) is a crucially important factor in this regard. Those strategies are in dire need of being implemented in a timely manner. Absent of which the hazard of being rendered redundant (worse yet: outdated and outpaced by the ever-evolving social reality of problem gambling) looms large. Such is the rationale behind the timely implementation harm-minimisation strategies that are to be in place before harmful<sup>86</sup> behavior augments<sup>87</sup> or escalates.<sup>88</sup>

The implementation of any harm-minimisation strategies devoid of a much-needed and sought-after paradigm shift would not suffice though. Which means that problem gambling should not be approached in reactive (and haphazard) manner. Rather, should be approached in proactive (and methodical) manner. To accomplish such a (momentous and laudable) goal, gambling leisure industry's key stakeholders must pour in a staggering amount of effort. This is a task to spare no one. This is a life-time task as opposed to a merely seasonal (thus revocable) one.

For that reason alone, the creators of knowledge creators (ranging from medical doctors to scientists) and the key stakeholders in this lucrative industry (ranging from gaming leisure industry, governments to attorneys) ought to synergistically strive (and contribute) to the creation of healthy gambling environments in a timely manner.<sup>89</sup> Such a creation would contribute exponentially to quashing

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<sup>86</sup> Harris & Parke, *supra* note 46, at 12.

<sup>87</sup> Auer & Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling*, *supra* note 31, at 27, 29 (on the importance of personalized feedback for responsible gambling purposes such as loss-limit reminders as to prevent the escalation of compulsive gambling); *see generally* Auer et al., *The Effect of Loss-Limit Reminders on Gambling Behavior*, *supra* note 34, at 1056.

<sup>88</sup> *See generally* Paolo Calvosa, *Responsible Gambling Strategies for Internet Gambling: An Empirical Investigation into the Gambling Market*, 12 INT'L J. BUS. MGMT. 17, 17–34 (2017) (for that reason alone efforts have not been spared as to outline and implement harm-minimization strategies to prevent excessive gambling, especially in online gambling).

<sup>89</sup> *See generally* Ekaterina Ivanova et al., *Deposit Limit Prompt in Online Gambling for Reducing Gambling Intensity: A Randomized Controlled Trial*, 10 FRONTIERS IN PSYCHOL. 1, 1–2, 7 (2019) (stressing the cardinal importance of

lingering myths such as the randomness and probabilities with regard to the gambling leisure activity itself. Which has shown to be interwoven to not only irrational decision making but also to misunderstandings that breed problem-gambling -related harms.

With this backdrop in mind, a comprehensive body of empirical research into cognitive psychology of gambling has shown that irrational gambling-related cognitions and misunderstandings intertwined to randomness and probabilities<sup>90</sup> embody some of the key ingredients<sup>91</sup> “contributing to the initiation and maintenance of problem gambling in general, and electronic [or online] gaming machines in particular....”<sup>92</sup>

More importantly, it has been shown that problematic gambling behaviour can be decreased in response to cognitive-behavioural therapy and other cognitive interventions. As a consequence, some organisations and gaming operators are beginning to offer players information about common gambling myths and erroneous beliefs. Furthermore players can now access general advice on healthy and responsible gambling.<sup>93</sup>

By the same token,

[a] small body of empirical research has shown that educational programs about erroneous beliefs can successfully help change the targeted cognitions. For instance, Wohl et al. (2010) developed an animation-based educational video regarding the function of slot machines. Their results demonstrated that the animation was effective in promoting responsible play as demonstrated by those viewing the video staying within their *pre-set limits*. The study also showed that animated educational information on slot machines can be an effective to increase user adherence to preset limits.<sup>94</sup>

Such is the rationale behind the creation that voluntary limit setting. This harm minimisation tool displays an enhanced effectiveness in the realm of EGMs and (foremost) online gambling.<sup>95</sup> One can easily foresee the grounds for the

deposit-limit, when adhered to, for online gambling as a proactive tool to reduce both gambling intensity).

<sup>90</sup> Godinho, *supra* note 14, at 262 (“[t]his reality is the basis of the popular wisdom according to which the only way to win at gambling in a stable and continuous manner is to be the owner of the casino”).

<sup>91</sup> *Id.*

<sup>92</sup> Auer & Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling*, *supra* note 31, at 28.

<sup>93</sup> *Id.* (internal citations omitted).

<sup>94</sup> *Id.* (internal citations omitted).

<sup>95</sup> See Dylan Pickering et al., *Skill-Based Electronic Gaming Machines: a Review of Product Structures, Risks of Harm, and Policy Issues*, CURRENT ADDICTION REP. 1, 6 (2020) (there is the skill-based electronic gaming machines (SGMs) to be accounted for in this regard. Whilst further considerations in this regard falls far beyond the scope of this paper, one must emphasize that SGMs “add interactive and/or skill features to electronic gaming machines (EGMs), often modelled on elements from arcade, video, online, or mobile games”); Michael Auer & Dr. Mark D. Griffiths, *Voluntary Limit Setting and Player Choice in Most Intense Online Gamblers: An Empirical Study of Gambling Behavior*, 29 J. GAMBLING STUD. 647, 656–57 (2012).

creation of such a harm-minimisation tool: it does help problem gamblers (whose ability to make rational decisions during his/her gambling endeavours is considerably impaired) to cease their gambling activity before it spirals out of control. Such is the reason the way information is shown (or presented) to the problem gamblers during their gambling activity has a heightened importance in this regard.<sup>96</sup> In this realm, personalised feedback (among which interactive pop-up messages) lead the way towards the minimisation of gambling-related harms.

Researchers have employed a considerable amount of effort investigating effects of interactive pop-up messages during gambling sessions<sup>97</sup> either taken in virtual reality casinos or real-world online gambling casino.<sup>98</sup> The findings were far from mind-boggling. Static (and colourless) messages have shown utterly ineffective. Unsurprisingly, interactive pop-up messages and animated<sup>99</sup> information have (had) an enhanced likelihood to thwart irrational beliefs.<sup>100</sup> Stewart and Wohl (2013) emphasized that gamblers who have received a monetary limit pop-up reminder have shown heightened proclivity to adhere to monetary limits than participants who did not.<sup>101</sup>

With this backdrop in mind, it hardly amounts to a bewildering statement that the *personalised feedback* plays a starring role in the purview of responsible gambling.

What does personalised feedback stand for? What consists of this paramount responsible gambling tool? In a nutshell, it is a *behavioral tracking tool* for responsible gambling purposes.<sup>102</sup> There are multitudinous programs, such as *Playscan*, *mentor*, *Bet Buddy*,<sup>103</sup> that enshrine such a laudable goal.

The importance of personalised feedback cannot be underscored vigorously enough. A cohort of reputable scholars posited that gamblers receiving carefully tailored feedback about their online gambling behavior<sup>104</sup> displayed an enhanced propensity to hastily overhaul their gambling behavior (as gauged by the amount of time and money spent gambling online or in a brick-and-mortar casino) as opposed to those who do not receive a tailored

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<sup>96</sup> Auer et al., *The Effect of Loss-Limit Reminders on Gambling Behaviour*, *supra* note 34, at 1064.

<sup>97</sup> *Id.* at 1058.

<sup>98</sup> *Id.* at 1058–59.

<sup>99</sup> *Id.* at 1058.

<sup>100</sup> Auer & Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling*, *supra* note 31, at 28.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at 27.

<sup>103</sup> *Id.* at 30.

