



**Gambling Business Group Draft Response to the DCMS Call for Evidence regarding;
The Review of the Gambling Act 2005.**

March 31st 2021

The Gambling Business Group (GBG) welcomes the opportunity to contribute to the Call for Evidence relating to the Review of the Gambling Act 2005.

The GBG represents a group of businesses with interests in the Gambling Sector in Great Britain. Members include online operators and service/product providers, betting office operators, AGC operators, family entertainment centre operators, operators of licenced bingo premises and suppliers of services, products and legal advice to all of the above. Subsequently, the GBG is unique in being able to provide a holistic view of the whole of the gambling sector without becoming partisan about any one particular segment of the Industry.

In order to make the revised Gambling Act more future proof than its predecessor, The Gambling Business Group would recommend and support a **two staged approach** to gambling legislation going forwards. This would satisfy the criticism that Gambling Legislation and Regulation has not kept up with changes to society, particularly around the onset of digitisation and consumer demands. **Stage 1** would be to amend primary legislation to mandate regular reviews of key regulations at set intervals, and then enable any subsequent changes (in line with technological advances and consumer changes) via secondary legislation. This should all be done with a defined control process including evidence lead decision making by the presiding Government Department. **Stage 2** would be the processes within secondary legislation to enact the changes enabled via Primary Legislation.

We believe that this is an important foundation on which to base the next Gambling Act on if we are to prevent getting into this difficult political dilemma again.

Online protections - players and products

1. Q1: What evidence is there on the effectiveness of the existing online protections in preventing gambling harm?

GBG Response to Q1.

- 1.1. The period of lockdown has provided a rare window of evidence as to the effectiveness of online player protections. For the period April 2020 to April 2021, the vast majority of gambling in the UK has taken place either online or on the National Lottery. The Gambling Commission's own quarterly surveys

<https://beta.gamblingcommission.gov.uk/statistics-and-research/publication/year-to-december-2020#details> are indicating that as expected, participation rates are down year on year from 47% to 42%. However, the overall problem gambling rates and ‘low risk rates’ have reduced considerably. This is evidence that needs to be properly analysed and evaluated to establish the cause of the declines before any additional measures are considered for introduction. It can be concluded on face value that the online protections implemented over recent years appear to be having a positive impact on harm.

- 1.2. Levels of protection for online gambling consumers have been raised substantially over the course of the last six years through a combination of legislative reform, regulatory change, operator policies, the ingenuity of third-party solution providers and of course with the support of treatment providers.
- 1.3. Responsible Gambling Player tools;
 - Both domestically and on an international level, the wider Industry has developed a considerable range of tools designed for use by consumers to support their safer gambling.
 - This approach is designed to complement the consumer’s own behavior, thus providing the choice of support that suits them and their activity.
 - It is important we do not forget what is pointed out in the Terms of Reference to this review, that most – in fact the vast majority – of consumers are able to enjoy their gambling without the need for external controls or restrictions.
- 1.4. The challenge facing us is to develop tools and access to those tools that is designed around consumer’s nuanced needs. The first principle of effective problem gambling prevention (Williams et al., 2012) is to “*strive for optimal design*”.
- 1.5. The Gambling Commission publishes data on the usage and effectiveness of various safer gambling tools summarised as follows.

Gambling Commission survey findings of awareness, usage, and effectiveness of safer gambling measures			
Tool	Awareness	Usage	Effectiveness
Reality checks	30%	3%	Not reported
Transaction and play history	33%	Not reported	21% of users reduced gambling expenditure or stopped gambling post-adoption (6% increased gambling expenditure)
Financial limits	58%	9%	25% of users reduced gambling expenditure or stopped gambling post-adoption (6% increased gambling expenditure)
Time out	37%	3%	Not reported
Exclusion by product	26%	2%	Not reported
Self-exclusion	47%	5%	Not reported

- 1.6. However, despite the low awareness numbers we understand that most, if not all UK Licenced Operators provide these safer gambling measures. Where customer usage of tools is low, this does not necessarily indicate a lack of effectiveness but could easily be

explained by the lack of any need to look for them. As Professor Bo Bernhard of the University of Nevada Las Vegas observed in 2006:

“Infrequent use is not necessarily a reason to reject these features, as those in desperate situations might find them useful on rare occasions, and this could be reason enough to embrace them.” (Bernhard et al., 2006)

- 1.7. Low usage rates may therefore simply reflect the fact that the vast majority of gambling consumers seem well able to regulate their own gambling enjoyment without the need for tools provided by operators.

2. Q2: What evidence is there for or against the imposition of greater controls on online product design? This includes (but is not limited to) stake, speed, and prize limits or pre-release testing.

GBG Response to Q2.

- 2.1. The Gambling Commission is now of the view that the prevalence of problem gambling in fact appears to be reducing. On the 25th February 2021 Westminster E Forum event, executive director of the Commission, Tim Miller stated that “it does appear that there is an emerging trend showing a decline in overall rates of problem gambling”. This is a welcome and timely evaluation of the evidence-base, in line with the government’s own request for evidence-led thinking and balance. If Miller’s evaluation is correct and there is a trend showing a decline in overall rates of problem gambling, then before further controls are put in place, the cause of this decline needs to be fully understood in order for any further controls to be designed appropriately and sympathetically.
- 2.2. What we would strongly recommend is that when ‘greater controls’ are considered that they are designed around what the evidence is telling us and that they are trialled and tested in a controlled environment before coming anywhere near regulation. There is no excuse for not fully testing online changes before their imposition. We also have a responsibility to the vulnerable to ensure that any proposed changes are not having the wrong impact on their behaviour – we have to, and have the ability to, avoid unintended consequences.
- 2.3. The Gambling Regulator has not been proactive when it comes to evaluating and analysing their own regulatory changes and responsible gambling efforts. This is a missed opportunity to not only improve the collective intelligence in this key area, but also to set an example of an evidence led evaluation culture.
- 2.4. As examples, here is a list of increased regulatory controls that the Gambling Commission has imposed for online gambling consumers. None of which have been subject to any post-implementation evaluation;
 - Ban on credit card payments.
 - Ban on reverse withdrawals.
 - One-hour interaction triggers
 - A requirement to clearly display to customers net position and time played.

- The Commission’s own enforcement measures and the regulatory impact of the Commission’s associated ‘public statements’
- The Commission’s own regulation and in particular the July 2019 ‘Formal Advice’; and
- The Commission’s COVID guidance
- Enhancements to the Advertising Standards Authority’s code for gambling advertisements.

3. Q3: What evidence is there for or against the imposition of greater controls on online gambling accounts, including but not limited to deposit, loss, and spend limits?

GBG Response to Q3.

- 3.1. It appears that the most recent evidence is leaning ‘against’ the imposition of greater controls. However, more needs to be understood before any changes are made in this area.
- 3.2. In addition to the number of list of measures imposed by the regulator above, there is a further set of changes that will take effect from October 2021 as follows:
 - Inclusion of 2.5 seconds minimum spin speed for remote slots games in Remote Technical Standards
 - Ban on autoplay features.
 - Removal of turbo, slam stop and quick spin features.
 - Removal of functionality facilitating multiple slot play; and
 - Ban on sounds or imagery which give the illusion of a win when the return is in fact equal to, or below, stake (otherwise known as ‘Losses Disguised as Wins’).
- 3.3. It is and always has been the view of the GBG that all of these changes could easily (and should) have been tested in a live environment before becoming regulations for two significant reasons;
 - In order that any unintended consequences could be identified before any unintended damage is done and
 - To check whether the measures/restrictions actually do what the Gambling Commission intend them to do, which would demonstrate an ‘evidence led’ approach to regulation.
- 3.4. Failure to carry out this level of basic ‘due diligence’ contravenes the Evaluation Protocol framed by the Responsible Gambling Strategy Board (now the Advisory Board for Safer Gambling) in 2016 as well as the guidance from the National Audit Office in its 2020 report on the Gambling Commission. The NAO was trenchant in setting out its concerns in this area:

‘Between April 2014 and March 2019, the Commission revoked the licence of eight gambling businesses and eight senior individuals working in the industry. Over the same period, it enforced 29 financial penalties. These penalties have increased from three penalties with a combined value of £1.4 million in 2014-15 to nine penalties totalling £19.6 million in 2018-19. The Commission does not know the extent to which these increases have strengthened the deterrent effect of enforcement action...’

- 3.5. Whilst it might now be too late to take the above route on the many incidents identified, it is certainly not too late to evaluate the impact of the changes already made in the answer to Q2 above and, to wait until the listed changes scheduled for October 2021 are evaluated and understood following their imposition. The GBG would strongly recommend that the impact of these changes are fully understood and the resulting evidence used as intelligence to inform any further changes or proposals.
- 3.6. We also think that the timing of this question relating to greater controls on online accounts - when the GC are being allowed to carry on consulting (in parallel) on the imposition of additional changes including weekly spending limits – lacks cognition. The statistical trend in 'overall problem gambling rates' appear to question the need for further controls as articulated in our answer to question 2 above. Additional controls affect **all** consumers, not just the declining number affected by problem gambling. The Government claims it wants to 'strike the right balance' and we think it is appropriate at this point to quote the evidence in Point 2 of your own introduction to this review; ***Gambling is a popular leisure pursuit in Britain. Last year, 47% of adults surveyed had taken part in at least one form of gambling in the previous four weeks (32% if we exclude those who played only the National Lottery). Gambling can be entertaining and sociable, and enhance enjoyment of other activities, and the vast majority of gamblers take part without suffering even low levels of harm. The industry also makes significant contributions to the economy, employing nearly 100,000 people, paying approximately £3bn per year to the government in taxes, and accounting for £8.7bn or 0.5% of UK Gross Value Added (GVA). It also contributes significantly to other industries, including sport, racing and advertising.***

4. Q4: What is the evidence on whether any such limits should be on a universal basis or targeted at individuals based on affordability or other considerations?

GBG Response to Q4.

- 4.1. The vast majority of gambling consumers do not need the Government or the Regulator to tell them how much they are allowed to spend on any of their leisure activities. See response to Q3 above and Point 2 of your own introduction - not least of all the section that says; ***the vast majority of gamblers take part without suffering even low levels of harm.*** We totally concur with the following comment in your own Terms of Reference – Point 27 - which states that 'There have been too many examples of gamblers being able to spend very large sums of money which they couldn't afford in short spaces of time without effective operator intervention, leading to devastating effects for individuals and their families'. Imposing limits on a 'universal basis' that affects **all** consumers is not a balanced or proportionate approach to the issue. The Regulator has the powers already to deal with these cases of '.....gamblers being able to spend very large sums of money which they couldn't afford....' and has been doing so. It is 'lazy regulation' that place draconian limits on everyone's spending and

consumption just so that the Gambling Commission no longer need to regulate or enforce consumer protection themselves.

- 4.2. Contrary to the above, there are still those who claim that the 'Public Health argument' has been won when it comes the 'social responsibility' approach to gambling. The GBG believes that this 'group think' is far from reality and we explain below why not all gambling consumers should be treated with the same responsible gambling ideals.
- 4.3. The argument that 'gambling activity' is not a case for deploying the precautionary principle in the manner that has been the case over recent years is well made by researchers in 'Responsible Gambling, Primary Stakeholder Perspectives' where they conclude;

"In the case of public health, application of the precautionary principle would involve new interventions and technologies. Examples of the precautionary principle applied include pesticides, alternative energy technologies, genetically modified organisms, and more (Carret, Sanchez-Zapta, Benitez, Lobon, & Donazar, 2009; Kriebal et al., 2001; Sachs, 2011). The precautionary principle attempts to prevent new things from doing the public harm by putting the burden of proof for safety on the purveyor of the new thing, regardless of motivation, before that new thing affects the public (Sachs, 2011). The precautionary principle, therefore, is consistent with scientific development, and at odds with premature application of even well-intended programmes and practices." (Collins, Shaffer et al., 2019, P45)

- 4.4. The 'Precautionary Principle' advocates care where the outcome of human actions is uncertain and may result in harm. As researchers at Harvard Medical School have too pointed out, the principle also applies to safer gambling measures and interventions:

"The precautionary principle actually applied to RG [responsible gambling] would mean that large-scale RG program efforts would not commence until their safety had been established....In many cases, RG programs and policies that emerge from conventional wisdom about what should work are applied before evidence is collected, justified by the need to do something to control harmful gambling outcomes...Although it is possible that such RG programs are useful and help moderate excessive gambling, such an approach risks potential harmful impacts of untested interventions, despite good intentions...The illogical assumption seems to be that, even though the hope and intention is for these programs to have significant positive effects in human behaviour, they could not possibly have significant negative effects." (Gray et al., 2019, p.45).

- 4.5. The GBG therefore believes that the evidence is predominantly against "...whether any such limits should be on a universal basis or targeted at individuals based on affordability or other considerations" and that a far more scientific approach is required.

5. Q5: Is there evidence on how the consumer data collected by operators could be better deployed and used to support the government's objectives?

GBG Response to Q5.

- 5.1. The GBG believes that improvements in technology and better use of data and subsequent intelligence is the future for the Gambling Industry and a key component in protecting vulnerable consumers. We believe that this a generally accepted principle.
- 5.2. However, the leveraging of data and how that data is processed and managed in future is as yet an untrodden path, with many Data Protection Act 2018 implications. It is

therefore important that Government and the Information Commissioner's Office work closely and collaboratively with the Gambling Industry and the Gambling Regulator to ensure that no infringement of one set of regulations is allowed to happen in pursuit of another set.

- 6. Q6: How are online gambling losses split across the player cohort? For instance, what percentage of GGY do the top and bottom 10% of spenders account for, and how does this vary by product?**

GBG Response to Q6.

We leave this for online Operators to respond to.

- 7. Q7: What evidence is there from behavioural science or other fields that the protections which operators must already offer, such as player-set spend limits, could be made more effective in preventing harm?**

GBG Response to Q7.

We leave this for others with appropriate knowledge and experience to respond to.

- 8. Q8: Is there evidence that so called 'white label' arrangements pose a particular risk to consumers in Great Britain?**

GBG Response to Q8.

We leave this for others with appropriate knowledge and experience to respond to.

- 9. Q9: What evidence, if any, is there to suggest that new and emerging technologies, delivery and payment methods such as blockchain and crypto currencies could pose a particular risk to gambling consumers?**

GBG Response to Q9.

We leave this for others with appropriate knowledge and experience to respond to.

- 10. Q10: Is there any additional evidence in this area the government should consider?**

GBG Response to Q10.

The GBG has nothing further to add to this section.

Advertising, sponsorship and branding

- 11. Q11: What are the benefits or harms caused by allowing licensed gambling operators to advertise?**

GBG Response to Q11.

- 11.1. The difficulty with many of the questions posed in this document is how Government expects respondents to provide negative evidence (how to prove something isn't happening)? This is a concept that everyone struggles with, including the academic fraternity. This particular case is worse than most because Gambling Related Harm cannot be measured as it has not been properly defined, specifically not to a point of being able to measure it. Proving that something that can not be measured is not happening (or not present) is highly unlikely to ever reach a meaningful conclusion & is therefore not a legitimate question. However,
- 11.2. Licenced Gambling Operators are by their very existence legitimate businesses operating in a commercial environment. Advertising is a legitimate business practice as long as it is within the relevant advertising regulations. The idea that gambling businesses can't or shouldn't advertise is prohibitive and strikes at the very core of its legitimacy.
- 11.3. Businesses need to advertise to thrive and survive. Conversely, restricting advertising unnecessarily will have the consequence of putting business survival & the jobs that go with them at risk.
- 11.4. The vast majority of gambling consumers do so for enjoyment and without issue, again we direct readers to Point 2 of the DCMS's own introduction to this review here. This vast majority should not have the communication with their preferred providers disproportionately restricted because of a small number of consumers who might incur harm.
- 11.5. Unlike tobacco, gambling does not cause harm to everyone who consumes it – far from it. It is therefore inappropriate to consider treating the advertisement of the two products in the same way.
- 11.6. The ASA update on children's exposure to alcohol and gambling advertising on TV in 2019 (see Appendix 1) tells us that exposure to Gambling Advertising on TV is not as proliferate as some make out, being at only 2% of their total exposure for some time now. Also, ads for sports related gambling are towards the bottom of those they do see.
- Gambling ads made up less than 2% of all the TV ads that children saw, on average in a week every year between 2008 and 2017. This increased slightly to 2.2% in 2018 and remained at a similar level in 2019, at 2.1%.
 - Since 2011 (the first year when we can be confident about product breakdown information for gambling products), ads for bingo, lottery and scratch cards have continued to make up the majority of gambling ads that children see on TV. This is followed by ads for casinos, and then ads for sports-related gambling.
 - Children's exposure to all TV ads halved, from a peak of, on average, 229.3 ads per week in 2013 to a low of 115.9 ads per week in 2019. Over the same period, children's exposure to gambling ads on TV has fallen by just under half. While the rate of decline in children's exposure to gambling ads on TV is marginally lower than the rate of decrease in exposure to all TV ads, children's exposure to gambling ads has remained at a lower level since the 2013 peak.
- 11.7. Existing CAP Codes are there to ensure that advertising remains responsible.

12. Q12: What, if any, is the evidence on the effectiveness of mandatory safer gambling messages in adverts in preventing harm?

GBG Response to Q12.

- 12.1. LBOs have agreed to give 20% of their window space to safer gambling messaging which has been predominantly the recognised When the Fun Stops, Stop campaign.
- 12.2. Online Operators have agreed to give 20% of advertising space to safer gambling messaging.
- 12.3. In 2015, the Senet Group launched a programme of 'safer gambling' messages/advertisements with the strapline 'When The Fun Stops, Stop!' (also used in other jurisdictions internationally). Use of this messaging continues to the present day.
- 12.4. In 2017/18, GambleAware and Public Health England launched a public health advertising campaign, 'Bet Regret' designed to discourage impulsive online (and specifically in-app) gambling. It was also intended to encourage greater self-reflection amongst gambling consumers. The campaign has been funded by voluntary contributions from the larger Operating Licence Holders.
- 12.5. Research carried out by Chrysalis Research (see Appendix 2) the on behalf of the Bingo Association regarding their 'on machine' safer gambling messaging that was rolled out across both bingo & AGCs showed that around a quarter (26 per cent) of survey participants who saw them said the messages had made them think about or change something in relation to their own or someone else's gambling.
- 12.6. Despite all of the above activity, we are not aware that there is any empirical evidence that supports the use of mandatory safer gambling messages in advertisements.

13. Q13: What evidence is there on the harms or benefits of licensed operators being able to make promotional offers, such as free spins, bonuses and hospitality, either within or separately to VIP schemes?

GBG Response to Q13

- 13.1. We repeat part of our answer to an earlier question here because it is just as relevant;
 - The difficulty with many of the questions posed in this document is how Government expects respondents to provide negative evidence (how to prove something isn't happening)? This is a concept that everyone struggles with, including the academic fraternity. This particular case is worse, because Gambling Related Harms cannot be measured as they have been properly defined, specifically not defined to allow them to be measured. Proving that something that cannot be measured is not happening (or is not present) is highly unlikely to ever reach a meaningful conclusion & is therefore not a legitimate question.
 - Similarly, this question starts from a difficult premise as VIP schemes themselves do not have an agreed definition.

- It is well recognised that Self-excluders are already protected through regulation.
- 13.2. The ‘vast majority’ of gambling consumers do so for enjoyment and without issue and should continue to be able to do so without interference, as will all other walks of life. We again quote Point 2 of your own introduction to this document as a direct link to evidence of this; *Gambling is a popular leisure pursuit in Britain. Last year, 47% of adults surveyed had taken part in at least one form of gambling in the previous four weeks (32% if we exclude those who played only the National Lottery). Gambling can be entertaining and sociable, and enhance enjoyment of other activities, and the vast majority of gamblers take part without suffering even low levels of harm.*
 - 13.3. This ‘vast majority’ of consumers should not have product promotional offers such as free spins, bonuses and hospitality from their preferred provider disproportionately restricted because of a small number of consumers who ‘might’ incur harm as a result of them being offered.
 - 13.4. CAP Codes ensure that promotions, incentives & bonuses are deployed responsibly.
 - 13.5. It is very difficult to keep bad promotions hidden from scrutiny, including from regulators.
 - 13.6. Consumers can, should they wish to, research Operator backgrounds and establish whether they are effectively regulated and by whom.
 - 13.7. Product promotions is a legitimate way for a legitimate business to communicate with its customers and consumers.
 - 13.8. Existing restrictions and regulations in these areas are already purposely designed to protect consumers.

