

Public Bill Committee

**GAMBLING (LICENSING AND ADVERTISING) BILL**

**WRITTEN EVIDENCE**

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# Written evidence

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## Written evidence from British Horseracing Authority (GB 01)

### 1. THE BRITISH RACING INDUSTRY

1.1. The British Horseracing Authority (BHA), the governing and regulatory body for the sport of thoroughbred horseracing in Great Britain, is delighted to respond to the call for written evidence from the Public Bill Committee. British Racing has taken an active interest in the issue of offshore licensed betting operators, and the consequent integrity and funding consequences for our industry, for a number of years and is extremely supportive of Point of Consumption licensing of remote gambling.

1.2. British Racing is not only the country's second most popular sport, with 5.6 million attendees at our events in 2012—but also the second largest sporting employer. British Racing supports a predominantly rural industry which makes a significant contribution to the British economy—generating £3.45 billion in annual expenditure and providing direct and associated employment for 85,000 people.

### 2. THE PRINCIPLES OF THE GAMBLING (LICENSING AND ADVERTISING) BILL

2.1 The BHA wholeheartedly supports and endorses the Bill and its purpose; to introduce new legislation that will require overseas-based remote betting operators to comply with the UK's regulatory arrangements. It is our long-held position, reiterated in our previous submissions to Government and Parliament on this issue dating as far back as 2008, that the requirement for all operators to be subject to the Gambling Commission's licensing conditions will strengthen integrity arrangements and give British consumers the same level of protection, regardless of whom they bet with. Further, such arrangements would be entirely compatible with a successful British betting industry.

2.2 We have witnessed a period of significant growth in the British remote gambling market, but this growth has exacerbated the flaws within the existing legislative and licensing framework around gambling, such that now only one major remote betting operation is licensed wholly in the UK and subject to the regulatory requirements as initially determined by the UK Government to provide sufficient protection to UK consumers and indeed sports in this country.

2.3 We support the Bill's thesis that it cannot be right that a remote gambling operator can have full access to the lucrative British market without being subject to our specific regulatory and licensing standards. We therefore fully endorse the policy intention set out in the Bill to address this.

2.4 The BHA does engage in dialogue with regulatory bodies in other jurisdictions and indeed with many offshore remote gambling operators. However, the voluntary sharing of information with the BHA, the Gambling Commission and others involved in investigating suspicious betting activity cannot be seen as a substitute for formal oversight of such operators, nor a necessarily sufficient protection for British customers. Consistency is vital in regulation, and the standards that apply to operators wishing to advertise in this country and take bets from British consumers should be set by the British Government, not offshore locations.

2.5 If in practice many of the working relationships as above are sound, and constructive, the principle under which we as a regulator are operating is wholly unsatisfactory, and unsustainable. We would stress at this point of course that Racing is a sport that attracts, deliberately, a significant amount of betting activity: currently some £10bn per annum, with a growing shift to remote channels.

2.6 Further, there have been occasions on which the BHA has been unable to access suspicious betting information as desired (and would take place under Licence Condition 15.1) or the speed of information flow provided has been inadequate. Overall it can be said that the situation is more onerous and difficult than it should be, in an area of significant importance to us.

2.7 We also believe that the Bill will ensure that bets will be recognised as enforceable contracts. It was of course one of the cornerstones of the Gambling Act that bets placed by British consumers became legal contracts, giving security to consumers and their winnings for the first time. That is not the case with certain jurisdictions on the White List or within the EEA, such as Alderney and Gibraltar, and this Bill will rectify that situation.

2.8 In order to obtain a proposed licence, it is our view that the governing law of the transactions with UK citizens must be the laws applicable in the UK, and therefore must be enforceable as such. We also believe that the bet must be deemed to take place in the UK, and that the venue for any disputes arising out of the contract must be the relevant courts in the UK. It is a fundamental undermining of the intended system if the law of the host operator applies, and that law does not create a fully enforceable contract on exactly the same basis as would apply in the UK.

2.9 Finally, the BHA believes that the issue of enforceability of licensing remote gambling at the Point of Consumption is of paramount importance. While the BHA does not in principle object to 'light-touch' regulation this can only operate satisfactorily in an environment in which all relevant operators are subject to it. A level playing field should be one of the over-riding objectives of the proposed legislation and we would be concerned if sufficient attention was not paid to ensuring compliance. Recent history has shown that a regulatory regime

which captures the vast majority of a given market in terms of operators can shift to one only capturing a small minority of such activity (particularly if commercial incentives exist) in a short space of time, leaving the market completely distorted and consumer protections and sports regulators adversely affected. Provided that enforcement measures are sufficiently robust, regulation itself can be light-touch.

### 3. SPREAD BETTING

3.1 In May 2012, the Sports Betting Group, of which the BHA is a founding member, wrote formally to the Treasury regarding what we believe is a significant failing of the regulatory framework with regards to spread betting. As spread betting is not regulated by the Gambling Commission but by the Financial Services Authority (who regulate companies themselves rather than the markets), there is no mandate for spread betting organisations to provide sports governing bodies with information, even when they suspect that a rule breach has taken place. The letter expressed concern at the potential for abuses of sports integrity from this situation and called on this situation to be addressed.

3.2 British Racing believes that fundamental reform in the area of spread betting regulation is necessitated by the potential consumer protection implications that the current regulatory system presents. The BHA believes that, by being licensed through the Gambling Commission, spreads would also be licensed at the point of consumption and therefore, by extension, duty would also need to be imposed on this basis. British Racing feels that it is important that all forms of betting are subject to equal regulatory requirements and endorses the submission of the Sports Betting Group to this effect.

### 4. REMOTE GAMBLING AND THE FUNDING OF BRITISH RACING

4.1 Whilst we are supportive of the principles of the Gambling (Licensing and Advertising) Bill, we are disappointed that it does not deal with the significant issues we face due to the Horserace Betting Levy, the legislative mechanism which provides Racing a return from betting activity on its sport and which is used to fund prize money and other important expenditure, including regulatory and integrity services, and veterinary research and education.

4.2 The yield from the Horserace Betting Levy has fallen from an average of £106 million between 2003–04 and 2008–09 (a period during which the vast majority of remote betting operators relocated their operations offshore) to £66.7 million in 2012–13. As just two knock-on effects, the number of horses in training has fallen by 10.6% between 2008 and 2012, while foal production was down 26.3% over the same period.

4.3 The move by many betting operators to an offshore location for their remote gambling arms has been an important factor in the decline of the Levy in recent years. Betting operators licensed offshore for remote operations are not liable to pay Levy on their gross profits on British Racing from these sources—or are in other words “free riding”. This is costing millions in annual Levy receipts to Racing and unfairly distorts the market against those operators which do pay Levy. British Racing estimates that around £20 million per year of potential Levy receipts are lost to the industry from offshore based remote gambling.

4.4 Of all of the major operators in the British remote gambling market, only one Bet365, a major employer in Stoke is fully licensed for remote sports book operations with the UK Gambling Commission—and is therefore mandated to pay Levy.

4.5 Successive Governments and Ministers, dating back to 2005, have said that their preferred policy outcome is that all Betting operators taking bets in Britain pay Levy wherever they are located.

**4.6 It is very frustrating for Racing to see the Government acting to have overseas betting operators required to comply with Gambling Commission regulation, to pay the Social Responsibility Levy, to subsequently pay tax and for the only area not to be harmonised for them to pay Levy—which Parliament has already decreed they should.**

4.7 The Bill as it is currently drafted does not make any provision in relation to Racing or the Horserace Betting Levy—meaning that the sport will not receive a return from remote betting activity even once it is licensed with the UK Gambling Commission. In a Private Members Bill debate on Offshore Gambling in January tabled by Anne McIntosh MP and Matthew Hancock MP, Minister of State for Sport Hugh Robertson MP said that any reform to the Levy to capture revenues under a Point of Consumption licensing regime would constitute State Aid. British Racing strongly disagrees with this interpretation.

4.8 A recent and comprehensive ruling from the European Commission should, in British Racing’s view, change the Government’s legal position. A French parafiscal levy on online horserace betting has been approved, recognising Racing’s special status and common interest with the betting industry. It sets a vital precedent and is in the process of being reviewed by DCMS lawyers for any read-across to their previous legal position.

4.9 British Racing’s legal advice is that the collection of Levy from remote operators under a Point of Consumption licensing regime does not constitute State Aid. This means that either:

- i. Upon Royal Assent of the Bill as it stands, the Levy Board can collect Levy from operators on their gross profits on British Racing; or;
- ii. An amendment needs made to the Bill as it stands, which makes a provision that operators licensed with the UK Gambling Commission should also pay Levy on their gross profits from British Racing.

This will create a level playing field between all betting operators accepting bets on British Racing and ensure that the sport receives a fair return from all betting channels.

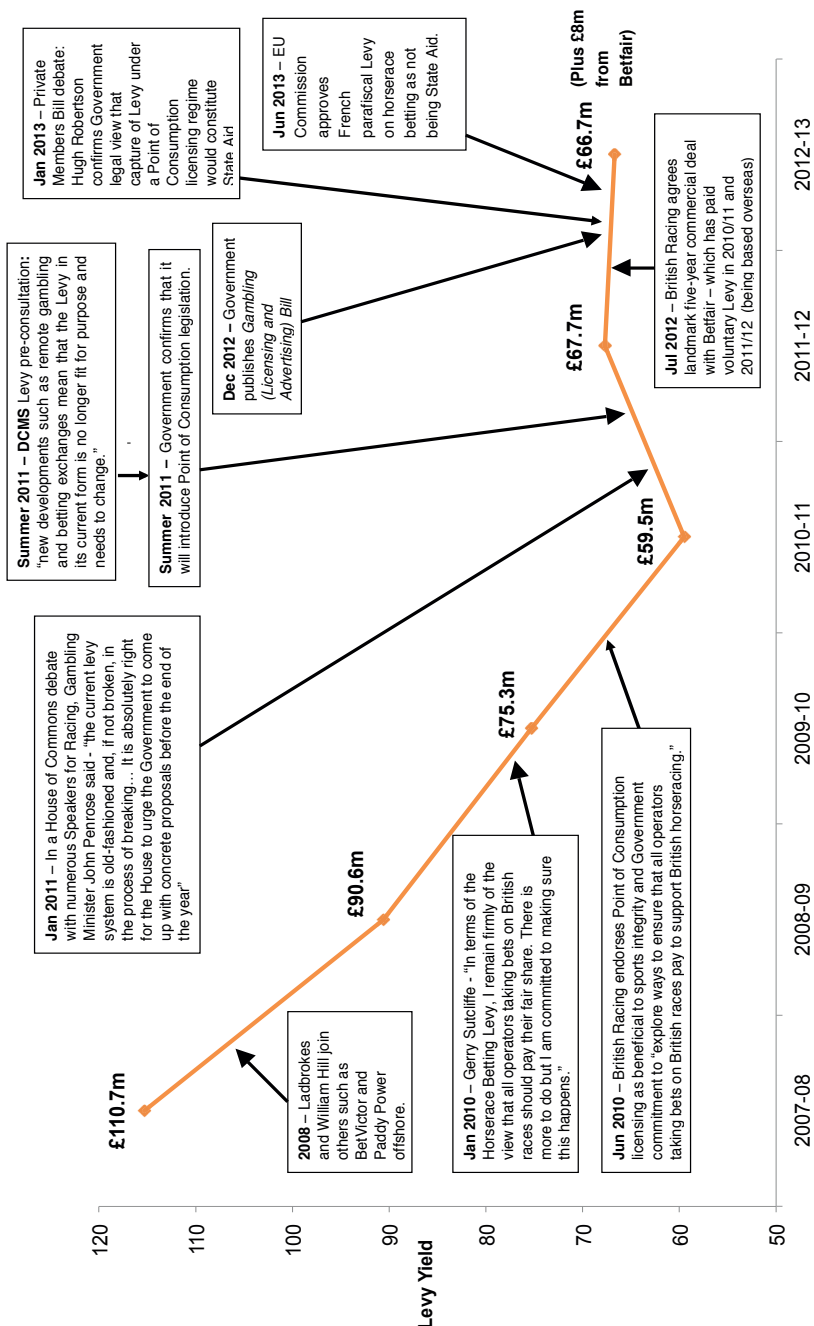
4.10 British Racing believes that a provision in the Gambling (Licensing and Advertising) Bill, which either:

- i. legislates for all remote gambling operators captured under a Point of Consumption licensing regime to pay Levy on their gross profits on British Racing back to the sport; or
- ii. confers the power on the Secretary of State to instruct the Levy Board to collect Levy from remote operators under a Point of Consumption regime, once they are satisfied this is a legally legitimate measure;

would provide for a logical and fair extension of the Levy to capture all forms of betting activity on the sport, a stated policy objective of the Department for Culture, Media and Sport, and would be in line with the overall aims of the Bill in providing a level playing field for all operators in the British Betting market.

November 2013

GAMBLING (LICENSING AND ADVERTISING BILL) – THE FUNDING OF BRITISH RACING



### Written evidence submitted by Betfair (GB 02)

#### ABOUT BETFAIR

1. Launched in 2000, Betfair is a FTSE 250 company which currently employs 1,700 people worldwide, including nearly 1,000 in the UK. Betfair operates the world's leading betting exchange. The exchange uses technology similar to a stock exchange, allowing Betfair to offset its risk perfectly by exactly matching sports betting supply and demand. Betting exchanges allow customers to both 'back' and 'lay' (bet that an event will not occur) and only accept a bet from a customer if they can immediately offset that bet with another customer.

2. In January 2013, Betfair launched a traditional fixed odds sportsbook in line with its competitors' offerings. Betfair also offers casino, exchange games and poker products. Betfair has international operations, and currently holds operating licences in Denmark, Spain, Italy, Malta, Gibraltar, Schleswig-Holstein (Germany) and Australia. In addition to this Betfair owns TVG, a legal online horseracing wagering TV channel in the US.

#### EXECUTIVE SUMMARY

3. Betfair understands the principles behind the UK Government's desire to regulate all forms of online gambling on a Place of Consumption (POC) basis. Betfair looks forward to applying for a licence from the Gambling Commission.

4. For the new regulatory regime to be a success, for both consumers and licensed operators, the Government must ensure:

- (a) An **efficient application process** that does not overburden applicants or the Gambling Commission with unnecessary bureaucratic requirements. Many of the operators applying will already be licensed in several EU and EEA jurisdictions where standards are similar to those that will be set in the UK. This can be utilised by the Gambling Commission to streamline the application process and avoid duplication for all parties. For example, security standards and certifications accepted in other regulated markets should be accepted by the Gambling Commission;
- (b) **Strict enforcement of the regime** to minimise the chance of unlicensed operators being able to take bets from consumers in the UK while not meeting the required regulatory standards (or fiscal burdens) met by licensed operators; and
- (c) The establishment of a regulatory regime which ensures a UK licence will be coveted by operators as providing clear evidence that they meet the **highest levels of social responsibility**. In addition, there should be a willingness on the side of the Gambling Commission to state this fact and help support the development of harmonised standards internationally that will benefit consumers and legitimate operators in the years to come by ensuring that viable licensed gambling markets develop around the world.

#### IMPACT OF ENFORCEMENT ON REGULATORY SUCCESS

5. Ensuring use of effective enforcement measures is the key to the new regime being judged a success in the long run. **Betfair believes it would be reassuring for the legitimate and licensed remote gambling sector to be kept informed, perhaps on an annual basis via a statement from the Secretary of State in Parliament, about the nature and outcomes of the enforcement activity undertaken by the Gambling Commission against illegal operators and the estimated size of any black market.**

#### IMPACT OF FISCAL POLICY ON REGULATORY SUCCESS

6. In parallel with the regulatory changes it is essential that the POC fiscal regime being introduced by HM Treasury establishes a **structure and rate of tax that does not disadvantage UK licensed operators**. Licensees must be able to continue to offer the competitive and varied products consumers have become used to accessing over the last decade.

#### BETFAIR AND RESPONSIBLE GAMBLING

7. Betfair already makes annual contributions to the Responsible Gambling Trust (RGT) to fund the research, education and treatment of problem gambling. **Betfair welcomes the Bill's intention to make contributions to the RGT a mandatory requirement of holding a UK licence and asks that this be done in a transparent manner so operators know what costs will be involved ahead of applying for a licence.**

#### BETFAIR AND INTEGRITY IN SPORT

8. Betfair is a leader in the field of betting integrity, having pioneered information-sharing agreements, known as Memoranda of Understanding (MOU), with Sports Governing Bodies (SGBs). Betfair now has 58 MOUs with SGBs around the world in a wide variety of sports; these include the FA, ECB, FIFA, UEFA and the IOC. Betfair continues to work with the Gambling Commission's Sports Betting Integrity Unit (SBIU) despite having been licensed in Gibraltar since March 2011. **Betfair welcomes the Bill's intention to ensure**



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**all licensed operators have to share unusual or suspicious betting activity with the SBIU, as Betfair already does.**

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**Written evidence submitted by the England and Wales Cricket Board (ECB) (GB 03)**

The ECB is pleased to submit a short response to on the subject of the Gambling (Licensing and Advertising) Bill. The ECB is an active member of both the Sports Betting Group (SBG) and Sports Rights Owner Coalition (SROC) and fully contributed to and endorses previous and current submissions made by them.

