



The Society for the Study of Gambling

www.societystudygambling.co.uk

Newsletter

Number 45 Spring 2011

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The Society For The Study of Gambling

The Society for the Study of Gambling was formed in 1977 to provide a forum for those concerned with research into gambling, to promote its scientific study especially as far as the psychological, legal, social and economic aspects are concerned, and to inform and educate the public about these matters. In more recent times the Society has broadened its focus to include a wide range of issues relevant to the field of gambling.

The membership of the Society is drawn from a wide circle of people who have an interest in various aspects of gambling. They range from gambling operators, regulators, academics, and those who work with problem gambling. It is a condition of the Society that there should be freedom of opinion and practice among its members, so that the Society does not take any particular stance in relation to gambling.

Meetings

The Society holds two meetings a year in London in May and November. Meetings are held under The Chatham House Rule and cover a wide range of topics reflecting current gambling issues. In recent meetings this has included discussion on aspects of regulation, technology, research, and social responsibility.

The next meeting will be held on Friday 6 May 2011. For further details please contact the Society's Treasurer.

Newsletter

Talks and papers presented at the Society's meetings are often reproduced in the Newsletter at the invitation of the Editor and with the permission of the author. They are not intended to be an alternative to publication in a learned journal.

The Editor welcomes unsolicited manuscripts, book reviews, and other items which would be of interest to the Society's members.

An archive of previous newsletters is available on the Society's website: www.societystudygambling.co.uk

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Editorial

Lorien Pilling, Research Director, Global Betting and Gaming Consultants

As the Internet gambling operators are increasingly discovering in Europe, regulation and government are strong influences on the gambling industry. They are forces that determine the type of gambling activity that can take place, the extent of promotion and advertising permitted, and the operator's profitability through the tax rates imposed.

On this theme of regulation, the morning's speakers at the Society's meeting in November 2010 looked at gambling 50 years on from the Betting and Gaming Act 1960. This edition of the newsletter publishes Professor David Miers' comprehensive assessment of 50 years of change in British gambling policy.

Members present at the meeting will long remember George Carrigill's stories of five decades of running Carrigill Bookmakers, a family-owned chain of off-course bookmakers. His view that the Gambling Commission has been as much use to the independent bookmaker as an extra leg to a centipede suggests that not everyone is enamoured by the regulatory change that has taken place.

Another long-standing bookmaker, Warwick Bartlett, spoke at the May 2010 meeting giving his forthright on the gambling industry and his reflections are included in this edition.

Going back a decade before the Betting and Gaming Act 1960, Seamus Murphy reviews the work of the Royal Commission on Betting, Gaming and Lotteries which was set up in 1949 under the chairmanship of Sir Henry Willink.

The newsletter is completed by Dr Emma Casey's research into women's experiences of gambling which she presented to the Society in November and articles from Linda Aklundh on responsible training for the iGaming industry and Peter Wilson's analysis of betting, sport and corruption.

As ever, it is a diverse selection of articles reflecting the Society's members' broad areas of interest.

The Executive Committee was saddened to hear of the death of Chris O'Keeffe, Chief Executive of the Independent Betting Adjudication Service (IBAS) and a popular member of the Society. Chris was highly respected across the gambling industry for his dedicated work at IBAS which he created in 1998. Chris was also excellent company with a portfolio of anecdotes from his time at the Sporting Life.

The newsletter opens with a summary of a talk given by one of Chris' IBAS colleagues, John Samuels, on fraud in licensed betting offices.

Fraud in Licensed Betting Offices

John Samuels, Case Manager, IBAS

Mr John Samuels, of IBAS, gave a presentation concerning staff theft and customer fraud related to gambling activity. His comments and observations were based on over forty years' experience in the betting industry, with many of those years being in operational and security roles. His talk is summarised below.

This presentation focuses on fraudulent activity in Licensed Betting Offices and deals with:

- different methods of fraud (staff and customers)
- reasons for fraud activity
- detection and prevention methods

Staff theft

Dealing first with staff theft, there is a long list of methods. These include the registering of blank betting slips – (the winning selection to be written on the slip only once the result is known), under-ringing bet stakes e.g. a £50 bet registered as £5 and the difference of £45 being kept by the member of staff, intentionally inflating the return on winning bets and the staff member keeping the difference; short changing customers; passing forged notes through the branch cash flow; and credit betting -where the bets are not paid for until a winner is selected.

Reasons given by staff for their fraudulent activity include the need for money, the belief that the system could be beaten, the temptation of there being ready money available and the seemingly relative ease with which the theft could be achieved.

The fact that some members of staff were intimidated and forced to act fraudulently by another person is also a factor.

Prevention techniques

Prevention techniques employed by most companies include: an effort to employ good staff and keep them motivated, proper supervision of staff, visits to the branch by management and, most important of all, trying to ensure that sufficiently experienced and capable staff are in the most appropriate locations, i.e. those staff with the most experience are employed in the most difficult or busiest branches.

One obvious detection method is the use of a regime of regular audit checks on branch transactions, which should be coupled with appropriate and sensitive feed-back on the findings of the audit.

It must not go unmentioned however that betting office staff are, in most cases, hard-working and honest employees who would be a credit to any organisation.

Customer fraud

Some examples of customer fraud are: ambiguous bets, slow counts, late bets and other systems.

These methods are set against a background of the customer frequently knowing more than the member of staff, and this is coupled with the hurried and pressurised environment found in most licensed betting offices.

Reasons given by fraudsters for their actions include the seeming ease of success, the fact that it was seen as all part of the punter versus bookmaker battle, and awareness that the penalty for being caught was often minimal.

Dwelling for a moment on the bookmaker versus customer battle, it is interesting to note how high street bookmakers have perceived themselves over the years.

Initially bookmakers developed from street corner/illegal operators, and they called themselves Commission Agents, then Turf Accountants; this was quickly followed by Licensed Betting Office operators.

This is notwithstanding the fact that, all the while, they were, and still are, known by the public as 'bookies' who operate from 'betting shops'.

Nowadays Licensed Betting Office operators prefer to perceive themselves as being part of the retail industry, and even in the leisure industry. Indeed most plc bookmakers are listed under the heading of 'Hotel and Leisure' by the Stock Exchange. However, the public still see high street operators as simply 'bookies'.

As part of the high street retail or leisure industry, high street Licensed Betting Office operators attempt to portray their premises as such. Staff are trained to provide customers with 'an enjoyable leisure experience' which is backed up with comfortable carpeted, air-conditioned sites, equipped with toilets, refreshment areas and large television displays.

The interesting dichotomy is that the customer wants to win money from the bookmaker, while conversely the bookmaker wants to take the customer's money from him/her! The scene is set and every new dawn sees the conflict revived and a new battle of customer versus bookmaker begins.

For both customer fraud and staff fraud scenarios it is often the case that the law and its penalties prove little deterrent to those staff desperate enough, or to those customers bold enough, to attempt fraud. Recently however there have been some surprising exceptions to this situation, which the industry is pleased to witness.

Pre EPOS, there was an expectation in some quarters that the advent of EPOS would eradicate most, if not all, of staff and customer fraud. How right the doubters of this school of thought were, and

how naive those comments proved to be! Not only could most frauds be transferred to branches with EPOS systems but, in addition, more methods of acting fraudulently became possible.

Conclusion

In conclusion, on the subject of betting office fraud, it is believed that until most, if not all, betting transactions in Licensed Betting Offices are carried out via Mark Sense (some refer to this as Quick Slips), fraud will continue to be a thorn in operators' sides.

The use of Mark Sense slips, similar to the bet acceptance method employed by Camelot for the National Lottery draw, would immediately recognise whether a bet was late or was staked correctly, and would completely automate the settlement process, with no need for manual input.

However, one word of warning is that although the 100% use of Mark Sense slips would greatly reduce the incidence of fraud, it would be no surprise to see other new ways of 'beating the system' developing. Operators should therefore be constantly on their guard for new fraud methods to evolve.

From Constraint to Competition: 50 years of change in British gambling policy

Professor David Miers, Emeritus Professor of Law, Cardiff Law School¹

Introduction

This article provides an overview of the fundamental change in the British government's approach to the regulation of commercial gambling that has taken place over the past half-century. This change can be simply summarised. It comprises the substitution of a policy of constraint designed to inhibit any expansion in opportunities for persons to gamble to one of competition, in which operators may, subject to a sophisticated but essentially permissive regulatory regime, be licensed to provide such facilities for gambling as they consider commercially viable. But to understand the shifts in government policy concerning the regulation of commercial gambling in Great Britain over the past 50 years it is necessary by way of context to go back one further decade, to the Report of the 1949-51 Royal Commission on Betting, Lotteries and Gaming.²

The 1920s and 1930s had seen a continuing expansion in the commercial gambling media that had developed in the 19th and early 20th centuries. These included gaming machines, greyhound racing, the football pools, the Tote (the Horserace Totalisator), bingo, newspaper prize competitions, and the widespread promotion of private 'good cause' lotteries, along with a vibrant, if illegal off-course cash betting market. These combined to constitute what the 1951 Royal Commission regarded as an unremarkable feature of everyday life. For the Home Office, responsible for domestic policy in this matter, this expansion aggravated the long-standing difficulties it had faced since the mid 19th century to formulate a clear and workable approach to disputed points of detail on which it could, in particular, advise the police; prohibition being the preferred option. In practice the implementation of the anti-gambling legislation had comprised an awkward trade-off between the Home Office's preference for a quiet life, police concern about the resource implications of its enforcement (notably in respect of street betting), and the more or less constant public grumbling by anti-gambling groups.³ This trade-off became more difficult to manage during this period by the emergence of a wider group of sporting and business interests ready to argue that their gambling promotions were harmless fun.⁴

¹ Emeritus Professor of Law, Cardiff Law School, UK. This article is a revised version of a talk given to a meeting of the Society for the Study of Gambling London, 4th November 2010.; www.societystudygambling.co.uk.

² *Report of the Royal Commission on Betting, Lotteries and Gaming 1949-51* (1951, Cmd. 8190).

³ For a definitive account, see David Dixon, *From Prohibition to Regulation: Bookmaking, Anti-Gambling and the Law* (Oxford University Press 1991).

⁴ For a substantial discussion of the social and legal history, see David Miers, *Regulating Commercial Gambling* (Oxford University Press 2004), Part One.