14. Q14: What is the positive or negative impact of gambling sponsorship arrangements across sports, esports and other areas?

GBG Response to Q14.

- 14.1. There is a long-standing tradition in the commercial sponsorship of sporting organisations and events. The sponsorship of individual football teams by gambling operators is a relatively recent development, but the broader sponsorship of horse racing by gambling brands goes back many years.
- 14.2. The relationship between sport and gambling has many positive implications, not least of all increasing international awareness and popularity of British sports. A similar important benefit is the funding of grass-roots sports. As the English Football League states: “Sponsorship has been a feature of the modern game for some time, but the revenue it now brings to Clubs means it now plays a larger role in supporting football.
- 14.3. Despite what might be printed in the tabloid press, responsible gambling sponsorship is accepted by the public and is much-needed and much-appreciated method of generating financial support for the relevant sports. There is a clear sustainability in having money flowing from gambling revenues back into the sports

which create the betting opportunities in what is clearly a mutually beneficial relationship.

15. Q15: Is there any additional evidence in this area the government should consider, including in relation to particularly vulnerable groups?

GBG Response to Q15.

- 15.1. Self-excluders as a vulnerable group are already protected from exposure to advertising and promotions in regulation.
- 15.2. The same goes for under 18 year olds, including challenge on entry to Licenced Gambling Premises (requiring positive ID).
- 15.3. These vulnerable groups have no access to free-spins, bonuses or hospitality.
- 15.4. It's difficult to stop promoting and advertising to someone who is vulnerable (because they may have had a 'life changing experience) unless they are regular customers.
- 15.5. As mentioned in earlier responses above, advances in technology will be key in protection of the vulnerable going forwards and the effective deployment of advertising AI and other such innovations will be important.
- 15.6. In this area and in the general approach to Gambling Legislation, it is important that in the interests of maintaining the effective balance set out in the objective, that the views of ALL gambling groups are taken into account, on a proportionate level. There is a current trend towards listening to the voices of Experts by Experience who are an important group, but they do represent just a small minority of gambling consumers.

Gambling Commission's powers and resources

This section has been the focus of criticisms made by the HOL Select Committee, the National Audit Office, the Public Accounts Committee and the APPGRGH. All of this is on public record and can be referenced.

16. Q16: What, if any, evidence is there to suggest that there is currently a significant black market for gambling in Great Britain, or that there is a risk of one emerging?

GBG Response to Q16.

- 16.1. Non-expert GBG Members have 'hands on' experience of finding black market websites in 25 mins. It is a fundamental mistake to conclude or assume that a member of the public or a gambling consumer could not do exactly the same in a similar timeframe.
- 16.2. We have also identified in our answer to Q17 how easy it is to access gambling websites who are not part of Gamstop, the self-exclusion scheme for ALL UK registered Licenced online Operators. Any gambling website that is not part of the Gamstop scheme is equally not regulated by the UK Gambling Commission. These websites do not provide the same protections to gambling consumers. They may or may not be

black market websites, they may be loosely regulated on an island in the pacific. But to push vulnerable gamblers to these sites plays right into the hands of illegal operators.

- 16.3. So, we have explained that there is plenty of evidence for all to see that these black-market sites exist. However, the question posed above is; “Is the black market currently ‘significant’? The number 1 Cambridge English Dictionary definition of ‘significant’ is; important or noticeable. The black-market sites located through the above process are important (because they lack the consumer protections that regulated sites have) and noticeable (because they are so easy to search, find and join). In short, ‘yes’ there is a ‘significant’ black market for gambling.
- 16.4. Additionally, the black market is significant enough for the Gambling Commission to have a team of people working on it, although due to the lack of organisational transparency we are not in a position to evidence this.
- 16.5. However, we are of the opinion that the question whether there is a ‘significant’ black-market is misplaced in this context. We should be asking; does a black market exist; yes or no? (Clearly it does as explained above and can be easily evidenced first-hand via google.) Then if it does exist, are consumers going to be pushed towards the black-market if barriers to the legitimate market are set too high? Obviously, the answer to this is yes and we would challenge anyone to prove otherwise.
- 16.6. Placing additional and invasive regulatory hurdles on the public’s freedom to continue to enjoy their gambling activity unhindered (especially when they are unnecessary) will only encourage gamblers to look for sites where this intrusion is not required, effectively priming the black market.
- 16.7. Worse than this, some of the very people that gambling regulation should be trying to protect are those that are more likely to find it difficult to evidence that they are legitimately funding their compulsive gambling activity. They will be the ones that will be the first to defect to the black-market to hide. This will be particularly applicable if ‘affordability checks’ are introduced. How many vulnerable gamblers being pushed to the black market will be an acceptable price to pay for the imposition of affordability checks? We would suggest that the answer to this is zero.

17. Q17: What evidence, if any, is there on the ease with which consumers can access black market gambling websites in Great Britain?

GBG Response to Q17.

- 17.1. Anyone with internet access can google ‘gambling websites not on Gamstop’ and take their pick from a long list of gambling websites not regulated by the UK Gambling Commission. There is clearly no shortage of un-licenced and/or unregulated gambling websites available to anyone with the motivation to look for them. No ID is required to join some of them and in many cases joining will be followed up by a personal call from their VIP manager.
- 17.2. There is a theory (and some naive belief) that blocking technology is the solution to preventing access to these sites, but this is only affective for a very short time before

workarounds are introduced. No regulator has been able to effectively block access to websites that don't want to be blocked for any meaningful length of time.

- 17.3. In the USA the black market is thriving, despite the introduction of the Unlawful Internet Gambling Enforcement Act and the heft of both the FBI and Department of Justice with the power to enforce it.
- 17.4. Not even the twin powers of the Ministry of Public Security and the People's Armed (State) Police in China have made inroads into their online black market – the largest in the world.
- 17.5. In the Gulf states where there is much control of civil liberties including all access to the internet, little has been done to stop the rise in local black-market activity there.
- 17.6. And closer to home in Europe, the Director General of the Swedish Chamber of Commerce has recently acknowledged that the “tools the authority has today to counter illegal gambling are not sufficient...” with the Ministry of Finance there launching an inquiry into the black market.

18. Q18: How easy is it for consumers to tell that they are using an unlicensed illegal operator?

GBG Response to Q18.

- 18.1. Those with detailed knowledge and experience can tell the difference between a licenced website and a non-licenced website. Without this detailed knowledge it is very difficult to differentiate as illegal operators are motivated to go out of their way to make their sites look regulated.
- 18.2. Some websites are licenced outside of the UK with different & less onerous regulations. These sites are particularly difficult to differentiate from UK Licensed websites.
- 18.3. Illegal operators want to attract as many gambling consumers as possible, therefore it is in their interests to make their sites look like they are licenced, many times using similar (or the same) products, games and brands to those used by Licenced Operators.
- 18.4. It should also be pointed out at this juncture that a problem gambler looking for a gambling 'fix' may not care in the heat of the moment, whether the site is legal or illegal.

19. Q19: Is there evidence on whether the Gambling Commission has sufficient investigation, enforcement and sanctioning powers to effect change in operator behaviour and raise standards?

GBG Response to Q19.

- 19.1. By way of an introduction to this section, the Gambling Business Group believes that the Gambling Commission does in fact have sufficient investigation, enforcement and sanctioning powers to effect change in operator behaviours and raise standards. It also has adequate resources to be able to effectively carry out these tasks. However,

there are a number of concerns about the way in which the current Gambling Commission uses these powers and the overwhelming feedback is that their current approach isn't working. It becomes clear in the evidence below that this is primarily a management and leadership problem rather than having inadequate powers or resources. We are aware that the Leadership of the Gambling Commission is in the process of changing, but there are lessons to be learned from the last few years that have got us to this difficult place that any new Leadership Team would benefit from.

- 19.2. We have a concern that the Gambling Commission's investigative powers have been undermined by their loss of product (and operating) knowledge and experience over recent years, which has increasingly not been replaced. We believe that this is intentional but do not understand why they would purposely choose to diminish their capabilities in this way.
- 19.3. Many other jurisdictions will say that the most effective gambling investigators and enforcers are those who have intimate knowledge of how the industry works from the inside. The Gambling Commission would be far more capable as a regulator if their organisational skill set included a meaningful proportion of hands-on Industry knowledge and experience.
- 19.4. However, the Gambling Commission is less than transparent about its organisational structure and hierarchy. Things have improved slightly with the launch of the new website, however below Director level it is still very difficult for anyone on the outside to ascertain what the structure is, who does what, or who they should be contacting for a specific issue. <https://beta.gamblingcommission.gov.uk/about-us/who-we-are>
- 19.5. The Gambling Commission has the ultimate sanction within their arsenal – to revoke licences. It is the way this sanction is (or is not) used that determines how effective the Regulator is (or could be) at changing operator behaviours. Not only personal licences, but operating licences should be in jeopardy for repeat breaches.
- 19.6. We have identified in our response to Q1, 2 & 3 above that the Gambling Commission have been remiss at not carrying out evaluations as per their own Statement of Principles and the Regulators' Code. This is one of those many areas where the Gambling Commission (pointed out in the National Audit Office Report) are not inquisitive about the impact of their own actions. Unfortunately, the Gambling Regulator does not know whether their actions are having the desired impact or not because they have not been evaluating them.

20. Q20: If existing powers are considered to be sufficient, is there scope for them to be used differently or more effectively?

GBG Response to Q20.

- 20.1. Regulatory settlements (fines) may be an effective method of making headlines, but the real cost to operators include the implications of the changes (remedial action) that they are compelled to introduce following a serious breach. The Remedial Action

tends to be far more costly in terms of reduced revenues to Operators than the settlement itself.

- 20.2. However, an unintended consequence of the imposition of some Remedial Action (following a breach) can be that the new processes/changes negatively affect customers, leading to some consumers rejecting the additional burden placed upon them and compelling them to take their business elsewhere, where the additional requirements are not in place.
- 20.3. We are not aware that the Gambling Commission retrospectively evaluate any of the 'remedial actions' they have forced Licence Holders to impose on their customers, despite there being an obligation on them to do so in Point 3.5 of the Regulators' Code <https://www.gov.uk/government/publications/regulators-code>
- 20.4. If the Gambling Commission used their existing powers more effectively, they would be seen as an effective Regulator and the reputation of the industry as a whole would be so much better as a result. The Gambling Commission's reputation has been falling. For the first time since it was formed in 2007 the Gambling Commission is regarded by many in Westminster as 'not fit for purpose' (hence this being part of the review) with the consequential association that the whole Industry is therefore not properly regulated. The Gambling Industry needs a more effective gambling Regulator, as does the UK Government.
- 20.5. There have been instances when the Gambling Commission has taken its 'powers' too far and when this occurs there needs to be a more effective system of oversight and Governance. Examples of this have been the Gambling Commission's creation of the terms 'Primary Purpose' and 'Primary Activity'. These terms have no legal standing in the Gambling Act 2005 but were non the less introduced by the Commission as new regulations. Eventually, after a number of years attempting to make these terms relevant - and in doing so causing much anxiety for operators - the GC saw the error of their ways and ceased referring to them. We have a very similar situation currently with the proposed introduction of 'affordability checks' for all gambling consumers. We believe that this represents 'state-controlled consumption' which is a 'Public Policy' matter with Human Rights and Freedom of Choice implications that belong in Parliament, not with a Regulator. If used in a balanced and evidence lead way, legislating via the LCCP is an effective way to keep up with changes in consumer trends and advancing technology, but there has to be effective oversight by Government if the wider public interest is to be protected.
- 20.6. It is important that in the interests of maintaining the effective balance set out in the objective, that the views of ALL gambling groups are taken into account by the Regulator, on a proportionate level. There is a current trend emerging with the Regulator towards listening to the voices of Experts by Experience who are an important group, but they do represent just a small minority of gambling consumers.

21. Q21: What evidence is there on the potential benefits of changing the fee system to give the Gambling Commission more flexibility to adjust its fees, or potentially create financial incentives to compliance for operators?

GBG Response to Q21.

- 21.1. The Gambling Regulator recovers the cost of regulating via the issuing of licences. It would be dangerous for any non-commercial organisation to have freedom to act unilaterally or indeed have the uninhibited ability to rack up costs and recover them when administering licence fees. Whatever the outcome, there has to be more transparency with the costs and effective third-party scrutiny and oversight. All stakeholders in UK Gambling deserve better accountability and transparency from their Regulator.
- 21.2. An example of this is that over recent years the Gambling Commission's head count has been increasing. These numbers are taken from their own annual reports;
- 2014-15 286
 - 2015-16 290
 - 2016-17 300
 - 2017-18 300
 - 2018-19 355
- 21.3. There has been a 24% increase in headcount within the Gambling Commission against a) the backdrop of those they regulate being in considerable decline (before any Covid implications are taken into account) and b) a worsening Westminster reputation as an effective regulator.
- 21.4. It is hard to see a situation where the regulators revenues could be allowed to ebb and flow with enough freedom to be able to award meaningful financial incentives to operators, without it impacting its financial stability. What happens in the event that the majority of Licencees score top marks in their compliance inspection? How will the GC fund a large-scale reduction in licence fees? The inherent danger in this is that the regulator could be tempted to score operators artificially low in order to avoid awarding discounts. It would certainly not be in the regulators interests to allow its funding to slip into a negative balance.
- 21.5. In any event, the only way such a proposal could be equitable is if all licence holders, however large or small, are measured/scored by the exact same criteria on a regular basis. Such a task is not currently within the Commission's resources as would require increasing the number of Inspectors to administer the process.
- 21.6. In addition to the previous point, there must be an appeal process in such an arrangement, and as reputations will be at stake here it is entirely predictable that the appeals process will be overwhelmed.
- 21.7. The Gambling Commission's largest overhead is its pay role. One of the frustrations that continues with the Gambling Commission is its lack of transparency regarding roles, responsibilities, organisational structures and reporting lines. Restructures happen on a frequent basis but are never explained to licencees. Key people leave and are not replaced with no explanation. Those who have and need regular contact with the Gambling Commission are left without contacts.
- 21.8. Simply having more flexibility to adjust fees is not the solution to the Gambling Commission's current problems.

22. Q22: What are the barriers to high quality research to inform regulation or policy making, and how can these be overcome? What evidence is there that a different model to the current system might improve outcomes?

GBG Response to Q22.

- 22.1. The first barrier is a cultural one. One that has blocked progress for far too long. We have a collective task to deter objectors from using the myth that ‘industry funded’ research is not robust or reliable. This type of statement is all too convenient to use for those who disagree with research outcomes, but the more damaging impact is that it undermines the wider gambling research credibility. Due process needs to be followed, including proper peer reviews, before any research is simply dismissed as ‘not robust’. This is important because whilst there is at times a vocal prejudice against ‘Industry Funded Research’ (even as recently as the Gambling Commission CEO trying to rubbish PWC research into the black market in the National Media recently), it is important to remember that any funder, whether the Government, the Regulator, the Regulator’s advisors, individual companies or the wider Industry, all have the potential to influence research. So in the long term, throwing proverbial stones only damages the collective reputation.
- 22.2. The Government has a responsibility to prevent these myths and prejudices from being given airtime. The above-mentioned incident created by the CEO of the Gambling Commission is an example that should have been stamped on at the time. Simply stating that ‘.....200,000 UK consumers using illegal websites is not consistent with the intelligence picture.....’ without producing said ‘intelligence’ is not helpful to anyone. This approach does not move the debate forwards and reputationally, becomes a ‘race to the bottom’.
- 22.3. Similarly, the Chairman of the Gambling Commission in his introduction see Appendix 3) to their own 2017 Raising Standards conferences referred to the ‘low risk’ consumers you reference in Point 3 of your Terms of Reference to this review as *“.....there are another 2m or more people whose gambling habits suggest that they are at risk of developing a serious gambling problem”* which is simply untrue. The point being made here is that research and survey results need to be treated with respect and communicated accurately. Your own words in the introduction to this review are much more factual and considered; *Additionally, 1.4 million adults are low risk gamblers, who are not likely to be experiencing harm but have engaged at least sometimes in a behaviour like chasing losses.*
- 22.4. There are many protocols available to ensure the integrity of research, wherever the funding comes from. If all stakeholders were to use such a standard, it would both protect academics and researchers from undue criticism, consequently open up the research field to a wider rendering interest, and improve the quality of the outcomes. An example of this is the NCRG 2016 Annual Report on Page 7; https://www.ncrg.org/sites/default/files/uploads/2016ncrg_annual1016_final.pdf
- 22.5. If objectors are deterred from falsely claiming that ‘industry funded’ research is not reliable, then more research organisations would be motivated to engage in the gambling space. But this would require government departments and Ministers, especially DCMS Ministers, to support ‘industry funded’ research and to ‘call out’ the

objectors when they make such false and destructive claims. Until this happens the whole field of gambling research will continue to be stymied.

22.6. The second barrier is the natural limitation to academic research. Tens of millions of RET funds have been spent by Gamble Aware (and RGT before them) on academic research over the last 10-15 years, yet our knowledge about gambling psychology has not moved on a huge amount in that time. Academics can only simulate gambling topography and environments. If high quality research is a genuine goal towards making better policy decisions, then gambling operations have to be included in the research process. A genuine collaborative approach is needed. Prejudices currently prevent the industry from being involved in (RET funded) research in any way, to the detriment of the outcomes and those we are trying to protect. If operators were allowed to engage in the research process, then we can start to talk about methodologies for researching the following;

- Consumer behaviours in Live environments.
- Real and 'in the moment' gambling consumer decisions and activity.
- With real money and the motivations that brings.
- With real emotions.
- With real relationships.

22.7. Because of the prejudice towards the industry being involved in research, we are currently missing out on this untapped wealth of knowledge and information. The Gambling Commission's 'Experts by Experience' initiative is a good step forwards, but it will only ever represent the very small minority of consumers who have incurred harm through loss of control of their gambling activity. If the Gambling Commission want to see quality research outcomes, then it needs to take representations from all parts of the gambling consumer spectrum.

22.8. The last point to be made here is that current Act has no facility for the 'Live' testing and evaluation of new developments (products/operations/environments etc) with real gambling consumers. All too often requests for changes to products or operating practices are met with "you need to prove that this change will not increase gambling related harm". A simple response that has the effect of blocking all progress a) because 'gambling related harm' as a construct is not defined or measurable and b) without the proposed change being tested live, any analysis is purely academic/theoretical. There should be a facility within the Act that allows new products or initiatives to be tested and evaluated. This facility would require a collaborative but robust regime to ensure that the results are reliable and that any inherent risks are properly managed.

23. Q23: Is there evidence from other jurisdictions or regulators on the most effective system for recouping the regulatory and societal costs of gambling from operators, for instance through taxes, licence fees or statutory levies?

GBG Response to Q23.

- 23.1. The ‘societal costs of gambling’ are currently ill defined. Broad estimations of the ‘societal costs of gambling’ have been hypothesised based on estimations of harm caused by gambling. Gambling Related Harm is a nebulous construct that means very different things to every individual and is consequently equally ill defined. To propose financial policies and additional taxation on such poorly defined concepts does not make for sound decision making.
- 23.2. The nearest equivalent regulating system to gambling is alcohol. A controversial ‘polluter pays’ tax was introduced to alcohol regulation called the ‘Late Night Levy’ (LNL) to enable Licensing Authorities to recover the additional regulatory cost from opening premises after midnight. The introduction of the LNL has not been a success and has subsequently only been taken up by 10 of 365 local authorities. To make things worse for those having to contribute in the 10 Las that have imposed the LNL, there are many other late night businesses who are open at the same time and servicing the same customers do not have to contribute to the LNL, which makes is an unfair tax on Licencees.
- 23.3. Recouping ‘societal costs’ of any product or service provision does not happen anywhere else in society or commerce that we are aware of, particularly in the UK. For a legitimate activity such as gambling to be singled out for this kind of treatment is the start of a ‘polluter pays’ government policy that should then be equally applied to all other products for the ‘societal costs’ that they cause, including food, luxury goods and all alcoholic drinks. Interestingly, it is difficult to think of any product or service that has no ‘societal costs’ what-so-ever. This is similar to the Gambling Commission’s aspirations for ‘state-controlled consumption’ of gambling products. These are big ‘Public Policy’ issues that have implications for **all** consumers and **all** products and will fundamentally start to change the way this country is Governed. These decisions deserve full Parliamentary oversight and approval before being consulted on with the wider British Public.
- 23.4. It is worth reminding those reading this that gambling is not like tobacco. Gambling **does not** cause harm to everyone who consumes it. Yet the implication here is that gambling should for some reason be treated as if it does. One can therefore be forgiven for concluding that the absence of the balance and proportionality required by the Minister in his articulation of this Review means there must be an element of unwarranted prejudice towards gambling that has made its way into some of these suggestions, including this one.
- 23.5. The UK Gambling Industry pays its taxes to government as do all other legitimate businesses who by their very existence, will cause ‘societal costs’. We will refer the DCMS back to Point 2 of the Minister’s Introduction to this Review for the total value that the UK Gambling Sector is worth to the Government; *The industry also makes significant contributions to the economy, employing nearly 100,000 people, paying approximately £3bn per year to the government in taxes, and accounting for £8.7bn or 0.5% of UK Gross Value Added (GVA). It also contributes significantly to other industries, including sport, racing and advertising.*
- 23.6. We are aware that some other jurisdictions fund gambling research, education and treatment through different mechanisms including Italy, Austria and Germany. But

none of them expect their gambling industry to meet the extrapolated 'societal costs' of gambling activity.