The ECB is the governing body for all cricket in England and Wales. Our responsibility is to promote and develop the game's growth and success at all levels, far beyond the boundaries of just International and domestic First Class Cricket. For cricket to have the trust and support of all participants and fans we must do all we can to protect the game's integrity at every level.

Promoting and upholding integrity is one of the key functions of all sports governing bodies and event organisers. The whole concept of sport is based on a fair competition between participants under agreed rules. It is a vital principle for any sport that all involved are competing to win, and are seen to be doing so.

The sport of cricket has recently faced serious issues relating to its integrity at both a national and international level. These types of threat will remain as sports betting continues to grow across the world in both legal and unregulated markets. It is therefore vital that the sport itself works closely with Governments and Regulators to ensure we create an infrastructure to prevent this from happening.

The ECB itself has recently increased its work in this field including creating an in-house integrity function.

Sports integrity is a challenge for every Government in the world, and there are of course likely to be bigger threats in other countries, but it is our duty and responsibility to make sure that our domestic market is regulated as effectively as possible. Not only does this give greater protection but it creates a best practice model we can promote to other jurisdictions.

That is why the ECB fully supports this Bill and the measures within it that will see all betting operators acting in the UK subject to regulation at the point of consumption. It is extremely important that all bets placed fall under the remit of the Gambling Commission and their Licence Condition 15 that requires information sharing with Sports Governing Bodies.

The ECB led the campaign for the introduction of Gambling Commission Licence Condition 15 that makes information sharing between sports and betting operators a statutory requirement. To be effective it must cover all bets places in the UK and we very much support the Government's bringing forward of legislation to address this.

There are two other related policy areas that we feel the Bill should address.

1. **Spread betting.** Spread betting on sport is growing and cricket is one of the sports that attracts a lot of interest from spread betting companies. This type of betting is not currently regulated by the Gambling Commission but by the Financial Conduct Agency (FCA). Despite repeated requests, they have not introduced a similar code to Licence Condition 15 nor entered into meaningful dialogue.

The ECB believes that this issue can be addressed by the FCA introducing its own Licence Condition 15 into its own codes to apply to spread bets made on any sporting activity. Alternatively an option is to amend this Bill so that spread betting is subject to the advertising and licensing arrangements being applied to all other betting activity.

2. **A specific criminal offence of match fixing.** At present the UK has no specific offence to deal with match-fixing. In 2010 the DCMS commissioned the Parry Report into Sports Integrity and its recommendations identified this as a key subject for the Government to review.

Since then the European Parliament have come to a similar conclusion and in Australia very specific legislation has been introduced in this regard, which we attach as an appendix to this submission.

Australia is now leading the world through the introduction of legislation addressing the issues of cheating and related threats to sports integrity. ECB would urge the government to introduce similar legislation within this Bill.

The Gambling (Licensing and Advertising) Bill rightly strengthens the protection for sport from corrupt Gambling activity. To be wholly effective we also need to address the associated top-line offence of match-fixing, and the investigation/charging arrangements that would follow.

The ECB is grateful to your committee for taking the time to review this evidence and would be pleased to provide any further information.

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## Written evidence submitted by the Remote Gambling Association (GB 04)

### EXECUTIVE SUMMARY

1. The following is a summary of the main points that the Remote Gambling Association (“the RGA”) would like to make to the Committee:

- Protection of consumers is the Government’s primary justification for the Bill. However, in evidence to the CMS Select Committee, and more recently during the 2<sup>nd</sup> Reading debate when the Minister stated that:

*‘The Bill is largely a prudential measure to prevent what is currently a risk from becoming a major issue in future’*

It has become clear that this is a really a piece of pre-emptive legislation designed to deal with a potential rather than an actual problem.

- It can be argued that the Bill is a disproportionate response to problems which are largely theoretical, but all of our members will take out the necessary licences when required to do so and we are committed to working with the Government, the Gambling Commission, and other stakeholders to ensure that the new regime works as well as possible.
- **The most critical point we would like to make is that the success or otherwise of the new regime is dependent on British consumers choosing to gamble with British licensees. That will only happen if (i) the offering of those licensees remains internationally competitive; and (ii) there is effective enforcement to deter non-licensed companies from accessing the market.**
- To achieve the first of these on a long term basis, the government should be urged to listen to the repeated advice of the CMS Select Committee to establish a tax rate and regime that enables licensees to remain competitive.
- Encouraging British customers to bet with British licensees that are able to provide the value and range of products that they expect will do much more to ring-fence the market than dubious enforcement measures.
- **In addition, we have set out below information on specific issues that could be associated with the Bill, including:**
  - Current Licensing regimes
  - Tax and enforcement
  - Participation in online gambling
  - Research, Education & Treatment (RET)
  - Protection of the young
  - Advertising
  - Sporting integrity
  - Horserace betting levy

### INTRODUCTION

2. The RGA is the largest trade association for the global online gambling industry. It represents most of the world’s largest licensed and stock market-listed remote gambling companies. Our current membership and further information about the RGA can be found at [www.rga.eu.com](http://www.rga.eu.com). It includes all of the major players in the British remote gambling market.

3. RGA membership is restricted to operators and software suppliers. The operators must be licensed for gambling purposes within the European Economic Area (EEA), the Isle of Man, or the Channel Islands.

4. The members of the RGA have substantial experience in engaging with regulators and other stakeholders to ensure remote gambling is conducted in a fair, safe, and crime-free environment. This experience is based on operating in fully regulated jurisdictions where it is possible for private sector operators to obtain licences on a non-discriminatory basis.

### CURRENT LICENSING REGIMES

5. Despite the impression given in the Bill’s supporting papers, companies servicing the UK remote gambling market are predominantly based in Gibraltar, Alderney and the Isle of Man. All of them have regulatory standards which are comparable to those in the UK. The companies licensed in those three jurisdictions when added to those currently licensed by the Gambling Commission would constitute close to 100% of the British online gambling market.

6. Online gambling is an international industry and it is very common for our members to hold licences in multiple jurisdictions. It is in everyone’s interests that regulators work together and identify licensing synergies.

7. Consequently, when considering applications the Gambling Commission should fully take into account the standards that licensed EEA and White List operators already adhere to and not repeat all of the checks that they have already been subject to.

#### TAX AND ENFORCEMENT

8. Although tax provisions do not form part of this Bill, the new licensing and tax regimes cannot be considered in isolation.

9. If the British tax regime was internationally competitive, then the companies that dominate the British online gambling market would already hold Gambling Commission licences. The fact that so many of them, including the largest companies in the wider British gambling industry, operate from offshore proves that it is not.

10. In short, this licensing Bill would not be necessary if HM Treasury had introduced an appropriate regime in 2007. If they do not change the tax regime then there is every possibility that over time British licensees will lose market share to companies outside of the licensing regime.

11. Enforcement to prevent non-licensed operators from accessing the market is clearly very important. Unfortunately, the available measures have not been sufficiently successful in most other jurisdictions where they have been tried.

12. Instead of focussing on the behaviour of operators, the Government should focus on the demands of consumers. If they can be met by British licensed operators then there will be no need for them to seek out alternatives. Removing demand is the best enforcement measure.

#### PARTICIPATION IN ONLINE GAMBLING

13. The Gambling Commission has developed a set of questions for a survey conducted by ICM research that ask British adults about their participation in gambling over the last four weeks. The independent survey, which is conducted quarterly, allows trends in the population to be followed.

14. The most recent survey was published last week and found that:

- An average of 55% of respondents had participated in at least one form of gambling in the previous four weeks. This compares to 57% in 2012.
- An average of 15% of respondents had participated in at least one form of online gambling in the previous four weeks. This compares to 14% in 2012.
- If those respondents only playing the National Lottery online are excluded, the proportion of respondents who had participated in online gambling falls to 8%. This compares to 8% in 2012.

15. It is often wrongly claimed that online gambling is a major cause of problem gambling, but this is not supported by the evidence. For example, the Australian Productivity Commission found in 2009, when reviewing Australia's gambling laws for the Government, that, "there are no empirical studies that establish a causal relationship between gambling online and problem gambling".

16. The rates of problem gambling in Europe are generally very low and have remained stable as online gambling has grown more popular. For instance, the 2011 British Gambling Prevalence Study found that the rate of problem gambling in Britain was between 0.5% and 0.7%. It was found that Britain has a problem gambling rate similar to Norway (0.8%), Germany (0.6%) and Switzerland (0.8%), and lower than the USA (3.5%), Australia (between 1.4%—2.1%) and South Africa (1.4%).

**17. Therefore there is no evidence that British participation in online gambling is growing rapidly and there is no evidence that online gambling is more addictive than comparable forms of gambling.**

#### RESEARCH EDUCATION AND TREATMENT

18. It is wrong to suggest that offshore operators do not pay their way on research, education and treatment. Four of the top ten donors to the Responsible Gambling Trust are pure online gambling companies, and in the current financial year/14 online gambling companies contributed in the region of 30% of the more than £5million raised. Donations are made by offshore companies to provide education, research and treatment for UK residents on a voluntary basis, in exactly the same way as UK licensees.

19. The DCMS statement says that 'these operators will also be required...to contribute to research, education and treatment'. In the first instance, while it is a voluntary system it cannot be the case that anyone is 'required' to do it, but more importantly they proportionately already do more than companies licensed by the Gambling Commission.

#### PROTECTION OF YOUNG AND VULNERABLE PEOPLE

20. The consensus view amongst those dealing with child welfare is that the age verification procedures of online operators are an example for other sectors to follow.

21. It is something that we would never be complacent about, but the online gambling industry's efforts in this area have repeatedly been lauded in Parliament. In addition, the European Commission sought views on the issue as part of its consultation on a Green Paper on Online Gambling in the Internal Market. Some of the questions asked how on-line age controls are imposed. The response submitted by the Children's Charities' Coalition on Internet Safety, which includes Action for Children, Barnardo's, BAAF, The Children's Society, NCB and NSPCC stated:

"Since the online age verification laws came into force in the UK in September 2007, the children's organizations have not been made aware of a single instance where a child has beaten the system and got online to gamble. There have been instances where a child has "borrowed" a parent's credit or debit card and has been able to pass themselves off as the parent, but that raises different issues. There is nothing that laws can do about that, neither is there an easily foreseeable technology fix that can solve it. However, we are not aware of any instances where a child was able to lie about their age and get away with it in an online environment, as they used to do quite easily before the law was changed."

#### ADVERTISING

22. The Bill will restrict legal advertising to operators licensed by the Gambling Commission. It will not affect the current advertising regulations in any other way.

23. Concern was expressed at 2<sup>nd</sup> Reading about the prevalence of gambling advertising and, in particular, in relation to betting advertising during televised sporting events.

24. The advertising regulator, the ASA, already applies a robust regime to prevent, for example, advertisements being targeted at minors. It has publicly stated that it does not see gambling advertising as a particular concern and that compliance with its rules is high.

25. Above and beyond the ASA, the industry code for socially responsible advertising has imposed a number of additional measures. It is in this code that the industry voluntarily agreed to impose a 9.00pm watershed for all forms of gambling advertising except (i) betting advertisements associated with the related live events on which bets were being offered; and (ii) bingo, because that gambling product alone had already been allowed to advertise on television prior to the Gambling Act 2005.

26. There is no evidence whatsoever that television advertising in Britain has led to any increase in problem gambling or underage gambling (which according to the latest research from the National Lottery Commission has actually decreased since 2007).

27. Despite this the industry appreciates the views expressed in some quarters and would be happy to take part in any objective review of the current procedures.

#### SPORTING INTEGRITY

28. The main risk to sporting integrity is unregulated betting outside of the UK controlled by organised crime groups where they bet on UK sport but may never take bets from UK based customers. Organisations such as the IOC and FIFA have therefore increasingly focussed on unlicensed operators and organized crime, primarily in the Far East and Eastern Europe. The licensing reform will not change that.

29. While it is understandable that the Gambling Commission would like to see more companies hold UK licences to increase the pool of operators they can receive information from, it has been widely recognised by the International Olympic Committee and others that match fixing is something that national regulators should address on a bilateral and multi-lateral basis. This approach mirrors what national regulators already do with other multi-jurisdictional crimes such as money laundering and fraud.

30. Licensing a greater number of online gambling companies in the UK is only one way of helping to improve sporting integrity. It is equally crucial that national regulators establish effective information – sharing agreements between themselves as it would be to see more companies licensed by the Gambling Commission. There are established procedures for information sharing on this basis. They contain appropriate checks and balances and it is wrong and unnecessary to attempt to short circuit those provisions by seeking to license companies already regulated in jurisdictions which already have such provisions in place.

31. The online betting industry established the European Sports Security Association (ESSA) to protect and promote integrity in sport. ESSA acts as an early warning system to alert sports bodies, regulators and its members to any dubious betting activity. The UK Regulator has signed an MOU to facilitate the exchange of information on suspicious betting patterns.

32. Some parts of the sporting industry, for understandable commercial reasons, would like to see the introduction of a sports' betting right which would give them control over what bets could be offered and require betting operators to pay them for the right to offer bets on those markets.

33. We would suggest that this is a commercial matter and not an integrity issue at all. The European Commission is considering the issue as part of a wider review of sports governance and it should not form part

of a licensing bill which is designed and has been portrayed to the European Commission as being designed solely to enhance consumer protection.

#### HORSERACE BETTING LEVY

34. We share the Government's view that extending the levy to companies based outside of the UK would be a breach of EU law.

35. There have been suggestions that a recent European Commission decision about the French Horserace levy has changed the legal position. However, the full decision has not yet been published and (i) we do not expect it to address this specific issue; and (ii) it is likely that it will have restated restrictions on the purposes for which such a levy can be used.

#### IDENTIFYING BRITISH CUSTOMERS

36. The Gambling (Licensing and Advertising) Bill amends the 2005 Act so that all remote gambling operators would be required to obtain a licence from the Gambling Commission to enable them to transact with British customers and advertise in Britain

37. The Bill seeks to protect British based customers. How those people are identified is complex, uncertain, and could be administratively expensive, especially if it requires customers to be geo-located on a permanent basis using IP addresses.

38. Our strong view is that IP addresses are not and cannot be 100% reliable in determining a person's physical location, especially if techniques such as proxy servers and virtual private networks are used. A Google search on "hide my IP" produced 29.3m results and one site alone claims millions of unique users each month and is reported to be in the top 500 most visited of all UK websites of any type. Not only are we convinced that IP checking is not reliable enough now but the growing trend towards internet privacy and anonymity will make it less reliable in the future.

39. There is a simple alternative of ensuring that that the Bill covers every account registered at a Great British address. This method has been adopted by HM Treasury and HMRC for the proposed place of consumption tax and we recommend that this is used to identify GB customers for the purposes of this Bill.

40. We are in discussion with the Gambling Commission and hope they will adopt a more flexible approach before licences are issued.

*November 2012*

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### Written evidence submitted by Sports Betting Group (GB 05)

#### INTRODUCTION

1. This evidence comprises the views of many of the sporting bodies and organisations (the "Sports") who work together as the Sports Betting Group (the "SBG").

2. The SBG is made up of representatives from the Football Association, England and Wales Cricket Board, British Horseracing Authority, Rugby Football Union, Professional Players Federation, Premier League and Sport and Recreation Alliance.

3. The SBG was formed in 2010 following the publication of the Report of the Sports Betting Integrity Panel<sup>1</sup> commissioned by the Department for Culture, Media and Sport. The Sports Betting Integrity Panel was chaired by Rick Parry and its findings contained a number of recommendations for each of Government, Sport, the Betting Industry and the Gambling Commission to take forward to improve sport's protection against betting integrity breaches.

4. The SBG also provided oral evidence to the DCMS Select Committee during its pre-legislative scrutiny of the Bill.

#### SUMMARY—SUPPORTING, AND IMPROVING, THE BILL

- The SBG welcomes the Gambling (Licensing & Advertising) Bill and has consistently campaigned for the principle that all overseas operators taking bets in the UK should be fully licensed by the Gambling Commission.
- It is vital for the integrity of sport that all operators adhere to Licence Condition 15.1 on sharing information and reporting suspicious betting activity on sporting events.
- We are concerned that these arrangements do not apply to spread betting companies and would like to see either the Financial Conduct Agency (which regulates spread betting) introduce Licence Condition

<sup>1</sup> [http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/images/publications/reports\\_sports\\_betting\\_integrity\\_panel.pdf](http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/images/publications/reports_sports_betting_integrity_panel.pdf)

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15.1, or the Bill be amended so that spread betting is covered by the Gambling Commission's Advertising and Licensing arrangements.

- We are also concerned at the effectiveness of the current structures to deal with those who cheat at sport. The SBG believes that the Bill should also introduce a new legal definition for cheating at sport/match-fixing since the current provisions in the Gambling Act 2005 are not fit for purpose. This follows recommendations made by the DCMS Parry Report into Sports Integrity<sup>2</sup> and by a recent European Parliament Report<sup>3</sup>

#### ADDITIONAL INFORMATION

##### *Upholding integrity and Licence Condition 15.1*

5. Promoting and upholding integrity is one of the key functions of all sports governing bodies and event organisers. The whole concept of sport is based on a fair competition between participants under agreed rules. It is a vital principle for any sport that all involved are genuinely competing to win, and are seen to be doing so.

