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UK Gambling Legislation – Lessons from the Past

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Gaming Board Position and Recommendations for Wholesale Reform

Gaming Board Report 1999

Reform of gambling laws

The process of deregulation mentioned earlier is useful as far as it goes, but it is slow and patchy and will be no substitute for fundamental law reform. The statutes governing the Board's activities were enacted 25 years or more ago and, because of the cultural and technological changes that have occurred in the interim, are now in significant respects out of date. Attitudes towards gambling have become generally more relaxed – as witness the Government-sponsored and heavily promoted National Lottery – and the policy on “unstimulated demand” mentioned earlier looks increasingly threadbare. At the same time microprocessors and the Internet are affecting the industry in ways undreamt of by the makers of the current laws. The Board has already called for a wide-ranging review of gambling legislation to be undertaken. While acknowledging the pressures on the Parliamentary timetable, I would urge the Government to set a firm time-scale for the process of reform, rather than allow anachronisms to become more and more glaring to the point where the law risks falling into disrepute. Over the next year the Board will be developing its own suggestions on some of the areas in need of reform.

Gaming Board Report 2000

The Board has in recent years been calling, with increasing urgency, for a wide-ranging review of gambling legislation to be undertaken. I therefore warmly welcome the establishment by the Government of the Gambling Review Body under the chairmanship of Sir Alan Budd. There are anomalies in the current regulatory structure because of the many cultural, technological and other changes that have occurred in the 25 or more years since the relevant statutes were passed. Piecemeal de-regulation, while easing certain pressures, has created further inconsistencies. The case for reform is compelling.

The Review Body, which is due to report in the summer of 2001, faces a demanding task. It must cater for the continuing need to meet the widely accepted threefold objectives of gambling controls – keeping crime out of activities inherently susceptible to criminal infiltration, ensuring that players know what to expect and get it, and protecting children and vulnerable persons – while seeking to accommodate more relaxed attitudes in society towards gambling. It must also cope with concerns about problem gambling, and with the phenomenon of gambling on the Internet. Devising a new regulatory structure which balances these needs appropriately and stands the test of time will not be straightforward.

Gaming Board Consultation on Regulation of Internet Gambling

- The Legal Position under the 1963 and 1968 Acts – Internet Betting was permitted by holding a Bookmaker’s Permit but not regulated. The provision of online casino and bingo facilities in Great Britain was prohibited under Gaming Act 1968
- Gaming Board made clear it would take action against anyone who set up an illegal casino or bingo site in Great Britain

- Consultation set out 3 options:
 - Retain Status Quo;
 - Introduce Measures to Prevent Access to Internet Gambling in Great Britain or,
 - Legislate to permit regulated and taxed internet Gambling

- “The Board’s conclusion, consistent with the views expressed by almost all respondents, is that a legislative system should be established which permits controlled and regulated Internet Gambling Sites in Great Britain.
IT NEEDS TO BE ADDRESSED WITH SOME URGENCY”

- The Board was prepared to discuss with UK operators whether the presentation of certain products as fixed odds betting met the definition of betting and would make clear when the line was crossed with products that constituted illegal gaming.
- The Board initiated a prosecution against betting shop operators who had installed Fixed Odds Betting Terminals in increasing numbers. The government intervened to stop the Prosecution and committed to address the issue in the Act

The Process Adopted for the Reform of Gambling Laws 2000 to 2005

A 5 year Process

- Gambling Review Body Report published July 2001
- Government White Paper “A Safe Bet Success” published in March 2002
- Publication of a Draft Bill in November 2003 with further clauses in February and March 2004 to enable pre-legislative scrutiny by a Joint Committee of both Houses which had been convened on 16th September 2003
- Two Committee reports published on 7th April 2004 (with government response on 14th June 2004) and 22nd July 2004 (with government response on 22nd September 2004)
- Policy often dictated by the Daily Mail with significant changes to casino policy and backtracking on liberalisation
- Gambling Bill introduced on 18th October 2004
- Second reading on 24th November 2004
- Committee process between 30 November and 11 January 2005 resulted in significant policy changes particularly in relation to Casino Policy restricting new style casinos to 24 - 8 Regional, 8 Large and 8 Small
- General Election called and Gambling Bill was guillotined without full or proper debate on important policy areas
- Bill only saved because number of Regional Casinos reduced to one to secure all party support in the wash-up
- Bill completed parliamentary process and received Royal Assent on 7th April 2005