- 23.7. An additional point to note is that GGY is not an equitable or appropriate proxy for determining RET contributions (or a levy) as it creates an imbalance between offline and online operators. Because they are premise/venue based, the overheads for operating offline businesses (costs deducted after GGY) are far higher than those of online/remote business. Similarly, there are different tax rates applied to different Licence types. A better proxy would be to use an agreed sub-sector net profit (after tax and overheads) for each type of gambling licence category.

24. Q24: Is there any additional evidence in this area the government should consider?

GBG Response to Q24.

- 24.1. This section has been the focus of criticisms made by the HOL Select Committee, the National Audit Office, the Public Accounts Committee and the APPGRGH. All of this is on public record and can be referenced. In addition to the content of these meetings and documents, on a number of occasions in the House of Commons the question has been asked as to whether the current Gambling Commission is 'fit for purpose'? We would like to provide some evidence that throws additional light and context on this question bringing into focus some of the many shortcomings of the current Gambling Regulator. We should not shy away from the inevitability that the Regulator's current declining reputation is having an adverse effect on the overall public opinion of the UK Gambling Sector as a whole, something which the Commission has mistakenly claimed on a number of occasions is all down to the behaviour of Licenced Operators. If nothing else is learned from this exercise, the one thing the DCMS should take away is the deterioration of the relationship between the Regulator and those whom it regulates. This relationship is not in line with that explained in the Regulators' Code, which is the Government's template for regulation. We believe that this situation has to be addressed if we want things to improve for gambling overall.
- 24.2. Compliance with the Regulators' Code. Attached to this document (see Appendix 4) is a critique of the UK Gambling Commission's approach to regulation against the requirements in Government's Regulators' Code 2014
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913510/14-705-regulators-code.pdf
- This document evaluates a non-exhaustive review of the Gambling Commission's regulatory activities against the relevant criteria set out in the Regulators' Code. The Gambling Commission has committed to comply with and have regard for the Regulators' Code on numerous occasions and in numerous documents, some of which are identified within this section; however, serious gaps have been identified. Here are some examples.
 - Absence of any evaluation of the cost and/or burden of increasing compliance requirements on the industry.

- No clear route to appeal against the Gambling Commission's lack of adherence with the Regulators' Code.
- No regular mechanisms or surveys for taking feedback from those they regulate.
- Absence of any transparent reviews of their chosen regulatory activities
- Aversion to provide advice upon request to those they regulate.

24.3. (FOI) request relating Attached Gambling Commission response (see Appendix 5) to a Freedom of Information to the allocation of funds procured via 'regulatory settlements' (fines) in the wake of gambling compliance breaches. The lack of transparency over where the Gambling Commission had allocated funds raised through 'voluntary settlements' (financial penalties as a result of compliance breaches) was taken up with the Gambling Commission and the then Minister Tracy Crouch in June 2018. Whilst the issue was acknowledged, nothing was ever produced. This prompted a FOI request and the Gambling Commission then responded accordingly. The Gambling Commission has their own Statement of Principles for determining financial penalties. The response revealed the following which raises concerns over the Gambling Commission's abilities as a Commissioning body;

- The GC had agreed to £58,946,578 worth of financial sanctions over a five-and-a-half-year period between June 2014 and December 2019.
- As is their prerogative, the GC has taken £756,997 from these funds to cover their own (not unreasonable) costs in carrying out the investigations.
- Some £24m of the penalties have been repatriated with those who have fell victim to non-compliant gambling activity.
- The other considerable proportion of these penalties amounting to £34,843,338 has been commissioned to agreed 'socially responsible purposes' as per the GCs Statement of principles for determining financial penalties.
- However, the issue remains in that the GC do not have in place a process for checking whether the £34.8 million they commissioned to 'socially responsible purposes' has been spent effectively or provided the impact intended for those in need of help. Indeed, there is within the GC's own Statement of Principles a clear obligation to meaningfully evaluate the effectiveness of all spending on 'socially responsible purposes'. This is not an inconsiderable amount of money that should be being used to effectively protect the vulnerable, and the Gambling Commission has no idea whether it has or whether it hasn't been wasted.

24.4. An article written by Regulus Partners (see Appendix 6) regarding the misuse of problem gambling statistics that is in the public domain. In this blog the author examines and evaluates the rhetoric used by the Chief Executive Officer of the Gambling Commission in a speech to the Gambling Industry including levels of Problem Gambling and other extrapolations from the 2016 Health Surveys for England, Scotland and Wales.

- This particular speech was not an exception, it was a continuation of a dialogue used by the Gambling Commission on a regular basis.
- As has been done many times before, the article questions the strength and validity of the outcomes produced by the Health Surveys in relation to gambling, and the methodology used to obtain them. Further questions are then asked about how much weight they should be given by the Regulator as a consequence.

- The blog then goes on to explain why Problem Gambling and the reduction of it is not solely the Gambling Industry's responsibility, even though the Regulator implies that it is.
- The conclusion is that the Gambling Commission are using a set of statistics for a particular purpose that upon scrutiny, statistics they appear not to fully understand.
- No one can argue that there are operators of gambling businesses who have been found to be less than fully compliant when it comes to managing their consumers, and the Gambling Commission have rightly dealt with them 'how they saw fit' at the time.
- But these are a minority of licencees. To use Problem Gambling statistics to unfairly point the finger of blame at **all** licenced operators does not make for a relationship in which an appropriate level of trust and respect between the Regulator and the Industry can exist.

24.5. Two surveys of 'Those who the Gambling Commission Regulate'. The Gambling Commission has obligations set out in the Regulators' Code to ".....have mechanisms in place to engage those they regulate...." And "Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate." However, it has been identified in the Review of the Regulators' Code above that the Gambling Commission do not have these mechanisms in place. In order to test the views of the Industry, the Gambling Business Group (GBG) carried out two surveys amongst Licence Holders ('those they regulate') canvassing the current views of the Gambling Regulator. The first in February 2020 (see Appendix 7) and more recently for the purposes of this call for evidence, in March 2021. The highlights from these surveys are not dissimilar; In Feb 2020;

- 80% of respondents did not trust the Gambling Commission to regulate the Industry in a fair and proportionate way.
- 76% said that trust in the Gambling Commission had decreased in the last three years.
- 68% 'disagree' or 'strongly disagree' that the regulator is open and transparent in the way it engages with licencees.
- 75% 'disagree' or 'strongly disagree' that the relationship between the regulator and it's Licensees is healthy and supports Licencees in achieving the licencing objectives.
- 76% 'disagree' or 'strongly disagree' that the regulator is sufficiently knowledgeable about gambling and gambling products to be able to regulate effectively.
- 82% 'disagree' or 'strongly disagree' that the Gambling Commission's approach to changing gambling regulations is proportionate with the empirical evidence of the risks.

In March 2021;

- 59% said they do not trust the Gambling Commission to regulate the Industry in a fair and open way.
- 81% said their trust in the Gambling Commission to act fairly has decreased.

- 81% said that the Gambling Commission no longer has the knowledge regarding the industry to be able to regulate it.
- 85% said that the Gambling Commission's approach to regulation is not proportionate with the empirical evidence of the risks.
- 70% disagree that the relationship between the Gambling Commission and Licencees is constructive and mutually respectful.

It is recognised that this may not be a truly balanced piece of research that does not fully conform with Market Research Society standards, but the same can be said of similar pieces of research commissioned not least very recently by the Gambling Commission into 'affordability' and Gamcare canvassing views <https://www.surveymonkey.co.uk/r/GCGAR> on this very call for evidence. However, in the absence of the Regulator fulfilling their obligations in the Regulators' Code, this is all we currently have. The intention here is to use these results as evidence to highlight a very serious cause for concern regarding the relationship between the gambling regulator and the Industry it regulates, a concern that is not being looked for currently. A more structured and regular format for canvassing the views of 'those they regulate' is clearly necessary and should be a legislated requirement in a revised Gambling Act – what it should not be is an ineffective code provision that nobody enforces.

- 24.6. Failure to execute the findings of the Hampton Review from April 2009 (see Appendix 8). Whilst this document is some 12 years old now, it does confirm that the issues we appear to be encountering with the Regulator today have echoes from the recent past suggesting that perhaps were not dealt with effectively at the time. These issues are listed as;
- Improving the use of intelligence and risk analysis.
 - Better focus on outcomes.
 - Being clearer about its responsibilities with regard to the economic vitality of its regulated sector.
 - Improving the quality of data requests and communicating why they are required.
 - Providing clear, tailored guidance.
 - Working in partnership with local authorities.
 - The Gambling Commission confirmed their acceptance of the recommendations from the Hampton Review in the documents introduction, particularly in point 3. But apparently failed to follow most of them through. To quote their own words; *The results of this Review are published by the Department for Business, Enterprise & Regulatory Reform (BERR). We welcome this report and accept the recommendations made by the Review Team. This note sets out our response to the Review Team's findings and outlines the action we propose to take on the recommendations made.*
- 24.7. Implementing the Enterprise Act 2016. This document is referenced as confirmation of the Gambling Commission's intention (see Appendix 9) as recently as 2016 in print to; a) comply with the Regulators' Code and; b) have regard to Hampton in sections 24 and 25 as follows

- 24. The third requirement is to report annually on compliance with the Regulators Code and the growth duty. Our Statement of Principles for Licensing and Regulation and also for Compliance and Enforcement states that we have regard to Hampton, the Regulators Code and related documents as well as such matters as the growth duty.
- 25. In line with many other regulators, we anticipate fulfilling this requirement by means of a section in the Annual Report.
- Since this commitment in 2016 we have not been able to find any visible section in any of the Gambling Commission's annual reports referencing the Regulators' Code or Hampton.

24.8. A further example of the Gambling Commission's lack of a balanced approach to regulation has transpired during the period of Covid -19 restrictions. Licenced Operators have been prevented by the Gambling Commission from supporting social causes, the NHS and local community support initiatives through the provision of raffles and number draws. The Gambling Commission has adopted a 'zero tolerance' approach during the pandemic, unlike most other regulators who have been far more empathetic and understanding about the dreadful unprecedented situation. Yet at the same time the Gambling Commission appear to have been allowing illegal lotteries and draws to happily continue unrestricted. An example of this are the Body Shop Raffles on Facebook, which can easily be accessed via google. Clearly, it must be far easier for the Regulator to target Licenced Operators than it is to stop Body Shop acting illegally. This does not represent effective or balanced regulation and enforcement. There are new ones popping up regularly, here are two more examples;

- [Weekly Games - InToWin](#) offered via [Stormcompetitions.co.uk](#)
- [Raffolux - The Home of Luxury Raffles](#) based in Watford.

Consumer Redress

25. Q25: Is there evidence of a need to change redress arrangements in the gambling sector?

GBG Response to Q25.

25.1. Whilst we note the suggestion that an Ombudsman scheme is established for the industry, we question whether such a scheme is either necessary or a proportionate response to issues being addressed. By way of LCCP Social Responsibility code provisions, (compliance with which is a licence condition attached to all operating licences save for manufacturing and software licences), operators already have extensive obligations in relation to complaints and disputes. Breach of those provisions can lead to enforcement action by the Commission and exercise of those extensive powers in relation to any breach, "*...may lead the Commission to review the operator's licence with a view to suspension, revocation, or the imposition of a financial penalty and would also expose the operator to the risk of prosecution...*" This fact – that compliance is a licence condition – is a critical point often overlooked by those seeking changes.

25.2. These detailed effective licence conditions require operators to have (amongst other things) policies and procedures in place for complaints and disputes and arrangements in place for customers to refer the matter to an independent ADR entity (from a list published by the Commission and regulated by the Commission), if they are not satisfied with the outcome within a set period. Those services must be free of charge to the customer and not restrict the customer from taking court action. ADR entities must meet detailed standards set by the Commission.

25.3. An ombudsman scheme with separate independent resourcing would be very expensive to establish. It would inevitably introduce a whole raft of additional bureaucracy to an already burdensome regulatory regime. The proposal has the potential to carry with it a number of unintended consequences such as spurious, fraudulent or even malicious claims, particularly for those few people who may have spent money they didn't intend to on their gambling. This should not be seen as a way of 'getting you money back' after the fact.

26. Q26: If so, are there redress arrangements in other sectors or internationally which could provide a suitable model for the gambling sector?

GBG Response to Q26

26.1. Nothing to add.

27. Q27: Individual redress is often equated with financial compensation for gambling losses. However, there may be risks associated with providing financial lump sums to problem and recovering gamblers, or risks of creating a sense that gambling can be 'risk free'. Are there other such considerations the government should weigh in considering possible changes to redress arrangements?

GBG Response to Q27.

27.1. We leave this for experts in this field to respond to this question.

28. Q28: Is there any additional evidence in this area the government should consider?

GBG Response to Q28.

28.1. Nothing to add

Age limits and verification

29. Q29: What evidence is there on the effectiveness of current measures to prevent illegal underage gambling in land based venues and online?

GBG Response to Q29.

- 29.1. The GBG is not aware of any factual evidence that members of the public under the age of 18 are actually gambling in licenced premises other than for the purposes of test purchases.
- 29.2. We are equally not aware of any evidence that identifies where under 18s are gambling other than on products which they are legally entitled to do so. If there is any evidence that proves the size of the issue we are discussing here, then we would be very keen to see it so that it can be addressed.
- 29.3. Much of the concern about underage gambling comes from the results of 'test purchases' or from research carried out into the prevalence of children gambling.
- 29.4. Test purchasing is an orchestrated (role play) process that enables operators to check whether their underage identification and prevention processes are working. It is not an indicator that children are actually gambling in any particular premise.
- 29.5. The GC already gathers evidence of this from some operators via their test purchasing results and also via the Regulatory Returns submitted by Licensees every year.
- 29.6. There is an anomaly with the protection of vulnerable National Lottery gamblers in that the Regulations are far more relaxed when it comes to age-control and test purchasing. Vulnerable gamblers are susceptible to Lottery products as they are with other forms of gambling and the Gambling Act should be changed in order to equally protect consumers when making such purchases.
- 29.7. The Gambling Commission made their own evaluation of the research into children gambling here; <https://www.gamblingcommission.gov.uk/news-action-and-statistics/News/gambling-commission-publishes-new-report-on-children-and-gambling-trends>
- 29.8. Tim Miller from the Gambling Commission confirms on the GC website "Our latest research shows that the most common forms of gambling by children do not happen in gambling premises.....".
- 29.9. These are oms of the current measures taken by Gambling Premise Operators;
- Challenge 21/25. Anyone entering an over 18 premise that is judged to be under 21/25 is asked to prove their age and ID. These interventions are recorded.
 - Data was taken from 360 AGC venues during 2020 .

	Number of challenges carried out	34508
	ID Verified allowed to stay	27512
Of those	Appear under 18 with an adult	357
	Appear U18 alone	21
	Appear under 25	27134
	NO ID asked to leave	5011
Of those	Appear under 18 with an adult	179
	Appear U18 alone	779
	Appear under 25	4053
	Child with or without an adult wanting to use the toilet	1985

- All under age breaches are reported to the regulator as a LCCP requirement.
- Regular test purchasing with remedial action and follow up re-testing when required.

29.10. The DCMS's own introduction to this document in paragraph 52; identifies that the numbers of children participating in gambling has been falling over time. The Gambling Commission's 2019 research found that 11% of 11-16 year olds surveyed had spent some of their own money on gambling activities in the last seven days, down from 23% in 2011. This was predominantly on forms of gambling which are legal for them to participate in, such as a private bet for money (mentioned by 5%) and fruit/ slot machines (4%).

30. Q30: Is there evidence of best practice, for instance from other jurisdictions, in how to prevent illegal underage gambling?

GBG Response to Q30.

30.1. We will remind the DCMS of their own evidence in this area in paragraph 53 of the introductory document to this call for evidence; *Conversely, problem gambling rates among 11-16 year olds have remained comparatively stable, with 1.7% (equating to around 55,000 individuals) classified as problem gamblers in 2019. This is towards the lower end of the range of rates of adolescent problem gambling seen across other countries. A 2016 review of recent research found European adolescent problem gambling prevalence ranged from 0.2% to 12.3%.*

31. Q31: What, if any, evidence is there on the number of 16 and 17 year olds participating in society lotteries?

GBG Response to Q31

No Comments from the GBG.

32. Q32: What, if any, evidence is there to show an association between legal youth engagement in society lotteries and problem gambling (as children or adults)?

GBG Response to Q32

No Comments from the GBG.

33. Q33: Is there comparative evidence to support society lotteries and the National Lottery having different minimum ages to play?

GBG Response to Q33.

No Comments from the GBG.

34. Q34: What are the advantages and disadvantages of category D slot machine style gaming machines being legally accessible to children?

GBG Response to Q34.

34.1. Category D Amusement with Prizes or fruit machines have been part of the seaside amusement machine mix enjoyed by families from all walks of society for decades. The slot style games are used in the main by adults for nostalgic entertainment. Their legal position is irrelevant in determining advantage or disadvantage as they are part of a much broader range of equipment on offer to consumers, namely the Family Entertainment Centre or seaside arcade.

34.2. As a best practice measure Operators of Cat D slot games are now preventing under 18s from playing on those that pay out in cash from March 31st 2021, extending the existing Code provision that no under 16s will be permitted to play them unless accompanied by an adult.

34.3. The children and young persons gambling participation survey¹⁶ shows that the number of 11-16 years olds that say they have gambled on fruit machines of whatever kind in an arcade, pub or club is around 2%. Of those around a half to two-thirds do so legally on Category D fruit machines which are located in FECs or holiday parks, where any play will be of short duration (as families will be on a day trip or holiday), in venues which they can only access with their parents, and in premises licensed to offer Category Ds which are as a result tightly-regulated.

34.4. The question of the legal availability of Category D machines generally to persons under the age of 18 has been explored many times by Parliamentary and other independent bodies, most recently by the House of Lords which concluded that insofar as there was any concerns to address, these were historic.

34.5. Furthermore, the Rothschild Committee in 1978, the Budd Report in 2001 and Parliament on the four occasions when it has considered new gambling legislation (1968 Gaming Act, 1974 Lotteries and Amusements Act, 1996 Deregulation Order and 2005

Gambling Act) all examined this question. On each occasion the considered view was that certain forms of gambling did not present sufficient concerns to warrant any change to the status quo. These games were what are now classified as Category D machines and were known more accurately under previous legislation as Amusement with Prizes machines. They provide amusement with a small prize and are games of chance or chance and skill combined. They are designed as a diversion and entertainment where the player essentially pays for some time on the machine and sometimes wins a prize.