6. Those who seek to influence the outcome or progress of sports events to secure rewards through betting undermine this principle. Any suspicion that this is happening can be deeply damaging.

7. The growth of betting services means that sports must remain constantly vigilant of the increased opportunities which could potentially be exploited by corrupters. There are many examples of both historical and recent occurrences where people have tried to corrupt sport for financial gain through betting. Sports governing bodies, the Government and the Gambling Commission must remain alert to these dangers, and treat corruption connected with betting with the same rigorous action as that taken to ensure sports remain free from doping.

8. Recent years have seen a huge increase in sports betting and a proliferation of the number of different types of bets that can be placed on sporting events. This has been fuelled by the internet, new media and the popularity of in-game betting. At the same time, the last Government introduced a new licensing regime in 2005 that gave greater freedoms to betting companies in terms of how they are able to operate and market their products. This has resulted in a large number of on-line operators based overseas offering services to British consumers.

9. SBG members campaigned for the introduction of Gambling Commission Licence Condition 15 that makes information sharing between betting operators and sports governing bodies a statutory requirement. It has made a noticeable difference in the ability of sports to secure important information. Licence Condition 15 also places a duty on operators to report suspected breaches of integrity.

10. Measures to maintain integrity in sport will only be effective if they apply to all betting companies operating and/or advertising into the UK (taking bets from British punters on sporting events).

11. There is clearly little logic in having a UK regime operated by the Gambling Commission that certain operators can choose to avoid by locating overseas. Indeed, in 2009 both William Hill and Ladbrokes moved their online betting operations offshore to Gibraltar and most other major betting companies have followed suit including Betfair. Not only does this effectively make Licence Condition 15 redundant, but other important protections such as the right to void a bet are undermined.

**12. The Sports therefore strongly endorse and fully support the Government's proposal to bring forward new legislation for regulatory arrangements that will require all gambling operators to obtain a licence to transact with British consumers and advertise in the UK.**

##### *Spread Betting*

13. One area where the SBG feels that the Bill could be strengthened is in relation to the regulation of spread betting. Whilst the Government should be commended for its efforts to ensure that all fixed odds betting operators offering bets in the UK comply with Licence Condition 15.1 on information sharing, the same is unfortunately not true for spread betting companies.

14. Spread betting companies are regulated by the FCA rather than the Gambling Commission and as a result are not required to share information on suspicious betting patterns in the same way that fixed-odds operators are via Licence Condition 15.1. While the two companies currently offering spread betting on sport in the UK have voluntary information sharing agreements in place with the FCA, the SBG feels that these should be replaced with robust, statutory arrangements.

15. This view is backed up by evidence provided by Jenny Williams from the Gambling Commission during the pre-legislative scrutiny stage of the Bill. Taking the example of the fixed odds betting operators, she said that the Gambling Commission received one or two reports a month from its online gambling licensees, who handled less than 20% of the market, but from the 80% licensed overseas (which had voluntary agreements in place) the Commission had received a total of about ten since 2007. Ms Williams suggested it was implausible that so few suspicious transactions had been reported.

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<sup>2</sup> [http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/reports\\_sports\\_betting\\_integrity\\_panel.pdf](http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/reports_sports_betting_integrity_panel.pdf)

<sup>3</sup> <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1320614&t=d&l=en>

16. The Sports Betting Group is dissatisfied that despite raising this issue with the FCA for many years, it has not received any satisfactory answer as to how it intends to address the regulatory shortcoming.

17. This anomaly should be rectified as soon as possible and tabling an amendment to this Bill would be a way of achieving this. We have been in dialogue with the FCA and GC for over a year and we have been assured that the matter is being looked into but we are still to see any substantive progress. An amendment to the Bill would expedite this process and bring spread betting companies into line with traditional operators. This would be a major boost to sports integrity and the fight against betting related corruption in sport.

#### *Legal definition of match-fixing*

18. At present the UK has no specific laws to deal with the offence of cheating or match fixing in sport. The need for specific legislation has recently been stated by the European Parliament in its Action Plan on organised crime, corruption, and money laundering. The report recommends that Member States should:

*‘make sports-rigging a criminal offence in order to strengthen the fight against illegal sports betting’<sup>4</sup>*

19. In 2010, the DCMS commissioned an Independent Report into Sports Integrity, led by Rick Parry. One of the recommendations of this report highlighted the need to review the definition of cheating as set out in the Gambling Act 2005. The recommendation said:

#### **“Recommendations for government”**

*1.1 That the definition of cheating in the Gambling Act 2005 (the Act) be reviewed and, if appropriate, given greater clarity.<sup>5</sup>*

20. As time has passed the need for a review of this type to be undertaken has become even more pressing. We continue to see an inconsistent approach to investigations across enforcement agencies and limited application of the offence of cheating by prosecutors.

21. The SBG would like to see the Government review the offence of cheating as set out in the 2005 Gambling Act. An improved definition should be introduced that focuses on cheating in the sporting event, as well as betting, thus introducing a broader criminal offence of cheating in sport. This has already been done in a number of other countries including Australia<sup>6</sup> and Switzerland and was also recommended in a recent European Parliament anti-corruption Action Plan.

November 2013

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### **Written evidence submitted by The Rank Group (GB 06)**

#### 1. SUMMARY

- This submission is made on behalf of The Rank Group, the largest British gaming company outside of those operating in the bookmaking sector.
- It outlines Rank’s support for the Gambling (Advertising and Licensing) Bill.
- It also provides details of the need to address the current disparity between land-based bingo and online gaming taxation and how UK Exchequer could expect to generate an additional £25m (an increase of 29%) by applying a 15% rate of duty to all forms of bingo compared with current receipts.

#### 2. ABOUT RANK

2.1 The Rank Group is a leading European gaming and entertainment business, which is head-quartered in Great Britain. We are the largest British gaming company outside of those operating in the bookmaking sector. Our businesses (principally Mecca Bingo and Grosvenor Casinos) provide employment for more than 10,000 people in Britain and enjoyment for more than three million customers every year.

#### 3. SUPPORTING THE BILL

3.1 Rank fully supports the Gambling (Licensing and Advertising) Bill, even though it paves the way for measures which will cost us approximately £10m per annum. It is an important opportunity to provide greater consumer protection for British gamblers. We are aware that there are mixed reactions to the Bill from within our industry, but they remain committed to supporting it despite the financial impact it will have on us.

#### 4. LAND-BASED VERSUS ONLINE—BINGO TAXATION

4.1 There is current disparity between land-based and online gaming which needs to be addressed, beyond the current Bill. In the run-up to the General Election of 2010, both coalition parties were publicly supportive

<sup>4</sup> <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1320614&t=d&l=en>

<sup>5</sup> [http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/reports\\_sports\\_betting\\_integrity\\_panel.pdf](http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/reports_sports_betting_integrity_panel.pdf)

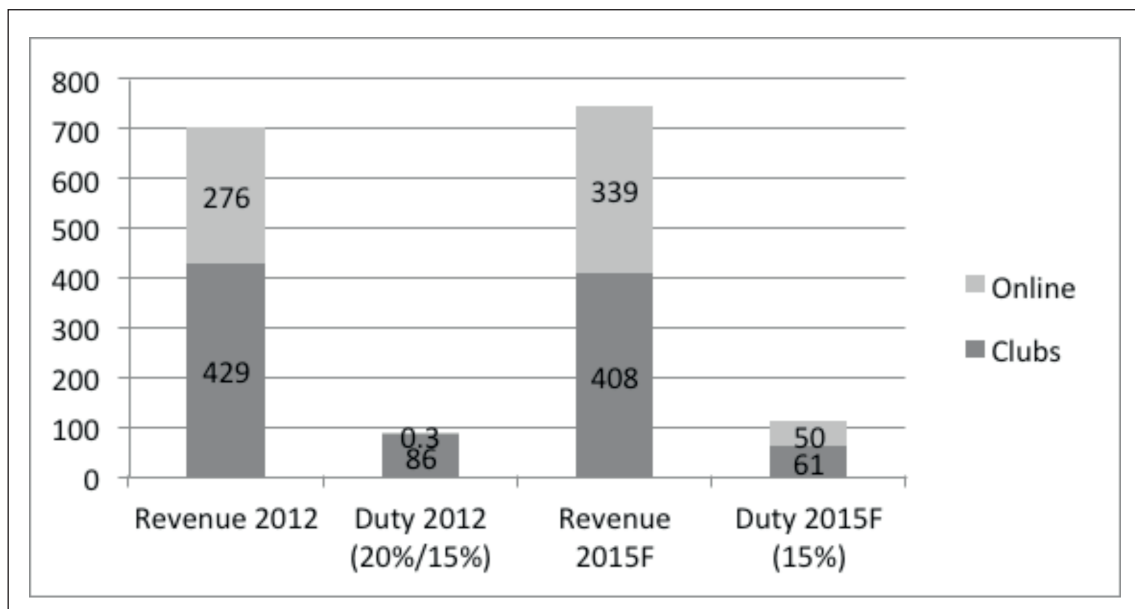
<sup>6</sup> <http://www.parliament.nsw.gov.au/Prod/Parlment/nswbills.nsf/131a07fa4b8a041cca256e610012de17/cd74337d4041ea78ca257a61001d267b?OpenDocument>

of the principle of a rate reduction of bingo duty. While we are disappointed that this has not yet materialised, we understand the limitations that the broader economic situation has placed on Government—and we are determined to work positively with HM Treasury to resolve the duty issue in a way that is beneficial to both the industry and the economy.

4.2 At present, there are three relevant rates of bingo taxation. Licensed bingo clubs pay a rate of 20% Gross Profits Tax. This rate is reduced to 15% for UK based online bingo companies without the same employment of community benefits (already showing disparity between land-based and online). However, the majority of online bingo sites are based offshore and, as such, pay no bingo duty at all in the UK. Overall, therefore, 99.7% of bingo duty is paid for by the land-based industry with 0.3% coming from the small number of online companies being based in the UK.

4.3 It remains our view that HM Treasury's plan to bring offshore companies into the tax net for remote gaming duty provides the Government's best opportunity to fulfil its pre-election pledges. The UK Exchequer could expect to generate an additional £25m (an increase of 29%) by applying a 15% rate of duty to all forms of bingo compared with current receipts. This is illustrated in the chart below.

#### Revenue and Duty on Bingo—2012 v 2015



Source: Gambling Commission/GamblingData

November 2013

#### Written evidence submitted by the National Casino Forum (GB 07)

NCF-WHO WE ARE

The National Casino Forum is the major trade body representing the land based casino industry. NCF represents all the major operators in the UK and most of the smaller independent operators. Together our members hold 90% of all casino licences.

At the outset, we wish to state that NCF's members continue to be totally committed to ensuring that all aspects of casino gaming, both traditional and technology based, are conducted strictly in accordance with the objectives of the Gambling Act 2005. As an industry, we have taken ownership of those objectives and are determined, in particular, to operate leisure environments in which we are better able to:

- Ensure customers are fully aware of the extent of their involvement in gambling
- Identify customers who may be suffering or are at risk of harm through gambling
- Minimise the risk of harm through gambling in the way we offer and manage our products

#### SUMMARY

From the outset the British casino industry has expressed its concerns to successive Ministers at the Department for Culture, Media and Sport about the limitations of **The Gambling (Advertising and Licensing) Bill**.

We have consistently urged the government and the regulator to take a broader view of gambling legislation and to accept that, since the 2005 Act passed into law, the gambling landscape has been materially changed by



the emergence of remote and virtual gambling products. The British terrestrial casino industry is excluded from full participation in this market to the disadvantage of the industry, the consumer and our mutual understanding of the impact of remote gambling.

The current Bill proposes measures which would make it lawful for any company licensed and registered in the UK and subject to UK taxation, to *advertise* remote gambling *anywhere*—including in casinos—but would maintain the prohibition on remote or virtual gambling being *offered* by the operator in their UK casino premises. To the regulated UK industry that seems a perverse and anachronistic outcome. To our customers it is confusing and lacks basic common sense.

**If through this legislation, the government is prepared to endorse high stakes gaming on-line except when it is supplied by licensed casino operators in a regulated environment brings into question not the fundamental nature of British casinos but the fundamental coherence of British gambling policy.**

**To address these concerns NCF seeks an amendment to the Bill:**

- The NCF amendment would remove the anomaly that prevents the holder of a Casino Operator’s licence and a Remote licence—both issued by the UK Gambling Commission—from advertising and *offering* their own remote product in their own premises
- It will not change the nature of casinos or create machine sheds
- Remote gambling is *not* synonymous with machine gaming
- The industry is not seeking an ‘*unlimited*’ number of devices
- The amendment would provide the industry and the regulator with a unique consumer protection research opportunity observing remote gambling products in a controlled environment
- The amendment would go further in ‘*levelling the playing field*’
- The proposed amendment is tightly drawn and would not open the door to wider deregulation

#### REMOVING THE ANOMALIES

To put our concerns into direct customer facing context, we have set out an example of the anomalous situations that will arise if this Bill is unamended.

If a company has both a Casino Operators licence issued by the Gambling Commission to operate (bricks and mortar) casinos in the UK and a Remote Licence issued by the Gambling Commission licensing it to advertise and offer remote gambling in the UK there are clearly no issues of probity and the Gambling Commission must be satisfied that the company is compliant with regulations relating to both remote and terrestrial gambling.

So, subject to adherence to the Committee on Advertising Practice codes, the company holding both licences can advertise its on-line gambling products freely, *including* advertising its own on-line products in its own physical casino premises, but it cannot go on to *offer* the means to play within the casino.

At the same time, a customer can bring his or her own internet access device, ie a tablet, laptop or smart-phone into company A’s premises and play unsupervised on any remote gambling site, including the company’s own site but also on any other remote site.

Given that there is now widespread acceptance that UK casinos offer one of the safest environments in which the consumer can enjoy gambling as a pastime, it seems completely anomalous that casinos should be specifically excluded from offering this particular type of product.

As a direct example ‘*Caesars Entertainment Ltd*’ would be allowed, subject to the grant of a Remote licence in the UK and adherence to the CAP codes, to advertise its ‘*Caesars Casino.co.uk*’ in its Rendezvous casino in Southend on Sea, but customers wishing to play could not be provided with and *offered* the facility in the Rendezvous, they could however play on their own smart phones in the casino or in the adjacent McDonalds!

Another way of illustrating this anomaly is by reference to shopping in say, John Lewis. If a customer doesn’t see what they want in store they are taken to a PC and the product is found on-line and their needs met. John Lewis staff do not tell the customer they can’t offer their on-line products in the store and that the customer must use their own devices—perhaps at home—to access the products.

All we are asking, is to be able to sell our own goods in our own store.

#### PRESERVING THE NATURE OF BRITISH CASINOS

In her speech during the Second Reading, the Minister said the amendment:

*‘...would also allow casinos to offer an unlimited number of gaming machines with unlimited stakes and prizes within their premises. That would risk fundamentally changing the character of casinos and, very sadly, turning them into something that looks like a machine shed.’*

The CEO of the Gambling Commission (GC) has placed on record that the GC is against the amendment on ‘*the narrow point*’ that it would in effect allow ‘*an unlimited number of category A machines in casinos*’.

That is not the intended outcome of this amendment.

The industry is *not* seeking an unlimited number of devices. Just as the number of gaming machines permitted in a converted 1968 Act casinos is not on the face of the 2005 Act, but is included in a commencement order and Schedule 6 to the Act, the industry would expect the Secretary of State to adopt a measure that would allow the Secretary of State to specify a reasonable number of permitted devices and to adjust that number accordingly. Such a control could be embodied in a licence condition or in the Licence Conditions and Codes of Practice.

We accept that the current proposed amendment would require an additional level of regulatory control, we took that as a given. The industry is ready to accept any reasonable regulatory measure that controlled the number.

There is also overwhelming evidence that the market for casino gaming in the UK is such that it would be a major commercial mistake to produce a ‘machine shed’ even if that were possible. At Aspers at Westfield, the first and still one of only two operating Large casinos in the UK, the regulations permitted up to an absolute maximum of 150 gaming machines in the ratio of one traditional gaming table to five machines. The business opened with 30 tables and 150 machines. It very quickly had to increase the number of *tables* to more than fifty to meet customer demand. It is clear that even if the industry was able to create machine sheds they would be rejected by the customers who have a demand for table gaming.

The Gambling Commission’s position has been that the 2005 Act is carefully crafted to control the number and stakes and prizes of gaming machines in casinos and introducing remote terminals will upset that balance. However, the Act was crafted almost a decade ago and does not deal with reality of the on-line gaming industry as it exists today.

#### A UNIQUE OPPORTUNITY FOR RESEARCH AND CONSUMER PROTECTION

The casino sector has embarked on an ambitious programme, **Playing Safe**, which in accordance with the regulator’s strategic aims will capture more information than ever before about how customers interact with gaming devices.

This kind of research is only possible in casinos where there is an average of 100 members of staff per premises, with larger premises employing over 300 people all of whom are required to undergo annual training in responsible gambling and a high percentage of whom are also licensed by the Commission.

Having remote terminals in casinos would provide a unique opportunity to combine on-line data capture with direct observation of on-line play, something which is unachievable in any other environment.