The anomalies embedded in the law as a result of a century of uncertain enforcement were matters of comment by the 1932 Royal Commission on Lotteries and Betting. Although its only legislative product was confined to the 'small lottery' problem,⁵ this Commission remains notable for its radical rejection of the prevailing policy ethos:

'the general aim of the State in dealing with facilities for organised or professional gambling should be to prohibit or place restrictions upon such facilities, and such facilities only, as can be shown to have serious social consequences if not checked.'⁶

The substantial increase in betting expenditure that followed the end of the Second World War revived the government's interest in the fiscal possibilities,⁷ but taxation did not figure in the terms of reference set for the 1949-51 Royal Commission. These were 'to enquire into the existing law and practice thereunder relating to lotteries, betting and gaming, with particular reference to the developments which have taken place since [1933], and to report on what changes, if any, are desirable and practicable.' The Commission expressly endorsed the libertarian stance adopted by its predecessor.⁸ In a chapter entitled 'The Social Effects of Gambling', it rejected the view that either by abstract argument or experience, gambling, when taken in moderation, causes any serious harm to the players, their families or their community. Drawing on a well-established analogy, the Commission concluded,

'It is the concern of the State that gambling, like other indulgences such as the drinking of alcoholic liquor, should be kept within reasonable bounds, but this does not imply that there is anything inherently wrong in it.'⁹

This emphatic rejection of one of the main planks in the anti-gambling groups' objections to gambling signalled the demise of any government view that the function of the law in this matter was to enforce a particular moral stance on an individual's use of their leisure time. In this respect the Commission's recommendations constituted a landmark in the state's understanding of a socially pervasive and pan-class leisure activity. They also anticipated the legislative changes of the late 1960s concerning its response to private sexual conduct between consenting adults.¹⁰ The

⁵ *Royal Commission on Lotteries and Betting 1932-33* (1933, Cmd. 4341). The legislative product was the Betting and Lotteries Act 1934.

⁶ *Royal Commission* (1933), 232-36. Hereafter all references to Royal Commissions and other official papers cite only their date of publication following their first full citation, and then simply paragraph numbers.

⁷ 'In the immediate post-war period war gratuities and black market fortunes alike were squandered in a frenzy of gambling that undoubtedly gave economists the impression that here was a source of revenue which only needed tapping to provide a much-needed contribution to the ever-increasing cost of the welfare state.' J. Chenery, *The Law and Practice of Bookmaking, Betting, Gaming and Lotteries* (Sweet and Maxwell 1963), p. 18.

⁸ *Royal Commission* (1951), 160.

⁹ *Royal Commission* (1951), 159.

¹⁰ See the debate between the then Professor of Jurisprudence at Oxford University, H.L.A Hart, and Lord Devlin, a Lord of Appeal in Ordinary (that is, one of the 12 members of what was then the United Kingdom's equivalent of a supreme court). See, respectively, *Law, Liberty and Morality* (1963, Oxford

Commission's treatment of gambling as a secular matter of social regulation was, at a more general level, symptomatic of the post-war development of the regulatory state.¹¹

Despite the clarity and persuasiveness of the reasons for them, the Commission's recommendations were not enacted until 1960. Within Parliament there was a strong contingent of anti-gamblers, in particular in the House of Lords. In the Commons, a vocal group of MPs sided with the bookmakers against what they regarded as the Jockey Club's arrogant assumption that the working man's betting should underwrite the landed aristocracy's desire to maintain and race expensive horseflesh. Eventually the racing industry became reconciled to the fact that there would be no Tote monopoly, their disappointment being tempered by the Home Office's alternative, to introduce a betting levy on stakes, which would be hypothecated to the support of the industry. For their part the bookmakers accepted that the government's wider concerns with social order meant that it was committed to the implementation of the Royal Commission's recommendations. The Betting and Gaming Bill was introduced in October 1959 and received the Royal Assent in July 1960.

In the 50 years that followed what the Prime Minister, Harold Macmillan described as a 'long overdue' social reform,¹² four key dates stand out: 1968, 1994, 2002 and 2005. The article now falls into three sections:

- Regulation as a constraint on the supply of and demand for gambling products
- Creating a demand for a single gambling product
- Regulation as the facilitator of competition in the supply of gambling products

2 Regulation as a constraint on both the supply of and demand for gambling products

'The object of gambling legislation should be to interfere as little as possible with individual liberty to take part in the various forms of gambling but to impose such restrictions as are as desirable and practicable to discourage or prevent excess.'¹³

2.1 The new regime and its philosophy

The new regime came into effect on 1st January 1961. It created a single, regulated betting market that included the extant lawful on- and off-course cash and credit bookmakers and any formerly illegal street bookmakers. While we might applaud the irony of the introduction of the statutory test for a bookmaker's permit, which meant that street bookies were in effect demonstrating their competence on the basis of their former illegal activities, there was a clear legislative ambition. Spartan in their appeal, licensed betting shops were intended to respond only

University Press) and *The Enforcement of Morals* (1965, Oxford University Press). The debate was prompted by the *Report of the Committee on Homosexual Offences and Prostitution* (1957, Cmd 247; *the Wolfenden Report*), which marked a turning point in official attitudes to what John Stuart Mill called 'self-regarding' harm.

¹¹ Michael Moran, *The British Regulatory State* (Oxford University Press 2003).

¹² 612 Parl. Deb., H.C. col. 75 (October 27, 1959). In the meantime the Commission's recommendations on small lotteries were enacted in the Small Lotteries and Gaming Act 1956. In the same year the Treasury introduced its own lottery analogue, the Premium Savings Bonds. The 1960 Act was consolidated with the lotteries legislation in the Betting, Gaming and Lotteries Act 1963.

¹³ *Royal Commission* (1951), 185-6.

to an unstimulated demand for off-course cash betting. As the 1978 Royal Commission on Gambling was later to show, this was both a problematic notion in principle, and in practice had the effect of embedding repeated play.¹⁴

By contrast, while the 1949-51 Royal Commission had not been unduly concerned about gaming,¹⁵ it was very clear that banker's games held the potential for exploitation even of the experienced player. It specifically recommended that gaming should be unlawful where, by reason of the nature of the game the chances of all the players were not equal or the casino management had a financial interest in its outcome. Fully implemented,¹⁶ its recommendations would have severely restricted the games that a casino (as the banker) could offer and may have stayed the proliferation of casinos that followed in the 1960s. But the Act did not go as far as this. While it permitted commercial gaming under strict conditions, it also contained some minor concessions, one of them intended to permit small scale gaming in members' clubs, and for worthy causes. The 'Vicar's Charter' proved to be 'a lamentable failure'.¹⁷ Within months of the Act's commencement, casinos were 'flourishing like weeds in many parts of the country'¹⁸ as their managers sought to exploit this and the Act's other concessions for commercial purposes.¹⁹

The unseemly and resource intensive sequence of police raids, prosecutions, convictions and appeals as the authorities sought to close each new loophole was brought to a stop by the Gaming Act 1968. When established, the Gaming Board for Great Britain was given powers unusual in their imagination and scope. While a number of its detailed aspects were subsequently relaxed, the Board remained throughout its life a paradigm of industry-specific regulation.

The regime that the 1968 Act introduced was predicated on two notions. The first was that unregulated commercial gambling creates expensive social costs. This may be expressed in terms of three incidents of market failure. Regulation was needed:

- to control externalities (for example, criminal exploitation of players, the commission of crime for the purpose of play, and third party harms arising from excessive consumption)
- to correct information imbalance and deficits (for example, there is widespread player ignorance of probabilities, and game operation and financial information and control are entirely in the hands of the supplier), and
- to guard against consumption by those who may be unable to cope and/or whom social values conceive are inappropriate consumers within this market, in particular children

¹⁴ *Royal Commission on Gambling, Final Report* (1978, Cmnd 7200), 1.8-1.9.

¹⁵ *Royal Commission* (1951), 408-417.

¹⁶ Indeed, this constitutes a core principle of the current legislation, the Gambling Act 2005. Section 7(1) defines a casino as 'an arrangement whereby people are given an opportunity to participate in one or more casino games.' Section 7(2) provides that "'casino game" means a game of chance which is not equal chance gaming.'

¹⁷ Lord Denning M.R., *R v Commissioner of Police for the Metropolis, ex parte Blackburn* [1968] 2 Q.B. 118, 131.

¹⁸ *Royal Commission* (1978), 18.1.

¹⁹ Given the abundant and untraceable supplies of ready money, many clubs were used as outlets for stolen property and for laundering the financial proceeds of crime. There was also widespread criminal exploitation of the gaming machine market.

These objectives were met in the 1968 Act by the imposition of rigorous supply-side controls vetting the quality of entrants to the casino market (certificates of consent and certificates of approval), and monitoring the performance of casino management against statutory and soft law standards. In the event of non-compliance the Gaming Board could prompt sanctions involving the operator's temporary or permanent exclusion from the market.²⁰

The Act was premised, secondly, on the notion that the libertarian function of government was to provide such opportunities for players to gamble as would meet that demand which would otherwise be satisfied by an unregulated market; beyond that, it was not the function of government to stimulate the market. The Act's demand-side controls famously limited the areas in which casinos could be located, required players to be members of what were normally proprietary clubs and to wait for 48 hours before first gaming, and restrictions on credit within the casino. It also prohibited operators from arguing for additional or extended gaming licences on the basis that these would stimulate demand; unlike other regulated industries and unlike the current regime, this was not intended to be a competitive market for the gambler's pound.

2.2 The commercial gambling market 1968-1994

In the decades following the 1960 Act bookmakers and the racing industry sought to get to grips with the new regime. Given their common, but also disparate interests in the health of Britain's horseflesh, they were always likely to be at odds when negotiating with the Home Office about the annual levy scheme.²¹ But the betting industry only came to question the policy underlying the regulatory regime some 20 years later.

Similarly, the decade following the commencement of the 1968 Act was a steep learning curve for the Gaming Board. Key aspects of the legislation were deliberately indeterminate, most notably the 'capable and diligent' test for certificates of consent. Contact with the Gaming Board during this time confirms the impression of a regulatory agency working to the limits of judicially approved standards of fairness while dealing with acquisitive and sometimes devious operators. Its unshakeable belief in the need for vigilance was amply vindicated by the 'casino wars' of the 1970s. While there were some changes of detail later, the twin notions I have mentioned underpinned the regulation of casino gaming, machines and bingo for the next 30 years.

²⁰ Sanctioning was difficult because the Board itself had no powers of entry or of prosecution. Market sanctions (loss of trading income or of capital value) were often more potent than the direct result of the non-renewal or cancellation of a licence before the licensing justices. By contrast the Gambling Commission has a powerful array of sanctions at its disposal (Gambling Act 2005, sections 116-121).

²¹ The symbiotically connected questions concerning the financing of the horseracing industry and the extent of the betting industry's contribution to it remain, in essence, unresolved; see Owen Gibson, 'Could the Levy run dry?' *The Observer* (London), 31 October 2010, Sport, p 14. In the 'bonfire of the quangos' on 14th October 2010 the responsible department, the Department for Culture, Media and Sport (hereafter, DCMS) announced that the Levy Board's functions would be modified to remove the Secretary of State's role; www.culture.gov.uk/news/media_releases/7485.aspx.

But the regulatory implications of the policy of unstimulated demand varied according to the propensity of the gambling medium to encourage continuous rather than discontinuous play. For well over a century all lotteries had been illegal, as they continue to be unless authorised by statute. But over time, and reflected in gradual legislative change, participation in non-commercial 'good cause' lotteries had become a major feature of social life. Lotteries present their own regulatory issues, though they are generally not regarded as carrying the same potential for harm as, say, gaming machines (but note the concern about lottery scratchcards). And lotteries also present tricky questions of law, notably on how they may be distinguished from lawful prize competitions, a distinction that continues to trouble the Gambling Commission, the regulator established by the Gambling Act 2005.²² The harm against which legal policy was directed was, in essence, to eliminate as far as possible the opportunities for lottery promoters to defraud either the players or the cause that the lottery sought to support. This policy could likewise be realised by the regulation of a lottery's promoters and of its financial arrangements, but not always, as the 1978 Royal Commission found, successfully.

