



House of Commons  
Culture, Media and Sport  
Committee

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# Pre-legislative scrutiny of the draft Gambling (Licensing and Advertising) Bill

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**Sixth Report of Session 2012–13**

## *Volume I*

*Volume I: Report, together with formal  
minutes, oral and written evidence*

*Additional written evidence is contained in  
Volume II, available on the Committee website  
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## The Culture, Media and Sport Committee

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some of the written evidence are available in a printed volume.

Additional written evidence is published on the internet only.

### Committee staff

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

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## Summary

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Around 80% of remote (that is, online) gambling in the UK is conducted with operators which are not licensed in the UK. In December 2012 the Government published a very short draft Gambling (Licensing and Advertising) Bill to require overseas gambling operators to obtain a Gambling Commission licence in order to provide services or advertise to British-based consumers. We have scrutinised that draft Bill.

The overseas-based remote gambling operators generally opposed the Bill, on the grounds it was unnecessary for consumer protection, might drive consumers to cheaper unlicensed operators and was principally intended to bring overseas operators within the UK's tax regime. Much of the UK-based gambling industry, sports bodies (concerned about match-fixing) and organisations working to combat problem gambling supported the principle of the Bill. Almost all those who gave oral or written evidence to us raised the issue that the enforcement regime would have to be rigorous in order to provide any of the benefits to consumers that the Government intended should be derived from the legislation.

We support the principle that gambling should be regulated on a 'point of consumption' basis: where the consumer is. We note the concerns raised about taxation of the online industry. The Government stated that the ability to bring all operators serving UK consumers within the tax net is a consequence, but not the prime motivation, of the draft legislation. We note in this regard that, in setting a tax rate for remote gambling, the Treasury should bear in mind that too high a rate would be liable to drive customers and companies into the unregulated, black market.

The Government and the Gambling Commission assured us that the Commission had at its disposal all the tools it needed for effective enforcement; and that the extra income expected from the extension of the licensing regime would produce sufficient funds to pay for the extra work of enforcing that regime, without the need to raise licence fees. We intend to monitor these areas.

We recommend a change to clause 1 of the Bill to make it clearer that the operators affected are those providing remote gambling services to customers in Great Britain.

We also suggest that the Government amend the Bill to address the anomaly that it is illegal for casinos to provide online gambling on their premises.



# 1 Introduction

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1. In 2009, the Department for Culture, Media and Sport (DCMS) and the Gambling Commission conducted a joint review of the regulation of remote (that is, online) gambling. The review considered the regulation of overseas operators, including ways to ensure that they contributed fairly towards the costs of research, education and treatment of problem gambling in the UK. The review proposed that overseas gambling operators should be required to obtain a Gambling Commission licence in order to transact with, or advertise to, British-based consumers.

2. This preferred option was put out for consultation between March and June 2010. There were 38 responses. Just over half the respondents (approximately 57%) favoured the proposals. In December 2012, the Government published a very short draft Gambling (Licensing and Advertising) Bill which is intended to implement the proposals. We conducted pre-legislative scrutiny of this Bill, building on our recent wider-ranging inquiry into the operation of gambling legislation.<sup>1</sup>

3. The current legislation, the Gambling Act 2005, is based around three key licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In addition to creating a new regulator, the Gambling Commission, the Act introduced a new licensing system requiring operators, key personnel and the premises on which gambling takes place to be licensed. It also lifted the prohibition of remote gambling on the grounds that the prohibition was neither desirable nor enforceable and that it was more sensible to license and regulate sites than to leave customers to gamble with operators who might be subject to less stringent, or no, regulation. The then Government decided that remote gambling should be deemed to take place wherever the gambling operator was based ('place of supply'). The advertising regime was also relaxed, enabling—for example—television advertising of online gambling. The Act created a distinction between operators based in EEA Member States,<sup>2</sup> those based in other jurisdictions with broadly comparable standards of regulation ('the White List'), and those in all other jurisdictions.

4. It was hoped that a freer approach to advertising would provide maximum reciprocal benefits for British businesses both within Europe and more widely. It was also expected that by demonstrating best practice in gambling regulation in relation to operators, Great Britain would be influential in improving standards of regulation across Europe and internationally. However, from the first, the UK-based gambling industry (both online and

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1 Culture, Media and Sport Committee, *The Gambling Act 2005: A bet worth taking?*, First Report of Session 2012–13, HC421 (hereafter 'CMS Committee report')

2 The EEA consists of the European Union plus Norway, Iceland and Liechtenstein

offline) considered itself disadvantaged in comparison to the offshore industry, primarily due to the issue of taxation. The then Government made a number of changes to the tax regime for gambling in successive Budgets after 2005, with the result that the UK currently levies a tax of 15% on gross profits for the gambling industry, plus other taxes for different parts of the industry (casinos, bingo, gaming machines). The offshore industry avoids UK taxes. Since 2005 almost the entire online gambling industry based in the UK has moved overseas.<sup>3</sup> The main exception is Stoke-on-Trent based bet365, whose sports betting operations have remained onshore, and are regulated by the Gambling Commission.

## Current Regulatory System

5. Over and above the statutory provisions contained on the face of the Gambling Act and in its regulations, the Gambling Commission has the power to impose specific conditions on individual licences or categories of licence and it has developed a framework of Licence Conditions and Codes of Practice (LCCP) to improve consumer protection and to uphold the licensing objectives. The measures in the LCCP include:

- reporting of suspicious betting activity/patterns to the Gambling Commission and sports governing bodies;
- in relation to casinos, reporting of suspected criminal activity to the Serious Organised Crime Agency (SOCA);
- robust procedures for preventing under-age gambling and other social responsibility measures;
- a requirement for clear terms and conditions;
- a requirement for transparent complaint procedures, including recourse to an independent third party;
- reporting other key events, such as incidents of internal or external fraud;
- compulsory provision of pre-commitment options;
- a requirement for operators to contribute to research, education and treatment; and
- independent testing of system integrity and the fairness of games.

However, these conditions do not apply to many companies providing remote gambling as they are not licensed by the Gambling Commission. Under the current system, operators of remote gambling facilities are required to hold a Gambling Commission licence only if they have at least one piece of equipment used to provide those gambling facilities that is located in Britain.

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3 For this background, see CMS Committee report, paragraphs 110–114 and 125–30



### **Non-UK licensed operators**

6. Those who provide remote gambling facilities to customers in Great Britain but who do not have any equipment located here are still, however, subject to restrictions on advertising their services in the UK.

(a) Operators based outside the UK, but licensed in EEA Member States or Gibraltar, are permitted to advertise gambling freely to British consumers, subject to the relevant advertising code provisions, in reliance on the licence issued by their home regulator.

(b) Operators based outside the EEA, but licensed in one of the jurisdictions contained in Regulations under section 331 of the Act, otherwise known as ‘the White List’, are also allowed to advertise gambling to British consumers, but on a more restricted basis. (This reliance on a licence issued by certain overseas regulators is, according to the explanatory document printed with the Bill, “unique” amongst EU member states.<sup>4</sup>) There are currently four places on the White List: Antigua and Barbuda, the Isle of Man, the States of Alderney, and Tasmania.

7. Jurisdictions that want to be added to the White List must demonstrate that their regulatory system for gambling is robust and meets the published criteria, which are based principally upon the Gambling Act’s three licensing objectives (set out above). The criteria also include certain requirements in respect of fair tax, and jurisdictions are assessed on whether they follow the core values which underpin the British regime. In assessing applications for the ‘White List’, jurisdictions must also demonstrate that they have the capacity, technical and regulatory ability to enforce regulation. Once on the ‘White List’, jurisdictions must inform the Government of any changes to their laws/regulatory systems. They must also comply with British advertising provisions, in particular the relevant codes of the Advertising Standards Authority (ASA), as well as provide a list of their licensed operators. The Secretary of State has reserve powers to remove jurisdictions from the list if at any stage there is concern that their regulatory system no longer satisfies the criteria or is jeopardising the licensing objectives.<sup>5</sup>

### **The Advertising Codes**

8. The Secretary of State has powers under section 328 of the Gambling Act 2005 to make regulations with regard to the form, content, timing and location of gambling advertisements. Advertising of gambling is also covered by three Codes of Practice, two of which (those issued by the Broadcast Committee of Advertising Practice and the Committee of Advertising Practice) are supervised by the ASA. In particular the codes seek to ensure adverts do not:

- portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm;

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4 Explanatory document on the Draft Gambling (Licensing and Advertising) Bill, CM 8497 (December 2012), p9 (hereafter ‘explanatory document’)

5 Sections 327–331 of the Gambling Act 2005

- exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young people or other vulnerable people;
- suggest that gambling can be a solution to financial concerns;
- link gambling to seduction, sexual success or enhanced attractiveness; or
- be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

Advertisements that breach the code have to be amended or withdrawn. If serious or repeated breaches of the advertising codes occur then the ASA may refer advertisers to the Gambling Commission and broadcasters to OFCOM (the communications regulator) to consider legal or regulatory sanctions.

9. The third Advertising Standards Code is the gambling industry's own *Gambling Industry Code for Socially Responsible Advertising*. This includes a 9pm watershed on all broadcast gambling advertising, with exceptions for bingo and lotteries and the advertising of sports betting around televised sporting events.<sup>6</sup> The Industry Code also requires advertisements to display the gambleaware.co.uk address, which provides a link to information on help for problem gamblers.

## The case for change

### *Prevalence of online gambling*

10. Participation in remote gambling is steadily increasing, though much of the increase is attributable to the growth of online purchase of National Lottery tickets.<sup>7</sup> According to the British Gambling Prevalence Survey 2010 (Gambling Commission, 2010), 73% (35.5 million) of the adult population in Great Britain participated in some form of gambling in the year prior to the survey, with 14% using the internet to gamble—including buying lottery tickets online, betting online, playing casino games, bingo or slot machine-style games, and playing the football pools online. The Gambling Commission estimated that global remote gambling Gross Gambling Yield (GGY) (excluding telephone betting) was £20.1 billion during 2011, which represents a 10% growth on the previous year; while UK consumer GGY (including GGY generated with operators regulated overseas), which includes telephone betting, is estimated to have grown by 5% between 2010 and 2011, to reach £2 billion (*Report into Industry Statistics between April 2008 and September 2011*). As of 31 March 2012, there were 288 remote gambling activity Gambling Commission licences held by 207 operators.<sup>8</sup>

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6 Qq 51–53 and explanatory document, pp11–12

7 EV w21 (Gibraltar Gambling Commissioner), paras 14 and 36–37

8 For all statistics, see explanatory document, p13

### ***The Government's concerns: risks to British consumers***

11. The Government considers that the majority of operators currently targeting British consumers are subject to established and effective regulatory regimes.<sup>9</sup> However, even where operators are subject to appropriate levels of regulation overseas, there are different regulatory standards and approaches. One problem identified by the Government is that it is increasingly difficult to identify which regulator is responsible for any particular remote gambling site when operators have different products licensed in different jurisdictions, but a consumer can access those products from the same branded homepage. This has led to consumers being unable to pursue complaints such as the non-payment of winnings. There has also been some illegal advertising of foreign gambling as a result of confusion over which regulatory regime applies. Another problem is inconsistency in areas such as standards and software testing. Furthermore, there is a potential risk that match-fixing and suspicious betting practices taking place on overseas licensed sites may not be notified to the relevant British authorities.<sup>10</sup>

12. Moreover, only operators licensed by the Gambling Commission have to comply with the conditions set out in the LCCP. This means that other operators are not required to have, and put into effect, policies and procedures intended to promote socially responsible gambling, such as research into the prevention and treatment of problem gambling; public education on the risks of gambling and how to gamble safely; and the identification and treatment of problem gamblers, including aids such as self-exclusion from gambling sites and daily limits on bets.<sup>11</sup>

### ***Our view of the remote gambling regime***

13. In our July 2012 report into the operation of the legislation relating to gambling, *The Gambling Act 2005: A bet worth taking?*, we came to a number of conclusions about the position of the remote gambling industry. We were concerned about the movement of the UK remote industry offshore from the point of view of both consumer protection and an equitable approach to taxation of all gambling operators, online and offline, UK-based and offshore. We concluded:

The current regulatory framework for online gambling has failed to create a level playing field between operators based in the UK and those based overseas. This is because, whilst companies based in the UK are subject to strict regulation and high taxation, those based overseas can be lightly or unregulated whilst paying little or no tax. This situation could allow unregulated—'grey'—markets to emerge, able to attract UK customers because they can offer better odds as the result of their lower cost bases. It is therefore important that effective enforcement methods are put in place to prevent unlicensed companies from operating into the UK and that the Department for Culture, Media and Sport and other agencies also work to encourage international co-operation and a common approach.<sup>12</sup>

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9 Explanatory document, p14

10 Explanatory document, pp14–15 and Qq 2 and 30

11 Explanatory document, p16

12 CMS Committee report, paragraph 151

14. We also had wider concerns about consumer protection in relation to online gambling. Noting that online gambling has been identified as having certain characteristics which may be associated with problem gambling, including high speed of play, frequency of play and ease of availability, we concluded that “a vital aspect of gambling regulation is controlling the significant, and growing, online sector with its unlimited stakes and prizes, and its potential to cause problem gambling.” Following difficulties experienced by players in retrieving their winnings or their deposits from some operators, we considered that the Gambling Commission should consult the industry on establishing a proportionate form of ‘ring fencing’ or protection of player accounts by all UK-regulated online gambling operators. (This consultation is currently under way.<sup>13</sup>) We also recommended that the Gambling Commission should consider introducing a kite-mark system for websites, as a way of (amongst other things) alerting gamblers to the potential risks to their funds from playing on sites not regulated by the Commission.<sup>14</sup> We have been told that in effect this would happen if the draft Bill were passed, as all holders of Gambling Commission licences would display a logo to this effect on their websites.<sup>15</sup>

**15. We welcome the Government’s response to our concerns in our 2010 report, *The Gambling Act 2005: A bet worth taking?*, about the safeguarding of player accounts and our recommendation that there should be some method of kite-marking websites that meets Gambling Commission standards.**

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13 Q 179

14 CMS Committee report, paragraphs 133, 139 and 138

15 Q 211

## 2 Rationale for legislation

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### The Government's proposals

16. According to the explanatory document accompanying the draft Gambling (Licensing and Advertising) Bill, experience since the existing regulatory regime came into effect in 2007 suggests that “the regulation of overseas-based remote gambling operators selling products in Great Britain is not working as well as intended and has become unsustainable.”<sup>16</sup> Mr Jonathan Stephens, Permanent Secretary at the Department for Culture, Media and Sport, told us that most online gambling by consumers in Great Britain was not regulated in the UK. The Gambling Commission estimated that currently 80% of the market fell outside its licensing regime, and though less than 5% (by value, not transaction) was in the unlicensed, unregulated ‘black’ market, this market posed considerable problems in relation to not only criminality and money-laundering but also protecting young and other vulnerable people.<sup>17</sup>

17. The Government proposes to change the way in which the system of remote gambling is regulated in Britain from the current ‘place of supply’ basis to a ‘place of consumption’ basis. In other words, all those who supply gambling services to UK consumers would have to hold a Gambling Commission licence. Apart from addressing the problem of where ‘the place of supply’ is located when companies base parts of their operations in a number of different locations, the Government believes that this would also simplify the system for consumers by making it clearer to whom complaints should be addressed (ie the Gambling Commission); and it would have the result that remote gambling operators would have to contribute towards British problem gambling and regulatory costs. A footnote to the explanatory document also comments: “Subject to HM Treasury operators would also contribute to UK gambling tax.”<sup>18</sup>

18. The change would be effected by clause 1 of the draft Bill, under which all operators providing remote gambling facilities would be required to hold a Gambling Commission licence (a) if at least one piece of equipment<sup>19</sup> used in the provision of those facilities were situated in Great Britain (which is the current definition, in section 36 of the Gambling Act

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16 Explanatory document, p6

17 Qq 160–161, 166 and 169

18 Explanatory document, p17

19 ‘Remote gambling equipment’ is defined in the Act as follows: “electronic or other equipment used by or on behalf of a person providing facilities for remote gambling—

to store information relating to a person’s participation in gambling,

to present, to persons who are participating or who may participate in the gambling, a virtual game, virtual race or other virtual event or process by reference to which the gambling is conducted,

to determine all or part of a result or of the effect of a result, or

to store information relating to a result.

(5) In this Act “remote gambling equipment” does not include equipment which—

(a) is used by a person to take advantage of remote gambling facilities provided by another person, and

(b) is not provided by that other person.” [Section 36(4) and 36(5) of the Gambling Act 2005]

2005) or (b), even if no equipment was located in Great Britain, the facilities were capable of being used here. The Explanatory Notes go on to say:

So, for example, an offshore-based operator who makes remote gambling facilities available to customers around the world on the internet will need to obtain an operating licence from the Commission if such facilities are capable of being used in Great Britain regardless of whether they are, in fact, so used. If the operator wanted to avoid having to obtain such a licence, then he would need to block internet access for customers in Great Britain so that the remote gambling facilities are incapable of being used here.<sup>20</sup>

A number of those who responded to our call for evidence have raised concerns about the exact wording of clause 1 of the Bill, and we address these in Chapter 3 below.

19. Clause 2 of the draft Bill would abolish the White List (by repealing section 331 of the Gambling Act 2005), meaning that all of those providing remote gambling services to consumers in the United Kingdom, but licensed outside the EEA, would be treated on the same basis. The jurisdiction in which the operator (or the supplier of the various processes requiring licensing—player registration, servers etc.) is regulated would be relevant only in terms of determining the fees and charges operators would be expected to pay and the level of Gambling Commission scrutiny they would be given.<sup>21</sup> Those in well-regulated jurisdictions (such as those on the White List and Gibraltar), the Government claims, would not face significant increases in licensing costs but would “continue to benefit from the robust regulatory regimes we know are in place and the close regulatory relationships already in place between the Gambling Commission and the White Listed regulators”; while those in less well-regulated jurisdictions would pay the compliance costs associated with being subject to the same requirements as other Gambling Commission licensees.<sup>22</sup>

20. To ensure the minimum of disruption for operators already active in the British market, the Government intends to have a transition period during which operators who were already licensed in EEA countries or the White-Listed jurisdictions would be awarded an automatic provisional licence so that they would not have to cease trading.<sup>23</sup>

21. The Government completed a Regulatory Impact Assessment (RIA) in June 2011, which concluded that the proposals were cost- and benefit-neutral to British-based remote gambling operators, as there would be no additional costs and might even be some (as yet unquantified) marginal net benefits in relation to fees. RIAs do not have to take into account costs imposed on companies not based in the UK, so the RIA concluded that there was an Equivalent Annual Net Cost to Business of zero, as the direct costs would fall on non-GB-based operators.<sup>24</sup>

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20 Explanatory document, p26, para 19

21 Explanatory document, pp17–18

22 Explanatory document, p19

23 Explanatory document, p18

24 Explanatory document, p20

## Consumer protection

22. The explanatory document justifies the Government’s approach in the Bill by reference to Ministers’ duty to ensure consumer protection:

the Government considers it essential for the Gambling Commission to have a greater degree of oversight in respect of the gambling offered into Great Britain. Further, the Government believes strongly that the costs of such oversight should be met by all service providers rather than British licensed operators and taxpayers, as is the case now.<sup>25</sup>

The document suggests that the Gambling Commission has become aware of “new and emerging” European jurisdictions where restrictions on online gambling have recently been relaxed and the licensing regime is new, and some where online gambling sites have begun targeting British consumers (for example, through use of .co.uk domain names).<sup>26</sup> The Permanent Secretary at the DCMS said that the Government was concerned not only about the unregulated black market, but about inconsistencies of standards and practice across the regulated market—most of the 80% of market share not currently licensed by the Gambling Commission.<sup>27</sup>

23. Led by the Remote Gambling Association (RGA),<sup>28</sup> the chief opponents of the proposals in the draft Bill were those companies involved in the provision of remote gambling services who were already based overseas. These companies claimed that they were already well-regulated (several cited the fact that they were based in White-Listed jurisdictions whose rules, they argued, were almost identical to the UK’s<sup>29</sup>); and they viewed the Bill as less an attempt to increase consumer protection and more a means of increasing the UK Government’s tax take.<sup>30</sup> William Hill stated: “Objectively, there is no need for what is proposed, unless it is a necessary pre-requisite for the tax proposal that follows.”<sup>31</sup> The RGA summed up the remote gambling industry’s response to the proposal as follows: “This social policy legislation will open the door to the introduction of an extraterritorial tax regime that will place a huge additional fiscal burden on our industry.”<sup>32</sup>

24. Moreover, the RGA did not think the Bill would be effective in increasing consumer protection on the grounds that the extra costs inherent in registration and licensing would damage operators’ competitiveness, be reflected in the odds they were able to offer, and drive consumers towards companies in less well-regulated jurisdictions.<sup>33</sup> We asked about

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25 Explanatory document, p 17

26 Q 160

27 Qq 160 and 167

28 The Remote Gambling Association represents 30 of the world’s largest licensed remote gambling companies (both operators and software suppliers) licensed within the EEA, Isle of Man or Channel Islands. Several of the member companies have also sent individual submissions to the Committee.

29 Qq 1 and 84 See also Ev w21 (Gibraltar Gambling Commissioner)

30 See, for example, Ev w10 (Gala Coral Group), Ev w15 (Federation of Racecourse Bookmakers), Ev w21 (Gibraltar Gambling Commissioner), Ev w29 (Association of British Bookmakers), Ev w35 (Paddy Power) and Ev w57 (Business in Sport and Leisure)

31 Ev w11

32 Ev 39

33 Qq 1, 11, 16, 21, 58–59, 65, 72–76, 79–80, Ev w10 (Gala Coral), Ev w11 (William Hill)



the example of Denmark, which introduced a point of consumption-based tax after opening up its market to licensed operators from 2010 (previously, online gambling had been illegal). While entering the caveat that the market was too new for definitive conclusions to be drawn, the RGA considered it likely that a very large percentage of that market would remain outside the licensing system.<sup>34</sup> It also predicted that even if, as suggested, the Danish system were capturing 90% of the market, this percentage might decrease over time.<sup>35</sup> The RGA pointed out that HM Treasury was working on the basis that, following the proposed change to taxation, 20% of the UK online gambling market would remain outside the UK taxation system.<sup>36</sup>

25. The RGA also suggested that consumers of remote gambling in Britain were no more disadvantaged in respect of getting money back or pursuing complaints than UK consumers of any other sort of e-trading, describing the current risk to UK consumers as “theoretical” and pointing out that even the DCMS’s regulatory impact assessment had made it clear that “no specific public protection risks have yet arisen”.<sup>37</sup> This assertion was disputed by the British Horseracing Association, which said that, whereas in Great Britain bets are legal contracts<sup>38</sup> (giving security to consumers and their winnings), this is not the case even in some EEA and White-Listed jurisdictions, such as Alderney.<sup>39</sup> Indeed, we were given examples of issues such as failure to provide adequate information about the likelihood of winning and difficulties in securing money owed on successful bets in relation to companies regulated in Gibraltar.<sup>40</sup> The DCMS also pointed out that the RGA had misquoted the Regulatory Impact Assessment as saying that no specific *risks* had yet arisen: it actually said no specific *issues* had yet arisen. This, the Government argued, was significant as “it is on the basis of public protection risks that the Bill is considered a necessary and prudential measure”.<sup>41</sup>

26. Another concern voiced by the industry was possible incompatibility with European Union law. The RGA succinctly summed up the argument as follows: “A restriction on trade between EU states, such as changes to licensing regimes, is only permitted in limited circumstances. In relation to remote gambling, case law indicates that those circumstances include a requirement for greater consumer protection.”<sup>42</sup> Several companies alleged that the Government had been unable to produce any evidence of harm to consumers and, in the absence of this, a trade-restricting measure like a requirement for licensing (and consequently the payment of tax) was likely to be seen as purely a revenue-raising measure, and would therefore be incompatible with the Single Market.<sup>43</sup> However, as the European Sponsorship Association (which opposes the Bill on these grounds) acknowledged, the

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34 Qq 67–68

35 Q 77

36 Q 69

37 Ev 39 See also Qq 44–46

38 Under the Gambling Act 2005

39 Ev 44

40 Ev 40

41 Ev 38

42 Ev 39, Qq 90–92

43 Ev w11 (William Hill), Ev w10 (Gala Coral), Ev w38 (Ladbrokes) and Ev w45 (bwin.party) See also European Sponsorship Association (Ev w26)



jurisprudence of the European Court of Justice to date has permitted member states “a broad discretion” in justifying the exclusion of online gambling services from the benefit of the fundamental freedoms enshrined in the Treaty for European Union<sup>44</sup> and the principle of mutual recognition.<sup>45</sup>

27. We were aware that, at the same time as we were conducting scrutiny of this draft Bill, our sister committee, the European Scrutiny Committee, was considering a European Commission Communication: *Towards a comprehensive European framework for online gambling*.<sup>46</sup> The Communication did not propose specific EU legislation on online gambling, but it did suggest a number of policy actions to be taken at EU level. We were pleased that our sister Committee took this opportunity to ask the Government to provide a more detailed assessment of how the regulation of remote gambling proposed in the draft Bill would fit within the European Commission’s proposed framework.<sup>47</sup> The Government responded that the way in which the Commission’s proposals appeared likely to be taken forward was “entirely consistent” with the draft Bill and the existing approach of the Gambling Commission to licensing requirements and enforcement.<sup>48</sup> **We are grateful to the European Scrutiny Committee for pursuing with the Government whether the draft Bill was compatible with the European Commission’s proposed framework for regulation of remote gambling.**

28. We also asked the Permanent Secretary at the DCMS to provide us with supplementary evidence on the compatibility of the draft Bill with the EU principles of mutual recognition and freedom of trade. He assured us that, in the Government’s view, it was compliant as a necessary and proportionate means of achieving enhanced consumer protection for British citizens.<sup>49</sup>

**29. Although we cannot rule out the possibility that a disgruntled remote gambling operator or association might try to bring a case against the UK in the European Court of Justice, we are satisfied that the Government has considered the compatibility of the proposed legislation with EU law and we note its confidence that any challenge to the legislation would be unlikely to succeed.**

30. Not all the industry representatives opposed the principle of the Bill. While critical of the Government’s failure to set out exactly how it expected the Gambling Commission to enforce the proposed legislation, 888 Holdings, Paddy Power, the Rank Group and Betfair were clear that they were not concerned about the principle of imposing a licensing regime or betting tax based on a customer’s location. They were more concerned about the costs and effectiveness of any regime.<sup>50</sup> All the companies were worried that those who complied with the new regime might be undercut and suffer a considerable loss of business to the ‘black’ and ‘grey’ betting markets.

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44 Articles 49 (Right of establishment) and 56 (Right to provide services)

45 Ev w26, para 4.5

46 COM(12)596, 15737/12 and ADD1

47 European Scrutiny Committee, Twenty-Sixth Report of Session 2012–13, HC 86-xxvi, chapter 8 (9 January 2013)

48 European Scrutiny Committee, Thirty-Second Report of Session 2012–13, HC 86-xxxii, chapter 8 (13 February 2013)

49 Ev 38

50 Respectively, Ev w1, Ev w35, Ev w18 and Ev w17

31. Some companies providing betting or gambling services with little or no online presence supported the principle of the Bill on the grounds of equity: ‘bricks and mortar’ gambling operators were unfairly penalised as they paid gambling taxes in full, making it difficult or impossible to compete with the growing online, offshore sector. However, they wanted the Government to go further in ensuring equity, and expressed some concerns that an unintended consequence of the Bill would be to penalise those who complied with it and took out licences, leaving the non-compliant to thrive.<sup>51</sup>

32. For those who consider that there is evidence for a link between remote gambling and higher rates of problem gambling, licensing provides a means to limit the availability of gambling and, through the requirement for licensed operators to contribute financially to research, education and treatment, also to limit harm. CARE, a Christian social policy charity which has historically taken an interest in measures to prevent problem gambling, welcomed the draft Bill, arguing that ideally no one should be able to provide online gambling services or advertise online gambling services in the UK without a Gambling Commission licence.<sup>52</sup> On the other hand, several remote gambling companies argued that they fully complied with best practice in relation to helping customers control their gambling and had made substantial contributions to the research, education and treatment of problem gambling.<sup>53</sup>

33. Mr Lauri Moyle, who gave oral evidence to us on behalf of CARE, gave a specific example of the confusion that might be caused to a consumer when remote gambling companies were based offshore, regulated in a third country and able to advertise in the UK.<sup>54</sup> He also argued strongly for a one-stop shop mechanism for ‘self-exclusion’ from online sites by those who acknowledged they had a problem with gambling. This, he said, would be far easier to achieve if all companies providing remote gambling in the UK had to be licensed here. He believed that, by making self-exclusion easier, more people with gambling problems would take that route.<sup>55</sup> As with a number of those supporting the principle of the Bill, CARE’s main concern about the proposed legislation was the effectiveness of the enforcement regime.<sup>56</sup>

### ***The Government’s response***

34. Jenny Williams, the Chief Executive of the Gambling Commission, described the problems with the current regime from the Commission’s viewpoint. A significant concern was that, though the legislation in Gibraltar and White-Listed countries might be very similar to the UK’s own, what was not transparent was how it worked in practice.

When you regulate companies like that you look at their systems, you look at their culture and you look at the way in which they deal with particular incidents. That gives you a sense as to whether they are behaving in a socially responsible way. I have

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51 Eg Ev w18 (Rank Group), Ev w53 (Bingo Association)

52 Ev 48

53 eg EV W15 (Federation of Racecourse Bookmakers), Ev w17 (Betfair), Ev w10 (Gala Coral) and Ev w1 (888 Holdings Ltd)

54 Q 142

55 Qq 144–146, 153–156

56 See paragraphs 51–54 below on enforcement

no reason to suppose that the big companies that Gibraltar regulates are not, but I do not know and I do not have the information; so I cannot provide any assurance to the Department or to the Government or Parliament about approximately 80% of the market that has been regulated outside Great Britain.<sup>57</sup>

Moreover, in relation to suspicious transactions, 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 the Commission had received a total of about ten since 2007. Ms Williams suggested it was implausible there were so few suspicious transactions.<sup>58</sup>

35. While in 2005 the Government was content that EEA countries and White-Listed jurisdictions had broadly similar regulations and approaches to the UK, the industry was changing. The Chief Executive gave two examples:

- In 2005 very few other jurisdictions within Europe permitted online gambling, so it was easier for the Gambling Commission to remain well-informed about how compatible their style of regulation was with the UK's regime, but now many more countries were liberalising their markets; and
- There were new developments causing concern about vulnerable people, such as the growth of so-called 'social' gambling.<sup>59</sup>

36. In essence, the Gambling Commission considered that the situation was now so fluid that it needed to be able to 'check the homework' of other regulators, which it could do effectively only by licensing operators itself.<sup>60</sup> Ms Williams suggested this might not be as onerous as it sounded: the Gambling Commission was already familiar with the business systems and corporate cultures of some of the major remote operators because of their UK-based business. She said she would be very surprised if the transitional licences for companies based in Gibraltar, for example, were not confirmed, without a huge amount of additional work, not least because the home regulator was likely to have to hand most of the information needed by the Gambling Commission. However, licensing would enable the Commission to pursue particular cases, from which it would learn a lot.<sup>61</sup>

37. We put the industry's objections about the changes 'masking' a tax-raising measure to the Department and the Gambling Commission. We were told that though complementary, the Government's regulation and taxation proposals were separate. The Chancellor of the Exchequer had announced in his 2012 Budget speech that the Government intended to bring offshore remote gambling operators within the UK's gambling taxation regime by applying a point of consumption principle to this industry.<sup>62</sup>

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57 Q 163

58 Q 207

59 Q 164 'Social gambling', in contrast to 'commercial' gambling, does not require a licence as it is not run by an operator to make a personal profit. However, the contrast between 'social' and 'commercial' gambling online is increasingly blurred, and some providers of remote gambling opportunities are devising increasingly sophisticated games, often aimed at younger people, and which accustom them to betting and gambling cost free—arguably, making the transition to commercial gambling easier.