Consequences of Inadequate Parliamentary Scrutiny during the period October 2004 to April 2005

What were the key errors and issues

- Failure of a Social Experiment in Casino Policy. The allocation of new style casinos in 11 out of the 16 “new areas” overlapped existing casino provision
- Failure to properly address the status of “Fixed Odds Betting Terminals”, which was fudged until 2017/18
- Flawed gaming machine policy which resulted in operators circumventing the restrictions by splitting gambling premises in order to retain higher numbers of higher staking machines
- Although the Act established the regulatory framework and the detail was provided in Regulations this has still resulted in the current legislation being too inflexible in being able to adapt to the “digital age”
- Several sets of Regulations were badly/incorrectly drafted and in some cases and required revision/amendment
- Inadequate funding for the Gambling Commission and training and resources for Licensing Authorities
- Was the introduction of a point of supply regulatory regime for remote gambling a mistake given the significant number of operators who moved off shore following gaming duty hikes?
- Jenny Williams is on record as stating that with only 15% of the remote industry based in Great Britain the remainder could not be adequately regulated without being licensed by the Commission
- Government launches a consultation on moving to a point of consumption regime in 2010 (only 3 years after implementation of the 2005 Act)

The Gambling Act 2005: A Bet Worth Taking?

House of Commons Culture Media and Sport Committee

- Appointed by the House of Commons to examine the expenditure, administration and policy of DCMS and its associated public bodies
- Inquiry into gambling announced on 17th May 2011 in response to a large number of representations from gambling interests. It addressed:
 - the key principles behind the Act
 - the financial impact of the Act on the UK Gambling industry
 - the effectiveness of the Gambling Commission since its establishment and whether it represents good value for money
 - the impact of the proliferation of offshore online gambling operators on the UK gambling sector and what effect the Act had on this
 - why the Act had not resulted in any new licences for casinos or “super” casinos (one large opened before the inquiry reported in July 2012)
 - the effectiveness of the classification and regulation of gaming machines under the Act
 - the impact of the Act on levels of problem gambling

The evidence considered - Criticisms of the 2005 Act

Witnesses gave evidence of failings in key areas

- Legitimate commercial interests of some gambling companies were being interfered with by levels of regulation and the current legislation had failed to create a fair system of regulation and a level playing field for the UK Gambling Industry
- The presence of relatively high stake B2 (FOBT) machines in high street betting shops was a source of considerable concern and posed a greater risk of problem gambling than other forms of gambling
- The Act was criticized as being over-complex and difficult to interpret. Evidence was given of communication problems between the Gambling Commission, local authorities and certain sectors of the industry
- The Act failed to create a future-proofed structure for machine regulation including the failure to carry out triennial reviews
- The decision to regulate gambling at the point-of-supply rather than the point-of-consumption and to allow non-UK regulated providers to operate into the UK was widely criticised
- There was broad consensus that the 2005 Act had failed to produce a future-proofed regulatory structure for the remote offshore online gambling industry
- The 2005 Act created anomalies in the regulatory regime for casinos and failed to result in any licences for Regional Casinos and only one large casino being built
- Small Casinos are not financially viable because they require a larger floor area (than large casinos) for table play in order to maximise machine allowance

Scrutiny Committee Recommendations

- The Committee made a total of 51 Recommendations some of which are still to be considered as part of the pending gambling review
- Two leapt out at me in reviewing the report:
- Despite the Statement displayed on the DCMS website that it is the sponsor of the gambling industry, it makes no mention of the gambling industry in the Departmental Business Plan of 2011/15. We call on the government clearly to set out its position on whether the gambling industry constitutes a legitimate mainstream leisure pursuit and whether it intends to be a pro-active sponsor of, or simply to tolerate, the UK gambling industry (Recommendation 41)
- During this inquiry we have found the Gambling Commission's website, which should be a significant tool for communication, frustrating. This should not be the case with a modern regulator and we recommend that the Commission move quickly to rectify any technical or design issues which prevent its website from being an effective communication tool. Specifically, the Gambling Commission should ensure that the search engine built into the website is functional and that links are maintained (Recommendation 43)

Thank you, in any case

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