- 34.6. The 2005 Gambling Act nevertheless made some significant changes to the regulation of Category D machines. The changes struck the right balance between ensuring proper regulation without strangling the enjoyment they provide to generations of families.
- 34.7. As a general rule adopted by the industry, no local school children are allowed on the FEC premises during school hours.
- 34.8. It is worth pointing out that there is one additional logistical control on the access to seaside arcades by young people, namely their location. For the majority of the young population the only way to visit the arcade will be as part of a family group as they are located at the coast and it would take a train or car journey to reach them.
- 34.9. It is therefore no surprise to find that these measures coupled with the preference by young people for modern forms of entertainment that the participation rates in fruit machine gambling is now their lowest ever at c.2%.
- 34.10. We also know from a study by Professor David Forrest and Dr Ian McHale that whilst adolescents at the coast are more likely to participate in gambling activities than those that do not, they are no more likely to be problem gamblers than those that do not live at the coast. This is an important finding. Many people cite early exposure to gambling as a cause of later gambling problems. There is no evidence of a causal link. As David Forrest stated at conference in Toronto in 2012 *“marginal gamblers induced to participation by ease of access do not appear prone to problem gambling and more children gambling does not carry through to more children being problem gamblers. Panic about arcades does not appear justified”*.
- 34.11. An excellent summary of all the evidence about young people and gambling was conducted in 2016 by Dr Gill Valentine on behalf of the Responsible Gambling Trust (now Gamcare) and provides a very instructive and constructive analysis of all the evidence as well as a corrective to some of the misinformation and misunderstandings that are expressed about this issue.
- 34.12. It is also acknowledged that these types of games formed the backbone of Britain’s family seaside arcades. A recent PWC report confirmed that approaching a third of the British population enjoys visiting these arcades each year. They provide local jobs and economic activity in towns up and down the country that have little in the way of other economic activity. Without them these towns would fall into further decline.
- 34.13. A CEBR Report in 2018 further emphasised the importance of seaside arcades to the economies of seaside towns.
- 34.14. That is not to say that some young people do not experience gambling-related harm even if it is only for a short while. This has can have serious impacts for them and their family and this must be set against all of the above in determining appropriate public policy. The question has to be therefore whether the measures currently in place

do enough to minimise the occurrence and impact of gambling related harm. We would argue the balance is currently right. Nearly 20 million people enjoy family seaside arcades every year and the regulations and self-imposed controls minimise the chance that any of them whether young or old, will experience gambling related harm.

35. Q35: Is there evidence on how the characteristics of category D slot machine style gaming machines (for instance whether they pay out in cash or tickets) factor into their association with harm in childhood or later life?

GBG Response to Q35.

- 35.1. In the work carried out by the Gordon Moody Association with their Residential Treatment Services, they have no evidence from Problem Gamblers that the playing of Category D machines in childhood has led them into disordered gambling. Whilst this is not of itself evidence that it does not happen, we are again trying to prove a negative in response to the call for evidence.
- 35.2. Question 35 unfortunately assumes a causal link between play on Category D fruit machines and gambling harm. Whilst some people will say that their experience of Category D fruit machines as a child was the start of their gambling problems, the evidence suggests a far more complex association and one that is not causal or linear. We must nevertheless keep all the evidence under review and in the meantime take balanced approach to the access to these machines by under 18s.
- 35.3. Those machines that pay out redemption tickets from reel-based machines, i.e tickets that can be aggregated from all sorts of amusement machines whether games of chance or otherwise, (basketball, 'down the clown' or hoopla style games) and are exchanged for a small prize, are different to cash pay out machines. The key difference is of course that they pay out a non-monetary prize which cannot be re-inserted into the machine for further plays.
- 35.4. It has more recently been argued that even the presence of reel-based machines 'normalises' gambling for children and young people and is therefore a risk factor. We would argue otherwise in that gambling is a legitimate activity and has been for decades, it is therefore already normalised. We also recognise the learning benefits that go hand-in-hand with the playing of amusement machines in the family environment.
- 35.5. The amusement machines we are discussing here have been located in seaside arcades for around sixty years so during which time there has been no change in the legal environment that would lead anyone to conclude that their existence has suddenly become one that should give us cause for concern, or one that is causing an increase in the number of children gambling.

36. Q36: What, if any, is the evidence that extra protections are needed for the youngest adults (for instance those aged between 18 and 25)?

GBG Response to Q36.

36.1. No comment to this point other than to point out that anyone aged 18 or over is regarded as an adult. There are many additional areas of society that the age of 18 gives access to, not least of all the ability to drive a car on the public highways and motorways, the drinking of alcohol under their own control and responsibility, and becoming a parent with total responsibility for the upbringing of another human being.

36.2. We are therefore unsure what logic or bias is being used that thinks it necessary for 18 to 25 year-olds to be subject to additional controls and constraints should they wish to gamble, when at the very same time they are given the responsibility to drink alcohol and bring children into the world. Surely society as a whole would be better if it focused on helping this category of adults to accept responsibility for their own behaviour rather than seeking out ways not to.

37. Q37: What evidence is there on the type of protections which might be most effective for this age group?

GBG Response to Q37.

37.1. This is an easier task online as the ages of consumers are known, and vulnerable age groups can be subject to closer monitoring and analysis.

37.2. Offline is different because other than establishing whether they are over 18 or not, customer ages are generally not known.

37.3. However, it would be helpful the Government could stipulate that when data is produced that researchers could use the same age ranges as it can cause confusion. E.g., some use 18 to 35, others use 16-34 etc.

38. Q38: Is there any additional evidence in this area the government should consider?

GBG Response to Q38.

38.1. Government should encourage (or even mandate) the banks to prevent anyone under the age of 18 from using the 7995 (gambling) merchant code for digital payments, because it is an illegal activity.

38.2. Problem gambling rates amongst children are relatively low; with 1.7% (equating to around 55,000 individuals) classified as problem gamblers in 2019. This is towards the lower end of the range of rates of adolescent problem gambling seen across other countries. A 2016 review of recent research found European adolescent problem gambling prevalence ranged from 0.2% to 12.3%.

38.3. The current powers that exist within the 2005 Act enable the industry to manage the situation effectively. Processes have evolved over the years with learnings and will continue to do so. Data collection is also improving continually so those learnings will be used to enhance the protections in place.

38.4. The gambling Industry is licenced and as such is bound by stringent regulations and obligations. Operators do not want to risk their reputations by allowing children to

access their products or venues. This is why everyone in the industry takes a pro-active approach to the prevention of under age gambling.

Land based gambling

39. Q39: What, if any, changes in the rules on land based gambling would support the government's objectives as set out in the document? Please provide evidence to support this position, for instance how changes have worked in other countries.

GBG Response to Q39.

- 39.1. The Gambling Business Group would recommend and support a **two staged** approach to gambling legislation going forwards in order to satisfy the criticism that Gambling Legislation and Regulation have not kept up with changes to society and advances in technology, particularly around the onset of digitisation and consumer demands. **Stage 1** would amend primary legislation to enable a set of key regulations to be reviewed every three years in line with technological advances and consumer changes, but with a defined control process and evidence led decision making by the presiding Government Department. **Stage 2** would be the processes within secondary legislation to enact said changes, but one a more frequent basis that empathises with external changes.
- 39.2. This would provide a culture of proactive rather than reactive regulation which would be led by evidence.
- 39.3. The GBG supports the recommendation from the House of Lords Select Committee regarding the reinstatement of the Triennial Review and a formal commitment to this be placed in primary gambling legislation. This would be a **Stage 1** regulation change to Primary Legislation – The Gambling Act. We would then see the carrying out of the regular triennial reviews being the subject of secondary legislation and imposed via Statutory Instruments.
- 39.4. In order to better support the development of gaming machine content and their entertainment value, we suggest a Stage 1 enabling requirement to Primary Legislation; To provide the Secretary of State to the DCMS with the powers to determine in-venue prizes on gaming machines, including linked jackpots.
- 39.5. In terms of the facilities that a Licensed Gambling Premise is able to offer, we suggest a Stage 1 enabling requirement to Primary Legislation; To provide the SoS for the DCMS or presiding Government Department with the power to change the general restrictions within each Gambling Licenced Premises category.
- 39.6. One of the **Stage 1** enabling requests would be to facilitate the ability of the DCMS to introduce new and different categories of machines with perhaps different safer gambling measures.
- 39.7. Another **Stage1** request would be to place the Triennial Review on more formal footing within Primary Legislation and broaden its scope to other areas of gambling in order for legislation and regulations to effectively keep up with the ever-increasing pace of change. Machines are the only product group on the high street that is currently unable to adjust to RPI. Conversely, the Licenced Gambling Industry has watched the maximum price of National Lottery scratch cards on the high street increase from £1 per

ticket to up to £20 and back to £5 per ticket with no requirement for changes to regulations.

- 39.8. Most of the variables within land/premise-based Gambling should have a **Stage 1** facility in Primary Legislation that allows for specified regular reviews with the ability of the SoS to change all Gambling Premise creation via Statutory Instruments, in line with evidence of changing consumer demand and technological advances. These should include products (including machine numbers), services, stakes, prizes, platforms, locations, hours of operating and even machine categories (and sub-categories).
- 39.9. If gambling regulation and legislation is to keep up with change, then there has to be a **Stage 1** facility within Primary Legislation that allows new products and developments to be trialled, tested and properly evaluated in a live but controlled environment. Only then can a genuine assessment of the implications of new introductions be acquired and evaluated for introduction via **Stage 2** secondary legislation.
- 39.10. Afford the Secretary of State powers to create subdivisions of category C gaming machines. This already exists in respect of Category B machines. There is the provision for similar yet differing machines that have different stakes and prizes and can be placed in different, but appropriate, venue types. There are also different Category Machines recognised in the legislation. This approach enables more choice for consumers and encourages a mixed marketplace. Category C machines tend to be located in pubs and in some AGCs, yet there is no similar provision which is inconsistent. There have been new games designed which do not fit any of the existing categories. By creating diversity in the category C market this would enable manufacturers to have a discussion about the new product which would then of course be tested, working with the Commission to demonstrate evidence of safety before distribution. New products would prevent the industry going stale and provide an economic boost after the industry seeing a declining market over the past 20 years. The UK is no longer a manufacturing centre for machines as it has seen a decline of 80% since 2000.
- 39.11. There is a recognised anomaly in the current Gambling Act 2005 that prohibits the employment of Under 18-year-olds anywhere in a stadium or race track premises, rather than just in the provision of gambling products as was intended. This prohibition includes the areas used for catering, functions and other service provision, for the upkeep and maintenance of livestock and even for those partaking in sporting events. The prohibition hampers the development of young people into careers in stadiums and racetracks. The DCMS recognise that this was simply a drafting error that needs to be rectified and this review is the ideal time to put right that wrong.

40. Q40: What evidence is there on potential benefits or harms of permitting cashless payment for land based gambling?

GBG Response to Q40.

40.1. The GBG has been working with a group of land-based industry trade bodies and businesses that share a view that gambling legislation should be amended to permit the use of alternative methods of payment within the whole gambling sector industry, land based as well as online. This would allow the land-based gambling sector to keep pace with the future and react to evolutionary changes within the industry. These organisations include:

- Aspers Casino
- Bacta
- Gauselmann Group
- Novomatic UK
- The Bingo Association
- The Hippodrome Casino

40.2. The group has recently commissioned independent polling undertaken by Savanta ComRes that surveyed 1,041 members of the general public (18+) who have played a fruit/slot machine in the last 3 years. The results of this polling are accessed via the link below and give support to the enabling of non-cash transactions on gaming machines.

https://info.savanta.com/hubfs/Savanta%20ComRes_Cashless%20Group_Gaming%20Machines%20Survey_Final%20Report%202021_Final.pdf

40.3. The following points are other relevant facts taken from the cross-industry group's submission to this question (see Appendix 10);

40.4. It is important that the industry is given the opportunity to offer payment methods that have become the norm and are what customers expect. Now is the right time for alternative methods of payment – from both a safety and business perspective. It is already allowed for online gambling, and so consequently for the majority of gambling happening now.

40.5. Front and centre of any change will be player protection. We have consulted widely, and electronic card play provides a number of opportunities to ensure further robust player protection measures are in place.

40.6. The introduction of alternative methods of payment on gaming machines can be done and used to support one of the key principles of the Gambling Act 2005, protection of the vulnerable. This change will maintain the safeguards currently in place, but also add further safeguards. It would also allow the industry to modernise in line with its competitors and consumers to pay for their leisure activity by their preferred method.

40.7. We are recommending a two-staged approach whereby the removal of the prohibition on the use of debit cards on machines takes place now, and the Department agrees separately the conditions under which debit card play can be introduced – this will ensure that social responsibility measures are matched with current technical capabilities of the time, which may have advanced by the time this change is fully implemented. While legislation prohibits payment for playing a gaming machine by debit card, the Gambling Commission's view "is that card payments that originate from contactless mobile payment systems such as Apple Pay, Android Pay or Samsung Pay should be regarded as the same as payments to use a gaming machine by means of a

card itself.” For that reason we use the wider interpretation of “debit card” in our response.

- 40.8. It is important to note that this is likely to be a progressive change that takes place within the land based industry, rather than an immediate change on all machines. Not all machines, particularly older machines for example, will be adapted for such technology. Furthermore, this change would also take into consideration the replacement cycle of machines and customer demand for specific machines.
- 40.9. The opportunity to provide cashless payments will allow the sector to keep up with changing customer behaviour and preferences.
- 40.10. The ability to provide cashless payments would bring the machine industry into line with all other retailers that are currently able to offer a full range of payment options to their customers. Furthermore, it is a modern form of payment for goods and services that every industry except the land-based gaming machine industry, can use. This sector sits as the only part of the UK economy that cannot offer its customers the range of modern methods to pay in the way they wish. Gambling like other forms of leisure and retail needs to keep pace with what consumers want, expect, and what has become normality.
- 40.11. Furthermore, allowing customers to use alternative payment methods gives them choice and convenience, helping customers enjoy a more seamless experience. Amusements and gaming are a source of mainstream entertainment, and consumers expect to pay in the same way they pay for a show ticket, a drink, or restaurant meal.
- 40.12. In addition, the concentration of physical cash into the few remaining venues such as Bingo Clubs, Casinos and Amusement Arcades may increase the risk of vulnerability to criminal activity.
- 40.13. The situation in which the sector finds itself by not being able to allow customers to pay to play on machines through their preferred method of payment has also created disparity between the land based and online sector. The land-based sector is unable to compete fairly with the online industry as well as being unable to grow and innovate in this area. The online sector has been able to do this very successfully for many years, whilst the land-based sector remains stuck in the past.
- 40.14. Card payments represented over half (51%) of all transactions for the first time in 2019 , there were 3,303 bank branch closures - around 34% of the network - between January 2015 and August 2019. This will clearly have changed further in 2020. According to the Bank of England, ATM withdrawals dropped by 80% when lockdown began in March 2020 and there has been a 60% reduction in the use of cash since the onset of Covid-19 in the UK.
- 40.15. The case for removing the prohibition on debit card use with gaming machines is now compelling and we recommend it is removed with this review of the 2005 Gambling Act 2005.

41. Q41: Is there evidence that changes to machine allocations and/ or machine to table ratios in casinos to allow them to have more machines would support the government’s objectives?

GBG Response to Q41.

41.1. This amendment to 2005 Gambling Legislation has been on the DCMS's agenda for many years including being scheduled for change in 2013. We have consulted with the BGC and are in agreement that there are two additional reasons for reform as part of the current review of the Gambling Act:

41.2. A review of casino legislation is now long overdue. Casino operators have consistently met the conditions set down by HM Government for change. If casino legislation is not updated for the digital age within this review, it is difficult to understand whether this will take place at all (in which case the Government will have failed to meet its objectives from this review).

41.3. The Coronavirus emergency has hit casinos harder than any other sector of Britain's licensed gambling industry (with participation in land-based casino gaming down 82% in 2020). Operators have increased their indebtedness and/or raised additional funding from shareholders in order to survive the extensive period of closure forced on the sector by Covid-related restrictions. Even with the support of appropriate legislative reform, it will take several years for balance sheets to be repaired. Modernisation of casino legislation is needed now in order to help operators stabilise and regrow. The sector cannot afford to wait for yet another review to take place.

41.4. In 2021, casinos in Great Britain are divided into three separate licensing classes, each with different product allocations. These are shown in the table below.

Category	Number of casinos (licences)	Maximum number of machines per casino	Other gambling activities
Large	4 (8)	150 (based on a ratio of 5 machines to 1 table)	Bingo Sports betting
Small	3 (8)	80 (based on a ratio of 2 machines to 1 table)	Sports betting
Converted 1968 Act	114 (190)	20	n/a

Thus the majority of casinos in Britain (operating under converted 1968 Act licences) are able to offer just 20 gaming machines regardless of the size of the premises or the number of customers attending the casino.

41.5. Suggested changes. The Government's objectives may be best achieved through a reform of legislation determining machine allocations that would permit casinos to better meet consumer preferences. This would involve a harmonisation of the regulatory allowances of 'small' and 'converted 1968 Act casino' categories (achieved by Statutory Instrument with respect to Section 7 of the Gambling Act) and the adoption of a consistent methodology for ensuring an appropriate balance of table gaming, machine gaming and non-gaming space (in order to preserve the character of casinos). This would be achieved through the use of a five machines per table ratio across all casinos and would require the following legislative amendments:

- Amendment by Statutory Instrument in respect of Sections 168 and 174 of the Gambling Act); and
- Amendment by Statutory Instrument in respect of The Categories of Casino Regulations 2008.

41.6. These proposals for a 5:1 machines to tables ratio is consistent with the recommendation of the Culture, Media and Sport Select Committee in 2013, which stated: *“The Act has created a situation where the Small Casino model is not considered financially viable. This is partly because a Small Casino must possess a larger floor-area for table play than a Large Casino in order to maximise its machine allowance... It was not Parliament’s intention in 2005 to make Small Casinos completely unviable. Given the fact that all casinos are highly regulated and access is limited regardless of the size, we see no rationale for the different gaming machine allowance. As 5:1 is the ratio presently in the legislation, we recommend that the Government introduce a single ratio of five machines to one table for both Small and Large Casinos. Local authorities should have the power to increase the number of machines permitted per table if they wish to do so and an operator requests it.”* (Culture, Media and Sport Select Committee, 2013, p.51).

41.7. The 2005 Act casinos are subject to a number of floor space requirements. 2005 Act ‘Small’ casinos must for example offer a minimum of 500 sq metres of gaming space and 250 sq metres of non-gaming space (e.g. for bars, restaurants). While around 50% of the converted 1968 Act casinos would be able to meet these criteria, a large number are at present too small. There is therefore a risk that – in the absence of a flexible approach - some casinos may get left behind in the ‘analogue age’ (should the various select committee recommendations for harmonisation be acted upon). The consequences for many of these casinos would be disastrous – particularly after the damage suffered as a result of the Coronavirus emergency.

41.8. The proposal is therefore for a graduated scheme that will allow smaller casino premises to achieve more modest reforms. The proposal for graduated reforms is based upon a sliding scale mechanism making the allocation of increased numbers of machines (up to a cap of 80) conditional upon allocation of venue space for non-gaming activities (restaurants, meeting rooms, show areas, bars). Below is a modelled based upon increments to the current non-gaming space requirements of 20 sq m; with an increase of five machines for every additional 20 sq metres of non-gaming space provided.

Proposed sliding scale for machine allocations in casinos				
Category	Floor space		Tables (for maximum machines)	Machines maximum
	Gaming (sq m)	Minimum Non-gaming (sq m)		
Large 2005	>1,000	500	30	150
Small 2005	>500	250	16	80
Converted 1968 Act	n/a	250	16	80

n/a	240	15	75
n/a	220	14	70
n/a	200	13	65
n/a	180	12	60
n/a	160	11	55
n/a	140	10	50
n/a	120	9	45
n/a	100	8	40
n/a	80	7	35
n/a	60	6	30
n/a	40	5	25
n/a	20	n/a	20

41.9. Protect customers – Greater availability of games within the casino will counter unintended negative consequences of current restrictions which have the effect of discouraging breaks in play (i.e. customers may be incentivised against taking breaks if they fear that they will be unable to resume play afterwards without a long and uncertain wait). This is indicated in analysis that shows machine session lengths tend to increase as machine availability decreases) Casinos have established a sophisticated system of controls and supervision to ensure that an increase in machine numbers can be implemented safely and with the opportunity for evaluation. In any case, we anticipate that the number of additional machines deployed would be relatively modest within the context of the overall market.

42. Q42: What is the evidence that the new types of casino created by the 2005 Act meet (or could meet) their objectives for the sector; supporting economic regeneration, tourism and growth while reducing risks of harm?

GBG Response to Q42.

The GBG has not comments to make to this question.

