House of Commons
Culture, Media and Sport Committee

Society Lotteries: Government Response to the Committee's Fifth Report of Session 2014–15

Second Special Report of Session 2015–16

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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Culture, Media and Sport and its associated public bodies.

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All the evidence relating to this Report can be found on the Committee's website.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Kevin Candy (Inquiry Manager), Hannah Wentworth (Senior Committee Assistant), Keely Bishop (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

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Second Special Report

Government response

The Department for Culture, Media and Sport (“the Department”) is pleased to have the opportunity to respond to the conclusions and recommendations of the Culture, Media and Sport Committee’s (“the Committee’s”) report on Society Lotteries.

The DCMS and the Government overall remains wholly committed to helping The National Lottery and society lotteries maximise their contribution to good causes, through establishing the right conditions to help them thrive, whilst ensuring player protection and the appropriate level of regulation.

The Government’s response to the Report’s conclusions and recommendations is given below.

Summary

- Government has agreed to accept or explore further all of the Committee’s main recommendations.

- Government is mindful that this is a complex area and the issues regarding society lotteries should not be viewed in isolation, but in conjunction with the wider landscape which includes The National Lottery and gambling. This will require further careful consideration, and as recommended by the Committee, we will be seeking detailed advice from the Gambling Commission before reaching final conclusions.

Response to the Committee’s Conclusions and Recommendations

1. In our approach to the suggestions of various changes to the regulatory regime for society lotteries, we have been guided by the principle that the purpose of society lotteries is to raise money for good causes. Unlike other gambling products, they are therefore exempt from gambling and lottery taxes; and the regime governing them should be light-touch and encourage the maximum return for good causes. At the same time, the regime should be carefully adjusted to avoid any perception that charities may be being used mainly as devices to further commercial interests. (Paragraph 34)

Government agrees with the Committee that society lotteries are separate and distinct from other gambling products, not least because of their primary purpose and defining characteristic, which is to raise money for good causes. We also agree that the regulatory framework for society lotteries should not be overly burdensome. Government is however mindful of the importance maintaining public trust and confidence in lotteries and the impact that they have on the perception of the good causes with which they are associated.

2. We have also been guided by the clear intention of Parliament in 1993—which we do not perceive to have altered—that there should be one National Lottery. We do not consider that there is any indication that the Lottery is being significantly affected by any of the society lotteries currently operating, but we accept that the potential for a competitor remains, especially if an External Lottery Manager, in addition to receiving
the reasonable expenses permitted by the Gambling Commission, can also profit from promoting its lottery. (Paragraph 35)

We note the Committee’s view that there is no evidence of any current threat to The National Lottery but that this could change in the future. Government also notes the Committee’s concerns about private profit making from lotteries, and does not want to see society lotteries misused in a way that would damage them in the public eye or pose a threat to The National Lottery.

3. A sliding scale of the percentage of ticket prices to be donated to good causes has some attractions. We consider that there should be more distinctions between society lotteries, lifting burdens on the smallest and increasing them as the lotteries grow in size. (Paragraph 49)

Government notes that Committee’s view and has replied to each of its recommendations in this response.

4. We are sympathetic in principle to the idea that both ticket sale limits and prize limits should be reviewed, but we note the concern expressed by the NCVO and others that society lotteries should not become just another gambling product. We see clear dangers, not least in possibly tempting societies to take risks in advertising prize limits that they cannot afford and in losing contact with their real supporter base. As far as the National Lottery is concerned, though there is a theoretical risk—especially if caps were removed completely—it seems to us that in practice there is no immediate risk of a real rival coming up from the ranks of the society lotteries. (Paragraph 50)

We believe that this point has been addressed by the reply given to 1 & 2 above.

5. Umbrella lotteries, such as those run by the Health Lottery and PPL, are in law groups of individual society lotteries, marketed under a national brand. However, provided that none of the individual lotteries exceeds the current limits on proceeds and prizes, the total amount that the umbrella lottery is permitted to raise is the aggregate of the maximum amounts each of the constituent lotteries may raise: in other words, an umbrella lottery formed of ten large society lotteries would be permitted to raise ten times the maximum £10 million for a single lottery per year. We consider it wrong that the maximum limits on society lotteries should be bypassed in this way. (Paragraph 51)

Government shares the Committee’s concerns about the implications of bypassing the limits on individual society lotteries by forming umbrella organisations. We have replied to the Committee’s particular recommendations regarding umbrella lotteries below at 6.

