

chapter twenty four

Casinos

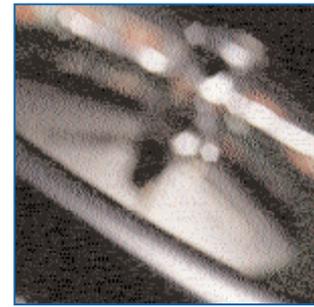
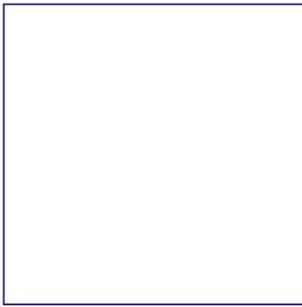
- 24.1 A number of issues we have discussed in earlier chapters affect casinos. This chapter deals with issues that are unique to casinos. Chapter 19 deals with the licensing of corporate bodies and individuals and chapter 21 with the licensing of premises.
- 24.2 In chapter 20 we have recommended that permitted areas and the demand test should be abolished. Recognising that this could lead to a significant increase in applications for casinos, we have suggested that, at least initially, there should be a specified minimum size for a casino. We have recommended that the gaming floor devoted to table games should be at least 2,000 square feet.
- 24.3 In chapter 22 we have set out our recommendations that membership and the 24-hour rule should be abolished; credit cards should be permitted to be used for gaming; and advertising restrictions may be relaxed. We also propose in that chapter that casinos should be able to offer bingo and betting in addition to table games and gaming machines (subject to the operator obtaining the necessary licences).
- 24.4 In chapter 23 on gaming machines we have suggested that in the strictly regulated environment of a casino, slot machines with unlimited stakes and prizes should be permitted. We are concerned that there should be a mix of gambling activities in casinos and we have recommended that there should be a ratio of no more than eight gaming machines to each gaming table for the first eighty tables; but where more than eighty tables are available for play there should be no restriction on the number of gaming machines that are allowed. We have recommended that casino slot machines may be linked and that multiple and multiple-line staking should be permitted, subject to the machines operating on a random basis.

Positive identification

- 24.5 We have recommended in chapter 22 that the statutory membership requirement for casinos should be abolished. That would not preclude casinos from choosing to continue to operate as private clubs should the operators wish to do so. For casinos, we recommend that instead of membership there should be a requirement to positively identify all those who enter the casino. We have been advised by the police that guests are not always properly identified and that this is a significant loophole in terms of money laundering requirements. When they gave oral evidence to us, we asked the British Casino Association what impact the abolition of guest status would have. They were concerned that, for cultural reasons, some visitors would prefer not to seek membership of a casino, but would like to attend occasionally as a guest. We have suggested that membership should be a matter for individual casinos and we do not think that need confuse the issue of guests. If the casino chooses to operate on a membership basis, guests should also be required to produce positive identification.
- 24.6 We are aware that casinos in some other jurisdictions insist that all visitors are positively identified and the absence of a membership system does not inhibit them from doing so. In Holland, for example, (where the casinos, of course, operate in accordance with the same EU Money Laundering Directive as UK casinos) the following are accepted as positive proof of identity:
- passports
 - tourist cards
 - driving licences (with photo)
 - national identity cards
 - military passports or ID cards
 - pensioners' ID cards
 - student travelcards
 - Government and corporate ID cards (but only if they carry a photo, first names, surname, date of birth, name of issuing body, issue number and signature of the bearer)
- 24.7 Several of the items of identification used in Holland will not be available to UK residents, although visitors to UK casinos could rely on identification of this kind. The UK will need to produce its own list of acceptable means of identification, in consultation with the police. **We recommend that the Gambling Commission should issue a list of the documents that are acceptable as positive proof of identity and should specify the details that should be recorded by the casino and for what period they should be retained.**

Present in the casino

- 24.8 Chapter 30 sets out our proposals in relation to virtual gaming on-line. In legislative terms, that will require the removal of the requirement (in section 12 of the Gaming Act 1968) that gaming may only be carried out by a person who is present on the premises. We have



considered whether the removal of this requirement should have any consequences for anything other than virtual gaming. It would, for example, be possible for a punter to view a casino game broadcast from a casino somewhere in Great Britain and then game over the telephone or via e-mail. Effectively, there would be a third category between gambling on premises and virtual gaming, of gaming in casinos but remotely.