<sup>104</sup> See generally Virve Marionneau & Johanna Järvinen-Tassopoulos, *Consumer Protection in Licensed Online Gambling Markets in France: The Role of Responsible Gambling Tools*, 25 ADDICTION RES. & THEORY 436, 436, 441 (2017) (describing how the French implemented regulations around online gambling).

feedback.<sup>105, 106</sup> A body of empirical evidence has confirmed such a statement. It reads as follows:

[T]he behavioural change in 279 online gamblers that received personalised feedback after they had signed up to a voluntary service (i.e., *mentor*) at a European online gaming website. Those signing up to use the personalised feedback system were compared with 65,423 matched controls. The preliminary results of our study show that personalised behavioural feedback within a motivational framework appears to be an effective way of changing gambling behaviour in a positive way (i.e., players significantly reduced the amount of time and/or money they spent gambling after receiving personalised feedback). For instance, if a player significantly increases the amount of money they have deposited over a half-year time period, they received the following message: “Over the last 6 months the amount of money deposited into your account has increased. Are you spending more money than you intended? You can check the account you have spent gambling on your account page and use our helpful tools to set a daily/weekly/monthly limit.”<sup>107</sup>

This amounts to a conspicuously clear example of the non-confrontational, attractive, colorful, personal, and motivational nature of those pop-up messages.<sup>108</sup> To make things as less intrusive as possible, a pop-up window has been embedded into the casino operator’s gambling site.<sup>109</sup>

As previously pointed out, these harm-minimisation strategies personalization approaches strive to significantly overhaul a “person’s behaviour via behavioural feedback.”<sup>110</sup> Such approaches are undergirded on both the “Stages of Change” model (Prochaska & DiClemente, 1983) and motivational interviewing (Miller & Rollnick, 1991). Those approaches have something in common: they have all highlighted the utmost importance of receiving carefully tailored information. In that ground-breaking research study, they summarized a vast assortment of motivational psychology literature to lay the foundations of a motivational framework underpinned on the Transtheoretical model (i.e., States of Behavior Change), “which states that individuals attempting to change their behaviour in some way go through a series of stages (i.e., pre-contemplation, contemplation, preparation, action, maintenance, and relapse).”<sup>111</sup> For each stage, they emphasized the set of motivational goals and recommendations on how technologies can encourage unceasing energy usage behaviors,<sup>112</sup> specifically problem gamblers. It was their firm conviction that behavioral feedback systems

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<sup>105</sup> See generally *id.* at 437.

<sup>106</sup> Michael Auer et al., *Legal Aspects of Responsible Gaming Pre-Commitment and Personal Feedback Initiatives*, 19 *Gaming L. Rev. & Econ.* 444, 444–45, 451–52 (2015).

<sup>107</sup> Auer & Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling*, *supra* note 31, at 31.

<sup>108</sup> See *id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

enable an optimistic approach of responsible gambling because they attained the targeted goal of aiding the players drastically limit the “amount of time and money spent gambling...”<sup>113</sup> Something that the prospective lawmakers and policymakers should bear very firmly in mind.

## V. DISCUSSION

The much-needed (and sought-after) implementation of a responsible gambling model does not (and must not) forsake an interdisciplinary approach. The same goes for a much-need collaborative atmosphere between key stakeholders in the gaming leisure industry. To achieve that overriding goal the creators of knowledge (ranging from researchers, medical doctors and academics who effortlessly study the social and medical phenomenon of problem gambling) and end-users<sup>114</sup> ranging from policy makers, lawmakers, attorneys, gambling industry, regulators, recreational gamblers, problem gamblers) must cooperate with each other with no bounds. This is not to be neither downplayed nor downsized. A (sole and square) collaborative problem-solving would not suffice nonetheless.

A collaborative problem-solving in the remit of problem gambling stretches far beyond that. The sort of collaborative problem-solving I stand for must not only take a science-based empirical approach as a benchmark, as emphasised by the Reno Model,<sup>115</sup> but also rest upon the pillars of linkage and exchange of knowledge between both sides (the non-legal side and the legal side) of gaming-leisure industry.<sup>116</sup> This is the kernel of the sweeping idea of mutual learning in the gaming leisure industry that is not by all means to be brushed aside.

Mutual learning in the gaming industry does not amount to a shallow and nomadic definition (conveniently?) wrapped in opaqueness. Mutual learning is one of the cornerstones of my interdisciplinary-based model of responsible gambling for a reason: it requires the input of a wide range of key stakeholders, in the gambling leisure industry. Why? Mutual learning has various stages ranging from planning, producing, to applying existing empirical research<sup>117</sup> To be complete (and overarching), its concrete implementation in practice should not discard the input of any the end-users or creators of knowledge.

This underpins the seminal idea according to which an interdisciplinary approach of responsible gaming is a (arguably) *two-way street*: researchers create and collate empirical research and decision makers tend to apply existing or new research in decision-making. Researchers do not successfully impart their empirical findings without the much-needed input of the decision makers. Conversely, (or end-users) cannot benefit (and reap the fruits of an) evidence-into-

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<sup>113</sup> *Id.* at 32.

<sup>114</sup> Travis Sztainert et al., *Knowledge Translation and Exchange in Gambling Research: A Beginners Guide*, 1 RESPONSIBLE GAMBLING REV. 64, 66, 70 (2014).

<sup>115</sup> Blaszczyński, *supra* note 22, at 302.

<sup>116</sup> Sztainert et al., *supra* note 115, at 65–66.

<sup>117</sup> *Id.* at 65.

practice approach if they do not successfully engage with a wide range of researchers.

A functional and effective knowledge exchange<sup>118</sup> entails oftentimes (if not always) the interaction of both sides of the gambling industry aimed at boosting the benefits of global innovation in this remit. The creators of knowledge and end-users (or decision makers) —as they happen to be planted squarely in the middle of the gambling leisure industry—play a starring role both in the production and implementation of harm minimizing strategies and, ultimately, in the construction of a functional interdisciplinary-based problem gambling model. The creators of knowledge creators and decision makers are to be allotted a pivotal role in the process of taking knowledge and converting it into practice.<sup>119</sup> They are to be deemed the stalwart protectors (and creators) of an interdisciplinary framework that strives to bridge the gap between theory and practice.

The touchstone (the benchmark and the) guidelines according to which the *interdisciplinary-based model of responsible gaming* is to be implemented reads as follows:

- (a) The deemed Knowledge Exchange (KE) is a process of taking knowledge and converting it into practice;
- (b) KE is a form of interdisciplinary engagement between the knowledge creators and decision makers;
- (c) To ensure mutual learning, knowledge creators and decision makers should arrange regular meetings and issue joint statements about the major priorities of problem gambling;
- (d) Knowledge creators and end-users should provide guidelines and recommendations in implementing harm minimization strategies;
- (e) The creation of a task-force of specialists in psychology, psychiatry, sociology, law, that should jointly operate inside the casino facilities;
- (f) This task-force should be primarily responsible for the implementation of harm minimization strategies and complementarily should be also responsible for training the casino staff, as far as spotting, tracking down, identifying[,] and handling the problem gamblers is concerned;
- (g) The needs of the end-users should be timely identified by the knowledge creators;
- (h) To facilitate the aforementioned goal, an atmosphere of trust between the knowledge creators and the end-users is needed;
- (i) To facilitate that reciprocal approach, regular briefings should be held in order to discuss preliminary results of the implementation of harm-minimization strategies, such as the aforesaid, personalised feedback, loss-limits, win limits, pop-up messages;<sup>120</sup>

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<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 67.

<sup>120</sup> For a discussion on how the casino gaming leisure industry—ranging from policymakers to end-users—should focus on responsible gambling tools with strong

- (j) The communication channel between the researchers and the end-users should always be open, as their relationship should be strengthened through linkage, exchange[,] and joint production;
- (k) The public entities, or governments, should play a pivotal role as well as in establishing priorities, preferences, and goals related with the problem gambling;
- (l) Moreover, governments should create joint structures that, symbiotically, address the issue of problem gambling;
- (m) Those joint government structures should have an interdependent relationship and they should hold meetings and briefings in a regular basis with the casino operators and their interdisciplinary teams;<sup>121</sup>
- (n) On a regular basis, those joint structures should promulgate joint guidelines and should issue joint statements in which they set up harm-minimization strategies to curb problem gambling;<sup>122</sup>
- (o) In spite of the heavy (Macau), light (Singapore and Japan<sup>123</sup>), or mild (Brazil) dependence on gaming revenue, problem gambling should be taken very seriously indeed;<sup>124</sup>
- (p) The interdisciplinary-based model should be embraced by the governments of Macau, Japan, and Brazil. Their preoccupation should be geared not only towards the problem gamblers but also the *positive players*, *players* who just play for fun and for recreational purposes only.<sup>125</sup>

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evidence of effectiveness, see Robert Ladouceur et al., *Responsible Gambling: A Synthesis of the Empirical Evidence*, 25 ADDICTION RES. & THEORY 225, 225, 233 (2017).