43. Q43: Is there evidence on whether licensing and local authorities have enough powers to fulfil their responsibilities in respect of premises licenses?

GBG Response to Q43.

43.1. From interactions with Local Authority personnel at the Institute of Licencing Conferences, the most common answer to this question is that land-based gambling does not cause LAs any major issue, therefore the regulation of them is not high on their list of priorities requiring change. This response should be regarded as a positive scenario meaning the status quo should be maintained rather than changes, unless new problems start to arise.

- 43.2. This point is borne out by the NAO report that highlights how few Local Authority Gambling Premise Inspection are carried out each year. Gambling Premises cause very few problems to Local Authorities which is why they are so low in their priorities.
- 43.3. Licensing Authorities have ample powers available to them to effectively regulate Gambling Operators and their Premises. The GBG and its members work very closely with LAs and their Licensing Officers and at no point have we been made aware that they are short on powers to be able to complete their obligations.
- 43.4. If their powers are adequate to effectively regulate, then the next question is 'how are those powers being used?' and 'is the way they are being used effective'.
- 43.5. In addition to the powers LAs are given via the Gambling Act, planning (permission) regulations provide Licensing Authorities with additional powers to regulate gambling operators.

44. Q44: Is there evidence that we should moderately increase the threshold at which local authorities need to individually authorise the number of category D and C gaming machines in alcohol licensed premises?

GBG Response to Q44.

- 44.1. Some work has already been done (see Appendix 11) regarding what needs to happen (variations to the Gambling Act 2005) to facilitate the removal of the conflict between the auto-entitlement and the requirement for a 'notice'. Even though all pubs have an automatic entitlement to site up to 2 x machines;
- The Gambling Act 2005 requires the holder of a relevant premises licence granted under the Licensing Act 2003, to send written notification, accompanied by a £50 fee, to the licensing authority of the licence holder's intention to make up to two gaming machines of category C or D available for use.
 - The fee does not cover the cost to the licensing authority of the administration process. It represents an unnecessary expense for businesses while failing to add to the safety of the public or the effectiveness of the regulatory regime.
 - The present notification process fails to provide the Gambling Commission with accurate data on the number of gaming machines in alcohol-licensed premises.
 - The Gambling Commission and licensing authorities have highlighted the need for any alternative system, which might replace the current notification process, to ensure that operators of alcohol-licensed premises are aware of responsible gambling practices when providing gaming machines in their premises.
 - Government Departments have accepted that the anomaly in the drafting is wrong and that legislation should be changed accordingly. Unfortunately, it is Primary Legislation that needs to change so even though the motivation to correct the error is there, it still hasn't happened. This review is the perfect opportunity to finally put right that 16-year-old error.
- 44.2. The number of licensed premises gaming machine permits issued by licensing authorities for alcohol licensed premises that require more than the two gaming machines allowed under the automatic entitlement is as follows;

- 2016/17 Automatic entitlement notifications = 2,322 Licensed premises permits = 709
- 2017/18 Automatic entitlement notifications = 3,415 Licensed premises permits = 594
- 2018/19 Automatic entitlement notifications = 2,111 Licensed premises permits = 396
- The periods for each year run from 1st April to 31st March.
- There are no figures available for 2019/20, they were due to be published in September last year but have been delayed due to the pandemic.

44.3. Some stakeholders are suggesting that the auto-entitlement should be raised from 2 to 4 machines which we would fully support. But the ability for the SoS to make changes to this number should be made in Primary Legislation.

45. Q45: Is there any additional evidence in this area the government should consider?

GBG Response to Q45.

45.1. There are issues with the current 'transfer' of Gambling Licences to a new owner as follows and explained in Appendix 12, which should be remedied as part of this current review of the Gambling Act 2005;

- Difficulties arise where an operator buying an existing gambling premises wishes to continue operating without any interruption to the business.
- The existing operator may be reluctant to deliver the existing premises licence and transfer consent form to the buyer until completion has taken place.
- The buyer, or their legal representative, may not receive the relevant licence documentation on the day of completion.
- Until the licence documentation is received, it is not possible for the buyer to submit the transfer application, in its entirety, to the licensing authority.
- Because the GOV.UK online system (available to applicants under the Licensing Act 2003) is not available for gambling applications, all applications must be delivered by hand, post, facsimile transmission, or electronic mail (subject to prior agreement).
- This can present the outgoing and incoming operators with legal and logistical issues to maintain business continuity without contravening the provisions of the Act.

45.2. Similarly, there are issues with the current Licence Variations process explained below (and in Appendix 13), which should be remedied as part of this current review of the Gambling Act 2005.

- By way of an example, a bingo premises licence may have been granted to authorise gambling to take place within the building outlined on the licence plan.
- The licensed bingo premises may wish to include an external smoking area within the licensed area. Under the current provisions contained in the Act, such an application should not be the subject of a variation to the existing licence but should be made by way of an application for a new premises licence.

- Although the procedure for a variation application is similar to an application for a new premises licence, there is a substantial difference in the fee payable to the licensing authority.
- More significantly, a variation application only allows the proposed amendment of the premises licence to be considered whereas an application for a new licence opens the entirety of the licence for consideration.

----- end of GBG narrative -----

Appendices.

Appendix 1.

Excerpt from the ASA Report on Children’s exposure to age-restricted TV ads: 2019 update.

Introduction.

The Advertising Standards Authority (ASA) is the UK’s independent advertising regulator. We have been administering The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (written and maintained by the Committee of Advertising Practice) for 58 years and the UK Code of Broadcast Advertising (written and maintained by the Broadcast Committee of Advertising Practice) for 16 years. We are responsible for ensuring that advertising is legal, decent, honest and truthful.

The Advertising Codes include rules to protect people who are vulnerable, including children (which the Codes define as those aged 15 and under) and young people (those aged 16 and 17). They include rules on the scheduling and placement of ads to ensure that under 18’s exposure to advertisements for certain product categories, such as alcohol and gambling, is appropriately limited. The rules prohibit these ads from appearing in children’s and young people’s media and, where they appear in media targeting a predominantly adult audience, the content is restricted to ensure that they cannot appeal particularly to those under the age of 18.

This report provides an update on children’s exposure to alcohol and gambling advertising on TV in 2019. Unlike the first ASA exposure report and the 2018 update, this report will not include an analysis on children’s exposure to TV advertising for foods and soft drinks high in fat, salt and sugar (HFSS). Exposure data analysis in this area has been put on hold in view of the Government’s consultation on advertising restrictions for HFSS advertising on TV and the greater complexity involved in collecting exposure data for HFSS advertising. This also allows for a timely publication of the report that includes an update on the most recent figures for children’s exposure to TV advertising for alcohol and gambling.

Some of the key findings are:

- Alcohol ads: Between 2008 and 2019, children’s exposure to alcohol advertising on TV has decreased by two thirds, from an average of 2.8 ads per week in 2008 to 0.9 ads per week in 2019. The average number of alcohol ads children saw on TV in 2019 was the

lowest in the 12-year period covered, and remained at similar levels to those observed in the four previous years.

- **Gambling ads:** In 2019, children's exposure to gambling advertising on TV has returned to similar levels observed at the beginning of the analysis period. Children saw, on average, 2.2 and 2.7 gambling ads on TV per week in 2008 and 2009, respectively; in 2019, children saw a weekly average of 2.5 gambling ads on TV. Children's exposure to gambling advertising on TV has remained at similar levels during the last six years, notwithstanding that exposure levels rose slightly in 2018.
- **All TV ads:** Between 2008 and 2019, children's exposure to all TV ads nearly halved, falling by 47.2%, from 219.5 ads per week in 2008 to 115.9 ads per week in 2019. Children's exposure to all TV ads decreased from an average of 141.9 ads per week in 2018 to 115.9 ads per week in 2019. The downward trend has continued at a steady rate since the peak in children's exposure in 2013.
- The number of TV ads seen by children aged 4-15 years has continued to decline markedly since the peak in 2013, at an average of 229.3 ads per week, halving to an average of 115.9 ads per week in 2019.
- Over the same period, children's exposure to:
 - TV alcohol ads decreased by two thirds;
 - TV gambling ads decreased by just under half.
- This suggests that children's exposure to TV ads for alcohol is falling at a faster rate than their exposure to all TV ads. While the rate of decline in children's exposure to gambling ads on TV is marginally lower than the rate of decrease in exposure to all TV ads, children's exposure to gambling ads has remained at a lower level since the 2013 peak.

The objective of the ASA's reporting in this area is to look at children's exposure, over a number of years, to TV ads for products that attract public policy considerations, including the products' potential impact on children and young people. In this 2019 update report, the analysis will focus on children's exposure to alcohol and gambling advertising on TV.

2008 represents the first full year in which the gambling advertising rules were implemented. The choice of this starting point has implications for the patterns of audience exposure that are identified in this report; it is important to interpret their significance within the context of the parameters selected. The data indicates, however, that children's exposure to TV ads for alcohol and gambling continues to trend downward or has remained stable in recent years.

Appendix 2.

Extract from The Bingo Association responsible gambling messages on gaming machines Research report of the Midlands Extended Trial.

30th October 2019 Chrysalis

CONCLUSIONS AND RECOMMENDATIONS

The extended trial of responsible gambling messages in bingo clubs and AGCs has uncovered similar findings to the pilot trial last year. However, the larger scale of the extended trial has revealed more in-depth insights and shown that customers in bingo clubs respond differently to the messages compared with customers in AGCs.

Overall, the messages were again welcomed by the majority of participants, many of whom thought that such messages have the potential to encourage responsible gambling. The design of the messages divided participants somewhat, although most felt that the contrast in colours and the relatively simple layout was effective.

Recall of the messages remains low, but this year's trial suggests that awareness of the messages increases over time. In the extended trial, the messages were in place for a longer period before the research was carried out and awareness increased accordingly. Unfortunately, the research carried out in areas outside the trial did throw up some confounding evidence, with some participants saying they had seen messages that weren't on display in those venues. We know that some of this effect is likely to be due to contamination (some participants will have seen messages in other clubs since one operator had rolled out the messages nationally) but we believe that there is also some 'research effect', with participants providing a positive, albeit misleading, response to 'please' the interviewer. Nevertheless, even taking this into account, it is clear that the messages are being seen.

Of course, being noticed does not necessarily mean the messages are effective. This research was not designed to rigorously test the impact on behaviour of the messages, but the responses to the survey are encouraging. Around a quarter (26 per cent) of survey participants who saw them said the messages had made them think about or change something in relation to their own or someone else's gambling. The extent to which these self-reported intentions translate into behaviour could be tested through some behavioural, experimental research. The positive responses from participants in this research should encourage the Bingo Association to take this next step in understanding the impact of responsible gambling messages.

In this year's research, the sample size was larger and allowed the differences in response between bingo club customers and those of AGCs to be analysed. It appears that the two groups are different in terms of their gambling behaviour, which we might expect, and also their response to the responsible gambling messages. AGC customers were less likely to notice the messages, were less discriminating in their views about the different messages, and less convinced that such messages would have an effect on someone who has a problem with gambling. It follows that these two audiences need either different messages or a different approach altogether. Some of the more intrusive suggestions made by participants in the qualitative research – to show messages on the game screen for example, or to pause play – may be more of a priority for players in AGCs than those in bingo clubs. We would recommend that the industry looks further into the costs and technical implications of these more intrusive interventions, alongside reviewing the strategies employed by staff in venues for face-to-face interventions.

Participants in the qualitative research generally had positive responses to the messages presented to them. They echoed last year's findings that the best messages were short, relevant and clear. Participants particularly liked the direct language of the 'control' messages as they

implied people can take responsibility for themselves. They also supported the friends and family message – a reminder that problem gambling can intrude significantly on others. Again, without some experimental research, we cannot infer any impact on behaviour, but the responses do suggest that the messages are not negatively affecting the experience of most customers and should give confidence to operators and the industry as a whole to continue to use the messages as part of their strategy to support responsible gambling.

Appendix 3

Raising Standards Conference 21 November 2017

Chair's introduction - Bill Moyes

(references highlighted in yellow)

Good morning and welcome to the Gambling Commission's second annual conference on the subject of raising standards.

Our first conference on this theme was about a year ago. At that stage I had been in post as chair for just a few weeks, so my opening remarks were short and the content was necessarily limited.

One year on I have learned a lot.

I have had the opportunity to meet a number of you and to visit different gambling organisations and premises. The Gambling Commission published its first strategy earlier this month and the process of developing it gave me and my colleagues in the Commission the opportunity to think hard about the kind of gambling market that we should be aiming to create and how this complex and changing industry should be regulated in the future.

The government's call for evidence also caused us to undertake research and to start to think about what advice the Commission should offer the government on the questions posed in the consultation published by DCMS a few weeks ago.

I have also had opportunities to explore issues with the Responsible Gambling Strategy Board and with GambleAware.

One year on I don't pretend to have anything like a complete understanding of the gambling industry. Nor do I claim to be expert in every issue that the Gambling Commission deals with. But I am clearer about what my priorities should be for the next four years of my term of office as chair. I think I have three over-riding priorities:

First, like any chair of any organisation in either the public or private sector I have to ensure that the organisation has strong governance. This is not a major worry for me in relation to the Gambling Commission, unlike some of the other organisations I am involved with. But it cannot be taken for granted.

Second, the development of the competition for the award of the 4th licence for the National Lottery has to be a key priority for me. The National Lottery makes a substantial contribution to DCMS' budget. The money it generates is vital to the success of a wide range of activities that are hugely valued by the public – sports success, world-class arts, preserving our heritage and enabling a wide range of community and charitable projects to happen. The next contract will have a value of £50-60bn over its life. This is a major project, which has to be got right.

Third, problem gambling. This is a subject in which I have taken a strong interest since I joined the commission. It is what I want to talk about for the remainder of this speech. And since I have only a few minutes, I don't have time to beat about the bush.

To be blunt, I don't think the industry gets the importance of being seen to take problem gambling seriously and to take a leading part in tackling problem gambling effectively.

Over the last year Sarah and I, separately and together, have had meetings with many of you. We have met some of your boards and talked to your non-executive directors and senior executive colleagues. We have read and considered carefully your annual assurance statements. And in all of these different contacts we hear the right messages being delivered to us.

But then we deal with the reality of the industry's performance and we encounter what I can only describe as a huge dislocation between good intentions and performance.

Let me offer a few examples.

Over the last couple of months the Commission has agreed penalty packages in excess of £10m with major gambling operators for their failures to protect vulnerable customers. In one case customers were allowed to lose millions of pounds of stolen money. In another thousands of customers were allowed to continue to gamble when they had indicated their wish to be excluded, and again, for some of these customers their gambling led to theft and imprisonment.

I am not suggesting that these serious breaches were condoned or encouraged by the boards and senior managements of the companies. Far from it. The boards were horrified. But the good intentions they had expressed to the Commission, and no doubt within their companies, had not been backed up by robust control procedures or by clear signals to their front-line staff. Somewhere in these companies junior staff must have known that some customers were displaying patterns of play that strongly suggested they could be problem gamblers, but they failed to intervene.

The right board policies and well-crafted annual assurance statements are worthless if they are not backed up with processes that identify potential problems and if front line staff are not clear that it is their duty to intervene when they spot suspicious patterns of play. This is a good illustration of what we mean when we say that standards have to be raised.

It's not as if the gambling industry lacks guidance on what it might do, or not do, to prevent gambling being harmful to individual customers and to society generally.

There is a national strategy to reduce gambling-related harm. It was developed by the Responsible Gambling Strategy Board and covers the three years to 2018-19.....so we are well

into that period, and ought to be seeing some concrete results by now. In practice the progress report published by the Responsible Gambling Strategy Board in June showed that for all but one of the priority actions in the strategy progress could be rated as no better than red or amber.

I wonder what response you would get from your boards if you reported to them that one year into a three-year strategy very limited progress had been made. I think I can guess.

The priority actions that the strategy proposes are not beyond the capability of the industry collectively or of individual operators. Some require research. But many of the priority actions describe what should already be a matter of routine in an industry that was really serious about promoting safe gambling:

- the development of an accepted range of indicators to identify gambling-related harm and of better methods to use these to identify which specific customers are most likely to be suffering harm from their gambling
- automatically evaluating the impact of interventions designed to protect players, and sharing the results so that the best interventions are adopted across the industry
- getting quickly to the point where we are clear about the role of preventative education. Is it an effective approach to reducing gambling-related harm? If so, how and where is it best delivered?

Getting the national strategy fully and effectively implemented, by individual and collective action, is key to raising standards.

The need for action goes beyond the industry. The harm caused by problem gambling needs to be recognised by the NHS as an important public health issue that requires specific action to understand:

- the scale of the damage to individuals and to society
- the types of treatment that are effective
- the types and volumes of services that need to be provided to meet likely demand, and how these should be distributed geographically.

It is a matter of some regret that so little has been done so far. But that is changing. the NHS is waking up to the issue and in wales, Scotland and England the different health departments are starting to think about how to get to grips with the issues raised by problem gambling.

The scale of the problem and the implications for the design and provision of appropriate services is daunting. We know that there are almost as many problem gamblers as there are opiate and crack cocaine addicts – around 430,000. That's a horrifying statistic, isn't it?

And there are another 2m or more people whose gambling habits suggest that they are at risk of developing a serious gambling problem.

Some of them will access relevant health services because, as well as problems with their gambling, they have multiple health and behaviour problems – excessive alcohol consumption,

other addictions, mental health problems etc. But many problem gamblers will struggle to find NHS-funded services that are tailored to tackling problem gambling as a specific condition. Few mental health trusts, or bodies who commission health services, signpost on their websites services for people with gambling problems. If you think a family member may be developing a gambling problem, there is very little on all the different NHS websites that will help you identify the signs of problem gambling and direct you to good sources of support and advice.

These gaps need attention at national level. But there is much that could be done at local level between the industry – companies or trade bodies – and the NHS. I encourage you to think about that.

GambleAware spends around £5m on the provision of treatment services. The services it funds saw around 8,800 problem gamblers last year. **Although this is welcome, it means that in any one year only about 2% of problem gamblers who need treatment get treatment.**

That's a dismal statistic.

Part of the underlying problem is funding. Marc Etches shouldn't have to write begging letters of the kind he issued at the end of October pointing out that the voluntary contributions from the industry were 60% short of the indicative target of 0.1% of GGY.

Raising standards means recognising the obligation to fund at a reasonable level the provision of services for those who are damaged by the products and services offered by the gambling industry.

As our recently-published strategy makes clear, we believe that a national levy would be a fair and credible way to address the weaknesses we see in the current arrangements for funding research, education and treatment. The government has the necessary statutory powers. We will continue to discuss with the government whether the time has come to activate them.

In conclusion let me say that I and my colleagues at the Commission believe the industry is approaching a tipping point. Public support for gambling is beginning to decline. Public concern about gambling is increasing – about the scale of problem gambling, about advertising, about the potential impact on children and the vulnerable.

My remarks today are a call to action. The industry can be seen as beyond redemption and requiring tough action to tackle its worst excesses. Or it can be seen as a responsible part of the entertainment industry, which acknowledges that it has the capacity to cause harm and demonstrates a real willingness to invest in improvement, in prevention and in treatment.

I don't expect to get a warm round of applause

Appendix 4



Evaluation of the Current Approach to Regulation against the Government's own Regulators' Code.

January 2020

- All references to sections and points are those used in the Regulators' Code itself.
- All quotations from the Regulators' Code are **highlighted in blue**.
- Points of deviation or contraction with the Code are **highlighted bold**.

Foreword.

In April 2014, Sir Michael Fallon, then Minister of State for Business and Enterprise Department for Business, Innovation and Skills, published the above document.

In his foreword he stated that;

'This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate'.

This is a useful backdrop from which to review the current regulation of gambling in the UK against the Regulators Code. It has been confirmed by the Government Department BEIS that the regulation of gambling in the UK does indeed fall within the scope of the Regulators Code.

The other relevant part of Sir Michael's introduction is as follows;

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

One of the primary concerns in carrying out this review is that the 'protection of the vulnerable' element of this introduction has become the single and only objective for Gambling Regulation in the UK, to the point where everyone is increasingly regarded as potentially vulnerable and requiring protection unless they can be qualified otherwise, which could ultimately lead to unintended consequence of increased prohibition. This of course flies in the face of the whole purpose of regulation.

The Regulators' Code.