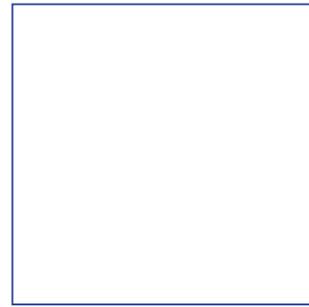
- 24.9 We do not think there is any reason of principle or practice to prohibit casinos from offering on-line gambling based on a real live game. Operators wishing to do so (like operators wishing to offer virtual gambling) would have to obtain a licence from the Gambling Commission before doing so. The Commission would need to satisfy itself that the games were fair, including that they were broadcast live. If it were the case that the Commission could not be satisfied that a game based on a live casino would be conducted fairly, it would not be approved.
We recommend that gaming remotely on the outcome of "live gaming" should not be prohibited.

Opening hours

- 24.10 We have recommended in chapter 21 that the local authority should determine a casino's opening hours as one of the conditions attached to the premises licence. It is perhaps worth setting out the current position in relation to casino opening hours.
- 24.11 Since 14 August 2000, casinos have been able to open from 2pm until 6am on weekdays. Before that date, they closed at 4am. In its press release, the Home Office said the "new closing time will also benefit staff who may see more flexible shift patterns and higher earnings." When we met a group of croupiers, they told us that there had not been adequate consultation with staff before this change was introduced and that many were unhappy about the changes in their working conditions. They also mentioned to us a number of other concerns about the health and safety of gaming staff, including, for example, exposure to passive smoking. The welfare of gaming staff is not within our terms of reference and we made this clear to the croupiers who came to see us. We were, however, concerned about the health and safety issues they raised with us and we have put them in contact with the Local Authority Unit at the Health and Safety Executive, who are responsible for such matters in relation to casinos. We understand that consulting casino staff as a group may not be easy, because generally they are not unionised, but we would encourage casino operators to ensure that there is consultation with their staff before they seek to extend their opening hours further as a result of our recommendations.

What games should be permitted?

- 24.12 The Bankers Games Regulations currently permits eight games to be played in casinos in Great Britain: American Roulette, French Roulette, Punto Banco, Blackjack, Casino Stud Poker, Craps, Baccarat and Super Pan 9. Casinos are also able to allow other games to be played, such as mah jong or backgammon. A fee may be levied on players, or rooms are made available as an ancillary attraction at no extra charge.
- 24.13 Only three written submissions to us commented on the need to relax the procedures for approving new games, or asked for specific changes in relation to particular games. However, this was a recurrent theme in the discussions we had during our visits to casinos. The industry is clearly frustrated that it cannot respond more flexibly to customer requests or have the ability to test a wider range of games before deciding whether to offer them on a more permanent basis. During our visit to Scheveningen, we noted that "Holland Casinos" could offer games from a selection of thirteen approved by the regulator. On the evening we visited, five different games were being offered and the manager suggested that this was the maximum he would offer at any one time. We note that the Ladbrokes Internet Casino (operating from Gibraltar) offers thirty-five games. There is clearly scope to increase the number of games currently approved under the 1968 Act.
- 24.14 We do not think that it is necessary for approved casino games to be specified in legislation. What is important is that the Gambling Commission should set the parameters for the development of games. Essentially, what is offered should be fair and transparent; any equipment that is required should be tested; staff should be properly trained; and punters should be fully informed about the returns. The Gambling Commission should publish a list of approved table games from which casino operators could select the games they would like to offer. Each casino should maintain a list of the games that it makes available for play, and as part of the inspection process the Gambling Commission should satisfy itself that there are staff who are properly trained to run the games that are on the list. The Gambling Commission should be open to requests for new games to be added to the list that it publishes, provided that they meet the criteria for acceptance. **We recommend that the Gambling Commission should set out guidance on the standards required for table games and should maintain a list of games that have been approved for play in Great Britain. Games may be added to, or removed from, the list at the Gambling Commission's discretion.** We do not consider that this should be an issue for secondary legislation.