<sup>121</sup> Luz dos Santos, *supra* note 39, at 4, 5.

<sup>122</sup> *Id.* at 5.

<sup>123</sup> Jennifer Roberts & Ted Johnson, *Problem Gambling: How Japan Could Actually Become the Next Las Vegas*, 6 UNLV GAMING L.J., 176, 177, 191–93 (2016) (adverting to the disruptive consequences of problem gambling in emergent gaming jurisdictions such as Japan).

<sup>124</sup> Luz dos Santos, *supra* note 39, at 5.

<sup>125</sup> Richard T. A. Wood et al., *Measuring Responsible Gambling amongst Players: Development of the Positive Play Scale*, 8 FRONTIERS IN PSYCHOL. 1, 2, 10 (2017) (Positive play is the exact opposite of compulsive gambling. Positive play amounts as recreational gambling. The players just play for fun. They are fully aware that they are utterly unable to beat the whopping house advantage. So, they play within certain time and money limits and they refrain from defying the undefiable: the staggering house advantage. Quite the opposite, compulsive gambling and those engaging in this type of deleterious gambling—compulsive gamblers—know no bounds. Compulsive gamblers often hold the warped belief that the so-called randomness of gambling activity can help them; coupled with a fortunate stroke of serendipity, to beat the house advantage and make them rich overnight. Compulsive gamblers often hold the distorted illusion of control of the outcome of game or bet as opposed to positive players. Compulsive gamblers do not know how or when to stave off their gambling endeavours. Positive players do know the right time to do so and leave the casino.).

In the long run, these positive players will keep going to the casinos as opposed to the problem gamblers;<sup>126</sup>

- (q) *Positive play*<sup>127</sup> should be an axiom that the governments of Macau, Singapore, Japan and Brazil should embrace with no qualms whatsoever;<sup>128</sup>
- (r) “*Focus groups* constituted by decision makers from the casino industry and the problem gamblers should take place in a regular basis, in order to assess and appraise ongoing harm-minimization strategies[;]”<sup>129</sup>
- (s) Problem gamblers input should be taken into account.<sup>130</sup> For establishing feasible and effective responsible gaming tools,<sup>131</sup> their insight is invaluable;<sup>132</sup>
- (t) Also, the problem gamblers’ family can participate in creating harm-minimization strategies because they are at the core of the problem gambler’s personal structure, and they will provide much-needed guidance and support for handling the problem gambling process;<sup>133</sup>
- (u) Entry levies should be abolished as a body of empirical evidence (as opposed to a mere anecdotal one) has shown that “[b]ehaviourally, consumers may not respond rationally to both entry fees and other consumption decisions”<sup>134</sup> and “a fixed entry fee may increase the share of binge gambling sessions, as consumers seek to maximize their allotted time in the venue”;<sup>135</sup>
- (v) Future research needs to be conducted in the realm of responsible gaming and should focus on the nuanced characteristics of each type of players (for example, a Chinese player of Baccarat does not display the same

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<sup>126</sup> Luz dos Santos, *supra* note 39, at 5; *see generally* Richard T.A. Wood & Mark Griffiths, *Understanding Positive Play: An Exploration of Playing Experiences and Responsible Gaming Practices*, 31 J. GAMBLING STUD., 1715, 1725, 1729 (2015) (noting that governments should focus on developing responsible gambling programs that embrace positive play).

<sup>127</sup> *See generally* Wood & Griffiths, *Understanding Positive Play*, *supra* note 127, at 1715; *see also* Wood et al., *supra* note 126, at 2.

<sup>128</sup> Luz dos Santos, *supra* note 39, at 5.

<sup>129</sup> *Id.* (emphasis added).

<sup>130</sup> Michael Auer et al., *Global Limit Setting as a Responsible Gambling Tool: What Do Players Think?*, INT. J. MENTAL HEALTH ADDICTION, Mar. 26, 2018, at 1, 12–13 (stating the importance of problem gamblers input with regard to the effectiveness (or the lack thereof) of global limit setting as a responsible gambling tool).

<sup>131</sup> Ladouceur et al., *supra* note 121, at 232 (averring that casino gaming leisure industry should pay close attention to responsible gambling tools with strong evidence of effectiveness).

<sup>132</sup> Auer et. al, *Global Limit Setting as a Responsible Gambling Tool*, *supra* note 131 at 12–13; Luz dos Santos, *supra* note 39, at 5.

<sup>133</sup> Luz dos Santos, *supra* note 39, at 5.

<sup>134</sup> Kahlil S. Philander, *Entry Fees as a Responsible Gambling Tool: An Economic Analysis*, 21 UNLV GAMING RES. & REV. J. 43, 46 (2017).

<sup>135</sup> *Id.*

gambling behavior<sup>136</sup> that a regular slot machine player in the U.S., which may be detrimental to the effectiveness of the research in this regard);<sup>137</sup>

- (w) Efforts should not be spared as to quash the so-called illusion of control<sup>138</sup> of the outcome of the game or bet, which is strikingly clear in Chinese Baccarat players.<sup>139</sup> Light ought to be cast upon the staggering house advantage<sup>140</sup> in table games and non-table games<sup>141</sup> aimed at thwarting misconceptions, gambling myths and erroneous beliefs (such as randomness of gambling activity),<sup>142</sup> and to raise awareness of a much-needed positive play;
- (x) Biometric revolution<sup>143</sup> is premised on the concept of ambient intelligent (AmI).<sup>144</sup> AmI<sup>145</sup> has spawned the biometric surveillance<sup>146</sup> which

<sup>136</sup> Lam, *supra* note 69, at 63.

<sup>137</sup> *Id.* at 63, 66.

<sup>138</sup> Godinho, *supra* note 14, at 262 (“[t]his reality is the basis of the popular wisdom according to which the only way to win at gambling in a stable and continuous manner is to be the owner of the casino”).

<sup>139</sup> Lam, *supra* note 69, at 66.

<sup>140</sup> Johnson, *supra* note 68, at 121 (stating that the staggering “theoretical payback percentage of the games” can be remotely set by the *pit boss* or the casino team service leader. “These settings dictate the amount that the machine will pay out over time and are provided to operators by manufactures on a ‘Probability Accounting Report’”).

<sup>141</sup> Godinho, *supra* note 14, at 262 (“This means, viewing things from another perspective, that there is in fact a minority of players who manage to make money on authorized games”).

<sup>142</sup> Auer & Griffiths, *Personalised Feedback in the Promotion of Responsible Gambling*, *supra* note 31, at 28.

<sup>143</sup> See generally Erin M. Sales, Note, *The “Biometric Revolution”: An Erosion of the Fifth Amendment Privilege to Be Free from Self-Incrimination*, 69 U. MIAMI L. REV. 193, 193–239 (2014) (highlighting the burgeoning importance of biometrics in everyday life while raising concerns about privacy).

<sup>144</sup> Hugo Luz dos Santos, *A Brave New World of Ambient Intelligence in the Casinos of Macau: Reality or Fiction?*, 19 UNLV GAMING RES. & REV. 41 (2015) (“The concept of intelligent ambient or *IAm* (from the English *Ambient Intelligence*) represents a digital and pervasive ambient created by the convergence of the technologies of radio transmission and broadcasting (as an identification by radiofrequency (RFID), agents of software, sensor networks, and processing of data by personal mobile devices. The convergence of technologies in cyberspace facilitates the integration and the interaction of the devices named as ‘intelligent.’”) (emphasis added).