#### REMOTE GAMBLING—NOT SYNONYMOUS WITH MACHINE GAMING

The Minister’s confirmation in her opening statement that: ‘*to get a balance between machine play and table play...*’ she is ‘*happy generally to review the issue of gaming machines provision in casinos*’ is very welcome. Currently less than 1.8% of all gaming machines in the UK are located in the most closely regulated and acknowledged safest places to gamble: casinos. We agree with the Minister that this is an issue that needs to be addressed.

However, in suggesting that allowing casinos to offer on-line devices ‘*risks creating a machine shed*’, the Minister implies that the government perceives internet gaming as entirely synonymous with a gaming machine. This is far from true.

From a direct player perspective, the on-line experience is quite different. Sites offer a much broader range of options than a gaming machine can offer. The operators’ experience indicates that the most popular aspect of the on-line sites they operate is on-line poker. The provision of remote gaming terminals would allow players to participate in poker, virtual table games as well as playing on virtual slot machines.

We accept that on-line gaming offers a wider range of stakes and prizes than is currently available on machines in casinos, but stakes and prizes on table games in casinos are not limited.

**If, through this legislation, the government is prepared to encourage further suppliers of on-line gaming into the UK market and to endorse high stakes gaming on-line except when it is supplied by licensed casino operators in a regulated environment, we have to question not the impact on the fundamental nature of British casinos but the fundamental coherence of British gambling policy.**

#### LEVELLING THE PLAYING FIELD

On a number of occasions during the 2<sup>nd</sup> reading of the Bill, the Minister made reference to her concerns to ‘*level the playing field*’ between companies licensed, operating and paying tax in the UK and those selling the products into the market from off-shore. We agree that is an entirely appropriate objective, but is a leveller only as far as it goes. The Bill does nothing to level the playing field between the UK land based industry, which is struggling to maintain a competitive position, with an on-line industry that employs fewer people, has a significantly lower cost and tax base and which enjoys a much more liberal regulatory regime, but which delivers many products for which the land—based industry has developed the market, eg table games.

The Bill will open the door to many more of the circa 2200 internet gaming companies from across the world—previously excluded by virtue of not being either EU or on the White List—and through the application of a UK licence, add a deserved degree of endorsement to the integrity of their products, giving consumers more confidence in companies they may have previously avoided. Meanwhile, UK companies remain excluded from offering our own products in our own premises.

In every other retail section of the market, a supplier is able to offer its goods and services on line or on the high street with equally effective controls. This highly regulated industry should be no different.

#### A TIGHTLY DRAWN AMENDMENT

The proposed NCF amendment does nothing to weaken the regulation of gambling.

The amendment seeks only to change regulations as they apply to a casino.

Proposed amendment to the Draft Gambling (Licensing and Advertising) Bill 2012	
Draft Gambling (Licensing & Advertising) Bill	
AMENDMENT	
After Clause 1, insert the following new Clause:	
<b>*[1A]</b>	<b>Facilities for remote gambling</b>
(1)	Section 235 of the Gambling Act 2005 (gaming machine) is amended as follows.
(2)	In subsection (2):
(a)	in paragraph (h)(ii), leave out "and", and
(b)	in paragraph (i)(iii), at the end insert: ", and a machine is not a gaming machine by reason only of the fact that it is remote gambling equipment (within the meaning of section 36) which is made available for use <b>in a casino</b> ."
<b>Explanatory note</b>	
This amendment clarifies that a remote gambling terminal provided <b>in a casino</b> is not a gaming machine.	

November 2013

### Written evidence submitted by the Sports Rights Owners Coalition (SROC) (GB 08)

#### SUBMISSION TO THE COMMITTEE STAGE OF THE GAMBLING (LICENSING AND ADVERTISING) BILL

##### INTRODUCTION AND THE IMPORTANCE OF SPORT HAVING LEGAL RELATIONSHIPS WITH BETTING TO PROTECT INTEGRITY AND SECURE A FAIR RETURN

1. SROC was established 8 years ago to bring together major international and national sporting organisations. Together it represents many of Europe's (and the world's) most popular sports and competitions. The purpose of SROC is to share ideas and information and present opinions and advice to national Governments, EU institutions and International Treaty Organisations. More information about SROC can be read at <http://sroc.info/>

2. SROC members seek proper recognition of the value of sport and effective protection for their rights. Our members collectively support the need for a closer relationship between governments, regulators, sporting organisations and betting operators in order to combat the integrity threat to their sports, posed by match fixing and betting syndicates, and are united in their support of the principle that sporting organisations deserve a fair return from betting operators, who benefit immensely from the sporting events organised by our members.

3. Members of SROC believe in strong and effective rights and that the income streams they create are vital for investment in sport at all levels: good quality stadia, youth development, elite standards, viewing experience, community and grassroots investment. SROC was established to promote and support the benefits that accrue to sports participants and sports fans. Free-riding of our sporting events undermines all of these things as can a lack of effective regulation.

4. The concept of a sports right in betting is not new in the UK. In fact this arrangement existed for many decades. Historically in the UK, the integrity of sport was upheld by the legal relationship that existed between sports bodies and betting operators under the UK's Copyright law. Under this arrangement a betting company could only take bets on a sport if it had the agreement of the sport whose content it uses to do so. This meant that the sport could impose through contractual arrangements processes for information sharing, integrity protections and the payment of fair return for the use of the product.

5. It was under this rights regime that the football authorities in the UK were for many decades able to prevent the betting operators from offering high risk bet types and could secure an income stream to invest in integrity measures and sport development. It was only in 2004 following the unexpected and unintended consequence of a European Court of Justice judgement into the 1996 Database Directive that sport was deemed

to no longer have Copyright over its content. It was at this point that sport in the UK, including horseracing, lost the legal ability to protect its integrity and earn a fair return.

6. SROC believes that Governments around the world should give sport the powers backed by statute to enter into legal relationships with betting operators. This way the sports themselves can decide on the appropriate level of risk to allow in betting on their sport and as in other areas such as ticketing, hospitality, sponsorship and broadcast rights, the two parties can agree on the respective value to each other in the market place.

The lack of statutory relationship between sports and betting operators has been criticised by several European Parliament reports over the last 4 years<sup>7</sup> (including one drafted this year by Ashley Fox Conservative MEP for the South West of England). The EP indeed considers that protecting sports competitions from any unauthorised commercial exploitation would also enable organisers to determine which aspects of the event may be the legitimate subject of betting and thus reduce the risk of match-fixing and fraud. Hence the recognition of sports competitions organisers' rights would not only be fair legally and economically but would also contribute to the fight to preserve the integrity of sport.

#### IMPORTANCE OF PROTECTING SPORT'S INTEGRITY—SROC SUPPORTS THE GAMBLING (ADVERTISING AND LICENSING) BILL AND CALLS FOR ITS STRENGTHENING

7. Sporting events derive their value from the premise that they are a fair competition played within the rules. Participants expect this of their opponents and the public who pay to watch sport certainly expect it. Promoting and upholding integrity is therefore one of the key functions that every member of SROC undertakes.

8. In recent years there has been a huge growth in betting on sports through many different platforms, but particularly on-line betting. SROC members are concerned at the threats to their integrity that can arise from gambling on their sport and the increasing allegations of match fixing and prevalence of gambling syndicates.

9. Match fixing undermines public confidence in a sporting competition which in turn can have the effect of wiping out the commercial and moral value that vests in that particular sport with drastic consequences for its ability to secure TV coverage, sponsorship, and growth in grassroots participation.

10. There are very few sports that have not had to deal with betting integrity and SROC welcomes the measures contained within this Bill which will strengthen the legislative framework for protecting sport from these threats. We also think that the Bill needs to go further to meet these objectives and that includes the following measures being introduced:

- Spread betting on sport being brought within the remit of the new Licensing regulations so that all forms of betting are regulated by Gambling Commission Licence Condition 15.1
- A specific offence of match-fixing to be included within the Bill that targets the actions of those who seek to corrupt matches. This would reflect recent advisory positions taken by the Independent DCMS Parry Integrity report and just recently in a report by the European Parliament.

#### EUROPEAN UNION POLICY-MAKING CALLS FOR MEMBER STATES TO ADDRESS SPORTS BETTING INTEGRITY AND MATCH FIXING THREATS

11. In November 2012 the Council of the European Union published their Presidency conclusions on establishing a strategy to combat the manipulation of sport results at an Education, Youth, Culture, and Sport Council meeting<sup>8</sup>.

12. The report cites the importance of all stakeholders being vigilant about the threats from match-fixing and stresses the important lead role that Member States, through subsidiarity, need to undertake.

13. As the UK has one of the largest and most liberalised betting markets in the world it is particularly important to make sure the framework here is effective both for protecting sport and also to act as an illustration to other National Governments of what needs to be achieved to help fight illegal activity and corruption in sports betting.

14. SROC believes that the introduction of this new legislation, which builds on the existing Gambling Commission framework and provisions of Licence Condition 15 will give the UK one of the EU's more effective regimes and this is to be welcomed.

#### THE BILL'S PROPOSALS

15. The main proposal in the draft Bill is that all Gambling activity taking place in the UK, through UK consumers, is regulated in the UK. This is an important principle that must be enacted so that all of the other laws and regulation the Government applies to betting activity through the Gambling Commission are upheld.

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<sup>7</sup> See Report on the White Paper on Sport (A6-0149/2008) M. Mavrommatis; Report on the integrity of online gambling (2008/2215) C. Schaldemose; Report on online gambling in the Internal Market (2011/2084) J. Creutzmann; Report on the European Dimension of Sport (2011/2087) S. Flsas; Report on Online gambling in the Internal Market (2012/2322) A. Fox.

<sup>8</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/educ/133873.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/educ/133873.pdf)

16. This includes the requirement for information sharing between sports bodies, the Gambling Commission and betting companies. Bringing forward this draft Bill means the UK Government is addressing the following important sport specific recommendation from the EU Presidency Conclusions:

*“As regards betting related match-fixing, ensure that national gambling regulators have the necessary expertise, resources and tools to deal with it and consider giving them a role as intermediaries between sports organisations and betting operators, eg in the collection of data about suspicious betting activities or patterns. In particular, ensure that gambling regulators, in cooperation with the sport movement identify sport-specific risks with regard to gambling”. (Recommendation 6, page 4)*

17. The Bill, when enacted, will ensure that every bet taken in the UK is subject to Licence condition 15 which makes statutory information sharing a part of the conditions for being a regulated betting operator. This is of vital importance. It is unacceptable that Sports bodies should have to rely on Memorandum of Understanding and the voluntary goodwill of betting operators just to receive information about betting on their sport.

18. SROC still seeks further reassurance and explanation from the Government and Gambling Commission as to how it will be able to enforce these new arrangements when the betting operator will still be located overseas. The Gambling Commission needs to introduce a fees regime for overseas licensing that allows it to uphold effective oversight.

19. SROC would of course be pleased to answer any further questions that the Committee might have and would request the opportunity to give evidence in person to the Committee should you decide to hold oral evidence sessions.

November 2013

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### Written evidence submitted by Campaign for Fairer Gambling (GB 09)

#### 1. SUMMARY REGARDING REMOTE GAMBLING ADVERTISING

2. It is the opinion of the Campaign for Fairer Gambling that the Gambling (Licensing and Advertising) Bill could be better drafted to ensure better compliance with the 2005 Gambling Act licensing objectives of “fair and open” gambling and the “prevention of harm to vulnerable persons” by placing greater control over advertising of offers, advertising in general and advertising through affiliates.

#### 3. BACKGROUND RELATED TO REMOTE GAMBLING ADVERTISING

4. Following thousands of conversations with attendees at the three major party political conferences there was a strong cross-party consensus that advertising of remote gambling was far too prominent on television.

5. Of an estimated worldwide market of around £21 billion remote gambling losses, nearly 10% of that, an estimated £2 billion, is lost by British gamblers. It is difficult to imagine that any other country has such a disproportionate share of remote gambling loss relative to its worldwide economic status [1].

6. Continued extensive and increasing operator spend on advertising is an indicator of an over-competitive, mature market. As some customers quit remote gambling due to dissatisfaction, changing circumstances or loss of available funds, operators seek to induce more new players and win back old customers. Operators buying gambling customer business ultimately leads to a race to the bottom. This is detrimental to gross margins and the reputation of the sector, as more vulnerable persons are drawn into remote gambling.

#### 7. ADVERTISING OF OFFERS

8. The standards applied to gambling advertising should exceed the standards applied to other forms of advertising as it should be in compliance with the “fair and open” licensing objective of the 2005 Gambling Act.

9. Compliance with the Advertising Standards Authority standards alone is inadequate. Bonus sign-ups, free offers and credits are all gambling offers which are virtually always accompanied by terms and conditions. These terms and conditions use turnover requirements to limit the ability of the consumer to withdraw funds.

10. These reduce the actual equity value of the offer considerably. For example, a £10 nominal value offer could be worth only £2 estimated equity after allowance for terms and conditions.

11. The consumer has no way of assessing the estimated equity value based on the terms and conditions. If these types of offers continue to be allowed then the extra controls should apply.

#### 12. RECOMMENDATION

13. The estimated equity value should be displayed alongside the nominal value with the same degree of prominence.

14. ADVERTISING IN GENERAL

15. Remote gambling offers attract novice gamblers, poorer gamblers and vulnerable at-risk gamblers.

16. In order to comply with the prevention of harm to young and vulnerable persons licensing objective of the 2005 Gambling Act, the Gambling Commission guidance on vulnerable persons to Police should be taken into account. This guidance, which identifies for regulatory purposes that vulnerable persons include:

*“people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”.*

17. To protect “persons who gamble beyond their means” and “persons who lose more than they can afford”, there should be far greater control over advertising.

18. RECOMMENDATION

19. All remote gambling to be advertised remotely only.

20. ADVERTISING THROUGH AFFILIATES

21. Some gambling offers are from affiliates associated with gambling sites. Customers at these affiliate sites can be steered to gambling sites without being informed that their losses could be shared with the affiliate site and that the affiliate share could be as high as 70% of losses.

22. This methodology should not be allowed as it is not in compliance with the “fair and open” objective.

23. RECOMMENDATION

24. If affiliate relationships continue to be allowed, then the common remote trade relationship of a minimal click-through fee should be applied.

25. SUMMARY REGARDING REMOTE LICENCING

26. Operators that transact business in countries where authorities say that activity is illegal are at risk of fines and bringing British licencing into disrepute. The culture of licensees should be of the highest integrity, rather than minimal compliance. With the pending change to point of consumption tax, there is no longer any justification for asserting that gambling is where the server is and not where the customer is located.

27. TRANSACTIONS BY JURISDICTION

28. Operators have used paid legal opinions to justify transacting with consumers in jurisdictions where the authorities have asserted that this activity was not permitted. Operators engaged in such transactions are in breach of the prevention of association of gambling with crime objective if the activity is illegal.

29. Operators engaged in such transactions are also in breach of the fair and open objective as gamblers in those jurisdictions are being induced into gambling with the operator without being informed by the operator that the activity may be illegal.

30. RECOMMENDATION

31. Operators should be required to obtain and maintain a list of permissions to transact remote gambling with consumers in all jurisdictions that operators transact in.

32. The reputation of the British licenced sector will be better protected and there will be less risk to the licencing objectives by implementation of this recommendation.

33. SUMMARY REGARDING LICENSING OF BETTING SHOPS

34. It is the opinion of the Campaign for Fairer Gambling that the Bill could be amended to ensure better compliance with the three licensing objectives, provide greater consumer protection and support localism in respect of betting shops.

35. The issues facing Local Authorities as a consequence of the 2005 Gambling Act (removal of use class, demand test and legitimisation of Fixed Odds Betting Terminals-FOBTs) have now culminated in a leading council voting unanimously to ban FOBTs and call on Government to give them greater powers to control betting shops [2]. This bill provides the opportunity to remedy these mistakes from the original Act.

36. BETTING SHOPS AND ECONOMIC IMPACT

37. The Treasury Green Book containing guidance for appraisal and evaluation in Government says “new policies, programmes and projects, whether revenue, capital or regulatory, should be subject to comprehensive but proportionate assessment.” [3]

38. This also requires policies to be assessed based on the economy as a whole; otherwise economic analysis is sector-serving [4]. Economic analysis to assess the impact of regulatory change applicable to FOBTs must consider “the wider effects on other areas of the economy”.

39. The submission by the Association of British Bookmakers (ABB) to the Department for Culture Media and Sport (DCMS) in response to the triennial review consultation was sector serving only. This ABB submission does not explain where the £1.5 billion per year revenue currently lost by gamblers on FOBTs has been diverted from, so it is unrealistic to rely on ABB representations as to where that revenue would be diverted to in event of regulatory restrictions on FOBTs.

40. The Campaign for Fairer Gambling’s submission to DCMS included a report by Howard Reed of Landman Economics [5]. This report assesses the impact of FOBT spend on the economy as a whole and asks “what is the change in economic activity if consumer expenditure shifts from other goods and services to FOBTs?”

41. The Landman report determined that “an increase of £1bn in consumer spending on FOBTs destroys just over 13,000 jobs in the wider consumer economy.” On current spend levels of £1.5 billion [5] 19,500 jobs could have been lost in the wider consumer economy. This is because FOBTs are a labour un-intensive form of consumer spending.

42. The projected growth in FOBT spending as shown page 12 table 2 [5] shows a projected future impact on jobs of up to 22,300 losses across the wider consumer economy.

