interactive gaming, gambling and betting association

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Remote Gambling and UK taxation: An iGGBA Position Statement

The iGGBA position statement on tax provides a remote gambling industry view on the future state of taxation for remote gambling services in the UK. Taxation is a critical element, along with regulatory requirements, for determining a company's willingness to locate its services in the UK and take up a UK remote gambling license as well as which services to offer to the consumer.

The nature of the Internet has long mitigated against locally based decisions on taxation. Given the portability of pure online services and the availability of other regulatory regimes, remote gambling services in the UK must be weighed up against other responsible jurisdictions when decisions are made on tax.

A UK license will only thrive in conditions which are conducive for businesses to operate. For UK consumers it is critical to have UK based offerings which have the backing of a strong social responsibility element. The right blend of taxation and regulation will put this in place.

Following on the Treasury Memorandum to the Joint Scrutiny Committee (see appendix 1), it is critical to thoroughly investigate the tax regime for remote gambling services in light of the factors mentioned in the Memorandum. iGGBA itself has drawn up an estimate of the effect of a 2% tax rate on the industry and what benefits this might entail for UK Treasury (see appendix 4). It is critical here to understand that a high tax rate that is meant to "protect" existing revenues will have the exact opposite effect – the industry will continue to provide services in the UK from a more competitive jurisdiction meaning a net outflow of capital from the UK. It must be remembered that these offshore operators due to the lower tax structure, will have a significant competitive advantage.

iGGBA looks forward to the dialogue between the Treasury, Customs and Excise and the DCMS on the important issue of taxation in hopes that the UK can become a beacon of the remote gambling industry, attracting companies to the UK license for the betterment of consumer protection and fiscal advantage to the UK.

iGGBA recommendations

1.0 The UK Government's approach to creating a secure regulatory background will help encourage strong growth in the sector over the next few years.[1] However, it is worth stressing that the key dynamic underpinning a thriving remote gambling industry in the UK ***is the creation of a suitably attractive, globally competitive, low tax regime which will encourage innovation and investment***. The movement of operators to an onshore UK environment will increase the integrity of the industry and provide greater measures of consumer protection and safeguarding the vulnerable. These benefits cannot be underestimated.

[1] Bear Stearns, September 2002, "Gaming Industry", p. 2 <http://www.bearstearns.com>

1.1 ***GPT is a preferred form of taxation***. Given the government's efforts to seek convergence around a GPT regime, iGGBA is supportive of such a regime being applied to remote gambling. However, there is a lack of clarity of how GPT will be defined for the remote gambling industry. iGGBA also asks that the Treasury clarify certain outstanding issues regarding what types of gaming and betting are taxed under the remote gambling tax regime.

1.2 A comparison of remote gambling taxes/duties in other regimes shows the average range of taxation is from 0 – 5% except in Australia where punitive rates have been put in place in some states (see Appendix 3). Given that the UK license will come with the benefits of a strong system of probity, **we strongly recommend a globally competitive, single rate of tax for the remote gambling license**. It is important that the tax rate is set to offer operators a choice in licensing regimes which, in the UK, would provide greater consumer protection and safeguard the vulnerable.

1.3 The other financial aspect associated with remote gambling is the issue of license cost..License costs are just another element of costs for remote gambling companies. The cumulative effect of licensing costs, testing costs, gaming tax, corporate tax, payroll taxes,and VAT must be considered as a whole. Jurisdictions across the globe carefully balance all these costs with the tax rate**. iGGBA wishes to see a license cost that is competitive with other jurisdictions while at the same time recognising that license fees for the entire UK gambling sector should support the work of the Gambling Commission**.

1.4 The tax rate must also recognise the other positive tax contributions from remote gambling operators who take up the UK licence. These include corporate, payroll and other indirect taxes.

1.5 Any system that requires distribution of taxation based on the country of players location would make I-Gaming too complicated to implement.

1.6 The taxation regime should come into force at the same time as the Bill enacting a licensing regime for I-Gaming operators in the UK.

Appendix 1 – Remarks to HM Treasury Memorandum to the Joint Parliamentary Scrutiny Committee on the Draft Gambling Bill

1.0 Introduction

1.1 On 8th January 2004, the Treasury submitted a Memorandum to the UK Joint Scrutiny Committee on the UK Draft Gambling Bill concerning the issue of taxation of all gambling services. This document states,

" Although we recognize that the global nature of the Internet means that domestic duty rates will have a significant impact on the size of the UK remote gaming industry, the case is not clear cut and raises a number of complex issues including:

- Balancing the interests of the remote and premises-based industries, and concern to avoid the possibility of tax induced market distortion
- Balancing the benefits of attracting new business to the UK against the potential threat to the existing tax base, for example by creating opportunities for manipulation of supply
- Implications for taxation of remote betting; and
- Likely differences in commercial practice and cost base between the different remote platforms e.g. internet and interactive digital TV."