In the 1970s, however, we see the beginnings of a shift in government policy in respect of lotteries as a contributor to the local economy. The catalyst was the 1973 Witney Report.²³ Established to examine the whole area of lotteries, its radical recommendations were that local authorities should be given powers to promote lotteries for the benefit of their communities, and that charitable, cultural, local amenity and sports associations should be able to benefit from 'large lotteries' licensed by the Gaming Board. With some amendment its proposals were enacted in the Lotteries Act 1975, consolidated with cognate areas of law in the Lotteries and Amusements Act 1976. The Lotteries Act 1975 marked a turning point in government policy towards the propriety of the lottery as a legitimate means of raising money for local public goods. It was, of course, the ideological precursor of the National Lottery, launched two decades later.

3 1994: creating a demand for a single gambling product

When the Royal Commission on Gambling reviewed matters in the mid 1970s it did so largely as an administrative exercise that did not seek to question commercial gambling's moral, social, or even economic value. Its view was, nevertheless, one of an activity, which, if it were to go away, would not cause many to lose much sleep, but as this was unlikely, a firm regulatory grasp was desirable. This was especially so in the case of the external management of local and societies' lotteries, where the situation had become 'scandalous', involving 'commercial exploitation to a totally unacceptable degree, gross lack of security and, we strongly suspect, a good deal of plain dishonesty.'²⁴ Of the total of its 303 recommendations for the better management of the entire commercial gambling market, nearly a fifth (63) concerned lotteries. Many of these and of its

²² See Miers, *supra* n 3, chapter 7.2.4; and section 14 of the Gambling Act 2005. During 2009 a number of home-owners who had been unsuccessful in selling their houses promoted them as 'prizes' in a competition. The question was whether these reverse auctions were genuine prize competitions or unlawful lotteries. The Commission has repeatedly advised against such arrangements and in December 2009 issued updated advice; Gambling Commission, *Annual Report 2008/09* (2009, HC 701), p. 20.

²³ *Report of the Interdepartmental Working Party on Lotteries* (1973, Cmnd. 5506).

²⁴ *Royal Commission* (1978), 12.134.

recommendations that were designed to ease the burden of regulation on the industry as a whole were introduced over the succeeding years, but none challenged the underlying philosophy.

With the exception of the policy shift in respect of the public lottery, there had been little change in the regulation of betting and gaming since the two controlling statutes of the 1960s. But thirty years on, viewed against the radical changes of the deregulation agenda of the 1980s, which saw the privatisation of the utilities (gas, water, electricity, and telecommunications), and the transformation of the regulation of financial services,²⁵ the restrictive regime under which both industries operated had become increasingly anachronistic. They lobbied hard for reform. While it adhered largely to its underlying policy, the Home Office supported a sequence of quite substantial changes in the regulatory environment. Many of these were made under Part I of the Deregulation and Contracting Out Act 1994, a measure that was itself a product of the Conservative Government's desire to hold 'a bonfire of red tape', an Act which permitted primary legislation governing all forms of business to be amended by statutory instrument. Given the churches' opposition to both this and the Sunday Trading Act 1994, perhaps the most significant of these changes was that it was now possible to hold race meetings and to bet on a Sunday. Many other changes followed,²⁶ but the shock to the system was John Major's own 'Big Society' idea:²⁷ the National Lottery, launched in 1994. While unstimulated demand was the operating principle, the economic strength of the commercial gambling market in Great Britain had not been especially important to successive governments.²⁸ The National Lottery marked a radical transformation in gambling policy: it was now in the public interest to promote mass participation in gambling for good causes. In terms of this review of government policy, two consequences stand out. One was to compromise the continued legitimacy of the regulatory policy governing the existing market. The Gaming Board in particular

²⁵ See generally, Moran, *supra* n 10, chapters 4 and 5; Christopher McCrudden (ed.), *Regulation and Deregulation* (Oxford University Press, 1999), chapters 1, 9 and 17; and Cosmo Graham, *Regulating Public Utilities* (Hart Publishing, 2000).

²⁶ By way of illustration, some 10 years earlier the only gambling product available in licensed betting shops was betting. By the mid 1990s it was possible to engage in gaming by means of machine, play a fixed odds numbers game that strongly resembled a lottery in its format, and engage in football pools transactions. By comparison with the original Spartan regime, the player could now also buy a soft drink and a sandwich, and wave at his friends looking in through the clear front window from the street outside (if, as is customary, it was not primarily covered in advertising material)

²⁷ In July 2010 David Cameron MP, Prime Minister of the Coalition Government that emerged from the inconclusive May 2010 General Election, launched the notion of 'big society communities' (such as charities and local voluntary groups) to be funded from dormant bank accounts for the purpose of creating opportunities for social action and community involvement, such as keeping museums open or running a community public house. www.cabinetoffice.gov.uk/newsroom_newsreleases/2010/100719-bigsociety.aspx. These aspirations are similar to those underpinning the 'Big Lottery', one of the distributors of the proceeds of the National Lottery, which grants money to community groups and projects that improve health, education and the environment. www.biglotteryfund.org.uk

²⁸ Apart, perhaps, from the economic health of the bookmaking industry so far as it contributed to the support of the horseracing; see Home Affairs Committee, *Levy on Horserace Betting 1990-91* (1991, HC 146-I), *The Tote* (1991, HC 451). In addition to the changes announced in October 2010 concerning the Levy Board (*supra* n 21), DCMS proposes finally to divest itself of the second troublesome arrangement for the funding of horseracing, the Tote, which is to be transferred to the private sector. See 515 Parl. Deb., H.C. col 39WS (September 15, 2010).

found itself seeking to hold to a regime for which it was statutorily responsible, while the government of the day was, arguably, undermining the very objective which that regime had traditionally sought to realise.

Its introduction also gave greater urgency to the industry's deregulation agenda. Evidence of the displacement of gambling expenditure from existing products to the Lottery was equivocal.²⁹ But the very existence of its statutorily privileged position meant that there would 'continue to be pressure from the rest of the gaming industry seeking change to compensate for the impact of, and freedoms given, to the National Lottery.'³⁰ This was so even if the commercial gambling industry missed the point when it argued for a level playing field. The National Lottery etc Act 1993 required the National Lottery Commission and the Secretary of State to 'do their best to secure that the net proceeds of the National Lottery are as great as possible'. The whole point was that there should be *two* playing fields; one of which was for the monopoly provider alone and which would have better playing facilities.³¹

And this point was institutionally reinforced by the creation of a new government department - the Department for National Heritage – or as its first Secretary of State dubbed it, 'The Ministry of Fun'- whose purpose was, *inter alia*, to promote the Lottery. This was perhaps the clearest signal that government policy had, in this respect, fundamentally changed. Far from the notion that commercial gambling opportunities should seek only to meet an unstimulated demand for them, the operating premise underlying the Lottery was precisely to create a demand for this single gambling product and to capture the consumer surplus thereby generated.

4 Regulation as the facilitator of competition in the supply of gambling products

4.1 Preparing the ground: the *Gambling Review Body*

The impetus for the gradual loosening of the regulatory ties was endogenous; it grew from within the betting and gaming industries and was promoted by their trade associations with Home Office support that reflected a shift in its thinking about their social (as distinct from their economic) value.³² The gaming sector in particular was no longer a pariah industry, run by the least attractive of capitalism's wealth creators, but, as the Chairman of the Gaming Board, Peter Dean, commented in

²⁹ Home Office research did confirm a direct statistical relationship between the Lottery and off-course betting expenditure, though such other factors as a mild winter or the expense incurred in additional opening hours may also have contributed. S. Field and J. Dunmore, *The Impact of the National Lottery on the Horse-race Betting Levy: Second Report* (London: Home Office, Research and Statistics Directorate 1997), p.4.

³⁰ *Report of the Gaming Board for Great Britain 1994-95* (1995, HC 587), 1.20. There was also 'a danger of a "ratchet" effect developing, with different sectors vying for ways in which they can seek to match or better any concessions made to others.'

³¹ With its monopoly franchise the competition for the single operator ran wholly counter to almost every other aspect of the then Conservative Government's approach to the provision of public and semi-public goods. For a more recent review, see David Miers, 'Latest Developments in the United Kingdom's National Lottery', 11 *Gaming Law Review* 542-551 (2006).

³² For example, in casinos the reduction to 24 hours of the 48 hour rule and the introduction of debit cards to purchase tokens for play; in betting shops, an increase in the number and prize limits of permissible gaming machines.

2001, part of the 'mainstream leisure industry.'³³ These reforms also signified the government's acceptance that within a regulatory framework guaranteeing the probity of the promoters and the integrity of the games there was room both for credible self-regulation and competition between them.

But the piecemeal nature of these reforms had prompted a growing concern about the consequences of selective deregulation, graphically described by the House of Lords Select Committee on Delegated Powers and Deregulation as 'salami slicing', a concern shared by the Gaming Board:

'One problem in relaxing any sector of the law by 'salami slicing' is that it becomes unclear as to when the principles governing the legislation are being fundamentally undermined. In our assessment of the present proposal, we do not think that this point has yet been reached. But the piecemeal relaxation of the gaming laws by means of the deregulation procedure is clearly unsatisfactory, and, in the strong view of this Committee, the legislation is now due for review.'³⁴

Established in 2000, one of the *Gambling Review Body's* tasks was to address the increasing incoherence of the legislation; if necessary, it was invited to 'recommend new machinery appropriate for carrying out that regulation which achieves a more consistent and streamlined approach than is now possible.'³⁵

Alongside this was a growing concern about the impact of the Internet on the industry's commercial value to the British economy. Indeed, this concern was reflected in the first of the Review Body's terms of reference. This was to 'consider the current state of the gambling industry and the ways in which it might change over the next ten years in the light of economic pressures, the growth of e-commerce, technological developments and wider leisure industry and international trends.'³⁶ One aspect was the threat to government revenues consequent on the growth of e-commerce during the late 1990s, which took betting not just off-track, but off-shore.³⁷ Just as important as the Review Body's terms of reference was the Department of Customs and Excise's simultaneous announcement of a review of general betting duty (GBD). Its purpose was to replace

³³ *GamCare* conference; 17 October 2001. This echoed the analysis presented in Jerome Skolnick's classic study of the casino market in Nevada, which in the mid-20th century was transformed into a regulated business free from its criminal history. J. Skolnick, *House of Cards: The Legalization and Control of Casino Gambling* (Little, Brown, 1978).

³⁴ Committee on Delegated Powers and Deregulation, *The Proposal for the Draft Deregulation (Casinos) Order 1999* (1999, HL 76), 22; Gaming Board; *Report of the Gaming Board for Great Britain 1998-99* (1999, HC 525), 1.12-1.27.

³⁵ *Gambling Review Report* (2001, Cm 5206; Chairman, Sir Alan Budd); 2.1.

³⁶ Id.

³⁷ See the Report of the Public Accounts Committee, *HM Customs and Excise: Revenue from Gambling Duties 1999-2000* (2000, HC 423), 4. Off-shore bookmakers are not included in the Levy scheme, which is a contributory factor in the shortfall in its income to the racing industry.