43. The impact of the expansion of FOBTs in terms of reduced wage payments to people working in the local economies where FOBTs are established is to reduce the total wage bill in these areas by around £650 million by 2023/24. This is due to a combination of two factors:

- (a) the reduction in the total number of jobs supported by consumer spending as a result of switching spending from other goods and services into FOBTs, and;
- (b) the fact that jobs arising as a result of the expansion of FOBTs are relatively low-wage compared with jobs supported by other types of consumer spending.

44. Although the expansion in FOBTs over the period covered by the Triennial Review of Gaming Machine Stakes and Prizes is estimated to lead to increased revenue of around £80m, this is accompanied by a reduction in income tax and National Insurance Contribution revenue of around £50m and reduced VAT revenue of around £40m, meaning that total tax revenue decreases by £12m. By 2023/24, further expansion of FOBTs in line with current trends is projected to lead to a £50 million net loss for the Exchequer.

45. The Landman report [5] refers to the socio-economic costs of problem gambling related to FOBTs but does not quantify that, meaning that the total negative economic effect on local communities is far greater than identified in the report.

#### 46. BETTING SHOPS AND LOCALISM

47. Local authorities have a duty to work with police and the Gambling Commission in order to enforce the 2005 Gambling Act licensing objectives. In addition, they have duties to their communities to deliver public environments that have a positive social and economic impact.

48. Many local authorities chose not to apply for one of the special casino licenses of eight small and eight large casinos as were available under the 2005 Gambling Act. These same authorities are now faced with casino game content on FOBTs in easier access and less regulated betting shops, with far more gaming machines than the allocation of 80 or 150 slot machines allowed in such a casino.

49. However, Councils are inhibited by lack of powers, firstly, to maintain regulatory control over day to day compliance and enforcement of betting shop licences and secondly, to ensure a healthy mix of retail businesses in the communities they are responsible for.

50. This lack of control has resulted in numerous instances of Councils either legally challenging bookmakers, as with Newham Council [6], who tried to prevent the 82<sup>nd</sup> betting shop opening in their borough, or communities and councillors taking action aimed at sending a message to Government. FOBTs now account for over 50% of bookmakers’ profits and have therefore become their core business. This is certainly the case where betting shops have clustered to facilitate more FOBTs, as is the case on Green Street in Newham.

51. The London Borough of Barking and Dagenham recently completed a consultation on a draft Supplementary Planning Document and Article 4 Direction to withdraw permitted development rights for change of use of A3 (restaurants and cafes), A4 (drinking establishments) and A5 (hot food takeaways) to betting offices (class A2 use) in order to create or maintain mixed communities and to protect local amenity and the wellbeing of the area. However, due to the required notice period to avoid any cost impact, the bookmakers have subsequently applied to open shops before its introduction [7].

52. Fourteen councils led by the London Borough of Hackney are putting together a proposal under the Sustainable Communities Act for betting shops to have a separate and specific use class to ensure that every planning application will be subject to the local authority’s individual planning policy to allow local circumstances to be taken into account [8].

53. The London Borough of Lambeth is considering introducing a local a local by-law to reduce maximum stakes on FOBTs to £2 per spin and reduce the speed of play.

54. Adding to the argument that this is not just a London-centric debate, Highland Council in Scotland recently rejected a proposed William Hill betting shop in the most deprived area of their borough, opposite an addiction treatment centre [9]. This application added to the existing 13 betting shops already located in the area [10].

55. Liverpool Council unanimously passed a motion [11] calling for a ban on FOBTs and greater provision of powers for local authorities over betting shops.

56. In Sheffield, the increasing prevalence of betting shops led local MP Paul Blomfield to say “In the current economic climate we’re seeing too many shopping streets dominated by betting shops, payday lenders and pawn brokers.” [12]

57. In Leicester, the Deputy Mayor called for more localised powers to control betting shops [13].

58. Ealing and Acton MP Angie Bray, also currently has a poll running on her constituency website asking the question “are there too many betting shops on the high street and should local authorities have greater powers to limit the number?” So far the poll has attracted a “yes” response of 92% [14].

59. In Croydon, despite community opposition, another Paddy Power betting shop was allowed in March 2013 [15]

60. The Local Government Association (LGA), which represents the majority of councils in the UK, has itself put forward the case for more powers to be given to local authorities [16].

61. However, despite the groundswell of opinion on the issue, the responsible Minister at the Department for Communities and Local Government, Nick Boles MP, has indicated to bookmakers that he plans to make the opening of betting shops easier [17]. The Campaign for Fairer Gambling deplores any further relaxation of the powers available to Councillors in respect of betting shops and believe it is contradictory to the theme of government in promoting localism.

62. Medway Council has campaigned for a reduction in the maximum stake on FOBTs. This has led them to discussions with the Gambling Commission and the ABB about harm minimisation measures, which eventually led to a Responsible Gambling Code of Conduct.

63. However, Labour and Liberal Democrat Councillors do not believe the proposed measures go far enough [18] in terms of player protection, nor do they deal with the problem of clustering in deprived areas.

64. The landmark vote in Liverpool is set to be followed by other Councils across the country, including Manchester and Hackney. This localized action is becoming increasingly common in respect of betting shops and FOBTs.

65. THE “FAIR AND OPEN” LICENSING OBJECTIVE AND B2 MACHINES (FIXED ODDS BETTING TERMINALS).

66. One specific licensing objective is that gambling should be fair and open. In an advice to Police Services document by the Gambling Commission in 2009, the glossary of definitions for “fair and open” is defined as:

67. *“When the customer is given full information about the way in which the game is played (ie the rules of the game) or bet taken; about the odds of winning or losing in different scenarios; that changes to the rules or odds are fully flagged so that gamblers are not caught out”.*

68. A broad interpretation of this definition would mean that FOBT gamblers who do not know FOBT roulette is up to several times faster than the real casino table game of roulette and therefore results in several times greater losses on FOBTs, are being “caught out” and subsequently FOBTs are not “fair and open”.

69. A narrow interpretation of this definition is that if the game is played according to the rules and payback, then this is “fair and open”. Every lawyer will know that this interpretation is merely the minimum legal standard of the terms and conditions of the wager contract between the gambler and the operator. This would just make “fair and open” a tautology of legal and licensed gambling. Therefore this narrow interpretation cannot be correct as this cannot be an objective.

70. In respect of FOBTs there is no clear explanation that the 97.3% roulette payback is a percentage of the total amount staked. The bookmakers say that the total amount staked (the turnover) should not even be referred to for FOBTs (but use turnover to restrict the equity of their remote gambling offers).

71. The actual FOBT gambler experience is an average payback percentage of 82% of cash funds deposited. But this is on a per machine, single session, only basis. Re-using these funds after quitting, whether on the same machine, a different machine in the same shop, or in a different shop, results in an average payback experience of 82% of 82%. A third machine session results an average payback experience of 82% of 82% of 82% and so on.



72. The FOBT demographic includes an inexperienced novice gambler demographic. Many FOBT gamblers are immigrants or migrants who, in common with 18 year olds, have never had previous exposure to serious legal gambling.

73. Many of the first legal adult gambling experience of these people is placing a football bet in a betting shop, attracted by advertising probably funded by offshore remote entities. They are then introduced to FOBT gambling by the on-premises FOBT marketing of free plays and tournaments.

74. FOBT roulette at 180 spins per hour is 3.6 times faster than automated roulette in a casino at 50 spins per hour. Casinos also offer electronic roulette based on video terminals of the live roulette game at the same pace as the live game. Live game pace varies primarily according to table occupancy levels, but a reasonable average estimate could be on parity with automated roulette at 50 spins per hour. However, as more players participate, this slows the game down and the better average of a player experience is 45 spins per hour.

75. The theoretical roulette payback of 97.3% equates to a player loss of 2.7% per wager per spin. A casino table roulette player will lose an average 1.22 units per hour (unit being assumed as the same stake per spin). A B2 roulette player will lose an average 4.86 units per hour. Therefore FOBT roulette is not as fair as casino roulette in that FOBT roulette gamblers lose faster or more, or both.

76. In addition, the house advantage on casino roulette on the 1 to 1 payoffs is 1.35%, resulting in a 98.5% payback, so that equivalent FOBT bets are not as fair as casino bets.

77. There is no information provided to betting shop gamblers to advise them that the FOBT roulette gambler experience is very different to the casino roulette game.

78. This lack of transparency of the relative unfairness of FOBT roulette, considering the demographic of the betting shop gambler, is not compliant with a broad interpretation of the fair and open objective from a general consumer protection perspective

79. The vast majority of FOBT turnover is derived from roulette. B2/B3 machine data analysis submitted to DCMS by the Gambling Commission notes that 76% of 2012 revenue was achieved from B2 casino content.

80. Adrian Parkinson, Campaign for Fairer Gambling Consultant, who was in charge of FOBTs for the former state owned operator the Tote, has confirmed that over 90% of B2 revenue is derived from roulette. The 76% share for overall FOBT income has been reduced, not through activity, but a doubling of B3 stakes from £1 to £2 during the 2011/12 period [19]. Prior to this stake increase B2 revenue as a share of overall FOBT revenue would have been closer to 90%.

#### 81. THE PREVENTION OF ASSOCIATION WITH CRIME LICENSING OBJECTIVE AND B2 MACHINES (FOBTs)

82. According to the Gambling Commission, there were 8,599 customer incidents in betting shops requiring Police assistance last year [20].

83. Information from a Ladbrokes whistle-blower on the scale of criminal acts against FOBTs in betting shops shows that they experience around 30 incidents per week. With Ladbrokes operating a quarter of all UK betting shops it is not inconceivable that in excess of 100 machines per week are being attacked across all betting shops.

84. However, the level of reporting of this type of incident is being dumbed down by the industry through instructions to staff not to report to the Police [21]. This is having serious repercussions for betting shop workers and has led to calls for working conditions to be reviewed and, in particular, the now industry-wide policy of lone staffing to end [22].

85. There has been a history of use of proceeds of crime and money laundering on FOBTs as evidenced by dyed notes from armed robberies being detected as far back as 2003, which was confirmed by our Campaign Consultant, Adrian Parkinson.

86. In recent months, investigations carried out by the Police have been publicized, the largest of which involved Coral bookmakers allowing £900,000 to be laundered through their shops [25]. This was preceded by a gang in the Midlands laundering stolen cash through FOBTs in up to 40 betting shops [26].

87. In respect of the laundering of dyed notes through FOBTs; bookmakers record and report this information to the Police, but only as a matter of procedure in order to claim back losses from the Bank of England. This deters prevention, as no loss can be incurred so there is no incentive to prevent criminal activity taking place.

88. In the Coral money laundering case, which the Campaign believes to be the largest of its kind in the betting sector, £90,000 profit was made by the bookmaker from the perpetrator. Even worse, he was treated as a valuable customer and awarded a free VIP trip to the races.

89. FOBTs represent an anonymous, low cost way of cleaning cash from the proceeds of crime. That this issue has been hidden under the radar for 10 years is quite surprising, given that both the bookmakers and their FOBT suppliers, having instant access to data, which could easily be analysed to detect the indicators of money laundering.

90. The extremes and extent of money laundering activity on FOBTs in betting shops has been publicized by the Guardian recently following investigative work [25].

91. In addition to the uncovering of money laundering in betting shops via FOBTs, it should be noted that the industry trade body is lobbying to be excluded [26] from the EU 4th Money Laundering Directive [27] which would introduce identification procedures for customers spending over £1,700.

92. Current procedures do not enable any central collation of information or dissemination of information to police or local authorities in respect of any of dyed notes transactions, machine damage and money laundering data indicators.

93. THE PREVENTION OF “HARM TO YOUNG” LICENSING OBJECTIVE AND B2s (FOBTs)

94. In an advice to Police Services document by the Gambling Commission in 2009, children are identified as being under the age of 16 and young persons as being under 18, as per the 2005 Gambling Act.

95. The licensing objective is: *“protecting children and other vulnerable persons from being harmed or exploited by gambling.”*

96. It is very important to understand that the licensing objective of protecting children and the young does not apply to legal gambling catering to persons 18 or over. Unless 18 to 24 year olds are formally recognised as a vulnerable group, then persons in this age group are no more protected than over-25s.

97. The Police Services document has three definitions of vulnerable persons being:

98. *“people who may not be able to make informed decisions about gambling due to a mental impairment, alcohol or drugs”;*

99. *“people who gamble more than they want to”* and;

100. *“people who gamble beyond their means”*

101. The British Gambling Prevalence Surveys (BGPS) between 2007 and 2010 showed that for regular players of FOBTs the problem gambling rate was 13.3%—one of the highest rates.

102. The same surveys also highlighted that the greatest increase in play on FOBTs was among men aged 16–24 [28].

103. The Gambling Commission used to publish their underage test purchasing results, but when they came in for criticism from the bookmakers after the first round in 2009 showed 98% and 35% failure rates, they suddenly stopped [29]. So now the public does not know whether the bookmakers are any better or worse in preventing underage gambling.

104. Newham Council carried out its own test purchasing and found a William Hill shop allowed a 15 year old girl onto the premises and allowed her to play a FOBT. The limited powers available to the Council in order to act resulted in minor conditions being imposed on the operator, William Hill [30].

105. The revised method of allowing bookmakers to test internally, through third parties, without publishing the results will not satisfy public concern. Independent testers will not duplicate a typical situation where an underage gambler first gambles in a betting shop, by entering with over 18 year-old associates who are already regular gamblers. It is also questionable that internal checks would not be notified to shops in advance, therefore ensuring compliance.

106. All profits retained by bookmakers from underage gamblers have been obtained illegally and there is no record of any bookmaker losing a premise licence for accepting underage losses or having to pay back losses to underage gamblers, or of any financial penalties being imposed on them.

107. Campaign Consultant Matt Zarb-Cousin, a reformed FOBT addict, has given his personal story and view on why measures proposed by the industry to protect the vulnerable and help toward socially responsible gambling are likely to be ineffective [Appendix 1].

108. Polling on gamblers in Newham, carried out by 2CV, showed that three quarters of those aged 18–24 play FOBTs when in a betting shop. The same polling showed 87% of betting shop customers viewed FOBTs as addictive [31].

109. Professor John Grant has published research [32] showing that up until the age of 24 our brains are still developing, and one of the last brain functions to fully develop is the ability to assess risk. So we are allowing those with the least awareness of risk-reward functionality to take part in the most high-risk, high-stake electronic gaming in easily accessible locations.

110. The Daily Mail recently published this article noting the new awareness that full development of the brain functions is not complete until over the age of 24 [33].

111. In all likelihood, there will be one member of betting shop staff monitoring this and providing customer interaction as suggested by the new Code for Responsible Gambling.

112. The prevention of “harm to vulnerable” licencing objective and B2s (FOBTs)

113. The advice to Police Services document outlined above has three definitions of vulnerable persons, these being:

*“people who may not be able to make informed decisions about gambling due to a mental impairment, alcohol or drugs”;*

*“people who gamble more than they want to”* and;

*“people who gamble beyond their means”*

114. Poorer persons are more vulnerable to becoming problem gamblers as was noted by the most recent Scottish Health Survey [34]; gamblers from poorer areas are seven times more likely to be problem gamblers than gamblers from wealthier areas.

115. The concentration of Licensed Betting Offices on primary high streets has aroused the concern of local authorities and their communities. As Harriet Harman’s “The Problem of Betting Shops Blighting High Streets and Communities in Low-Income Areas” report outlines:

*116. “snapshot of local authority areas shows that an unintended consequence of the Gambling Act 2005 has been a dramatic proliferation of betting shops in deprived areas and a clear clustering of these shops in high street locations in these areas.”* [35]

117. In 2009, the Gambling Commission published the “Role of Social Factors in Gambling” and section 2.7 gives reference to earlier research in the USA and Australia showing causal links with area deprivation, electronic gaming and problem gambling [36].

118. As noted previously, another vulnerable FOBT demographic is the 18 to 24 age group. Many in this age group are not in full-time work. Those in work are often part-time, temporary or on zero hours contracts. Many of course are unemployed or students with debts.

119. The BGPS 2010 clearly shows how dominant the poorer demographic is in FOBT gambling, compared to other gambling activities.

120.

<i>Table</i>	<i>Category</i>	<i>Group</i>	<i>Group %</i>	<i>All %</i>	<i>Ratio</i>	<i>Rank</i>
3.1	Age	16–24	12	4	3.00 to 1	Joint highest
3.6	Employment	Unemployed	12	4	3.00 to 1	Second highest
3.7	Income	Lowest Quintile	7	4	1.75 to 1	Highest

121. The 2CV polling of betting shop customers in Newham showed that those aged 18–34 and in the DE groupings are more likely to only play casino games on FOBT [31]. 87% of FOBT users agreed the machines were addictive.

122. Whilst BGPS and the Scottish Health Survey will tick the boxes in terms of getting the overall demographics representatively, it will not adequately encompass FOBT gamblers. The methodologies used of landline telephone contact or head of household contact will exclude many young adults, persons with limited command of the English language, persons in accommodation in student halls, half-way houses and institutions. Certain types of tenants would be excluded as would homeless persons. Therefore all BGPS estimates and statistics must be understood to be under-evaluations of FOBT problem gambling.