1.2 Further to this document, Customs and Excise have been reviewing possible changes in the six gambling industry "silos" and having already subjected the betting industry and bingo industry to a shift from betting and bingo tax to gross profits tax of 15%, plus VAT of certain elements in the case of bingo. It is in light of these investigations and changes that iGGBA puts forward its position on taxation of remote gambling which addresses the exact nature of the points listed above.

2.0 **Treasury Statement #1 - "balancing the interests of the remote and premises-based industries, and concern to avoid the possibility of tax induced market distortion"**

2.1 The question is whether a lower tax rate than that of the 15% GPT for betting and bingo and the AMLD regime for machines creates distortion in terms of substitution.

2.2 The assumption of a substitution effect between traditional based gambling offerings and remote gambling is false. Remote gambling is a unique customer experience. It is in many ways complementary to the traditional gambling premises. This is witnessed by the fact that many of the high street casinos, bingo halls and bookmakers offer remote gambling in addition to their terrestrial offerings.

2.3 It is true that operators often offer better odds on betting events through remote gambling channels, but this seems to have no discerning effect on traditional betting revenues with the large brand name operators stating record profits this year from their bricks and mortar shop operations. For games such as roulette and card based games, the odds of winning are not changed between remote and traditional operators.

2.4 As an allegory, it is prudent to note that the fear of the competitive threat from remote gambling is the same fear that was first mentioned when VCR's appeared. The threat to the cinema industry was so apparent, yet today the film industry is thriving in an age of VCR's, DVDs, home recording devices and downloadable movies.

3.0 **Treasury Statement #2 - "balancing the benefits of attracting new business to the UK against the potential threat to the existing tax base, for example by creating opportunities for manipulation of supply"**

3.1 The reasoning behind this statement assumes that premises based operators could create a "remote" product that would be available in their premises and attract a lower level of tax from that of traditional slot and gaming machines.

3.2 It must be borne in mind that the threat of existing UK remote betting sites moving supply offshore is already in existence. The portability of remote gambling means that the threat of shifting supply is always present and can only be overcome by offering a conducive regime for operators to locate themselves in the UK. If the tax rates and/or regulatory costs are too high the existing UK resident remote betting industry will move to less costly alternative jurisdictions depriving the Treasury of existing revenue.

3.3 Remote gaming is not allowed in the UK. Therefore any low rate of tax is not distorting an existing regime, but simply creating a new stream of tax revenue for Treasury.

4.0 **Treasury Statement #3 - "implications for taxation of remote betting"**

4.1 Remote betting is currently taxed at 15% GPT. The current UK betting industry with shops in the UK accept this rate at the moment, although a large number of offshore bookmakers do not.

4.2 It is widely acknowledged that the remote betting rate of 15% was an agreement reached between the traditional bookmakers and the Treasury in order to install the new GPT tax regime for betting shops. There was also the additional advantage of advertising in the UK with the holding of a bookmaker's license. By virtue of the Government's proposed position on advertising in the new Draft Gambling Bill, the advertising advantage has now been significantly diluted. Additionally, there will be extra regulatory/license costs for current remote betting operations in the UK as they will have to apply for a licence and bear these costs where as previously these were granted under the existing bookmakers licence. These changes could well provide the opposite of Government intended policy – the movement of UK based remote betting operations to offshore jurisdictions.

5.0 **Treasury Statement #4 - "likely differences in commercial practice and cost base between the different remote platforms e.g. internet and interactive digital TV."**

5.1 The cost base in terms of tax would remain neutral regardless of the platform given that the rates are applicable to the type of game, not the platform.

5.2 DCMS has been quite clear that the Bill should remain a platform neutral bill, thus only one remote gambling license. iTV is a remote gambling service given its server based configuration.

Summary

The industry has come a long way since the world's first online casino opened on18th August 1995 with 18 different casino games[2]. Remote gambling, including all mediums, needs a large Western democracy to grasp the opportunity to create an environment with increased security and legitimacy. Key to achieving this is a concomitantly fair business tax regime which enables legitimate operators to prosper. Equally, the HM Treasury does not want to lose potential tax revenues to offshore sites due to further customer migration. An obvious lesson can be learned from the abolition of betting tax in 2001 which brought almost all British-owned off-shore betting businesses back into this country: turnover in this segment has risen from £8 billion to £15 billion. For a mobile marketplace such as remote gambling, inevitably the global business attracted by the UK will be huge.