GBD by a fiscal system that would enable British companies to withstand global competition for the gambling pound and to exploit e-commerce, while also ensuring a return to the revenue.³⁸

The second aspect was remote gambling via the Internet,³⁹ though the concern here was as much to do with player protection as it was with government revenues. Internet sites that offer virtual casino and slot machine gaming pose very real threats, not least from the fact that they are often operated from jurisdictions that are beyond the player's legal or practical reach.⁴⁰ In short, the player:

- has no independent means of verifying the results of the 'game', since its determination takes place entirely within that virtual world
- is vulnerable to any number of scams once he has advised the operator of his credit card details
- may become dysfunctionally engaged

The three main factors relevant to the Gaming Board's 1999 response were the increasing ease of consumer access to the technology, the commercial disadvantages facing United Kingdom based suppliers,⁴¹ and the need for control. Its preferred option was to offer the promoters of these sites the opportunity to subject themselves to the Board's regulation. This would both benefit them (via a 'kitemark' of their probity) and allow the imposition of safeguards, such as a bar on credit and limits on losses. This was also thought to protect the government's gambling revenues. But positioning the United Kingdom as 'world leader in the field of online gambling' involves commercial judgements beyond the government's control, and as its 2010 consultation shows, is not easily achieved.⁴²

The Review Body published its *Report* in July 2001 and the government its response in March 2002.⁴³ In the interim the transfer of responsibility for gambling policy as a whole from the Home Office to DCMS following the 2001 General Election constituted a second significant institutional change within government. Additionally assuming the Department for National Heritage's responsibility for the National Lottery, this reallocation was a clear recognition of the shift that had taken place during the last two decades of the 20th century. Then a small department with none of the Home Office's historical

³⁸ Customs and Excise Consultation Document Budget 2000, *Our Stake in the Future: Modernisation of General Betting Duty for the 21st Century* (April 2000). GBD (then at 6.75% on each bet) was replaced by a tax on gross profit (viz., stakes less winnings).

³⁹ *Report of the Gaming Board for Great Britain 1990-2000* (2000, HC 616), Appx. VIII.

⁴⁰ There are additional concerns relating to children's access, and to their use for money laundering. P. Hugel and J. Kelly, 'Internet gambling, credit cards and money laundering' (2002) 6 *J Money Laundering Control* 57-65.

⁴¹ Gaming Board, *Gaming Board Study on Internet Gambling* (1999). It was undesirable that 'respectable British companies are prevented from setting up Internet gaming sites in Britain, while British Internet users have lawful access to overseas sites which might be wholly unregulated.' The issue was (and remains) considerably complicated by the ambivalent responses within the European Union's institutions' responses to the restrictive measures adopted in some Member States. See David Miers, 'A British view of European gambling regulation', in A. Littler and C. Finualt (eds) *European and National Perspectives of the Regulation of Gambling* (Martinus Nijhoff 2006), 81-126.

⁴² DCMS, *The Future Regulation of Remote Gambling: A DCMS Position Paper* (April 2003), 133, and *Consultation on the Regulatory Future of Remote Gambling in Great Britain* (2010).

⁴³ *Supra*, n 35; DCMS, *A Safe Bet for Success: modernising Britain's Gambling Law* (2002, Cm 5397).

baggage of coping with the externalities of commercial gambling, it fell to DCMS to implement the Review Body's report.⁴⁴

4.2 The *Gambling Review Report's* philosophy and proposals

As noted, the Review Body's terms of reference explicitly required it to consider how to strengthen the market in the general interests of the British economy. In this respect, the Review differed fundamentally from any of its predecessors. The Report is itself a model of informed analysis that commenced with two very clear and uncluttered recommendations: to simplify the regulation of gambling and to extend choice for adult gamblers. The first of these entailed a wholesale review of the existing legislation, the incorporation of all commercial gambling activities (save the National Lottery) into a single Act,⁴⁵ and the creation of a new regulatory agency to license and monitor the performance of all operators. The second recommendation was to be achieved first by the removal of a number of obstacles to market entry, and secondly by enabling regulated operators to compete with another so that consumers would be given greater choice in how and where they gambled. Competition would also help the player by holding down costs and profit margins.⁴⁶

Given its remit and the nature of Britain's market economy at the close of the 20th century it was no surprise that the Gambling Review was clear that competition and not regulation was both the best vehicle of change and the guarantor of a commercially viable market. Similarly, the second of its starting points simply reflects the broad acceptance of the market philosophy that one function of state intervention is to give consumers greater choice in how they spend their income. Perhaps less obvious was its view that a strong gambling market could also be a vehicle (via resort (regional) casinos) for economic regeneration;⁴⁷ though the capture of the consumer surplus for a good cause was as noted the driving policy behind the National Lottery.

But regulation has a role. In 'allowing greater freedom for the individual to gamble in ways, at times and in places than is permitted under current legislation',⁴⁸ the Gambling Review Body, like its predecessors, both embraced but was troubled by the regulatory implications of a libertarian stance. Its Report commented that the most difficult general issue that it had faced concerned 'the familiar dilemma between the desire to permit free choice and the fear that such choice may lead to harm either to the individual or to society more widely.'⁴⁹ And, also like its predecessors, it was concerned about the costs to the individual of what it termed 'social excess'. Informed by the results

⁴⁴ Its terms of reference precluded the Review Body from considering changes to the National Lottery. But it was required to look at the impact on the Lottery of any proposed changes, including an assessment of the potential effect on the income to good causes.

⁴⁵ The government has since announced that in the interests of public expenditure it proposes to merge the National Lottery with the Gambling Commission; supra n 21. This will require primary legislation as well as the reconciliation of the two regimes' differing statutory objectives. The Gambling Commission exists to facilitate gambling where it complies with certain fundamental principles ('the licensing objectives; infra). The National Lottery Commission exists, subject to duties of propriety in its management, to maximise the proceeds of the Lottery.

⁴⁶ *Gambling Review Report* (2001), 1.1, 1.17, 3.3.1-3.3.2, 16.9.

⁴⁷ *Gambling Review Report* (2001), 1.7, 24.29-24.37.

⁴⁸ *Gambling Review Report* (2001), 3.2.

⁴⁹ *Gambling Review Report* (2001), 3.1.

of the 2000 *Gambling Prevalence Survey*,⁵⁰ the Review Body was clear that its focus should include 'some concern for the effects on society as a whole or on local communities of allowing increased freedom to establish gambling outlets.'⁵¹

In terms of regulatory policy therefore, the Review Body adopted a stance that was in one key respect essentially indistinguishable from that which the Home Office had pursued over the previous 30 years. This was to ensure that 'permitted forms of gambling are crime-free, conducted in accordance with regulation and honest, players know what to expect, are confident they will get it and are not exploited, and there is protection for children and vulnerable persons.'⁵² The function of regulation was to guarantee operators' probity and to guard against inappropriate consumption, both being conditions of a commercially successful market. Indeed, the move to greater freedom was balanced by rather tighter controls on the freedom of young people to gamble and by some tighter controls over those who provide gambling services, notably bookmakers.⁵³

But by 2002 'regulation' meant 'better regulation', meaning transparent, accountable, targeted, proportionate and consistent regulation of the market, principles to be applied equally to regulatory sanctions.⁵⁴ To use some other catchphrases of the time, this would be 'smart' or 'responsive' regulation.⁵⁵ The legislation would establish the framework of the new regime, defining the parameters of those activities to be brought within its scope and to invest the new regulator with its legal powers. The regulator would be given wide powers to impose licence conditions and to issue Codes of Practice governing different aspects of the market. On these matters it would be required to consult operators and other interested persons. Unlike the earlier legislation, the government and the regulator would, by means of subordinate legislation, be able to respond more quickly to market changes. And, not least, the regulator would enjoy the range of administrative sanctions typical of other regulated industries.⁵⁶

4.3 The *Gambling Review Report*: implementation

Although it did not accept all of its recommendations the government entirely accepted the Review's basic stance. Competition would 'create a more open and competitive gambling sector'

⁵⁰ K. Sproston, B. Evans and J. Orford, *Gambling Behaviour in Britain* (National Centre for Social Research, London, 2000); *Gambling Review Report* (2001), chapter 17.

⁵¹ *Gambling Review Report* (2001), 3.22-3.27.

⁵² *Gambling Review Report* (2001), 1.2.

⁵³ By comparison with casino and bingo operators bookmakers are 'very lightly regulated', *Gambling Review Report* (2001), 19.34.

⁵⁴ Alternatives to State Regulation (2000, Better Regulation Task Force, Cabinet Office); P. Hampton, *Reducing Administrative Burdens: Effective Inspection and Enforcement* (HM Treasury, March 2005); R. Macrory, *Regulatory Justice: Making Sanctions Effective* (Better Regulation Executive, Cabinet Office, November 2006).

⁵⁵ Neil Gunningham and Peter Grabosky, *Smart Regulation: Designing Environmental Policy* (Oxford University Press, 1998), Ian Ayres and John Braithwaite, *Responsive Regulation* (Oxford University Press, 1992).

⁵⁶ On the Gambling Commission's regulatory structure, see David Miers, 'Implementing the Gambling Act 2005: The Gambling Commission, and the Casino Question', 10 *Gaming Law Review* 472-481, 472-478 (2006).

giving ‘better choice for consumers and enhanced opportunities for business both in the UK and abroad;’ ‘unnecessary barriers to customer access and new entrants to the industry will be removed.’⁵⁷ For its part, regulation ‘will be confined to what is necessary to keep crime out, protect the vulnerable, and ensure that gambling products are fair to the consumer.’⁵⁸ These essentials are contained in the Act’s three licensing objectives, which are (section 1):

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- (b) ensuring that gambling is conducted in a fair and open way, and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling

But the underlying message was translated into the ethos of the Act, which is *facilitative* rather than restrictive in relation to applications for operating licences. In exercising its functions under the Act the Gambling Commission must meet two principal statutory duties. It is required to aim, first, ‘to pursue, and wherever appropriate, have regard to the licensing objectives’. It is required, secondly, to aim ‘to permit gambling, in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.’⁵⁹ This is, it will be clearly seen, is what the lawyers call ‘a difference in kind’ rather than a ‘difference in degree’ when compared with the various regulators’ duties under the repealed regimes. As the leading practitioner text comments, ‘the regime established by the 2005 Act is, in contrast to that which preceded it, essentially permissive.’⁶⁰

The *Gambling Review Report’s* proposals were generally welcomed by the industry and by the parliamentary committee that reported on them,⁶¹ but their enactment was not all plain sailing. With the exception of the regional casino,⁶² and the imposition of a cap on the number of ‘large’ and ‘small’ casinos, the vast majority of the *Report’s* proposals have been implemented. The questions that remain are whether Britain now has a more competitive market with greater consumer choice governed by more effective and more responsive regulation?

⁵⁷ DCMS, *Draft Gambling Bill: Regulatory Impact Assessment* (2003), 1.78.

⁵⁸ DCMS (2002), 10.9-10.10. .

⁵⁹ Section 22(b). By section 153 local authorities are under the same duty when considering applications for premises licences.

⁶⁰ Stephen Monkcom and Contributors, *Smith and Monkcom: the Law of Gambling* (3rd ed., Tottel publishing, 2009, para 3.11.

