

## Are we losing our perspective for protecting the vulnerable in the pursuit of ever tighter regulations?

It is not so long ago that the Gambling Commission accused the industry of exaggerating about the threat of the Gambling Black Market, dismissing it as 'scaremongering'. Now they are asking for huge (30 percent) increases in funding so that they can fight that 'exaggerated' Gambling Black Market. They even say that they have eroded their considerable reserves investing in 'disrupting the illegal gambling market' they were all too recently in a state of denial about.

### How could our national regulator have got things so wrong?

Is it ethical that the UK gambling regulator can be asking for more funding to combat the unregulated Gambling Black Market, whilst at the same time, in sections 18 & 19 of the DCMS's consultation document - where it is arguing for a 30 percent increase in fees - says it will continue to increase regulations and restrict access to regulated gambling in the legitimate market?

And yet in all this debate, what is not talked about enough is that it is exactly this strategy to restrict access that pushes vulnerable players towards - guess where? The unregulated Gambling Black Market.

And there are many examples of how this redirection is taking effect:

### • 'Ensuring on line games are safer by design'

Impact - making games dull and less attractive for legitimate websites is a great opportunity for the Gambling Black Market to capitalise on.

ILLEGAL MARKETS



**Peter Hannibal**, Chief Executive of the Gambling Business Group, has been taking soundings from across the gambling industry on the view that when it comes to the black market, the force driving players to illegal gambling operators is not the legitimate land based sector, but the bodies that are squeezing the entertainment value out of their offerings. Here, he explains some of the reasons why players are exiting the legitimate market in search of unregulated and illegal operations. And he challenges the idea that legitimate land based operators in the UK should solely be funding a campaign to shut down the black market, much of which is operated overseas. This, Hannibal believes, is a global operation that should be run and funded by all the international regulators and not an AGC on a small town high street or motorway service operation here in the UK.

### • 'Stronger requirements... making limit setting more effective'

Impact - increasing barriers to play on legitimate games is again a great opportunity for the Gambling Black Market to provide a barrier free and a more pleasurable consumer experience.

### • "...the Commission is continuing to pilot financial risk assessments"

Impact - Financial risk assessments don't exist in Gambling Black Market websites. Any consumer that fails one of the Gambling Commission's 'financial risk assessments' and is blocked from gambling, will surely go where they can gamble.

### • The self-exclusion flaw

This pattern of drift towards illegal gambling sites will be the same for gambling consumers who have a 5 x year national self-exclusion block.

National self-exclusion is too blunt an instrument to properly protect the vulnerable as this, like the points above, will only encourage blocked consumers towards the Gambling Black Market where they will continue to be free to gamble - uninhibited.

Ideologues will no doubt say that you can't not increase regulation of the legitimate operators just because there exists a Gambling Black Market.

But ideology will not protect vulnerable gamblers who won't care whether the website they are gambling with has a Gambling Commission Licence or not.

In fact, based upon the points above, their experience will probably be far better if they didn't have a Gambling Commission Licence.

### So how will the battle against the black market take shape?

Linking the Gambling Commission fee increase to a campaign to counter illegal gambling and black markets is a recommendation that, in its current form, requires far more detail and considered thought.

The illegal gambling market, in the main, operates online and outside of the UK jurisdiction, so the notion that licensed operators on our high streets should fund global action on its own is difficult to justify.

The Gambling Commission partners with all the international regulators so the first question must be: is this going to be an international operation run jointly by regulators from around the world? And if so, is this going to be funded by all the operators of the participating countries including every operator in the regulated markets of the US, Ireland, Malta, Botswana etc?

It's imperative that we have a coherent strategy on the task to

tackle the black market. We fully understand that 'keeping crime out' is a licence objective, but it was never intended to include keeping organised crime based in countries such as Russia off the internet.

The battle against the black market is crucial, but whether this extensive operation should be funded by the likes of an independent single site AGC on a small UK high street is difficult to justify.

It is an issue that is already being hotly debated, most recently at this week's BGC AGM, and it is clear that we need more detail and a more coherent strategy to counter the black market.

### What is the opposite of polluter pays?

Licensed gambling operators are not the cause of the increasing gambling Black Market. Yet it is licensed operators who are being asked to fund the additional resource that the Gambling Commission says it needs to combat the gambling Black Market.

We are not aware of any other sector or retail vertical where legitimate operators have to fund the policing of criminal or illegal activity, particularly being played out on the international stage.

The statutory gambling levy was imposed on the industry on the principle that 'polluter pays'.

However in the case of combating the gambling Black Market it is not the licensed gambling industry that is the cause or the polluter here. It is not the licensed gambling industry that is driving consumers towards the gambling Black Market.

It is morally wrong for the Government to force the legitimate licensed gambling industry to pay for the policing of criminal activity.

## The VAT landscape "materially shifted" for prize draw sector after Treasury statement

PRIZE DRAWS

Specialist gambling lawyer Richard Williams has highlighted the fact that a recent Parliamentary statement from the exchequer secretary to the Treasury may have "materially shifted" the VAT landscape for prize draw operators.

Responding to a question on prize draws from MP

Maureen Burke last week, MP Dan Tomlinson confirmed that "paid entries are subject to VAT at the standard rate of 20 percent," which Williams predicted could spark "the next major tax dispute" in the sector.

"This answer has reignited debate across the prize draw sector, particularly as this appears to have been triggered by the issue of the DCMS Voluntary Code



of Conduct," said Williams. "The reality is that the market is divided: some operators account for VAT on paid

entries, but many do not." "The position is far from straightforward. If VAT is chargeable on entries,

input VAT recovery would follow, significantly affecting margins, pricing structures, historic accounting treatment, and competitive dynamics."

Acknowledging the fact that this is HMRC's stated view in a Parliamentary answer, and that the opposing arguments have not yet been tested in court, Williams said "given the sums involved across the

sector, judicial determination may ultimately be required."

"In the meantime, prize draw operators should be considering: potential historic exposure to VAT liability, protective steps (including voluntary disclosure and clearance where appropriate), the commercial implications of possible VAT liability, [and] the need for specialist independent tax advice."