[2] Internet site <http://www.casino.org>

Appendix 2: Market Size Statistics

The number of sites throughout the world continues to grow, due largely to demand. It is estimated that there were 650 websites in 1999 and that the total revenue for that year was $1.2 billion indicating an 80% increase from the previous year. [3] At present there are more than 31,000 sites on the Internet, presenting a yearly increase by 80%.[4]

There are more than 50 governments and countries with endorsements for Internet gambling within their borders, mostly in offshore tax havens. The United States and Asia are the largest leading consumers of Internet gambling in terms of spending, yet in the US most forms of sport gambling are prohibited.[5] The Nevada Board of Gaming Control estimates the size of the illegal US gambling market to be between $100 and $380 billion. So far attempts to ban online gambling in the US have been plentiful, but unsuccessful. The prominent rise in land based casinos in the US since the 1970's suggests that the US will eventually attempt to regulate remote sports betting and online casinos.[6] So, from a purely parochial view, and with an eye to future UK Government tax revenues, it is necessary for the UK to capture some of this market before the United States legalises the industry. Already the WTO ruling on the Antigua – US case may move the US in the direction of regulating remote gambling as opposed to outlawing it.

Bear Stearns predicts that by 2004 Tier 1 markets (those that are highly regulated) may comprise as much as 50% of all remote gambling revenues.[7] It is their belief that if the UK legislates to regulate the industry in 2004, other highly regulated jurisdictions will follow. Now is the moment for the UK to capture and capitalise on the creation of a new regulated market through an attractive and competitive tax regime, before other jurisdictions jump on the bandwagon.

There is already a proven consumer demand for Internet gambling that will only continue to grow. If all forms of interactive gaming, television, mobiles, and computers are included, the numbers soar. We do know that the industry makes more revenue than movies, theme parks, spectator sports, cruise ships, and recorded music all combined.[8] Forrester research estimates that interactive television alone will generate $11 billion dollars in advertising, $7 billion dollars in e-commerce, and $2 billion dollars in subscription revenues.[9] Different estimates for remote gambling exist: Datastream predicts £14.1 billion worldwide by 2005, Dresdner, Kleinwort, and Wasserstein predict £7.6 billion, and Informamedia predicts £8.2 billion by 2004. KPMG consulting suggests that the entire market including mobile phones, Internet, and television will exceed £10.1 by 2006.[10] Broken down by an industry that is: £5 billion on the Internet, £2.8 billion through the television, and £2.3 billion over mobile phones. Bear and Stearns predict it could easily become a $10 billion a year industry. Growth of the Internet gambling sector will continue for the next few years, thus providing a broader base of taxation.

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[3] Bear Stearns, September 2002, "Gaming Industry" <http://www.bearstearns.com>
[4] Websense Press Release, 20 July, 2001, "Online Gambling Sites are Going Global" Internet site: <http://www.websense.com/company/news/pr/01/062001.cfm>
[5] Dresdner Kleinwort Wasserstein Securities Limited, 27 February, 2002, "The Business of Gambling – The Changing Face of Gambling", p. 4 <http://www.drkwresearch.com>
[6] Bell, Tom, 8 March, 1999, Policy Analysis "Internet Gambling: Popular, Inexorable, and (Eventually) Legal" Internet site: <http://www.cato.org>
[7] Bear Stearns, September 2002, "Gaming Industry", p.12
[8] Websense Press Release, 20 July, 2001, "Online Gambling Sites are Going Global" Internet site <http://www.websense.com/company/news/pr/01/062001.cfm>
[9] Internet site <http://www.gamblingmagazine.com/articles/35>
[10] Internet site <http://www.kpmgconsulting.co.uk>

Additional ad hoc statistics:

1. **Mobile:** 2nd December 2003, Source: Juniper Research, Authors: Paul Skeldon, Tony Crabtree

Mobile Gambling Services: 2006 prediction

Casino $0.9bn
Lotteries/Competitions $2.8bn
Betting $2.0bn

Total Gambling Services $5.7bn

2. **Mobile:** Source: Alexander Resources

- Worldwide revenues for all forms of gambling on mobile phones can reach $16 billion by 2008

- Mobile casino style betting: Sophisticated phones with colourful graphics will allow users to play against the system or other users in real time. Revenues are expected to reach almost $6 billion by 2008.

- Mobile lotteries: By allowing users with simple digital phones to play and by leveraging off the immediacy and penetration of mobile phones, lottery sales from mobile phones are expected to reach slightly more than $5 billion by 2008.