⁶¹ Culture, Media and Sport Committee, *The Government’s Proposals for Gambling: Nothing to Lose?* (2002, HC 827); and *Government Response* (2002, Cm 5622).

⁶² The implementation in the draft Gambling Bill of the Report’s proposals to permit the establishment of ‘resort’ casinos became mired in a protracted and acrimonious argument about their potential for the social and economic regeneration of depressed areas of the country. In the end Gordon Brown MP, then Prime Minister, vetoed the idea. For an account of the whole sorry tale, see David Miers, ‘Implementing the Gambling Act 2005: The Gambling Commission, and the Casino Question’, 10 *Gaming Law Review* 472-481, 478-80 (2006), and ‘Another U-Turn: Great Britain’s Casino Questions and Other Gambling Issues’, 11 *Gaming Law Review* 699-713 (2007). The parliamentary and political heat that this issue generated did little to assist analysis of other important areas of the Draft Bill.

Answers to these questions are not easy to discern only three years after the Act's full commencement and in the teeth of a recession. On the second, clear and specific examples of 'better regulation' are the Commission's industry forums, its e-bulletin, its 2007 telephone hotline (to assist operators' applications), and its impressive risk matrix that allows compliant operators to qualify for light touch inspections.⁶³ Consultation is a central aspect of the various versions and revisions of the Licence Conditions and Code of Practice, in particular its social responsibility provisions.⁶⁴ As was the case in the past, some areas continue to present both legal and enforcement challenges; as noted earlier, one of these concerns small non-commercial lotteries. A second concerns what constitutes a 'gaming machine' within section 235 of the Act, a matter of law for judicial rather than Commission decision.⁶⁵ But the Commission's overall sense that it is a provider of advice and guidance to the majority of responsible operators, leaving it to concentrate on those who threaten to or do compromise the licensing objectives is a fair conclusion on three full years of operation.⁶⁶

In 2003 a United Kingdom Casino Review published by Williams deBroe commented that 'impending deregulation should turn the UK casino industry from a niche business to a mainstream leisure activity.'⁶⁷ By contrast an analysis prepared by the Henley Centre in 2004 was downbeat in tone. Some consumers might benefit from increased choice but many would experience a general reduction in local facilities. Operators likewise might have opportunities to develop new products, but others would suffer from increased competition.⁶⁸ One of the more sobering reality checks was the industry's response to the possibility that the Commission could approve additional 1968 Act certificates of consent until a cut-off point in April 2006. Despite wild media speculation that there would be 'a casino in every town' (and the concomitant outrage from the *Daily Mail*), with figures of 200-250 commonly cited,⁶⁹ the Commission had received 79 new applications prior to the cut-off date. From these 45 certificates were issued; there were at 31st March 2009 145 operating casinos, less than a dozen more than in the Gaming Board's final year.⁷⁰

Even when these forecasts are reviewed in the light of the changes made during the Bill's parliamentary stages – notably concerning the regional casino and the delayed implementation of the competitions for the large and small casinos – the overall picture is not one of a wholly thriving industry. In its 2008/09 Annual Report the Gambling Commission estimated the gross gaming yield in

⁶³ See the Gambling Commission website; www.gamblingcommission.gov.uk

⁶⁴ David Miers, 'Gambling in Great Britain: Implementing a Social Responsibility Agenda', 12 *Gaming Law Review* 585-600 (2008). The Code of Practice was revised and reissued in October 2008.

⁶⁵ *R (on the application of the Gambling Commission) v Bird* [2010] EWHC 995 (Admin).

⁶⁶ Gambling Commission, *Annual Report and Accounts 2009/10* (2010, HC 199), p 4.

⁶⁷ *UK Casino Review: Deregulation; Nipped in the Budd?* (Williams deBroe, 2003); i.

⁶⁸ *Economic and Social Impact Study of the Proposed Draft Gambling Bill* (Henley Centre 2004), Executive summary, p 7.

⁶⁹ For example, Sam Coates and David Charter, 'Britain catches gambling fever with a casino in every town', *The Times* (London), October 14, 2004.

⁷⁰ Gambling Commission, *Annual Report and Accounts 2005/06* (2006, HC 1226), and 2009/10 (2010, HC 199), and the Commission's *Industry Statistics 2008/09*. If all the applications currently undecided were approved there would be a theoretical maximum of 192 1968 Act casinos.

2006/07 (excluding the National Lottery) to be £7.4 billion; in 2009/10 this had fallen to £6.5 billion.⁷¹ This is in large measure attributable to the recession, but other factors are at work. The number of licensed betting offices remains fairly constant while their customers' gambling preferences are shifting to automated roulette machines rather than traditional betting on horse and greyhound races.⁷² Bingo continues to show a decline in the number of operating venues,⁷³ despite its new freedom to advertise. In sum, things appear not (yet) to have turned out as the Gambling Review Body had envisaged.

⁷¹ Gambling Commission, *Annual Report and Accounts 2008/09* (2009, HC 701), p. 9, and 2009/10 (2010, HC 199), p. 8.

⁷² The roulette machines were known as 'fixed odds betting terminals' (FOBTs); under the 1968 Act they occupied disputed legal territory (were they gaming or betting machines?). Under the 2005 Act they are gaming machines (category B2). In 2008/09 there were 8,862 LBOs compared with 8,800 in 2007/08; see Gambling Commission, *Industry Statistics 2007/08 and 2008/09*. nearly 6,000 are owned by 'the Big Three': Ladbrokes, William Hill and Coral. www.gamblingcommission.gov.uk.

⁷³ At 31st March 2008 there were 222 bingo operators operating 675 clubs; a year later the figures were 216 and 641 respectively; Gambling Commission, *Industry Statistics 2008/09*, p 6. In August 2010 the Commission announced that it would change the publication date for its annual statistics document so that its date would be based on its fiscal year reporting (1 April to 31 March).

Training beyond the “usual”

Linda Aklundh, Responsible Gaming Consultant

A word from the author:

Let me start this article by sharing some of my personal views about the iGaming industry in specific regard to what appears to be a prevailing attitude in relation to training.

As a certified professional psychotherapist I am often surprised by how undervalued the understanding of human characteristics is within the gambling industry. Doubtless much research investment is made to understand what, in the most simplistic terms, people like in terms of gambling, but as habitually in the industry investment in customer acquisition far outweighs that in customer retention, investment in understanding how to accentuate the positive outweighs the efforts to understand negative effects of gambling.

McDonald's learned to its benefit that consumer health consciousness was at odds with their core product but a growing factor in consumer choice. They acknowledged the gap between their products, skills and presentation and adapted successfully to prosper in a more balanced model. There is surely something to be learned from this.

The iGaming industry is founded on technology and rightly focuses much effort on maximizing the use of technology to deliver value to its customers. A funny thing often happens on the way to the technology- driven market, namely that the arm's length nature of the product delivery can cause organizations to forget the human at the other side. The industry is often caught up in systems, software upgrades, processes, platforms, statistics and so on. Ultimately the technology and processes are worth little if the first attempt at interaction by a human customer is met with pervasive and “canned” responses.

A fundamental part of my extended responsible gaming training is basic human communication skills. The art of listening is dying in our society at large and often nowhere more so than in technology-delivered businesses. When our customer service people are trained primarily in how the technology and supporting processes work (or sometimes don't) without the basic ability to hear what the customer is saying, companies leave valuable insight on the table that no marketing investment will win back.

So my quest has become to assist iGaming businesses to unleash the value and potential of a well-hidden resource by introducing training previously unused.

The article is based solely on my personal experience as a Responsible Gaming consultant and trainer. My experience derives from my having worked closely as a consultant with iGaming Academy and GamCare as well as directly with iGaming operators. Currently I am also working as a counsellor for an internet based counselling service focusing on people suffering from gambling problems.

Introduction

This article will focus on the opportunity that training presents for operators in the iGaming industry, starting at responsible gaming but reaching beyond what is strictly necessary by regulation to create new and lasting value.

Responsible gaming is widely acknowledged as the prevention of and assistance to customers with gambling problems. Responsible gaming is also widely viewed as a 'pain in the ass' issue of compliance. Responsible Gaming training aims to provide customer support staff with an understanding of customers experiencing gambling problems or distress.

The Current Training Landscape

Several competent organizations such as GamCare and G4 provide training in the area of responsible gaming. This training focuses on imparting a general knowledge of gambling problems and providing a basic tool set focused on gambling problems and how they are most commonly manifested in an iGaming operator environment. These organizations have played an important role in educating the iGaming industry as to what responsible gaming is and why it warrants investment.

Larger iGaming Operators extend this investment to employ responsible gaming managers whose primary role is to champion responsible gaming awareness throughout the organization and ensuring that internal policies are in keeping with a responsible gaming mind set.

Building on the good cause of responsible gaming training, industry operators could, with little further investment, extend their engagement in training beyond the commonplace objectives of responsible gaming to build a more robust skill set that strengthens their marketing, branding, internal efficiency and retention.

My observations

In every training session I have conducted with customer care staff I am always asked the question: "But what do I SAY when I have a problem gambler on the line?"

I have also been given the opportunity by the Responsible Gaming manager in a large iGaming operator to do a training workshop on professional boundaries. It was enlightening that this Responsible Gaming manager (who had a background in counselling) identified this need in her organization. The workshop taught the participants what professional boundaries are, how to create and maintain them and how to apply them in their work roles.

The feedback from the participants during and after the workshop identified a consistent and significant gap between what understanding the participants perceived they had in this always present aspect of any job and what they needed to operate efficiently in that job. Following a day of training these people had a new understanding and knowledge that made them better able to handle problem gamblers, problem customers and their roles within an organization.

This indicates to me that maybe more training investment is spent on the “why and what” than the “how”. It is in the “how” however that the real potential lies. The skill set used to manage a distressed problem gambler to a less negative outcome is remarkably similar to the skill set used to manage an irate, angry and distressed customer who thinks the games suck or the processes or technology let them down. While many operators struggle to invest significantly in training to handle relatively rare problem gambling calls, that training becomes a better deal if the same skills learned also help companies convert angry customer to happy customers.

Maximizing the ROI on training

Training is often a difficult investment and this is in equal parts most often due to a lack of understanding of the benefits and an inability to easily measure results. In a board room focused on measurable metrics an investment without instant tangible gratification is a hard sell.

When an investment in responsible gaming training (often a mandatory regulatory requirement) is combined with objectives of imparting broader, more immediately useable and tangible skills, the ROI can become measurable in the short term. Staff retention rates, productivity and customer retention rates are just three simple measures of tangible positive outcomes of a holistic approach to training. Broader engagement of senior management with the trainer prior to training creates an opportunity for the trainer to bring further gains by incorporating specific company objectives in terms of policies and operating procedures.

What would broader training include?

The best way to sample this kind of training - often perceived as abstract - is simply to list a few subjects and keywords and statements and let the reader contemplate ...

Communication Skills: How to listen, how to be clear, how to help people be clear, probing, summarizing and how to ask questions to uncover the real issue, empathy, verbal escalation.

Professional Boundaries: How are good boundaries recognized, created and maintained, differences in how we perceive boundaries, what is perceived as intrusive, keeping boundaries when dealing with customers, workmates, superiors, where does work end and personal life start.