60 Qq 175–176, 178–179

61 Qq 174 and 178

62 For background, see CMS Committee report, paragraphs 110–113

We were told that HM Treasury was “very focused” on the likely tax yield and the impact on the competitiveness of the industry that different tax rates might have.<sup>63</sup> When asked about any dependence of taxation on regulatory changes, Mr Jonathan Stephens, the Permanent Secretary at the DCMS, deflected all questions relating to taxation to the Treasury, and said that the proposals in the Bill stood on their own merits as consumer protection of a mainly precautionary kind.<sup>64</sup> He suggested the measures were necessary and proportionate, and he emphasised the Government’s view that this made them compatible with EU law.<sup>65</sup>

38. With reference to the experience of licensing of offshore remote gambling in other jurisdictions, Jenny Williams of the Gambling Commission reported the Danish regulator’s estimate that the black market in remote gambling formed well under 5% of the total remote gambling market in Denmark, despite a 20% tax rate (which is higher than the 15% levied in the UK).<sup>66</sup> Though unwilling to predict the size of the black market in Great Britain if the proposed Bill became law, she considered the black market was unlikely to grow because the UK was already a mature and open market, so it was difficult for black market operators to get a foothold.<sup>67</sup>

39. In response to the industry’s argument that, instead of seeking to license operators itself the Gambling Commission should liaise more closely with other gambling regulators, the Commission said that European regulators already liaised closely in relation to the mechanics of regulation and the exchange of good practice, but this was no substitute for direct contact with operators.<sup>68</sup>

40. We asked the RGA whether the industry would have significant concerns about the proposed licensing regime if its worries about taxation were met. The RGA admitted that the only reason why the remote gambling industry had moved offshore to the White-Listed jurisdictions was to avoid paying the UK’s tax rate.<sup>69</sup> Furthermore, we heard that many of these companies employed a large number of people within the UK, which serves to strengthen the view that these companies should be regulated by the UK.<sup>70</sup> We were told that the industry could live with both the regulatory regime and the proposed change in the base of taxation if the tax rate were lower—not down to the level of the jurisdictions with the lowest taxes, but just to narrow the gap enough to remove the incentive for customers to move their business to other operators. The current rate of the gross profits tax levied on the industry is 15%. The RGA argued that the rate with which its members would feel comfortable lay at around 5%, depending on the exact business model of the company; but it said that more analysis of the impact of taxation needed to be done because the key was

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63 Qq 200–201

64 For example, Qq 235 and 242

65 Qq 204, 239–241

66 Q 171

67 Qq 168–169 See also Q 172

68 Q 165

69 Qq 37–40

70 Qq 34–36 and Ev w11 (William Hill), Ev w17 (Betfair) and Ev w38 (Ladbrokes)

not only the simple rate of tax on profits but the overall fiscal burden from the range of taxes levied on the industry.<sup>71</sup>

**41. We note that the Government’s prime justification for moving to a system of licensing operations on the basis of ‘point of consumption’ is that the existing regulatory system has significant weaknesses in areas such as transparency, consistency and the provision of information. The Government has stated that the ability to bring all operators serving UK consumers within the tax net is a consequence, but not the prime motivation, of the legislation. Whether or not this is the case, we regard it as a legitimate and desirable outcome of the change in the licensing regime that in future remote gambling companies doing business in the UK should be subject to the same taxation requirements, whether they are based onshore or offshore. However, in setting a rate of tax, the Treasury should bear in mind the need to avoid setting it at so high a level that companies and their customers are driven into the black market.**

## Match-fixing

42. The Government argues: “There is currently no way to ensure that the protections of the gambling regulatory framework, in particular those afforded by licence condition 15 on reporting suspicious betting activity, are applied on a consistent basis to all operators who transact with British consumers or allow bets on British events.”<sup>72</sup> This is because regulators in other jurisdictions do not automatically notify the relevant British authorities about positive evidence of match-fixing and suspicious betting practices taking place on overseas licensed sites (including those that may have an impact on sports events held in Britain). Some operators share some information with the Gambling Commission in addition to their home regulator on a voluntary basis. However, according to the Government, this is often of insufficient detail to be used in an investigation, and there have been instances where the Gambling Commission has been unable to obtain information from the overseas licensed operator or regulator. In some cases the Gambling Commission is told the refusal to provide information is because of overseas data protection requirements. The Gambling Commission reported that since 2008 there had been only ten references of suspicious transactions from remote gambling operators unlicensed in the UK, and it gave specific examples of the difficulties in obtaining adequate and timely information from overseas operators.<sup>73</sup>

43. Sports bodies hoped the draft Bill would help to minimise the risk of match-fixing and other practices detrimental to sports integrity. The Gambling Commission contains a unit specialising in intelligence relating to sports betting. However, this unit does only a limited amount of investigative work, and we were told that police forces have been reluctant to get involved in the area of suspicious sports betting. As a result, sport governing bodies—particularly the British Horseracing Authority—had had to set up their own procedures for ensuring the integrity of their sports. This also meant that it was those governing bodies that had to negotiate the complexity of obtaining information from overseas regulators.<sup>74</sup>

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71 Qq 15–17, 21–27, 35, 38–43

72 Explanatory document, p15

73 Qq 210 and 194 The Gibraltar Gambling Commissioner disputed this argument: Ev w59

74 Q 139 See also Ev w8 (FA) and Ev 44 (British Horseracing Authority)

The Sports Betting Group,<sup>75</sup> an umbrella organisation for major sports governing bodies and the Professional Players Federation, said that the recent trends among gambling companies to locate their operations offshore had taken them outside the scope of the Gambling Commission's licence conditions, and in particular Licence Condition 15 which enforces sports integrity by, amongst other things, giving the sport governing body a right to access information from the licence holder and by placing a duty on the betting operator to record any suspicious betting patterns.<sup>76</sup> The Group argued it was absurd that companies would have the duty to comply with Licence Condition 15 in respect of any bets placed in their premises in the UK, but not for any online bets.<sup>77</sup>

44. The Sports Betting Group also noted that some online operators shared data with the sport governing bodies voluntarily (though this was often as a result of personal contact, and the willingness to continue such arrangements varied as personnel changed), some referred questions to their overseas regulator, some operated purely online and had no experience of sharing data so were anxious about data protection laws, and one or two simply refused to co-operate at all.<sup>78</sup> Even if information was shared, there was a delay inherent in reference to an overseas regulator and then that regulator contacting the Gambling Commission, which could mean that any report to the governing body about possible suspicious transactions relating to a match was made only after the match had taken place.<sup>79</sup>

45. When we asked how effective the licensing system was in aiding the fight for sports integrity, the Chief Executive of the Sport and Recreation Alliance reported that there had been an increase in the number of cases referred to governing bodies immediately after Condition 15 was added to the Gambling Commission's licence.<sup>80</sup> According to the Gambling Commission, the willingness of governing bodies to pursue cases through to fines and/or disqualification had had a significant deterrent effect on players and officials.<sup>81</sup> The Sports Rights Owners Coalition (SROC) argued it was especially important to sports integrity that the UK—as one of the largest and most liberalised betting markets—should set a high standard of regulation. SROC believed that the proposed Bill would help to give the UK one of the EU's most effective regimes.<sup>82</sup>

46. Two other points were made by the sports bodies. First, some gambling operators had made valuable contributions to sports integrity by financing player education programmes to enable them to understand the risks of corruption, but only in relation to three sports (football, cricket and rugby), on a purely voluntary basis and for a period of three years,

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75 The members of this Group that specifically endorsed the Group's evidence to us were: the British Horseracing Authority, England and Wales Cricket Board, Football Association, Lawn Tennis Association, Premier League, Rugby Football League, Rugby Football Union and the Sport and Recreation Alliance (an independent alliance of more than 90 sports governing and representative bodies in the UK): Ev 46

76 Q 111 and Ev 44 (British Horseracing Authority) and Ev w58 (Sports Rights Owners Coalition)

77 Q 112

78 Qq 112 and 116 See also Ev w53 (England and Wales Cricket Board)

79 Qq 113 and 193

80 Q 111

81 Q 195

82 Ev w58



which was too short given the ‘churn’ of players.<sup>83</sup> The Professional Players Federation was nervous such support might be withdrawn, especially if the operators came under further financial pressure; and it also considered it unfair that not all operators contributed to these programmes. Secondly, the Sports Betting Group said that sports governing bodies were in favour of overseas-based betting operators—who were enjoying large profits as a result of sports betting—making a financial contribution in return, both to the sports themselves and in the form of contributing to the Gambling Commission’s costs through licensing.<sup>84</sup>

47. The RGA was sceptical about the suggestion that changing the licensing regime would help prevent match-fixing or other threats to the integrity of sports betting. The RGA argued that the problem lay with different countries’ data protection regimes, and with the bureaucracy of dealing with other regulators, and that the Gambling Commission should put effort into improving relations with other regulators instead of extending licensing to remote gambling operators.<sup>85</sup> Several of those who submitted written evidence argued that, as most of the betting linked to match-fixing took place with unlicensed, unregulated — often illegal—operators based largely in Asia, who would never consider seeking a British gambling licence, then any change would have no effect.<sup>86</sup> The European Sports Security Association suggested that the Gambling Commission should start to enforce the three principles in the Gambling Act in respect of all White List jurisdictions before seeking to widen the scope of its operations.<sup>87</sup>

48. The response of the Gambling Commission to these criticisms was that direct licensing would enable it to investigate suspicious transactions itself, instead of having to request another regulatory authority to do so.<sup>88</sup>

**49. We support the principle that gambling should be regulated on a point of consumption basis—even the most vociferous opponents of legislation did not argue that the principle was wrong, or that they would refuse to apply for a UK licence—and there are several reasons why it should be so regulated, including equity, consistency, clarity and responsiveness to the needs of UK consumers. The industry argues that most remote gambling by UK customers currently takes place with companies that already meet, or approach, the required standard because they are regulated by ‘White-Listed’ regimes; and none of our witnesses has raised any specific objection to the costs of or regulatory requirements for obtaining Gambling Commission licences.**

**50. We therefore approve the principle of the draft Bill.**

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83 Q 137 See also Ev 45 (Professional Players Federation)

84 Ev 46 (Sports Betting Group)

85 Qq 88–89 see also Ev w21 (Gibraltar Gambling Commissioner)

86 Ev w15, Ev w21, Ev w54 (European Sports Security Association)

87 Ev w54

88 Qq 193 and 197

## Enforcing the law

51. The Government describes its proposed enforcement regime as “light-touch, avoiding duplication by relying on the work of other regulators, subject to sufficient on-going assurance of quality and rigour.”<sup>89</sup> The majority of the submissions we received expressed concerns about the enforcement regime for the proposed changes.<sup>90</sup> They argued that, to succeed in its purpose, the Government needed to give careful and detailed consideration to enforcement: if a significant proportion of operators active in the UK market failed to comply, or if the regime was made so expensive that punters moved en masse to unlicensed operators, then the purpose would have failed. The British Horseracing Authority placed the emphasis the other way round: “Provided that enforcement measures are sufficiently robust [to achieve a ‘level playing field’], regulation can be light touch.”<sup>91</sup> A number of submissions questioned the effectiveness of mechanisms adopted elsewhere to discourage betting with unlicensed and/or illegal operators. The RGA stated: “The draft Bill contains no reference to enforcement mechanisms. Other jurisdictions have tried ISP blocking, payment provider blocking and advertising restrictions, but none of these have worked and the European Commission has voiced concerns about both the effectiveness of such measures and where the blocking restricts free trade between member states.”<sup>92</sup> These concerns were echoed by, for example, the Bingo Association which was in favour of the principle of a ‘point of consumption’ basis for regulation.<sup>93</sup>

52. There was general agreement that the enforcement regime should comprise a number of elements: a fair and carefully balanced tax regime, the delegation (through secondary legislation) of extra enforcement powers to the Gambling Commission (to cover aspects such as payment blocking), and a realistic assessment of the resources the Gambling Commission would need to police the regime effectively. Paddy Power suggested, in addition to these general points, that to ensure the effectiveness of the licensing regime it was essential for the regulator to be able to:

- Impose definitive advertising and Internet Protocol (IP) address restrictions which would make any breach clear cut;
- Impose financial penalties, including financial deposits being put at risk.
- Fine critical partners who ignored warnings about hosting illegal & unlicensed operators and make them financially liable for any unpaid taxation/fees.
- Enforce IP blocking.<sup>94</sup>

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89 Explanatory document, p 18

90 For example- those not cited elsewhere in this section –Ev w5 (Campaign for Fairer Gambling), Ev w9 (Camelot UK Lotteries Ltd), Ev w10 (Gala Coral Group), Ev w11 (William Hill Organisation), Ev w21 (Gibraltar Gambling Commissioner), Ev w29 (Association of British Bookmakers, )Ev w38 (Ladbrokes)and Ev w57 (Business in Sport and Leisure)

91 Ev 44

92 Ev 39

93 Ev w53

94 Ev w35, para 8



Paddy Power also suggested that an effective regime needed criteria requiring operators to undertake a series of objective tests to identify a client's location at the time of registration, and a simple definition of location (the clearer the definition of location, the harder for operators to circumvent the regime wilfully).<sup>95</sup>

53. CARE supported both ISP and financial transaction blocking: it wanted the Government to indicate that it intended to introduce both, and give an estimate of when the necessary delegated legislation would be introduced.<sup>96</sup>

54. We asked why the Government had not included reference to any of these enforcement measures in the draft Bill, and we were assured that most were already available to the Gambling Commission, either by explicit provision in the Gambling Act 2005 (in relation to criminal offences) or implicitly as a result of the Commission's powers to impose licence conditions on operators.<sup>97</sup> The Commission told us that while operators sometimes protested about restrictions, they usually complied, and did so without the need for resort to prosecutions.<sup>98</sup>

55. The sporting bodies were concerned that the Gambling Commission might lack the resources to ensure effective enforcement of the extended licensing regime, even though they did not expect it to involve a large amount of extra work. They reported that the Gambling Commission was already struggling financially, given that it could cost £100,000 to pursue a single case.<sup>99</sup> They argued that the betting operators should contribute towards the cost of maintaining sports integrity, and noted that being required to pay for a licence would help with this.<sup>100</sup> The Gambling Commission was confident that the extra income it received would be sufficient to support its work.<sup>101</sup>

**56. We welcome the Gambling Commission's assurance that the extra income resulting from more remote gambling being brought within the licensing regime would provide sufficient funds to pay for the extra work of enforcing the new regime without the need to increase licence fees. However, we will continue to monitor this.**

57. We turn now to whether the detailed provisions in the Bill would meet the Government's objectives, or whether they might be improved.

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95 *Ibid.*

96 Ev 48

97 Qq 181–188

98 Q 183

99 Qq 125–128

100 Ev 46 and Q 128

101 Q 233

## 3 Provisions of the Bill

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### Licensing

58. The High Growth Forum, an association of smaller, technology-focussed companies in the online gambling sector, suggested that the Bill was in danger of instituting a regime that would be left behind by technological development.<sup>102</sup> It argued that the continuing reference in the draft Bill to the location of pieces of equipment to enable online gambling was irrelevant and confusing in the era of ‘cloud computing’, and that this wording would also hamper perfectly legitimate uses of equipment that would not involve making gambling facilities available to British consumers (eg for disaster recovery, databases, or software licensing). The RGA considered that “having facilities capable” of being used in gambling in the UK would potentially catch all remote gambling companies in the world, even though this was clearly not the Government’s intention.<sup>103</sup> The Advertising Association raised similar concerns. It suggested that the Bill would introduce a requirement for all operators selling into the British market to hold a Gambling Commission licence, and added that “the Bill suggests in the footnotes that ‘selling into the British market’ equates to ‘advertising to/transacting with British consumers’.”<sup>104</sup> However, the phrases that caused particular concern to the Advertising Association appear in the explanatory document accompanying the draft Bill, and not in the draft Bill itself.<sup>105</sup>

59. The Forum suggested an alternative amendment to the Gambling Act 2005 to make the offence of providing gambling services without a licence from the Gambling Commission applicable to the “provision of facilities for remote gambling by persons present in Great Britain.” It proposed further amendments to exempt from the scope of the 2005 Act those simply writing software to be used by the gambling industry (by repealing section 41 of the 2005 Act, which creates an offence if someone supplies, installs or adapts gambling software without an operating licence); and to avoid the need for both software developers and gambling operators to certify software under the Gambling Commission’s technical standards (by amending section 97 of the 2005 Act to apply to the supply of software only and not to the manufacture, supply, installation or adaptation of software).

60. The Permanent Secretary at the DCMS assured us that the Government was open to suggestions about alternative wording for clause 1, but was anxious to avoid creating opportunities for legal challenges along the lines of ‘I did not intend to supply gambling to people in Great Britain. It is purely incidental or accidental that 100,000 people started gambling on my site.’<sup>106</sup>

**61. The reference in the Bill to the location of equipment may prove irrelevant as technology develops, but we do not consider it confusing. Nor do we think it at all probable that the Gambling Commission would seek to license all remote gambling**

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102 Ev w43

103 Q 10

104 Ev w20

105 See paragraph 64 below

106 Qq 191–192

companies in the world—only those likely to be used by consumers in Great Britain. However, we see merit in the amendment to clause 1 proposed by the High Growth Forum, though it may require some adjustment to clarify that it is the gambling rather than the provision of facilities that is undertaken by people in the UK. We recommend that the Government amend the draft Bill along these lines.

62. While we sympathise with software developers over the difficulties they face, we have not received any evidence relevant to the two other amendments proposed by the High Growth Forum, and we are not convinced that this Bill is an appropriate vehicle for them, even if they are desirable. However, we draw them to the attention of the Gambling Commission in relation to its discretion as to how it pursues breaches of the Gambling Act 2005, and we suggest that it may be helpful to both if the Gambling Commission and High Growth Forum discuss any potential problems arising from the proposed Bill.

## Advertising

63. Clause 2 of the draft Bill would repeal section 331 of the Gambling Act 2005, thereby lifting all restrictions on advertising foreign gambling, including abolishing the distinction between advertising originating from companies based in the EEA and White-Listed countries, and those based elsewhere. Clause 3 would change the test for determining the territorial application of regulations on advertising to the same basis as that for determining whether a licence was required, that is the location of a single piece of equipment in Great Britain or, if no equipment was located here, the ability for gambling facilities to be used here. Neither would change the definition of advertising in section 327 of the Gambling Act 2005, with which the Advertising Association appears to be satisfied.

64. The European Sponsorship Association believed that, under the proposed legislation, only gambling operators licensed by the Gambling Commission in Great Britain would be entitled to sponsor any sports team playing a match (or presumably any individual competing) in Great Britain, or to sponsor any sporting competition of which any part was played in Great Britain.<sup>107</sup> The Association cited a recent example of a French football club being required to remove its (gambling operator) sponsor's logo from its shirts when playing a match in Spain as its sponsor was not licensed in Spain. The European Sponsorship Association suggested that the Bill should be amended to clarify that such advertising by sponsors would not be illegal. However, the Gambling Commission stated that this restriction existed under the current legislation, and cited some examples of where players had been forced to remove the logos of gambling companies not licensed in the UK.<sup>108</sup>

65. According to the Advertising Association, compliance with the two Advertising Codes<sup>109</sup> is very high: the ASA's *Gambling Advertising Survey 2010* reported a 96.1% compliance rate, with the ASA taking swift action against non-compliant advertisements.<sup>110</sup>

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107 Ev w26

108 Q 212

109 See paragraph 8 above

110 Ev w20, para 9

The RGA told us that the Gambling Commission had never expressed any concerns about the current advertising regime, and it saw these provisions as an enforcement mechanism rather than a response to concerns about advertising as such.<sup>111</sup> The Gambling Commission confirmed that it saw no major problem with the current regime, as there had been only a trickle of advertising of illegal gambling sites over the previous seven years, 13 or 14 of which had caused the regulator to ask the ISP to take action against the advertiser by blocking the website. The Gambling Commission said that the search engines had always been prepared to remove such sites from their paid-for search results.<sup>112</sup> Both the Commission and the DCMS argued that the ability to limit advertising was a very effective enforcement mechanism.<sup>113</sup>

**66. We are content with the wording of Clauses 2, 3 and 4 of the draft Bill.**

### Other issues

67. The National Casino Industry Forum argued that the Bill did not go far enough to restore equitable conditions in the industry:

The government now proposes that the UK gaming market is to be further opened and legitimised to companies that are online and off-shore and with lower operating costs and more favourable taxation and where there is more choice, accessibility and the games offered are more advanced than those permitted to UK on-shore operators. The playing field is not just uneven, it's precipitous and the draft bill in its current form will place on-shore jobs and investment in jeopardy.<sup>114</sup>

The main thrust of its submission was an appeal to add to the Bill a clause enabling casinos to provide online gambling within their own walls.

**68. We see no reason why online gambling should be illegal in highly-regulated and inspected casinos. We recommend that a clause be added to the Bill to remove this anomaly.**

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111 Qq 48–49

112 Qq 206 and 229 and Ev 38 (DCMS)

113 Qq 226–227

114 Ev w43; see also Ev w3 (London Clubs International)

## Conclusions and recommendations

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1. We welcome the Government's response to our concerns in our 2010 report, *The Gambling Act 2005: A bet worth taking?*, about the safeguarding of player accounts and our recommendation that there should be some method of kite-marking websites that meets Gambling Commission standards. (Paragraph 15)
2. We are grateful to the European Scrutiny Committee for pursuing with the Government whether the draft Bill was compatible with the European Commission's proposed framework for regulation of remote gambling. (Paragraph 27)
3. Although we cannot rule out the possibility that a disgruntled remote gambling operator or association might try to bring a case against the UK in the European Court of Justice, we are satisfied that the Government has considered the compatibility of the proposed legislation with EU law and we note its confidence that any challenge to the legislation would be unlikely to succeed. (Paragraph 29)
4. We note that the Government's prime justification for moving to a system of licensing operations on the basis of 'point of consumption' is that the existing regulatory system has significant weaknesses in areas such as transparency, consistency and the provision of information. The Government has stated that the ability to bring all operators serving UK consumers within the tax net is a consequence, but not the prime motivation, of the legislation. Whether or not this is the case, we regard it as a legitimate and desirable outcome of the change in the licensing regime that in future remote gambling companies doing business in the UK should be subject to the same taxation requirements, whether they are based onshore or offshore. However, in setting a rate of tax, the Treasury should bear in mind the need to avoid setting it at so high a level that companies and their customers are driven into the black market. (Paragraph 41)
5. We support the principle that gambling should be regulated on a point of consumption basis—even the most vociferous opponents of legislation did not argue that the principle was wrong, or that they would refuse to apply for a UK licence—and there are several reasons why it should be so regulated, including equity, consistency, clarity and responsiveness to the needs of UK consumers. The industry argues that most remote gambling by UK customers currently takes place with companies that already meet, or approach, the required standard because they are regulated by 'White-Listed' regimes; and none of our witnesses has raised any specific objection to the costs of or regulatory requirements for obtaining Gambling Commission licences. (Paragraph 49)
6. We therefore approve the principle of the draft Bill. (Paragraph 50)
7. We welcome the Gambling Commission's assurance that the extra income resulting from more remote gambling being brought within the licensing regime would provide sufficient funds to pay for the extra work of enforcing the new regime without the need to increase licence fees. However, we will continue to monitor this. (Paragraph 56)

8. The reference in the Bill to the location of equipment may prove irrelevant as technology develops, but we do not consider it confusing. Nor do we think it at all probable that the Gambling Commission would seek to license all remote gambling companies in the world—only those likely to be used by consumers in Great Britain. However, we see merit in the amendment to clause 1 proposed by the High Growth Forum, though it may require some adjustment to clarify that it is the gambling rather than the provision of facilities that is undertaken by people in the UK. We recommend that the Government amend the draft Bill along these lines. (Paragraph 61)
9. While we sympathise with software developers over the difficulties they face, we have not received any evidence relevant to the two other amendments proposed by the High Growth Forum, and we are not convinced that this Bill is an appropriate vehicle for them, even if they are desirable. However, we draw them to the attention of the Gambling Commission in relation to its discretion as to how it pursues breaches of the Gambling Act 2005, and we suggest that it may be helpful to both if the Gambling Commission and High Growth Forum discuss any potential problems arising from the proposed Bill. (Paragraph 62)
10. We are content with the wording of Clauses 2, 3 and 4 of the draft Bill. (Paragraph 66)
11. We see no reason why online gambling should be illegal in highly-regulated and inspected casinos. We recommend that a clause be added to the Bill to remove this anomaly. (Paragraph 68)

# Formal Minutes

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**Tuesday 25 April 2013**

Members present:

Mr John Whittingdale, in the Chair

Mr Ben Bradshaw  
Angie Bray  
Conor Burns  
Philip Davies  
Paul Farrelly

Mr John Leech  
Steve Rotheram  
Jim Sheridan  
Mr Gerry Sutcliffe

Draft Report (*Pre-legislative scrutiny of the draft Gambling (Advertising and Licensing) Bill*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 68 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Sixth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

[Adjourned till Tuesday 14 May at 10.00 am

## Witnesses

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### Tuesday 29 January 2013

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**Clive Hawkswood**, Chief Executive, **Sue Rossiter**, Director of Projects and Policy, and **Wes Himes**, European Adviser, Remote Gambling Association, and Managing Director, Policy Action Ltd Ev 1

**Tim Lamb**, Chief Executive Officer, Sport and Recreation Alliance, **Paul Scotney**, British Horseracing Authority, **Simon Barker**, Professional Footballers' Association and Professional Players Federation, all of the Sports Betting Group, and **Lauri Moyle**, Gambling Policy Consultant, CARE Ev 13

### Tuesday 12 February 2013

**Jonathan Stephens**, Permanent Secretary, Department for Culture, Media and Sport, and **Jenny Williams**, Chief Executive, Gambling Commission Ev 23

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2	Remote Gambling Association	Ev 39; Ev 40; Ev 52
3	British Horseracing Authority	Ev 44
4	Professional Players Federation	Ev 45
5	Sports Betting Group	Ev 46; Ev 47
6	CARE	Ev 48

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2	888 Holdings	Ev w1
3	London Clubs International Ltd	Ev w3; Ev w4
4	Campaign for Fairer Gambling	Ev w5
5	The FA	Ev w8
6	Camelot UK Lotteries Limited	Ev w9
7	Gala Coral Group	Ev w10
8	William Hill Plc	Ev w11
9	Federation of Racecourse Bookmakers	Ev w15
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11	The Rank Group plc	Ev w18
12	The Advertising Association	Ev w20
13	Phillip Brear, Gibraltar Gambling Commissioner	Ev w21; Ev w59



14	European Sponsorship Association	Ev w26
15	Association of British Bookmakers	Ev w29
16	Rugby Football Union	Ev w29
17	Gibraltar Betting & Gaming Association	Ev w30
18	Paddy Power Plc	Ev w35
19	Ladbrokes	Ev w38
20	National Casino Industry Forum	Ev w41
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22	Bwin.party	Ev w45
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24	England and Wales Cricket Board	Ev w53
25	European Sports Security Association	Ev w54
26	Business in Sport and Leisure Ltd	Ev w57
27	The Sports Rights Owners Coalition	Ev w58

## List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2010–12

First Special Report	Press standards, privacy and libel: Responses to the Committee's Second Report of Session 2009-10	HC 351
Second Special Report	BBC Annual Report 2008-09: BBC Trust's response to the Committee's Fifth Report of Session 2009-10	HC 352
Third Special Report	Channel 4 Annual Report: Responses to the Committee's First Report of Session 2010-11	HC 891
Fourth Special Report	BBC Licence Fee Settlement and Annual Report: Responses to the Committee's Fourth Report of Session 2010-12	HC 1375
Fifth Special Report	Unauthorised disclosure of draft Report	HC 1638
Sixth Special Report	Spectrum: Government Response to the Committee's Eighth Report of Session 2010-12	HC 1771
First Report	Channel 4 Annual Report	HC 423
Second Report	Pre-appointment hearing with the Government's preferred candidate for Chairman of the BBC Trust	HC 864-I & II
Third Report	Funding of the arts and heritage	HC 464-I, II & III
Fourth Report	BBC Licence Fee Settlement and Annual Report	HC 454
Fifth Report	Pre-appointment hearing with the Government's preferred candidate for Chairman of the S4C Authority. First joint Report with the Welsh Affairs Committee	HC 1061-I
Sixth Report	2018 World Cup Bid	HC 1031
Seventh Report	Football Governance	HC 792-I, II & III
Eighth Report	Spectrum	HC 1258
Ninth Report	2018 World Cup Bid: Responses to the Committees Sixth Report of Session 2010-12	HC 1602
Tenth Report	Channel 4 Annual Report	HC 1175
Eleventh Report	News International and Phone-hacking	HC 903-I & II

### Session 2012–13

First Report	The Gambling Act 2005: A bet worth taking?	HC 421
Second Report	Racism in football	HC 89
Third Report	Library Closures	HC 587
Fourth Report	Football Governance Follow-Up	HC 509
Fifth Report	Scrutiny of the Draft Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013	HC 1104

# Oral evidence

## Taken before the Culture, Media and Sport Committee on Tuesday 29 January 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw  
Angie Bray  
Tracey Crouch  
Philip Davies  
Paul Farrelly

Mr John Leech  
Steve Rotheram  
Jim Sheridan  
Mr Gerry Sutcliffe

### Examination of Witnesses

*Witnesses:* **Clive Hawkswood**, Chief Executive, **Sue Rossiter**, Director of Projects and Policy, and **Wes Himes**, European Adviser, Remote Gambling Association, and Managing Director, Policy Action Ltd, gave evidence.

**Q1 Chair:** Good morning. This is the first of two sessions in which the Committee is carrying out pre-legislative scrutiny of the draft Gambling (Licensing and Advertising) Bill, and I would like to welcome the Remote Gambling Association. You are all from the Remote Gambling Association, right? Very good. If I can start off by asking you to say whether or not you accept that there is a need for greater control than presently exists from online gambling, and whether, therefore, you accept the general intention, the thrust of the Bill?

**Clive Hawkswood:** I will begin on that one. The short answer is no—but I will move on to a slightly longer answer—there is a lack of evidence and a lack of clear objectives from the Government in what it is they are trying to achieve. But if the key focus is improved protection, and some of the other, I would say, less important measures that the Government has given as justifications, we do not believe they will be effective. The concern is that, far from moving from what we believe is a well-regulated system, where consumers are not encountering disproportionate problems, we will move to one that will lead to the growth of the grey market, with companies we are not familiar with in jurisdictions that are less well regulated.

At the moment, the British market is wholly dominated by companies licensed in a very few number of jurisdictions. They are—in addition to the UK—Gibraltar, Alderney and the Isle of Man, all closely linked to the UK, all with regulatory systems very similar and in some cases identical. So we are not persuaded the need to change is the longer answer.

**Q2 Chair:** You will have seen—particularly this last weekend—there has been quite a lot of press coverage about the threat to vulnerable people, of the growth of online gambling and the need for greater protection. Do you accept any of that?

**Clive Hawkswood:** We accept the need to prevent children gambling, absolutely, and to protect the vulnerable. As I say, the industry, whether it is licensed in the UK or one of those other jurisdictions, implies into it exactly the same principles, without a doubt, and the measures, as I say, that companies adopt, irrespective of where they are, are almost

identical. So we do buy into that. We query some of the ways it is being reported. The suggestion that there has been an explosion of problem gambling, and the linkage in some way to the growth of online gambling, is not substantiated, but, in terms of, is there a risk that we need to address? Absolutely, we have always believed that.

**Sue Rossiter:** The numbers that were quoted in the press over the weekend were a little misleading. The number of people who actually gamble online in the UK is round about 10% to 11%. But if we withdraw from that the people who only gamble in the National Lottery, we are reducing down to about 5.5% of the population and that percentage has been decreasing over the years. What we would say is that the numbers of people who are considered to be problem gamblers is equivalent, whether it is online or offline, and what we would say is that, yes, there need to be serious protections for those people. But that is currently built into the licences that people currently operate under and will continue to do so in the future, if they continue to be licensed in the jurisdictions where they are. The sorts of measures we would be looking at would be things like self-exclusion, daily limits and other limits on amounts of bet and, of course, being able to have on every licensed website a signpost to where people can receive additional support, protection and help.

**Q3 Mr Leech:** You just said that the number of people that gamble on line is about 10% to 11%. The figures I read suggested 14%, which is quite a big difference. So I am interested to know where you get the figures from. Also, I am very interested to know how big online gambling has become, say, from 10 years ago. What proportion of gambling was online 10 years ago?

**Sue Rossiter:** If we take the Gambling Commission's own statistics, so the statistics that they collect through an omnibus data, which is four times a year a collection of data that goes on. If we look at the number of people who have been gambling on line, in 2006, people who did not do the National Lottery but did other forms of gambling was 5.1%, and the year to 2012, which was the period over which this

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omnibus data happens, is 5.5%, so there has been an increase, but the increase has been from 5.1% in 2006 to 5.5% in 2012.

The increase with online gamblers is similar to what we have seen in the switch between retail and online shopping. So, as more and more people are used to conducting their business on an online basis, it is inevitable that more people will be gambling online, but what we have not seen is any increase, other than that, on the number of people who are problem gamblers.

**Q4 Tracey Crouch:** Can you break down those figures into what type of gambling, whether or not it is in sporting events or whether it is casino-style games or whether it is other kinds of—

**Sue Rossiter:** It is quite detailed. The information is available in the Gambling Commission's omnibus surveys, but we can get that to you as a matter of course. I do not have them all written down here because it is tables and tables and tables of stuff.

**Q5 Tracey Crouch:** What would you assume has seen the biggest increase? Would it be gambling or sporting events or would it be online poker or—

**Sue Rossiter:** It is fairly evenly spread, but we will get you that data. I think it would be better if I can get you the actual data rather than a summary thereof.

**Q6 Chair:** You will have seen the Government's reasons as to why they want to move to a regime of licensing at point of consumption, and they have given a number of justifications, including the suggestion that at the moment it is very difficult because different bits of equipment may be located in different jurisdictions. Whereas obviously, if we move to a system where, if you can sell to a British consumer you need a British licence, that is a much more straightforward proposition. Do you accept any of that as a reason for the Bill?

**Clive Hawkswood:** No, I do not think that is what they are proposing. I think the Gambling Commission and DCMS' line is that companies can have their equipment pretty much where it is currently, as long as the regulator can access it. So I do not think that position will change at all.

**Q7 Chair:** No, but they are saying at the moment that where it is licensed at the point of supply, it is quite difficult to determine that if you have different pieces of equipment in different jurisdictions.

**Clive Hawkswood:** Okay, so the question is, how do they determine whether something is actually UK-based or not? I think the Gambling Act 2005 covers that. It is about the location of certain pieces of equipment, and that is for the Gambling Commission to determine.