<sup>145</sup> Emile Aarts & Raf Roovers, *Embedded System Design Issues in Ambient Intelligence*, AMBIENT INTELLIGENCE: IMPACT ON EMBEDDED SYSTEM DESIGN 11–29 (Twan Basten et. al. eds., 2003); Francisco Andrade et. al., *Using BATNAS AND WATNAS in Online Dispute Resolution*, NEW FRONTIERS IN ARTIFICIAL INTELLIGENCE 5–18 (Kumiyo Nakakoji et. al. eds., 2009); Davide Carneiro et al., *Retrieving Information in Online Dispute Resolution Platforms: A Hybrid Method*, THIRTEENTH INTERNATIONAL CONFERENCE ON ARTIFICIAL INTELLIGENCE AND LAW: PROCEEDINGS OF THE CONFERENCE 224–28 (2011).

<sup>146</sup> Stacy Norris, Note, “...And the Eye in the Sky is Watching Us All”—*The Privacy Concerns of Emerging Technological Advances in Casino Player Tracking*”, 9

should be used to curb problem gambling<sup>147</sup> both in table games and non-table games;

- (y) *Biofeedback data* inserted on a given slot machine can gauge the “‘level of stress; a level of positive excitement; a level of negative excitement; a level of depression; a level of boredom; and a level of intoxication’ through...’infrared cameras, pupil scanners, body movement scanners, body temperature sensors, blood pressure sensors, [and] pulse sensors”<sup>148</sup> which can proactively detect early patterns of problem gambling.<sup>149</sup> This technology<sup>150</sup> (e.g., embedded in player’s club cards<sup>151</sup>

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UNLV GAMING L. J. 269, 274 (2019) (“‘Biometrics’ refers to the method of identifying persons through scanning a part of the human body possessing unique characteristics: ‘For identification, an image is run against a database of images. For authentication, an image has to be accessed from the device to confirm a match. The latter is typically used for unlocking computers, phones, and applications.’ This can include fingerprint, facial, and iris scans; speech patterns; ‘heartbeat data’; ‘how you walk and type’; and ‘the uniqueness of vascular patterns in the eyes or even a person’s specific gait...’”) (internal citations omitted); *see e.g.*, Jessica D. Gabel, *CS/Las Vegas: Privacy, Policing, and Profiteering in Casino Structured Intelligence*, 3 UNLV GAMING L. J. 39, 42, 44, 45 (2012); *see also id.* at 41 (“[w]ith countless eyes and ears piercing through the smoke-filled casino floors, the questions become: what information are they capturing and what information are they capturing and what are they doing with it? It might surprise casino goers to learn that the Vegas-sized surveillance is not just to monitor the room for an unscrupulous gambler or two. It is not just that every camera in a casino is connected to recorders that document the life of a casino non-stop. *Specialized software tracks chips and specific cards. Pit bosses know which tables are turning a profit and which ones are losing. Moreover, casino patrons can be tracked via player’s club cards.*”) (emphasis added).

<sup>147</sup> Norris, *supra* note 147, at 270–71 (“By using that *card* in *slot machines* and presenting it at table games, a *player can accrue points through every dollar spent gambling*, perhaps even earning a higher rewards level due to particularly *robust play*.”) (emphasis added). If casinos can track players’ every move (as the coin-in and coin-out) and the so-called robust play (meaning large amounts of money and time spent gambling) depicts excessive gambling this calls into question the reason why these findings are not conveyed to tackle problem gambling in early stages.

<sup>148</sup> *Id.* at 275.

<sup>149</sup> *Id.*

<sup>150</sup> Z. Wang & H. Aquino, *Casino Technology: Player Tracking and Slot Accounting Systems*, 6 UNLV GAMING RES. & REV. J. 43, 43 (2001) (stating that “[r]emarkable technology has effected the method in which casinos run their business today. These new advancements are making data acquisition as simple a task as possible.... This means that once the information is inputted into the database system, it is then immediately accessible to anyone working on the floor or sitting in front of a computer”).

<sup>151</sup> Gabel, *supra* note 147, at 41 n.20 (noting that “Harrah’s Entertainment Inc. [currently Caesars Entertainment] utilizes ‘Total Gold’ card that operates similar to the discount cards issued by grocery and drug store chains. Patrons use the card to gamble, buy food and drinks, etc. The customer receives dividends redeemable toward other services in exchange. Trump, Bellagio, and Mandalay Bay all have similar programs, *which operate to ‘identify high rollers, so that these valued customers can be cultivated.*”) (emphasis added) (internal citations omitted); *Id.* (“The player’s club cards—similar to airline loyalty programs—allow subscribers to earn credits

and software that track chips and specific cards<sup>152</sup>) should be put to good use as to curb problem gambling worldwide;

- (z) Hefty criminal penalties ought to be applied to those engaging in gambling-related criminal activities.<sup>153</sup>

VI. BACKGROUND (LEGAL-SIDE) – CASINO LEISURE INDUSTRY SHOULD FUND RESPONSIBLE GAMING PROGRAMS THROUGH ADDITIONAL LEVIES AND TAXES: THE IMPORTANCE OF CORPORATE SOCIAL RESPONSIBILITY

Not long ago, the gaming-leisure industry's interests wanted to avoid additional levies<sup>154</sup> and taxes<sup>155, 156</sup> as a justification by the perceived need to fund the prevention and treatment programs that would limit gambling-related problems.<sup>157</sup> This consideration is wrong. Rather, it should be the other way around.

The gaming industry<sup>158</sup> is the ultimate beneficiary of large amounts of money raised through the gambling leisure activity.<sup>159</sup> It is neither an

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each time the card is used in a casino that participates in the program. Cardholders can put credit on the card and use it in lieu of cash to gamble. Purveyors of the cards urge participants to keep the card inserted in the slot machine or to hand it off to a dealer for table games. But the cards are more than just a means to earn points toward hotel nights, free diners, and spa treatments. *Casinos track their customers' habits and preferences by monitoring the card. The cards may also be linked to records that maintain the customer's win/loss history and even his or her credit rating.*" (emphasis added) (internal citations omitted).

<sup>152</sup> Gabel, *supra* note 147, at 41 (noting that "[s]pecialized software tracks chips and specific cards. Pit bosses know which tables are turning a profit and which ones are losing. Moreover, casino patrons can be tracked via player's club cards") (internal citations omitted).

<sup>153</sup> W. Jonathan Cardi, et al., *Does Tort Law Deter Individuals? A Behavioral Science Study*, 9 J. EMPIRICAL LEGAL STUD. 567, 591 (2012) (the authors stressed, premised on sound empirical evidence, that the threat of potential criminal sanctions had a large and statistically significant effect on subjects' stated willingness to engage in risky behavior).

<sup>154</sup> Khalil S. Philander, *Specific or Ad Valorem? A Theory of Casino Taxation*, 20 TOURISM ECON. 107, 119 (2014) (outlining a general theory of casino taxation which touches the heart of this issue).

<sup>155</sup> Harry Clarke, *Taxing Sin: Some Economics of Smoking, Gambling and Alcohol*, 4 MELBOURNE REV. 30, 30–36 (2008) (alluding to the interplay between taxation and sins and vices such as gambling).

<sup>156</sup> See generally John E. Anderson, *Casino Taxation in the United States*, 58 NAT'L TAX J. 303, 303–324 (2005) (discussing forms of taxation on casinos by state and local government).

<sup>157</sup> Peter Collins et al., *Responsible Gambling: Conceptual Considerations*, 19 GAMING LAW REV. & ECON. 594, 597 (2015).