Responsibly moving forward

In a way the iGaming industry is lucky. It operates a product that naturally attracts regulatory scrutiny and forces at least rudimentary training requirements. From this a mandatory base has evolved and can continue evolving.

As professionals, researchers, committees, regulators and operators carry on to define and understand the potentially harmful effects of gambling and explore the boundaries of corporate responsibility, maybe the best answer is the simplest answer.

Perhaps the most pragmatic approach lies in building capable and enabled organizations that can respond well to dynamic and changing situations. The right place to start may just be making sure that the people who actually talk to the customers have the skills to listen and communicate, to interact meaningfully and to engage with confidence and awareness, and thereby increasing their ability to respond, both with customers and colleagues. At the same time they are creating an environment where those people know how to communicate and share what they learn for the benefit of the whole company.

The key to this goal lies in having skilled and well-equipped people manning the front line and skilled, well-equipped managers empowering them. Well-trained and equipped people tend to be naturally responsible, and that is a huge step towards achieving genuine value. The fact that these same skills also improve retention is a bonus.

Reflections on the Gambling Industry

Warwick Bartlett, Chief Executive, Global Betting and Gaming Consultants

To avoid upsetting your audience there are three rules on public speaking:

1. Don't discuss religion
2. Don't talk about politics
3. Never ask the audience to participate in a show of hands.

Today I am going to talk to you about religion and politics and, yes, I am going to ask for a show of hands.

It is a simple question that I put to you, on a show of hands: how many of you gambled during this last six months?

The answer from you should have been everyone in the audience - 100%.

The reason why is that we are all risk takers. It is, in fact, the way we are wired and if that were not so then the Wright brothers would not have invented the airplane, Stephenson "The Rocket", and Brunel all those great feats of engineering.

Gambling in the passive sense takes various forms - whether you decide to fix your mortgage for five years or let the rate float. We take these risks after studying the newspapers and taking advice from people who have no more idea than we do about what tomorrow brings. And this type of gamble on your mortgage is for really big money.

Let's take the stock market as another example. Under the guise of investment, novices are seduced by profit to enter what is basically a financial betting shop and take on the real professionals with all their insider knowledge.

There are no circuit breakers on the stock market, no staff to give you a Gamcare leaflet or to say sorry we cannot take your money you need help. Indeed the stockbrokers will actively tempt you to trade so they earn commission.

Have you ever wondered why that is? How is it that it's okay to lose all your money on investments but to lose in a casino we blame not the individual's judgement but the casino. Why?

I believe the answer lies in where we have come from and the history of gambling.

In the 17th Century the landed gentry of England started to race horses amongst themselves. To make the race more interesting they would have side bets. It wasn't long before the workers of the aristocracy turned out to watch and they too wanted to gamble, and they did.

Gambling by workers was frowned upon because it was said that if workers lost money gambling they would require more wages from their racehorse owners. So gambling was banned.

I do not know of one religious faith that is not anti-gambling, although I have to say Catholicism is perhaps more tolerant than the rest and they need to be, because they run bingo in the USA and they are large shareholders in Casino Austria.

So far as the UK is concerned the rot really set in under Oliver Cromwell. As Lord Protector he banned drinking, dancing, theatres and of course gambling. When Cromwell died, all the things he banned returned, and people could once again engage in entertainment.

In many people's minds the legacy of Cromwell continued when politicians laid down the rules by which ordinary people must live their lives but to which the politicians themselves did not adhere. The history we read during Victorian times confirms this.

In that respect nothing has changed, particularly as we see life in this country today. We are told what to eat, not to smoke, not to drink, when to exercise, when to turn the lights off and when and what to drive and to be made to feel very guilty about all of it. But gamblers are told to do nothing. That responsibility falls on the shoulders of the operators.

There is a certain irony that, with a state education system which is apparently recording higher academic standards year after year, the government treats its citizens as though they have no brains at all.

The Gambling Commission's test purchase exercise for underage gambling in betting shops has shown an improvement on the part of the operators.

Is there an underage problem in betting shops? Let's put it to the test. Go to any betting shop and I will give you £5 for every person you see under the age of 25, if you give me £5 for everyone over the age of 25. This is a bet I advise you not to accept. I will end up giving you nothing but you will be giving me a lot of money.

When Tony Blair came to power in 1997 there was an air of enthusiasm in the country and it wasn't long before Labour wanted to look at gambling in a different way from any previous government. They introduced gross profits tax at 15% allowing gamblers to bet tax-free onshore for the first time since 1966. Then we had Budd who believed the only way to protect the consumer was the free market and competition.

The first time I met Richard Caborn, when he was Minister of Sport, he said that he wanted to grow the gambling business. He said UK gambling industry was best of class - we can produce jobs and

revenue for the country. He was right. But somehow the process took too long and following Budd's report we had this ridiculous process of scrutiny and oversight that exhausted everyone involved. We ended up with a law that is not fit for purpose because it has not achieved what was intended.

Singapore, on the other hand, decided it wanted two casinos. It held a bidding competition and the first casino was opened in February 2010 at Sentosa. The original purpose was to arrest the decline in tourism for Singapore and the results have been phenomenal. Visitor arrivals for February rose 24% from a year earlier. Hotel occupancy was up 4.9%, days spent by visitors up 16.3%.

This could have been the UK. However when these matters were being debated we had full employment, and any sense of a need to expand gambling was not seen as essential. We somehow believed foolishly that "boom and bust" was a thing of the past - a reasonable assumption when your Chancellor and Prime Minister are telling you so!

I recall a debate on BBC Radio 4 that I participated in called the Moral Maze. Michael Portillo at the end said he would prefer people to be employed in the city rather than in gambling businesses. What an arrogant thing to say and certainly no comfort now to the people lined up at the Job Centre because the city jobs are no longer there.

There is of course a marked distinction between the city and gambling. The gambling industry understands risk and knows how to manage it!

But what a pickle we are in at present. We have the worst recession since the 1930s, a significant fall in the value of our currency, high rates of unemployment, and the prospect of higher taxes and cuts in spending. These economic facts affect all of us.

But for the gambling industry we have the burden of regulation which comes at a price without seeing, so far, any material benefit; and a smoking ban which from a public health perspective I understand but it has devastated bingo and casinos. I still cannot understand why casinos and bingo cannot have smoking rooms.

The land-based business with all its overheads suffers from competition from the Internet, much of which is offshore because the tax rate here is too high. What Internet gambling has done for the gambler is truly phenomenal. The gambler now has better value, more choice, and more convenience than at any time in the history of gambling. Gone is the gambling tyranny of having to take awful value from state monopolies who serve to punish the gambler through taxes and low payout because they have politically managed to maintain the line that gambling is sinful.

The gambler is having none of it and throughout the world they quite rightly seek out value just as everyone else does when buying CDs, DVDs, books, car insurance and travel over the net.

In 2007 pundits were saying that the industry was recession proof. We disagreed. What we did say was that it was resilient and I see that this is a term that has been extensively used since. Putting

things in perspective we said in our newsletter that gambling as a sector sits somewhere between retail jewellery and Tesco in terms of how it performs in downturns.

Gambling is a laggard in the economy; it goes into the recession last and comes out last.

The second and third quarters of 2009 showed that Internet gambling too is not immune from recession. But the underlying reasons behind its growth still remain strong. It is being driven by the roll out of broadband which increases access, better payment solutions, more choice and better value. But as we have always maintained - people can only spend what they have in their pockets, so the economy is key to future growth.

Internet gambling can quickly adapt to changing economic circumstances. Although Europe is suffering from GDP contraction, other countries are doing better.

So the smart operators have increased the number of languages available on their websites and focused on markets where the economies are doing better. Paddy Power for example has acquired an Australian business and Bet365 is marketing successfully in the Far East.

For the land-based sector the hotspot continues to be Macau, which still grew at almost 10% YOY in 2009 and has had a very strong start to 2010. Beijing, however, may wish to slow this by restricting visitor numbers.

Las Vegas, in our view, has long-term structural problems which include alternative transportation to road and air; the nearest train station is an 8 hour drive from Salt Lake City.

If we are at the stage of peak oil then electric powered trains from nuclear energy are said to be the future. The water supply from Lake Mead is falling every year and is down 20% from its peak due to climate change.

All of these problems are solvable but at a price. At the same time Vegas has over-supply of casinos and at some point we would expect to see some of the older casinos either sell for other usage or liquidate.

On a brighter note, the US economy is starting to pick up and it was noticeable that some of the convention and conference numbers were up on the previous year. So Vegas may be over the worst in the short term.

We also speculate as to whether the success of Singapore just might lead to the legalisation of casino gambling in Japan. If so, this market would be huge.

The global gambling market was worth US\$370bn in 2009, and we forecast it will remain about the same in 2010. 2012 will be when the real recovery starts to take place.

Internet gambling continues to grow and had a 7% share of the total gambling market in 2009. We forecast this will rise to almost 10% by 2012.

So far as the UK and Europe is concerned it is pleasing to see Italy and France change their legislation and allow foreign competition, but they have a long way to go before they replicate the UK model.

My fear is that with harmonisation in Europe in several areas, the UK moves toward Europe rather than Europe moving towards the UK. I had hoped that the DCMS would have been more supportive of the UK industry in Europe. The UK is one of Europe's biggest contributors, and a major country, so some support would not have gone unnoticed. Instead, we rely on tiny Malta to carry the torch of open market gambling.

We expect that 2012 will be the year when recovery really starts to take place and assets acquired today will seem relatively cheap.

I am going to finish by telling you everything that I believe is wrong with the gambling industry in the UK - you may wish to write this down....

NOTHING, absolutely nothing.

Betting, Sport and Corruption

Peter Wilson, Partner, Memery Crystal

Picture this: You are the CEO of a successful online betting company licensed offshore in a reputable jurisdiction. You are at your desk at the London offices early on a bright spring morning in April 2011, as there is a lot to do before your AGM later that week. You are smiling to yourself though as profitability and customer acquisition are both very strong due to the great publicity from a fortuitous advertising deal with a well known football team signed just before the start of the season.

There is a knock at the door and your PA enters looking rather pale saying that there are some gentlemen here to see you from the Serious Fraud Office (“SFO”). Hard on her heels several stern looking individuals enter your office and, following introductions, one of the officers tells you that you are under arrest on suspicion of offences of bribery, conspiracy to defraud and money laundering. They tell you that you must accompany them to the police station for processing and questioning under caution. Further, they say that they have a search warrant and a team of officers standing in reception, including IT experts, who will now undertake a thorough search of the offices, removing anything they consider as evidence, and questioning staff that they consider may have relevant information.

As the events of that unforgettable day unfold, most of which you do not learn until late in the evening when you are released from custody on police bail, you learn that a small marketing agency used by the company had apparently paid a bribe to the football team’s Commercial Director, to secure the deal with them ahead of other bidders. The marketing agency, who you did not even know was involved, is based in Panama, a place where the company does not even do any business as far as you are aware.

Now jump one year forward after a hugely expensive, time consuming and mentally draining investigation. You are once again preparing for the AGM and things look very different. The company has been pilloried in the press, the football club cancelled the deal, and you are facing potential dismissal. The good news is that you will not go to prison as your lawyers have convinced the SFO that you knew nothing about any corrupt payments and you have personally put your weight behind a group wide anti bribery compliance program.