In this section, the document discusses the purpose and intentions of the Code. Again, in the introduction to this section, there are relevant words that should be kept in mind when reviewing the Gambling Commission's adherence to the Code;

'Regulators whose functions are specified by order under section 24(2) of the Act must have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.'

So, the first point for this report to note is that if a collective decision has been reached that consciously; *concluded, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration.....* **we are not aware of any record of a decision to disregard any part of the Regulators Code with regard to gambling regulation, or of any factual explanation of the reasons why this might be the case.**

Point 1.1. Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities.....Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity. What is actually taking place in the Gambling Industry is an ever-increasing compliance burden that favours the larger corporations, **a burden that is increasingly too costly** for the smaller operators to keep on absorbing. Even the larger organisations when asked, will confirm that they are spending the lions share of their development budgets on compliance as opposed to actual product development.

Point 1.2. When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

When proposing new regulations and regulatory burdens a consultation process is followed. However **contrary to what is stipulated** in this section of the Regulators' Code, it has been openly stated that "it is not our (the regulator's) role to support or enable economic growth of the industry, with the exception of the National Lottery".

A position appears to have been adopted where nothing new can be considered for introduction or changes considered in gambling unless it can be proven that there will be no additional gambling related harm caused as a consequence. Yet there is no help or support provided as to how such a negative theory might be researched, let alone proven. This adopted stance is effectively regressive regulation, which is very damaging to the longevity of industry. **It is**

certainly not a *regulator considering how they might support or enable economic growth for compliant businesses.*

Point 2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.

Point 2.1. Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

Regular sector liaison and communication meetings arranged by the regulator have been stopped. The Chair of the Gambling Commission has stated publicly that “there will be no more fireside chats”, meaning that the Commission are not taking soundings from the industry anymore. The effect of this severance of communication is that the regulator is no longer engaging with the Industry and are therefore ‘in the dark’ with respect to emerging trends and business evolution. This is a major knowledge gap for any regulator.

In 2019 the Gambling Commission took the strategic decision not to allow any of their representatives/employees to attend the biggest and most highly attended gambling product show in the world held annually in London. This was a demonstrable physical disconnect from the industry, regarded understandably as a clear strategic intent.

More recently, the CEO of the Gambling Commission – Neil McArthur – has dismissed two requests to meet with the Gambling Business Group, which is an unprecedented reaction from a UK Regulator.

On the few occasions where the Gambling Commission representatives have engaged in dialogue, their standard response to any future product development or proposal is that the industry must prove that it’s introduction will not increase the chances of gambling related harm being caused. This is of course an impossible thing for the industry to prove and in truth, no such ‘no harm’ guarantees can be given about any product on this planet, gambling or otherwise. Unfortunately, this stance smacks of a ‘lazy regulation’ and puts the industry in a state of limbo which if allowed to continue, means the industry will not be able to develop or react to consumer trends leading ultimately to its demise.

There is no simple and straightforward way to engage with.....the Gambling Commission. In fact, they appear to purposely make it difficult to engage with them.

Point 2.3. Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.

Unfortunately, the reason for producing this report is **that there is no clear route to appeal against the UK’s Gambling Regulator’s failing to adhere with the Regulators’ Code** or indeed their current regulatory direction of travel.

Point 2.6. Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.

This does not happen to our knowledge. We are not aware that this is an activity that the gambling regulator partakes in. If it does, there are no publicly available results or outcomes.

Point 3.5. Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

One of the gambling regulator's chosen regulatory activities is to extend the License Conditions and Codes of Practice (LCCP) that all License Holders are legally bound to adhere to. These extensions to LCCP are effectively new regulations brought into being without any third party or government scrutiny. Under Point 3.5 of the Regulators' Code we believe that the Gambling Commission has an obligation to;*review the effectiveness of this chosen regulatory activity in delivering the desired outcomes and make any necessary adjustments accordingly.* We are of the view that all new regulations brought into being should be subject to a formal review to establish;

- a) Was the methodology of the introduction of the new regulation effective?
- b) Has the new regulation achieved the designed objective?
- c) What has been the consequential burden to License Holders?
- d) What are the unintended consequences of its introduction?
- e) What, if anything, should be changed as a result of the above?

The cumulative effect of simply loading more and more regulations onto License Holders via LCCP is neither responsible or sustainable. **Poor regulation needs to be transparently identified and addressed which this regulator is not currently doing.**

Point 5.5. In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.

Until quite recently, the Gambling Regulator's recorded answerphone message used to state "The Gambling Commission do not give advice". They still repeatedly stipulate that it is not for them to give advice on anything and that any advice should be sought from a legal representative. They say "it is not for the Gambling Commission to advise whether a new product or activity is compliant or not". But they will take enforcement action should you be found in breach of any part of the 2005 Gambling Act or its regulations. **We do not believe that this approach is in any way in line with the Regulators' Code.**

Point 6.2. Regulators' published service standards should include clear information on:

- a) how they communicate with those they regulate and how they can be contacted;
- b) their approach to providing information, guidance and advice;

It has been stated in [Point 1.3](#) above that the Gambling Commission are less than transparent about their organisational structure or their internal accountabilities. **This makes it impossible for those they regulate to communicate with them effectively.**

With regard to [Point b](#)), it has also been stated by the Gambling Commission that it is not their role to give advice.

We therefore believe that the Gambling Commission are in breach of both points.

[Point 6.3](#). Information published to meet the provisions of this Code should be easily accessible, including being available at a single point on the regulator’s website that is clearly signposted, and it should be kept up to date.

This is not in place. If it is, it is not accessible on the gambling Commission’s website.

[Point 6.5](#). Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

This does not happen (as far as we are aware). If it does, it can’t be found on the gambling Commission’s website.

Appendix 5

Copy of email from; Freedom of Information foi@gamblingcommission.gov.uk in response to a request for transparency over where ‘voluntary settlement’ funds have been allocated and to what benefits.

Dear Sir/Madam

Thank you for your request which has been processed under the Freedom of Information Act 2000 (FOIA).

The Gambling Commissions response to your enquiries are as follows:

A transparent list of all financial penalties and voluntary settlements made by Licensees as a consequence of regulatory enforcement/investigations between June 2014 and December 2019.

Please see attached table for your perusal.

A similar list confirming which Research, Education and Treatment organisations these funds have been allocated to, for what purpose, identifying what proportion (if any) was retained by the Gambling Commission to cover expenses in each case.

Funds from regulatory settlements can include commitments and undertakings as well as a payment in lieu of financial penalty. This may include up to 3 sub-elements depending on the circumstances of the case. These are:

- 1) divestment back to individuals impacted by the operator's non-compliance with regulatory requirements. This is usually the customer or a victim of crime, where such victims can be identified. This could be for example, where an individual has stolen from their employer and has spent the money gambling and the operator has not met the regulatory requirements.
- 2) payments made to organisations for social responsibility purposes
- 3) recovery of the Gambling Commission's costs.

This allocation breakdown is also set out in the attached table.

Pre-2019, in relation to organisations for socially responsible purposes, most settlements have gone to GambleAware. On our [website](#) we publish details of the destinations of funds generated from regulatory settlements that have been approved during 2019/20.

As per your own Statement of Principles for determining financial penalties June 2017 doc, Point 2.14.ix. For each of the fund allocations.....a meaningful evaluation of the effectiveness of projects or research funded by a specific regulatory settlements.

In determining destinations of regulatory settlements, the Commission considers whether there will be meaningful evaluation and whether these will be published. Most of these projects in receipt of regulatory settlements, that are complete, are already in the public domain and organisations disseminate the outcomes of work particularly where there is a research or evaluation output.

There is not a requirement for evaluations to be submitted to the Gambling Commission. Therefore, we do not hold information in relation to this part of your request.

Review of the decision

If you are unhappy with the service you have received in relation to your Freedom of Information request and wish to request a review of our decision, you should write to FOI Team, Gambling Commission, 4th floor, Victoria Square House, Victoria Square, Birmingham, B2 4BP.

If you are not content with the outcome of your review, you may apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Gambling Commission. The ICO can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Kind regards

Freedom of Information Team

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Appendix 6

Copy of a Blog written by Regulus Partners – posted 6th February 2020.

07 FEB RISKY BUSINESS – EXAMINING THE WISDOM OF ZERO TOLERANCE

Posted at 13:29h in Blog by Regulus Partners Share

“I want a zero tolerance approach on all patriarchal bullshit” – Caitlin Moran

Striving to make gambling fairer and safer ought to be goals that all can support. However, in order for a collaborative approach to succeed, it is necessary to agree a common definition of the problem to be addressed. Following comments made by the Gambling Commission this week at ICE, we consider whether a zero tolerance approach is really in the best interests of the consumer.

A curious – and possibly existential – paradox was highlighted in this week’s gambling policy discussions at the ICE expo in London. If we accept that gambling is an inherently risky activity, should it to be the goal of regulation and ethical operation to expunge risk entirely – and where should responsibility for addressing risk sit?

The matter was raised within the keynote address from the chief executive of Britain’s Gambling Commission, Neil McArthur who labelled “totally unacceptable” the national estimates of 1.7 million ‘at-risk’ gamblers and 340,000 ‘problem gamblers’ (both figures extrapolated from the 2016 Health Surveys for England, Scotland and Wales and incorporating an element of double-counting due to the use of two screening instruments). As with much of the current discourse on gambling, Mr McArthur’s assessment seemed highly reasonable at first blush – but deeper examination exposes some complex challenges.

First, there is the matter of definition. The 1.7 million figure relates to the estimated number of ‘low risk’ and ‘moderate risk’ gamblers in Great Britain – derived from responses to the Problem Gambling Severity Index questionnaire administered four years ago to a sample of around 14,000 people. According to Jackie Ferris & Harold Wynne, who designed the PGSI, these are sub-clinical categories denoting the low or moderate risk of people experiencing “adverse consequences from gambling”. Contrary to Commission claims this week, the classifications are not intended to indicate “risk of becoming problem gamblers” (most people with a low risk or moderate risk score do not progress to a gambling disorder diagnosis).

It is worth noting in passing that low-risk and moderate risk scores on the PGSI also do not indicate low or moderate levels of harm (as the Commission has suggested at other times). Ferris & Wynne describe people with low risk scores as unlikely “to have experienced adverse consequences, from gambling” while those with moderate risk scores “may or may not have experienced adverse consequences from gambling”. As is becoming increasingly common, scientific caveats are being ignored in favour of pungent rhetoric.

How concerned ought we to be about so-called ‘at-risk’ gamblers? Of the 1.7 million identified in the 2016 Health Surveys, roughly 70% were classified as ‘low-risk’ (denoting a score of 1 or 2 out of 27 on the PGSI) and 50% had a PGSI score of just 1 – indicating that they endorse one risky behaviour or effect “sometimes”. Given that loss-chasing is the most commonly endorsed item in the Health Surveys (accounting for around one-quarter of all PGSI endorsements), it seems plausible that a large number of these at-risk gamblers may be doing nothing more than

“sometimes” attempting to win back losses from a previous day. This may not be all that smart – but is it “totally unacceptable”?

As Paul Delfabbro and Daniel King have written, we need to bear in mind that not all of the behaviours screened for in the PGSI are necessarily harmful: “It is questionable whether some of the items identified are really indicators of harm. For example, chasing losses, gambling more to obtain the same excitement, or betting more than one could afford are really behaviours that might lead to harm if repeated too often”. We are inclined to agree – from a harm perspective it is important to consider the nature of the behaviours reported rather than focusing exclusively on scores (we have appended the PGSI questionnaire to this article so that readers unfamiliar with the instrument may judge for themselves whether the diagnostic criteria ought to be considered equally risky).

Analysis of the break-down of PGSI scores raises the question of who is responsible for managing risk. It seems clear from recent invective that the Gambling Commission considers the “totally unacceptable” reported rates of gambling disorder and at risk gambling to be the fault of its licensees; but is this fair and is it helpful? Harm prevention is generally understood to be a collaborative effort, involving legislators, regulators, operators, treatment providers, public health organisations and consumers themselves (indeed, this ethos sits at the heart of the National Strategy to Reduce Harms).

Jamie Wiebe and Jon Kelly of Canada’s Responsible Gambling Council wrote last year, “all stakeholders have a role and contribution to make in the prevention of problem gambling. No one organization can prevent problem gambling on its own”. If we accept this premise of shared responsibility, is it right that operators are singled out for blame where rates of gambling disorder are concerned? We know for example that relapse is one of the reasons that reported rates of gambling disorder are sustained – so should treatment providers also be criticised if rates do not fall? We would argue strongly that those working in treatment deserve our admiration rather than our censure – but we also need to be grown-up about how we apportion accountability.

Then there are the thorny issues of personal autonomy and responsibility. Should we hold operators entirely responsible for the behaviour of their customers? The Health Surveys indicate that in 2016, around 1.2% of us “sometimes” felt guilty about gambling and about 0.9% were “sometimes” criticised for their gambling. These two items (which may in some cases be linked) account for nearly 20% of all PGSI endorsements and so are significant contributors to the “wholly unacceptable situation” that the Commission has identified. To what extent should operators be held accountable if people occasionally feel guilt or receive criticism in relation to their gambling – and what might they be expected to do about it?

In terms of operator responsibilities, it may be more instructive to consider the 0.2% of people estimated to bet more than they can afford either “most of the time” or “almost always”; or the 0.8% for whom gambling appears to cause financial problems either “sometimes” (roughly three-quarters of this figure), “most of the time” or “almost always”. Questions of financial harm are complex (unaffordable gambling needs to be contextualised by reference to a range of

factors, including income and broader expenditure) but this seems a more valid area for scrutiny – particularly as the Commission has achieved some success in persuading licensees to focus efforts on affordability.

It is all too easy to use statistics from prevalence surveys to knock the industry but we should not lose sight of the fact that the abstract is underpinned by reality. If it is “wholly unacceptable” that there are estimated to be 1.9m people in Britain with PGSI scores above zero – and those scores are based in large part on their behaviours – then we must logically conclude that it is the behaviour of these consumers that the Commission deems to be unacceptable. The regulator may still decide that industry is to blame for all this but the implied (if unintended) judgement on consumers seems inescapable. Last month, Neil McArthur questioned claims that attitudes towards gambling in Britain were becoming paternalistic; yet we would argue that branding as “unacceptable” the behaviours of 1.9 million consumers is indeed symptomatic of paternalism.

It is not clear – because presumably they have not been asked – where the British gambling consumer perceives responsibility to rest. A recent study of members of a casino rewards programme in the US (Gray, LaPlante, Abarbanel & Bernhard, 2019) found that “nearly three quarters of participants held individual gamblers responsible for minimizing gambling harm”. Between 9% and 10% answered that responsibility resided with (separately) the government, regulator or operator; although rates roughly doubled amongst those screening positive for gambling problems. While care should be taken not to generalise from one study, it does seem plausible that the majority of adult consumers do indeed hold themselves principally (if not exclusively) responsible for what they eat, what they drink, whether they exercise, and whether they gamble.

The intention here is not to write an apologia for licensed gambling operators. Gambling can involve significant harms – particularly where operators behave negligently or unethically; or where effects of product, placement and positioning are poorly understood. However, criticism of the industry at large in relation to something as heterogenous and complex as gambling disorder (and risk) is not helpful; and the current obsession with amplifying scale may distract from attempts to address the depth of gambling harms.

Wiebe and Kelly comment critically that “all too often the goal of the [harm prevention] programme is set at reducing levels of problem gambling” and observe that “a single focus on outcome measurement may...result in failure to understand why an outcome has or has not come about, what components of the programme are or are not working, and whether failures are due to programme conceptualization and design or programme implementation”.

It is central to the effective functioning of any market that trust exists between the regulator and the regulated. The Commission has every right to talk tough with its licensees but it also has a duty to be absolutely rigorous in how it presents information. By the same token, the tendency of some industry representatives to marginalise disorder, typically by conflating gambling-specific rates with population levels (also seen this week), is counter-productive and needs to stop.

All must relearn the art of talking to (rather than at) one another rather. Perhaps – as the Commission avers – we do need a change of mindset with regards to gambling harm; but that is unlikely to be achieved via an exchange of competing press releases or public speaking

engagements. In fact, it seems evident that mindsets have changed already and there is now an opportunity to go with the grain. This will involve having the strength of character to resist the calls for a state of licensing quarantine based on sanctimonious, unscientific and often hypocritical claims that engagement with regulated gambling firms results in moral corruption. It is not always easy but the regulator and the licensee should strive to establish and maintain constructive and honest relations. The wellbeing of the consumer demands it.

Problem Gambling Severity Index

This self-assessment is based on the Canadian Problem Gambling Index. It will give you a good idea of whether you need to take corrective action.

Thinking about the last 12 months...

Have you bet more than you could really afford to lose?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Still thinking about the last 12 months, have you needed to gamble with larger amounts of money to get the same feeling of excitement?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

When you gambled, did you go back another day to try to win back the money you lost?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Have you borrowed money or sold anything to get money to gamble?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Have you felt that you might have a problem with gambling?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Has gambling caused you any health problems, including stress or anxiety?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Have people criticized your betting or told you that you had a gambling problem, regardless of whether or not you thought it was true?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Has your gambling caused any financial problems for you or your household?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

Have you felt guilty about the way you gamble or what happens when you gamble?

0 Never. 1 Sometimes. 2 Most of the time. 3 Almost always.

TOTAL SCORE

Total your score. The higher your score, the greater the risk that your gambling is a problem.

Score of 0 = Non-problem gambling.

Score of 1 or 2 = Low level of problems with few or no identified negative consequences.

Score of 3 to 7 = Moderate level of problems leading to some negative consequences.

Score of 8 or more = Problem gambling with negative consequences and a possible loss of control.

Appendix 7

Results of a Survey of Licenced Operators and Licensing Lawyers in February 2020 on their relationship with the Gambling Commission.

A UK Gambling Industry Survey of Gambling Regulation in 2020

Q1 Do you trust the Gambling Commission to regulate the industry in a fair, proportionate and open way?

Answered: 73 Skipped: 0

- | | | |
|---|--------|----|
| <input type="radio"/> Yes | 19.18% | 14 |
| <input type="radio"/> No | 79.45% | 58 |
| <input type="radio"/> Strongly disagree | 1.37% | 1 |

Q2 Over the last three years, has your trust in the Gambling Commission to act fairly increased, decreased or stayed broadly the same?

Answered: 73 Skipped: 0

- | | | |
|---------------------------------------|--------|----|
| <input type="radio"/> Increased | 1.37% | 1 |
| <input type="radio"/> Decreased | 76.71% | 56 |
| <input type="radio"/> Stayed the same | 21.92% | 16 |

Q3 The Gambling Commission is open and transparent in the way it engages with licensees.

Answered: 73 Skipped: 0

- | | | |
|--------------------------------------|-------|---|
| <input type="radio"/> Strongly agree | 1.37% | 1 |
|--------------------------------------|-------|---|

- Agree 12.33% 9
- Neither agree nor disagree 17.81% 13
- Disagree 45.21% 33
- Strongly disagree 23.29% 17

Q4 The Gambling Commission communicates well with its licensees.

Answered: 72 Skipped: 1

- Strongly agree 0.00% 0
- Agree 6.94% 5
- Neither agree nor disagree 22.22% 16
- Disagree 40.28% 29
- Strongly disagree 30.56% 22

Q5 I understand what the Gambling Commission is trying to achieve and what it expects from licensees.

Answered: 73 Skipped: 0

- Strongly agree 0.00% 0
- Agree 30.14% 22
- Neither agree nor disagree 23.29% 17
- Disagree 28.77% 21
- Strongly disagree 17.81% 13

Q6 The relationship between the Gambling Commission and its licensees is constructive and mutually respectful.

Answered: 73 Skipped: 0

- Strongly agree 0.00% 0
- Agree 10.96% 8
- Neither agree nor disagree 15.07% 11
- Disagree 39.73% 29
- Strongly disagree 34.25% 25

Q7 The relationship between the Gambling Commission and its licensees is healthy and supports licensees in achieving the licensing objectives.

Answered: 73 Skipped: 0

- Strongly agree 1.37% 1
- Agree 6.85% 5

- Neither agree nor disagree 17.81% 13
- Disagree 49.32% 36
- Strongly disagree 24.66% 18

Q8 The Gambling Commission are sufficiently knowledgeable about gambling and gambling products to be able to regulate effectively.