<sup>158</sup> See Martin Padlam, *The Political Economy of Regulating Gambling, in* GAMING IN THE NEW MARKET ENVIRONMENT 184–186 (Matti Viren ed. 2008) (asserting the political economic issues revolving around the regulation of gambling in a given jurisdiction).

<sup>159</sup> *Las Vegas vs. Macau: Which Is the Capital of Casino Gambling?*, BUS. MATTERS (May 16, 2019), <https://www.bmmagazine.co.uk/business/las-vegas-vs->

unwarranted nor groundless axiom according to which casinos should be at the forefront with regard to the creation of healthy gambling environments. It should come as no surprise that legislatures should enact additional levies and taxes on the casino industry.<sup>160</sup> The bulk of that money should be conveyed to funding sound responsible gaming programs. But why should additional levies and taxes be launched? Because of the corporate social responsibility of the gaming industry.

What does Corporate Social Responsibility (CSR)<sup>161</sup> stand for? CSR has been a trendy issue for many years now.<sup>162</sup> “It grows out of the community’s and social groups’ expectations<sup>163</sup> that companies should not only care about short-term profits.”<sup>164</sup> “Because most companies operate within the boundaries of human communities, they should also have social responsibilities that they are obliged<sup>165</sup> to fulfill<sup>166, 167</sup>—to make the world a better place to live in.”<sup>168</sup> “Companies should consider the impacts of their business activities on all stakeholders including their customers [gamblers], trade partners, employees, investors, and community.”<sup>169</sup> Needless to say, some companies tend to view CSR as a way of

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macau-which-is-the-capital-of-casino-gambling/ (“The GGR (Gross Gaming Revenue) of Las Vegas is \$6.4 billion, 34% of which comes from playing casino games. The rest comes from hotel rooms and restaurants. On the other hand, Macau has a GGR of \$28.04 billion. Of this amount, the city will get around \$12 billion, which is twice as much as Las Vegas earns in total. Moreover, Macau’s revenue keeps growing each year. Last year, the revenue rose by 23.7%, which was more than the projected 15-20% growth”).

<sup>160</sup> *Id.* (“Gambling cities’ main source of income is collecting taxes from casinos. They need to find a proper balance to take enough to keep growing, but not to take too much, or else they will repel the casino operators”).

<sup>161</sup> On *Corporate Social Responsibility*, in the Portuguese doctrine, Madalena Perestrelo De Oliveira, *Direito de Voto nas Sociedades Cotadas: da Admissibilidade de Categorias de Ações com Direito de Voto Plural às L-shares* [Voting Rights in Listed Companies: from the Admissibility of Share Categories with Plural Voting Rights to L-shares], 2 REVISTA DE DIREITO DAS SOCIEDADES [CORPORATE L. REV.] 435, 439 (2015) (Por.).

<sup>162</sup> Desmond Lam, *Corporate Social Integration in Macao*, URBINO (Sept. 20, 2010), <https://urbino.net/corporate-social-integration-in-macao/>.

<sup>163</sup> JOSEPH W. MCGUIRE, BUSINESS AND SOCIETY 144, (1963) (noting that a “corporation today must take an interest in politics, in the welfare of the community, in education, in the ‘happiness’ of its employees—in fact, in the whole social world about it”).

<sup>164</sup> Lam, *supra* note 163.

<sup>165</sup> *Id.*

<sup>166</sup> MCGUIRE, *supra* note 164, at 144 (the idea of social responsibilities supposes that the corporation has not only economic and legal obligations but also certain responsibilities to society which extended beyond the scope of these obligations).

<sup>167</sup> Archie B. Carroll, *Corporate Social Responsibility: Evolution of a Definitional Construct*, 38 BUS. & SOC. 268, 271 (1999).

<sup>168</sup> Lam, *supra* note 163.

<sup>169</sup> *Id.*

giving back.<sup>170</sup> Some see it simply as a public relations tool.<sup>171</sup> However, these “traditional views of CSR are too narrowly defined.”<sup>172</sup> “While there is widespread adoption of the concept due to societal pressure, many companies and people still think CSR does not make good business sense.”<sup>173</sup> The undeniable fact is that CSR can mean more (much more) than good business because it is a feasible way to attain a sustainable competitive advantage<sup>174</sup> for casino leisure industry<sup>175</sup> in an overarching sense.

Striking a balance between corporate resources, profit goals, and social expectations is a cardinal factor in CSR concept. “It is not just about social responsibility[.]”<sup>176</sup> It is about socially integrating the operator’s<sup>177</sup> values with societal values<sup>178</sup>—a tender and rather delicate balance of values.<sup>179</sup> Casino operators must realize that in operating a casino they should strive to find common values between themselves and the community.<sup>180, 181</sup>

These values are paramount for gaming business sustainability.<sup>182</sup> One should bear mind the foregoing *positive play* and the creation of a healthy gambling environments as a striking example of the interplay between corporate social responsibility and gaming business sustainability.<sup>183</sup> This means (fairly and squarely) that gaming industry’s efforts to hamstring problem gaming should not be, by any means, spared. “The social responsibility of [the casino industry] encompasses the economic, legal, ethical, and discretionary expectations that

<sup>170</sup> Hanjoon Lee et al., *Corporate Philanthropy, Attitude Towards Corporations, and Purchase Intentions: A South Korea Study*, 62 J. BUS. RES. 939, 939–945 (2009).

<sup>171</sup> Lam, *supra* note 163.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> See e.g., JINGCHEN ZHAO, CORPORATE SOCIAL RESPONSIBILITY IN CONTEMPORARY CHINA 251, 253, 260 (2014) (discussing corporate social responsibility in China).

<sup>175</sup> Lam, *supra* note 163.

<sup>176</sup> *Id.*

<sup>177</sup> Moon-Kyung Cha et al., *Effects of Customer Participation in Corporate Social Responsibility (CSR) Programs on the CSR-Brand Fit and Brand Loyalty*, 57 CORNELL HOSPITALITY Q. 235, 235 (2016).

<sup>178</sup> See generally HOWARD R. BOWEN, SOCIAL RESPONSIBILITIES OF THE BUSINESSMAN 6 (1953) (noting that it refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow these lines of action which are desirable in terms of the objectives and values of our society).

<sup>179</sup> Hugo Luz dos Santos, *Artificial Intelligence and Gaming: Are You Sure? Beware of What You Wish!*, SIMULATION & GAMING 180 (Dragan Cvekovic ed., 2018).

<sup>180</sup> See e.g., Lam, *supra* note 163.

<sup>181</sup> Yan-Leung Cheung et al., *Being Good When Being International in an Emerging Economy: The Case of China*, 130 J. BUS. ETHICS 805, 805–817 (2015) (stressing that “[t]he importance imposed on corporate social responsibility (CSR) is greater in developed economies than in emerging markets”).

<sup>182</sup> Lam, *supra* note 163.

<sup>183</sup> *Id.*

society has of organizations at a given point in time.”<sup>184</sup> In this vein, it is hardly startling that “the CSR firm [for instance gaming industry] should strive to make a profit, obey the law, be ethical, and be a good corporate citizen.”<sup>185</sup>

## VII. BACKGROUND (LEGAL-SIDE) – CASINO LEISURE INDUSTRY OUGHT TO ESCHEW REPUTATIONAL DAMAGES

Should gaming leisure industry fail to comply with their corporate social responsibility, reputational damages may occur. What does reputational damages mean? It means damages to the social image of the gaming industry.<sup>186</sup> These are “indirect patrimonial damages,” as its occurrence may cause an effective downturn on a casino’s revenue. Moral hazard will not fall far behind.<sup>187</sup>

Indirect patrimonial damages also entail the reputational damages of the gaming industry, which essentially relates to both its reputation<sup>188, 189</sup> and company’s social image:<sup>190</sup> a precious asset when it comes to long-term business

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<sup>184</sup> Archie B. Carroll, *A Three-Dimensional Conceptual Model of Corporate Social Performance*, ACAD. MGMT. REV. 497, 500 (1979); see also Lam, *supra* note 163; concurring; ARCHIE B. CARROLL, BUSINESS AND SOCIETY: MANAGING CORPORATE SOCIAL PERFORMANCE *passim* (1981); see generally Archie B. Carroll, *Social Issues in Management Research: Experts’ Views, Analysis and Commentary*, 33 BUS. & SOC’Y 5, 12 (1994).