**Q8 Chair:** So the Government's claim that there is confusion in this area, you do not think there is any confusion in this area?

**Clive Hawkswood:** I cannot say whether the Government is confused, but not from our side, no.

**Q9 Chair:** Right. I think if not you then others have suggested to us that there might be a problem in terms of future proofing the Bill, particularly in relation to more and more being done from Cloud computing. Do you see that as a potential difficulty?

**Clive Hawkswood:** I think Cloud computing and other developments need to be closely looked at, but they can be addressed by regulators. The problem going ahead, and where it will affect future proofing, is the downside of those sorts of developments. It gives operators an opportunity, and greater opportunity, to evade the regulatory net, and that is one of the reasons we are so worried about growth of the grey market going ahead.

**Q10 Chair:** We understand that you would rather stick with the existing regime than legislate at all, but, given the Government is legislating, what specific amendments would you like to see made to the Bill to meet some of your concerns?

**Clive Hawkswood:** On the Bill itself, obviously very few clauses. There is a specific one that we raised with DCMS as soon as we saw it, and that is the wording around "having facilities capable", and basically that means if you have facilities capable of transacting with UK residents you will require a licence. Our understanding previously would be that the law would be drafted in such a way that it caught companies who actually did transact, not who had the capability of doing so, because, if we say there is somewhere between 2,500 to 5,000 gambling websites in the world, that would potentially catch all of them. Now, explanatory notes refer to, well, if the company in question says they will exclude UK customers then that is okay. Quite how the Gambling Commission assesses that, how they check out these sites across the world, it does not seem realistic. So I think the wording there could be tightened up.

**Q11 Chair:** Although, arguably, even if they do have facilities they are not advertising to UK customers. If they do not have UK customers, and they do not have a Gambling Commission licence, it does not matter greatly.

**Clive Hawkswood:** It doesn't, yes.

**Chair:** There is nothing the Gambling Commission can do about it?

**Clive Hawkswood:** That is a wider point. That comes back to the heart of our concerns, which is that if this goes ahead, quite apart from us believing the current system works more than adequately, it will undermine it going ahead because it will take market share away from existing operators and, almost certainly, push it towards companies in less well regulated jurisdictions who do not protect consumers in the same way that we would all like to see.

**Chair:** We are going to come on to enforcement issues like that, but before we do, Paul Farrelly.

**Q12 Paul Farrelly:** Clive, nice to see you again. You have probably seen some of my remarks in a debate that we had on Friday, in which Philip Davies took part. Could you just make clear for us—because it is not clear from your evidence—as to whether there are

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any of your members for whom you are not speaking today?

**Clive Hawkswood:** No, I am speaking for all of them.

**Q13 Steve Rotheram:** Including bet365?

**Clive Hawkswood:** I am speaking for bet365 as well, to the extent that bet365 also do not believe the current tax regime is viable in the long term. I should explain the chief executive of bet365 is also my chairman. He sat next to me last time we gave evidence here and his remarks are on record. I will paraphrase, but I think they are quoted in your own report from a few months ago. It says if they were a publically listed company they could not stay in the UK.

**Q14 Paul Farrelly:** Yes, but that is by the by. It is known that bet365 is a major employer in my area and currently owns my local premiership football team, Stoke City, of which I have been a supporter since I was a young lad. But bet365 supports the move towards a point of consumption basis in the UK, is that not correct?

**Clive Hawkswood:** It is not for me to answer individual questions about particular companies, but I think that is fair. But then they are the only company of any size still here. They are atypical, if I can put it that way.

**Q15 Paul Farrelly:** I think we have the answer to my question then. Okay. Clearly, this Act is the regulatory end of the real business end, which is the Treasury stuff, which is all about tax. I think your case here, if I am correct, would be that this is really all about tax, is it not, for the Government?

**Clive Hawkswood:** As we say, we do not believe the regulatory measures make a blind bit of difference. It is the tax we are concerned about. Why are the companies not here in the first place? This is a poor fiscal regime to operate under. I am full of admiration for bet365 who have made their business successful here, but it does not work for the vast majority of companies.

**Q16 Paul Farrelly:** On this point about tax, if it is all about tax for the Government it is really all about tax for you and your members, isn't it, at the end of the day? If the tax rate was low enough you could live with it all?

**Clive Hawkswood:** There is a level at which it could become viable. Our problem is this is an international market. Whether we like that or not that is the reality, and that is why we are in the position we are. This was the situation we outlined to the Government before the Gambling Act came into force, and before the tax regime came into force in 2007, this was going to happen. Things have not changed. So how can that be addressed? The only way is to make the UK more competitive, as you were saying, and at what level that would be. We are never going to get down to the level of some of the lower-tax jurisdictions, but it is narrowing the gap so the incentive is not there for consumers to look elsewhere.

**Q17 Paul Farrelly:** If you read William Hill's submission, it is very lengthy, it is supportive of yours, it makes additional points and then at the end, in terms of possible solutions, it really effectively says, "Well, if the tax was 5% we could live with all this," and Paddy Power have come up with 5% to 8%. I do not think bet365 have argued explicitly that the tax should come down from 15%, but I am sure, like any company, they would welcome any reduction in tax.

**Clive Hawkswood:** I would agree.

**Q18 Paul Farrelly:** Could you explain to the Committee—for all the fears about competition and what you have said about why a lot of your members could not handle the current level—why bet365 is competitive and why your members, some very big names in the UK, feel they could not be?

**Clive Hawkswood:** I think you should address that to bet365 separately.

**Q19 Paul Farrelly:** No, could you explain why your members feel that they would not be competitive when bet365 is such a success and is competitive on sports betting?

**Clive Hawkswood:** Well, of course, you have to look at the company in its entirety and, since you are pressing me on this, bet365's gambling operation is in Gibraltar, always has been. It is not true that all of their business is in the UK.

**Q20 Paul Farrelly:** I relate the question specifically to sports betting.

**Clive Hawkswood:** They are successful enough, but they could be more successful if they were offshore. Also, they do not have shareholders to answer to. It is really not for me to—

**Paul Farrelly:** That is their choice.

**Clive Hawkswood:** To give bet365's position. What I am saying is you are picking one company as an example. I am picking everybody else. Who do you think is right?

**Q21 Paul Farrelly:** One is onshore and everyone else is offshore, so the difference is plain. Can we get to a more interesting line of argument that some of your members have advanced? The argument has been made for a lower than 15% gross profits tax, because the gross profits of online companies are allegedly lower than offline in normal operations. Could you expand on that and give some more justification for it?

**Clive Hawkswood:** Effectively, the online gambling business model is almost one of marketing. The products are very similar. Competition is intense to the nth degree, so there is constant competition to provide the customer with best value, and that has pushed the margins to the absolute limit. If that cannot be offered, consumers move elsewhere. We know that. That is our experience everywhere. We do not have a margin to play with, is the point. We would probably swallow a bit, and that is where we need the economists to do that further work of what an appropriate rate might be, whether it is 5, 10, whatever it might be. But the business model is different because of that intense competition.

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**Q22 Paul Farrelly:** What sort of work are you undertaking at the moment on that?

**Clive Hawkswood:** A couple of the big consultants have already done work, and I think a Deloitte study done for William Hill was circulated last year. We have asked KPMG to undertake a piece of work on identifying the appropriate level of tax. We are discussing with Treasury what they find most useful in terms of the modelling, and we will commission that and it will begin in two or three months.

**Paul Farrelly:** Sorry, I did not catch that.

**Sue Rossiter:** In two or three months it should be completed.

**Q23 Paul Farrelly:** Two or three months, and you are engaging with the Treasury on their modelling? Because this is not just about tax rates, it is about the overall tax yield.

**Clive Hawkswood:** What we are saying to Treasury is, what do you need to make a decision? Then we will get KPMG to undertake that work and do that figure work for them.

**Q24 Paul Farrelly:** That is the business end. It does not necessarily affect this Bill but it is what it is all about?

**Clive Hawkswood:** As you say, what underpins our real concerns is the fiscal hit we will take once this Bill has gone through.

**Q25 Paul Farrelly:** Would it then be premature to ask you what you think would be a fair rate of tax, Clive?

**Clive Hawkswood:** I would rather wait for the experts, but, having seen other studies, I think somewhere around 5% is the figure that would do it.

**Q26 Paul Farrelly:** What do other countries do?

**Clive Hawkswood:** It depends on the country and, again, we are looking not just at the gambling tax but the overall fiscal burden, so there might be different corporation tax applied, so it is difficult to compare. In terms of gambling, it is also difficult to compare because there are very few mature developed markets. The UK is the most mature. Whereas a lot of the others don't know what the right rate is because they stick a finger in the air and take it forwards, in the UK we have all those years of experience to go on. So they are not really comparable.

**Q27 Paul Farrelly:** Final question. Would you go up from 5% to 10%? Would your members accept 10% do you think?

**Clive Hawkswood:** I think, honestly, there are a range of views within the industry, depending on the mix of your business, where your customers are has an effect, place of consumption, clearly. If you have a bigger proportion of non-UK customers your effective tax bill comes down. That is why we need the economies to come up with a range for Treasury to work on.

**Q28 Jim Sheridan:** Clive, in your opening comments you said that you seek to protect the young and vulnerable. Young would be under 18s?

**Clive Hawkswood:** Absolutely.

**Q29 Jim Sheridan:** What is your definition of “the vulnerable” then?

**Clive Hawkswood:** I think the same one. This is why we tend to take our lead from regulators. It is whoever they identify, but basically it is anyone who might encounter a problem. So, you are right, we probably all collectively use the word “vulnerable” a bit loosely. We are talking about those people who had or might have had problems, and what we can do to stop them encountering problems and, if they do, to help them and get them to a source of help as quickly as possible.

**Q30 Jim Sheridan:** How can you identify them?

**Clive Hawkswood:** It is very difficult. If I point back to the previous gambling prevalence studies, the academics cannot even agree on particular screens so we do come up with two different sets. From our point of view, it is hard from the operator's end of the fence. There are indicators, so self-exclusion we have mentioned. That is quite a good indicator. Not necessarily points to a problem gambler, but it is an early indicator. It might be people who you can see from their patterns of behaviour might become addicted. You do not know if that automatically makes them a problem gambler, but there are some alarm bells that might start ringing. So I think a lot of this—and again Ian Herne is the expert—is people recognising for themselves that they have a problem, and really, until they do that, there is a limit to what any of us can do in any of the areas of gambling.

**Q31 Jim Sheridan:** In effect you are doing nothing to protect the vulnerable, are you? You exist to get the pound out of the pocket or, more increasingly, the purse.

**Clive Hawkswood:** If you are looking for specific things we do, there are a whole range of measures that players can put in place to restrict their levels of gambling, whether that is time, amounts, amounts of deposit, all those sorts of thing, player sessions. Some of the companies will have alerts that come up after you have been playing for a certain period of time. I think one of the problems, again to be honest, we all face is we are pretty much in the hands of the experts about what works and what does not. At the moment we have gone for a sort of scattergun approach, based on what people have suggested will work for problem gamblers. It is completely right for us to say there is a lot more research needs to be done, in terms of problem gambling generally, what causes it, how you treat it. But I think that is a journey in terms of learning that we will all learn. So I am not for a minute saying we have a perfect solution.

**Q32 Jim Sheridan:** So, room for improvement you would say?

**Clive Hawkswood:** Yes, absolutely.

**Sue Rossiter:** Yes.

**Q33 Jim Sheridan:** So at the same time as room for improvement, in terms of protecting vulnerable people, you are still seeking to increase gambling opportunities for people, making the problem worse?

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**Clive Hawkswood:** One of the issues is there is a lack of evidence that more opportunities lead to an increase in the number of problem gamblers. The level of problem gamblers has barely changed in the UK since the first—

**Q34 Jim Sheridan:** You represent 30 of the world's largest licensed remote gambling companies. How many jobs does that create in the UK?

**Clive Hawkswood:** About 7,000 at the moment.

**Q35 Jim Sheridan:** 7,000 permanent jobs in the UK. That is pretty good. Can I just finish the question of taxation? Obviously you probably prefer, like everyone else, not to pay any tax. There is a school of thought that says that, basically, you exist to sell your products in the UK without paying any tax or anything towards the infrastructure of the UK, so effectively it is just corporate greed exploiting the poor.

**Clive Hawkswood:** You will not be surprised that we disagree. Most of the companies are based in other jurisdictions. They access the UK market, of course they do. Our concern is not whether they pay tax. It is whether it is sustainable. It is no good us paying a flat tax one year and then losing market share to somebody else, and the problem just moves to somewhere else. So I think, as other people said, there will be a tax regime that will be attractive for most companies that will enable us to compete. But 15% is nowhere near it. That is just a slow death for us.

**Q36 Chair:** Can you provide perhaps a little more detail? We established earlier that bet365 is the one UK-based operator. So where are the 7,000 jobs? They are not all working for bet365.

**Clive Hawkswood:** No. The truth is that a lot of companies will have as many jobs as they can in the UK. They are largely marketing, customer services, legal services, advertising, all those sorts of jobs, and they mount up. I think bet365—who will correct me if I have it wrong—are getting on for 2,000. The other 5,000 are in those sorts of area.

**Q37 Chair:** If the companies maintain a lot of their consumer service end in the UK, but they just move the actual operating end to Gibraltar or Alderney or whatever, why do you think it is that they have made that choice?

**Clive Hawkswood:** Purely fiscal reasons.

**Q38 Chair:** Just tax?

**Clive Hawkswood:** Yes. When a lot of the companies were established the UK did not have a regime, they chose where they could have a licence at the time. That is why places like Gibraltar, Alderney have first mover advantage in terms of regulation. So there are companies based there.

Some of the companies who tend to draw the public's attention in this issue, which is more of the UK brand names—like Ladbrokes, William Hill, Betfair—as we know were not in that position and gradually moved offshore because they could not compete effectively. Market forces again had driven them to that.

**Q39 Chair:** You accept that this is purely a tax avoidance measure to go and put yourself on a White List jurisdiction?

**Clive Hawkswood:** It is a tax. Like all companies, they go to the countries where it is to their best advantage commercially. They are physically in a different country.

**Q40 Chair:** You will have heard the controversy recently over Starbucks and Amazon and others. Essentially they are doing exactly the same thing, aren't they?

**Clive Hawkswood:** No, they are clearly not. I would not claim to be an expert on Starbucks or Google, or any other companies that you have had issues with, but those are companies in the high street who are doing whatever they do to minimise their tax.

**Q41 Chair:** But these are still companies that have a lot of British customers, who are spending a lot of money on them, but they are putting themselves offshore so they do not have to pay tax.

**Clive Hawkswood:** But they are actually international companies. The trouble is they are British brands, but this is an international business. They are trying to target an international market. Yes, they access the British market, but they are trying to access all the other markets as well. If you are an international company, you go to the place that makes best commercial sense for you and where you can compete effectively.

**Chair:** I think that is what Starbucks said.

**Q42 Jim Sheridan:** How is that competitive, then? What about somebody new trying to break into the market? How do they do it, compete with people who do not pay tax?

**Clive Hawkswood:** They do pay tax. They pay tax in the jurisdictions where they are based. They are domiciled in a different country.

**Q43 Jim Sheridan:** A new, young bookmaker trying to break into the market in the UK it would be very, very difficult because of the anti-competitive nature of your business?

**Clive Hawkswood:** That is not why they would not be able to compete. The fact they would not be able to compete is because you need an awful lot of money to start. This is a huge, difficult market to get into. It is a bit like saying, "How do I start up a new company competing with Coca Cola and Pepsi?" The market is dominated by—it is a maturing market—fewer and fewer companies, because that is the way the market trend is going.

**Q44 Chair:** Can I just put to you one other point? I understand you are sceptical, shall we say, about the Government's reasons that it has given for introducing the Bill, but another one that they have said is that the Gambling Commission has become aware of, "New and emerging European jurisdictions, where online gambling sites have begun targeting British consumers and very little is known about the level of regulation and consumer protection".

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**Clive Hawkswood:** Well, I may hand over to others on this, but as a general point, we have great concern here in how many pages of paperwork has come out from DCMS and the Government supporting the Bill, there are lots of assertions like that. But when we say, “Well, who are you talking about? What is your evidence? What market share do they have?”, we haven’t had anything. Now you will be seeing them, so hopefully they will have that information. To our knowledge, we cannot think of any company.

**Q45 Chair:** It is said the Gambling Commission have become aware of these, so you have said to the Gambling Commission, “Where are these new and emerging countries?”

**Clive Hawkswood:** Yes, and targeting the UK market. Name me one company in any of those that is taking a bean out of the UK. I don’t know, unless you can show it. Let us say we are heavily involved in lots of international business. We are involved in the regulation in lots of these jurisdictions, development of new laws. We are not aware of any new jurisdiction in Europe that is targeting the UK market, none at all.

**Q46 Angie Bray:** But there is a potential.

**Clive Hawkswood:** No, not really. No start up is going to be able to compete with the companies in the current market under the current regime. If the regime changes and that changes our competitive advantage, yes, they could, but not currently.

**Q47 Chair:** We should be hearing from the Gambling Commission in due course, so we will see if we do better than you in trying to find out.

**Clive Hawkswood:** I wish you the best of luck.

**Q48 Tracey Crouch:** A key part of the draft Bill is around advertising. You do not make any specific reference in your submission to the Committee about this. I wonder whether you could give us your views or concerns about the proposed measures.

**Clive Hawkswood:** Yes, again, we are not sure in terms of advertising what threat these are addressing. This appears to be an enforcement mechanism rather than concern about advertising, per se. The Advertising Standards Authority has no concerns with the current system, nor does the Advertising Association or anyone involved in the advertising world. The Gambling Commission has never expressed any concerns from a regulatory perspective, so I think it is purely there as an enforcement mechanism rather than a reflection of the concern about the regime.

**Q49 Tracey Crouch:** The Government is clearly stating—going back to the point that the Chair just made—that there is that potential for companies from other jurisdictions advertising in the UK, and that there is confusion from the consumer perspective as to who is regulating those adverts.

**Clive Hawkswood:** I think that is a fair point. There is throughout this a difference, I think, between hypothetical risk and real risk. We have had an established market, so I think we should be looking at what actually happens rather than what might.

In terms of your second point regarding confusion among consumers, again we have said, “Well, how has that manifested itself? What degree? How are you justifying these sorts of measure if it is really about consumer confusion?” I am not sure how that confusion is arising or what the degree is. Every website has at the foot of it a clear reference to who it is regulated by, and, since these players are playing online, you would think they would be fairly familiar with that. But again, we have no idea how many calls the Gambling Commission is getting, what the nature of the calls is. It clearly happens. We are not saying it doesn’t happen, but the degree is unclear.

**Q50 Tracey Crouch:** Do you think that the current gambling code is strong enough when it comes to advertising? Do you think that it could be improved to protect the vulnerable, for example, who Jim was talking about?

**Clive Hawkswood:** Two things on that: first, we have seen no evidence linking advertising to any increase in problem gambling. Secondly, above and beyond what the ASA called for, there is an industry advertising code that does go further than is required by law or by the Gambling Commission.

**Q51 Tracey Crouch:** In what respect? Can you—

**Clive Hawkswood:** The 9 o’clock watershed, which everyone talks about, is not in the Advertising Authority’s rules. That is in our rules. So that is an industry voluntary measure.

**Q52 Tracey Crouch:** But that does not apply to sporting events, and, as somebody who sat and watched three football matches consecutively on Sunday afternoon, there were a lot of gambling adverts and the gambling aware slogan, which has to be put across the bottom, is tiny. You actually have to go to your television screen to see it. Would you think that that is an acceptable way of protecting the young and vulnerable?

**Clive Hawkswood:** I think there are other measures. For instance, in our code, which is not covered by anybody else—as you know, a lot of sports are sponsored by gambling companies, a number of football clubs—our code also covers that, that you cannot have merchandising on anything for children, for instance. In terms of, is there too much advertising on television? That is more a question of taste rather than a linkage to problem gambling, I think.

**Q53 Tracey Crouch:** But do you think it is acceptable for gambling companies to be sponsoring big television events, sporting events like the FA Cup, for example, when there is going to be a younger audience consuming those programmes?

**Clive Hawkswood:** I think Government has accepted that widespread advertising is allowable. I see no difference between that and billboards in the high street and by railway lines. I think it always comes back to, is there evidence this is causing a problem? If there is, we have not seen it. If there is evidence of that, then clearly we would look at it closely. We did not introduce the voluntary code on top of the advertising standards codes for fun. If there is a



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problem we would look to address it, but nobody has brought that to us yet.

**Q54 Tracey Crouch:** Last question. You mentioned very briefly the question around sports sponsorship. Do you therefore share the views of the European Sponsorship Association that says that the Bill needs to be amended to clarify those rules? I think the case was a French football club being required to remove its sponsor's logo from its shirt when playing in Spain. Do you think that this Bill needs to be amended to try to protect those measures where you have companies from abroad sponsoring UK football teams, for example?

**Clive Hawkswood:** Absolutely. I think sponsorship money for a lot of sports is a very important source of funding. It will make no sense to harm that for no good reason. There is no linkage between that and anything that would undermine the advice and objectives of the Gambling Commission, for instance. So why restrict it? Why take that out of the coffers of the sports? There seems to be no good reason.

**Q55 Mr Leech:** I want to come on to enforcement, but I would like to pick up on a couple of points you made earlier on. First, you said there was a big difference between the likes of Starbucks and the likes of online gambling. Is there any real difference between the likes of Starbucks not paying their taxes and online arms of high street bookmakers choosing to move their businesses elsewhere to avoid paying that tax?

**Clive Hawkswood:** I think I am on firm ground in saying it would not have been their first choice; competitive pressure forced them. So, had the Government listened to them it would not have happened, I think, to be fair. It is different because these companies are based in other countries. Some of them you are thinking of may have branches, but they have separate online companies that are physically based and operating out of other countries. This is quite a strange tax where we are going to dip into the pockets of other countries to get money. I am not quite sure what the precedents are. The one we often refer to is VAT. But of course that is harmonised. We do not have that. If this comes in, one of the effects is we will be paying tax on the same bet in two different jurisdictions.

**Q56 Mr Leech:** You said 7,000 people work based in the UK. How many people are based out of the UK in those operators?

**Clive Hawkswood:** We do not have a precise figure, but not so many because that tends to be in the technical trading arm of things. The part of the businesses that take up a lot of the jobs people tend to have in the UK if they can—you tend to talk as if they are all British companies; they are not—or they will have them in Germany or Austria or wherever.

**Q57 Mr Leech:** Do we not need to be a bit more honest about this and just accept that this is basically a British company that is based somewhere else, simply for tax reasons?

**Clive Hawkswood:** But you are assuming they are all British companies, and they are not. So you are picking on a small minority when lots of our members are Scandinavian or German or actually multi-national. They will all be caught by this.

**Q58 Mr Leech:** You were arguing that there needed to be a level playing field and some of the online organisations moved offshore simply because it is not a level playing field. Isn't what the Government is trying to do about levelling the playing field?

**Clive Hawkswood:** Absolutely. I completely agree with that. What I am saying is it will not work, because if it worked we would already be doing it. We are only in this situation because the Government got this wrong four or five years ago, and what I am saying is this will not change anything.

**Q59 Mr Leech:** But I am not clear why it is not going to change anything, because if we level the playing field, so that people are paying similar amounts of tax, whether it is online or on the high street, whatever it might be, I do not understand why, if everyone is playing by the same rules, what is the problem?

**Clive Hawkswood:** That is absolutely at the heart of the issue: you cannot get everyone to play by the same rules. We are not in that world. Technology does not allow that to be the world. If that was the world we would be doing it already. I think that is probably the real question, about the force of mechanisms. They do not work. So what will happen is someone else will come along who will not take a Gambling Commission licence, that you cannot stop, and they will just take market share from the companies who currently have it.

**Q60 Mr Leech:** So isn't the key about enforcement and making sure that through the legislation we get the enforcement right? Would you accept that if we get the enforcement right, so that you are not competing with unlicensed companies, that then it would be perfectly reasonable for you all to pay the tax that is due?

**Clive Hawkswood:** As I say, that is the hard thing. Enforcement does not work. You cannot make it work. With due respect to the Gambling Commission and DCMS, we are the experts in this and we would not be so worried if we thought it could work. It doesn't.

**Q61 Mr Leech:** Why can't enforcement work? What is the problem with ISP blocking, financial transaction blocking and advertising restrictions?

**Clive Hawkswood:** I will probably take a breather and let Wes take that one.

**Wes Himes:** Yes, let me give Clive a brief respite. I have worked around Europe in many of the jurisdictions, particularly many of those that have brought on regulatory regimes. Many have predicated these regimes on the fact that they can provide enforcement measures that effectively capture the citizens of that member state before the licensed operators. It simply does not work. But do not take my word for it. Let me quote the Commission's staff working paper, which was produced when the

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European Commission provided its communication on online gambling in the middle of last year. If I can indulge the Committee with a quick quote, “However, blocking access to websites does not work as an isolated enforcement tool and can be easily circumvented”. This is the issue of ISP blocking. It can be done by consumers, either using anonymisers or proxy domains. It can be easily circumvented by operators who choose not to take a licence. So ISP blocking is a very difficult choice of an enforcement tool. It also has legal ramifications because you are effectively asking ISPs to block British citizens’ access to sites on the internet.

The second one, financial transaction blocking. Financial transaction blocking, as you know, attempts to use the credit and debit card system to block the financial instruments that consumers use. That is also ineffective. The only jurisdiction that has brought that in and has at least two or three years experience in this is Norway. The Norwegian regulator will tell you that they believe that over 50% of the market is still being provided by unlicensed operators in Norway. So financial transaction blocking also has the effect of capturing what would be considered legal transactions, so that effectively, if you were in a jurisdiction where it was quite legal to gamble in an establishment, your card would be blocked because of the rules in your home member state.

The same goes for advertising bans, and the effect of control on advertising bans, and of course the criminality of licensees in providing unauthorised gambling. So these measures, either individually or cumulatively, in essence, do not work and, therefore, the reliance on enforcement measures to capture the market is extremely difficult.

**Q62 Mr Leech:** But is this not about finding a convenient excuse for a reason why you should not have to pay any tax? Is that not what it is all about ultimately? Surely we can come up with some technological solutions that deal with these issues, because we hear it in other walks of life. We are talking about the potential for introducing plain packaging of cigarettes, and, funnily enough, we are told by the tobacco industry that this is going to be terrible and it is going to lead to more counterfeit cigarettes and problems with the paying of tax. Is this not just the same old, tired excuse?

**Clive Hawkswood:** Yes, I think we can do no more than refer to people, like the European Commission, who go through a two-year process of reviewing everything that happens and that is their conclusion. It does not work. We can pick lots of other examples outside of Europe, but it does not work. You might like to think there might be technological solutions. What we have instead is more and more technological ways to get round these things. So, far from the likelihood increasing of having better enforcement, the chances are it is going to get worse.

**Q63 Jim Sheridan:** It sounds exactly the same argument that drug dealers use, and, “The more illegal you make drugs then we will find another way round about it.”

**Clive Hawkswood:** We are not saying we are finding a way round it. What we are saying is that you will create an opportunity for that.

**Q64 Jim Sheridan:** That is quite an incredible statement.

**Clive Hawkswood:** Why? Because it is the reality.

**Q65 Jim Sheridan:** We cannot do anything because you will find another way of doing it? That is what you are saying.

**Clive Hawkswood:** No, we won’t. Look, let me be clear about our position. Why our members are concerned is they are reputable companies who, if this regime comes in, will all take UK licences. No question. The concern then is that they lose market share to people who do not. So I am not sure what the analogy is with drug dealers, but our position is, if this comes in, we are concerned our members will take licences—because it will be clear in law they need to and they will—then what happens to them two, three, five years down the road, when they come up against companies who do not and they cannot compete?

**Q66 Mr Leech:** Just one last question. If, hypothetically, the general public became aware that bet365 were the only online organisation that was based here, and everyone started using bet365 because they were paying UK taxes, what do you think would be the impact on other online gambling companies?

**Clive Hawkswood:** It is a competitive market. If they had to they would come to the UK to compete with bet365, but I cannot really see it happening.

**Q67 Paul Farrelly:** I want to ask a question of Mr Himes. Can you tell us what the Danish experience is? They have moved to a point of consumption-based tax after opening their market up between 2010 and 2011. It started last year, really. How much of their market is captured by licensed operators and how much goes to unlicensed operators?

**Wes Himes:** The Danish market is fairly new, so the evidence is only sparse at this point. No. 2, it is very difficult to quantify because you are looking at a slice of the market that is currently outside of the licence regime, but we believe that there are very large percentages that will most likely still reside in the grey market, if you can put it that way—the unlicensed sector.

**Q68 Paul Farrelly:** Do you have any specific numbers?

**Wes Himes:** If Italy, Norway and France are anything to go by, then those numbers range anywhere from 50% to—

**Q69 Paul Farrelly:** Yes, but you need to compare apples with apples, because there is a difference between Italy and France in the way they have liberalised their markets. In Denmark I have heard a figure from a reliable source—and I have not yet gone into it, but we will—of 90% that is captured by licensed operators.

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**Clive Hawkswood:** Can I just chip in? Again, I think we prefer to refer to Government figures if we can. In the Treasury consultation paper, they are working on the basis they will lose at least 20% of the market, which is not a good starting point. We think that is conservative. But even if we stick with the official Treasury estimate, the Government is working on the basis they will only catch 80% of the market.

**Q70 Paul Farrelly:** Okay. I was asking about Denmark's experience. My understanding is it is 90% so far.

**Clive Hawkswood:** I am sorry, but it is a bit like the bet365. You are picking one country; we can pick all the others.

**Q71 Paul Farrelly:** You have just tried to.

**Clive Hawkswood:** I think I did.

**Q72 Angie Bray:** Yes, just really one question. I have been listening very carefully to all of this, and the overriding impression that I am left with—and having heard what you said this morning—is that thanks to technology and the internet, online gambling is always going to be capable of being one step ahead of Government enforcement or Treasury fiscal enforcement. So what you are saying is that there is no way that we can bind online gambling into any kind of regime at all that is going to deliver anything back to its home base?

**Clive Hawkswood:** In terms of tax regulation it is difficult. I think we have to split regulation and tax here.

**Angie Bray:** I thought you said that one was preparing the way for the other.

**Clive Hawkswood:** We are afraid it is, yes. As I say, we do not—

**Angie Bray:** So perhaps you might take them both together?

**Clive Hawkswood:** Okay. You can address the regulatory issues. We do not have a problem at the moment. We are not sure what this Bill is seeking to address. How it will improve the current situation. If you are talking about fiscal advantage, the Government can take measures. It will take this through and they will be subject to UK tax. They will catch them in the net. That is our position. The problem is then, are we all sitting here again in another five or six years saying, "What do we do now, because those guys have lost their market share to somebody somewhere else?"

**Q73 Angie Bray:** That is what I was saying, so effectively the online gambling industry, one way or another, will continue to escape?

**Clive Hawkswood:** Some people will. Where there is an opportunity people tend to take it, yes, and our concern is you risk moving that from reputable operators to less reputable operators.

**Q74 Chair:** Bluntly, if we bring this in you are saying that the danger is people will go to illegal, unlicensed sites?

**Clive Hawkswood:** It is how you describe them, but there are people who hold licences in Central

America, which are not worth the paper they are written on. They are sold a licence, but all the things we are talking about, there is nothing there.

**Q75 Chair:** There would be some people who are probably stupid enough to go and place a bet on a site based in Central America, but the vast majority of people are not that stupid. All right, you will capture the overwhelming majority of the market and, yes, there may be a small number who do go on to an illegal site, but if you make it as difficult as possible for them to do so, surely you have gone a long way to achieving the objective?

**Clive Hawkswood:** That is possible. The trouble from our side is this is the Government gambling with our future. If this goes well we are all happy. If it goes wrong we are the only ones who lose out, and Government can look at this again in a few years and the businesses are ruined.

**Q76 Chair:** You see, this is very reminiscent of the discussion that we had over the Digital Economy Act, and the fact that the ISPs argued that the Government's proposals for the website blocking of pirate sites could be circumvented and that they would not work. Well, the music industry argument to us that even if it was possible to circumvent, nevertheless, it would probably stop 80% of people going there, and that was an awful lot better than the present position. Surely that is the same argument to you. Yes, if you really try hard enough you will overcome any technological barrier and you will manage to reach some illegal site, but for most people they will not and, therefore, you will have them remaining within the licensed market and also created a level playing field.

**Clive Hawkswood:** We query whether in the long-term you will stop them because it comes back to our experience in other countries, and why this scares us, to be frank, is that has not been our experience in most other jurisdictions. If you look at the US, which, let us face it, is pretty tough when it comes to enforcing things, they changed their laws in 2006, effectively brought in financial transaction blocking. It did not make a blind bit of difference. What happened was all of our members pulled out of the US market. A couple of small companies stayed in and one of them is now bigger than anything we have. We do not want to see that happen again and, all right, I am only talking for our part of the industry, but that is all I can do. There is a huge cliff we can fall off if we are not careful.

We sympathise with the Government wanting to maximise tax revenues, of course we do, and the regulatory objectives we are completely on side with. What we are saying is the regulatory objectives in this Bill are very vague. It is not clear what they would achieve or whether they are necessary, and the potential tax hit we will take following on from this could cause us damage we could not recover from.