123. Furthermore, the representation that problem gamblers are less than 1% is a fallacy. Survey questions relate to the year of survey activity. As some persons can drift in and out of problem gambling, the percentage of persons who experience problem gambling at some stage of their lives could easily be as high as in the 10% range. It will take another 40 years before the impact of problem gambling as a result of FOBTs and remote gambling can be fully assessed.

124. Analysis of GamCare data for the year 2011/12 identifies that 40% of gambling activities referenced on problem gambler calls relate to FOBTs [37]. In the same report 66% of all callers are under the age of 35 whilst 33% of all callers under the age of 25.

125. The two most prominent gambling locations for problem gambling activity calls to Gamcare are betting shops (46%) and internet (34%). These statistics show post 2007, the 2005 Gambling Act has failed to deliver the licensing objective in respect of the vulnerable.

126. Doctor Henrietta Bowden-Jones, who runs the UK’s only NHS problem gambling clinic, has carried out studies on the relationship between problem gambling and crime; this showed that 86% of problem gambling respondents had carried out illegal acts to fund their gambling [38]. Half of the clinic’s patients named FOBTs as a problem [39].

127. The volume of gambler losses on FOBTs at over £ 1.5 billion per year is nearly twice that of casino gambling at over £800 million per year. This has happened in only 10 years. Casino content is the core product in a casino, whilst FOBTs are ancillary to the core business of over the counter betting.

128. It is logical to understand that that the only explanation for this disparity is that FOBT gambling is too easily accessible to an addiction-prone demographic, attracted by the addictive FOBT features.

129. The social cost of problem gambling can result in multiple local services being utilised at a cost to the local community. Some problem demographics are likely to have a higher social cost than others. The highest social cost of gambling addiction is likely to be realised by poorer young males in the 18 to 24 age group, exactly the FOBT demographic.

#### 130. OVERALL RECOMMENDATIONS

131. The following points where applicable and appropriate should be incorporated into the Bill by amendment:

- (a) Removal of the “aim to permit” clause for betting shops
- (b) Removal of casino table game content from B2s
- (c) Requirement for no lone staffing of betting shops with B2s
- (d) Requirement for stricter thresholds for possible suspicious activity on B2s
- (e) Removal of free plays, credits or demo plays from B2s
- (f) Requirement for hours of opening to be restricted to a relationship with live British racing
- (g) Local and centrally collated reporting with access by local authority and police of each of:
  - (h) All property damage in shops
  - (i) All dyed notes through B2s
  - (j) All acts and threats of violence to staff
  - (k) All suspicious over threshold activity on B2s
  - (l) Police and local authority on demand access to B2 data on shop by shop basis

132. In the event that a recommendation is not incorporated into the Bill, then the power to implement and enforce the recommendation, without fear of legal action by bookmakers, should be devolved to local authorities.

133. In the event that a recommendation is neither incorporated into the Bill nor devolved to local authorities then it should be adapted into the Gambling Commission Licensing Conditions and Codes of Practice.

134. DCMS should advise the Gambling Commission that there must be far greater emphasis placed on delivering the licensing objectives rather than delivering the failed light touch regulation.

#### 135. CONCLUSION

136. The recommendations made within this submission are designed to help achieve the licensing objectives, protect consumers and create a more responsible and viable sector. These recommendations are therefore in the interests of government to implement.

*November 2013*

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## APPENDIX 1

### A. Addiction to FOBTs, problem gambling and the bookmakers Code of Conduct—An anecdotal observation and personal account from Campaign Consultant and reformed FOBT addict, Matt Zarb-Cousin

B. “My scepticism of the Association of British Bookmakers’ Code for Responsible Gambling is not derived solely from evidence that illustrates why problem gamblers are an important source of profit to them. My own experiences inform my perspective on how problem gamblers behave, their psychology and ultimately,

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what causes problem gambling or—at the very least—exacerbates any predisposition, either genetic or environmental.

C. With this perspective, I can confidently assert that the newly introduced Code of Conduct will do nothing to prevent problem gambling. It is not for me to speculate on the motives behind producing a vacuous Code, however I do think it important to view its inevitable ineffectiveness in the context of the proportion of profits derived from problem gamblers.

D. A secondary analysis of the most recent British Gambling Prevalence Survey in 2010, carried out by Professor Jim Orford, found that 23% of the profits from Fixed Odds Betting Terminals—or FOBTs—come from people with gambling problems. If those considered “at risk” are factored in, that figure is as high as 41% [1]. Professor Orford has said himself: “The idea that the gambling industry will impose some kind of self-regulation is absurd. They’d be undermining some of their most loyal customers.” [2]

E. I first entered a betting shop just before I turned 16. It was to put a bet on Arsenal vs. Manchester United at Highbury. I remember putting £5 on Henry scoring 1–0 and £2 in what was often referred to as the “roulette machine”, which I had noticed as I walked in. On my first go, I got up to £10 placing £1 bets on red or black and cashed out.

F. As I sat through the Arsenal match, the difference between gambling on FOBTs and betting on the football was easily discernible, and significant. It took me 90 minutes to find out that I had lost my football bet whereas, on FOBTs, it takes the player 20 seconds.

G. The speed of play, the ability to control when the event takes place, the solitary nature of machine gambling, the sounds, the lights, the graphics and the interface all contribute to the addictive nature of FOBTs. Casino table games are known to be more dangerous than other forms of gambling, which is why they had always been permitted only in a highly regulated casino environment. It is illogical, in the interests of player protection—which the 2005 Gambling Act states is one of its objectives—to take those already addictive games, speed them up and place them on every high street.

H. On the high street, these games become accessible to a much poorer and also—crucially in terms of problem gambling—younger demographic. My first experience of FOBTs was just before I turned 16, and this experience is not irregular. The propensity for underage people to gamble in betting shops is corroborated by both the Gambling Commission test purchases in 2009, which showed a 98% failure rate for age verification [3], and a recent story that appeared in the Guardian newspaper that highlighted the extent to which Ladbrokes went to conceal children gambling in their shops [4].

I. This is an issue of particular concern as Professor John E. Grant has stated that young people are more likely to develop a problem with gambling [5].

J. My wagers on FOBTs started low, but progressed slowly. I won a significant amount—around £700—within my first weeks of playing. However, that was lost very soon after. By this point I was developing a problem with gambling, but did not care to admit that to myself.

K. Before I turned 17, I had a part-time job whilst in sixth form that paid me around £700 a month, however by this point I was betting £30 to £40 per spin, which was more than I made in a shift.

L. By 18 I had developed a severe problem, often missing sixth form to go and gamble in the bookies. I had achieved grades A,B,B at AS Level and it was thought that I had underachieved. Having secured an offer from UCL, I needed to match the grades at A2, but ended up with BCC. Despite the offer being ABB, my second choice university nevertheless accepted my application, so I went to Birmingham.

M. I cannot equate the adrenaline rush and the feeling of total escapism that one feels when engaged with a FOBT. It is nothing like anything that I have otherwise experienced. I once waited an hour outside for the bookies to open and didn’t even buy myself a drink from a nearby coffee shop because I would rather have waited and instead gambled that money.

N. On another occasion, whilst living in Birmingham, I went into the William Hill situated near campus on my way to a 9am lecture and ended up staying in there until I had gambled all of the money I could get my hands on. Aware, by this point, that I had a problem with gambling, I had cut the debit card that my student loan was paid into, and had access to only a current account which had a direct debit from the account the student loan was paid into, so just enough was in my current account each week to cover my living expenses.

O. I very quickly lost all of the money in my current account, and felt I had to win it back, otherwise I would be behind. So I walked to a branch of my bank on campus, produced ID and withdrew £250. I thought I would give myself a large enough bankroll to win back what I had lost and then I would cash out. After a few hours of being up and then down, I eventually lost that £250 before making another trip to the bank. This time, £400 down, I decided to withdraw £500. My first spin was £100, and gambled until the £500 was gone before making another trip to the bank and withdrawing £600. I continued gambling like this until it was around 6pm and I had lost £2500. I had not eaten or had a drink all day, and powered only by the adrenaline surging around my body I had decided the only responsible thing I could do in this situation was self-exclude.

P. The numbers I used to bet were always the same: 0, 1, 2, 3, 4, 5, 17, 21, 25, 26, 29, 32. My average hit frequency would therefore be just over one in three, but I had the maximum amount you can bet on a single

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number on number 2. Whilst gambling, the fabrication of ideals drives the desire to press repeat bet. In reality, walking out a winner becomes less likely as play continues, but a problem gambler will tell oneself that the number that will win it all back is coming next, and it is the speed of play on FOBTs that feeds into such a fallacy. A problem gambler will do their utmost to rationalise the irrational continuation of their gambling as they are feeding an addiction. When all the money has gone, they do not think that they should no longer gamble, but that they were unlucky and that next time they will win. “If only 2 came in a few more times, it was often so close,” is what I remember saying to myself as I walked out of William Hill that afternoon.

Q. Despite self-excluding, and adhering fully to the protocol of handing in passport photos, I was allowed to gamble in the same William Hill shop soon after and, unsurprisingly, my financial situation quickly deteriorated to such an extent that I had effectively gambled all the money I had, and all the money I could borrow. By this point I was suicidal and needed serious help, as I feared I may not be able to continue at university and had, through addiction to FOBTs, effectively thrown my life away. I had lost my girlfriend, my friends, my personality had changed—everything became insignificant compared to FOBTs.

R. Having tried GamCare and Gamblers’ Anonymous and not found them particularly helpful, I was sceptical about the effectiveness of any treatment. At the insistence and with the help of my parents, I was fortunate enough to receive cognitive behavioural therapy privately, which did not cure me but it did help considerably. Sixth months later, a day before I turned 20, I gave up gambling.

S. There is only one NHS Clinic for Problem Gambling in the country, which offers the best treatment for problem gamblers. Over half of the first 100 patients at the clinic had a problem with gambling derived from FOBTs. It is clear that what is causing people to develop problems with gambling is FOBTs, so a Code of Conduct will not help problem gamblers if it does not include restrictions on stakes or content.

T. Having experienced addiction to FOBTs, I feel able to critically assess the Code of Conduct that has been co-ordinated by the Association of British Bookmakers, and which claims to contribute to harm minimisation [6]. The first player protection measure in the Code is a voluntary monetary limit. Those who have or are at risk of developing a problem with gambling do not set out to lose, and are often convinced they are going to win. To justify gambling, it is not uncommon to convince oneself that winning next time is a certainty. If a player has to set a loss limit, they are a developing a problem associated with the product and should not play it at all, although it does not state in the Code that staff will recommend self-exclusion to the customer once such an alert flashes up.

U. For a problem gambler, voluntary monetary limits—if they are used at all—will merely serve as a reminder of how much they are down and therefore how much they need to win back. The only monetary limit that might have an impact is compulsory pre-commitment, which would take into consideration the addictive nature of FOBTs and require every player to state how much they are prepared to lose before they start playing. This would have to be implemented across the industry as a whole, possibly through a uniform opt-in membership card. Similarly, voluntary time limits would have a negligible impact and are not likely to be utilised by problem gamblers.

V. These solutions betray a lack of understanding of the addiction. Problem gamblers spend too much time and money gambling because they are addicted to gambling. They are conscious of the time, and of the money they have lost or are winning, but make split second decisions each time they hit “repeat bet” to carry on gambling. The nature of the addiction is not that it removes a person’s consciousness, as the Code’s solutions appear to imply. It is not a solution to suggest that problem gamblers must be woken up by staff and told to snap out of it. The addiction is powerful and physiologically similar to drug addiction.

W. A problem gambler is therefore unlikely to enlist voluntary limits, and will override any mandatory money or time-based reminders. Even if the reminders were to have an impact, setting a reminder when a player has lost £250 is far too much for the demographic that tends to gamble on FOBTs. Once that reminder has come up the money has already been lost, and—if they cannot afford to lose that amount of money—the person has already started to develop a problem with gambling. A mandatory time-based reminder is unusual when some might wish to gamble all day, and some for five minutes.

X. It is those for gamble for longer than they planned that are developing the problem. If someone plans to gamble for an hour, they do not need a reminder at 30 minutes. But again, if someone plans to gamble for five minutes, then by the time the 30 minute reminder has come up they have already started to show signs of developing a problem. This does not stop the product being addictive, and whilst the Code states these reminders will present “opportunities for customer interaction”, it does not say that is necessarily going to happen every time.

Y. With many bookmakers now opting for a single member of staff, it is unlikely many shops will have the capacity to ensure those that are clearly experiencing problems engage with a member of staff. If staff do manage to engage with them, they are not trained counsellors, nor would they be able to convince an addict to stop gambling. Equally, an addict does not make rational decisions, and so they cannot be “forced to make individual decisions about each £20 denomination to be used as stakes.” It is not possible to “force” a problem gambler to make “a number of conscious decisions”, and gaming machines are designed to distort cognitive function.

Z. The player protection measures proposed in the Code of Conduct will not make FOBTs less addictive, only remind people that they are already addicted. Like telling someone they have had 20 cigarettes today, they only describe rather than prescribe the addiction. The only meaningful solution is to stop people becoming addicts in the first place. This would entail the betting industry acknowledging that FOBTs are an addictive product, and that problem gambling can be induced or exacerbated by a certain features that are prevalent on FOBTs. A stake reduction to £2 per spin, to bring FOBTs into line with all other Category B gaming machines in Britain, and/or removal of casino game content would ensure improved prevention of harm.”

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#### Written evidence submitted by Mike Winney (GB 10)

Summary: To ensure that the benefits of the Bill are achieved the Gambling Commission should consult upon centralised self exclusion and vertical self exclusion as soon as possible.

I have entered into a dialogue with the Gambling Commission and the Department regarding the way that this Bill for the first time makes a centralised self exclusion database feasible. It also introduces the option to consider so called “vertical” self exclusion.

The department has said

“The proposed changes in online gambling regulation through The Gambling (Licensing & Advertising) Bill would make a centralised self-exclusion scheme in Great Britain feasible in a way it is not at the moment as the requirement to offer self-exclusion will apply to all customers of Gambling Commission licensees. While there remain considerable practical and data protection issues to consider before a common self-exclusion data base could be set up, the Government has made clear that it expects the industry to make progress in overcoming these challenges.”

Unfortunately this “feasibility” is not being followed through upon. The Gambling Commission consultation on the Licence Conditions and Code of Practice (LCCP) asks no questions regarding self exclusion. I would ask that the committee recommend that a consultation on centralised and vertical self exclusion takes place as soon as practicable.

This Bill opens up the opportunity to have self exclusion requested at one site extended to all UK providers within a single request if that person wants this. Details of the person requesting self exclusion could easily be shared with all other UK licensed providers via a central information system/provider.

There are data protection issues, especially as this is a sensitive health (addiction) matter, but the self excluder can be asked for permission for their data to be shared and the Data Protection Act covers such sensitive data well.

There are also cost issues. Someone would have to pay for centralised self exclusion, and consultation on these costs would be required, but the obvious answer is that all UK license holders should share this cost, just as they share the cost of regulation. The way costs are allocated/shared fairly would need to be consulted upon but there is still time for this to occur before the new legislation comes into force.

The centralised self exclusion also offers for the first time a practicable way to offer so called “vertical” self exclusion. This form of self exclusion is about allowing people to exclude themselves from specific types of gambling. For example someone who has issues with managing their slot machine use but has no problem managing their betting on sports might choose to self exclude from all slot type games but not sports bookmaking products.

This vertical self exclusion is a complex issue. Some believe that Problem Gambling is best tackled by stopping all forms of gambling. Vertical self exclusion is unlikely to appeal to such people, most prominent of which in terms of organisations is Gamblers Anonymous. For me though it has potential advantages as it might help some choose self exclusion who would otherwise not. One group might be professional poker players who want to continue to be able to play poker but exclude themselves from all other forms of gambling. Another group might be those who want to self exclude but wish to be able to continue with the lottery online as they



run their workplace lottery syndicate or place their partner's weekly lottery bet. Being able to self exclude but without excluding access to the lottery may help such people maintain confidentiality about their self exclusion.

Consultation upon vertical self exclusion would be a bit more complicated than that for central self exclusion for all UK Remote Operators (adding options regarding vertical self exclusion has disadvantages such as confusion and complexity as well as potential benefits) but the new licensing arrangements make vertical self exclusion possible for the first time and the option should be explored prior to implementation of the new licensing arrangements.

New Jersey has recently announced that they will implement a centralised self exclusion database for their licenced online providers. If New Jersey can do this why should UK consumers not have the same protection?

Centralised self exclusion would be a huge benefit of this Bill. When faced with allegations by MPs such as Phillip Davies and the Gibraltar based RGA that the bill does not improve consumer protection facilitating centralised self exclusion is the obvious riposte. I would also like to highlight that the current LCCP conditions require that remote operators providing slot style games reveal to the consumer the Return To Player (RTP) of that game to the consumer. Gibraltar and other regulators do not have this requirement and so games are routinely offered where the player has no indication of how likely they are to win or what the house "edge" is. This is also a significant additional consumer protection that has not been commented upon when it is in fact of significance.

The departmental response raised concerns about the impact of centralised self exclusion in the remote sector upon non remote operators such as bookmakers who via a quirk in the regulations also have a remote gambling licence for machine gambling. In my view this is not a barrier to centralised self exclusion it is a potential additional advantage of such a system.