<sup>185</sup> Archie B. Carroll, *The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders*, BUS. HORIZONS 39, 43 (July–Aug. 1991); see also Lam, *supra* note 163.

<sup>186</sup> Kandis McClure, Note, *Tip-Pooling at Nevada Casinos—The Case at the Wynn and Why the Nevada State Gaming Board and Gaming Commission Should Set Strict Regulations on Tip-Pooling to Protect the Rights of Dealers, Casinos, and the Reputation of the Nevada Gaming Industry*, 5 UNLV GAMING L. J. 81, 96 (2014).

<sup>187</sup> Tom Baker, *On the Genealogy of Moral Hazard*, 75 TEX. L. REV. 237, 237–38 (1996) (stating that “[w]hat moral hazard means is that, if you cushion the consequences of bad behavior, then you encourage that bad behavior”).

<sup>188</sup> In the U.S. doctrine, see generally Toni M. Massaro & Robin Stryker, Discussion Paper, *Freedom of Speech, Liberal Democracy, and Emerging Evidence on Civility and Effective Democratic Engagement*, 54 ARIZ. L. REV. 375, 431 (2012) (discussing the US doctrine about reputation in an overarching sense).

<sup>189</sup> See generally CHARLES J. FOMBRUN, REPUTATION: REALIZING VALUE FROM THE CORPORATE IMAGE 5–6 (1996) (asserting that reputation and social corporate image ought to remain unscathed should the former aims at being well-regarded in the community in within which it operates).

<sup>190</sup> Jungsun Kim et al., *The Impact of Four CSR Dimensions on a Gaming Company’s Image and Customers’ Revisit Intentions*, 61 INT’L J. HOSPITALITY MGMT. 73, 74 (2017) (emphasizing the relevance of the four dimensions of CSR and its impact on the outer gaming company’s image).

sustainability.<sup>191</sup> Here lies the pivotal role that CSR<sup>192, 193</sup> plays in the remit of gaming leisure industry.

VIII. BACKGROUND (LEGAL SIDE) – GOVERNMENT STRUCTURES RELATED WITH RESPONSIBLE GAMING PROGRAMS SHOULD OPERATE JOINTLY: THE IMPORTANCE OF POOLING POWERS

Governments should take problem gaming very seriously and their efforts to curb excessive gambling should not be spared. The best way is to create joint structures that would collectively embrace harm-minimisation strategies aimed at dwindling problem gambling. The U.S. doctrine deem this administrative law doctrine as *pooling powers*.

What consists of pooling powers?

By “pooling” legal<sup>194</sup> and other resources allocated to different agencies, the executive creates joint structures capable of ends that no single agency could

<sup>191</sup> See generally Vanessa M. Strike et al., *Being Good While Being Bad: Social Responsibility and the International Diversification of US Firms*, 37 J. INT’L BUS. STUD., 850, 852–853, 860 (2006) (lest a given company wants to dodge the “bullet” of disrepute and social discredit abiding to corporate social responsibility is a must-do).

<sup>192</sup> See Wenjing Li & Ran Zhang, *Corporate Social Responsibility, Ownership Structure, and Political Interference: Evidence from China*, 96 J. BUS. ETHICS 631, 631–645 (2010) (on the importance of corporate social responsibility in China).

<sup>193</sup> In Canada, it is arguable that Ontario, Ontario Lottery and Gaming Corporation (OLGC) and gaming venues owe a positive *duty of care* to assist the problem gambler in certain circumstances. Sasso & Kalajdzic, *supra* note 43, at 552, 557 (“This area of the law will likely develop incrementally, on a *case-by-case basis*, with the first successful claim by a problem gambler arising in circumstances where the gaming venue knows the problem gambler and his or her need for assistance but, rather than assisting, continues to profit from the problem gambler’s addiction.” Knowingly, casinos have a variety of tools with which to monitor the gambling habits and losses of their patrons. They operate in a unique legislative regime which, though not specifically regulating the manner in which games of chance will be delivered, impose a general duty to operate in the public interest and in accordance with the principles of honesty and integrity.); *id.* at 569 (on October 26, 2006, Madam Justice Sachs issued the opinion in *Edmonds v. Laplante*, following the legal reasoning stated in *Cooper v. Hobart*, asserted that, according to *Anns test*, the *Ontario Lottery and Gaming Corporation (OLGC)* owe a *duty of care* to assist the problem gamblers”); see also *Paton Estate v. Ontario Lottery and Gaming Corporation (Fallsview Casino Resort and OLG Casino Brantford)*, 458 O.N.C.A. (2016); *Treyes v. Ontario Lottery and Gaming Corporation*, No.05-CV-290238PD1, 2772 O.S.C.J. (2007).

<sup>194</sup> *Pooling* is of a piece with broader institutional shifts. For example, toward networks of government actors in the transnational context. See generally, e.g., Anne-Marie Slaughter, *A NEW WORLD ORDER* 1 (2004) (arguing networks of government officials, such as police investigators, financial regulators, and legislators are “key feature of world order in the twenty-first century”); see also Abbe R. Gluck, *Intrastatutory Federalism and Statutory Interpretation: State Implementation of Federal Law in Health Reform and Beyond*, 121 YALE L.J. 534, 543 (2011) (arguing “Congress designates states as implementers for a range of reasons that are both ‘federalist’ and ‘nationalist’ in character” both as means to “give some effect to the states”

otherwise achieve.<sup>195</sup> Three definitional criterion bound the concept. “First, pooling is unilateral structuring by the executive. It is executive-initiated design not specified in legislation. The relevant statutory scheme might contemplate some level of interaction between the agencies<sup>196</sup> (or it might not), but the joint structure created by the executive is not prescribed by Congress.”<sup>197</sup> Or, in the case of Macau, by Legislative Assembly.

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traditional authority over areas that Congress is now entering” and as “nationalizing mechanism utilized by Congress to facilitate its takeover of a new field”); Daniel Richman, *The Past, Present, and Future of Violent Crime Federalism*, 34 CRIME & JUST. 377, 404–05 (2006) (discussing preferences of local law enforcers to cooperate with federal enforcers, allowing them to leverage federal shadow); On interlocal deals, see, e.g., Clayton P. Gillette, *The Conditions of Interlocal Cooperation*, 21 J.L. & POL. 365, 366 (2005) (proposing changes to legal and institutional structure to facilitate cross-subsidies from one locality to another); and on privatization, see, e.g., Jon D. Michaels, *Privatization’s Pretensions*, 77 U. CHI. L. REV. 717, 719 (2010) (arguing privatization enables federal agencies to achieve policy goals that, but for outsourcing, would be “impossible or much more difficult to attain” as matter of law and politics); *apud*, Daphna Renan, *Pooling Powers*, 115 COLUM. L. REV., 211, 214–15 n.5 (2015) (“[p]ooling has domestic cognates in fields such federalism”).

<sup>195</sup> Renan, *supra* note 194, at 211.