**Q77 Paul Farrelly:** Just a couple of supplementaries on that. If we take the 90% figure that I understand is correct for Denmark at the moment, without any complicated enforcement methods, isn't the reality

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that they take 90% and then you take a view on proportionality of what you do, depending on how much is leaking to whom, but at the same time they are capturing tax from those based in Denmark?

**Clive Hawkswood:** The Denmark regime has been in place a little over a year, and in the same way the Treasury is saying, “All right, we will discount 20% from the UK market, and the Danes are happy to discount 10%.” I am not talking about what happens in 12 months. We are talking about three to five years and longer. Denmark may not be in this position in five years’ time.

**Q78 Paul Farrelly:** If we are going to abstract this from tax for the moment, which we cannot clearly, one of your arguments is 100% of the UK market is captured at the moment by those people either licensed in the UK or Gibraltar or the Isle of Man. My understanding is that the Gambling Commission and this legislation that applies are not going to seek to redo all the work of reputable gambling commissions elsewhere, such as in those jurisdictions, but might very well be more sceptical of something based in Guadalajara or South America. So my question then is, what is your problem?

**Clive Hawkswood:** I think there is a general question of proportionality, which is if we say, “First, 100% of the market is in those jurisdictions”—

**Q79 Paul Farrelly:** But it is happening now. Your argument is arguing from no licence whatsoever, anywhere at any time.

**Clive Hawkswood:** Sorry, could you rephrase that?

**Paul Farrelly:** Your argument is about licensing, will drive people into unlicensed hands.

**Clive Hawkswood:** No, we are not. No, the licensing is figurative. If this was just about licensing we would sign up to this now because it makes not a blind bit of difference, that is the truth. What that Bill offers is no change. It is good for the Gambling Commission, but what it does is pave the way for the tax regime to come in.

**Q80 Paul Farrelly:** Absolutely, which is your fundamental objection.

**Clive Hawkswood:** If the requirement in this country was lower, say like the tax regime in Gibraltar, everyone would have UK licences already. We would not be having this talk now.

**Q81 Philip Davies:** Before I start. I do not think I have any interests to declare, but, just in case anybody thinks I have, then I refer people to my Register of Members’ Interests, in which people will see a subscription from Peninsula Business Services, which has absolutely nothing to do with gambling. It is an employment services company, but it happens to be owned by Peter Done, who is the brother of Fred Done, who owns Betfred and the Tote. It might seem a tenuous link to you, Mr Chairman, but there we are, just in case anyone thinks it gets to the core of the matter.

Just following up Paul’s questions on two points, two simple questions. First of all, if this Bill were to come into effect, how many of those companies that have

gone offshore would move their operations back to the UK?

**Clive Hawkswood:** I would suspect none would be rushing to do it. As I say, this does not really change anything from that perspective.

**Q82 Philip Davies:** I think you said earlier that you speak up for bet365 as well. They are one of your members. You may not be able to answer it, but if you feel you are in a position to, if this Bill came into effect and bet365 became a public company and had shareholders to account to, would this Bill stop them from going offshore or would they still be financially better off moving offshore than staying onshore?

**Clive Hawkswood:** All the companies are financially better off offshore.

**Q83 Philip Davies:** Even if the Bill came into effect?

**Clive Hawkswood:** Unless the tax regime changes, yes.

**Q84 Philip Davies:** In terms of the regulation, you said at the start that the regulatory regime in Gibraltar and Alderney was very similar to that in the UK. How does it differ?

**Clive Hawkswood:** That is much harder to answer. I will take the two easy ones there. If we talk about Alderney and the Isle of Man, they are on the Government’s White List. That is for advertising. To get on that White List, the Government and the Gambling Commissioner had to say they had regimes that were at least comparable to those of the Gambling Commission. So, in effect, they have already signed off on those two. In Gibraltar you would struggle to push a piece of paper between them. The gambling laws in Gibraltar are largely a cut and paste of the 2005 Gambling Act. The way they are implemented, the detailed regulations are slightly different, but they are very, very similar. The head regulator in Gibraltar was recruited from the Gambling Commission, so there is another read-across there. For practical purposes, I would say no difference at all.

**Q85 Philip Davies:** You might say that, but somebody like Barney Curley may say something different, maybe not. Because of course Barney Curley—I am not sure when it was, Mr Chairman, probably a year or so ago—landed a huge coup. He ran four horses. Well, three of them were his and one was a horse he used to train. He put them in multiple bets and three of them won, and the one he thought most likely to win lost inexplicably. But even though only three of them won, he estimated he had won somewhere in the region of £3 million on his bets. We ended up, if I remember rightly—and please correct me if I am wrong, because I am only basing this on recollection—with the rather bizarre situation that companies like Betfred paid out Barney Curley in their shops in the UK, because that is what they were obliged to do, yet Betfred in Gibraltar refused to pay him out for some considerable amount of time, because under the regulations there they were not obliged to and they felt that he had behaved in a way that was not becoming, so to speak. I do not know what he had done wrong according to them, but they

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thought he had done something. Win is presumably what he had done wrong. But they were not prepared to pay. So when you say that there is not a paper between the regulation in the UK and Gibraltar, Barney Curley could be forgiven for thinking there is rather a big difference, because if you do not get paid out by one and you do get paid out by the other, that is a big difference, isn't it, really?

**Clive Hawkswood:** I will not make a value judgment about which regulator is right in those circumstances. We are not saying they are exactly the same. We are saying, in terms of the key licensing objectives and how they approach them, they are the same. British consumers are protected to very similar standards. Are all regulators going to approach specific cases in the same way? No. We could say, "Look at the Gambling Commission," and point to where they have been inconsistent in their own approaches. So I think different regulators sometimes do have a different spin on things, but on the key issues—protection of consumers, transparency, fairness of games, combating crime—they are all on the same page.

**Q86 Philip Davies:** But this is about protection of consumers, isn't it? It is about if you put a bet on you want to know that you are going to get paid out. To me, as a punter, that is the top protection. On the rare occasions when I back a winner I want to know I am going to get my winnings back. I do not want somebody invoking some bizarre offshore rules to say, "Oh by the way, I'm sorry, I think you've been up to some jiggery pokery there, and we would rather not." This is about player protection, isn't it?

**Clive Hawkswood:** But again, they are gambling under a set of rules. Whatever forum you gamble in you abide by that set of rules. Now, effectively—I won't speak for Fred Done's organisation and whichever company they have gambled with—they have placed two separate sets of bets under two different sets of rules. If there is some confusion that is not helpful, but the rules are clear in both circumstances.

**Q87 Philip Davies:** No, absolutely. I do not disagree with that, but that is the point, isn't it? The rules are different in different jurisdictions. That is the whole point. When you say that the regulations, there is nothing in it, they are different. That is the whole point. On the other point, again, if you could let me know because you are the experts not me, but in terms of if I put a bet on with Victor Chandler in Gibraltar, could they send me an email shortly before the off and say, "Oh by the way, I know you have staked your bet, I know it is placed and all the rest of it, but actually we have looked at it and we have decided we don't want this bet," in a way that you could not do in the UK?

**Clive Hawkswood:** That is such a detailed question that it would have to go to the Gibraltar regulator. I could not comment on what is legal there or whether that is something the Gambling Commission would allow here, because in terms of the Gambling Act and the Gambling Commission rules, I do not think there is anything that would prevent that happening here, so the difference may not exist.

**Q88 Philip Davies:** One thing that may be different is the disclosure to sporting bodies, in terms of unusual betting patterns that may indicate some kind of match fixing that is going on. How does that differ between the UK and Gibraltar?

**Clive Hawkswood:** So for the UK, if you have a Gambling Commission licence, it is a licence requirement, you must share that information. Mainly to the sports betting intelligence unit at the Gambling Commission. Clearly, if you are offshore that does not apply because you are not UK licensed, so that is the difference. The Gambling Commission's recourse then is to go to the regulator and try and get that information. The sticking point I think the Gambling Commission has cited is the data protection laws, that clearly each country may have slightly different data protection privacy laws, and that is true. But again, this Bill does not address that. Even if you have a UK Gambling Commission licence, if you are physically in another jurisdiction you are still bound by those laws, and the Gambling Commission cannot indemnify you against that. So that will not improve. Our suggestion is the Gambling Commission needs to take a multilateral approach, which is what all the international sports bodies want, to work with all the other regulators to try and exchange as much information as they can.

**Q89 Philip Davies:** So your point would be that if people want to think that we need UK regulation and licensing of betting operators, to ensure that this information is shared, that this Bill will not help?

**Clive Hawkswood:** We have asked the Gambling Commission to explain how it will help, but I do not say it gets around data protection laws that they cite as the major problem. I suspect the major problem is that they find it quite bureaucratic going through other regulators, but we know, for instance, in relation to money laundering, there are official channels to get that information and that is where they should pursue it.

**Q90 Philip Davies:** Finally, could you explain why you and your members believe—or some of your members believe—that this Bill would break EU law.

**Clive Hawkswood:** Do you want to take that?

**Wes Himes:** Certainly. We are trying to figure out what problems this proposed Bill addresses. Are there issues of public order? Are there issues of social responsibility? None of the evidence or statistics indicates that there is a significant problem that would justify this new regime, and, therefore, not having the justification, which is up to the member state to prove, would therefore be empty and therefore there would be a question of whether such a regime would be compliant under EU law.

**Q91 Philip Davies:** So, if the Government introduces this legislation, and it passes through Parliament, are you saying that you or any of your members will challenge it in the courts?

**Clive Hawkswood:** I think our starting point is nobody wants to challenge Governments if we can avoid it. But other parties have put counsel opinion to Government, setting out exactly where the concerns

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are and what action they might be forced to take, if necessary, and that does lead to an EU challenge if necessary, yes.

**Q92 Philip Davies:** Is the challenge dependent on what the rate is?

**Clive Hawkswood:** No. It is on whether the licence proposals are acceptable. It has nothing to do with the tax.

**Q93 Jim Sheridan:** Very briefly, Chairman, it seems to be the suggestion that if this Bill is introduced and it paves the way for fairer taxation, you seem to be saying that your members will pick the ball up and leave. I would like to put a bet on right now that they don't.

**Clive Hawkswood:** No, I think quite the contrary. The concern of our members is that they cannot pick up the ball and leave. If they need a licence here they will take one out. Our concern is that someone else will take the ball and leave or actually will just create a new pitch completely.

**Q94 Jim Sheridan:** I bet they don't.

**Clive Hawkswood:** That is an ante-post bet, we will have to talk about that separately.

**Q95 Paul Farrelly:** In your evidence, Clive, one of your bullet points is, "If this social policy legislation applied to every operator it will open the door to the introduction of an extraterritorial tax regime that will place a huge additional fiscal burden on our industry", but the reality is that the door has already been opened in other countries, hasn't it, to such extraterritorial tax regimes, and what they are doing is their Treasury is reaping tax and our Treasury is not?

**Clive Hawkswood:** The Treasury is not reaping tax. As Wes has already said, most of them are struggling to hold on to the current market share of what base they have.

**Q96 Paul Farrelly:** The barriers to entry are not low on online gaming these days, are they?

**Clive Hawkswood:** No, they are not.

**Q97 Paul Farrelly:** The barriers of entry in terms of IT are pretty high now.

**Clive Hawkswood:** They are, but if the reward is there people invest.

**Q98 Paul Farrelly:** Can we just come back to our danske venner, our Danish friends? They opened the market. There was an EU investigation into whether they could charge lower online tax rates than the offline, and that came not from your members, because they were liberalising the market, but from the casinos and gambling halls. That was all approved and their gross profits tax is 20%, isn't it? So that is higher than the UK.

**Clive Hawkswood:** Yes.

**Q99 Paul Farrelly:** Are there any of your members, as far as you are aware, that take bets from Danish citizens that do not have a Danish gambling licence?

**Clive Hawkswood:** Not that we are aware of, but then, as I keep saying, we are not the at-risk group.

**Q100 Paul Farrelly:** Right. But that 20%?

**Clive Hawkswood:** Are you saying they do or they do not?

**Paul Farrelly:** They do. As far as you are aware, are any of your members—

**Clive Hawkswood:** A number of our companies are licensed in Denmark. A number are licensed wherever they need to be to enter the market. But whether those are economically sound in the long term is unclear.

**Paul Farrelly:** Okay.

**Clive Hawkswood:** Do any of our companies still take bets from Denmark since that regime was introduced? No. If the regime was changed in the UK, I am absolutely certain none of our members would move into the grey market and try to access it there.

**Q101 Paul Farrelly:** My final question. Your other point about restriction in trades between EU states, notwithstanding what has happened in other countries, there is the implied threat of a challenge there. It became a little bit harder in your answer to Philip Davies' question. So can we be precise? If these changes go through, probably with a few tweaks, as far as you are aware are any of your members likely to mount a challenge early on, albeit last-minute?

**Clive Hawkswood:** I would not know about the timing of a potential challenge, but the Gibraltar Betting and Gaming Association have looked into this in great detail and they advised Government that they would consider a legal challenge.

**Q102 Paul Farrelly:** But any of your corporate members?

**Clive Hawkswood:** Not through the RGA. If they are planning to do it individually, that would be a decision for them.

**Q103 Paul Farrelly:** Who are those parties who have put counsels' opinion to the Government?

**Clive Hawkswood:** Primarily the submission put in by the Gibraltar Betting and Gaming Association.

**Q104 Paul Farrelly:** So it is Gibraltar?

**Clive Hawkswood:** The association representing the companies there, yes.

**Paul Farrelly:** Thank you.

**Q105 Angie Bray:** Just one question. A number of gambling companies do put some funding into educational programmes. I think the point is that at the moment that is on an entirely voluntary basis.

**Clive Hawkswood:** Yes.

**Angie Bray:** Were these measures to come into force and were these gambling companies who do at the moment fund those kinds of educational programme to feel under further financial pressure as a result of these measures, would that funding be likely to dry up?

**Clive Hawkswood:** Following Philip Davies, I should declare I am also on the board of the Responsible Gambling Trust, which raises that money and

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allocates it. No, I think that funding is seen as a priority.

**Q106 Angie Bray:** Is sacrosanct, basically?

**Clive Hawkswood:** It is budgeted for. Well, nothing is untouchable if pressure comes over them, but I do not think we are suggesting that in order to pay tax we would stop making contributions.

**Q107 Chair:** Can I just ask you about one final issue? We have touched on problem gambling. This Committee has spent a lot of time looking at the gambling industry. There is no question but that gambling addiction and problem gambling are causing great concern, as has been reflected in the press coverage. First of all, do you accept that, by its nature, online gambling carries a bigger risk of addiction and creating problems than other forms of gambling?

**Clive Hawkswood:** It depends. When you say “bigger than”, bigger than what? Certainly we would accept it is above the average. It is comparable to equivalent land-based products. So we believe the rate for an online casino is the same as land-based casino betting.

It is comparable. Of course it is one of those forms of gambling that is at the harder end, but not disproportionately so.

**Chair:** But there is clearly a significant risk to some people who indulge in online gambling?

**Clive Hawkswood:** There is a risk with all forms of gambling.

**Q108 Chair:** The final quote in the two-page article at the weekend, the Government believes the new proposals are “an important step to help address concerns about problem gambling”. You see no justification for that at all?

**Clive Hawkswood:** I can’t find anywhere in the DCMS papers that would lead me to believe that, no.

**Q109 Chair:** Did you say you cannot find anybody who believes it?

**Clive Hawkswood:** Anywhere in the DCMS papers where it explains how that would happen and what change would happen.

**Chair:** All right. I think that is all we have. Thank you very much.

### Examination of Witnesses

*Witnesses:* **Tim Lamb**, Chief Executive Officer, Sport and Recreation Alliance, **Paul Scotney**, British Horseracing Authority, **Simon Barker**, Professional Footballers' Association and Professional Players Federation, all of the Sports Betting Group, and **Lauri Moyle**, Gambling Policy Consultant, CARE, gave evidence.

**Q110 Chair:** We now move to our second session. I welcome representing the Sports Betting Group, Tim Lamb, Chief Executive of Sport and Recreation Alliance, and Paul Scotney of the British Horseracing Authority. Mr Barker, I am not sure where you are from. Where are you from?

**Simon Barker:** Professional Players’ Federation.

**Chair:** Professional Players’ Federation. Thank you. Also Lauri Moyle, who is representing CARE. Philip Davies is going to start.

**Q111 Philip Davies:** Obviously, you were here listening to the evidence we have just received, so you heard it just as well as we did. In what ways do you think the proposed Bill in front of us will help to reduce levels of match fixing?

**Tim Lamb:** First of all, can I just thank you, Mr Chairman, and ladies and gentlemen, for giving us the opportunity to present oral evidence this morning to back up what we have already submitted in writing? Perhaps before I answer your question, Mr Davies, I could just make a couple of general points about the importance of integrity in sport. I have been lucky enough to earn a living in sport in one way or another for nearly 40 years, so I feel quite well qualified to talk about the importance of upholding integrity in sport.

As we said in our written evidence, it is one of the key functions of all sports governing bodies to uphold integrity because sport is based on fair competition and it is absolutely essential that all competitors are genuinely competing to win. No lesser lights than Jacques Rogge, Michel Platini and Hugh Robertson

have all, just in the last few months, stated just how risky is the threat posed by irregular betting and match fixing. I think the key point is to have consistency across the piece, a level playing field. The reason why it is so important to have that consistency relates to the effectiveness of licence condition 15.1 since it was introduced. It is absolutely essential that there is an information flow to assist sport to maintain its integrity. It gives the sport a right of access to betting information rather than leaving it to the discretion and good will of the betting operators. It also places a duty on the betting operator to proactively record any suspicious betting patterns. As my colleague Paul Scotney will confirm, perhaps later on, we did see an increase in referred cases immediately after the introduction of licence condition 15.1, so it does work and it is effective. I think the key thing that the proposals in the draft Bill will achieve is that there will be a single system that is easier for everybody to understand and easier to apply. We believe it is totally unfair to expect sports bodies to potentially have to understand and deal with a whole variety of jurisdictions, so I think consistency and a level playing field are absolutely crucial in this. The stakes are extremely high. We cannot rely on the good will of a handshake. Integrity in sport is far too important for that.

**Q112 Philip Davies:** The RGA have said that the Bill does not make any difference, it will not compel people based overseas to do it.

**Paul Scotney:** Maybe I can just give an example. I thank you for your contribution earlier in the example

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you gave with the Barney Curley scenario because that is exactly the heart of what we are trying to say, that it is an unlevel playing field. You were talking in relation to punters being paid out in this country by Betfred but not in Gibraltar and you are absolutely right. People just did not understand why that was the case. That is the situation we face at the moment in relation to information sharing. We have a mixed bag of what happens. We only have one betting organisation that across its whole business has to share data as a matter of its licence and that company, which is bet365, has already been talked about. We have other companies that do share data across their businesses voluntarily. There are a number of those. We then have another category of companies that share data on suspicious betting from their businesses here, but then say they cannot do it for their businesses offshore and that you will have to go the respective gambling commissions over there to get that. You have another category of a betting organisation that does not know what to do because it is offshore entirely, does not have shops here, they do not know how they comply and they worry about data protection issues. Then there are probably one or two in a final category that just do not co-operate at all. There are one or two companies offshore where, in my time working in betting-rate corruption in nine years, I do not know of a sport receiving anything from them. So the scenario you painted there in terms of the way the punter is either paid out or not paid out is exactly how it is on the data sharing. We are reliant on voluntary agreements or in some cases we just do not get it at all.

**Q113 Philip Davies:** I take all that and I will come back to some of those points in a second, but the bit I am trying to press you on is that according to the Remote Gambling Association, none of that will change with this Bill.

**Paul Scotney:** That is simply not the case. If the Bill, as it says, has a condition of licence the same as 15.1, it means that the betting company will have to share directly with the sport's governing body any suspicious betting that they see. Let me give you a specific example. If on a Saturday morning bet365 sees suspicious betting activity, I suspect what they would do is report it directly to the sport's governing body and that gives the sport's governing body a chance to be proactive. If that happened with some other companies and was online, we would not hear about it because they would have to go to their respective commission over there and I know for a fact that that commission would not share it directly with us. That would then have to go through to our Gambling Commission and what you are talking about is a delay of up to three, four, five days, maybe weeks. So it would change because under the new system what would happen is if it was the same as 15.1, if any only-online company saw suspicious betting, they would have to share it directly with the sport's governing body. That then gives a sport's governing body a chance to do something before the event. So I think that is a tangible difference.

**Q114 Philip Davies:** How many of these businesses offshore refuse to share the information?

**Paul Scotney:** When we say "refuse", I cannot say any have flatly refused. We have had some that say it is too difficult and you have to go through the Gambling Commission. We have one that I do not think has really been asked the question.

**Q115 Philip Davies:** The thing is that the victims of match fixing are the betting operators, are they not? They are the ones who are the victims because what is happening is people are placing huge bets on the outcome of any event in order to win money. Who do they win money from? They win it from the betting companies. So I would not have thought that there would be a great deal of resistance from betting companies to try and eliminate this kind of match fixing because ultimately it is the betting companies who are the main victims.

**Paul Scotney:** I think I need to correct you slightly on that because that is not necessarily the case if you are betting on an exchange. It is another member of the public. A large proportion of the market is through betting exchanges.

**Q116 Philip Davies:** Betfair have been one the main people who have helped you in the British Horseracing Authority.

**Paul Scotney:** Absolutely.

**Philip Davies:** I commend the work you did in bringing to justice people involved in stopping horses and that kind of thing in racing. You only could do that with the support of Betfair.

**Paul Scotney:** Absolutely. It was Betfair and it was Ladbrokes. It was through their work in 2004 that helped us get where we were. But in 2009 when we had the section 15.1, we then saw a tangible change. Now we are in the scenario where, as I have said, it is not the case. It is that some companies do not know what to do; some companies do not want to do it; some do it voluntarily. The danger with a voluntary arrangement is that it is only as good as the individuals that introduce it at the time. People move on from organisations. So a voluntary arrangement that one person introduces at a company can change when someone else takes over.

**Q117 Philip Davies:** What I am getting at is that where the public are ripped off in the sense that because they are betting against each other on an exchange, the main exchange, Betfair, already give you all the support that you need in terms of sharing that information, which is why lots of people have been brought to justice. Recently, we have had Andrew Heffernan on a 15-year ban as a jockey for being involved in fixing. So that is all working fine. The only other possible victims are the betting companies themselves, so I do not really see why any of them would want to be resistant.

**Tim Lamb:** I would like to take issue there. The biggest victim is sport itself and the people who follow it. I was chief executive of England and Wales Cricket Board at the time of the major match-fixing scandal involving Mohammad Azharuddin and Hansie



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Cronje. It is sport that has to pick up the pieces whenever there is damage to its reputation.

**Q118 Philip Davies:** I am glad you have mentioned that. Obviously, your main claim to fame is voiced through cricket and the work that you did there. Would you not accept that most of, maybe even all, the examples of match fixing and all of the scandal around betting activity on cricket where no-balls were being bowled, or whatever it might be, was nothing to do with the online companies that are regulated either here or in Gibraltar or that would be tied up by this legislation, because most of that was fuelled by illegal betting in the subcontinent and the Far East? What this Bill will not change is any kind of illegal betting in the subcontinent and the Far East, so it will not make a blind bit of difference to all of the stuff that you are referring to just there.

**Tim Lamb:** I would accept that in terms of cricket you are right. But it is over eight years since I was chief executive of cricket. I am now the chief executive of an organisation that represents about 100 sports and the fact of the matter is that although cases of irregular, suspicious and corrupt betting on the much more heavily regulated markets in this country are thankfully rare, they do still happen. There are examples in sports like football, rugby league, darts, boxing, tennis, snooker, and even bowls, for goodness' sake, where there has been a whiff of suspicion. It is not just a question of what has happened in the past. It is a question of what might happen in the future. As Kate Miller from William Hill said in a *Guardian* article only yesterday, "The reality is that tackling corruption is an ongoing task; there will always be people who want try to take advantage of the system."

**Q119 Philip Davies:** That is fine, but you will accept that using the cricket ones is not particularly helpful in the context of this because it will not make any difference to all of that.

**Tim Lamb:** The point I was making is that when there is suspicious or corrupt betting, it can do untold damage to the reputation of the sport and I would say that snooker has suffered greatly from that just in recent years.

**Q120 Philip Davies:** You said at the start that what was important was consistency across sports. We have just recently had the case that I referred to with Andrew Heffernan as the jockey banned for 15 years for being involved in race fixing. One of the people he was doing it at the behest of was somebody who is a professional footballer, Michael Chopra. He has been found guilty by the British Horseracing Authority of being involved. He has been warned off because he has been involved in cheating in horse racing. What are football doing about Michael Chopra, given that he has been found guilty of cheating and fixing in horse racing? What are the football authorities doing? Presumably, if it is all about consistency and it is all about the integrity of the sport, Michael Chopra will be banned from playing football.

**Paul Scotney:** I think the consistency we are talking about here is the consistency of getting us to the point of where we are keeping the sport clean. I think in fairness to football, they have been handed the details of that case and that really is entirely a matter for them to decide what to do.

**Q121 Philip Davies:** The point is that if what you believe is that the most important thing in the whole world is the integrity of sport—and I am not disagreeing that that is what you believe—and it is all about consistency and it is all about stamping this out and everybody doing their bit to stamp out cheating, why on earth is Michael Chopra still allowed to play football when he has been found guilty of cheating and match fixing in a different sport? If integrity is the be-all and end-all, surely this man should be out of that sport.

**Simon Barker:** Personally, from my situation—I work for the Professional Footballers' Association, as well as being a director of the Professional Players' Federation—the issue with regard to Michael, and he has probably gone underneath our education programme, is we talk about football rules and what footballers can do within football, which is specifically that they can bet on football as long as it is not a match within their competition. So we speak about all that information. One of the things that we do talk about is, "Do not bet on your own sport. If you have to gamble, then gamble on another sport." It is another issue.

**Philip Davies:** I am sure you say gamble on another sport, but I am sure you do not say cheat on another sport, fix an event on another sport.

**Simon Barker:** I agree with that. Nobody is going to tell him to cheat on another sport, but ultimately the FA will have a look at it and they will decide themselves whether they are going to charge him on that basis.

**Q122 Philip Davies:** Do professional footballers want known cheats to be involved in the sport? If it is all about consistency and integrity and it is the most important thing in the world to you all, I do not understand what he is still doing there, why you still have him as a member of the Professional Footballers' Association.

**Simon Barker:** I think it is a side debate.

**Philip Davies:** Not really, because it is what it is all about.

**Simon Barker:** When we talked about what you talked about with regard to why the 15.1 licence condition is going to make any difference, there are certain bookmakers that might, for commercial reasons, take bets from people who they know are betting against their rules of their own sport. But they do not have to provide that information. I am not saying that they do not do it, but they do not statutorily have to provide that information, because it might be commercially convenient not to do that because he spends a lot of money there. Sometimes he wins, sometimes he does not. What this does now is make sure that the betting operators have to provide that information. I would have thought that would be a good thing.

**Q123 Philip Davies:** The point I make is that perhaps you should take the log out of your own sport's eyes before you try to start taking the speck out of the gambling industry's eyes. That is probably the point I am trying to get to.

But just finally, last year we had the London Olympics, which was the biggest sporting event this country has ever seen. Was there any evidence of any match fixing at the London Olympics?

**Tim Lamb:** Not as far we are aware, but in our experience corruptors are not particularly keen to target heavily scrutinised and well publicised global events, whereas maybe other minor sporting events that are less in the public eye, particularly certain instances that have happened in football involving the likes of Weymouth or Accrington Stanley, are more susceptible to corruption because they are less high-profile.

**Q124 Philip Davies:** That did not apply in cricket, did it, when we were talking about test matches?

**Tim Lamb:** It did not, sadly, and cricket took a long time to regain its reputation after that particular scandal.

**Q125 Angie Bray:** You obviously think that there are further measures that the Gambling Commission would need to take to be able to enforce effectively. Could you perhaps outline what you think some of those measures are? Also, do you think that the Gambling Commission has the resources to take up the new responsibilities that you think it should?

**Tim Lamb:** I think the question of resource is extremely important. From our understanding in dialogue that we have had with the Gambling Commission, they are concerned about the lack of resources. It is interesting that UK Anti-Doping receives something like £6.5 million a year from the Government to carry out anti-doping programmes in this country. Sports Betting Integrity receives precisely nothing. So there is a resource issue and I know that that is something that the Gambling Commission is concerned about.

**Q126 Angie Bray:** What sort of further methods do you think they should be adopting, as well as perhaps financial transaction blocking and ISP blocking? What sorts of thing are you looking at that they should have?

**Tim Lamb:** Well, I don't think we see it as our role, nor are we equipped, to enforce the law. But what I can assure you is that if there are moves to beef up the enforcement procedure, sport will be very happy to co-operate with those measures.

**Paul Scotney:** I think the main thing we want, though, is for all of them to have to adhere to 15.1. I don't think that would be a massive amount of extra work for the Gambling Commission. I am sure the Gambling Commission would welcome that because I am pretty sure that they have a frustration about when they want information out of overseas bookmakers, they have difficulties getting it. So the change that we would want to see is that they all comply with 15.1.

**Tim Lamb:** I think as I have said before that there is no doubt that 15.1 was effective in changing the

behaviour and practices of bookmakers and that is why we want it introduced across the piece.

**Q127 Angie Bray:** But you have heard, and you will have heard my comments when we were hearing the previous evidence, that technology is always going to allow people to be one step ahead of the regulations and the tax regime, however you want to apply it. The Gambling Commission is going to have its work cut out, is it not, to be able to keep ahead of technology, basically? So it is going to have to be significantly extra resourced, is it not, if it is going to take this on?

**Tim Lamb:** Yes, absolutely, which led me to make the comment about the funding that UK Anti-Doping gets in comparison with the Gambling Commission. It is not sufficient. We have had recent discussions with the Gambling Commission where they have raised the lack of resources as a matter of concern with us. It can take something like £100,000 just to pursue one case. It is a very expensive procedure and more funding needs to be provided.

**Q128 Angie Bray:** What kind of funding do you have in mind? Do you have any idea about what sort of funding you think would be appropriate and indeed where do you think that funding is going to have to come from?

**Tim Lamb:** We certainly believe that there is a strong case for public funding. We also believe, as we said in our written evidence, that there should be a contribution from the betting operators towards the cost of maintaining integrity. Obviously, if they had to comply with the licence conditions, there would be contributions there. I am very keen that this Sports Betting Group deals principally with issues around integrity. That is the reason why we were set up, as a result of a specific recommendation from Parry. There are other discussions going about the creation of sports betting rights and things like that. But I think that is for another forum. As chair of the Sports Betting Group, what we are concerned about is maintaining and upholding integrity and giving every assistance to our member governing bodies in order to do so.

**Q129 Angie Bray:** Would you want to mention a ball-park annual figure?

**Tim Lamb:** I would not like to be tied by a figure, but certainly, bearing in mind that one case alone can cost a huge amount, depending on how complex it is, there needs to be more resources. We would be very happy to work with the Gambling Commission to provide an estimate of the sort of costs that might be needed. There is a resource issue.

**Simon Barker:** Just personally, is it the right thing to do? If it is the right thing to do, you bring the Bill in, you bring the law in and then you look at what resources you need to bring that in. But whether it is the right thing is really important—15.1, has it worked? We believe it has worked and it is important that betting operators provide that information to sports so they can look after the integrity of their own sport and keep that sacrosanct. That is why we believe it is the right thing to go ahead with it. We will wait and see.

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**Tim Lamb:** Mr Hawkswood did say in the earlier evidence, he did concede, that the regulatory regimes in this country, compared to territories such as Gibraltar, Alderney and the Isle of Man, are not exactly the same. If you read the submissions from the betting operators they talk in terms of “similar to”, “comparable to” and “very little difference between”. The problem is that they are not the same.

**Q130 Angie Bray:** It is quite important when you are talking about taxpayers’ money you are not prepared to name a figure, but you are indicating that it might be quite a lot. Given that there is some question over whether they are simply going to drive the problem further away by making it less likely they will want to sign up to a regime in this country, the taxpayer will need to know that they are funding something that is going to work rather than something that is simply going to drive more stuff underground.

**Tim Lamb:** There is no evidence that suggests that it would be driven underground, although we are aware of that as a counter argument. I think I would answer that by saying, “How important is sport in our society?” It is what ordinary people talk about all the time in the pub, in the workplace, in the home. It matters a great deal. It makes billions of pounds worth of contribution to the economy. I think everybody would agree that if you do not have fair competition, you do not have sport. If that is not an argument for public funding for sport, I don’t know what is.

**Q131 Angie Bray:** What sort of percentage do you think that the industry itself should stump up?

**Tim Lamb:** I think we feel strongly that sport has been put in this position through no fault of its own. When I talk to people in the sport and recreation sector, it is amazing how many people don’t realise that governing bodies of sport have absolutely no say whatsoever on what types of bet can be placed on their events. I think it is right that governing bodies should make a contribution, but they do not have the resources to be able to make the contribution that is required in order to resolve the problem entirely.

**Q132 Angie Bray:** Do you want to comment on best practice amongst the regulators in other jurisdictions that you have been able to identify?