- Mobile sports and other betting: will open up new forms of betting and allow users to play more frequently. Players will be able to make real time bets on the outcome of particular events and dynamically bet through their handset on the outcome of a particular micro event during a game. Revenues by 2008 are forecasted to reach $5 billion.

3. **UK Remote Gambling:** Source; Unknown

- In 2002 the UK gambling industry was worth £42 billion, with two per cent attributed to internet gambling. The figure for 2004 is estimated to top £55bn - with ten per cent being gambled online.

4. **UK Gambling Market:** Source: Industry Investment Index, Plimsoll Publishing

- The UK's gaming industry is ranked 501st for investment attractiveness out of 1,015 UK industries
- Every £100 invested in the UK gaming industry returns an average of £5.44, compared with the overall UK industry average of £5.39.

5. **iTV Gambling**: Source: Screen Digest Report:

- iTV gaming worth £4.1bn by 2007

- Total interactive television (iTV) betting, gaming and lottery market (BG&L) will generate €4.1b a year by 2007

- The UK market will be by far and away the largest single contributor to the European total, generating over €2.6bn in turnover by 2007 - with a gross margin for operators of €387.1m.

- Betting via iTV on sports and horseracing events will be the largest contributing channel, with almost €1.6bn annual turnover by 2007. Casino style applications will generate €1.4bn in revenues by 2007.

Appendix 3: Jurisdiction Comparison

There are essentially three different viewpoints overseas – prohibitionist, protectionist and regulated jurisdictions. In developing its tax framework for the UK remote gambling industry, it will be important for HM Treasury to look at how other countries have addressed the issue.

Some overseas jurisdictions permit online gambling and issue licenses to content providers. Australia and the Netherlands Antilles have licensed online casino games. Gibraltar, Malta, and Alderney licensed online betting and Lichtenstein has licensed an online lottery. The Caribbean nations of Costa Rica and Antigua offer licence jurisdictions. In these jurisdictions they readily offer licences for companies although their infrastructure and banking systems can be less robust. Most of these jurisdictions have no tax rate, but charge a significant license fee.

Australia has a part prohibitionist, part regulated market since the passing of a moratorium on remote gambling several years ago. Taxes are set at different levels in different States. It varies from 4% to 50% across the country. Queensland's tax rate is set at 50% - a preventative measure - to discourage Internet gambling sites there; whereas the Northern Territory recently reduced its tax rate from 8% down to 4% to remain competitive in the current market for online gambling.[11] This is proving successful. With numerous sites operating all over the world it is necessary to have a low enough tax rate to entice investment from the industry to a specific jurisdiction. The important point to learn from Australia's tax experience is that a market that wanted to be competitive first set their tax level too high. In this regard, it is imperative that the UK closely examines the level that it sets for Gross Profit Tax (GPT) for its domestic market.

Countries like the US and Hong Kong are prohibitionist and attempt through legislation, court action and interpretation to eliminate remote gambling. In the US, the Wire Act has been interpreted as disallowing remote gambling, but there still is a large grey area as to the legality of US customers using remote gambling sites. The US has opted to forgo the potential large tax revenues that could be drawn from licensing sites in the country.

Jurisdiction	Application Fee	Application Costs	Tax	Ongoing Licence Fee
Northern Territory (AU)	None prescribed, subject to negotiation	Recoverable by the Department of Industries and Business when a licence is applied for	To be negotiated with the applicants, an example is 0% on domestic transactions and 4% on international player loss	Subject to negotiation, although licence is subject to renewal
Tasmania - All forms of gambling (AU)	AUD30,600 + endorsement fees for each form of gambling (see below)	If costs are greater than the fee amount, then the applicant may be required to make arrangements, and all costs of software and system validation	See below for type of gambling	
Tasmania Sports Betting	Endorsement fee AUD204,000		0.5% of turnover Aus/NZ bets 0.25% of turnover of bets from elsewhere	