But there is more bad news, whilst no one was actually charged with bribery, it transpires that the company was definitely guilty of a new offence (with which you are now intimately familiar) under Section 7 of the Bribery Act 2010 where a commercial organisation fails to prevent bribery. The company has been convicted of this criminal offence and has had to pay a massive fine and costs. Another consequence is that its online gambling licence is now being reviewed under threat of revocation.

It was no defence to the Section 7 offence that neither you nor any of the London management knew about the corrupt payments. Nor was it a defence that the individual from the marketing agency was not employed by the company (as it was sufficient that he was performing services for the company in any capacity and thus “associated” with it). Nor even was it a defence that this all took place in Panama or that your company is not even incorporated in the UK (as the UK Court has jurisdiction when any part of the business is carried on here).

The sad thing is that probably all of this could have been avoided. If the company had put in place “adequate procedures to prevent bribery” it would have had a complete defence to any charge under Section 7. Perhaps, more importantly, such procedures – including a zero tolerance to corruption – would probably have avoided the problem of anyone being bribed arising in the first place.

In January 2011, or shortly thereafter, the UK government should be publishing the regulations providing guidance on what are adequate procedures. They are likely to be very similar to the measures identified in a Consultation document published in September 2010. The Consultation identified 6 principles that commercial organisations will have to follow in order to have adequate procedures in place.

1. Risk Assessment

Effective risk assessment is about the management of a business knowing what is going on throughout the organisation. In corruption investigations, you can roughly divide individuals into 3 groups,

- those who knew that bribery has been going on and may well have taken an active part;
- those who suspected something but did not want to know more and/or turned a blind eye; and,
- those who did not have a clue that anything was wrong.

If you are ever unfortunate enough to get that early morning knock on your office door, you would no doubt rather be in the last category than the first. However, it will not help you with a Section 7 offence unless you can show that any bribery took place despite the best efforts of the company in having implemented comprehensive anti bribery procedures.

2. Top Level Commitment

Prosecutors will always look to “nail” someone on the board, CEO, CFO, CTO etc. They know that the culture of an organisation is set by the those at the top so the directors will have to show real commitment to any program to prevent bribery. A director who does not know the contents of the

organisation's anti bribery policy will find himself in real difficulties if interviewed in any investigation.

The commitment must be expressed publicly and not just internally within the organisation. Suppliers, customers and agents should all know that bribery is a non starter in your business and will be reported immediately to the authorities.

3. Due Diligence

Due diligence is about (really) knowing who you are doing business with. All online gambling operators will be familiar with Know Your Client procedures whether to counter underage gambling, or fraud, or money laundering. So there is no excuse for failing to check out the integrity of business customers, suppliers, partners, consultants, and agents.

4. Clear, Practical and Accessible Policies and Procedures

There should be a well written policy prohibiting any bribery and including practical guidance for staff, for example, on what level of customer hospitality is permitted. Unlike the US Foreign Corrupt Practices Act, there is no exception for facilitation payments under the Bribery Act and no minimum level under which payments or benefits cannot be considered bribes. Even a lavish lunch could amount to bribery if it was bought with the intention that the recipient should perform some duty improperly. Of course, it is hardly likely to be in the public interest to bring a prosecution over an ill-advised lunch but what about a luxury weekend away under the guise of a professional education seminar?

A policy should also include provision for confidential whistle blowing or "speak up" procedures. Sales incentives and procurement processes should be reviewed to ensure they do not provide fertile ground for bribery to flourish. If bribery does come to light then there should be a clear process as to how it should be dealt with by the organisation, which may involve who takes control of any investigation and/or makes a decision whether to self report to the authorities.

5. Effective Implementation

It is said that it is worse to have a written compliance policy that is ignored than not to have one at all; the latter may indicate carelessness but the former implies intentional disregard. Thus proper evidenced implementation is crucial.

This will include identifying who at senior level will take ownership of implementing an anti bribery program. It will include staff training and could be included as a disciplinary matter in employment contracts if staff fail to attend and/or fail to comply with stated procedures.

6. Monitoring and Review

Once implemented the training and procedures are not to be forgotten. Risks vary according to the changing external regulatory and economic environment so there must be mechanisms for monitoring, review and updating. Policies should be refreshed and procedures audited for effectiveness.

It looks as though the Bribery Act and the new offence of commercial organisations failing to prevent bribery will be in force from April 2011. This still leaves plenty of time to draft a suitable policy. Mostly it is a matter of common sense and, to a large extent, can piggy-back any existing money laundering regime.

The challenge though will be in establishing and enforcing an anti bribery culture. It can take considerable time and effort, especially if you operate in countries where bribery is tolerated as part of the norm of doing business (of which there are still many). It is no excuse for any offence under the Bribery Act to say that you had no choice but to pay a bribe in order to do business. And investigating authorities will be very much aware of the higher risk countries, as they are in relation to money laundering.

When the anti corruption body, Transparency International, published its 2010 Global Corruption Perception Index, Denmark as the newest iGaming regulator would have been well pleased. It was ranked #1 in the Index as the least corrupt country in the world with a score of 9.3. Other leading gambling licensing jurisdictions did not fare so well; the UK came in at a poor #20 and Italy was ranked at #67. The Philippines were a long way back at number #134 with a miserable score of 2.4 and Pakistan, whose cricket team have recently suffered the ignominy of a conspiracy to defraud investigation, is a dreadful #143 out of 178 countries featured in the Index.

Recent events have shown that corruption and cheating in sport has a particularly corrosive effect. Honest bookmakers may lose money but the public lose faith. No one wants to waste their time watching, let alone lose their money betting on matches, or events in matches, that have been fixed. When the Sports Betting Integrity Panel published its report in February 2010 it noted, *"...whilst some sports have extensively legislated to protect integrity in relation to betting, others have done much less and some hardly at all."*

Now with so many recent examples of suspected corruption in sport and the ease with which individual events in a match can be spot fixed, there can be no excuse for inaction by any club or sports association. They too should be preparing for the implementation of the Bribery Act. They might pride themselves with acting swiftly in suspending a suspected player and carrying out their own thorough investigation, yet at the same time, they could also find themselves the subject of a criminal investigation for failing to prevent bribery. Professional football clubs being commercial organisations are a good case in point. Gambling has often been tolerated as a relatively innocuous leisure pursuit for players to fill their time when travelling to matches. However, the build up of large gambling debts can make even a highly paid player vulnerable to a corrupt approach as well as

the comparative underpayment of players (a suggested cause of alleged bribery in Pakistani cricket). In future, there may well be a different attitude to team card schools, casino visits and sports betting by players when the club itself could be in the firing line of any investigation. Undoubtedly, by April 2011, there should be a tougher approach to the risk of bribery wherever and with whomever you do business.

The Willink Commission

Seamus Murphy PhD, Gambling Consultant

The immediate post-war years in Britain witnessed the re-establishment of off-course cash betting on horseracing as the most visible and therefore most thought provoking aspect of illegal gambling activity in Britain. Yet this form of gambling, finding itself firmly outlawed by the 1906 Street Betting Act had continued unabated despite all attempts to enforce the law against it. The legislators and the police, who had recognised, discussed and lobbied for the legalisation of off-course cash betting on horseracing, all favoured reform of the gambling laws. This being the case, the government felt it prudent and undoubtedly politically sensible to establish a Royal Commission to investigate all aspects of gambling in Britain. The Royal Commission on Betting, Gaming and Lotteries was appointed in April 1949 under the chairmanship of Henry Willink.

The membership of the Willink Commission was practical and appears with hindsight liberal in nature. The Chairman, Sir Henry Willink, had been championed during the Second World War for creating a blueprint for the establishment of the National Health Service due to his participation within the Beveridge Report which led to the initiation of the Welfare State in the immediate post-war years.

Other members of the commission included Sir Eric Mieville; former private secretary to the Governor-General of Canada and assistant private secretary to the King, Sir Gerald Canny; ex-chairman of the Board of Inland Revenue, Professor H.A.Hodges; Professor of Philosophy at Reading University, John Jewkes; Professor of Economic Organisation at Oxford, Sir Eric Gore-Browne; former chairman of the Southern Railway Company, Mrs Elsie Parker; past President of the National Union of Teachers, Ivor Jones; former Welsh Rugby international and member of the Welsh Rugby Union Association selection committee, Mr Herbert Sutcliffe; former Yorkshire and English Test Cricketer, Mr James Campbell; treasurer of the Scottish Trades Union Congress, Mr Frank Wolstencroft; member of the Trade Unions Congress General Council and the first female Advocate in Scotland, Mrs Margaret Kidd K.C.

Although the appointment of such wide ranging commission staff may appear even-handed the commission members were all engaged within highly respected occupations or held important posts within recognisable institutions. English cricketer, Herbert William Sutcliffe, who had established himself as one of England's and Yorkshire's finest ever batsmen, was also a high ranking Freemason. With middle class and upper class commission membership apparently outweighing the trade union representatives of the working class, little change to the overall traditional middle class influence upon gambling and betting legislation may have been anticipated.

The single most important factor behind the initiation of the commission was to find a system that could legally control off-course cash betting on horseracing. Off-course cash betting on horseracing had been prohibited in law by the 1906 Street Betting Act, the apogee of middle class anti-gambling lobbying, which had been formulated under the National Anti-Gambling League (NAGL). Although the legislation was as usual produced by government, the NAGL felt that it had achieved one of its

chief aims, protecting the working-class from their destructive gambling obsession. However, David Dixon correctly states that the 1906 Street Betting Act was the ‘...*epitome of futile, counter-productive legislation*’. Despite the strong traditionalist look of the Royal Commission, the commissioners’ report would signal the erosion of the anti-gamblers’ formerly unimpeachable argument and illustrate a post-war British society which was no longer prepared to conform to its pre-war identifiable structure.

The Willink Commission also investigated *Gaming* but did so in a more negative fashion than had been the case with off-course cash betting on horseracing. It becomes apparent, when the *Minutes of Evidence of the Royal Commission on Betting, Lotteries and Gaming* are scrutinised, that at no stage of its deliberations did the commission, or witnesses asked to give statements to the enquiry, champion the legalisation of any form of gaming activity which came under evaluation. The commission appeared to be more concerned about the application of the law by the police with certain commission members displaying a surprisingly high level of knowledge that probably could only be attained with practical experience of illegal gaming activity.

Gaming parties appear to be the most significant form of illegal gaming activity that confronted the authorities. Gaming parties grew in popularity during the war years alongside nearly every other form of illegal gambling activity. In the post-war period gaming parties appear to have failed to pose a significant threat to the general public but were, none the less, portrayed in a very bad light by the police who gave evidence at the commission. There was much debate between committee members and the witnesses as to what actually constituted a gaming party.

If an individual conducted gaming on their own property on a single occasion they would avoid any breach of law relating to the 1854 Gaming Houses Act. Therefore, party organisers would move to different premises each party night to avoid prosecution. However, if the gaming activity was conducted elsewhere it may fall foul of the law.