6. We therefore recommend an amendment to legislation to recognise a class of umbrella lotteries, with its own set of limits on individual draws, annual sales and prizes. A number of options are possible: setting overall limits on the amounts that may be raised or paid out in prizes, limiting the number of individual society lotteries that may join together under an umbrella lottery (and thus limiting the multiplier effect) or stipulating different ‘large society lottery’ limits on the constituent societies. We recommend that the Gambling Commission consult widely on such a change. (Paragraph 52)
The creation of a separate class of umbrella lottery will be explored further by Government. Government will seek further advice from the Gambling Commission about this and the Committee’s suggested approaches. As the Committee noted, these proposals would require change to primary legislation to effect them and Government would also wish to consult with the sector before implementing any changes in this regard. This is a complex issue and careful consideration is needed to assess the impacts of this proposal, such as whether this would diminish overall return to good causes. Government also intends to look at the way umbrella lotteries are marketed and branded.

7. We note that there have been no increases since 2005 in the caps on sales and prizes for small lotteries. We received no evidence suggesting specific figures for these caps, and accordingly we consider that the Gambling Commission should review the caps on ticket sales (for both a single draw and for the annual aggregated draws) and on prizes for small lotteries, and should make specific recommendations. (Paragraph 53)

8. As far as individual large lotteries are concerned, we note that some of the new limits suggested by the Lotteries Council represent a very rapid rise from the current level. We recommend that the Gambling Commission should consider whether the limits on ticket sales and prizes should be relaxed, bearing in mind that the regime for large lotteries was changed in 2008, more recently than that for small lotteries. We recommend that the Gambling Commission consult on the appropriate levels. (Paragraph 54)

Government accepts the Committee’s recommendation regarding a review of current caps and we are asking the Gambling Commission to review these for both small and large lotteries. We are also asking the Gambling Commission to provide advice to Government on whether to raise the limits and what level these should be set at. It is important that this proposal is carefully assessed, to safeguard against the risk of detrimental impact to The National Lottery’s ability to raise funds for good causes. At the same time, we agree with the Committee that the regulatory regime should not be overly burdensome.

9. We also recommend that the limits on society lotteries be reviewed every three years, and that the Gambling Commission gather and publish information on the annual turnover, single draw size and maximum prize awarded by individual society lotteries to demonstrate the degree to which societies are finding the current limits restrictive. (Paragraph 55)

Government accepts the recommendation to review current limits on ticket sales. However our initial view is that these should not be reviewed every three years. Gambling Commission keep a watching brief as part of their regulatory role and are able to advise Government on the need for a review should there be any concerning trends. However we will ask the Commission to consider the timing of reviews in their review of limits. We will also explore further the recommendation that the Commission gather and publish information relating to society lotteries.

10. We understand that the requirement for at least 20% of the ticket receipts for each lottery to be given to the good cause from the offing may well deter societies from running lotteries, when many of the expenses (for organising the lottery and recruiting players) will also be incurred at the start. We therefore recommend the amendment of
the present 20% minimum requirement to allow newly-created small society lotteries to spread it over an extended period, possibly three years. (Paragraph 60)

11. We recommend that the Government draft an amendment to the Gambling Act 2005 to achieve this, taking into account the issues raised by the Charity Law Association about distinguishing between repeat and one-off lotteries, and the need to make provision for lotteries that do not survive for the full three years. We note the suggestion that this could be achieved by requiring lottery licence holders to use their ‘best endeavours’ to ensure a return of 20%, and by requiring the Gambling Commission to ensure that its licensing processes filter out any would-be ‘phoenix’ lotteries, being set up with the intention of folding within three years. We consider that the Government should look at these and other options. (Paragraph 61)

Small society lotteries must register with local authorities. Government is minded to accept this recommendation, but further analysis is needed to establish whether it is workable and to avoid any unintended consequences. In particular, we need to better understand the impact of the proposal on local authorities and assess whether the change would result in added regulatory burden. We will also consult the Gambling Commission for their view.

12. We were given two options for enabling other lotteries to benefit from some flexibility in developing new products. We ask the Gambling Commission to consider the advantages and disadvantages of these suggestions, and any others in this area, and make recommendations to Government accordingly. (Paragraph 62)

The two options presented to the Committee were to (i) extend the 20% minimum contribution to good causes across a year; and (ii) enable societies to hold both large and small lottery licences simultaneously. Government supports the proposal to enable flexibility to deliver new products and will ask Gambling Commission to advise on the benefit of these changes and what is required to implement them, as well as exploring other alternative options.