Entertainment

- 24.15 Casinos in Great Britain cannot offer live entertainment. Most other countries do permit live entertainment: as we saw for ourselves during our visits overseas. On those occasions, we felt that the provision of entertainment greatly added to the lively atmosphere in the casinos and that was in stark contrast to hushed tones in several of the UK casinos we visited. We are making other proposals that will further increase the availability of hard gambling in casinos and possibly attract new punters, who are tempted to visit following the removal of the membership requirement. Overall, we think that it would be desirable for casinos to be able to offer a more rounded experience, with entertainment in addition to dining and gambling.
- 24.16 No doubt the commercial objective of introducing entertainment would be to get punters to spend more time in the casino. An interesting comment made by a casino manager during our visit to Holland was that in his experience UK casinos wanted to attract gamblers, whereas Holland Casinos wanted to attract people for a night out that might involve some gambling. We were told that the average spend of customers in the Scheveningen casino is about £55 per visit, including food, drink and the £7 (about £2) entrance charge. That is lower than many of the examples of average spend given to us during our UK visits, and it may reflect the more relaxed environment in which customers appeared to be spending at least as much time socialising as gambling.
- 24.17 Not all casinos would want to introduce entertainment. The submissions we have received suggest that the aspirations of the current operators are fairly modest in relation to the entertainment they hope to offer. The example often quoted is of a desire to provide a piper to pipe in the New Year. Nevertheless, we have received two submissions from smaller operators opposing such a change on the basis that they could not compete with larger companies. We think that these concerns may be unfounded for two reasons. First, there will always be customers who prefer to gamble in quiet surroundings and would not welcome a change of the kind we are proposing. Second, we have made it clear that gambling must be the primary purpose of gambling premises. The minimum size for new casinos will also mean that there could not be an explosion of nightclubs offering gaming as a sideline. **We recommend that casinos should be permitted to offer live entertainment.**

Alcohol on the gaming floor

- 24.18 In Great Britain, alcohol is not taken on to the gaming floor. That is unique amongst the 25 countries compared in a table provided to us by Ladbrokes as part of its submission¹. The industry clearly appear to be of the view that there is a statutory prohibition, but the Home Office has assured us that the current position is the result of custom and practice. Certainly some casinos have a liquor licence that is valid for the whole premises, and some have a licence that specifically excludes the gaming floor. Whatever the legal position, there is a de facto ban on alcohol on the gaming floor. We have considered whether this should change. Alcohol and gambling do already mix in Great Britain. For example, punters may drink while playing bingo. Within casinos, the current restrictions are rather artificial. The croupiers we met told us that many customers nip to the bar while cards are being shuffled and race back in time for the next hand. Interestingly, the croupiers were divided about whether alcohol should be allowed at the table. They were conscious that people could spend more at the table if they were drinking and could take more risks as a result.
- 24.19 In general we are anxious that gambling and alcohol should not mix more than they do already. In the case of casinos, we do not think that allowing alcohol on the gaming floor would be a substantial change to the current position, where alcohol may be readily available a few feet away. **We recommend that the current restrictions on alcohol on the gaming floor should be lifted.**

Tipping

- 24.20 Those who gave evidence to us were divided about whether the tipping of gaming staff should be permitted. Only six submissions commented specifically on this issue; of which, four were in favour of tipping and two against. The casino workers to whom we spoke were also divided.
- 24.21 Those who favour tipping point out what they regard as the iniquitous position that currently exists whereby the staff who serve dinner, bring drinks and look after coats may be tipped, but the staff who are actually providing the principal service that the customer wants (gaming) may not be tipped. Those who are opposed to tipping argue that it would change the relationship between the dealers and the punters and that punters would feel obliged to tip and may be pressured into doing so. There was also a concern that if tipping were introduced, wages would fall and take home pay would be unpredictable. Those may be real fears, but they are certainly not unique to gaming.



24.22 We believe that to justify a statutory ban, there would have to be reason to think that tipping would lead to dishonesty. We have not received any evidence to suggest that this is a serious danger, although some operators have said that it could lead to abuse and collusion. If that did occur and was detected, the member of staff would certainly risk losing his Gambling Commission licence and thus his livelihood. Dealers are generally not in a position to influence the outcome of a game.

24.23 Tipping is common in other jurisdictions and we have not been made aware of difficulties arising as a result. **We recommend that tipping of gaming staff should not be prohibited.** Individual casinos may, of course, choose not to allow tipping, or may decide to operate a tip pool for distribution to all staff. That should be a matter of negotiation between casino operators and their staff.

Inducements

24.24 Casinos already offer small “rewards” to valued customers. For example, they can take the form of free meals or cars home after an evening’s gambling. Staff are encouraged to point out customers to whom such perks should be offered.