Answered: 72 Skipped: 1

- Strongly agree 0.00% 0
- Agree 8.33% 6
- Neither agree nor disagree 15.28% 11
- Disagree 37.50% 27
- Strongly disagree 38.89% 28

Q9 The Gambling Commission's approach to changing gambling regulations is proportionate with the empirical evidence of the risks

Answered: 72 Skipped: 1

- Strongly agree 0.00% 0
- Agree 5.56% 4
- Neither agree nor disagree 12.50% 9
- Disagree 37.50% 27
- Strongly disagree 44.44% 32

Appendix 8

Gambling Commission's response to the Hampton Review in 2009

Hampton implementation review: the Commission's response

April 2009

Introduction

1. The Hampton report, *Reducing administrative burdens: effective inspection and enforcement*, published in 2005, is one of the cornerstones of the Government's better regulation agenda. Since our inception, we have been working to embed the Hampton principles in the Gambling Commission's (the Commission) approach to regulation. This is recognised in our corporate plan:

"The Commission is committed to regulating in a manner that is consistent with the Hampton¹ principles and the Macrory² characteristics of better regulation. The Commission will therefore seek to work in a transparent, accountable, proportionate, consistent and

targeted way. Its approach to regulation is risk-based, with a focus on required outcomes and avoidance of fine prescriptive detail.”

2. In October 2008, the Commission was the subject of one of a series of reviews of regulatory bodies, focussing on the assessment of our regulatory performance against the Hampton Principles and the Macrory characteristics of effective inspection and enforcement. These reviews use a standard assessment framework and are designed to both identify whether a regulator is on the road to full implementation and to look at the issues to be addressed to become Hampton compliant. Our Review was carried out by a team drawn from the Better Regulation Executive, the National Audit Office (NAO), the Security Industry Authority, and EEF – the UK manufacturing employers’ organisation.

3. The results of this Review are published by the Department for Business, Enterprise & Regulatory Reform (BERR). We welcome this report and accept the recommendations made by the Review Team. This note sets out our response to the Review Team’s findings and outlines the action we propose to take on the recommendations made.

Background

4. The Commission has been fully operational since September 2007 and we have aspired to develop and deliver a regulatory regime that meets the Hampton principles and the Macrory characteristics. In doing so we have recognised that to achieve this takes time, in particular the development of the necessary in-depth knowledge of the gambling industry upon which to base a comprehensive risk-based regulatory model takes longer than one full year’s operation to achieve. However, we have always sought to deliver a regime that is transparent, accountable, proportionate, consistent, targeted and risk-based, with a focus on required outcomes and avoidance of fine prescriptive detail.

5. In 2007, BERR and the NAO carried out the first phase of Hampton Reviews on five large national regulators³. In 2008, the methodology was refined and plans were announced to carry out Hampton Implementation Reviews at 31 other national regulators, including the Commission. We asked to be reviewed in October 2008, the first regulator to be reviewed in this cycle. We identified a small group to work with the Review Team and preliminary documentation for the Review was provided by us. The Review Team visited us during the week commencing 6 October 2008, interviewing our Commissioners and employees from across the organisation as well as meeting our stakeholders, visiting operators and reviewing documentation.

6. The Review report is published by BERR. We have seen the final report and prepared this response.

The Commission’s response

7. We welcome this report and accept the recommendations made. We are grateful to the Review Team for the approach taken during last year’s review and the constructive and helpful recommendations that it has made. In the five months since the review we have taken action to address these recommendations.

8. The report recognises that we asked to be reviewed at a very early stage in our development and that, inevitably, the findings of the Review reflect the fact that it was carried out after the first year of our full operation. Our response also reflects our concern to identify quickly any issues regarding the achievement of full Hampton compliance early in the development of the Commission’s work.

9. We are pleased to note the overall conclusion that, “We believe that if current plans are successfully implemented (particularly proposals in relation to the more effective use of risk assessment as presented to us throughout the Review), it [the Commission] should be in a strong position to demonstrate the Hampton and Macrory principles throughout its work. We

acknowledge the scale of the tasks confronting the Commission as a new regulator, and were impressed by the skills and commitment that the Commission's staff brought to bear in tackling these."

10. We also note the considerable progress made and recognised by the Review that the Commission:

- is publicly committed to implementing the principles of better regulation
- has developed good and extensive procedures for consultation and engagement with businesses, for the better design of regulations
- licensing employees showed a strong customer-focussed approach in their day-to-day relationship with businesses
- is developing a clear intelligence-based view of the most important regulatory risks to the sector
- is developing convincing plans to put risk assessment at the heart of its work as a regulator.
- is committed to the proportionate use of sanctions, adopting an advisory and supportive approach to businesses trying to be compliant.

11. We recognise that the delivery of a fully compliant regime poses us a significant and continuing challenge and, as the Review recognises, we have in place the plans necessary to achieve this. The Review conclusions and recommendations support and reinforce our development and we continue build our working and strategic relationships with the industry and other stakeholders. We find the Review's following recommendations (in bold) helpful and constructive:

Improving the use of intelligence and risk analysis

- We continue our work to ensure that activities across the Commission are prioritised according to risk, and on communicating the practical effects of this, particularly what it will mean in practice for individual operators to the regulated community. Our revised approach to the implementation of our risk assessment framework is being rolled out across our work.

Better focus on outcomes

- There are challenges in developing outcome measures which are measurable and have real meaning for our stakeholders and our employees, but we have found the recommendations particularly helpful in this area and are now working to articulate, measure and assess our outcomes more effectively. This may not, in the first instance, result in easy quantification, but in the absence of data on the long-term trends we will explore the scope for indicative short-term data and proxy measures.

Being clearer about its responsibilities with regard to the economic vitality of its regulated sector

- As we have access to improved data, we will work with the industry to improve the economic modelling of the likely impacts of regulation on the sector and with Commission employees to ensure regulatory policymaking takes proper account of the economic impact of proposals.

Improving the quality of data requests, and communicating why they are required

- When we set up our current data collection arrangements in 2007, we made a commitment to review our requirements in 2010 (once two sets of annual data returns have been made). This will be a systematic review of all the data requirements and any changes will be implemented in good time for the 2010/11 data collection cycle. We are also intensifying our efforts, taking a more targeted approach as suggested, to explain the purpose of the data returns that are

required, both to employees and to regulated businesses.

Providing clear, tailored guidance

- The Review recognises we have already done some work to communicate imaginatively, particularly with smaller operators and individuals, for instance, by text message and that our employees understand the need to be focused on the needs of our customers. But we agree that further effort is needed on guidance and approaches that meet the needs of harder to reach businesses.

Working in partnership with local authorities

- We agree that closer working with local licensing authorities is a priority and have been working on this in recent months. We will investigate opportunities for further practical exchanges of ideas through, for instance, secondments to encourage better alignment.

12. We recognise that, while we have embraced the spirit of the Hampton principles and our business plan shows how we intend to improve our delivery and become fully compliant with the Hampton principles, we now need to focus on the full implementation of those plans throughout the Commission and on explaining our approach and working more effectively with our stakeholders. Since the Review, we have been enhancing our existing arrangements to ensure that we continue to deliver on this. We would welcome a further health check in 2012 by which time the planned development work should be fully embedded. To this end, we will invite BERR (or equivalent body at that time) to review progress.

13. The Review Team’s overall conclusions and recommendations and our responses are set out in Appendix A. The detailed recommendations which support the Review’s overall conclusions and recommendations are in Appendix B. We will address these as a part of our business planning arrangements.

Gambling Commission April 2009

Appendix 9

Gambling Commission document explaining how they will implement their obligations in the Enterprise Act 2016.

Better regulation – implementing the Enterprise Act 2016

Date: 16 June 2016

Executive summary

1. This paper is to provide Board with an update on the Commission’s progress in implementing the Enterprise Act 2016 (‘the Act’) and to give information about how the implementation of the Act fits with our wider better regulation agenda. It builds on the paper provided to the Board in

November 2015, when the legislation was still proceeding through the Parliamentary process. A copy of that paper is attached at Appendix 1 for ease of reference.

2. The Commission was established as a regulator in line with the 'Hampton principles' and continues to ensure that those principles are embedded in our approach to regulation.

3. The Enterprise Act (the Act) places three requirements on the Commission:

- **To conduct business impact target (BIT) assessments:** this is the most resource intensive requirement of the Act but does not represent a shift in policy for the Commission because we already consider the impact of our requirements (such as licence conditions). The requirement for BIT assessments places our approach on a more formal basis, with the requirement (when possible) for impact assessment to be monetised. It also requires external verification via the Regulatory Policy Committee and for the impact assessments to be published.

- **To report to a small business appeals champion (SBAC)** on an annual basis, this person being appointed (and financed) by the Secretary of State. We consider that our existing processes already accommodate the principles which the small business appeals champion will seek us to demonstrate. There may be some minor amendments to clarify our appeals processes for small businesses, and there will be some additional reporting requirements (via the annual report for example). However, we do not anticipate the resource requirements to be significant.

- **To produce an annual report regarding our compliance with the regulators code and 'growth duty':** The final requirement, to produce an annual report regarding compliance with the regulators code and the growth duty, is again something that should be accomplished via a section in the Annual Report.

4. The Commission is fully committed to the principles which sit behind the Act of the need to consider the business impact of the regulatory burdens alongside the regulatory costs and benefits and the importance of transparency of such assessments.

5. We continue to engage with BRE and other regulators about the manner in which the Act is implemented, and to seek support from DCMS in managing the processes emerging from the Act in a joined-up and proportionate manner. Although many of the requirements placed on the Commission by the Act are clear, various significant technical details are still being developed. We are closely involved in this process and are actively participating in the finalisation of these outstanding issues.

6. A significant update since the last Board paper is that following discussions with the Better Regulation Executive (BRE), it has been agreed that the National Lottery is excluded from the requirements of the Act. We successfully argued that the National Lottery fell within the scope of the exemption made for state monopolies.

7. We set out our overall approach to implementation of the Act at paragraph 8 and the overall timetable for implementation is summarised at the end of this paper.

Background

8. Our approach to the implementation of the Act takes account of the following key issues: • The Commission is taking a proportionate approach to the additional requirements placed on us by the Act, mindful of the fact that any significant, additional resource requirements may potentially impact on our overall costs and therefore the fees charged to operators. We, and other regulators, have made clear this risk to BRE.

- It is important that the way in which any requirement to take account of economic growth is framed does not result in any role for the Commission to promote the growth of the industry or to ‘champion’ industry growth in some way. As we have made clear publically in the past, this would not be an appropriate role for the regulator given the risk that it might cast doubt on our independence from the industry and on our ability to assess independently where the public interest lies. We continue to emphasise that whilst not an economic regulator, we are committed to ensuring we give a strong public message regarding the central importance of good regulation to economic growth more generally. We have continued to point to the importance of public confidence in the gambling industry underpinning the conditions to support growth.
- The requirements in the Act are specifically not intended to alter the way regulators fulfil their regulatory duties in the public interest, but rather to ensure that we continue to regulate in a proportionate and transparent manner.
- We must ensure that the way in which we implement the Act does not restrict our ability to respond effectively to any emerging risks in the market.
- We are taking account of wider developments. These include in particular the **Regulatory Futures**² review of regulators, being led out of the Cabinet Office driven by regulators and the Commission’s response to the Chancellor’s report **Fixing the Foundations: Creating a more prosperous nation**. We wish to manage the collective impact of these reviews and initiatives in a coherent manner and take account of them in the development of our corporate strategy.

9. It is important to note that the industry does not unilaterally support deregulatory measures, even when it applies to their own sector. (The consultation on personal licence deregulation received considerable resistance from the casino sector.) The resistance increases when it is may be applied to another sector of the industry.

The Enterprise Act 2016

10. As noted above the Act contains three main requirements that impact on the Commission:

- The extension of the business impact target (BIT) to regulators
- A requirement for regulators to appoint a small business appeals champion
- A requirement for regulators to report annually on compliance with the Regulators Code and the growth duty.

Business Impact Target

11. The most significant requirement is the BIT. The Conservative Party manifesto included a commitment to reduce ‘regulatory burden’ by £10bn over the lifetime of the Parliament. The BIT is a means by which the achievement of this objective can be measured. DCMS are required to contribute £125m to this total.

12. The Commission must produce an assessment of the impact on business of regulatory changes that the Commission makes. These are defined as ‘qualifying provisions’ or QRP’s.

13. Qualifying provisions must be measured to assess their impact, and in most instances this will be monetised. BRE have produced a calculator to assist regulators in arriving at an impact figure. The impact assessment of all qualifying measures will need to be conducted in a proportionate way, meaning that in some cases, an analysis specific to small businesses will be

required. This is likely to be developed using existing methodologies such as those used by Treasury.

14. The analysis of impact is subject to scrutiny by the Regulatory Policy Committee (RPC) who are required to sign off (and publish) the Commission's calculations. The RPC's role is to provide a quality check on the accuracy and adequacy of the BIT analysis, not to comment on the change (for example, to a licence condition) in itself. Subject to RPC verification, the Commission will also have to publish verified impact assessments to demonstrate transparency.

15. The period covered by these requirements is the lifetime of the Parliament. The critical implication of this is that the Commission will be required to comply with it retrospectively from 8th May 2015. Notably, this means that an assessment must be produced for all of the changes which were implemented as part of the Strengthening Social Responsibility review, the Crime Review and any changes introduced following the consultation on 'Where gaming machines can be played'.

16. The Commission has now completed the task of identifying both qualifying and non-qualifying provisions from 8th May 2015 as required by the Act. Looking ahead, systems are being put in place to capture this information routinely in future.

17. In the case of the Commission, examples of qualifying provisions (for remote operators these only relate to those who are based in GB) are:

- changes to licence conditions and codes of practice (LCCP) such as the requirement for operators to offer multi-operator self-exclusion
- Changes in technical standards
- Certain aspects of operator-facing IT changes, such as the implementation of customer funds reporting for remote operators.

18. Non-qualifying regulatory provisions (NQRPs) include such things as:

- compliance activity, including fines and sanctions against individual operators and redress schemes which business are required to implement⁴
- individual licence conditions (where these do not involve a change of policy)
- enquiry handling
- changes which implement the requirements of EU Directives etc.

19. Non-qualifying provisions must be produced **annually in summary form**. This is essentially a list of the provisions that BRE deem to be non-qualifying. Our intention had been to publish this information in the Annual Report, however timetabling stipulations from BRE may well result in us having to publish separately and earlier in the year. We do not consider that publishing separately in this way raises particular risks.

20. There is a further category of provisions which are exempt and notably we have now successfully argued that National Lottery amendments are exempt.

Small Business Appeals Champion

21. The second requirement, the small business appeals champion, aims to ensure that small businesses are treated fairly by regulators and that a regulator's processes are sufficiently tailored to their needs to ensure complaints are dealt with adequately.

22. The requirement means that each regulator will have an independent reviewer

(‘champion’), that will review and make recommendations for any improvements of a regulators complaints procedure.

23. The Commission has discussed the management of this issue with several other regulators, including those within the remit of DCMS. Our aim is to minimise the resource burden on the Commission. One option we are considering is whether there might be scope to share a champion with another/other regulator(s), whether under the DCMS umbrella or elsewhere. This is an approach being considered by other Departments and/or their regulators in scope of the provisions. We are in the process of developing options for management of this issue for discussion within the Executive in the first instance.

Annual report on compliance with the Regulators’ code and the growth duty

24. The third requirement is to report annually on compliance with the Regulators Code and the growth duty. Our Statement of Principles for Licensing and Regulation and also for Compliance and Enforcement states that we have regard to Hampton⁵, the Regulators Code and related documents⁶ as well as such matters as the growth duty⁷.

25. In line with many other regulators, we anticipate fulfilling this requirement by means of a section in the Annual Report.

Issues

26. As noted above there are a number of technical issues which are now being resolved with BRE and there are other matters which the Commission are still considering internally. We are in very close contact with both other regulators and BRE to finalise plans and to learn from others as to good practice examples. We are in discussion with DCMS to encourage them, in line with other parent departments, to establish a forum for regulators within their remit to work together in a cost effective way. Some of the key issues are set out below.

27. BRE had originally suggested that regulators would be required to publish a ‘Statement of Policy’⁸ setting out their approach to the management of the BIT process. They have now revised this position, following feedback from regulators including the Commission, and have indicated that a Statement is not required but is good practice. We are in the process of setting out our plans and will, in due course share these with DCMS and BRE.

BIT assessments

28. One of the major challenges we are faced with is the training and resource requirements for the short to medium term. There are significant LCCP changes to measure as qualifying provisions – including last year’s social responsibility changes and this year’s crime review. BRE are rolling out a training programme to assist regulators in having the in-house skills to complete the BIT methodology and calculations. We have volunteered to host the first out of London training session in July for a number of regulators and are keen to ensure that as many Commission staff as possible can benefit from this.

29. The first monetized BIT assessment has now been published, alongside comments from RPC on the sources of information, the analysis applied and the overall assessment figure. We will take account of these comments in the production of our first assessments later this year.

30. We are not yet in a position to make accurate forecasts as to the full impact on resources. More detailed forecasting and discussions with programme directors and resources managers

will take place over the next month. We will endeavour to limit the impact as far as possible. Internal awareness raising sessions will start shortly for key staff.

31. Some of the BIT assessments, but not all, will require us to engage with the industry to arrive at a costing which is sufficiently robust to satisfy the RPC requirements. There are a number of ways the Commission could approach this issue. A trade association, a sample of industry operators or a more general survey for example. Other regulators already have more experience in managing this and BRE have offered to share good practice examples and disseminate information in the BIT training. The concern, shared with BRE, is that this exercise, in itself is a burden on the industry. We will be adopting a proportionate approach to this issue, only requesting information from the industry when the change is significant (for example the multi-operator self-exclusion conditions).

32. Related to this, and it is something we are discussing informally with the RPC, is the stage at which we conduct the BIT assessment. For example, before we launch a consultation on changes to licence conditions and codes of practice, prior to implementation but once the consultation has been concluded or post-implementation. Whilst there are advantages to each of these approaches and we are not obliged to follow any of these options, the Commission is initially minded to conduct the assessment post-consultation and prior to implementation. The main reasons being that we only need to do one assessment, once we know the result of any changes to the proposals as a result of the consultation, rather than have to amend the assessment post-hoc. Secondly we would only need to gather data from the industry once rather than twice. However, we will consider this issue further as we carry out the first trial assessments.

33. The Commission has options in relation to both the frequency of the submission of assessments (for qualifying provisions to RPC) and how they are grouped. In relation to the frequency of reporting, they can be submitted quarterly, every 6 months or annually.⁹ Our preferred position is to do so every 6 months as this is likely to be a less burdensome requirement on the Commission whilst avoiding a large peak of activity on an annual basis. With regards to the grouping of qualifying provisions we have obtained agreement from BRE that we are able to make a judgement about how best to organise this, for example it might be that this is done thematically. We intend to develop the grouping¹⁰ structure as the process develops.

34. The Commission has now clarified a number of technical issues with BRE. In particular these relate to whether certain measures are classified as qualifying, non-qualifying or are exempt altogether. For example it has now been agreed that it is only remote operators whose (remote services) are provided from GB are qualifying. The Guidance to Licensing Authorities (V5 September 2015), which is statutory advice to licensing authorities, is subject to further discussion with RPC as to whether it is a qualifying or non-qualifying measure. Trade association pilot schemes, which they establish of their own volition, are exempt altogether.

Appendix 10

Cross Industry Group Submission to Question 40 regarding the removal of the Debit Card prohibition for gaming machine playing.

Review of the Gambling Act 2005

Call for Evidence Response

March 2021

1. Introduction

- 1.1 This response has been written by a group of land-based industry trade bodies and businesses that share a view that gambling legislation should be amended to permit the use of alternative methods of payment within the whole gambling sector industry, land based as well as online. This would allow the land-based gambling sector to keep pace with the future and react to evolutionary changes within the industry. These organisations include:

Aspers Casino

Bacta

Gambling Business Group

Gauselmann Group

Novomatic UK

The Bingo Association

The Hippodrome Casino

- 1.2 Whilst we welcome the entirety of the Gambling Review and will be responding individually to the wider call for evidence, this paper focusses on **Question 40 “*What evidence is there on potential benefits or harms of permitting cashless payment for land-based gambling?*”** and addresses the Review’s consideration into *“whether the current rules governing land-based gambling are still relevant in the digital age. For example, the land-based gambling industry is one of the few industries restricted from using cashless payments.”*
- 1.3 It is important that the industry is given the opportunity to offer payment methods that have become the norm and are what customers expect. Now is the right time for alternative methods of payment – from both a safety and business perspective. It is already allowed for online gambling, and so consequently for the majority of gambling happening now.
- 1.4 Front and centre of any change will be player protection. We have consulted widely, and electronic card play provides a number of opportunities to ensure further robust player protection measures are in place.
- 1.5 The introduction of alternative methods of payment on gaming machines can be done and used to support one of the key principles of the Gambling Act 2005, protection of the vulnerable. This change will maintain the safeguards currently in place, but also add further safeguards. It would also allow the industry to modernise in line with its competitors and consumers to pay for their leisure activity by their preferred method.