Inevitably, there were certain gaming activities that managed to evade prosecution in spite of the attentions of the local constabulary. The commission was told of the problems of eradicating illegal gaming activity in the docks. The police mentioned the arrival of a new game to Britain which ‘...*was introduced by the United States Service-men; it is dice “craps”*’. However, dice games were not new to the United Kingdom.

Crown and Anchor used dice marked with the four traditional card suits, Hearts, Clubs, Diamonds, Spades and a crown and anchor symbol on the remaining two sides. Three dice were used with the participants betting upon various combinations possible of each roll of the dice. The docklands of Britain had always proved popular areas for illegal gaming and the game of choice for many years had been Crown and Anchor. It appears somewhat fitting that one dice game should be replaced by another in popularity and it is also an indication of the highly addictive nature of any gambling activity in which the participant believes that may influence the outcome.

Unlike gaming houses which obviously occupy a static environment and can therefore be monitored in a traditional manner by the police, the games of craps were more difficult to police. Constable

Ward explained to the commission that, *'It is very difficult to get past the look-out man. They will either gamble down below in the ship where you have to go down a ladder, or else in the third floor of a warehouse where you have to go up a ladder.'* Despite the comic image that such testimony generated, the police claimed that working men would lose their week's wages indulging in such activity.

The most important area of gaming highlighted by the Willink Commission was the fact that almost all forms of social gaming - a small bet over a game of billiards, darts or the playing of bridge was technically illegal under existing legislation, including Defence Regulation 42CA. The commission investigated this aspect of the law thoroughly, relying heavily on the advice of Gilbert Beyfus KC. Beyfus appeared to be familiar with many aspects of gaming law. He was critical of Defence Regulation 42CA not because of its use against gaming parties which he felt was reasonable, but because the regulation was loosely drafted. The conclusions that can be drawn about Gilbert Beyfus's comments to the Willink Commission and the commission's acceptance of his advice is that at no time did the commission contemplate allowing a commercialised gambling industry to be established other than within proposed licensed off-course cash betting offices, designed to eradicate illegal cash betting on horseracing.

The Willink Commission published its recommendations on the 17th April 1951. The Times newspaper claimed the Willink Commission had concluded that *'...gambling was of little significance as a factor in the economic life of the country or as a cause of crime, and that its effects on social behaviour, in so far as they are a suitable object for legislation, were in the great majority of cases less important than was suggested by some witnesses during the inquiry'*. The newspaper could have printed a similar report in the obituaries section of the paper for the anti-gambling lobby in Britain. The recommendations suggested by the 1951 Royal Commission had, finally, recognised the right of working-class gamblers to have a legitimate bet on horseracing without the threat of harassment from the authorities or the threat of prosecution to their bookmaker. The commission had recommended that off-course cash betting on horseracing be facilitated by the establishment of licensed betting offices, and that gambling legislation should be consolidated after revision, while the Pool system of betting should receive extra controls.

The Willink Commission had listened to the objections of the police regarding gaming and gaming parties. The unchallenged classification of gaming as a social evil stands in stark contrast to the Commission's support of reform regarding off-course cash betting on horseracing. However, the reaction to the proposed 2005 Gambling Bill and the enforced removal of the single Super Casino licence by a voting bloc of three Bishops in the House of Lords is testament to the longevity of gaming's perceived evil.

Gambling at Home: Gender and Domestic Experiences of Gambling⁷⁴

Dr Emma Casey, Senior Lecturer, Kingston University

Germaine: *Didn't I tell you? I'm going to re-decorate the whole house ... Where did I put that catalogue? ... Ah, here it is. Look at that, Therese, I'm going to have all that for nothing.*

Therese: *For nothing! You mean it's not going to cost you a cent?*

Germaine: *Not a cent! Aren't these contests wonderful?*

Lisette: *That's not what Mme. Brouillette said a while ago ...*

From *Les Belles Soeurs* by Michael Tremblay (1965)

The above quote is taken from a play by the Canadian playwright, Michael Tremblay. It describes the experiences of a group of working class women who win the Canadian lottery. The play quickly descends into chaos as the women disagree over how the winnings should be spent and it echoes much of the popular perception of gambling as a potentially dangerous activity which can cause familial breakdown and resentment amongst friends.

Indeed, gambling has long been understood as an activity which causes harm and damage both to individuals and to their families. As a response to feelings of desperation, poverty and hopelessness, gambling is often recognised as one of the least appealing outcomes of contemporary capitalism. Interestingly, criticism of gambling appears to span the political spectrum. The British Conservative government led by Margaret Thatcher until 1990 repeatedly blocked proposals to relax gambling legislation and crucially refused to endorse a UK national lottery⁷⁵. More recently, the right-leaning British newspaper *The Daily Mail* led a campaign to axe the Gambling Bill. Both campaigns were motivated by a fear of declining morals and a slide towards a so-called 'something for nothing' culture where gambling rather than hard work is seen as the route to success.

However, criticism of gambling has also emanated with equal energy from the political left. Anti-poverty campaigners such as Joseph Rowntree who helped found the Anti Gambling League in 1890 is a good example, but there are a good number of other socialist writers, commentators and politicians who have been particularly vociferous in their critique of gambling. George Orwell, the playwright Alan Bleasdale and more recently the veteran British Labour MP Roy Hattersley have been outspoken critics of government endorsed gambling products which are seen to act as immoral ways of raising revenue by exploiting the helplessness of the poorest sections of society. Thus gambling is a very specific type of activity which differs from other mainstream consumer products

⁷⁴ This research was funded by the National Lottery Commission. A full version of the report is available to download at <http://www.natlotcomm.gov.uk/publications-and-research/research-programme/women-and-gambling>

⁷⁵ It wasn't until 1994 when the Conservative Prime Minister John Major passed legislation allowing for a British national lottery to raise funds for 'good causes'

in that it is simultaneously seen as both exploitative tax on the poor *and* as an ‘immoral’ cultural activity which puts the work ethic upon which capitalism depends at risk.

My research⁷⁶ demonstrates that gamblers are acutely aware of the range of critiques levelled at gambling and in particular, the perceived negative effects that it can have on the home and family life. It also shows that women gamblers in particular are sensitive to these criticisms. The women participating in the research prided themselves on being thrifty, efficient homemakers and household budgeters, but they also chose to gamble a proportion of their income on various gambling games which they recognised themselves to have small odds of winning a prize. They did so, whilst defending their position as efficient homemakers as Karen remarked:

‘If you’ve got it [the money] and it’s your choice, you want to spend it on that and you’re not taking it away from anyone else. You’re not taking it away from your family, your bills, your children, your pets. If you’re not taking it away it’s not hurting anybody and you’re the only one who’s going to suffer for it, that’s your choice.’

(Karen)

The gambling games that the women most frequently played were characterised firstly by the fact that they could play at home. The National Lottery bi-weekly draw continues to be by far the most popular form of gambling amongst women. Indeed, it is the only form of gambling that men and women play in approximately equal numbers. The Internet is also beginning to offer an important new form of ‘at home’ gambling with 73% of British homes now having access to the Internet⁷⁷. It is perhaps too early to fully understand the precise impact of the Internet on gambling behaviour, but for the women taking part in this research, the Internet had begun to offer new opportunities to gamble in ways that felt comfortable and accessible.

For some of the women, gambling was seen to act as a type of ‘family time’. It was quite common for the women to involve younger family members both in selecting the numbers, and in discussions about how they would spend the jackpot, as Sara commented:

‘If I do more than my one line on the Lottery, I’ve let my grandson choose the numbers ... just because he, he knows that if we win the Lottery, we’ll go to Disneyland.’

(Sara)

⁷⁶ The research project sought to uncover some of the taken-for-granted and overlooked aspects of mundane ‘at home’ gambling. It intended to offer an account of the experiences of gambling in domestic spaces and in doing so, to develop an alternative exploration of gambling as a predominantly public activity. The research adopted a qualitative method and 25 women living in south west London from social classes C2 and D were interviewed using a semi-structured technique. It was hoped that the related themes of gender and domesticity would add a new dimension to existing gambling studies.

⁷⁷ See Office of National Statistics (2010) <http://www.statistics.gov.uk/cci/nugget.asp?id=8>

Although it may have been quite a fruitless attempt to enhance well-being, particularly for the low income families of the research, gambling was nevertheless utilised by families to confront and consider their levels of well-being. Gambling could thus be seen as a type of 'metaphorical' leisure activity whereby in a case where time available for the pursuit of leisure is curtailed (for example for women with families) the pleasures afforded by gambling can be experienced without taking 'time out' to participate.

This has led to some commentators questioning the extent to which certain gambling activities can indeed be perceived as 'gambling' at all. For example, there is no doubt that the UK National Lottery falls under the definition of gambling, but since it is possible to play without actually *doing* anything, then the question arises as to whether it is simply a type of mundane, everyday consumption which requires none of the thrill or physical separateness from home and work that other types of gambling require. On-line poker has recently been described as a type of domestic gambling increasingly popular amongst women because it can be played at home, in private without the usual restrictions of spatial access and time expenditure that more traditional types of gambling might require, for example, a trip to the betting shop, casino or dog track. However, I argue that even more so than on-line gambling, lottery play offers a pleasurable experience that requires virtually no time at all to participate. Players are able to participate by purchasing tickets in advance, on-line and receive text or email messages announcing the winning numbers and informing players if they have won a prize. What is of particular interest here, is that this is a hugely popular gambling product that is so completely rooted in everyday life, that playing appears to require zero time at all. So, if it is possible to gamble without doing anything; without moving, taking time to select numbers, even watching the event which is being gambled on (in this case, the live, televised bi-weekly draw), then it must be acknowledged that there is more to gambling that meets the eye and that there is something more intrinsic and deeper about the pleasures that gambling affords women than has previously been acknowledged.

Gambling is crucial to broader debates about gender and class. It is a perfect example of the type of apparently hopeless, wasteful and irrational consumer behaviour that social scientists have long been keen to get their hands on. Gambling offered the women of this research a daydream of 'escape', whether from poverty, low status or a perceived lack of value. However, what is missing from much current gambling research is a thorough analysis of what gambling offers punters, particularly women punters, perhaps not as some kind of positive experience which enhances well-being, but more as a space which offers a moment of struggle, acknowledgement and perhaps even of relief. The women often described an acute awareness of their everyday struggles, anxieties and dilemmas and combined this with excitement at the possibility of change for the better via gambling. However, this excitement and pleasure was always tampered by a fear of the 'big win'.

My final point is that the women were often painfully aware that winning money, however vast the sum is no guarantee that their lack of status and value would significantly change. There was little evidence of anger, bitterness, or sadness that they have never won, or are ever likely to. Stacey articulated this fear:

I don't think I'd be happy if I ever won a huge amount of money. A medium amount would be nice, but, I think you know, problems with friends and family and I just don't think money solves problems or makes people happy. Ok, I know some people who might, but I think that a huge amount of money would create more problems than it solves... you read about other people, people's relationships breaking up as a result of it and people having difficulties with friends and family.'

(Stacey)

It is definitely the case that more research is needed which unpicks the specific gambling experiences of women. This small-scale piece of research suggests that understanding women's motivations and experiences of gambling must be designed to take gender into account. This will be of enormous benefit to gambling practitioners, industry members and policy developers who are keen to develop targeted approaches to women gamblers.