[11] Internet site <http://www.igaminghome.com/modules.php?name=Jurisdictions>

Jurisdiction	Application Fee	Application Costs	Tax	Ongoing Licence Fee
Tasmania Fixed Odds Wagering	Endorsement fee AUD204,000		1% turnover for horse, harness & greyhound regardless of where race is held	
Tasmania Major Lottery	Endorsement fee AUD306,000		34.64% of turnover	
Tasmania Simulated Gaming	Endorsement fee AUD306,000		4% gross profit for wagers outside of Aus. For Aus residents: 20% first AUD10m of gross Profit, 17.5% of gross profit between AUD10m & AUD20m 15% of gross profit for gross profit over AUD20m	
ACT (AU)	AUD5,000 application fee + AUD200,000 licence fee in year 1	All costs of probity investigations to be met by applicant	20% gross profit annually for first AUD10m. 10% gross profit annually for AUD10m to AUD20m. 5% gross profit annually for over AUD20m	AUD100,000 per year on anniversary of granting of licence
Queensland (AU)	$10,000	Not mentioned	50% of gross profit	AUD50,000 payable quarterly in advance
Norfolk Island (AU)	Not mentioned	Costs to be covered by applicant but must make a deposit towards costs of AUD25,000 for Australian applicants and AUD50,000 for overseas applicants	4% of gross gaming win/profit for interactive home gaming and 0.5% of bookmaking turnover	At least AUD25,000 pa
Commonwealth Of Dominica	Not mentioned		USD50,000 or 5% of gross revenue, whichever is greater	USD50,000 or 5% of gross revenue, whichever is greater
Anjouan	USD20,000			

Jurisdiction	Application Fee	Application Costs	Tax	Ongoing Licence Fee
Gibraltar* (bookmaking)	GBP2,000		0.5% on turnover	
Malta* (bookmaking)			0.5% turnover	
Kahnawake (Canada)	C$5,000 (non-refundable deposit) C$20,000 initial licence fee			C$10,000
Antigua and Barbuda (Virtual Casino licence)	USD100,000			
Antigua and Barbuda (Sports Book Licence)	USD 75,000			
St Kitts & Nevis*	USD 80,000			USD 40,000
Vanuatu	USD 75,000		2.5% net gaming revenue	USD 50,000
Isle of Man Internet gaming	GBP 1000		2.5% gross gaming yield (turnover minus prizes)	GBP 80,000
Isle of Man Internet wagering	GBP 1000		2% of actual wager (about 0.3%of amount staked or 10% of gross gaming yield)	GBP 80,000
Alderney	GBP10,000		0%	GBP75,000
South Africa	TBA			

Appendix 4: Abbreviated Overview of the Benefits of a UK licensing regime for remote gambling

Introduction

The UK Government's approach to creating a license for the remote gambling sector (includes mobile, Internet and iTV applications) should encourage strong growth over the next few years. Remote gambling will be able to develop and flourish under a modern UK regulatory framework designed to protect both consumers and operators. The following are a few quick bullet points to understand the advantageous economic case for a UK license.

Market Size

1) Total Global Revenue: Datastream predicts £14.1 billion worldwide by 2005, Dresdner, Kleinwort, and Wasserstein predict £7.6 billion, and Informamedia predicts £8.2 billion by 2004. KPMG consulting suggests that the entire market including mobile phones, Internet, and television will exceed £10.1 billion by 2006.[12]

2) Type of remote gambling: estimated 2004: £5 billion on the Internet, £2.8 billion through the television, and £2.3 billion over mobile phones.

3) Number of sites: 650 websites in 1999. Other estimates include about 2,000 sites by 700 companies in 2003.

4) Technology driver: Additional direct and indirect jobs - software programming, engineering and maintenance, hardware upkeep and provision, network security, data processing, database handling, software and license testing, data and site hosting, infrastructure such as cabling, billing payment support, marketing, advertising, and customer service.

5) Employment; 25 average employees per company (excluding call centres) – high skilled jobs – important to keep them in the UK.

% sites coming to the UK	**Number of sites (incremental)**	***Employees**
Base	*1500*	*25*
5%	75	**2812.5**
10%	75	**5062.5**
15%	75	**9750**
Total		**17625**

* Assuming larger sites come to UK, they will employ more persons thus the first 75 sites will have 1.5 times the average, the next 75 will have 1.2 times the average and the final 75 will be the average.

[12] Internet site <http://www.kpmgconsulting.co.uk>

6) Revenue and Tax: (*Assumes that most large, reputable sites will locate to the UK and their revenue will exceed the average revenue per site based on the following: first 100 sites = average times 5, next hundred sites at average times 2.5, and next hundred sites at times 1).

Revenues		5,000,000,000	(sterling)			
Number of sites		1,500				
Average Revenue per site		3,333,333				
% of sites	*Number*	**Revenue per site*	*Total revenue*	*Gaming Tax = 2%*	*Net profit = 20%*	*Corp tax = 25%*
5%	75	16,666,667	1,250,000,000	25,000,000	250,000,000	62,500,000
10%	75	8,333,333	625,000,000	12,500,000	125,000,000	31,250,000
15%	75	3,333,333	250,000,000	5,000,000	50,000,000	12,500,000
TOTAL	**225**	**28,333,333**	**2,125,000,000**	**42,500,000**	**425,000,000**	**106,250,000**