**Tim Lamb:** I think Mr Scotney would like to comment on that.

**Paul Scotney:** Well, it is slightly different. It differs in every jurisdiction you go to. To say that one is better than any other is very difficult, but certainly Australia have a very good system. The fundamental ones that are good are the ones that have the information-sharing systems. You cannot investigate corruption in sport unless you can get to the heart of who the people are behind it. So you could even talk about France where there is a strong regulatory regime. We have a regime at the moment that is mixed. In some cases we get the data we need and in some we do not. You talk about how much it is all going to cost. At the moment, I think if we feel as if it is right that we should have evidence of suspicious betting, then I think we should do that. I do not see how it is going to create a lot more money. Surely it

is the right thing to do. If a betting operator offshore sees that one of our events is not right because of suspicious betting, then it should be right that the sport’s governing body is told as soon as possible.

**Tim Lamb:** I think the other thing is that education is absolutely the key and Simon Barker on my left is a representative from the Professional Players’ Federation and Professional Footballers’ Association who has been heavily involved in education programmes for sportsmen and sportswomen.

**Q133 Angie Bray:** Which are of course partly funded by the Gambling Commission?

**Tim Lamb:** Yes, they are, but under voluntary arrangements. As we said in our written submission, these arrangements are short term; they are not statutory, they are at risk of being withdrawn at any time.

**Q134 Angie Bray:** Again, we heard this morning that that does not seem necessarily to be entirely likely.

**Tim Lamb:** It is not necessarily the case, but if they are voluntary agreements they can be withdrawn at any time and I think we have reason to believe that one or two may be withdrawn. They certainly do not provide a long-term sustainable solution.

**Simon Barker:** Just with regard to the education, we were part of the Sports Betting Integrity Panel that came together drawing experts from the betting operators, sports, police, Gambling Commission, players, supporters, and there were a lot of disagreements in that panel, but the one main thing that everyone agreed on was education of the participants because if you are going to fix a match there is only really the players, maybe the officials, who can be part of that. It was so important. It is true we had a funding agreement with bet365, with Betfair, with Ladbrokes and the RGA. It was a three-year agreement. It could be stopped at the end of each year. It worked really well. We used that money to good effect with regard to football, cricket and rugby. It was great.

The issue we have, as Tim said, is that they are voluntary agreements and they can walk away from them at the end of each year, which is a real downside to that point. Also we know that it is only three sports that we have been able to do it for, but what we have been able to do is provide best practice and speak to the participants at a level that they can understand what is going on and talk about gambling addiction, talk about whistle-blowing, talk about the rules and the integrity of the sport, the real important issues with regard to sport. That has been really good. We did a survey with regard to this 25% churn for sportsmen within a sport. So it is not just a one year thing; right, we put that to bed; integrity sorted. It is on a yearly basis and it does cost money and it has been good with regard to our agreement that we have had. It would be good, maybe, if the Committee thought about the funding of that and whether that could be continued, whether it be statutory or whether it be on a voluntary agreement, but something that—

**Angie Bray:** Extended perhaps in terms of the time that it operated?

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**Simon Barker:** Possibly, yes. We are already in negotiations and it looks like bet365 and Betfair are going to continue with that, but there is a number of betting operators who I would say may be freeloading on the basis of that. There are responsible gambling operators, without a doubt, but there are a number of others that probably would not get up to those levels.

**Angie Bray:** Thank you.

**Q135 Jim Sheridan:** Thank you. Like most punters I have often had the occasion to question the integrity of horse racing, none more so than on Sunday when I had a significant interest on a horse on a starting price of 100 to 31. It got beat by a 10 to 1 shot and I then questioned its integrity. But my question is this: for the sake of the punters, when that happens, such a significant difference in prices and so on and they get beat, at the end of the race is the jockey questioned? Is the horse tested? Or is the horse questioned and the jockey tested? What safeguards are there to ensure that the punter is not getting ripped off?

**Paul Scotney:** I think it goes right to the heart of why we need the betting companies to co-operate fully. In relation to Sunday, what I can say is that we have people at British Horseracing that are livetime-monitoring the markets every day, so that race would have been monitored. We would look at the bets. We would look to see whether there was anything suspicious and all of the things you have said might have happened. But if there were not any suspicious bets to raise concerns and the ride was in the rules, then probably nothing would happen. But what I will give you some comfort in is that we are livetime-monitoring betting markets every day and a number of sports are having to do that, which is why we are here today for this. It is because we need to work with the betting industry—and we do work very well with the betting industry at the moment—to allow us to get the full picture that you talk about. What would be the downside, of course, is if some of the bets were offshore with companies that do not share data with us. I do not think that is the case, but it is not beyond the realms of possibility that the piece of evidence that we need that shows there is something wrong went through an offshore operator and was not shared with us.

**Q136 Jim Sheridan:** But there is no guarantee that the horse would be tested at the end of a race?

**Paul Scotney:** There is no guarantee, but if we have some suspicions then we will proactively get the horse tested, yes, and we can do that. We can phone the stewards and the horse will be tested and we do do that and we do it on quite a regular basis. If there is any suspicion on anything to do with a horse, we will get it tested, yes.

**Jim Sheridan:** Any retrospective payments? No? Sorry, Chair.

**Q137 Philip Davies:** It seems to me that what you are asking from the gambling industry is half understandable and half, in my opinion, totally unacceptable. On the one hand, you are asking for the betting companies to share their information and data, which seems to me to be a perfectly reasonable

request in order that you can do something about the integrity issues in your sport. That seems fair enough. I do not have a problem with that. But then, Tim, it seems that you then want to go on. We have already ascertained that the bookmakers are the victims of fixing matches for betting purposes. This flies in the teeth of a “polluter pays” principle, because you want the victims of the particular crime, the betting companies, to then pay again for you in sport to, in effect, clear up the fact that you have a load of cheats as umpires, referees and players in your sport. Why on earth should the gambling companies that are the victims of this pay for you because you have corrupt cheats in your sport?

**Tim Lamb:** When you said that we ascertained that the betting companies are the victims, I disagreed with you. I strongly made the point that the biggest victims are sport and the people who follow sport. I have already said that we have got to the situation where any event can be bet on. In this country, it seems we are the world centre of gambling. You can bet on anything and everything in this country. Sport has had no say about what bets can be placed on its events. The gambling industry is making billions of pounds’ worth of profit on the back of sport and therefore I think should make a contribution. I am not saying that sport should not make a contribution. I also made the point that this should be public funding because of the stature and the status of sport in this country.

**Q138 Philip Davies:** Maybe the betting industry might want you to compensate them for the fact that they are losing money because you have corrupt people in your sport. It might be that they feel that they are the ones who are in need of compensation for the corruption that is going on rather than the other way round.

**Tim Lamb:** Can I just come back on that and just say that although we are obviously on opposite sides of the fence in today’s hearing, there is an awful lot of co-operation between sport and the betting industry, as Paul has already alluded to? We do sit round the table and share these issues with sport. We set up something called a tripartite group, which is representatives from sport, the betting industry and the Gambling Commission, and if we are going to properly tackle the issues and the threats posed by corrupt and suspicious betting and match fixing, it has to be a co-operative approach. So while we are disagreeing on this particular Bill with the RGA and the betting operators, there needs to be co-operation and there is co-operation.

**Paul Scotney:** Can we give another example, Mr Davies, as well, where what you say about the betting companies being the victims is not correct? We touched on it earlier. That is to say with the betting exchanges. One of the infamous suspicious matches in recent years was the tennis match of Davydenko versus Vassallo Arguello. A lot of the corruption took place on the betting exchanges and that ran to hundreds of thousands of pounds. The victims in those cases were not bookmakers. They were individual punters.

**Philip Davies:** No, indeed. Absolutely.

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**Simon Barker:** It is not always match fixing, as well. It is sometimes just betting integrity, betting on the sport, not because you are trying to fix the match, just betting on your sport when you should not be, and that brings integrity issues with regard to the perception of the sport by supporters.

**Q139 Philip Davies:** When you said there were no resources to deal with this, that is not quite true, is it, because the Gambling Commission has a sports integrity unit? So clearly they do have resources to put into this.

**Paul Scotney:** But limited resources. It is a sports-betting intelligence unit, not an integrity unit. So while it does do some investigative work, it does not do a great deal, and I do not mean that as a criticism. We are also faced with the fact of a reluctance by police forces to get involved in these areas, which is why sport has to deal with them itself. The British Horseracing Authority had set up its own integrity infrastructure because if we did not do it, no one else was going to do it for us, and that is what other sports face. So we do have the issues of where we bear the financial burden and we face the fact that other bodies cannot help us in the way that we would like, so we have to do it ourselves.

**Tim Lamb:** I would also refer the Committee to the comment that I made earlier. At the last meeting we had with the Gambling Commission, the lack of resources was by far the most serious concern that they had. It can take an awful lot of money just to deal with one case. They are complex, difficult cases and it is amazing how much one case can eat up the resources at their disposal.

**Q140 Chair:** Just before we move to Mr Moyle, who has been extraordinarily patient, can I just ask you one final question? You have laid great stress this morning on 15.1 as being the great step forward if this legislation is passed. Can you give any specific examples of whether either the sport's governing body or the Gambling Commission has sought to obtain information about a specific incident from an overseas gambling authority and been unable to get it?

**Paul Scotney:** I think I am unable to quote specific cases because my dealings have mainly been with horse racing and the predominance of horse racing betting is that they have co-operated. While I cannot talk about a particular case, I can give a scenario where we went to one of the major bookmakers identifying a particular race that we thought was suspicious. We outlined why. They said, "We can give you the data on that race from the shops in this country, but we can't give you the stuff from the ones in Gibraltar." That would have then been referred to our Gambling Commission or to the Gibraltar Gambling Commission, which would have taken an awful lot of time.

**Q141 Chair:** Why did they say they would not give you the information?

**Paul Scotney:** Because they would say that they had concerns about data protection issues in relation to Gibraltar. I can remember the incident where we say to the guy, "We would like to know about this

particular race," and he clearly said, "We can give you the stuff from the shops in this country, but we can't give you the stuff from our online operation in Gibraltar. You will have to go through a different route to get that."

**Tim Lamb:** Could I quote from page 14 of the draft Bill? "Some operators do share some information with the Gambling Commission in addition to their home regulator on a voluntary basis. However, this is often of insufficient detail to be used in an investigation and limits the Gambling Commission's ability to conduct thorough investigations. There have been instances where the Gambling Commission has not received relevant information and has been unable to obtain the information from the overseas licensed operator or regulator. In some cases the Gambling Commission is told the refusal to provide information is because of overseas data protection requirements."

**Chair:** All right. We may wish to pursue it further with the Gambling Commission when we see them. Can I thank the three of you and hand over to Tracey Crouch?

**Q142 Tracey Crouch:** Mr Moyle, you say in your written submission that you think that there are current weaknesses in the legislative framework. Would you like to expand on that?

**Lauri Moyle:** Yes. I think there is a structural weakness and we are certainly calling for a review of the licensing conditions and codes of conduct. So we welcome the draft Bill and we see it as a mechanism whereby, hopefully in the future, if evidence appears that there is a significant problem with problem gambling in the United Kingdom, that that can be taken care of in the UK rather than having to deal with different jurisdictions.

I do not want to say anything negative about the Maltese Gambling Commission, but it is a different Gambling Commission from the British system. I think previously mentioned were Alderney and Gibraltar. As far as I can tell they are operating in a similar consistent way as the United Kingdom, but there are other jurisdictions that are probably not quite as robust.

**Tracey Crouch:** Such as?

**Lauri Moyle:** Yes, one of them is the Dutch Antilles. The reason I say that is simply that they are not on the White List, but according to this they regulate 376 websites, in comparison to Gibraltar, which is 304; Alderney, 112; Malta, 547. Let me explain that the reason why I mention the Dutch Antilles is because there is a company based in Cyprus called Unimaster Limited that runs City Club Casino. So it is based in the EU. Presumably it is therefore legal to provide services to UK citizens because of that. But its regulator is the Dutch Antilles. So there is something going on there that is quite confusing to somebody like me. I do not gamble online, but after Friday's debate I just thought I would have a look and see what is going on. I googled casino gambling and one of the first hits that came up was toptenonlinecasinos.co.uk and City Club Casino was on that list. So if you think of a punter, an individual, wanting to go and find a new casino that they have not gambled in, they might go there and they might not necessarily think about

looking for the little flag right at the bottom of the page that says where they are regulated. In this specific instance, the flag was so small I could not tell what it was, so I went into the terms and conditions and had to dig and find where they were regulated and how they were owned. So that is a case study of perhaps lots of different websites. I do not have the capacity to do this, but I am assuming that the DCMS and the Gambling Commission have thought about it a little bit so I am looking forward to your interactions with them. That is the kind of big line structure issue of how regulation happens in the UK versus how it happens elsewhere.

In 2008 Jawad and Griffiths produced a study in which they reviewed the 20 most popular gambling websites and found that of those websites that are accessible in the UK, and they may or may not be licensed by the Gambling Commission in the UK, 60% of the websites provided problem gambling information and/or a link to help service websites.

**Q143 Tracey Crouch:** That is quite outdated research.

**Lauri Moyle:** It is.

**Tracey Crouch:** Five years on and I imagine that a lot has changed within the gambling—

**Lauri Moyle:** As far as I am aware, that kind of study has not been done outside of the DCMS or the Gambling Commission, so I am just relaying that information. Four big companies were very responsible, but that only represented 20% of the whole sample. I take your point it is old research, but let's have more of it.

**Q144 Tracey Crouch:** Your reference about vulnerable persons, and we had this conversation earlier about protecting vulnerable people, who do you define as vulnerable?

**Lauri Moyle:** Again, that is hard. One of the examples that was used here beforehand was somebody who self-identifies. I am not an academic in this area; I take the academics and try to inflect policy, but I think doctors and researchers would say that there are a couple of stages before somebody might self-identify in which they are exhibiting behaviour that could lead to a severe problem. We are asking for a one-stop shop self-exclusion mechanism and that is simply because we think that people who have the impetus to self-exclude should be able to do that in a way that is robust and simple. There is a reason why we are asking for a one-stop shop self-exclusion mechanism. I have talked to folk who have called me up saying, "Can you help?" We are not a service provision organisation, but they have told me they self-excluded from four or five websites and it just does not work because they have to self-exclude from all of the websites that are available to them.

**Q145 Tracey Crouch:** Therein lies the problem, does it not, because it is unenforceable? I have been to visit William Hill in my constituency and I have seen the way that they ensure that somebody who self-excludes—

**Lauri Moyle:** That is a very fair point. I am specifically talking about remote gambling self-exclusion and the reason why I am saying "remote gambling" is precisely because of the problems that it might bring up terrestrially. Again, there is research in this wonderful book that shows that there are technological mechanisms whereby if the industry agreed to share a list, a central list, somebody who self-excludes from one gambling website or self-excludes through the Gambling Commission or through the Remote Gambling Trust, or whoever that body is, will then be self-excluded from all the websites that are licensed and function through the UK existence. I think it is possible. Let me just read an extract from this book, "This collaborative effort by the gambling industry would help protect vulnerable gamblers, although regulatory effects may be required to prompt operators to enact such measures". I am leaving it to you to decide whether it is the Government's role or self-regulation or the Gambling Commission. This is really something that could help a whole host of people who stop self-excluding because it just does not function for them any more.

**Q146 Tracey Crouch:** Do you think gambling companies should be doing more to protect vulnerable people online?

**Lauri Moyle:** Yes. This is anecdotal, but again I point you to the research that I have already quoted. When I go to websites randomly, like through this search, the front page usually doesn't contain any information that stands out about problem gambling. I think that would be a great mechanism, to bring about a mechanism for protection. The other thing that does not seem to be happening is the kind of co-operation that I was talking about there in terms of how different companies work together, ensuring that people who have problems can self-exclude. I think the lynchpin there is self-exclusion. It is a weakness and I think the websites that currently are not regulated by the Gambling Commission are probably not doing enough because they simply do not have the pressure from the UK Commission to provide a safe service.

**Q147 Tracey Crouch:** You heard earlier we were talking about advertising provisions within the Bill. Do you have any views or concerns about—

**Lauri Moyle:** Yes. We view this Bill as being something that on the one hand makes the regulatory regime more robust and, on the other hand, liberalises law and it does so in the sense that it allows anybody who wants to access to the British market without having to be based in the jurisdiction that is currently White-Listed or in the EU. It is a liberalising mechanism, but it does provide clarity and it does provide a new, even playing field. Advertising is one of the elements that companies who cannot currently advertise in the UK will be able to.

Our concern about advertising, again take it from the big arc of what we are doing here in terms of general legislation to the specific individual, is that there is a problem gambler who has accounts on two websites, has the courage and strength up to self-exclude from two of those websites, and there will be more

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advertising around, the trigger to go back and gamble again might happen when he sees an advertisement by a company he wasn't aware of previously. By having more advertising in general you might create the situation where more people will be accessing websites they had not previously been aware of.

**Q148 Tracey Crouch:** Is there any evidence of that?

**Lauri Moyle:** I am assuming that that is the case. I can't cite—

**Q149 Tracey Crouch:** But you do not have any evidence to suggest that?

**Lauri Moyle:** No. Again, I can quote from this wonderful, lovely little book if you give me just a second to find the section; it does mention advertising. Yes, this is research produced by the National Research Council in America and the Productivity Commission in Canada. The author of this book says about that, "Increased availability of gambling opportunities typically result in a simultaneous increase in gambling behaviour and problem gambling". Then further research by Monaghan and Derevenski in 2008 said, "Constant availability of gambling from any location, accompanied by increases in advertising, may normalise this activity, resulting in increased participation and less perception of potential harm". What we are saying is advertising does not necessarily cause problem gambling, but it does heighten the problems that are associated with problem gambling and that people are more aware of it. I cited both of those specifically because they relate directly to remote gambling because of the increased availability and the ability to gamble anywhere, rather than a specific venue.

**Q150 Jim Sheridan:** Just two very brief questions, Mr Moyle. There are certain elements in the press who like to have a pop at the gambling industry, the bad guys in the gambling industry, while they themselves promote and advertise gambling, in terms of they print horse race cards, dog race cards, fixed odds, Bingo, all these kinds of thing. There is an element of double standards there and if these so-called newspapers did not print the race cards and everything else, would that help gambling, the problem gambler?

**Lauri Moyle:** I can't say. But I will say I was asked for a quote for *The Independent on Sunday* and they did not choose to use my quote, I don't know why. I agreed with the content of the article, but I think it was a little bit alarmist. I hope I didn't insult the journalist who wrote the piece. But my quote was a lot more staid, if you like, but I am worried because it is a real problem for lots and lots of people. While the statistics are touch and go, I think there are clear signs that problem gambling has increased, and in relation to remote gambling that increase has happened as well.

**Q151 Jim Sheridan:** I would not worry about trying to insult journalists; it has been tried and failed. The second question, I know it was alluded to earlier on in terms of figures from the *The Independent on Sunday* about problem gambling when it was claimed

that the figures misrepresented the situation because of the lottery in the UK. Given the fact that the lottery is now doubling in price to £2 a ticket, there are two arguments. One argument says if you spend £2 buying two tickets, just buy one ticket now. But the other argument says if people play the numbers game, that is they have the same numbers every week, so therefore, they are going to be doubling the amount of money they are paying in the lottery, that again could create problem gambling. Is that an issue?

**Lauri Moyle:** I have not researched the national lottery. I am aware that there might be problems related to scratch cards. I have seen on numerous occasions people buy six or seven scratch cards, run them through and then go back into the shop while I am still in line and get back in line behind me. Then I am thinking I might stand here and watch what he does and he buys another couple. That is anecdotal—

**Q152 Jim Sheridan:** But the argument is that the increase in the lottery or scratch cards, or whatever it may be, it is mainly the less well off that buy then because they have that dream of getting to become a millionaire. It is them who are most affected and is that where of the problem gambling lies in those less fortunate than the rest of us?

**Lauri Moyle:** Right. I think it is certainly disproportionate in terms of income. If somebody is a problem gambler and they make less money, obviously the proportions are more problematic for people who make less money. I would say that in terms of remote gambling, I think the Gambling Commission's survey, the most recent big survey, found that in terms of remote gambling it is people like me who are young, male and have a university degree and then also, in addition, people who are self-employed and run their own business. They are the natural risk takers, the people who do things, get things going and gambling is a mechanism. They enjoy the risk that they may be reflecting in other sorts of behaviour. The people who are at most risk for non-traditional forms of gambling remotely are those and for people who are on a lower income, the "tax on the poor" national lottery is called that for a reason, and I support and agree with that.

**Q153 Mr Leech:** Mr Moyle, I would like to bring you back to the issue of the one-stop shop for self-exclusion. In principle, the idea of an easy way to avoid being bombarded by different sites and being able to access different sites seems like a good idea. But have you any idea what proportion of problem gamblers fall into that category where they have reached the stage that they want to do something about their gambling and want to self-exclude?

**Lauri Moyle:** The statistics and research on this are hard to do because, on the one hand, if you have research that shows that there is a relatively low amount of people who want to self-exclude, they will also tell you that, "Why should I self-exclude? It doesn't make any difference because I can just go and gamble on a different website." Any numbers we have that relate directly to self-exclusion and the probability that people will choose to self-exclude face the other problem in that gamblers do want to

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self-exclude, but they do not think it will work. With this one-stop shop mechanism I think it will provide an opportunity for them to make it work.

**Q154 Mr Leech:** The concern for me is not that this is a good idea, but that it is a sledgehammer to crack a very small nut out of the whole number of people who have a problem with gambling. Is there no research that has been done to suggest how many or what proportion of problem gamblers this would help?

**Lauri Moyle:** It would help all of them.

**Q155 Mr Leech:** But surely it would only help those problem gamblers who recognise they have a problem and want to do something about it?

**Lauri Moyle:** Yes. I am not aware of statistics, but I will say that GamCare—and I am not speaking on their behalf in any sense, I could not—and research from the University of Manchester, Salford, and a company that provides the mechanism to do this self-exclusion, Bet Buddy, who have developed a mechanism and have initially a financial interest in this, they have presented on the issue and they obviously think it is a good idea.

GamCare is one of the primary providers of care for problem gamblers. Even if the choice was not necessarily an individual's to self-exclude, and the problem gamblers we are talking about are people who have already recognised—there are 450,000 problem gamblers in the UK. Those are people who are beyond the pre-stage of being possible problem gamblers. These are people who are very likely to know that they have a problem. Their families probably know about it and they are probably doing something about it in relation to GamCare. I don't have statistics, I don't have research, but it seems to make sense to me.

**Q156 Mr Leech:** Are there any other solutions that your organisation has that would have a positive

impact on all problem gamblers, not just on ones that have reached that stage?

**Lauri Moyle:** Yes. Again, somebody mentioned previously that in isolation the enforcement mechanisms that the Government is proposing will not work in the same way, in isolation, a one-stop shop for self-exclusion does not necessarily provide a solution for problem gambling. It seems to us to be the spearhead of a practical solution that goes along with all the other good things that the Gambling Commission, the Responsible Gambling Trust and so on are doing already and will continue to do in the future as research comes out.

**Q157 Mr Leech:** There is nothing else potentially within this proposed legislation that you would like to see that you think would make a difference, a positive difference?

**Lauri Moyle:** I think it is a big ask so we didn't go beyond that. But if you want me to come back to you about possibilities, I am happy to do that.

**Q158 Chair:** I think that is all the questions we have, thank you.

**Lauri Moyle:** Just on enforcement, just one small point. I think the important issue, as I think has been pointed out, is that the UK is an open market. That is the main difference between most other jurisdictions that apply financial transaction blocking or ISP blocking. Whatever that means for the open markets, it is hard to compare the failures of other jurisdictions, but I think the success rate will be higher. Because of the work that is going on in the Commission to harmonise regulation in the EU, however that happens, whether it is voluntarily or through a directive, we are heading in a trajectory that is more positive than a murky grey area might suggest.

**Chair:** Thank you.

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**Tuesday 12 February 2013**

Members present:

Mr John Whittingdale (Chair)

Angie Bray  
Philip Davies  
Paul Farrelly

Mr John Leech  
Steve Rotheram  
Jim Sheridan

### Examination of Witnesses

*Witnesses:* **Jonathan Stephens**, Permanent Secretary, Department for Culture, Media and Sport, and **Jenny Williams**, Chief Executive, Gambling Commission, gave evidence.

**Q159 Chair:** Good morning. This is the further session of the Committee's examination of the draft Gambling (Licensing and Advertising) Bill and I would like to welcome Jenny Williams, the Chief Executive of the Gambling Commission, and Jonathan Stephens, Permanent Secretary of the DCMS.

**Philip Davies:** Can I start, Mr Chairman, by saying that I do not believe I have any relevant interests to declare but if anybody wishes to crawl over my register and come to a different conclusion I am very happy for them to do so.

Could you start by telling us what specific benefits you think this particular Bill will bring to consumers?

**Jonathan Stephens:** Well, the basis of the case for this Bill is based on the need for effective regulation in Great Britain that is fit for purpose; that is specific to the needs and culture of GB; that offers strong protection for consumers, particularly for the young and vulnerable; that offers consistent protection for consumers; that is easily understood and easily accessible; that offers a level playing field for operators operating in the GB market; that keeps pace with changes in technology; and one that takes a generally prudent approach to regulation, one that does not take unnecessary risks.

Matched against that, the case for change is that most online gambling undertaken by consumers in Great Britain is not currently regulated by the Gambling Commission, so not currently subject to UK regulation under laws passed by Parliament. There are significant risks of new and emerging jurisdictions taking an unknown approach to the regulation of online gambling. Consumers within GB are subject to a number of different regulatory approaches, which means confusion for the consumers in where to go if problems arise, and it is not easy to update regulation quickly and effectively and in a consistent manner when changes, such as in technology, occur. All of those are the case for change and all of them give benefits to consumers in Great Britain.

**Q160 Philip Davies:** I have a feeling this is the going to be the closest we ever get to an episode of *Yes Minister* to be perfectly honest, but we will come on to the reason for that a bit later perhaps. In the explanatory notes it says, "The Gambling Commission has become aware of new and emerging European jurisdictions", which is a phrase that you used as well, "where online gambling sites have begun targeting British consumers and where very little is known about the level of regulation of consumer

protection", but it also says that "no specific public protection risks have yet arisen." Which jurisdictions pose this danger? What problems have we identified that we are trying to solve with this Bill?

**Jonathan Stephens:** I draw attention to the letter that I wrote to the Committee yesterday. Just to clarify that statement to make it clear that it is referring to two issues. One is the issue of new and emerging jurisdictions, particularly in the European economic area where a number of countries are changing their approach to gambling regulation with the potential to have impact on gambling conducted by consumers in Great Britain. While a number of well-established regulators in the EEA are well known to the Gambling Commission, there are new and emerging jurisdictions where their approach is not nearly so well-known and that clearly constitutes a risk that they may take an approach that is not consistent with the standards.

**Philip Davies:** Which jurisdictions?

**Jonathan Stephens:** Some of the new and emerging jurisdictions. I am not making any comment on the quality of their regulation, merely that they are emerging as new jurisdictions with regulation of online gambling, such as Bulgaria, such as Latvia and so on. A separate issue but clearly linked is that there is also evidence of operators from overseas targeting the UK consumer using the sort of .co.uk domains and—this is where it comes back to what I said earlier about the Government's approach being one of prudence and not wanting to take unnecessary risks—there is clearly the potential for operators targeting the UK consumer from jurisdictions with relatively little experience of regulating gambling activity and where the standards and approach may be significantly different to the approach in the UK.

**Q161 Philip Davies:** How many consumers do you estimate are using unlicensed, unregulated or badly regulated sites or sites that are regulated in a way that you would not approve of? How many British consumers are using those sites?

**Jonathan Stephens:** If you are essentially asking for an estimate of the size of the unlicensed activity, black market or whatever, we do not have an estimate, unless the Gambling Commission has anything to add. By its nature it is unknown.

**Jenny Williams:** At the moment it is probably well below 5%, but that is a guess because obviously, by definition, it is not something that one has figures on.

**Philip Davies:** What is well below 5%? I mean 1% is well below 5%.

**Jenny Williams:** I am just saying that by definition we do not know, but there is no indication from the web traffic or the monitoring that it is a large problem at the moment.

**Q162 Philip Davies:** From a regulatory point of view, it is fair to say that this is a solution looking for a problem?

**Jonathan Stephens:** I think part of the approach to regulation here, as I said at the beginning, is to take a prudent approach in which one anticipates risks and seeks to prevent them from becoming serious problems. The Government thinks there is a risk here and one of the reasons—not the only reason—for taking action is to make sure that risk does not become a problem.

**Q163 Philip Davies:** Take, for example, companies that are regulated in Gibraltar, which is on the White List. Are you unhappy with the regulatory regime in, just for argument's sake, Gibraltar?

**Jenny Williams:** We are not unhappy about it, but we do not know a great deal about it in detail and that is one of the problems. As life moves on there are the risks that emerge. It is not a very transparent regime in terms of getting information. That is not a criticism. It works perfectly well in—

**Philip Davies:** What is it that you do not know that you would like to know about the regulatory regime in Gibraltar?

**Jenny Williams:** How it works in practice. When you regulate companies like that you look at their systems, you look at their culture and you look at the way in which they deal with particular incidents. That gives you a sense as to whether they are behaving in a socially responsible way. I have no reason to suppose that the big companies that Gibraltar regulates are not, but I do not know and I do not have the information; so I cannot provide any assurance to the Department or to the Government or Parliament about approximately 80% of the market that has been regulated outside Great Britain.

**Q164 Philip Davies:** How did Gibraltar get on a White List if you cannot vouch for its regulatory regime? How did it get on a White List in the first place? The reason that it was on the White List was because we could vouch for its regulatory regime.

**Jenny Williams:** Can I make two points there? It is not on the White List. It is counted as part of Europe. That is just a question of fact. At the time that the 2005 Act was coming in, there was already a well-established market in Gibraltar, Alderney and the Isle of Man. The Government took the view they had broadly the same regulations and approach as we did. There was no reason to suppose there was a particular problem and no reason to disrupt matters. The point is that things are changing. At that stage very few other jurisdictions in Europe allowed online gambling. Although the system had its clunkiness and difficulties, it was perfectly tenable at that stage, but things move on and if I could take a particular example.

The Committee has probably seen a great deal about social gambling. That is where people do not win

money prizes but they can either play for free or pay for gambling. We are looking at that at the moment because we have some concerns about whether that is being socially responsible and about whether in fact some of it is not gambling. Now, if we bring in conditions on our licensees about social gambling activities that might only affect 20% of the people operating in Great Britain. We would have to get all the other countries in the European area to change their regulations as well. Some of it would need primary legislation. That is not a very effective system of providing assurance to the Government.

**Q165 Philip Davies:** There are meetings of EU gambling regulators on a regular basis. Do you raise your concerns about their licensing regimes at those meetings? You did not even bring Gibraltar to the meetings that you had recently about this. Where have you set out in detail the Gambling Commission's concerns about other regulators' regimes? Where are they in the minutes of meetings and things like that where you have expressed clearly what your concerns are?

**Jenny Williams:** Those meetings are about, as it were, the mechanics of regulation and sharing best practice. We do indeed do our best in those meetings to find out about what other people are doing and we do our best in various other forums, like the International Regulators Gambling Working Party that I chair and the European one that one of my staff co-chairs, to find out and to express views and to share good practice. As I say, that is very different from the day-to-day contact and, indeed, the Gibraltar regulator himself would say that there is no substitute for the actual contact with the operators and understanding their systems.

**Q166 Mr Leech:** I just wanted to clarify a point that Jenny Williams made earlier and that was in relation to the estimate on the proportion of gambling that was from unregulated sites. You made a guestimate at 5%. Is that 5% of transactions or 5% of money being spent?

**Jenny Williams:** As I said, it is well below and the only reason I say that is because the estimates of the sort of market you would get in the tax debates—which is nothing to do with this, it is about the black market—is about the 5% mark and I was going down from that. I was just trying to triangulate off other information. But, of money.

**Mr Leech:** It is money rather than transactions?

**Jenny Williams:** Yes.

**Q167 Mr Leech:** If it is money, what would be the estimate on the proportion of transactions?

**Jenny Williams:** I am sorry. I don't have a note on that.

**Mr Leech:** The reason behind my question is are we more concerned about this market, even though it is a fairly small share of the market by your estimates, because the actual stakes that are put on the unregulated market are significantly higher on average than the stakes being placed on the regulated market?

**Jonathan Stephens:** Let me pick up. First of all, the concern is not just about the black market, the

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unregulated market. It is about the inconsistency of regulation across the regulated market. Secondly, what we are saying is that we are seeking to anticipate and mitigate risks in advance of them becoming significant problems.

**Jenny Williams:** That is absolutely right and I think policy consistency, is the main problem because the unregulated market accounts for the vast majority of operators. To pick up the black market, there are two sorts of problems with the black market. If it has some large volume then there are issues about crime and money-laundering and those sorts of issues, but the separate problem that we have, which is independent of its size, is about young people and vulnerable people and them having the proper protections. So it would not matter how much they were spending in that sense.

**Q168 Mr Leech:** Finally, in terms of the estimates on the amount of black market gambling, have you made any estimate on the proportion of black market gambling that there will be post changes in regulation? Again, the reason for my question is that there is an assumption from some that if you have a tougher regulatory regime there will be a bigger proportion accessing the black market rather than the regulated market.

**Jenny Williams:** Yes. Clearly there would be that economic incentive if there is more regulatory burden on people in the regulated market, so that must be the case. But our discussions with analysts and with other regulators suggest that in a very open market like us where you can offer most forms of gambling—there are very few restrictions on the type of gambling you can offer—and where you can advertise freely, it is very difficult for black market operators to get much of a foothold. It is not expected that there would be a huge increase.