1.6 We are recommending a two-staged approach whereby the removal of the prohibition on the use of debit cards on machines takes place now, and the Department agrees separately the conditions under which debit card play can be introduced – this will ensure that social responsibility measures are matched with current technical capabilities of the time, which may have advanced by the time this change is fully implemented. While legislation prohibits payment for playing a gaming machine by debit card, the Gambling Commission’s view *“is that card payments that originate from contactless mobile payment systems such as Apple Pay, Android Pay or Samsung Pay should be regarded as the same as payments to use a gaming machine by means of a card itself.”* For that reason we use the wider interpretation of “debit card” in this paper.

1.7 It is important to note that this is likely to be a progressive change that takes place within the land based industry, rather than an immediate change on all machines. Not all machines, particularly older machines for example, will be adapted for such technology. Furthermore, this change would also take into consideration the replacement cycle of machines and customer demand for specific machines.

Industry Response

2. Limitations on customer choice and the land-based sectors ability to compete with online

2.1 The opportunity to provide cashless payments will allow the sector to keep up with changing customer behavior and preferences.

2.2 The ability to provide cashless payments would bring the machine industry into line with all other retailers that are currently able to offer a full range of payment options to their customers. Furthermore, it is a modern form of payment for goods and services that every industry except the land-based gaming machine industry, can use. This sector sits as the only part of the UK economy that cannot offer its customers the range of modern methods to pay in the way they wish. Gambling like other forms of leisure and retail needs to keep pace with what consumers want, expect, and what has become normality.

2.3 Furthermore, allowing customers to use alternative payment methods gives them choice and convenience, helping customers enjoy a more seamless experience. Amusements and gaming are a source of mainstream entertainment, and consumers expect to pay in the same way they pay for a show ticket, a drink, or restaurant meal.

2.4 In addition, the concentration of physical cash into the few remaining venues such as Bingo Clubs, Casinos and Amusement Arcades may increase the risk of vulnerability to criminal activity.

2.5 The situation in which the sector finds itself by not being able to allow customers to pay to play on machines through their preferred method of payment has also created disparity between the land based and online sector. The land-based sector is unable to compete fairly with the online industry as well as being unable to grow and innovate in this area. The online sector has been able to do this very successfully for many years, whilst the land-based sector remains stuck in the past.

3. An ever increasing cashless society

3.1 The move to a cashless society is being encouraged by Government, as part of its push to ensure that safety and hygiene remain at the centre of business operations due to the Covid-19 pandemic, and to reduce contact between individuals. The Government's own Covid-19 guidance for restaurants, pubs, bars and takeaway services states they should be *"encouraging contactless payments where possible and adjusting location of card readers to social distancing guidelines (2m, or 1m with risk mitigation where 2m is not viable)."*¹

3.2 Furthermore, the latest Budget confirmed that contactless payments are here to stay.

3.3 The need for this change within our venues is therefore acute as cash use continues to decline as a general trend, on top of the fear of transmission pushing more people and businesses to non-cash payment technologies.

3.4 Card payments represented over half (51%) of all transactions for the first time in 2019², there were 3,303 bank branch closures - around 34% of the network - between January 2015 and August 2019.³ This will clearly have changed further in 2020. According to the Bank of England, ATM withdrawals dropped by 80% when lockdown began in March 2020 and there has been a 60% reduction in the use of cash since the onset of Covid-19 in the UK.⁴

3.5 The Access to Cash review confirmed that the UK was en route to becoming a cashless society and will be 'virtually cashless' by 2035.⁵ It made a series of recommendations for government and industries to ensure digital payments were an option for everyone.

3.6 A report by Accenture also stated that as consumers change their behaviours and opt to avoid handling cash to avoid physical interaction with others throughout the pandemic, they may not return to older habits as time goes on.⁶ More recently, a survey of 2,000 people conducted by the consumer champion Which? showed 34 percent reported being blocked from paying with cash at least once when trying to buy something in the last 11-months.⁷

3.7 Within our own venues for example, cash transactions with the Hippodrome Casino bars and restaurant dropped from 18% in November 2019, to 9% in Nov 2020, showing that within a casino, where allowed, customer prefer to use alternative methods of payment, and the proportion of customers still using cash is diminishing rapidly.

¹ <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery#takeaways-2-2>

² <https://www.ukfinance.org.uk/press/press-releases/cards-used-half-payments-first-time-last-year>

³ <https://press.which.co.uk/whichpressreleases/over-a-third-of-bank-branches-closed-in-under-five-years-which-reveals/>

⁴ <https://www.bankofengland.co.uk/quarterly-bulletin/2020/2020-q4/cash-in-the-time-of-covid>

⁵ <https://www.accesstocash.org.uk/media/1168/press-release-one-year-on-a2c-final.pdf>

⁶ <https://www.accenture.com/ acnmedia/PDF-123/Accenture-10-Ways-COVID-19-Impacting-Payments.pdf>

⁷ <https://www.which.co.uk/news/2021/01/one-in-three-people-have-had-cash-payments-refused-during-the-pandemic/>

3.8 Gaming payment options that encourage payment choice, protect consumers, and keep pace with consumer expectations are now needed.

4. Customer demand and in-venue expectations

4.1 Recent independent polling was undertaken by Savanta ComRes that surveyed 1,041 members of the general public (18+) who have played a fruit/slot machine in the last 3 years.⁸

4.2 The sample included players from across the UK and was weighted evenly between male and female players. Those who played a fruit/slot machine in the last 3 years played predominantly in pubs (50%), adult gaming centres, bingo halls and casinos.

4.3 The survey demonstrated clearly that fruit/slot machine players' use of cash and attitudes towards this payment method are changing, with more than half of players not only feeling less comfortable using cash but also being less likely to use cash. Near three quarters of players think they will use less cash in the future. In addition, debit card is the preferred payment method used for everyday transactions in retail businesses with almost 3 in 4 players using this payment method.

4.4 Whilst the vast majority of players currently use cash to play fruit/slot machines, this is likely in large part due to cash being the prevalent payment method for play currently on offer. This is not to say that customers will stop using cash payments, however, the data shows that where available a number of players are already using digital payments.

4.5 Players who use cash to play on fruit/slot machines are overall satisfied with this payment method, and it is important to remember that the proposition in this paper does not suggest removing the option of using cash to play, and those who feel comfortable and prefer to pay this way could and should continue to do so, without the adoption of additional measures.

4.6 Half of players surveyed would be open to new payment methods for play and would prefer a greater choice in payment methods for fruit/slot machines. More specifically, 7 in 10 of those open to new forms of payment would like to see the possibility of using debit cards for play.

4.7 70% of respondents agreed that debit cards should be permitted to be used for play alongside the application of measures to manage spend limits. It is also important to remember that stakes within land based venues are already limited, as opposed to unlimited stakes online.

4.8 Out of the various social responsibility measures proposed, the two highest ranking ones in terms of perceived usefulness are bank limits on the total amount of spend and the ability to set a sessional limit on expenditure.

⁸https://info.savanta.com/hubfs/Savanta%20ComRes_Cashless%20Group_Gaming%20Machines%20Survey_Final%20Report%202021_Final.pdf

4.9 Below we outline social responsibility measures that could accompany any form of debit card play, by which setting expenditure limits can be at the forefront of this change given we know this is a preferred measure from consumers. Banks are already developing their offers in terms of blockers and limit setting which we welcome and support.

5. Social responsibility and harm prevention benefits of permitting cashless payments

5.1 For the vast majority of players who gamble within their means and enjoy it, cashless transactions would be a benefit. For those that need help managing their gambling, there are a number of ways cashless gambling could help them as well.

5.2 There are a number of opportunities to provide additional harm prevention measures when considering the offer of cashless payments within land based venues. We have consulted in detail on these measures via the technical group set up amongst the industry bodies calling for this change. Whilst a number of robust customer safety measures are already in place, cashless payments would provide *additional* player protection measures.

5.3 This change would also not increase harm risk in terms of the VICES framework. For example, there will be no added **V**isual or auditory enhancements, **I**llusions of control, **C**ognitive complexity, **E**xpedited play, nor will there be less **S**ocial interaction as part of this change.

5.4 Furthermore, we acknowledge that electronic payment technology is fast moving and therefore suggest that there should be a two staged approach to allowing alternative forms of payment to the land based gaming sector. **Stage one** - Removal of the prohibition on the use of debit cards on machines takes place now by deleting the words 'debit card' and the associated definition from the Circumstance of Use Order (2007) (SI 2319). **Stage two** - We agree with the Gambling Commission the conditions under which debit card play, in whatever format, could be introduced based on the latest technology available at the time. To do it now would be premature, but it would be helpful to agree some principles and we have outlined some example measures below. Detail can follow in discussion. In this way the industry and Government together can ensure that social responsibility measures are matched with the current technical capabilities of the time.

5.5 As part of Stage two, any changes would also not be rolled out until the technological specifications and protections are agreed, tested and evaluated.

EXAMPLE SOCIAL RESPONSIBILITY MEASURES FOR GAMBLING PAYMENTS USING DEBIT CARDS AND ELECTRONIC PAYMENT METHODS

5.6 The purpose of this draft document is to demonstrate how electronic payment methods could be offered responsibly in land-based adult gaming centres, bingo clubs, casinos, pubs and other licensed premises by offering a number of benefits in terms of social responsibility. Operators may or may not choose to introduce alternative methods of payment immediately, but examples of the steps that could be introduced are:

Steps that could be introduced from day one that would provide the most effective player protection measures

The consumer research which accompanies this paper showed that:

- 55% of players felt that the ability to **set a sessional spend limit** would be useful to them of which 21% ranked this as most useful. This facility could be offered at the point of introduction where technically possible.
- 45% of players felt that the ability to **set sessional time limits** would be useful to them of which 15% ranked this as the most useful. This facility could be offered at the point of introduction where technically possible.
- 32% of players felt that **time reminders at pre-set intervals** would be useful to them or which 8% ranked this as most useful. This facility could be offered at the point of introduction where technically possible.

Examples of additional measures that could be introduced subject to evaluation

- **Transactions taking a minimum of 30 seconds** providing customers with an additional break in play.
- **Double confirmation of each transaction** could be required. The player could be asked twice if they wish to proceed with the transaction. The player could be able to cancel the transaction at any time in the process up to the second confirmation.
- When electronic credit has been accepted by the terminal the player could **transfer a maximum of £20 with each button press**, e.g., a deposit of £40 would require two separate £20 transfers by the player.
- Customers could be **offered a receipt for deposits made via an electronic payment** this may be in electronic format.
- **Dedicated safe play messaging** could be shown when a player is using an electronic payment method to purchase games.
- Operators could ensure that banking apps that allow players to track spend would be advertised on a help page where technically possible.
- The **availability of self-exclusion tools** as offered by a Scheme or as required by license conditions could be displayed on terminals. (AGC, bingo and casino).
- Operators could **aggregate data on spend levels and trends** for players using electronic payment methods where technically possible. This data could be shared with the regulator.
- Operators could have a **clear procedure based on what is technically possible for the environment at the time, on how to deal with notified declined transactions** in venue that have dedicated staff.
- All transaction including Apple pay and Google pay could be limited to the equivalent debit card contactless limit.

Future possible measures that could be introduced depending on the banking system.

- Players could have the ability to block cashless transactions from specific forms of gambling temporarily or permanently or to a cash or frequency limit.
- Players could place blocks on cashless transactions to allow them to select specific transactions in different geographical areas.

6. Conclusion

6.1 We welcome the Gambling Review's consideration of the current rules governing land-based gambling and whether they are still relevant in the digital age, such as the rules preventing debit card/cashless payments. It is clear from evidence and customer demand research that restricting the land-based sector from using cashless payments does not ensure the sector is able to operate in a modern digital world as other industries are able to.

6.2 With reference to the objectives of this review, in the increasingly cashless world, we must consider whether the rules governing payment methods in the land-based sector still serve a useful purpose in preventing harm and the degree to which they pose limits on innovation and customer choice and demand. We believe we have set this out clearly, by which the land-based sector is indeed limited in terms of innovation and customer choice, as well as having set out the additional harm prevention measures that would be possible through cashless payment options.

6.3 Without a full range of cashless payment methods available to customers, the land-based gaming sector has been negatively impacted and competitively disadvantaged compared to the online industry. Allowing cashless payments would help rebalance the situation and allow the industry to keep pace with the digital era in which we now live.

6.4 Importantly, this change would also add to player protection and help to prevent harm. It would include the introduction of more stages of friction in the process, being able to utilise technical and digital player protection tools, provide enhanced customer record keeping and improved security and regulatory oversight.

6.5 Finally, the clear ambition behind this proposal is to simply provide customers with the ability to pay to play via their preferred payment method. Whether this is preferred payment method continues to be via cash or instead through alternative methods of payment, the sector will ensure that the payment choice is provided in a safe and secure way.

Appendix 11.

Business In Licensing Paper on the removal of the conflict between the auto-entitlement and the need for Notifications.

BIL Position Paper - Notification of Auto-Entitlement Machines in Pubs

Following meetings with sister organisations, BIL, in collaboration with the BBPA and in consultation with the Gambling Commission and licensing authorities (through the Local Government Association), have formulated a proposal regarding the reform of the process for an alcohol premises licence holder, notifying the licensing authority of his intention to take up his right to entitled machines under section 282 of the Gambling Act 2005.

The current process requires the writing of a formal letter, accompanied by a £50 fee, to notify the licensing authority of the premises licence holder's intent to install up to two gaming machines of category C or D, to which he is entitled under the Gambling Act 2005.

The fee, which barely covers the costs of the administration process for the licensing authority, and not the cost of enforcing or inspecting against the notice, represents an unnecessary cost to business while failing to add to the safety of the public or the effectiveness of the regulatory regime.

Likewise the present notification process fails to accurately deliver to the Gambling Commission data on the number of gaming machines in alcohol licensed premises.

The Gambling Commission and licensing authorities have highlighted the need for whatever system might replace the current notification process to ensure operators of alcohol licensed premises are aware of responsible gambling practices when providing gaming machines in their premises.

Given the above, the present proposal is as follows:

1. Remove the requirement for premises licence holders to notify and pay the £50 to benefit from the automatic entitlement to provide gaming machines under section 282 (this removes the burden);
2. The Gambling Commission to amend its statutory Guidance to Licensing Authorities (issued under s.25 of the Gambling Act 2005) to, and generally, for instance through the Licensing Authority Bulletin, advise licensing authorities to send the Code of practice for gaming machines in clubs and premises with an alcohol licence (issued under section 24 of the Gambling Act 2005) to holders of alcohol premises licences (this ensures the effective communication of a licensee's social responsibility obligations);
3. The Gambling Commission to amend the Regulatory Returns of those who supply gaming machines to require the holder of the operating licence to provide information on the numbers of machines supplied to alcohol licensed premises (this provides the Gambling Commission with accurate data on numbers of gaming machines in alcohol licensed premises). It should be noted that similar information is already provided by gaming machines suppliers to the Gambling Commission and suppliers must hold this information. Failure to provide the information would be a breach of an operating licence condition.

Taken together, this raft of changes should result in:

- a) Reduced cost and administration burden to licensed businesses and machine operators.
- b) The removal of unnecessary confusion around the notification process by those who aren't fully conversant with the detailed wording of the Gambling Act 2005.
- c) Reduced cost and administration burden to licensing authorities, as they would no longer process notifications or provide returns on numbers of notifications to the Gambling Commission.
- d) Increased transparency over the legality of the presence of gaming machines in pubs. It would no longer be relevant as to whether notification has been made.
- e) Improved enforceability of licensing and gambling law and improved regulation of licensed premises.
- f) Improved quality of information held by the Gambling Commission on the numbers of gaming machines in British alcohol licensed premises.
- g) Protection of the vulnerable and the public in general through transparent adherence to the Gambling Commission's Code of Conduct.

Amendments required to the Gambling Act 2005?

Amendments are required to section 282 as outlined below.

282 Gaming machines: automatic entitlement

*(1) Sections 37 and 242 shall not apply to making one or two gaming machines, each of which is of Category C or D, available for use on premises to which this section applies, provided that the conditions in subsections ~~(2) and (3)~~ are **is** satisfied.*

~~(2) The first condition is that the person who holds the on-premises alcohol licence or the relevant Scottish licence sends the licensing authority—~~

~~(a) written notice of his intention to make gaming machines available for use in reliance on subsection (1), and~~

~~(b) the prescribed fee.~~

(3) The ~~second~~ condition is that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with.

(4) Subsection (1) does not disapply section 37 or 242 in respect of premises at a time when gaming machines are made available for use on those premises in reliance on a club gaming permit or a club machine permit.

(5) In this section “prescribed” means—

(a) in the case of premises in respect of which an on-premises alcohol licence has effect, prescribed by regulations made by the Secretary of State, and

(b) in the case of premises in respect of which a relevant Scottish licence has effect, prescribed by regulations made by the Scottish Ministers.

Appendix 12. Explains difficulties in the Transfer of Premise Licences to a new owner or Operator, which ideally should be remedied in the current review of the gambling act 2005.

Transfer of Premises Licence

Legal provisions

The Gambling Act 2005 allows an existing premises licence to be transferred from one licensed operator to another. The procedure is contained in part 8 of the Act.

The transfer application must be made in the prescribed form and accompanied by:

- confirmation that the applicant has the right to occupy the premises,
- payment of the appropriate fee,
- a plan of the premises of the existing premises (see note below),
- the existing premises licence (or a statement explaining why it is not reasonably practicable to produce the licence and an application for the issue of a copy of the licence together with the additional fee required), and
- the consent of the existing licensee.

An application is not treated as having been made until the prescribed fee and the accompanying documents have been received by the licensing authority.

A transfer application may include a request that it is effective immediately, pending determination of the application by the licensing authority.

Practical implications

Difficulties arise where an operator buying an existing gambling premises wishes to continue operating without any interruption to the business.

The existing operator may be reluctant to deliver the existing premises licence and transfer consent form to the buyer until completion has taken place.

The buyer, or their legal representative, may not receive the relevant licence documentation on the day of completion.

Until the licence documentation is received, it is not possible for the buyer to submit the transfer application, in its entirety, to the licensing authority.

Because the GOV.UK online system (available to applicants under the Licensing Act 2003) is not available for gambling applications, all applications must be delivered by hand, post, facsimile transmission or electronic mail (subject to prior agreement).

This can present the outgoing and incoming operators with legal and logistical issues to maintain business continuity without contravening the provisions of the Act.

(Note: as a transfer application only affects the identity of the licence holder, it seems unnecessary to prescribe a requirement that the application be accompanied by a copy of the plan of the premises)

January 2021

Appendix 13. Explains difficulties with the current system in the gambling Act 2005 for the variation of a Premises Licence which ideally should be remedied in the current review.

Variation of Premises Licence

Legal provisions

The Gambling Act 2005 allows the holder of a premises licence to apply to the licensing authority to vary the licence.

Under this provision, licence holders may apply to amend the layout of the premises as shown on the licence plan.

However, the Act specifically states that a licence may not be varied to relate to premises to which it did not previously relate.

Practical implications

By way of an example, a bingo premises licence may have been granted to authorise gambling to take place within the building outlined on the licence plan.

The licensed bingo premises may wish to include an external smoking area within the licensed area. Under the current provisions contained in the Act, such an application should not be the subject of a variation to the existing licence but should be made by way of an application for a new premises licence.

Although the procedure for a variation application is similar to an application for a new premises licence, there is a substantial difference in the fee payable to the licensing authority.

More significantly, a variation application only allows the proposed amendment of the premises licence to be considered whereas an application for a new licence opens the entirety of the licence for consideration.

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