13. There is a public interest in transparency, and we therefore endorse the recommendation that information about the proportion of lottery receipts given to the good causes, distributed in prizes and used for operational expenses should be clearly shown on each ticket. We also recommend that the Gambling Commission should maintain a database of this information for each lottery on its website, so that the public can make informed decisions about whether or not they should take part in a lottery. (Paragraph 66)

Government will explore this proposal further with the Gambling Commission, and other regulators as appropriate, to avoid potential duplication. The Government agrees that transparency is important and will look at the options for improving what information is made available to public and how this is made available.

14. We accept that lotteries have to invest in order to grow, and that the total money raised is important, but we remain of the view that, to be society lotteries, they must show a substantial return to their good cause. We have ruled out an increase in the minimum contribution to good causes rule, in the light of the need of newer and innovating lotteries for greater flexibility, but we do not consider it appropriate that large, well-established lotteries should provide only that minimum. We therefore
recommend a return to a cap, to apply only to the largest lotteries, for all operating costs other than prizes and money set aside for roll-overs. From the information provided by the Lotteries Council, we think the initial rate should be set at 35%. This rate also should be subject to regular, three-yearly reviews by the Government. (Paragraph 71)

15. In the event that the Government decides not to re-introduce a cap on operating costs, we recommend that the largest lotteries be made subject to Lottery Duty on the same basis as the National Lottery, unless they are giving at least 32% of their proceeds to good causes. (Paragraph 73)

We share the Committee’s view that fundamentally society lotteries exist to provide a return to good causes. Government will explore ways to make it easier for new small lotteries to develop new products to raise funds for good causes. Government agrees with the Committee that it is reasonable to expect large, well-established society lotteries to provide a higher return to good causes than the 20% statutory minimum.

Government will explore further with the Gambling Commission the proposal to cap expenses at 35% for “the largest lotteries”. This will need to be considered carefully as there are risks that a cap may lead to unintended consequences, such as encouraging lottery operators to split into smaller parts to circumvent limits, or setting a new benchmark that will dilute the pressure on lotteries to achieve efficiencies below 35% (resulting in a ‘race to the top’). An alternative option such as raising the minimum contribution to good causes for larger well established society lotteries may better achieve the Committee’s objective, so this will be explored too. Government will also look at the Committee’s alternative recommendation to introduce 12% lottery duty on “the largest lotteries” unless they give 32% of proceeds to good causes.

16. We recommend that the Gambling Commission look again at whether the administrative burdens of applying for a licence could be simplified any more for small, start-up lotteries, and at whether other regulations on lotteries are disproportionately burdensome for the benefit produced. (Paragraph 74)

Government and indeed the Gambling Commission, agree with the Committee that the process for applying for a licence should not be cumbersome and that the regulatory framework should not be overly burdensome. We accept the Committee’s proposal and will ask the Gambling Commission to build on work currently on-going and report.

17. We recommend that the Government and Gambling Commission consider whether it would be feasible to allow the private sector to run lotteries on behalf of good causes, given the potential major benefits to good causes. It may be the case that commercial entities would have to be licensed to run such lotteries, but it may be possible to establish a relatively light-touch regime for existing companies for which the running of a lottery is clearly part of their corporate social responsibility activities rather than a commercial opportunity. (Paragraph 76)

Government will explore this recommendation further with the Gambling Commission. It is possible that non-specialist lottery providers may require more scrutiny, particularly at the outset of a venture, which may not necessarily result in a light-touch regime.
18. We endorse the suggestion that any society licenced to run a lottery should be enabled to run a lottery on behalf of another good cause, as long as the customers were clearly informed of the ultimate beneficiary. (Paragraph 77)

Government agrees that where there is a clear benefit, the regulatory framework should be more flexible and accommodating, therefore we accept the Committee’s endorsement of this suggestion and will consider it further. In particular, this raises an issue of transparency that will need to be considered carefully, to avoid public confusion.

19. Like Camelot and the Gambling Commission, we are concerned that the evolution of online gambling is removing the distinction between society lotteries and betting. We recommend that the Gambling Commission advise the Government on all three measures recommended by Camelot, to determine which would be most effective in reducing consumer confusion. (Paragraph 84)

Government agrees that public transparency and reducing customer confusion is important. Camelot has suggested prohibiting betting on all UK licensed lotteries, improving the clarity of marketing to distinguish betting from lottery products and redefining all bets on lotteries as lotteries. We will explore these proposals with the Gambling Commission.