<sup>196</sup> A burgeoning literature today delve into the synergetic interactions between government agencies. See, e.g., Rachel E. Barkow, *Insulating Agencies: Avoiding Capture Through Institutional Design*, 89 TEX. L. REV. 15, 15 (2010); Keith Bradley, *The Design of Agency Interactions*, 111 COLUM. L. REV. 745, 745, 783, 785 (2011) (identifying “rule-based interface” as a design tool through which executive “preserve[s] the division of authority” between agencies so “[e]ach agency...is discouraged from considering interest-dimensions outside of its part of the problem”); J.R. DeShazo & Jody Freeman, *Public Agencies as Lobbyists*, 105 COLUM. L. REV. 2217, 2221 (2005) (arguing Congress can control delegated power by using other agencies as “lobbyists”); Jody Freeman & Jim Rossi, *Agency Coordination in Shared Regulatory Space*, 125 HARV. L. REV. 1131, 1155–81 (2012) (identifying and assessing available agency-coordination instruments); Jacob E. Gersen, *Overlapping and Underlapping Jurisdiction in Administrative Law*, SUP. CT. REV. 201, 203 (2006) (examining “use by Congress and subsequent treatment by courts of overlapping and underlapping jurisdictional statutes in administrative law”); Neal K. Katyal, *Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within*, 115 YALE L.J. 2314, 2325–27 (2006) (arguing bureaucratic overlap can serve as important internal check on a President); Jason Marisam, *Duplicative Delegations*, 63 ADMIN. L. REV. 181, 184–86 (2011) (discussing causes, effects, and implications of “duplicative delegations” to multiple agencies); Jason Marisam, *Interagency Administration*, 45 ARIZ. ST. L.J. 183, 185–86 (2013) (analyzing how and why agencies seek to shape each other’s regulatory decisions and implications for separation of powers); Jason Marisam, *The Interagency Marketplace*, 96 MINN. L. REV. 886, 887 (2012) (describing legal framework governing interagency outsourcing and proposing statutory reforms); Anne Joseph O’Connell, *The Architecture of Smart Intelligence: Structuring and Overseeing Agencies in the Post-9/11 World*, 94 CALIF. L. REV. 1655, 1673–1716 (2006) (analyzing tradeoffs of unification and redundancy in structure of intelligence agencies); see generally Eric Biber, *The More the Merrier: Multiple Agencies and the Future of Administrative Law Scholarship*, 125 HARV. L. REV. F. 78, 78–83 (2012); Renan, *supra* note 194, at 215–16 n.9.

<sup>197</sup> Renan, *supra* note 194, at 218.

Secondly, “pooling involves two or more distinct entities working together. [At this glance,] [p]ooling is thus different from consolidation or agency merger. It is a type of agency coordination.”<sup>198</sup> Third, pooling integrates legal and other resources possessed by—and dispersed across—the [governmental] agencies.”<sup>199</sup> In the case of Macau, the Chief Executive of Macao “may supervise pooling, but pooling occurs at the administrative level.”<sup>200</sup> Interagency coordination can be a mechanism to improve “governance challenges rooted in regulatory redundancy by streamlining agency interactions, divvying up responsibilities, or otherwise diminishing interagency conflicts in a common regulatory domain.”<sup>201</sup>

Pooling, “by contrast, shows how the executive uses interstitial design to accumulate power from within. The capabilities of the joint structure are different from those of the individual members acting alone. In this way, pooling enables the executive to augment capacity endogenously.”<sup>202</sup> This initial incursion into pooling powers doctrine focused on the interagency realm.<sup>203</sup> But the phenomenon is not by all means so narrow. Pooling power is boosted only to the extent that the executive’s joint structures include, for example, private-sector participants, such as the casinos or the gaming industry at large.<sup>204</sup> Just as highlighted on the non-legal side discussion.

IX. DISCUSSION (LEGAL SIDE) – APPLYING POOLING POWERS  
DOCTRINE: “MESSAGE IN A BOTTLE” TO MACAU, JAPAN,  
SINGAPORE AND BRAZIL

Administrative capacity is outlined by a vast array of considerations that can be grouped as “information, skill or technical expertise, professional norms, and fiscal resources.”<sup>205</sup> An agency’s set of resources—legal, functional, political, and practical—can be thought of as its “administrative toolkit.”<sup>206</sup> “Through pooling, the executive augments capacity by, in effect, constructing a new toolkit that no single agency possesses.”<sup>207</sup>

This is a lesson that the Macao, Japan, Singapore, and Brazil governments should bear very firmly in mind. Gaming is the pillar industry in Macao, therefore:

It is in the Macao government’s best interests to maintain a long-term sustainability of the gaming industry and to avoid any negative impact of gambling that

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<sup>198</sup> *Id.* at 219.

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> *Id.* at 220.

<sup>206</sup> *Id.*

<sup>207</sup> *Id.* at 220–21.

might impede Macao's development as a major Asian entertainment metropolis. The Macao government also has both the authority and the resources to promote responsible gambling.

However, the government has been slow to take action to promote responsible gambling. Since 1999, reference to the need for proper regulation of the gaming industry has always been made in the Chief Executive's Annual Policy Address. It was not until 2005 that the then Chief Executive, Edmond Ho, referred to the negative impact of excessive gambling, promising that sufficient resource would be employed to reduce the incidence and prevalence of pathological gambling, in order to promote the gaming industry's healthy development. Following institution of this new public policy, the Resilience Centre was set up in November 2005 as a division of the Social Welfare Bureau (IAS). Since then, the Resilience Centre has been engaged in extensive work in treatment, prevention, and research concerning problem gambling.<sup>208</sup>

With the Resilience Centre, the IAS started the Problem Gambling Centralized Registration System in January 2011 to glean data about the characteristics of problem gamblers (e.g., sex, marital status, occupation).<sup>209</sup> The IAS intended to extend the counseling services to problem gamblers who do not seek help on their own.<sup>210</sup> By the same token, DICJ (Gaming Inspection and Coordination Bureau, abbreviated as DICJ in Portuguese) created a voluntary self-exclusion service in 2008<sup>211</sup> and Macau has introduced a voluntary self-exclusion from the casino venues in 2012 (Law 10/2012 of August 28, 2012).

Law 10/2012 mandates that gamblers and their family members are entitled to apply to DICJ,<sup>212</sup> which subsequently requests all six casino operators to ban these gamblers once it confirms the self-exclusion<sup>213</sup> application. Some

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<sup>208</sup> Gui-Hai Huang, *Responsible Gambling Policies and Practices in Macao: A Critical Review*, 2 *ASIAN J. GAMBLING ISSUES & PUB. HEALTH* 49, 52 (2011).

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> Huang, *supra* note 208, at 52.

prosecutions<sup>214</sup> have been initiated but data<sup>215</sup> about the number of self-excluders has only been recently made available<sup>216</sup> to the general public.<sup>217</sup>

Other government agencies,<sup>218</sup> such as the Education and Youth Bureau and the Tertiary Education Service Office, also promote responsible gambling and

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<sup>214</sup> See Chan Kuong Seng [Second Instance Court of Macau], Process No. 437/2016 (July 12, 2018) (decision noting that the self-excluded compulsive gambler is not to be held accountable as far as the count/charge of crime of disobedience (art.º 12.º, paragraph 2) of Law no. 10/2012 is concerned. Thus, the compulsive gambler's conduct that breaches self-exclusion from casinos is exempt from criminal liability. This is a landmark decision that runs afoul with the very essence of a nonsensical legal regulation (art.º 12.º, paragraph 2), da Lei no. 10/2012): a compulsion, like compulsive gambling, is something that, by definition, one is unable to fully tame or control. Makes little to no juridical sense to state that the problem gambler incur in criminal liability should he fail to control something that is utterly uncontrollable).

<sup>215</sup> *Quarterly Data of the [Macau] Casino Exclusion Applications*, GAMING INSPECTION AND COORDINATION BUREAU, [http://www.dicj.gov.mo/web/en/responsible/performance\\_pledge\\_stat-2013.html](http://www.dicj.gov.mo/web/en/responsible/performance_pledge_stat-2013.html) (last visited Apr. 8, 2020). The website provides the following table:

Quarterly data of the Casino Exclusion Applications

Items	2012 *	2013	2014	2015	2016	2017	2018	2019				
								1 <sup>st</sup> Qtr.	2 <sup>nd</sup> Qtr.	3 <sup>rd</sup> Qtr.	4 <sup>th</sup> Qtr.	Total
Self-Exclusion	27	252	262	328	326	316	417	132	120	129	106	487
Third Party Exclusion	3	24	18	27	25	60	73	17	22	19	19	77
Total	30	276	280	355	351	376	490	149	142	148	125	564

<sup>216</sup> *Contra* Huang, *supra* note 208, at 52.