**Q169 Mr Leech:** Has there been an assessment carried out to make that judgment or is that just a guess? Is that just an assumption?

**Jenny Williams:** If I could say it was an informed judgment, but it is based on guesswork and anybody who said anything to the contrary is, I think, exaggerating the position because it is so difficult to predict the exact size. As I say, looking round at the precedents elsewhere and at the nature of our market and talking to the people whose business it is to estimate the impact, such as the analysts, that is the consensus view.

**Jonathan Stephens:** If I may, the purpose of this is not to introduce, per se, a tougher set of regulation. It is to introduce a more consistent and GB-specific set of regulation and there are jurisdictions that take a much tougher approach and effectively ban remote gambling. As Jenny was saying, we will have a system of regulation that is specific and relevant and appropriate to the nature of the UK market, which is traditionally comparatively open but will, critically, be consistent across all those playing from within Great Britain. A Great Britain consumer of online gambling will be regulated by the Gambling Commission.

**Q170 Paul Farrelly:** Despite all the arguments that have been put forward by some of the operators and the Remote Gambling Association, the fact is—as they have admitted—that all of their members who are operating in the UK will take a UK gambling licence and it comes down to the issue of tax at the end of the day. Given that they will take a gambling licence, do you consider the emergence of a grey unlicensed market that much of a reality?

**Jonathan Stephens:** I think we have covered this already. Of course, by the nature of grey and black markets, it is not possible to be precise about estimates now and even less about potential behavioural effects of future changes to either regulation or taxation, and those are two separate issues. The Gambling Commission has had discussions with other jurisdictions that have gone down this route.

**Paul Farrelly:** That is what I want to come on to in a moment.

**Jonathan Stephens:** Jenny may want to add on that, where the experience suggests that there is not a significant risk of a large grey or black market emerging.

**Q171 Paul Farrelly:** Denmark was a country I talked about. What experience do you have?

**Jenny Williams:** I have talked at length with the Danish regulator and we work quite closely together because a lot of the characteristics of that market are similar to ours. They are as certain as you can be that their black market, after introducing their tax and online gambling arrangements, is well below 5%.

**Paul Farrelly:** I have heard 90% captured and the tax rate there is 20%.

**Jenny Williams:** That is absolutely right. I have double-checked recently, obviously, knowing I was coming today and they are absolutely clear about that.

**Q172 Paul Farrelly:** Are there are other jurisdictions that you would point to, to say, “They are doing or have done something similar to what we are doing and they are a model of good practice and this is what happened in reality”?

**Jenny Williams:** The other countries are not very good comparators because the circumstances are very different. Either they have a more limited range of options, so if people want to do the thing that is still banned they have to go into the black market, or they have very high, or relatively high, tax rates, well above 20%. Again, there is more of an economic incentive to go into or stay in the black market.

**Q173 Paul Farrelly:** Spain has been mentioned as a country that is doing things quite well.

**Jenny Williams:** Their arrangements are relatively new and are quite onerous on the operators in terms of the way they are doing it. There are quite big upfront costs. Again, countries choose to do it in different ways and that may or may not be an incentive to stay in the black market, but that one is relatively new in terms of what they are doing at the moment.

**Q174 Paul Farrelly:** One of the concerns that has been mentioned in the past is your capacity and ability and having the budgets to fulfil this properly, where you are licensing far more people individually than you are now. Do those issues mean in practice that, if companies are licensed by Gibraltar, your licensing of them would be pretty well automatic?

**Jenny Williams:** There are two issues there. First of all, all those people currently authorised to operate in Great Britain will, under the transitional arrangements, continue to be able to operate in Great Britain for a transitional period while we check through their licences. As you rightly imply, quite a lot of those companies in Gibraltar we already license for other purposes or they have bits of their business licensed with us. We already know quite a lot about them, but just not a lot about the way they are doing some of their online operations. It would not be automatic, but I think it would be very surprising if those transitional licences were not confirmed; it should not take a huge amount of additional work; added to which I would expect the home regulator to have most of the information that we would need to tick through readily to hand and, therefore, it would not be a big deal for them.

**Q175 Chair:** Just following that up, is it going to be your approach that there are certain regulators who you are completely confident of and, therefore, essentially, if they had issued a licence you will accept that and are there other regulators where you do not have that same degree of confidence?

**Jenny Williams:** I think we are approaching it slightly the other way round. What we are going to do is focus on the operator and the things that we need to know. If the home regulator, if I can call it that, has that information—for example, has the source of funds and has done the sort of due diligence we would do, and has not just stopped when they got to the Virgin Islands or somewhere like that, and has pursued it further and has the records of inquiries about their regulatory history or their criminal records—then we will be perfectly happy. Obviously, over time, we will get to know how those other regulators do the work and it is a question of risk assessment.

**Q176 Chair:** Do you not know that now? I am surprised, given that we operate a system where you basically accept the rubric of other regulators, that you say you do not have the information of how they operate.

**Jenny Williams:** Not in terms of how they do their actual work. No, we do not. There is considerable variation in terms of the amount of personal discretion that individual regulators have as opposed to doing the due diligence. That may work perfectly well, but we do not know. Rather than take the sideways route of trying to assess the regulator, we want to look at the homework. Of course regulators change, individuals change, most of these countries have very small regulatory bodies, so we are talking about a handful of individuals. If they can give us the homework, no problem. There are people over the years that we know an awful lot about, for example—a slightly different context—Nevada. The way that Nevada does

its licensing—sends people all over the world and looks into everybody in sight—we will just do a quick confirmation with them when we have someone, but we know exactly how they have done it. They are coming through us the whole time asking about operators, but we do not have that sort of oversight of the other regulators.

**Jonathan Stephens:** If I may, the critical point is that under the current system operators based abroad but offering services into the GB market are not required to have a licence or an approval from the Gambling Commission. When and if issues arise or complaints arise from GB consumers, which they not unreasonably put to the Gambling Commission, your ability to follow them up is exceptionally limited and dependent upon co-operation from others and from other regulators. Whereas the fundamental change here is that everyone operating in the GB market, offering services into the GB market, will require a licence from the Gambling Commission, which will give the Gambling Commission direct access to that company in respect of its online services.

**Q177 Chair:** Not if the Gambling Commission adopts the approach that if that operator is licensed by an overseas regulator and the overseas regulator is doing a good job. You are just going to accept the overseas regulator.

**Jonathan Stephens:** The approach required under the legislation is that the operator will need to be licensed by the Gambling Commission.

**Chair:** Of course it needs to be licensed.

**Jonathan Stephens:** That is why Jenny is saying that there cannot be an automatic acceptance.

**Q178 Chair:** The Gambling Commission is not going to go out and look at the practices of every operator. You are going to say, as I understand it, “If you are licensed by an overseas regulator who we have confidence in and think has all the proper safeguards in place, then we will accept that that is sufficient for us to grant a licence”.

**Jenny Williams:** No, what I said was that we would look at the homework. We would look at the material they have and I would expect that in most of those places they would have the material, so it would be a relatively quick business. There is a difference between the application stage—we are talking about applications at that stage—and the ongoing compliance and enforcement. One of the problems we have at the moment is that we do not get any learning or exposure at the moment to about 80% of the market. Under the system we will actively oversee those operators that are operating in our market. Now, some of the operators in places like Gibraltar or Alderney we have quite a lot to do with on their non-remote side. We know something about their company culture. We know something about their systems. We do not at the moment have any ability to pick out a particular case or pursue a particular inquiry, which you learn an awful lot from when you are regulating companies.

**Q179 Chair:** Just to take an example, Full Tilt and Alderney. Alderney is a White-Listed gambling

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regulator and there was a failure by them in terms of one of the companies which they are regulating. Does that mean that you look again at your confidence in Alderney as a regulator?

**Jenny Williams:** As I say, under the proposed system that arrangement would not arise because there would not be the White List anymore.

**Chair:** No, I know the White List will go, but you presumably will be relying on the Alderney regulator. Let us say Full Tilt operates under the new system. Full Tilt comes to the UK Gambling Commission asking for a licence because it wishes to sell to UK consumers. You go to the regulator under which Full Tilt is operating, which is Alderney. Are you going to accept that Alderney is a well-regulated environment?

**Jenny Williams:** Under the new system Full Tilt would have to comply with our conditions. As you know, separately we are about to have a consultation on the way in which we protect players' funds, which is a particular problem in that case. Wherever we land up with that, they will have to obey our conditions and we will make sure, either by doing our own direct compliance or by getting the homework from Alderney, that that is being complied with. It does not require us to separately assess the regulator. We do it directly with the material we get on the actual operator.

**Q180 Chair:** Essentially, while you are looking for the regulator to supply you with all the information, the Gambling Commission is going to determine in every individual case, every application from an operator, whether or not they are fit to receive a UK licence?

**Jenny Williams:** Yes, as we did when we licensed the industry in 2005.

**Chair:** I think we are going to come on to quite what that means in terms of your workload and resourcing shortly.

**Q181 Angie Bray:** Paddy Power has put forward a number of measures that it has suggested would be crucial to ensuring the effectiveness of a new licensing regime. It talks about the requirement for financial deposits against breaches. It talks about definitive advertising and IP address restrictions that make any breach clear cut and it talks about equipping a regulatory authority with strong enforcement powers, including criminal proceedings. Mr Stephens, I think the suggestion is that we do not see many of those measures being talked about in the Bill, do we?

**Jonathan Stephens:** No, they are not in this Bill essentially because the provision for those measures, if they are needed, already exists. The 2005 Gambling Act has provisions for criminal offences, which the Gambling Commission can enforce, and, through the application of licence provisions, again set in place in the 2005 Act but extended by this Bill to all operators within the GB market, the Gambling Commission can apply licence requirements to require those sorts of enforcement measures and others.

**Angie Bray:** You are saying they do not need to be laid out specifically again?

**Jonathan Stephens:** No.

**Angie Bray:** There is no way that this new Bill would completely supersede the—

**Jonathan Stephens:** No. Indeed, it operates by amending the 2005 Act to have the effect of extending the Gambling Commission's powers to a whole series of operators who are currently outside them.

**Q182 Angie Bray:** Would you see these as very important?

**Jenny Williams:** Yes. As I say, this ability to be able to put licence conditions on all people who are operating in Great Britain is the crucial difference that this brings and it enables us to keep the regime up to date with emerging risks.

**Q183 Angie Bray:** Are they enforceable?

**Jenny Williams:** Yes. Take it in stages. When you have licensees, the value of the licence, the ability to trade and the ability to be able to advertise in Great Britain is very valuable. Generally speaking, we find that operators may protest, but they do comply. We have the ability to fine. We have the ability to suspend or revoke licences and, as Jonathan said, in extremis we could also prosecute them because breaches of conditions are criminal offences, but we do not get that far normally.

**Q184 Angie Bray:** We heard an interesting example last week from my colleague here about a pay-out that happened from one based in this country and then the same company, but based abroad, did not pay out.

**Jenny Williams:** Yes. That was an interesting case in lots of different ways. That was a case where two regulators took rather different views about the case. One can argue about the rights and wrongs, but it shows the difficulty of having a consistent approach to the same set of consumers.

**Q185 Angie Bray:** Do you think that, with the new Bill in place, this would be a thing of the past and it would not be able to happen again?

**Jenny Williams:** That would not be able to happen. It would be our judgment in that case, for good or ill. Our judgments can be appealed to the Gambling Appeals Tribunal. No, that particular circumstance could not happen again.

**Q186 Angie Bray:** How easy is it going to be to demand financial deposits?

**Jenny Williams:** Perfectly easy. You just put a condition on the licence.

**Q187 Angie Bray:** Mr Stephens, can I ask you about another aspect of fairness, or not, to do with what I think they call bricks and mortar casinos as opposed to online gambling. As you will know, there has been quite a forceful case made for levelling up a little bit because at the moment I think the sense is that online gambling is going to be increasingly allowed to offer all sorts of advanced exciting games that are going to draw in consumers and meanwhile those bricks and mortar casinos are not able to offer the same. Do you feel that that is something that needs to be addressed?

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**Jonathan Stephens:** This set of provisions is specifically directed just at the issue of remote gambling.

**Angie Bray:** Nevertheless, if you legitimise more of it, it is going to make it more appealing. You are obviously looking to see an expanded online gambling.

**Jonathan Stephens:** It is expanding. This is about having a consistent set of regulation for what is a growing and significant market, rather than necessarily expecting this change to force further growth in the market. I think the critical thing is there is a wide variety of places and opportunities in which gambling takes place. The Government's approach is that each needs specific and appropriate regulation or legislation to its particular circumstances. There are differences between the online and the physical environment. Often in the physical environment a lot of gambling can be anonymous. In the online environment it is easier to run checks on individual players and to monitor such things as age and location and things like that. What is appropriate to the physical environment is not necessarily appropriate to the online environment and vice versa. All of this needs to be kept under review, but just simply because there is a change in regulation in one environment does not mean that there is a case for a change in another environment where the challenges, risks and problems can be—

**Q188 Angie Bray:** But this is an issue that has been raised for some time now. I think even the former Secretary of State, Tessa Jowell, said in evidence that the Gambling Act needed to be looked at in terms of how it addressed the bricks and mortar aspect. What did she have in mind when she said that, do you know?

**Jonathan Stephens:** I am sorry. I cannot read into a former Secretary of State's mind, but from the Government's point of view it does not have any current proposals or plans to change further legislation. It always keeps it under review. It has consultations on a number of areas at present on points of detail, but it does not have as part of its programme a significant change.

**Q189 Angie Bray:** You are not looking to level up the playing field? I think some of the written evidence talked about a precipice; not even just a tilted playing ground but a precipice they are facing.

**Jonathan Stephens:** No, the Government is not looking to make any significant change.

**Angie Bray:** But you are reviewing—

**Jonathan Stephens:** It does not believe that the case for that has been made out.

**Q190 Angie Bray:** But you are reviewing prizes and that seems to be taking a very long time. Is there any reason why it is taking so long?

**Jonathan Stephens:** We have a specific consultation out at the moment on stakes and prizes, which I think was launched last month and concludes on something like 9 April. It is part of a regular three-yearly look at stakes and prizes. That is part of the regular updating and consultation on existing regulation, but it does not

suggest a fundamental change to the regulatory framework.

**Q191 Chair:** Can I just ask you about a couple of concerns that have been expressed to us. Firstly, the definition contained in the Bill. It talks about facilities for remote gambling “being capable of being used in the UK”. Now, some have suggested that that is a rather broad definition that might catch, for instance, people who write software or test software and that a better definition would be more specific, such as something like “provision of facilities for remote gambling by persons present in Great Britain”. What is your response to that?

**Jonathan Stephens:** I think, taking it as read, we are agreed on the purpose or the intent of the provision, which is essentially to change the regulation from point of supply to point of consumption. There are always opportunities to think about different ways of drafting the provision, so we are very open to any suggestions or concerns on that point. I am not convinced that the specific concern about this specific provision catching software that would not otherwise be caught is relevant because the definitions of “provision of facilities for gambling” elsewhere in the 2005 Act are sufficiently tightly drawn to avoid that. But if there are specific concerns then the publication of a draft Bill and then the process in Parliament is exactly to address those sorts of issues.

**Q192 Chair:** If you have no problem with the alternative suggested then you would be very willing to consider substituting that?

**Jonathan Stephens:** We will certainly look at alternative wording and drafting. My experience of working with parliamentary draftsmen is that they generally point out ambiguities that one has not anticipated. I think in that specific provision there is already an ambiguity, which I am sure could be sorted relatively quickly, about whether it is the provision of facilities or the gambling that is undertaken by people in the UK. One would have to sort that drafting out. We certainly do not have a closed mind if there is a better way of doing this.

The other thing I would say is one does need, in this area, to make sure that one is not creating opportunities for long legal arguments about, for example, “Well, I did not intend to supply gambling to people in Great Britain. It is purely incidental or accidental that 100,000 people started gambling on my site”. One would not want to give too much room for that sort of legal argument to be made.

**Q193 Jim Sheridan:** Could we move on to match-fixing, perceived or otherwise. Is there anything in this proposed legislation that you think would help reduce the problems of match-fixing?

**Jonathan Stephens:** Jenny may want to comment on that. In the sense that it provides for a more consistent and effective system of regulation around the GB consumer, then it enables the Gambling Commission better to address issues that are relevant to the GB consumer.

**Jenny Williams:** Yes. The whole structure of the efforts to combat match-fixing—some of which is

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related to betting and some of which is not related to betting, it is a cross-over with other aspects of sport—were looked at, as you know, by the *Parry Report*. There is a structure where you have sports bodies, the gambling regulator and law enforcement in this country facing comparable bodies in other countries and it is that jigsaw arrangement that works, but it does depend on you having the intelligence from the betting operators and that is what our Sports Betting Intelligence Unit does.

The problem that we have is that we have a condition on our operators, the ones that we licence, that they give us information on suspicious or unusual betting transactions, which we feed into discussions with law enforcement and with the sports bodies, and we are not getting that direct information from a very large proportion of the market. We get some information but relatively little and it makes it very hard to play our part in this arrangement, which does seem to having some impact. Certainly we are co-operating with overseas bodies, but we are not getting the information.

This change would mean that the information would come direct from the operators to us to go into the Intelligence Unit and it would also enable us to investigate and follow up particular suspicious transactions or unusual transactions direct with the operators instead of having to ask another regulator and then for them to consider whether they think it is appropriate or not, all of which takes up time and has not been terribly productive to date.

**Q194 Jim Sheridan:** Can you give us any specific details where you have asked for information on suspicious betting partners, for instance, and that information has not been forthcoming? Are there any specific details?

**Jenny Williams:** Yes. You will obviously appreciate it is a little difficult commenting on particular cases, but if I speak in general terms we have one open at the moment where our operators drew our attention to some suspect betting on a number of UK sports matches by individuals who have participated in those events; so they are sportsmen. The wider analysis of the odds on those matches identified that overseas operators were likely to have seen similar sort of patterns. We approached another regulator where they told us that one of their operators had taken more than 10 times the normal amount on that particular match, but, when we asked for further details, first of all it took about a month for them to come back and, secondly, that particular operator said they did not see anything unusual. Now, they may be right. I am not saying that they are wrong, but it is this inability to directly get our hands dirty, if you like, really looking into things, that means that we are playing our part somewhat blind. That is one specific example.

I can give you another one where we had reports from a sport's governing body, in this case, that there was suspect play in a match by a player where they had long-standing concerns about their integrity. One of our operators reported that they had taken an £80,000 online bet from a customer on that match that they had concerns about. There were other suspicious-looking bets in the bookmakers in that area. When we

asked the overseas regulator about our concerns and asked them to ask their operators, they dismissed our concerns. They did not see any problem. Again, I am not saying they were wrong. What I am saying is that we cannot get our hands dirty on the data and see it ourselves.

Those are two specific examples and we have already mentioned the Barney Curley case where we had differences of views about what was going on and, in fact, we asked for information in that case and, again, the regulator concerned said that, on the basis of data protection, they did not think we had a right in terms of our criminal inquiries to get that information. That is a judgment they are entitled to make, but it is not the judgment we made.

**Q195 Jim Sheridan:** If there were either individuals or organisations found guilty of this, what is the practice to either get the money back or suspend payment to people who are involved in it?

**Jenny Williams:** A lot of this is about deterrent and disruption. What we are trying to do is first of all to make the players or the people involved very nervous about any involvement in match-fixing so that they know that, because we can give the information to the sports bodies, they are very likely to get caught and they will get banned. You saw the snooker case, Higgins' agent. That was a News of the World sting but the sports body went very quickly and, I think, banned him for life or certainly a big fine. It is that deterrent value of being able to pool this information and show that something is going on. First of all you have a big deterrent from the sport people. We can prosecute. We can void bets if you get the information quickly enough and if you can establish, but in practice it is a pattern and it is a deterrent and you build up.

**Q196 Jim Sheridan:** Do you have a handle on just how much money or how many bets are placed through legitimate operators as opposed to the black market operators?

**Jenny Williams:** In the UK?

**Jim Sheridan:** Yes.

**Jenny Williams:** There is obviously a huge overseas Far East market.

**Q197 Jim Sheridan:** Most of the concerns that you have in terms of what happens are on the other side of the world; so it is highly unlikely it will have any effect on that. The rationale behind it—what handle do we have on legitimate operators and the black market? What are we targeting?

**Jenny Williams:** As I say, it is a jigsaw puzzle of arrangements. We try to keep our sports market very clean. There are strong deterrents against the players or sports officials getting involved. We pool information with law enforcement and Interpol. The Interpol arrangements in the Far East also have quite a strong interest in the grey market. They do not care quite so much on the betting integrity front, but they do care about money-laundering and organised crime. You can pool information in that sense.

Also with your operators, they get a sort of shadow effect of some of the Far East betting. They can see

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movements in the market that they cannot quite explain. You have to pool all that and pool information from the police, who obviously have information on organised crime. It is everybody working together, but to play our part we need the information. We need the intelligence. My Director of Operations is playing a key role in the European discussions and the Interpol discussions but, as I say, he does not have the texture of information that would enable him to contribute fully.

**Q198 Jim Sheridan:** Finally, just building on the success of the Olympics, it has been suggested that the online gambling people can police themselves, obviously in co-operation with the Gambling Commission. Is that the case?

**Jenny Williams:** I do not think it is a question of policing themselves. It comes back again to this pooling of intelligence. Nobody expected there to be a significant problem on the Olympics but it was obviously such a high-profile important event that one could not take any risks. One of the things that was a bonus for the Olympics was it enabled us to pilot with the Olympic Committee, law enforcement and the sports bodies, a thing called the Joint Assessment Unit, which is a way of all the bodies working together, which is now being rolled forward by the European bodies as a model for how you might behave on the big international events. But that does require, again, playing our part in terms of getting the information.

**Q199 Paul Farrelly:** Clearly, as I have said before, a lot of this is all down to tax. The Government has done a very detailed consultation on the design of the policy framework from the tax point of view, but has yet to announce the results or respond to that consultation. Jonathan, I know it is the Treasury, but do you have any idea of the likely timing of that response?

**Jonathan Stephens:** The Government has already announced its decision in principle to move to a basis for taxing on the place of consumption. The detailed consultation is currently out. I expect—but I cannot give an undertaking—that the Treasury will reach a conclusion on that soon. As to what “soon” is, I am afraid I cannot be more specific.

**Q200 Paul Farrelly:** One of the arguments that the Remote Gambling Association members are making is that they should be taxed at a lower rate than 15% because they have lower margins. What work has been done with the Treasury in talking to the industry on the tax front as to whether a lower rate might yield more revenue or whether a lower rate might capture more of the market?

**Jonathan Stephens:** I am sorry; I am going to have to say that that is a matter for the Treasury. They do have a consultation out that enables people to present evidence relevant to issues like tax take. The only thing I would say, from the point of view of having had some responsibility in the past for tax issues in the Treasury, is that the Treasury is very focused on the tax yield and so will certainly think about such issues as behavioural effects resulting from tax rates.

**Q201 Paul Farrelly:** Just one final question here. We talked about Denmark and the Danish experience earlier on where there is a higher tax rate than here and, of course, in this industry the barriers to entry now are quite considerable in terms of investment, branding and facilities. Do you buy the argument that the changes that we are considering here are going to make the British online gaming industry less competitive in reality?

**Jenny Williams:** As Jonathan said, this is for the Treasury and, if I can follow suit, I used to be in the Revenue and they will be looking at that and would not proceed if they thought that was a serious issue, but it is not something that keeps me awake at night worrying.

**Q202 Philip Davies:** Just on the subject of tax and the genesis of this Bill, could you just explain to the Committee where the genesis was? Was it the brainchild of the Department of Culture, Media and Sport or was the genesis more in the Treasury?

**Jonathan Stephens:** It goes back quite a long way, to the review in 2009. There was then a subsequent consultation. The basis for this Bill is the concerns about public protection and consistency of regulation that we have set out. In parallel, the Treasury has developed its tax proposals but the two are not dependent on each other.

**Q203 Philip Davies:** The person who announced this when they came up to speed again was the Chancellor in his Budget statement. It was not the Secretary of State for Culture, Media and Sport. It was the Chancellor. The Chancellor said that the Government was going to introduce a point of consumption system and when he said that in his Budget statement he made no mention of regulation. He made no mention that it was anything to do with regulation. He said that the whole purpose of this was to even up the taxation regime. It was to benefit companies like bet365. If the genesis of this is all about regulation, when the Chancellor announced it in his Budget statement, because he was the one who announced it, why did he not even mention regulation and just talk about tax?

**Jonathan Stephens:** As I have explained, the genesis is a matter of public record. It goes back a long way from before this Government, back to 2009, and Chancellors, traditionally in Budget speeches, announce lots of things across a wide area of Government.

**Q204 Philip Davies:** Just because a previous Government looks at it, you cannot claim that that is the genesis of this Government doing it. I am talking about what is the genesis of this Government doing it and it was clearly in the Chancellor’s Budget statement. This is about tax, is it not? It is not about regulation. It is about a good way for the Government to raise revenue. Am I right in thinking that a bit of nervousness has broken out in Government because if it is about tax, which it clearly is—it seems to me perfectly clear it is all about tax—that that is likely to end up with a legal challenge against the Government because that might fall foul of European law; whereas if you can convince people it is about regulation then



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you will be entitled to do it from a European law point of view. Is that not what it is about? Using regulation is a cover for what the Treasury want to do, which is to raise some revenue?

**Jonathan Stephens:** You are quite correct that European law provides for national legislation in areas where it is directed at a matter of public protection or social protection, providing it is not discriminatory and providing it is both necessary and proportionate. In the Government's view, this Bill is all of those things. It is not about taxation. We have just spent a long period of time illustrating some of the issues and problems that arise under the current system of regulation and the risks that that gives rise to in terms of inconsistency of regulation for the consumer, a lack of assurance of protection for young and vulnerable players, and the inability of the GB regulator to get the information and be able to take the enforcement action that it considers necessary and desirable in the interests of players and consumers in this country. That is a set of specific issues that are all about public and social protection.

**Q205 Philip Davies:** Well, I have to say, you are not doing a particularly good job of persuading me it is all about protection because in the first part of the questions we have basically had no real examples of where there are any real people betting on illegal sites or any problem with that. We have had Jenny scratching around for a couple of examples where people were not giving information about irregular betting patterns, or they were giving it but it was a month later, and we have not had any great example about that. Let us go on to advertising, which seems to be the next big part of the regulatory Bill. What harms are the advertising provisions in the Bill aimed at addressing?

**Jonathan Stephens:** First of all, to pick up on the first point, of course this is not primarily about illegal activity. It is primarily about introducing consistency, and adequate and appropriate consumer protection for all GB consumers who are participating in online gambling, and it is about anticipating risks that may arise as the market grows and new and emerging jurisdictions emerge. It is sensible and consistent with a prudent approach to regulation to take action to anticipate and mitigate those risks before they have necessarily resulted in large problems.

As regards the advertising, the advertising provisions are essentially about enforcement around the new regulatory regime. They are not about changing the content of what can be advertised or what is appropriate in terms of advertising.

**Q206 Philip Davies:** Jenny, how big a problem is illegal advertising at the moment in this country of non-White List gambling sites? How big an issue is it?

**Jenny Williams:** There is a small ongoing trickle of sites. As I said, when you have an open market that lots of people can advertise in you do not tend to get as much of a black market, but there is an ongoing trickle. We have had about 13 or 14 where we have taken steps to get the website taken down. Obviously if they are very trivial, it depends whether they come to our attention or not.

**Q207 Philip Davies:** There are about two a year, are there not, in terms of what you have said?

**Jenny Williams:** There are two where we took steps to take the website down. There are probably a great deal more, but largely below the radar and having almost zero impact.

Can I just come back to the point where you said I was scratching around for examples? I was asked to give some specific examples, which I did. But, in terms of the flow of information, we get one or two reports a month from our licensees, which are in fact 20% of the market or less than that. From the rest of the market, the ones licensed overseas, we have had about 10 since 2007. It seems implausible that those regulating 80% of the market should not have given us a great deal more suspicious transactions. I just wanted to note that.

**Q208 Philip Davies:** I understand that. I am not an expert on all sports, but I do know quite a bit about horse racing. I would say that the company that has done most to expose corruption in horse racing in terms of unusual betting patterns and giving a trace as to who has been placing bets is Betfair.

**Jenny Williams:** Absolutely, yes.

**Philip Davies:** Would you agree with that?

**Jenny Williams:** I would, and they go on and give us the information.

**Q209 Philip Davies:** Where are Betfair licensed?

**Jenny Williams:** They are licensed now. They have moved to Gibraltar.

**Philip Davies:** Exactly. So there is not a problem, is there? The fact that they are not licensed in the UK is not a problem, is it? They are the company that has done most to expose all of this and they are licensed in Gibraltar; so what is the problem here?

**Jenny Williams:** The problem is the rest of the market.

**Q210 Philip Davies:** If you could just tell us which companies have refused to give you information? You have just said Betfair continue to give you the information. There is nothing to stop people that are licensed abroad from giving you the information. I am quite happy to approach some of these. Let us have a bit of a naming and shaming episode. Which firms are refusing to give you the information that you need?

**Jenny Williams:** Since I mentioned that we have only had 10 references under 15(1) since 2008, you can say that virtually all of them are not giving it. Now, we do not know what they have that they are not giving us by definition.

**Philip Davies:** Which ones have you approached and said, "Will you give us the information", and they have said, "No"?

**Jenny Williams:** They have not provided it.

**Philip Davies:** Betfair provide it.

**Jenny Williams:** Yes.

**Philip Davies:** They are in Gibraltar. Which ones have you approached and asked?

**Jenny Williams:** I am sorry, we do not—

**Philip Davies:** You have not.

**Jenny Williams:** Asked is a general thing. The asking—

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**Philip Davies:** You have not asked.

**Jenny Williams:** I am sorry, that is not the case. In discussions of course we do. The RGA wrote to us in 2009 pointing out that we should not be asking for this information because they thought we ought to be doing it via the regulator.

**Philip Davies:** But you could ask the companies concerned.

**Jenny Williams:** I am sorry—

**Philip Davies:** Well, you could if it was such a big issue. If I was a regulator and I thought this was a big issue and I was determined to get to the bottom of it and if somebody was stopping me from getting the information I would say to the companies concerned, “Can you give me the information?”

**Jenny Williams:** We have had endless meetings. If you ask me for a specific formal request for a bit of information, there have been particular cases they have declined.

**Philip Davies:** Who? Who has declined? We want to know who they are.

**Jenny Williams:** I am sorry that is not something I think is right for me to give—you can work out by a process of elimination but it’s not right for a regulator to discuss particular cases or particular investigations.

**Jonathan Stephens:** If I may, the fundamental point here is that all of that is dependent upon a fundamentally voluntary approach. It is very good that Betfair do voluntarily co-operate but the Gambling Commission has no powers of enforcement with those who choose not to, who can say that they are co-operating with their home regulator and don’t wish to duplicate. Even where a company produces the information, and again the Gambling Commission has no powers of enforcement if, in the course of that, concerns arise, and that is the problem that this Bill is designed to remedy.

**Q211 Philip Davies:** You see none of this rings true. No specific public protection risks have yet arisen. In the first bit we have two advertising a year where there are cases of illegal advertising. The biggest operator has given you all the information you need about match fixing. It all points that this is a Treasury-driven piece of legislation. Could you give us a copy of the correspondence that there has been between the Treasury and the Department of Culture, Media and Sport over the introduction of this particular Bill?

**Jonathan Stephens:** It is always possible to make a Freedom of Information Act request on all those things.

**Philip Davies:** To save me the trouble, could you give us a—

**Jonathan Stephens:** May I just pick up on one thing because you are addressing this issue of illegal advertising. The Bill is not primarily seeking to address the problem of illegal advertising. It is, first of all, using advertising as an enforcement. Secondly, the problem, as in elsewhere, is about consistency and clarity of approach. At present it is not possible. It is very difficult to establish because adverts for overseas operated and licensed sites are legal in the UK. It is very difficult at times to establish if it is an illegal advertisement or not, and that is one of the illustrations that the average consumer, and indeed the

regulator, has a problem with the current system, which will be significantly eased with a clear and consistent set of GB regulation for the GB market in that any operator that has a Gambling Commission licence will have that stamped on their advertisement. That will be a legal advert. All other adverts will not be legal and that will be clear and consistent and moreover the Gambling Commission and others will be able to educate the consumer that that is what they need to look for.

**Q212 Philip Davies:** When we have had examples of football clubs from one country with a gambling organisation advertised on their shirt, playing in another country that does not recognise that particular gambling operator, they have to take the logos off the shirts for the football match. Is that going to start happening in this country?

**Jenny Williams:** It has already happened in the sense that there was Cardiff football club that was about to be sponsored by, I think, a Chinese betting company and we pointed out that this would be illegal advertising and they took the strip off. I think it also happened with Sunderland where, I think it is right again, they were about to put on some strip that would have been illegal advertising when it was pointed out to them that they could not use sponsorship in this way. What happened was they got themselves licensed in the Isle of Man and therefore they could do it, so it is a powerful incentive to get people sponsored and regulated by a legitimate regulated company. I think it is a powerful tool. Football advertising is very effective in that sense.