There are various options for non remote operators with regard to FOBTs and other remote gambling offers within a non remote operation. The new ABB social protection policy makes clear that they considered the use of loyalty card technology but had one large retail chain that did not have the suitable technology yet. The options are

1. To provide remote gambling from non remote premises an exemption from centralised self exclusion for cash placed bets.
2. Make a requirement for FOBTs that debit card transactions to credit the machines be included within the self exclusion regime but not cash transactions.
3. Make the requirement for FOBTs that debit card transactions to credit the machines be included within the self exclusion regime but not cash transactions but set a sensible deadline for loyalty card based self exclusion to be implemented (2–3 years would allow the firms time to deal with the technology change).
4. Require remote gambling offerings in non remote premises to meet the centralised self exclusion requirements.

Again this is an area that should be consulted upon now prior to the introduction of the new licensing regime.

I hope that you find this input helpful. Whilst I strongly believe that centralised self exclusion is an important area that can benefit consumers and I agree that the "playing safe" agenda evidenced to the committee shows the complexity of this area this just demonstrates that the Gambling Commission should consult on this complex area as soon as possible.

*November 2013*

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#### **Written evidence submitted by Phill Brear, Gambling Commissioner, Gibraltar (GB 11)**

1. **Synopsis:** The Bill fails to recognise the global, fluid and at times injurious nature of elements of the remote gambling industry, and its customers, most of which have been stabilised and successfully regulated in the UK in the last 6 years. The Bill knowingly destabilises the industry, incentivises and permits it to relocate around the world, exposes UK businesses to much lower cost competition, whilst HMT is charged with imposing a new duty.
2. The author is the principal advisor to the Gibraltar Government on gambling matters and the regulator for the gambling industry established in Gibraltar. I was formerly Director of Operations and deputy to the Chief Executive of the UK Gambling Commission. I have previously advised the CMS Select Committee on the current emerging legislation. I welcome the opportunity to provide further comments to the Bill Scrutiny Committee.
3. Since the Bill was published in December 2012 my concerns about the consumer impact of the legislation have been amplified. The Bill made apparent that new UK licence holders will be able to locate their staff, management and IT anywhere in the world the Gambling Commission cannot substantively object to under the provisions of the Gambling Act.

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4. This approach, known colloquially as ‘brass plating’ or ‘hollowing out’, will be taken up vigorously by the majority of UK licence holders, as facilities relocated to low cost jurisdictions will reduce operating costs and defray cost increases arising from the new licensing and tax arrangements. This practice is already evident within the UK based industry with ‘UK jobs’ already being relocated elsewhere and far beyond the EU.

5. ‘Brass plating’ is the opposite approach to that being taken by every other credible remote gambling licensing jurisdiction in the EU, the US and elsewhere. It is also the model directly associated with the published and unpublished regulatory and licensing failures in the White List jurisdictions, as allows the operator to practically detach itself from the regulator and creates a legal barrier (or series of barriers) if and when the regulator and operator come into conflict.

6. Brass plating also allows ‘parallel’ services and technologies to exist under one licence, not all visible to the regulator. These outcomes are amongst the known and on-going experiences of white listed jurisdictions, with various white list ‘brass plate’ operators currently under criminal investigation and/or using the jurisdiction as a ‘flag of convenience’. Note that such white list operators are to be ‘fast tracked’ on to UK licences under current proposals.

7. The most credible and now commonly applied model of remote gambling licensing and regulation requires the operator to establish substantial and proportionate levels of staff, management and IT within the licensing jurisdiction, or within a formally recognised jurisdiction. This arrangement facilitates close, direct and legally sustainable regulation of an otherwise intangible service. The Bill rejects this model and creates instead a globally based UK licensing regime.

8. The Gambling Act provides very limited powers for the Gambling Commission to define where an operator may locate its operations. Nothing in the Bill or LCCP consultation document (see p.31) indicates it intends to change this practice, but the opposite, ie once an operator has approval to locate technology in a jurisdiction, it may relocate it anywhere within that jurisdiction (eg Texas, Australia, Russia, Bulgaria). The same principles appear to apply to staff and management.

9. The Bill still requires foreign operators based in foreign jurisdictions (eg Philippines/Caribbean), usually communicating in a foreign language (eg Mandarin/Spanish), to obtain a UK licence, due to their Chinese/Spanish speaking customers resident in the UK. Remote gambling is a very common practice amongst high value ethnic groups. The grounds to deny such a licence will be very limited because the operator is already licensed, and its licensing authority (eg Cagayan Corporation/Costa Rica Authority) will support its UK application and hold or provide no evidence of misconduct to the Gambling Commission.

10. Such foreign operators may subsequently abandon their Cagayan/Costa Rica licence and operate around the globe as a UK licence holder, entirely based within the Philippines/Caribbean etc. This scenario can be multiplied over very many times for numerous Asian, Caribbean and Eastern European operators and jurisdictions, with, and even without customers in the UK. Such operators will be keen to acquire a ‘UK licence’. The UK licence offers to be a ‘global licence’, a hollow, if not ‘brass plate’ licence, allowing dispersed infrastructure and the unique economic advantage of foreign bets being ‘tax free’.

11. We note that the UK Government and Gambling Commission continues to propose to ‘fast track’ or ‘grand-father’ licensees engaged in disreputable or allegedly corrupt practices, but based in White List jurisdictions. This approach is an illustration of the lack of investigation and planning we have warned against. A substantial proportion of the customer facing licensees of white list jurisdictions have been or remain under criminal investigation and/or suspension since Minister Penrose announced they would be fast tracked; others are operating ‘parallel’ IT systems beyond their regulator’s vision or reach.

12. Further illustration of the lack of coherence of the new arrangements is the current Gambling Commission LCCP consultation document (p.28) which indicates that it DOES NOT want to be advised of suspicious betting incidents which may amount to cheating and the corruption of events if the bets involve only foreign customers and foreign events. Thus, suspicious betting on incidents in the Ashes Tour, by ‘Indian bookies’ through a non UK located but UK licence holders, are not regarded as within the Gambling Commission’s priorities. While this may not be the intention of the LCCP document, the statement begs the questions whether the Gambling Commission does support the fight against corruption in international sport and to who its global licensees will report such events.

13. Section 15.1 reporting has already been substantially misreported and exaggerated to the Committee and the CMS Committee. I have previously set out the very small number of valid reports generated in the reporting cycle, and the very small proportion found to be of any substance by the Gambling Commission. At present the overwhelming majority of 15.1 reports submitted to the Gambling Commission arise from Betfair, which is a Gibraltar licensee, though it operated under a UK licence until 2011. We have repeatedly sought to identify parallel bets to those placed with Betfair amongst our conventional bookmakers. We invariably find these accounts and bets simply did not exist outside the exchange market. We do not accept there is substantial under-reporting of material betting concerns.

14. Whilst it may appear implausible to uninformed observers that the weight of suspicious betting is being undertaken through one operator, it is universally recognised that only one sport produces the vast majority of UK based corrupt betting, and the preferred vehicle of those involved is betting exchanges (followed by on-course or shop betting). Gibraltar (and UK) fixed odds remote bookmakers produce relatively few suspicious

UK betting reports because they have to bear the risk of any such bets taken, therefore they are especially careful to avoid such bets being offered or placed.

15. Notwithstanding other concerns, the Bill will lead to a proliferation of new UK licences and UK advertising. There are already over 100 remote licence holders in the UK contributing substantially (25%) to the Commission's budget. Many offer poorly structured and presented products with weak and deficient sites and technology. As in any market, proliferation of supply will drive down operating and advertising standards, may overwhelm the regulators and will dilute consumer protection.

16. Total regulatory costs for the 28 licence holders in Gibraltar are around £.5m per annum. We expect some of the individual major operators will pay close to this sum to the Gambling Commission. The Commission and DCMS have estimated between 75 and 100 new licences will be applied for. The increase in regulatory costs for operators is between 10 and 20 fold.

17. The suppliers could have been left in situ and made subjected to gaming duties. The Bill unnecessarily destabilises and disperses a relatively safe, secure and well defined industry of fewer than 20 operators in only 4 jurisdictions supplying over 95% of the UK market. Having destabilised and dispersed the supply chain across the globe, HMRC is then expected to define it, monitor it and efficiently recover gaming duty from it.

18. Very few jobs will be relocated back to the UK. There are no more than 2000 jobs associated with the UK facing industry. It will be more cost effective, competitive, and entirely permissible, for new licence holders to relocate existing jobs and technology out of the UK (or Gibraltar) to low-cost jurisdictions, thereby off-setting new operating costs .

19. Whilst the industry is not perfect, Gibraltar has demonstrated that it neither displays nor permits the regulatory deficiencies used as arguments to support the Bill, namely weak regulatory controls, inadequate information sharing, poor player protections, poor technical standards or refused data disclosures. No other jurisdiction meets our standards.

20. Remote gaming consumption in the UK is not growing. Gambling Commission surveys and industry published results show virtually no growth in the UK market, with some products in steep decline. In any one year, between 6 and 8% of UK adults use remote gaming services outside the National Lottery. Given the growth in the ownership of smartphones and tablet computers the industry is falling far behind other technology dependent sectors.

21. Some of the most high profile financial failures of UK sports players have centred on the use of spread betting. This form of betting attracts high risk, high value and 'better informed' customers, offering open ended winnings and losses. It is a service overdue closer regulation. Spread betting in Gibraltar is regulated the same as all sports betting.

22. Gibraltar has offered at the European Parliament to pilot a collective self-exclusion programme (one-stop-shop). Such a scheme is faced with very considerable technical and legal difficulties, including abuse and mis-information by players, as well as multi-jurisdictional data protection laws and protocols. The more jurisdictions involved, the more difficult it becomes to develop the system. Our efforts to influence the EU agenda have not been supported by the Gambling Commission or DCMS, but the opposite.

23. A very strong case exists for reciprocal arrangements to be established between Gibraltar and the UK, whereby the Gibraltar remote gambling licence, and any others meeting UK standards, is recognised in the UK. Such 'passporting' has been denied any open discussion despite its precedent elsewhere, the protections it offers UK consumers and the transparency it offers the Exchequer.

*November 2013*

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### **Supplementary written evidence from The National Casino Forum (GB 12)**

The National Casino Forum (NCF) represents 90% of British bricks and mortar casinos. NCF is seeking an amendment to the Gambling (Advertising and Licensing) Bill 2012 to permit UK terrestrial casinos to be able to offer remote gambling through computer terminals in UK casinos. On Monday 11 November the National NCF submitted written evidence to the committee in support of its request. Mr Roy Ramm gave oral evidence to the Bill Scrutiny Committee on Tuesday 12 November of behalf of NCF.

It is important to emphasise that NCF's proposal is not a significant change to what casinos are currently permitted in terms of the provision of computers with internet access.

The debate has been distorted by the perception that a dedicated internet linked computer is entirely synonymous with a category A machine and that the industry is seeking these additional products "by the back door" to create what has been referred to as "machine sheds". That is simply not the case.

The NCF proposal would not bring about a fundamental change to the character of British casinos or create an imbalance between table gaming and other forms of gambling.

During the course of the committee's examination of the NCF submissions and in our subsequent discussions with officials it has become clear that the NCF needs to present further evidence to clarify:

- **What we are currently permitted to do,**
- **The impact of the proposed amendment and**
- **The measures to protect the public.**

#### CURRENTLY PERMITTED

- We are permitted to provide computers, laptops or i-Pads with open internet access. These facilities are usually provided in what are, essentially, "internet café" or "business lounge" style areas.
- We are permitted to advertise our on-line products in our casinos, but importantly we cannot indicate that the product is available from any internet linked computer within the casino or advertise our on-line site on or around an actual internet access computer.
- We are permitted to use posters, tent cards, video screens, employee t-shirts etc. and are also permitted to register our casino customers for our on-line gaming products but we cannot allow them to play on-line in the casino.

#### THE IMPACT OF THE PROPOSED AMENDMENT

- We would, as now, provide computers, laptops and i-Pads, however terminals might have a default home page being the on-line website of the casino operator concerned.
- The computers would be in fixed positions. This is for practical reasons such as the need for a power source, to allow CCTV surveillance and monitoring and to prevent customers removing them.
- Computers would be offered as desktop or laptop devices on tables or plinths, as "an i-Pad on a stick" (plinth) or as tablets attached to chairs.
- The computers would not look like any other gaming machine; they would look like PCs, tablets or any other internet access device.
- The computer terminals will not have cash boxes and they will not be played using cash.
- The computer terminals would not be located in the 'non-gaming areas'.
- The stakes and prizes available in the casino would be precisely the same as those available outside the premises. The stakes, prizes and how the games are played must be consistent to ensure that customers, all of whom must have accounts, are receiving consistent terms and conditions wherever they access their accounts.
- The facility would also allow customers to play in poker competitions or individual games, perhaps with other players in the club, but principally to play on-line in competitions. Players would be able to play from the comfort of an in-club dedicated computer rather than on their mobile phones, as they might now.
- The key and vital difference would be the ability to place branding and advertising on or around the computers, specifically indicating that they could be used to access the company's on-line gambling.
- The Secretary of State could restrict the number of devices to be made available.
- The amendment will not affect how the stake and prize limits function within the on-line environment.

#### MEASURES TO PROTECT THE PUBLIC

- We have consistently said that all the measures currently applicable to on-line sites would be overlaid with additional measures that can only be provided in a regulated environment.
- We will ensure that players are subject to our Challenge 21 regime and are over 18 years of age.
- We will ensure that players are not 'vulnerable' within the meaning of Section 1 of the 2005 Act.
- Players would benefit from the industry's commitments to player protection outlined in the Playing Safe statement of Principles.
- Access to the gambling site would only be gained by the standard protocols currently applied to on-line sites ie registered customer signing onto their on-line account with their name and password.
- Unregistered customers without an account would be required to register and provide all their details and ID information as currently required.
- There would be no direct or automatic access to play without the customer signing in.
- Anonymous play would not be permitted.
- Anonymous or generic log-on would not be permitted.
- there would be no mechanism for the computer to accept cash.
- Funding for play would be via non-cash deposits into the customer's account as per any on-line transaction.
- No cash transactions would be permitted in the casino.
- full audit trail for all transactions would apply in accordance with AML requirements.

- The area would be supervised by trained and licensed casino staff and be subject to casino surveillance measures.
- Social Responsibility information would be available in accordance with GC Guidelines.
- The terminals would be under the supervision of our trained and licensed staff and covered by casino surveillance.
- Data to facilitate research into player behaviour and to compare off and on-line gaming would be collected and our amendment would provide a unique opportunity to better understand on line play and to compare and contrast whether on-line play in a casino differs from on-line play outside a casino.

In summary, a casino would, look little different with the amendment to the way it currently appears without it. However, crucially, we could use our premises to “join up” our land-based and on-line gambling brands in the same way as other retail or leisure business. We want to be able to emulate John Lewis and many other customer focused retailers and to provide a seamless offer of our products within our land based and our on-line environments.

Through this bill, the government proposes to licence and endorse the promotion of on line gambling. We are struggling to see why, with all the above controls, it is not only acceptable but also desirable to offer the product in the most controlled of gambling environments.

We hope that the additional evidence submitted herein receives the endorsement of the committee and persuades the government to accept an amendment to the bill and to allow casinos to offer remote gambling.

November 2013

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**Written evidence from the Financial Conduct Authority (GB 13)**  
**Supplementary information to the Public Bill Committee**  
*Gambling (Licensing and Advertising) Bill 2013–14*

WHISTLEBLOWING CONTACTS

2007—835  
 2008—1186  
 2009—1880  
 2010—4684  
 2011—3540  
 2012—3929  
 2013 (Jan to Oct)—4467

These figures include all contacts, phone calls, emails, post, internal and external referrals made to the FCA Whistleblowing Desk.

N.B

Some whistleblowing enquiries are forwarded to other parts of the FCA, some simply seek guidance or are clearly not within the FCA remit and some may be merely queries made of the whistleblowing team, advice sought or repeat contacts. Therefore, these figures should not be described as the number of whistleblowers contacting the FCA.

INTELLIGENCE LOGS CREATED

2007—142 logs created  
 2008—154 logs created  
 2009—276 logs created  
 2010—524 logs created  
 2011—470 logs created  
 2012—565 logs created  
 2013 (Jan to Oct)—709 logs created

These figures include all cases where actionable intelligence has been received as a result of whistleblowing disclosures to the FCA Whistleblowing Desk.

KEYWORD SEARCHES

Since September 2013 has the FCA been able to search/filter whistleblowing data by subject matter or sector. For periods previous to 2013, keyword searches of the assorted whistleblowing systems (covering 2004–2013) may be used. These have produced the following data:

‘Spreadbetting’—3 matches  
 ‘Spread betting’—9 matches

‘CFD’—9 matches

‘Contracts for Difference’—0 matches

‘Gambling’—4 matches—none relevant to supervised firms/activity

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#### WRITTEN EVIDENCE SUBMITTED BY THE GIBRALTAR BETTING AND GAMING ASSOCIATION (GB 14)

##### EXECUTIVE SUMMARY

1. The Gibraltar Betting and Gaming Association (the “**GBGA**”) offers this written evidence to the Committee to supplement the oral evidence given by Peter Howitt, Chief Executive, on 12 November 2013. This evidence covers:

- a. The consumer protection risk if the Bill is passed in its current form.
- b. The difficulties with enforcing licensing in the UK when operators are overseas.
- c. The quality of regulatory supervision being offered by local regulators.
- d. The GBGA’s proposed solution to provide enhanced protection of consumers via passporting.