<sup>217</sup> On the data related to the number of self-excluders in Macau back in 2016, see Luís Pessanha, *Self-Exclusion of Problem Gamblers in Macau*, ASIAN GAMING L., May 2016, at 10, 11.

<sup>218</sup> Take a look of how Macau's combat on problem gambling is scattered and erratic. The official site of DICJ reads as follows:

Problem Gambling Prevention and Treatment Centers

Prevention and treatment centers are public institutions that provide preventative and treatment services to problem gamblers. If you, your family, or friends are in need, the following institutes can offer help.

1. Problem Gambling Treatment Centers

provide information about financial management to and fund non-profit organizations to raise public awareness<sup>219</sup> about problem gambling.

Pooling powers is instrumental in uniting (thus cobbling together) scattered government agencies powers-and-expertise with regard to curtailing problem gambling, which is paramount in gaming law. Every now and then an agency will have the practical resources, but not the legal capacity, to achieve a coveted policy goal.<sup>220</sup> Another agency will have the legal authority, but it will lack the relevant operational expertise.<sup>221</sup> Pooling powers enables the executive to combine these scattered resources.<sup>222</sup>

Resilience Centre (RC), Education and Youth Bureau and the Tertiary Education Service Office (EYTESO) should be a division of DICJ (Gaming Inspection and Coordination Bureau, abbreviated as DICJ in Portuguese) and their resources should be combined in order to curtail excessive gambling. Gaining access to RC database, DICJ would be equipped to proactively identify multiple problem gamblers and put in motion a preventive plan to address and treat their problem gambling issues. DICJ, using the vast array of social resources of RC, would be equally equipped to provide an accurate counseling service to problem gamblers and their families. Using the expertise of EYTESO, DICJ would be able to provide information about healthy financial management to gamblers in order to avoid future excessive gambling problems.

Macao government can use one agency's legal capacity (DICJ) as a lifter (a true lever) to augment the regulatory capacity of other agencies<sup>223</sup> (RC and EYTESO) aimed at curbing problem gambling. This type of pooling should enable the executive to respond to challenges (posed by the heinous phenomenon of problem gambling) "that it perceives in a globalizing and data-driven

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The Resilience Center-Problem Gambling Counseling Service, Social Welfare Bureau of MSAR Government; Gabinete Coordenador dos Serviços Sociais Sheng Kung Hui Macau Industrial Evangelistic Fellowship of Macau  
Yat On Centre

2. Problem Gambling Preventative Centers  
Macao Catholic Family Advisory Council  
Macao New Chinese Youth Association  
Federação das Associações dos Operários de Macau  
Young Men's Christian Association of Macau  
Associação de Juventude Voluntária de Macau  
Bosco Youth Service Network.

*Information on Responsible Gambling*, RESPONSIBLE GAMBLING, <http://www.dicj.gov.mo/web/en/responsible/responsible01/content.html> (last visited Apr. 30, 2020).

<sup>219</sup> Huang, *supra* note 208, at 52.

<sup>220</sup> Renan, *supra* note 194, at 213.

<sup>221</sup> *Id.* at 276.

<sup>222</sup> *Id.* at 213.

<sup>223</sup> *See id.* at 221.

world.”<sup>224</sup> This amounts as both valid and warranted for prospective Brazil and Japan government entities that are to be awarded the incumbency to tackle problem gambling in those gaming jurisdictions.

#### CONCLUDING REMARKS

Problem gambling should be approached in a proactive manner rather than a purely reactive one. In a nutshell, knowledge creators (medical doctors and scientists and brainy people alike) and end-users (gaming leisure industry, governments, lawyers and polymath people alike) should collectively contribute to the creation of healthy gambling environments in both prompt and well-timed manner.

The very implementation of a responsible gaming model does not forsake an interdisciplinary approach. There is no such thing as the foundation of a proper and sound responsible gambling model devoid of, and detached from, an interdisciplinary approach aimed at tackling this deleterious phenomenon.

Aimed at attaining such a laudable goal, a collaborative approach between the knowledge creators (e.g., researchers, medical doctors and academics who tirelessly put their best endeavours as to study and research the social and medical phenomenon of problem gambling) and end-users (e.g., policy makers, lawyers, gambling industry, regulators, gamblers) is neither to be disregarded nor downplayed.

A synergetic problem-solving between knowledge creators and end-users should to be underpinned not only in a science-based empirical approach, as emphasised by the Reno Model, but be shaped through linkage and exchange of knowledge between both sides of gaming leisure industry. This is an axiom that is at the heart of the Interdisciplinary-based model.

Mutual learning in the gaming industry surely requires the input of a vast array of stakeholders as the aforesaid mutual learning has multiple stages such as planning, producing, and applying existing empirical research and its concrete implementation in practice should not disregard (let alone set aside) the input of any end-users or decision makers.

An interdisciplinary approach of responsible gaming is a *two-way street*: researchers produce and gather empirical research and decision makers tend to apply existing or new research in decision-making. Researchers do not successfully transfer their empirical findings without the input of the decision makers. Conversely, decision makers cannot reap the benefits from an evidence-into-practice approach if they not successfully engage with the researchers. At this glance, the very need of linkage and exchange cannot be stressed vigorously enough.

An efficacious linkage and knowledge exchange involve, oftentimes (if not all the time) the interaction of both sides of the leisure gambling industry aimed at boosting the benefits of global innovation in this realm.

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<sup>224</sup> *Id.*

Striking a delicate (and rather arduous) balance between corporate resources, profit goals, and social expectations is at the heart of the CSR concept. It is not just about social responsibility though.<sup>225</sup> “It is about socially integrating the operator’s values with societal values”—a tender (and rather difficult to achieve) balance of values.<sup>226</sup>

Casino leisure industry in an overarching sense (and casino operators in particular) must realize that in running a casino they should employ their best endeavours to find common values between themselves and the community in which they do business with.

These values are crucially important for gaming business sustainability. Just bear in mind the foregoing *positive play* and the very need of contributing for the creation of a healthy gambling environments as a vividly clear example of the interplay between corporate social responsibility and gaming business sustainability, which means (fairly and squarely) that gaming industry’s efforts to ebb problem gaming should not be by any means spared.

Lest gaming leisure industry wants to avoid the abhorrent reputational damages, a nuanced attention should be paid to corporate social responsibility.

By pooling powers, Macao government can use one agency’s legal capacity (e.g., DICJ) as a lever to amplify and enhance the regulatory capacity of other agencies (e.g., RC and EYTESO) aimed at petering out the impish social-and-legal phenomenon of problem gambling.

This concrete type of pooling powers should enable a given government (or any regulatory body allotted with the task to oversee gambling leisure industry) to proactively respond to challenges (posed by the flagitious phenomenon of problem gambling) “that it perceives in a globalizing and data-driven world.”<sup>227</sup>

This amounts as both apposite and warranted for prospective Brazil and Japan regulatory bodies that are to be given the incumbency to hamper problem gambling in those forthcoming gaming jurisdictions. Singapore could also reap the innumerable benefits arisen from the multidisciplinary-based model of responsible gambling.

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<sup>225</sup> Desmond Lam, *Shelter from The Storm*, GGB NEWS (Sept. 2, 2017), <https://ggbnews.com/article/shelter-from-the-storm>.

<sup>226</sup> *Id.*

<sup>227</sup> Renan, *supra* note 194, at 221.