Can I just add that we, as the Gambling Commission, have been pressing the Department for these changes since before the election for the reasons that we were saying. The problems we were having included dealing with consumers who ring us up and cannot understand why we can’t help them or advise them and we have to pass them on to the other regulator because we are increasingly aware of our lack of information about what is happening on the online market, because we don’t have that day-to-day contact and we don’t have the ability to make changes. We have been pressing and, whatever the Treasury do, we have advised strongly that this would be advantageous for consumer protection.

**Q213 Jim Sheridan:** Can I just mention a small point that sessions like this are designed to ask people like you, the experts in the industry, what their views are. Just following up what Philip has been saying, are you saying that the Gambling Commission or the regulators should have the powers to access the information from people who operate in this country?

**Jenny Williams:** Yes. That’s right.

**Jim Sheridan:** Should you have the powers to get that information?

**Jenny Williams:** That would come with this Bill, yes.

**Jim Sheridan:** That is what you would be happy with then?

**Jenny Williams:** Yes.

**Q214 Mr Leech:** In answer to one of my colleagues you reminded the Committee that the 2005 Act gave

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some additional powers in terms of potential criminal proceedings and other restrictions, financial deposits. Why is it that a wide range of people who have given evidence are concerned that the proposed enforcement regime will be too light-touch? If all these other options are available through the existing legislation, why is it that people are telling us that enforcement will be too light-touch?

**Jonathan Stephens:** We do not believe enforcement will be light-touch. I can't really answer for other organisations.

**Mr Leech:** Why do you think that they might believe that it is too light-touch?

**Jonathan Stephens:** Again I can't anticipate that. The purpose of this Bill is, from the point of view of the GB consumer, to enable more consistent and therefore more effective regulation and protection of their interests. The Gambling Commission has a range of very effective powers. First of all, based in the licence conditions that they can require all those issues that have been raised, as a result of writing the requirement in, and then beyond that they have the powers to deny or rescind a licence to an operator and ultimately the powers of taking criminal prosecutions. These have significant impact on operators, not least because they get picked up by other regulators across the world and may have implications for their operations in other jurisdictions.

**Q215 Mr Leech:** Since those rules and opportunities to enforce were introduced after the 2005 Act, how often have they been used?

**Jenny Williams:** As I was explaining, with the market that we have at the moment with our licensees we tend not to need to get to the formal enforcement. Generally they either comply or shut up shop and go somewhere else at the moment, so we haven't had to get to that stage.

**Q216 Mr Leech:** Are you able to give me any figures at all on the number of times that you have had to go down the route of criminal proceedings or use financial deposits?

**Jenny Williams:** We have not needed to do either although we have a couple of current things that might end up in that position, a criminal prosecution. I don't know at the moment. We haven't needed to so far.

**Q217 Mr Leech:** Is it possible then that the reason why people are raising concerns that it is going to be too light-touch is that you simply do not use the tools that are already available to you at the moment, and that the assumption is that you will not use them in the future?

**Jenny Williams:** Obviously I cannot speculate as to why. The context where I have seen people arguing about this is pointing to other jurisdictions and the size of the black market, and those that we discussed earlier on, as to why they have such large black markets and why we don't think that would apply in the same way here.

**Q218 Mr Leech:** So post the change in regulation for those companies that currently fail to comply and just move elsewhere, you will then be able to use these

existing powers you have under the 2005 Act legislation?

**Jenny Williams:** We have not needed to do it much but to the extent we have used powers, for example, they are powers to require communications, intelligence, data. That is all improving and streamlining our ability to use those powers so, yes, I am confident.

**Q219 Mr Leech:** From the Gambling Commission's perspective are there any other things that would be useful for you that are not currently being proposed within the proposed legislation that would make it easier for you to do your job and regulate well?

**Jenny Williams:** The thing we would like is an ability to fine. At the moment we can only fine when people breach a licence condition. We can't fine if people just breach the basic law. So, for example, if you allow somebody, an underage person, to gamble online we cannot fine for that. We can remove the licence. It is a quirk of the legislation. We can get around it by rather convoluted licence conditions to some extent, but that is a primary legislation point.

**Q220 Mr Leech:** Mr Stephens, I assume that the Department is aware of your wish list. Why is that not being taken on as part of this proposed legislation?

**Jonathan Stephens:** This proposed legislation is clearly focused on issues of online gambling and that significant change. We will always discuss and listen to the Gambling Commission's views on other areas of change in the legislation of course. The opportunity to change legislation is quite limited.

**Q221 Mr Leech:** Are there any issues that are being discussed between the Department and the Gambling Commission that have been ruled out for whatever reason within this new legislation?

**Jenny Williams:** As I say, we can manage—it is a bit clunky, but we can manage. You have just asked about a wish list—

**Q222 Mr Leech:** Yes, but this is part of pre-legislative scrutiny. If we can get to the situation where we can improve the legislation by trying to get the Department to take on the concerns and the helpful suggestions from the Gambling Commission, we are doing our job properly.

**Jonathan Stephens:** Absolutely, and there is nothing whatsoever to prevent an amendment being put down during passage. We certainly don't have a closed mind to this at all. We have deliberately sought to keep this legislation short and targeted on the specific issue of changing the basis for regulation for online gambling.

**Q223 Mr Leech:** Does the Gambling Commission have any concerns that the legislation will make it still too easy for organisations to get around the new rules?

**Jenny Williams:** No. We have been pushing for this legislation because we think it will make our job both much easier to do and much more effective.

**Q224 Mr Leech:** How about the costs involved for the Gambling Commission? Is it going to be an additional administrative burden? Will you require

additional resources to make sure that you are able to enforce the new regime?

**Jenny Williams:** There is a fair bit of guesswork involved, but we reckon—on the numbers that are likely to apply—we will probably get between £1 million and £2 million extra fee income if nothing else changes. Obviously fees are reviewed, in principle, every year so they could change, but on the current fee rates. For that, we could get 15 or so staff or use external firms. You can use paralegals if you would want to look at the prosecution route. So there is quite a lot of flexibility and we already have quite a good base because of the work we do in regulating the non-remote.

**Q225 Mr Leech:** You must have made an assessment on the potential impacts, the financial impact on the Gambling Commission. Will any additional revenue that you get in pay for any additional work that is required?

**Jenny Williams:** We think so. As I say, our estimates suggest that that will be enough, but as we get closer we can refine those estimates and get a clearer idea. We know who the existing people are who can trade in the UK and we can do some sums on that. Part of the difficulty is knowing how many others who are not currently trading or trading legitimately will apply. We have quite a lot of experience of the licensing and so we have a pretty good estimate of that so we can ramp that up quite quickly. We did that when we licensed the whole industry in 2005. The ongoing compliance is two or three years away so, again, we will get a better estimate but our current thinking is that the current fee levels and the fee income will be enough to cover the costs.

**Q226 Chair:** Obviously one of the big concerns is that with the potential additional cost of regulation unregulated sites may become more attractive. You do not have the powers to block websites. Do you think you should have or are you going to look at whether or not you can block websites?

**Jonathan Stephens:** Jenny may want to comment as well. This is something that, again, we keep under review. We think that the current powers and incentives around encouraging firms to apply to be licensed and all of that, particularly the incentives about advertising, are effective and provide a strong incentive. This is an industry that operates on a significant amount of advertising, that needs that advertising to generate custom, and it is relatively easy to block illegal advertising through access to sellers of advertising. That, as an enforcement mechanism, has proved to be quite effective in the past and we think will prove to be effective in the future. Clearly if it does not and there is growing evidence of a growing black market problem, we will want to keep under review all means of active enforcement. None of these things tend to be silver bullets. There are problems with ISP blocking as well, but we have not closed our mind to it.

**Q227 Chair:** It would be fair to say that the DCMS's success so far in trying to obtain website blocking has not been enormous, has it?

**Jonathan Stephens:** If you are referring to outside, copyright, things like that—

**Chair:** I am referring to the Digital Economy Act and you know that the ISPs are going to fight you every inch of the way if you try and block websites.

**Jonathan Stephens:** That illustrates some of the issues around that and, in this case, experience and the evidence shows that advertising as a means of enforcement and protection around the licensing regime has proved very effective in the past and is likely to do so in the future. If for some reason it doesn't or there are problems, we will look at alternatives again.

**Q228 Chair:** The other way you can, which may also have lessons from your experience in trying to tackle online piracy, is to try to prevent consumers being able to find illegal sites by getting the co-operation of the search engines. Is that something that you are exploring?

**Jonathan Stephens:** I don't know if we are specifically exploring that in this case.

**Jenny Williams:** We have already talked to Google, Facebook, those sorts of people, and they co-operate with us in that they do not want to carry the illegal content, so they co-operate with us in a general sense.

**Q229 Chair:** If you say to Google, "This is an unregulated online gambling site, will you remove it from your search results?" do Google say yes?

**Jenny Williams:** There is a difference with the paid type, which they then move up the lists where people are paying. My understanding, and I have to double check this, is that they have been co-operative with us on that and so have Facebook. We talk about ISP blocking in a fairly loose sense, but we do have powers on a one-by-one basis to go to the ISP, make it clear that the advertising is illegal, and in those circumstances to date they have always been prepared to take it down. You obviously can't replicate that on a very large scale, but that has been pretty successful so far.

**Chair:** When you say the ISP will take down advertising, what do you mean?

**Jenny Williams:** It will take down the website of the—

**Chair:** The search engine.

**Jenny Williams:** Yes. Sorry, not the search engine: we are talking about the actual websites.

**Chair:** I think it is talking to the search engine to take down the search reference.

**Jenny Williams:** The pure search, the Google algorithms—

**Chair:** You are talking about paid-for search results.

**Jenny Williams:** Yes.

**Chair:** The top banner in the right-hand column.

**Jenny Williams:** That is right, which is the important one, not the pure, untouched by human hand type. It is where there is a financial interest, we can.

**Chair:** You have achieved more than the copyright owners have because they have not managed to persuade Google to remove the illegal sites from that. You have found Google are willing to do that.

**Jenny Williams:** So I understand, but for the paid for, where there is financial involvement.

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**Q230 Jim Sheridan:** One of the criticisms of this Committee and the proposed legislation from certain quarters is that we are making gambling far more sexy and attractive to young vulnerable people in particular. Would you accept that criticism?

**Jonathan Stephens:** The legislation does not change the content of the advertising codes, what would be allowed or anything like that, so it makes no change to that. There are specific provisions in the code about avoiding forms of advertising that are particularly attractive to young people or that will have particularly positive associations for young people. The various advertising authorities take action against advertisements that infringe those codes.

**Q231 Jim Sheridan:** Are you content that this proposed legislation, once it has concluded its course, will not in any way increase problem gambling?

**Jonathan Stephens:** No, I clearly cannot say that because problem gambling is something that we are concerned to monitor and watch carefully. The latest prevalence study suggests that it is relatively low in the UK, certainly lower than in some other jurisdictions and countries, and does not suggest that there has been a significant increase. It is something we are concerned about and watch. There is no reason to think that this legislation will contribute to an increase in problem gambling because in terms of making regulation more effective and more consistent and easier for consumers to address specific problems that will arise, it provides for a more effective system of regulation but I clearly cannot give any guarantees about what will happen to problem gambling in the future.

**Q232 Philip Davies:** Jenny, I think I am right in saying, you said you thought that the current fee levels would give you an extra £1 million to £2 million in income if this was to come in just in terms of these companies paying fees to you. I think I am right in saying that, but I could be wrong so feel free to correct me, but you would be able to employ another 15 people with that. Did I hear that right?

**Jenny Williams:** Yes.

**Philip Davies:** Say somewhere in the middle of that, £1.5 million—£1 million to £2 million—which is 15 people earning £100,000 each by my quick calculation. Is that the rate of pay for your people at the Gambling Commission?

**Jenny Williams:** No. We had to spend money on things other than the people. Getting information, getting lawyers, lawyers come quite expensive quite often, so this was in terms of extra staff.

**Philip Davies:** The average would be £100,000 each, would it? Is that what you are saying? I know the lawyers are a bit more expensive and the other folk are a bit less expensive. On average £100,000, is it?

**Jenny Williams:** The money you get in doesn't go just on staff.

**Philip Davies:** So what else? You have obviously done some good calculations here. I can see why it was attractive to the Gambling Commission, this is good old-fashioned empire building, this is. It is great stuff, is it not, for the Gambling Commission? More

money, more staff. This is what all bureaucracies end up doing, is it not?

**Jenny Williams:** We think we are doing this for consumer protection and the worry, I thought, was that we would not have enough resource, not that we were empire building.

**Philip Davies:** I am sure that is your worry that you will not have enough resource. That is the worry of all bureaucracies.

**Jenny Williams:** I am sorry. The point put to me by other members of the Committee was whether we would have enough resource to do this.

**Q233 Philip Davies:** Will you give a pledge that you will be able to meet all of the additional requirements from your existing budget, including the new fees that will come in, charging the same fees, that we are not going to see on the back of this a hike in fees for operators in order to pay for your empire building?

**Jenny Williams:** I would hope, but it is a hope, an aspiration, by getting 80% of the market to start contributing to our regulatory costs that in time we could bring down the costs for the current operators, but it depends a lot on how the market develops, what the risks are, whether there are additional challenges. If things carry on as they are, I would hope that getting that contribution towards overheads and so on and the economies of scale will enable us to bring down fees.

**Q234 Philip Davies:** That is only a hope. When you were answering a question from the Chairman earlier you seemed to be reluctant to say that you would accept the view of other regulators. That if a regulator somewhere else thought they were good enough, you seemed to be reluctant to accept that you would, therefore, just accept that if you are happy with the regulator you would automatically give them a licence. If you are going to have to start going out and looking into individual companies—every single one of them that applies for a UK licence on this basis—that is going to be huge, is it not? That is going to be massive, there will be a massive amount of work to do then. It is great, is it not?

**Jenny Williams:** I don't think that the application stage is such a huge thing. We have been here before. We have done it before when we were licensing the non-remote industry under the 2005 Act. If those companies have all the information available from their home regulator it will be a very quick, easy exercise. Many of those, including the bigger ones, we already license them for their non-remote business so we have most of the information that we need. I think you can overestimate the difficulty of the application stage.

**Q235 Philip Davies:** Mr Stephens, does the Department not worry about empire building from the Gambling Commission? Has it not got half an eye on thinking, "Hold on a minute, we need to be aware of potential empire building here"?

**Jonathan Stephens:** We look at the costs of our own Department and of our bodies very carefully. We look at the burdens imposed on companies very carefully. There has been a very careful assessment as part of

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the Government's consideration of this, of the impact on business in all of this. Not many empires have been built on 15 staff.

**Q236 Philip Davies:** No, but that is just the start, is it not? It has not been a consideration, nobody at DCMS has uttered the words, "We need to be aware of empire building at the Gambling Commission"?

**Jonathan Stephens:** Not in my hearing, I have to say.

**Q237 Philip Davies:** I just want to come back to what the Chancellor said in his Budget statement, Mr Stephens, because I have it here in front of me.

**Jonathan Stephens:** Right.

**Philip Davies:** He said this, "One area where I am today making substantial changes is gambling duties. The current duty regime for remote gambling introduced by the last Government was levied on a place of supply basis. This allowed overseas operators largely to avoid it and much of the industry has, as a result, moved offshore. 90% of online gambling consumed by our citizens is now supplied from outside the UK and the remaining UK operations are under pressure to leave. This is clearly not fair and not a sensible way to support jobs in Britain, so we intend to introduce a tax regime based on the place of consumption where the customer is based, not the company, and from this April we will also introduce double taxation relief for remote gambling. These changes will create a more level playing field and protect jobs here." Not a mention of regulation, was there, in all that?

**Jonathan Stephens:** No, because it was about taxation.

**Philip Davies:** Exactly, my thoughts entirely.

**Jonathan Stephens:** If I may, that entire announcement was about the tax changes, it was not about the regulatory changes that were announced separately around about the same time.

**Philip Davies:** He was making it quite clear what the purpose of introducing this was.

**Jonathan Stephens:** He was making it clear that the purpose of introducing a change to the taxation basis was about taxation. No-one has ever denied that. There are two things going on here. The Treasury has announced a change to taxation—all the Chancellor's arguments there. The Government has also announced a change to the basis of regulation for all the reasons that we have been articulating and setting out.

**Philip Davies:** The two are not linked?

**Jonathan Stephens:** The two are clearly in parallel but neither is dependent on the other and they each stand on their own merits. I think we have sought to demonstrate the particular concerns around social protection and public protection, consistency of regulation, which provide a good case for this Bill.

**Q238 Philip Davies:** The precursor Bill was the Private Member's Bill, the Offshore Gambling Bill that was introduced by Matthew Hancock, who is renowned for not only being an excellent Minister but also a very close ally of the Chancellor. Anyway, you may believe in coincidences, Mr Stephens, I am not sure I do.

**Jonathan Stephens:** I could not possibly comment.

**Q239 Paul Farrelly:** The Government has set out a timetable, December 2014, to have all this through and in place, which gives certainty to people who welcome it in terms of their own business plans. One of the main question marks is the possibility of a European challenge on whatever motive. Could you tell us, very succinctly, why you consider this Bill to be compatible with the European Commission's approach on gambling laws?

**Jonathan Stephens:** This is an area of shared competence, so it is appropriate and possible for there to be national legislation in this area. National laws are basically okay, providing that there is a clear reason of social policy, public protection, which includes, from previous judgments by the European Court of Justice, such matters as the prevention of criminality, the protection of young and vulnerable people and the protection of people who have problem gambling specifically. One always has to make sure that the legislation is necessary and proportionate and we believe that this is proportionate to all of that. On that basis there is no reason to prevent national legislation.

**Q240 Paul Farrelly:** Given that companies under these changes will pay tax where they are not really paying tax now, there is a financial incentive for them to make a challenge, if only to delay the implementation because that means they will be getting away without paying tax for longer. It seemed quite clear from the Remote Gambling Association evidence that they expect a challenge to come from the Gibraltar Trade Association. How would you view a last minute vexatious challenge?

**Jonathan Stephens:** We clearly resist it. As such the Government would be defending the sovereignty of Parliament that would have passed primary legislation in an area of national competence. Always subject to legal advice, I do not think in practice such a challenge would be able to prevent implementation.

**Q241 Paul Farrelly:** Is there a fair amount of confidence, notwithstanding that possibility of a vexatious challenge, that December 2014 will be still okay?

**Jonathan Stephens:** Yes.

**Q242 Chair:** When we were taking evidence from the Remote Gambling Association, I suggested to them that the behaviour of online gambling companies in making a lot of money out of UK consumers, but nevertheless basing themselves overseas where they did not have to pay UK taxes, is not dissimilar to what the criticism is of Starbucks and Amazon and these other big companies that do not pay UK tax. Many people would say that for the Chancellor, as Philip Davies has quoted, to say this is unfair and they should jolly well be paying UK tax and we are going to change the rules so they are going to pay UK tax is a perfectly sensible thing to say. Is it your understanding that if that were the motivation that would be a breach of the European law?

**Jonathan Stephens:** There is a clear basis for the Chancellor's decision to change the basis of taxation. The point I am making is that this legislation is about

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**12 February 2013 Jonathan Stephens and Jenny Williams**

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regulation and where regulation is based, and that is an independent decision not dependent on the decision on taxation.

**Q243 Chair:** Let us hypothetically say that there was no problem with the current system of regulation, the problem is tax and, understandably, the British Government thinks they should be paying tax. If that were the position, and I am not saying it is, you are saying there is a problem with regulation, but if it were that would be against European law, would it?

**Jonathan Stephens:** I am going to be very cautious on that and say I am happy to write with a view on that but I am not going to anticipate it without some advice.

**Chair:** I think we would be interested to see the view of the Department.

**Jim Sheridan:** That was definitely from *Yes Minister*.

**Chair:** Unless my colleagues have any other further questions, can I thank you very much.

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# Written evidence

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## Correspondence from the Department for Culture, Media and Sport

Thank you for your invitation to the Department to give evidence to the Culture, Media & Sport Select Committee in support of your pre-legislative scrutiny of the draft Gambling (Licensing & Advertising) Bill. Ahead of my appearance before the Committee with Jenny Williams, Chief Executive of the Gambling Commission, on 12 February, I thought it would be helpful to clarify a particular point made in the draft Bill's introductory pages, which I understand has been raised as part of evidence considered by the Committee so far.

Page 14 of the draft Bill includes the following statement:

The Gambling Commission is aware of new and emerging European jurisdictions where online gambling sites have begun targeting British consumers and where very little is known about the level of regulation and consumer protection.

On reflection, this statement conflates two separate points—the way in which some overseas operators, about which little is known, are targeting the British market and the risk that such operators might be attracted to new and emerging jurisdictions.

We are aware of new and emerging jurisdictions in the EEA where little is known as yet. Such jurisdictions are permitted to advertise remote gambling services to British consumers by virtue of their EEA membership, and include for example Latvia, Lithuania, Bulgaria and the Czech Republic. Further, even with more established countries such as Spain, France, Malta and Italy it can be difficult to understand what is authorised under their separate regulatory regimes, and to keep up with changes. This is not to suggest that these jurisdictions necessarily pose a risk, but to illustrate the difficulty in assessing whether British consumers are sufficiently protected.

Against this background, we also know that overseas based operators have established websites which display “.co.uk” domain names to communicate remotely with British based consumers in order to advertise or provide remote gambling services. While many of these websites may be based in jurisdictions with high regulatory standards, it can be time consuming for the Gambling Commission to establish whether this is the case and subsequently whether British consumers are adequately protected, as well as making it difficult for the consumer to understand their rights, or which regulator to contact in the event of a dispute.

I hope this clarification is helpful. Jenny Williams and I look forward to discussing these matters further, and other points raised as part of your inquiry, with the Committee on 12 February.

*February 2013*

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## Supplementary written evidence submitted by the Department for Culture, Media and Sport

During my appearance before the Culture, Media & Sport Select Committee on 12th February to discuss the draft Gambling (Licensing & Advertising) Bill, I undertook to write to you regarding the compatibility of the Government's proposed reforms with EU law. In particular, the Committee was interested to understand whether the proposed remote gambling regulatory reforms—as well as HM Treasury's separate remote gambling taxation reforms—would be compliant with EU law.

The draft Gambling (Licensing & Advertising) Bill is compliant with EU law on the basis that it is a necessary and proportionate means of achieving the legitimate aim of enhanced consumer protection for British citizens. The Government considers that strengthening consumer protection now is an important prudential step given the significant risk of harm to British consumers in the future, particularly as more countries permit online gambling. As was pointed out during the oral evidence session, the Gambling Commission now has oversight of less than 20% of the British remote gambling market and does not have the direct access to operators, their systems and data to identify current and developing risks or to address them. We need to repatriate gambling regulation so the Commission has the ability to do what it was set up to do ie ensure that gambling provided to those in Britain is fair, crime free and socially responsible.

The Gambling Commission has already provided illustrations of the practical difficulties of trying to regulate via other regulators who may well take a different view of priorities or operators. The Committee heard examples in relation to suspicious betting activity. The Commission also illustrated the difficulties of keeping remote gambling regulation up to date, proportionate and effective in the light of developing technology and changing leisure patterns by pointing to the difficulties of assessing risks and implementing any changes in relation to the protection of player funds or social gambling—both policy areas which the Commission is currently reviewing. Without the proposed legislation and ability to impose consistent requirements on operators, the Commission would continue to have a very limited view of the risks to consumers in the remote market and would have to persuade an increasing number of jurisdictions to make changes it thought necessary. The draft Gambling (Licensing & Advertising) Bill addresses this regulatory gap and would ensure consistent regulation by the Gambling Commission



The draft Gambling (Licensing & Advertising) Bill and HM Treasury's remote gambling taxation reforms are, while complementary, independent of one another. It is not the case that the licensing reforms are being pursued in order to generate tax income: as I made clear, the Government would proceed with the reform of remote gambling regulation, which is justified on its own merits for the public protection reasons given, regardless of the status of any tax plans. I understand that all of the relevant issues surrounding the Government's reforms to remote gambling tax—including compatibility with EU law—are being fully considered by the Treasury as part of the usual policy-making process. I'm sorry, but I'm not competent to speculate on the implications, in terms of EU law, if we were pursuing regulation purely for taxation reasons—because we aren't.

On a related note, the Committee were interested to understand the origin of the proposed remote gambling regulatory reforms. As Jenny Williams noted, the Gambling Commission has been arguing for this change for some time and the consultation on the feasibility of extending the existing licensing system for remote gambling to overseas-based operators that offer services to or advertise in Great Britain was launched by the previous Government in 2010, ahead of the General Election. In this context, I should note that the Impact Assessment which was prepared alongside the consultation in 2010 has been wrongly quoted in the Committee proceedings. The Impact Assessment is quoted as saying that “no specific public protection risks have yet arisen”. However, the Impact Assessment actually states that “no specific public protection issues have yet arisen”. This is an important distinction because it is on the basis of public protection risks that the Bill is considered a necessary and prudential measure.

The current administration considered the responses to the consultation—the majority of which were supportive of the proposals—before settling its policy which was announced by written Ministerial statement of 14 July 2011 by the then Minister of Tourism and Heritage, John Penrose:

“I am proposing that the Gambling Act should be amended so that remote gambling is regulated on a point of consumption basis, so that all operators selling into the British market, whether from here or abroad, will be required to hold a Gambling Commission licence to enable them to transact with British consumers and to advertise in Great Britain”.

Separately, during the hearing I explained that we had deliberately ensured the Bill was drafted to be succinct and focussed on amending the regulatory regime in relation to remote gambling, and for this reason did not include powers to enable the Gambling Commission to impose fines for a wider range of criminal offences where we are not yet persuaded of the need for any changes to primary legislation.

During the hearing, you asked whether we would take the opportunity of the new arrangements to ensure greater consistency between the regulation of online and land-based gambling. While, as I indicated, Ministers currently have no specific proposals, they do, as the Government's response to the Committee's report on gambling suggests, acknowledge that this is something which will need to be considered in the longer term. The Government's preferred option for the review of gaming machine stakes and prizes intends to take a step in this direction by suggesting that casinos might trial applying the kind of social responsibility controls that are available online in order to increase prize levels for category B1 machines.

You also asked Jenny Williams during the session what she meant by “taking down a website”. This was a colloquial reference to what should more accurately be described as the ISP blocking access to the web site. She has also confirmed that the Gambling Commission's productive discussions with Facebook and Google related to paid advertising, including the use of sponsored links and ad word campaigns and not to the results produced by pure search.

Finally, subject to other demands on the Parliamentary timetable, and if the Bill secured a third session slot, we would anticipate being able to commence the new arrangements at the earliest by the common commencement date of April 2014 or, more likely, October 2014; slightly earlier than December 2014 which was mentioned during the evidence session.

I hope these clarifications are helpful and I very much look forward to receiving the views of the Committee at the conclusion of its pre-legislative scrutiny.

*March 2013*

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### **Written evidence submitted by the Remote Gambling Association**

1. I am writing on behalf of the Remote Gambling Association (“RGA”) following the Committee's call for evidence in relation to the above inquiry.

#### **THE REMOTE GAMBLING ASSOCIATION**

2. The RGA is the largest trade association for the global online gambling industry. It represents 30 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).

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 and must adhere to our code of practice on social responsibility.

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.

#### REQUEST TO GIVE ORAL EVIDENCE

5. It is to be expected that a high proportion of respondents will ask for the chance to provide oral evidence and the RGA is no different in that regard.

6. We are fully aware that there will be a strict limitation on the number of organisations and individuals who may be called, but as the Bill will only affect online gambling operators we would suggest that the trade association representing that sector should have the opportunity to discuss the issues with Committee members in person.

7. The RGA gave written and oral evidence to the recent CMS Committee inquiry into the implementation and operation of the Gambling Act 2005.

8. The following is a summary of the main points that we would like to make to the Committee:

- This social policy legislation will open the door to the introduction of an extraterritorial tax regime that will place a huge additional fiscal burden on our industry.
- A restriction on trade between EU states, such as changes to licensing regimes, is only permitted in limited circumstances. In relation to remote gambling, case law indicates that those circumstances include a requirement for greater consumer protection.
- It appears that the proposals are based on a theoretical risk to UK consumers (public protection). However, the DCMS regulatory impact assessment makes clear that “no specific public protection risks have yet arisen”
- The draft Bill contains no reference to enforcement mechanisms. Other jurisdictions have tried ISP blocking, payment provider blocking and advertising restrictions, but none of these have worked and the European Commission has voiced concerns about both the effectiveness of such measures and where the blocking restricts free trade between member states.

#### FULL RESPONSE

9. The RGA will submit a full consultation response to the CMS Committee within the timeframe set out.

10. Should you have any questions please do not hesitate to contact me.

*December 2012*

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### **Written evidence submitted by the Remote Gambling Association**

#### EXECUTIVE SUMMARY

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

- The reasons put forward to justify the proposed licensing reforms are not supported by the facts; the Bill is a disproportionate response to problems which are largely theoretical; and it will not lead to any noticeable improvement in consumer protection. It will however bring an additional cost of hundreds of millions of pounds a year to the industry.
- 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.
- If licensing changes are deemed necessary for sound regulatory reasons then they should be properly targeted at those jurisdictions which present genuine problems and should not include companies licensed in Gibraltar, Alderney or the Isle of Man.
- The proposals are based on a theoretical risk to UK consumers (public protection). However, the DCMS regulatory impact assessment makes clear that “no specific public protection risks have yet arisen”.
- However, if this social policy legislation is applied to every operator it will open the door to the introduction of an extraterritorial tax regime that will place a huge additional fiscal burden on our industry.

- A restriction on trade between EU states, such as changes to licensing regimes, is only permitted in limited circumstances. In relation to remote gambling, case law indicates that those circumstances include a requirement for greater consumer protection. It also makes clear that licensing cannot be used as a tax revenue raising measure.
- The draft Bill contains no reference to enforcement mechanisms other than a prohibition on advertising. These will be necessary to support the licensing regime (and protect the position of licensees). It should be noted other jurisdictions have tried ISP blocking, payment provider blocking and advertising restrictions but none of these have been wholly effective. The European Commission has voiced concerns about both the effectiveness of such measures and the ways that some Member States have used them to seek to restrict free trade.
- The proven failure of these enforcement mechanisms means that British licensees will continue, even under the new system, to face competition from operators in low tax jurisdictions. As a consequence, any newly licensed companies run a serious risk of losing their market share because the UK tax base is too high to enable them to compete effectively.

#### REQUEST TO GIVE ORAL EVIDENCE

2. We are fully aware that there will be a strict limitation on the number of organisations and individuals who may be called, but as only remote gambling operators will be affected by the Draft Bill, we would suggest that the trade association representing that sector should have the opportunity to discuss the issues with Committee members in person.

#### INTRODUCTION

3. 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).

4. 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.

5. 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.

#### INTRODUCTION

6. The vast majority of UK residents who gamble on line are customers of operators based in the UK, Alderney, Gibraltar and the Isle of Man. There is really very little difference in the regulatory regimes in the UK, Gibraltar, Alderney and the Isle of Man. UK Customers are therefore protected by licences that require social responsibility, prevent crime and money laundering and offer consumer protection at levels similar or identical to those of UK licensees. This is because most of the Gambling Commission's original remote licence requirements were based on those already in place in Alderney and the Gambling laws in Gibraltar and the Isle of Man are in many places copied directly from the 2005 Gambling Act.

7. If this Bill were about the protection of customers then there would be no need to introduce additional licences for operators who already adhere to UK standards.

8. Our belief is that the real reason to bring in the new legislation is to use regulation as a backdoor method to tax offshore operators. The only reference to tax anywhere in the supporting papers is a tiny footnote. Clearly it is not officially for DCMS to comment on matters of taxation, but it is disingenuous not to acknowledge its fundamental importance to the debate given the broad perception that it is the government's desire to maximise taxation which is driving this legislative change.

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. Many of them have, or have had, Gambling Commission licences and we have no doubt that our members would have to make few, if any, changes to obtain a licence in the future.

10. A restriction on trade between EU states, such as changes to licensing regimes, is only permitted in limited circumstances. In relation to remote gambling, case law indicates that those circumstances include a requirement for greater consumer protection. Although the argument is made that greater consumer protection is required, it is impossible to assess the need objectively without seeing the evidence-base for the decision. We have already asked DCMS for sight of the relevant evidence and we hope it will at least be made available to the Committee in order for it to undertake a full scrutiny of the Bill.

11. The draft Bill contains no reference to enforcement mechanisms. Other jurisdictions have tried ISP blocking, payment provider blocking and advertising restrictions, but none of these have worked and in 2012 the European Commission voiced concerns about both the effectiveness of such measures and how they are

used to restrict free trade between member states. This is an issue that will inevitably come up as the Bill is scrutinised and we would welcome any information about the government's current thinking about enforcement.

The justifications for the Draft Bill are at best weak and are often wrong. In the section below we have drawn on real evidence and facts to refute the main ones.

#### RESEARCH EDUCATION AND TREATMENT

12. 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 2011–12 online gambling companies contributed almost a quarter of the more than £5 million 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.

13. 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.

14. The companies based in Gibraltar, Alderney and the Isle of Man have made bigger contributions than the vast majority of UK licensees. In 2012–13 fewer than 400 UK licensees out of 3,500 made a contribution to the Responsible Gambling Trust. In fact a higher proportion of Gibraltar based licensees make a contribution to the RGT than UK licensed operators.