2. The GBGA considers that the only way that consumers can be effectively protected in respect of operators based outside of the UK is by working with approved local licensing authorities and regulators.

##### THE GBGA

3. The GBGA represents nearly all of the remote gambling operators based in Gibraltar. At least 60% of remote gambling by UK consumers is with Gibraltar operators, the overwhelming majority with GBGA members.

4. Gibraltar operators and the Gibraltar regulator have over 15 years of experience at the top of the remote gambling market. The GBGA is actively engaging with the Department for Culture, Media & Sport, Treasury and the UK Government in order to provide its views and proposals based on this experience. It is very much hoped that this engagement will help to avoid a licensing regime which undermines consumer protection.

##### CONSUMER PROTECTION

5. Under the Bill, it would be down to the UK Gambling Commission to licence and regulate all remote gambling services being offered to UK consumers, wherever the operator is in the world. This form of entirely remote licensing and regulatory regime is completely untested. It is a backwards step given the increasing importance of effective regulatory oversight and communication between jurisdictions to deal with cross-border issues such as money laundering, cheating and protection of consumer funds.

6. In particular, there are frameworks in place within the EU to ensure protection of consumers and proper supervision by regulators including in relation to data protection, dispute resolution, anti-money laundering, e-commerce, payments, mutual enforcement and recognition, regulatory co-operation and policing. The absence of a European wide agreement on the proper supervision of online gambling does not justify a regime that takes no account of the relevant European legal frameworks and approach.

7. We see three key risks with the regime:

- a. The UK Gambling Commission will not be in a position to ensure that operators that are licensed by them do actually comply with their conditions and codes of practice leading to an influx of poorly regulated operators targeting UK consumers.
- b. The additional and unnecessary licensing and compliance costs for many operators currently supplying the UK market (coupled with the new remote taxation regime) will mean that operators with a UK Gambling Commission licence will not be as competitive by comparison to unlicensed and unregulated overseas operators. Unlicensed and unregulated overseas operators, particularly those outside of the EEA, will be encouraged to target the UK market as they have not before.

The problems with enforcement related to both (a) and (b) are dealt with in more detail below.

- c. Overseas operators will be able to obtain a licence from the UK Gambling Commission without any European nexus and even if they do not intend to target UK customers. Such a licence will be likely to be taken throughout the world as a badge of quality and reliability, in effect customers and regulators will assume it means that the operator is supervised by the UK. These operators will then be able to hold themselves out globally as UK licensed and regulated businesses even though the UK Gambling Commission would not be regulating or taxing any of their activities directed to those outside the UK (and for the reasons stated above, inadequately regulates the activities directed to those within the UK).

8. We therefore have very serious concerns that the Bill will achieve the opposite of its aim. It will undermine rather than improve consumer protection.

#### ENFORCEMENT

9. The principal reason why the Bill cannot achieve its stated aim of better consumer protection is because the licensing regime it sets out cannot be properly enforced. The UK Gambling Commission will not be able to ensure compliance with the licensing conditions and codes of practice by applicants or regulated operators overseas and it will not be able to prevent unlicensed operators from accessing the UK market.

10. Where an operator applies for a licence or has a licence from the UK Gambling Commission it will be required to provide information to show compliance. The UK Gambling Commission does not have the power to inspect offices and servers in other jurisdictions. The UK Gambling Commission also will not be in a good position to monitor and pick up information concerning operators in distant territories as a local regulator would. In addition, the UK Gambling Commission will be in no position to effectively supervise senior management or any systems of control for UK facing elements (including anti-money laundering) and will not attempt to supervise non-UK elements.

11. There have not been any practical proposals from the UK Gambling Commission as to how it will review, supervise and monitor overseas companies. Operators will therefore be licensed but largely left to their own devices in many respects including with regard to reporting suspicious betting activity and assisting problem gamblers with self-exclusion.

12. Consumers will be able to find unregulated operators easily online even without print advertising, for example through odds comparison and affiliate gateway websites. Examples of practical restrictions on unlicensed online gambling in Europe and the USA have shown that enforcement measures such as financial transaction blocking and website blocking are ineffective.

13. In Norway, more than half of online players have found ways to circumvent payment blocking measures introduced in June 2010. In Italy, despite website blocking the head of remote gaming at the regulator estimated in 2012 that unregulated operators accounted for up to 50% of the market. A bi-partisan parliamentary report in France has stated that ISP blocking has been ineffective.

14. It is for these reasons that the GBGA believes that the flaws in the Bill cannot be remedied by adding enforcement measures.

#### STRENGTH OF LOCAL REGULATORS

15. We understand that approximately 85% of remote gambling in the UK is with operators that are not regulated by the UK Gambling Commission. However, these operators are regulated by their local regulators.

16. We consider that local licensing is a much safer and more effective way to make sure that operators maintain high standards and remain competitive so that customers are not drawn to the unregulated market.

17. As set out above, 60% of remote gambling in the UK is provided by Gibraltar regulated operators. The Gibraltar system of regulation has been recognised internationally (for example, by the Nevada State Gambling Control Board) and by non-governmental groups (for example, CARE) as first rate.

18. The first important feature is restricting licences to responsible operators. The Gibraltar regulator is rigorous and accordingly has only 29 licence-holders (and many more have been refused or withdrawn).

19. The second important feature is safeguarding consumers with high standards in licensing codes of practice and conditions.

20. The final important feature is making sure that licensed operators comply with the terms of the licence. There is no value to strong codes of practice if they are not effectively managed and monitored and cannot be enforced. Effective enforcement in Gibraltar is guaranteed by a regulator with direct and close supervision of operators in the same territory. The fact that systems of control are in Gibraltar and are managed and monitored on the ground ensures a high degree of regulatory oversight of our members who can expect, for example, regular visits to their offices, face to face meetings and regular correspondence with respect to their global activities.

#### PASSPORTING PROPOSAL

21. We are engaging actively with the Department for Media, Culture & Sport in order to out forward our concerns about the Bill and to reach a solution which truly supports consumer protection in remote gambling. We consider that this can be achieved only by relying on local regulators that have been approved by the UK Gambling Commission as providing a sufficient level and strictness of effective regulation. This is consistent with EU policy.

22. Overseas operators that are not licensed by an approved local regulator should not be able to offer services to UK consumers. There is no way to ensure that they are complying with adequate standards and enforcing the same.

23. The financial services industry has demonstrated that the GBGA's proposed form of "passporting" in reliance on both UK and local regulators is both necessary and effective. In addition, such passporting allows for the imposition of any necessary relevant UK regulatory requirements (eg reporting of suspicious activities) irrespective of the local licensing jurisdiction for UK facing activities. In financial passporting these are commonly known as Conduct of Business requirements. The GBGA's proposal includes that the UK Gambling Commission will be able to impose conditions on operators via their approved local regulator.

24. We would be delighted to discuss the detail of this proposal with the UK Government and the Gambling Commission.

November 2013

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### Written evidence submitted by the Gambling Commission (GB 15)

#### INTRODUCTION

1. The Gambling Commission was set up under the Gambling Act 2005 (the Act) to regulate commercial gambling in Great Britain (excluding spread betting but since October 2013 including regulation of the National Lottery and its legislation) in partnership with licensing authorities. We are an independent non-departmental public body (NDPB) sponsored by the Department for Culture, Media and Sport (DCMS). We are charged with advising the Government on gambling, its incidence and effects and its regulation. We are also charged with permitting gambling subject to reasonable consistency with the licensing objectives—ie keeping crime out of gambling, keeping it fair and open and protecting children and other vulnerable people.

#### SUMMARY

2.. This note follows on from the oral evidence given by the Gambling Commission (the Commission) on 12 November and provides further detail on the Commission's approach to improving player protection measures including self-exclusion and to enforcement in relation to both licensees and non licensees. The note clarifies the Commission's reasons for not seeking site or payment blocking powers at this stage.

#### PLAYER PROTECTION MEASURES

3. The Commission's licence conditions and codes of practice (LCCP) are a core part of the Commission's regulatory tool kit. Each operating licence and each personal licence has an associated set of conditions, so-called social responsibility codes (which have the effect of licence conditions) and ordinary code provisions. Ordinary code provisions are not requirements but indicators of good practice which operators would be expected to follow unless they had good reason to do something else in their particular circumstances. Departures from ordinary code provisions can be taken into account in considering the on-going suitability of a licensee.

4. Sections 75–79 of the Act gives the Commission wide powers to impose licence conditions on individual operators either generally or at licence application or variation stage or after a licence review. One of the licence conditions, on all relevant licences, requires licensees to comply with the Commission's *Remote gambling and software technical standards*. These set out the Commission's requirements for games and betting software and security standards and associated testing requirements, and information display. For example Remote Technical Standard 12<sup>9</sup> prescribes that 'the gambling system must provide easily accessible facilities that make it possible for customers to impose their own financial limits. Customers must be given the opportunity to set a limit as part of the registration process (or at the point at which the customer makes the first deposit or payment).'

5. The full set of licence conditions, codes and technical standards can be found on the Commission web site but I attach the extract relevant to remote operators which shows, to name some examples, the requirements to offer self-exclusion, to provide information on how to get help or advice, to monitor player behaviour and have staff trained to interact with customers. We are in the process of consulting<sup>10</sup> on some strengthening of some of the provisions for example in relation to poker networks and to the handling of complaints and disputes. We are likely to consult further in the light of current discussions with our Responsible Gambling Strategy Board, the independent advisory body chaired by Sir Chris Kelly and the Responsible Gambling Trust and the advice coming out of the work of the latter on, for example, machine gaming and player protection measures including self-exclusion.

6. It is common ground that a national self-exclusion scheme would be a considerable help to those wishing to address their gambling problems. To date there have been significant practical obstacles in the way—not least that the majority of people gambling with Commission licensees do so anonymously, and the majority of those who gamble remotely do so with non Commission licensees. In the non-remote sphere self-exclusion schemes are based to a large extent on facial recognition (principally photos of customers who have self excluded from that particular premise or that operator's premises in the local area or, far less commonly, facial recognition software ). Realistically staff could not be expected to remember and recognise faces from an entire national

<sup>9</sup> Remote gambling and software technical standards

<sup>10</sup> Proposed amendments to LCCP



database; operators have therefore focused on identifying those individuals that have self-excluded with them in their premises in the immediate area where the individuals have chosen to self exclude.

7. In addition it is important to remember that self-exclusion is used by a tiny proportion of players and even of problem gamblers—those who have already recognised they have an issue with their gambling and accepted that they need to address it. The Commission sees self-exclusion as part of a package of player protection measures together with those aimed at helping players identify that they may have a problem. Since our review of research education and treatment in 2008<sup>11</sup> the Commission has been interested in finding more effective ways for both operators and players to identify which players may be at risk of gambling related harm and then the best ways to mitigate that risk (including self-exclusion).

8. To date in Britain, the large number of private sector providers; the significant proportion of anonymous cash based gambling; and considerable logistical, data protection and liability issues to resolve; (including the major issue of who would finance the setting up and maintenance of a national database), has meant that a national self-exclusion scheme was, in practical terms, a non-starter. However, with advances in technology, changes in the way people gamble—the rise of mobile gambling being an obvious example—improved understanding of how to use data analytics to feed back to players and to flag up potentially problematic behaviour, there is increasing scope for the development of cost-effective player protection measures, including the potential to link player data across operators and types of gambling. The bill before Parliament will enable the Commission and/or the Department (which has the power to impose mandatory conditions) to impose any improved protection measures on all those supplying the British market.

9. We have asked our expert advisory body, the Responsible Gambling Strategy Board (RGSB), to look at the effectiveness of self-exclusion as a tool, and how it could potentially be improved. RGSB had already identified self-exclusion as a priority area for their strategy and also forms part of the Responsible Gambling Trust's work programme, they are already taking forward a significant amount of work to establish how harm-minimisation measures (including self-exclusion) can be improved. The industry associations are working on improving their current offerings—for example the National Casino Forum is exploring a national casino based scheme which should provide useful input to the development of a cross-sector national self-exclusion scheme and the Remote Gambling Association convened an industry cross sector meeting earlier this month to improve coordination and collaboration on developing options. At the same time the Commission is the United Kingdom representative at the European Commission's Expert Group of regulators which is also looking at self-exclusion. In addition the Commission keeps up with overseas development as active members of the International and European gambling regulator organisations and their e-gambling working groups.

#### ENFORCEMENT IN RELATION TO LICENSEES

10. As explained to the Bill Committee we have strong enforcement powers in relation to our licensees—we can publicly warn, levy unlimited fines for licence breach, impose potentially onerous conditions to help ensure compliance, suspend or revoke licences. We can call both operator licensees and personal licensees to account. Typically we would do both as compliance failures are the result usually of people acting or failing to act. Those in key positions in licensees understand that their personal licences are at risk if they do not ensure their businesses act compliantly and actively pursue the licensing objectives.

#### ENFORCEMENT AGAINST ILLEGAL PROVISION OF GAMBLING

11. The proposed effect of the bill is that commercial gambling by those in Britain (other than spread betting) can only be provided legally by operators licensed by the Commission. Any provision by an operator without a Commission licence would be illegal. The key enforcement tool for this is the provision that prohibits advertising (which is defined widely as encompassing any paid for marketing) of facilities for gambling to those in Great Britain, provided by those who do not hold a GC licence, including for example sponsored links on Google or text marketing campaigns. The ability to compete by marketing legally with promotions such as free bets or bonuses is critical to success in the gaming and betting sectors.

12. The Commission can prosecute those advertising illegally to British-based consumers and works with the main Internet Service Providers (ISPs), search engines and other key players such as Facebook and eBay to help them avoid taking business from those providing gambling facilities, or advertising them, illegally. Our experience to date has been more focussed on non-remote sector but has included, for example, cooperation in removing illegal lottery advertisements and successfully engaging with Google to remove illegal paid for advertising by a gambling operator via a sponsored link and ISPs taking down websites of illegal operators. In principle we also can prosecute those advertising or supplying remote gambling facilities illegally but to date that has not proved necessary or proportionate. HMRC have complementary powers to seek the gambling tax due from illegal operators and the police could use anti money laundering powers (as the revenue would come from illegal activities) to help combat illegal gambling provision should such action be proportionate.

13. Our plans for making the licensed status of Commission licensees clearer (picking up the Culture Select Committee's kite mark suggestion); for educating the public on the need to play on Commission licensed sites and the potential risks of using illegal sites; and our proposals for requiring gambling software suppliers used by Commission licensed operators also to be licensed by the Commission will, together, help keep the

<sup>11</sup> Review of Research education and treatment in 2008

black market to a minimum. Our discussions, including with overseas regulators, suggest that requiring the gambling software systems suppliers to Commission licensees to also be licensed by the Commission—which then enables the Commission to take account of any participation by its licensed gambling software systems suppliers in illegal supply to British consumers—will also play a key role in keeping the black market to a minimum.

#### SITE AND PAYMENT BLOCKING

14. To clarify the Commission's somewhat over-compressed reply to Mr Shannon's question in committee on site blocking, the Department and the Commission looked carefully into the merits of seeking powers to ask for injunctions requiring ISPs and search engines to block promotion of or access to websites of illegal operators or the handling of payments to such illegal operators when the scope of the bill was under consideration. We spoke to colleagues from Ofcom and what was then the FSA.

15. We considered the Ofcom report (May 2010) on site blocking which spelt out the various practical issues that needed to be addressed to make site blocking effective and avoid unintended consequences such as over blocking (for example, avoiding the use of blocking by IP address). The report noted that circumvention of site blocking was not difficult no matter what technique was used but that, as part of a wider mix of measures such as education and supported by the development of an attractive legal market, site blocking could play an important role in online copyright infringement. It has most potential if used as part of a complementary mix of measures, underpinned by behavioural and technical research, designed to change the incentives and behaviour of casual infringers. Ofcom subsequently indicated to us that the injunction powers in the Copyright, Design and Patents Act 1988 had been used effectively by copyright owners to block access to sites.

16. We have also followed carefully the experience of gambling regulators in other parts of the world with site and payment blocking which suggests in the gambling market such measures have achieved only limited disruption and deterrent effects. However this may be because they were tried primarily in markets where the legal offering was severely constrained and the tax rates high. In the case of UK gambling there is no equivalent to the copyright owners to seek injunctions nor any statutory power for the Commission at the moment to seek such injunctions. We came to the conclusion that, given all the other measures at our disposal and the very open and attractive legal opportunities for those licensed by the Commission, seeking additional powers in the Bill to enable the Commission to seek injunctions blocking illegal operators' sites or use of payment processors would not be proportionate to the likely risks and would, if obtained, risk consuming disproportionate Commission resources to achieve limited disruption and deterrent effect.

17. However we did not rule out the option of seeking such powers at a later date if our assessment of the small size of the illegal market proved wrong and of course there are continuing discussions on the wider government front and in the European Commission in relation to combating misuse of the internet and illegal remote gambling provision. We are also discussing with the Financial Conduct Authority (FCA) the scope for joint working to deter FCA authorised or recognised payments processors from dealing with British transactions with illegal operators.

*November 2013*

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