#### PROTECTION OF YOUNG AND VULNERABLE PEOPLE

15. We would query aspects of the Gambling Commission's research on age verification as did the regulators in some of the jurisdictions concerned, but putting that aside, the consensus view amongst those dealing with child welfare is that our age verification procedures are actually something to be admired. 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.”

#### SPORTING INTEGRITY

16. It is wrong to say that “overseas operators” will have to tell the Gambling Commission about unusual betting patterns: in reality it will only be those who take UK licences. 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 never take bets from UK based customers. The licensing reform will not change that.

17. As with other areas relating to the Bill, no assessment has been produced by the government on the scale of the problem, or crucially how licensing by the Gambling Commission will lead to any marked improvement. 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. 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.

18. 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.

19. In line with other assertions in the paper we believe there is a need for the Committee to ask DCMS to (a) publish details of the scale of the problem in the UK; and (b) the degree to which licensing companies who take bets from the UK will make any difference.

#### ADVERTISING

20. As the Bill does not seek to make any changes to the advertising rules we wondered why there is so much comment in the supporting document about it. Overall, our view is that the whole issue of advertising has been given too much prominence when in reality there have been very few problems with the current arrangements. The advertising of all companies, including those licensed offshore, has always been fully covered by the British advertising regulatory regime. There has been a high level of compliance and there is no evidence that the advertising of online gambling has created any problems.

21. The gambling industry has been proven to support the CAP and BCAP codes. Most broadcast gambling advertising has only been permitted since 2007 and before that date other advertising was relatively limited. There has been close engagement by the industry with the ASA in the development of codes. In 2009 the ASA reviewed compliance by the gambling industry with the CAP and BCAP codes and found:

“fewer than 1% of the gambling product advertisements [...] seemed to breach the Code, an exceptionally high compliance rate”.

22. On 26 May 2011 the second ASA Gambling Advertising Survey revealed a 96.1% compliance rate with the Advertising Codes. The survey was conducted to assess whether gambling ads continue to adhere to the tightened rules which are designed to ensure they are socially responsible and protect young and vulnerable people from harm.

23. Nielsen, which provides information on the size of the television advertising industry, has calculated that £200 million was spent on gambling advertising in 2011. If as a result of this Bill the industry is subject to high taxation this investment in the UK advertising industry will inevitably come under threat. In addition, on-line betting operators are major sponsors of horseracing and other sports in Britain. This is evident from the high profile sponsoring by online gambling operators of horseracing and football clubs.

24. The proposals will have no effect on the current advertising regime except to the extent that the huge additional tax burden that will attach itself to the online gambling industry will inevitably lead to major cuts to marketing budgets with a consequent loss of funding for the advertising industry and to sports because there will be less discretionary spend available for sponsorship.

#### THE WHITE-LISTING SYSTEM AND REGULATION IN OTHER JURISDICTIONS

25. The white-listing system has worked well, allowing UK customers' choice while ensuring that adequate controls are in place to protect them. We do not believe that there has been sufficient harm or threat of harm to justify the dismantling of the system.

26. We are pleased to note that the DCMS papers acknowledge that the majority of operators are currently subject to good regimes. Under these circumstances we question why an operator subject to a good regulatory regime would need to have a second licence if the UK customer is already adequately protected.

27. The paper contains a statement that vaguely talks about European operators without sufficient regulatory oversight. If there are overseas operators pursuing UK customers that are inadequately regulated then the paper should state where they are operating from, what market share they have and why they cannot be targeted selectively.

28. Putting those unnamed jurisdictions aside, while we have a great deal of respect for the Gambling Commission as a regulator, it would be objectively very difficult to prove that it has a better remote regime than those in Gibraltar, Alderney and the Isle of Man, especially when the regulators in those places have procedures in place that are more tried and tested than those in the UK. It is worth stressing here that Gibraltar, being part of the EEA, did not require to be white-listed. If it had been required to do so then there is no doubt that it would readily have gained a place on the list, but in 2005 Parliament took the view that such a requirement was not called for. From a regulatory perspective it is hard to see what has changed since then.

#### THE BILL

On the Draft Bill and Explanatory notes we have the following comments:

29. Clause 1.3 needs to be reworded, in its current form this section will not achieve what it is aiming for.

30. Any website is technically “capable” of allowing a customer resident in the UK to gamble on it. Therefore this blunt definition must be wrong if the intention is to capture solely operators who take bets from British consumers. The explanatory notes throw no light on that and they just say that blocking internet access to UK consumers would be sufficient. Technically any site would still be capable of taking UK bets and it is unclear how the Gambling Commission would check every site in the world to see if the required blocking mechanism is in place and effective.

31. Apart from the reference to advertising, enforcement mechanisms are completely missing from the Draft Bill. We assume that there will need to be secondary legislation to set out how the measures within the Bill are to be enforced.

#### EXPLANATORY NOTES

32. Para 6: The phrase “escape the regulatory supervision of the Commission” is wholly subjective. There is no evidence that companies have moved their equipment offshore to do that. Repeatedly members of the RGA and other offshore operators have said that their motivations for going off shore have been the rate of tax payable in the UK and that a number would be willing to consider returning if a sensible tax regime and tax rate were in place.

33. Para 25: The RIA was not designed for this Bill, but for an earlier consultation exercise. It is out-dated and sadly lacking in the most basic financial information. We would suggest it is necessary to revisit the RIA.

34. Para 26: The Explanatory Note says proposals are cost neutral to British based operators, but it says nothing about those who will have to become licensed operators. These will be real costs to British companies and to those who will be subject to the new regime. If that was not the case then more companies would be based in the UK already and somewhere, even if not in the RIA, it would be more transparent to flag up the consequential cost of this Bill when it will run into the hundreds of millions of pounds per year.

January 2013

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#### Written evidence submitted by the British Horseracing Authority

The British Horseracing Authority (BHA), the Governing and Regulatory body for the sport of thoroughbred horseracing in Great Britain, welcomes the opportunity to respond on behalf of the sport (Racing) to the Culture, Media and Sport Select Committee’s scrutiny of the Draft Gambling (Licensing & Advertising) Bill. The Committee has asked for responses to be kept short and our submission reflects that request, with comments on the current and specific drafting limited.

The BHA wholeheartedly supports and endorses the Draft 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 this Committee’s recent Gambling inquiry) 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.

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.

We support the Draft 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 Draft Bill to address this.

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.

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.

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.

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.

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.

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 (as is envisaged by the documentation accompanying this Draft Bill issued by DCMS), 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.

We would like to conclude by again stating that while the second biggest spectator sport in the country, Racing also exists as a significant betting product, with our rules, regulations and Fixture List reflecting this point. Bookmakers are our biggest customers and we wish to see the British betting industry thrive. Such a situation is entirely achievable under a point of consumption licensing regime, which is long overdue.

*January 2013*

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#### **Written evidence submitted by the Professional Players Federation**

1. The Professional Players Federation (PPF) is a not-for-profit body established in 1991 to promote, protect and develop the collective interests of professional sportsmen and women in the UK. As the umbrella body for 11 player associations we represent more than 15,600 professional players in football, cricket, rugby union, rugby league, golf, horseracing and snooker.

2. The PPF welcomes the Government's commitment to strengthening the regulation of remote gambling. Specifically it is important that overseas operators operating in the UK will be required to inform the UK Gambling Commission and sports bodies about suspicious betting patterns. This amendment will help to fight corruption in sport.

3. Episodes of match fixing in British sport can adversely affect the country's wider reputation for integrity. It is therefore essential that the new Bill ensures that both sports bodies and the regulators have the necessary tools and resources to protect the UK's reputation for sporting integrity.

4. The PPF is supportive of the proposal within the draft Bill in so far as they go. Whilst it is a rather limited piece of regulation it is nevertheless a positive and important step to change the system of regulation from the current "point of supply basis" to a "place of consumption" basis. We believe that this will have a benefit in terms of enabling more instances of suspected sports betting corruption to be reported and investigated.

5. The PPF also welcomes the draft bill as an important first step in dealing with a Horserace Levy issue that has impacted significantly on one of our member organisations, the Professional Jockeys Association. At present offshore betting operators are able to accept bets on British horseracing from British consumers without paying the statutory Levy.

6. It is to be hoped that the proposals within the draft Bill will ensure that the Gambling Commission is adequately resourced to fulfil the requirements set out in the 2005 Gambling Act. The PPF enjoys a good working relationship with the Gambling Commission, which hosted and helped organise a tutor training event for PPF members in 2012. However the Commission's resources are undoubtedly limited at present, particularly with regards to education about the risks of match fixing for players.

7. It is worth noting that the proposed legislation appears do nothing to address betting related match fixing of British sports events where the betting takes place outside of the UK. This could be a significant problem given that substantial betting on UK sporting fixtures takes place throughout the world, often with unregulated or illegal bookmakers.

8. The PPF would recommend a more holistic approach within the Bill as an improved ability to identify suspicious betting patterns can only be one part of the approach to protecting the UK's sporting integrity. Prevention is always better than cure and it is now widely recognised that education of participants has a key role to play in sports betting integrity. Sports participants need to be educated about the issues surrounding match fixing to inform them about their sport's regulations and also to alert them about how match fixers operate and approach players.

9. In February 2010, the PPF signed a three year partnership with Betfair, bet365, Ladbrokes and the Remote Gambling Association to provide and promote education on sports betting integrity to professional sportsmen.

This programme has proved to be very effective, educating 5,600 players last year and it is being replicated throughout Europe and the world.

10. The PPF's ground breaking education work on sports betting integrity plays a vital role in helping to protect the UK's sporting integrity. Through the membership we now are the major provider of sports betting education to players in the UK. Our work also contributes to the Gambling Commission's key licensing objectives of preventing gambling from being a source of crime and ensuring that gambling is fair.

11. Our partnership with the betting industry is based upon a voluntary arrangement whose initial term is due to end in February 2013. It is currently unclear whether the partnership will be renewed. Given the high levels of turnover in the participants in professional sport any withdrawal of education funding threatens to severely undermine the UK's sporting integrity and therefore risks harming the UK's international reputation.

12. Whilst the PPF is generally in favour of non-statutory solutions for sports issues, there is undoubtedly a need to ensure that there is a long term funding stream for educating players about sports betting integrity issues. The potential for the draft Bill to be expanded to ensure adequate funding for sports betting integrity education should be considered.

January 2013

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### **Written evidence submitted by the Sports Betting Group**

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

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.

One specific recommendation in the report called for the sports sector itself to provide leadership through the establishment of a Sports Betting Group made up of people drawn from sport.

One of the principal objectives of the SBG is to recommend to Government improvements to the legislative and regulatory regime that protects sport from the impact of match fixing and corruption. More information about the Sports Betting Group is set out on our website [tp://www.sportsbettinggroup.org/about\\_us.html](http://www.sportsbettinggroup.org/about_us.html)

The Sports who have specifically seen and endorsed this response are the following governing bodies and organisations that oversee the governance of sports and/or manage sporting events: the British Horseracing Authority (BHA), England and Wales Cricket Board (ECB), Football Association (The FA), Lawn Tennis Association (LTA), Premier League (PL), Rugby Football League (RFL), Rugby Football Union (RFU), and the Sport and Recreation Alliance (S+RA) which is the independent alliance of over 90 different sports governing and representative bodies in the UK. The Professional Players Federation is also a member of the SBG and has endorsed this response in addition to its own submission which highlights the need for preventative education for players as a key component of any effective sports betting integrity policy.

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.

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.

The growth of betting services means that sports must remain constantly vigilant against the negative impact they can create. 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.

Recent years have seen a huge increase in sports betting. 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 gives greater freedoms to how betting companies can operate and market their products. This has resulted in a large number of overseas based on-line betting operators offering services to British consumers.

SBG members campaigned for the introduction of Gambling Commission Licence Condition 15 that makes information sharing between betting operators and sports 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.

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<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)



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).

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 and the ability to prevent high-risk bets (such as those on youth football matches and spot betting) are undermined.

The DCMS Consultation paper correctly sets out on pages 14 and 15 the case for this measure being introduced to further protect sport saying ‘there is a potential risk that match fixing and suspicious betting practices taking place on overseas licensed sites (including those that may have an impact on sports events held in Britain) may not be notified to the relevant British authorities’.

*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. Given the importance of integrity to the sports world, we urge the swift introduction of the Draft Gambling (Licensing and Advertising) Bill.*

The Sports also agree with the Government that overseas betting operators taking bets in the UK ought to contribute to the costs of the Gambling Commission’s licensing function, which includes sports integrity arrangements. These proposals will create a level playing field and should increase income to the Gambling Commission.

Nevertheless, the Sports would emphasise to the Select Committee that a satisfactory arrangement has still to be found to ensure that sports betting operators contribute to the growing integrity costs that sport faces. The contributions that certain betting operators have made towards player education programmes, for example, have been used to good effect by a number of sports player associations in educating players about sports betting rules, the wider issues of integrity and how match-fixers operate. However, these arrangements are short-term and non-statutory agreements that are at risk of being withdrawn at any time and may not provide a long-term sustainable solution.

More generally, sports governing bodies are also in favour of betting operators paying a fair return for the use of sport’s products and this is a subject we are continuing to raise through other channels.

Members of the Sports Betting Group would request and welcome the opportunity to give evidence to the Committee should you decide to hold oral evidence sessions.

January 2013

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### **Supplementary written evidence submitted by the Sports Betting Group**

Thank you for giving the Sports Betting Group (SBG) the opportunity to provide oral evidence on the Draft Gambling Bill to the Culture, Media and Sport Select Committee on 29 January 2013. The SBG appreciated the chance to share its views with the Committee about the current Draft Bill and welcome the improvements that it will make to sporting integrity in the UK.

Further to our evidence, and the subsequent session at which Jonathan Stephens of the DCMS and Jenny Williams of the Gambling Commission were questioned, there are some further points we wish to make to your process of gathering evidence.

As the SBG clearly set out during the oral evidence session and in our written evidence, upholding sporting integrity is crucial to the continued success and enjoyment of sport. If fans and competitors alike do not believe that the events that they watch or compete in represent a true and fair competition, sport will die a death and the next generation of aspiring athletes will never emerge.

The threat of match-fixing and corruption in sport is unfortunately very real. As we have seen from recent investigations conducted by Europol, football has been harmed by allegations of systematic and widespread match-fixing across a host of countries in Europe, including the UK. Other sports have had well publicised issues too so it is essential that we have a robust and effective licensing and regulatory regime in place in Britain to mitigate against these risks.

It is therefore vital that the Gambling Commission and sports governing bodies in the UK have access to all the necessary information and intelligence regarding suspicious betting activity. At present, obtaining this information is often made difficult or even impossible since all but one of the major remote betting operators taking bets in Britain are based offshore and are not obliged to comply with Licence Condition 15.1.

Both the SBG and the Gambling Commission provided examples of when information from overseas jurisdictions had not been forthcoming and had hampered investigations into suspicious cases. Indeed, Jenny Williams illustrated the lack of information flow from overseas regulators when she pointed out that the Gambling Commission receives on average 1–2 notifications of suspicious activity per month from UK based

operators, while overseas regulators have provided only 10 notifications since 2007, despite representing some 80% of the market. Furthermore, as we discussed in our evidence session, Sports Governing Bodies have encountered difficulties in acquiring information from overseas based operators to assist in their integrity investigations, with the operators citing data protection requirements.

Indeed, in its evidence, the RGA cited to you issues of data protection in overseas jurisdictions as a possible obstacle to the effective transfer of information. However, it should be the responsibility of the regulators and operators to supply the necessary information as this is a condition of licence. In order to remain domiciled overseas, regulators based overseas might need to amend any relevant legislation (or in the case of operators, their terms and conditions) in order to meet this requirement. We have been advised that this issue can easily be rectified and should in no way represent a barrier to the adoption of the proposed legislation.

It should also be noted that Betfair was cited during the inquiry as the best example of an overseas based operator that readily cooperates and provides information to the Gambling Commission. Therefore it is encouraging that Betfair supports the proposal that effective regulation is introduced that makes compliance with Licence Condition 15.1 mandatory for all operators taking bets in the UK. Hopefully the Committee now has all the evidence that it requires in order to endorse the Bill to Parliament and we hope to see its swift implementation. However, should the Committee wish to receive any further information, the Sports Betting Group remains at its disposal.

February 2013

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### Written evidence submitted by CARE

#### SUMMARY

Because gambling can be addictive it requires regulation if it is to be legal. The current regulatory framework is weak in relation to remote gambling and the Government's draft bill goes some way to strengthen the protections in place for the vulnerable. However, some further steps could be made to provide for problem gamblers and children. In summary we recommend:

- that further research is carried out on the relationship between advertising gambling and problem gambling;
- the implementation of a one stop shop for online self exclusion. We will be producing more detailed recommendations on this proposal in the upcoming months;
- that the Government should publish how it intends to enforce the proposals in the draft bill; a timeline which would outline when and how secondary legislation would be introduced, including what sort of behaviour by illegally operating firms would be caught by secondary legislation and subsequent penalties;
- our view it that the threat of financial blocking is the simplest measure; and
- that as part of this bill the Government is mandated to appoint a well qualified academic with no ties to the gambling industry to conduct an independent review of the licensing conditions and code of conduct and for such a review to be conducted every three years as technology develops.

#### ABOUT CARE AND OUR FOCUS

CARE is a Christian social policy charity that seeks to combine caring initiatives with public policy research and public policy shaping initiatives. We work in Westminster, Brussels, Strasbourg, Edinburgh, Belfast and Cardiff. We represent approximately 60,000 Christians around the UK, who support our work financially and in other ways.

Although we have on occasions engaged with public policy debates about gambling per se, our particular specialism is the protection of the vulnerable in relation to remote gambling which we have addressed in both the UK and EU policy arenas. Therefore we very much welcome the fact that the Government have finally published their proposals on how to better regulate remote gambling. We have been asking for a change in regulation of remote gambling since 2007 and very much welcomed the decision by the previous Government to consult on how better to regulate remote gambling. We also very much welcome the decision by this Government first to continue the consultation after the general election in 2010 and then to introduce draft legislation which is sorely needed to bring rigor to the regulatory landscape.

This response will focus on some aspects of the proposed bill, commend it for its strengths and point out one weakness. We will offer a short comparison with other regulatory regimes in the EU, and a short summary of recent developments at the EU level in relation to remote gambling.

Finally we also want to reiterate two requests we have previously made to the committee during the committee's review of gambling regulation in general last year; namely we believe there is a need for an (a) independent review of the licensing conditions and code of conduct, and (b) a one stop shop mechanism for self exclusion from remote gambling in the UK.

## THE CURRENT PROBLEM

First we will outline a current weakness in the legislative framework in relation to the licensing objectives of the 2005 Act, namely:

In the Act a reference to the licensing objectives is a reference to the objectives of:

- “(a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- (b) ensuring that gambling is conducted in a fair and open way; and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.”<sup>2</sup>

We will focus primarily on (c).

In this submission we demonstrate that the current regulatory framework is failing vulnerable people in the UK in relation to remote gambling, highlighting Government sponsored research which shows evidence for a link between higher rates of problem gambling and remote gambling. In so doing we will also argue that there is a lack of rigorous regulation around websites accessing the UK market that do not currently have to apply for a license from the UK Gambling Commission and thereby adhere to a UK specific licensing code. Specifically, we welcome the Government’s draft gambling (licensing and advertising) bill, though we do have questions as to how it will be enforced.

## PROBLEM GAMBLING IN RELATION TO REMOTE GAMBLING IN THE UK

In 2007 the Gambling Commission published its second Gambling Prevalence survey, which, while not constituting a study that measures *causality* of problem gambling, did show the levels of problem gambling in the UK and the relevant corollaries to specific forms of gambling. While there was no increase from the 2000 survey in the overall levels of problem gambling, the 2007 survey for the first time included questions relating to remote gambling, and showed that out of the five forms of gambling most associated with problem gambling, four were forms of gambling in which one participates solely or mainly online, namely: spread betting, betting exchanges, the use of fixed odds betting terminals (this being the exception), online gambling in a casino type game or bingo and online betting.

At the time the survey was published we pointed out that this did not provide a compound problem prevalence figure for gambling using the internet per se. This was an important oversight and we pressed the Minister, Shadow Minister and Gambling Commission for this figure but no figure was published.

However, after we asked the question, the Gambling Commission published secondary research from the dataset of the prevalence study on gambling and the internet. The study showed that the rate of problem gambling amongst those who chose to gamble online was higher at 5%<sup>3</sup> than for the population at large (0.5–0.8%).<sup>4</sup> A further overall secondary analysis of the Gambling Prevalence survey 2007 showed that there was a link between problem gambling and online roulette.<sup>5</sup> In both cases the researchers urged caution in analysing their results, but nevertheless made it clear that they believed internet gambling and problem gambling need to be looked at again. In the first study, the experts even argued that the Government should take a particularly close look at regulating remote gambling because of its specific and peculiar nature ie the lack of natural boundaries such as 24 hour accessibility, the ease of access, the possible higher likelihood of playing on credit etc.

Fast-forward to the 2010 prevalence study released in February 2011 and the results are even more worrying. Overall problem gambling rates have increased to 0.9% of the population as a whole,<sup>6</sup> and the figure for any online gambling excluding the national lottery, (this time included in the main body of the study) increased to 5.3%,<sup>7</sup> a rise of 0.3% from the figure produced by the Griffiths-Orford secondary research study of the 2007 figures.

Finally, a meta-analysis of prevalence surveys produced by the Swedish based Centre for public sector based research (CEFOS), found that:

<sup>2</sup> [www.legislation.gov.uk/ukpga/2005/19/section/1](http://www.legislation.gov.uk/ukpga/2005/19/section/1) (accessed on 17 June 2011)

<sup>3</sup> Internet gambling: a secondary analysis of findings from the 2007 British Gambling Prevalence Survey October 2008 (p 12). ([www.gamblingcommission.gov.uk/pdf/Internet%20Gambling%20secondary%20analysis%20of%20findings%20from%20the%202007%20BGPS%20-%20Oct%202008.pdf](http://www.gamblingcommission.gov.uk/pdf/Internet%20Gambling%20secondary%20analysis%20of%20findings%20from%20the%202007%20BGPS%20-%20Oct%202008.pdf)) (accessed on 27 December, 2012)

<sup>4</sup> UK Gambling Prevalence Survey 2007 (p 76) [www.gamblingcommission.gov.uk/PDF/British%20Gambling%20Prevalence%20Survey%202007%20-%20Sept%202007.pdf](http://www.gamblingcommission.gov.uk/PDF/British%20Gambling%20Prevalence%20Survey%202007%20-%20Sept%202007.pdf) (accessed 17 June, 2011)

<sup>5</sup> British Gambling Prevalence Survey 2007: Secondary Analysis (executive summary p 6) [www.gamblingcommission.gov.uk/pdf/BGPS%202007%20Secondary%20analysis%20-%20Oct%202008.pdf](http://www.gamblingcommission.gov.uk/pdf/BGPS%202007%20Secondary%20analysis%20-%20Oct%202008.pdf) (accessed on 2 January, 2013).

<sup>6</sup> UK Gambling Prevalence Survey 2010 [www.gamblingcommission.gov.uk/PDF/British%20Gambling%20Prevalence%20Survey%202010.pdf](http://www.gamblingcommission.gov.uk/PDF/British%20Gambling%20Prevalence%20Survey%202010.pdf) (accessed 2 January, 2013)

<sup>7</sup> *Ibid*, p 96.

“*interactive Internet gambling*, casino gambling, electronic gaming machines, and high-stakes unregulated/illegal gambling are often relatively closely associated with PG [problem gambling]...”<sup>8</sup>

We therefore conclude that remote gambling needs special attention in relation to regulation, and, while we readily admit that traditional forms of gambling are used far more frequently by most UK citizens and also need due attention, the Government needs to act in order to protect vulnerable people.

The irony of this is that offline gambling, which has a lower in total problem prevalence figure, is better regulated (all providers must have a Gambling Commission Licence) than online gambling with its higher problem prevalence figure, since all online operators from abroad that can advertise and sell in the UK don't currently need to get a Gambling Commission licence.

Having demonstrated that remote gambling brings with it special risks and should be subject to better rather than weaker regulation, we move now to explain the weakness of the current regulatory framework and show how the Bill will challenge these weaknesses.

#### THE DRAFT GAMBLING (LICENSING AND ADVERTISING) BILL

While we warmly welcome the draft bill, it has taken a long time to get to publication. In conversations with the then Minister (2008) Gerry Sutcliffe MP, the faith groups that work on gambling policy<sup>9</sup> were able, amongst other concerns, to put to the Minister the current inconsistencies that exist in the way the Gambling Act 2005 seeks to regulate remote gambling. The Minister agreed with us that the regulatory framework around remote gambling was not working and needed to be revisited.

In a properly regulated environment no remote gambling provider in any part of the world should be able to offer services within the UK without a Gambling Commission licence. While there is some provision in the current framework towards regulation in that there is an incentive for gambling firms to locate in a white listed jurisdiction in order to be able to advertise, we believe that allowing remote gambling companies to advertise their services terrestrially, on television and online if they locate in a white listed jurisdiction: (a) does not provide enough of an incentive for companies to come under UK or EU regulation, (b) does not ensure an equal standard of regulation within a specifically UK licensed regulatory code of conduct and (c) in some instances undermines the very licensing objectives of the 2005 Act. Specifically we know through research conducted on behalf of the Responsible Gambling Fund that “as an environmental factor, advertising does have the power to shape attitudes towards gambling.”<sup>10</sup>

On this point specifically we recommend that further research is done on the relationship of advertising gambling, and problem gambling. Furthermore because more websites will be able to advertise their services under the proposed Bill, we also recommend a one stop shop for self-exclusion to assist problem gamblers in what will be for them a more challenging environment. We will go into more detail on this proposal later in this submission.

#### THE SUBSTANCE OF THE GOVERNMENTS PROPOSAL

The DCMS consultation document on this matter published in March 2010 and closed on 18 June 2010, after the General Election. The consultation document suggested that the current regulatory framework is not working. The document seemed to express the view that it would be best to require all remote gambling companies accessing UK markets to apply for a UK Gambling Commission licence and to criminalise those who operate into the UK without such a license. As to measures of enforcement for these proposals, it leaves open the possibility for secondary legislative power to be given to the Minister. This is what the Draft Gambling (Licensing and Advertising) Bill does and this is very welcome since it would provide a more robust regulatory framework for meeting the spirit of the 2005 Acts objectives.

However, what remains outstanding is how the Government will specifically enforce the new licensing regime. The consultation document outlined two workable options. Through secondary legislation the proposed bill could give the Minister the power to either order the blocking of websites which operate illegally in the UK, or of blocking financial transaction to and from such websites via banks and credit card companies.

CARE welcomed both of these suggestions. We recommended and recommend here the threat of financial blocking as the simplest measure since it has been implemented in the USA for some time now, and is not as cumbersome as trying to implement web-blocking. Interestingly, however, in France<sup>11</sup> both powers exist, in addition it is also illegal to gamble on unlicensed websites, a proposal rejected by the UK Government in the consultation document. The Belgian authorities also have both powers.<sup>12</sup> Italy blocks illegal websites,<sup>13</sup> as

<sup>8</sup> What are the most harmful forms of gambling? Analyzing problem gambling prevalence surveys CEFOS Working Paper 12, 2011 Abstract [www.cefos.eu/digitalAssets/1327/1327132\\_cefos-wp12.pdf](http://www.cefos.eu/digitalAssets/1327/1327132_cefos-wp12.pdf) (accessed 2 January 2013)

<sup>9</sup> The Church of England, The Salvation Army, The Methodist Church, The Evangelical Alliance, Quaker Action Against Addiction and CARE

<sup>10</sup> [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2045052](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2045052) (accessed 2 January, 2013) p.72

<sup>11</sup> [www.e-comlaw.com/world-online-gambling-law-report/article\\_template.asp?from=woglr&ID=1740&Search=Yes&txtsearch=france](http://www.e-comlaw.com/world-online-gambling-law-report/article_template.asp?from=woglr&ID=1740&Search=Yes&txtsearch=france) (accessed 2 January, 2012)

<sup>12</sup> [www.gaminglaw.eu/news/belgian-online-gambling-at-a-critical-moment-further-to-european-commission-action/](http://www.gaminglaw.eu/news/belgian-online-gambling-at-a-critical-moment-further-to-european-commission-action/) (accessed 2 January, 2012)

<sup>13</sup> [www.aams.gov.it/site.php?id=6650](http://www.aams.gov.it/site.php?id=6650) (accessed 2 January, 2012)

does Denmark.<sup>14</sup> This list should not be understood to be comprehensive and it does not represent a full overview of countries that have implemented blocking, but it should show that it is both legal under EU law and technologically possible.

For whatever reason the Government has decided not to indicate how they would seek to enforce the new licensing regime in the draft bill or in its explanatory notes. CARE believes that at the very least the Government should: (a) publish an indication as to what its preference would be (whether amongst the above mentioned options or other proposals); (b) a timeline which would outline when and how secondary legislation would be introduced, including what sort of behaviour by illegally operating firms would be caught by secondary legislation and subsequent penalties.

#### THE EUROPEAN CONTEXT

One of the reasons it is possible that it has taken the Government so long to publish a draft Bill following the closure of the consultation process could be that the EU Commission was concurrently running a green paper process to ascertain whether it should harmonise elements of remote gambling policy at the EU level. The Commission recently announced that it:

“is not proposing EU-wide legislation on online gambling. It is proposing a comprehensive set of actions and common principles on protection.

...The Commission will establish an expert group this year to facilitate exchanges of experience on regulation between Member States. This will help to develop a well-regulated, safer online gambling sector in the EU, which will help turn consumers away from unregulated sites.”<sup>15</sup>

In addition to these recent developments at the Commission, the European Parliament made an unbinding motion accepted by an overwhelming majority (544 MEPs for the motion with 66 against and 75 abstaining) in which is made clear the opinion that the principle of subsidiarity should not be impeded by free trade agreements as long as legitimate concerns with regards to safeguarding of citizens applies. The motion:

“Highlights that, in accordance with the principle of subsidiarity and the case law of the European Court of Justice, Member States have an interest and right to regulate and control their gambling markets in accordance with their traditions and cultures in order to protect consumers against addiction...; *underlines that online gambling operators must comply with the legislation of the Member State in which they provide their services and the consumer resides;*

...emphasises that a pure Internal Market approach is not appropriate in this highly sensitive area, and requests the Commission to pay particular attention to the views of the European Court of Justice regarding this matter;”<sup>16</sup>

Crucially the motion makes plain that legislation of individual member states should be respected and to that end places the authority of the regulatory framework squarely at the point of consumption rather than the point of supply. This is precisely the move which the Government’s draft bill follows, which we very much welcome.

To that end we believe that the Governments proposals are proportionate and in line with free market agreements at the EU level. Moreover we have also shown that while the Government has not elaborated on how they would enforce a UK based licensing code, it is clear that mechanisms exist and are being used by other member states of the EU to do so legally.

#### MORE NEEDS TO BE DONE TO SAFEGUARD THE VULNERABLE

While we strongly welcome the Draft Bill, we also believe that in order for a regulatory framework to really fulfil the spirit of clause (c) of the licensing objective in the 2005 Act, more needs to be done.

We recommend that as part of this Bill the Government is mandated to appoint a well qualified academic with no ties to the gambling industry to conduct an independent review of the effectiveness of the licensing conditions and code of conduct and their application and for such a review to be conducted every three years as technology develops.

Furthermore, we recommend the implementation of a one stop shop for online self exclusion. One of the ways problem gamblers deal with their addiction is by self excluding from gambling. In practice that means they walk into their local betting shop and tell the person there that they want to self-exclude from gambling for a set period of time. In theory then and after some paperwork, the betting shop will not allow a person who has self-excluded to place a bet during the time they have self-excluded. The problem gambler has to do this with all the venues he frequents, for example if there are four betting shops in his town he has to exclude from all four.

Online much the same mechanism exists, however because there are so many websites that provide remote gambling services it is harder to self-exclude. In order to self-exclude online the gambler has to have already

<sup>14</sup> [www.skat.dk/SKAT.aspx?oid=2084195&lang=US](http://www.skat.dk/SKAT.aspx?oid=2084195&lang=US) (accessed 2 January, 2012)

<sup>15</sup> [http://europa.eu/rapid/press-release\\_IP-12-1135\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-12-1135_en.htm?locale=en) (accessed 2 January, 2013)

<sup>16</sup> Clause 1 and 2 [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0097+0+DOC+PDF+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0097+0+DOC+PDF+V0//EN) (accessed 2 January, 2013)

opened an account. This means that even if the gambler has self excluded from 10 websites, there are always at least another 2,500 websites available (and that figure is of websites that already legally operate in the UK), more of which will be at the forefront of a problem gamblers mind now that the Government will allow all licensed websites to advertise.

Hence we propose a one-stop shop for self-exclusion so that a gambler can go to one website, or talk to one person on the phone and self-exclude once from all remote gambling venues. CARE will be producing detailed proposals for this in the coming months. However that it is possible to do please see the authoritative *Internet Gambling: Current Research Findings and Implications*, by Doctor of Clinical Psychology Sally Gainsbury, published by Springer in 2012.<sup>17</sup>

#### CONCLUSION

Because gambling can be addictive it requires regulation if it is to be legal. The current regulatory framework is weak in relation to remote gambling and the Government's draft bill goes some way to strengthen the protections in place for the vulnerable. However, some further steps should be made to provide for problem gamblers and children. Please see the introductory summary for our recommendations.

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