24.25 Casinos in some other jurisdictions can offer much more than this. At the most extreme, casinos can attract high rolling punters by providing private jets to bring them to the casino, lavish hotel suites while they stay at the resort, meals and entertainment fashioned to their preferences, and a discount on gambling losses. It is perhaps difficult to comprehend the sums that must be routinely gambled by these punters that still allow the casino to profit from the visit. At the lower end of the market, punters can collect loyalty points. Such loyalty cards were a common sight during our visit to Las Vegas. A typical loyalty scheme might offer:

- cash back each time a certain level of points is reached
- complimentary suites and dining
- reserved check-in lines at the hotel and immediate entry to restaurants
- discounts in local shops
- preferred parking facilities

The objective is to keep the customer and encourage him to spend more to earn more points to get, what may seem to be, extra benefits at no cost.

24.26 We have said that one of our principles is to proceed cautiously. We are proposing changes that may make

casino gambling much more accessible to punters who have not previously entered a casino. We are proposing that a mix of activities may be offered in ways that have not previously been permitted in this country. The counter-balance is that regulation on the industry will remain tight. We are concerned that allowing casinos to offer inducements to gamble may be a step too far at this stage.

24.27 We are uncomfortable about recommending that this area should be liberalised for two reasons. First, we have concerns that competition in offering inducements would inevitably descend into activities bordering on the criminal. It was the experience of the 1960s and 1970s that offering better incidental attractions was one way of attracting custom from rival casinos and dubious means were employed to identify and poach customers. We do not want to encourage this particular kind of competition and believe that it would be incompatible with the desire to keep gambling free from crime. Casinos must compete on the basis of the gambling products they offer, the quality of the service they provide and the ambience they create.

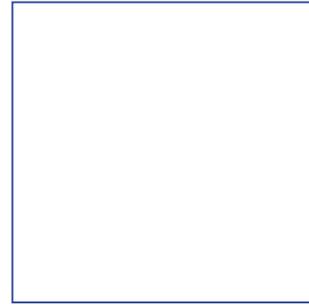
24.28 Second, we have concerns on problem gambling grounds. We are concerned about punters who cannot afford to lose a great deal of money and are encouraged by loyalty card inducements to gamble more than they might have intended. **We recommend that no more inducements than are currently available should be permitted. The Gambling Commission should issue guidance on what inducements are acceptable.**

Resort casinos

24.29 A resort casino is a complex which includes hotel rooms, restaurants, bars, performance space, possibly conference facilities and, most important, a range of gambling facilities. The gambling facilities usually include large numbers of casino table games, fruit machines (slot machines with unlimited stakes/prizes), some form of bingo and sports betting. Resort casinos are the main feature of, for example, Las Vegas.

24.30 Resort casinos are not permitted under present regulations, since, for example, live entertainment cannot be provided in casinos and the number of machines in casinos is strictly limited. Our proposed changes would permit them. The development of a resort casino or resort casinos in a particular location would depend on local authority planning decisions and on the commercial judgement of businesses that wished to provide them.

24.31 We have received a submission from Leisure Parcs Ltd, London Clubs International Plc and Blackpool Challenge Partnership which seeks to develop a



gambling centre with a number of resort casinos in Blackpool as a means of regenerating the town. A group of us also visited Blackpool.

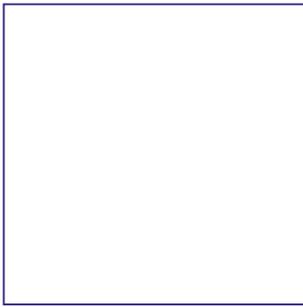
- 24.32** It is claimed by that consortium that the success of their project depends on Blackpool having a virtual monopoly, within the United Kingdom, of this type of resort. As they stand, our proposals would not guarantee that outcome. There are some 120 casinos in Britain. We assume that our proposals will result in an increase in the number of casinos which would also be able to offer the range of activities to be found in a resort casino. The British situation is therefore very different from the one that produced Atlantic City, for example, or Biloxi. In those cases the starting point was an existing ban on gambling of any type which was then relaxed for a particular region with the objective of regenerating it. A local monopoly was created deliberately to ensure the profitability of the operation and to attract commercial operators. A similar approach is currently being followed in South Africa where the right to establish a gambling resort, with a local monopoly, is auctioned (with the bid terms including evidence on local regeneration).
- 24.33** It is possible that a small number of resorts (or even possibly just one) would emerge as a response to free market conditions in a deregulated environment. Unless special conditions were imposed, a venture such as that proposed for Blackpool could not be sure in advance that it would enjoy a monopoly. That would require legislation which would grant the exclusive right to develop a gaming resort, with a number of resort casinos, in one location.

24.34 Our terms of reference require us to consider

- The desirability of creating an environment in which the commercial opportunities for gambling, including its international competitiveness maximise the UK's economic welfare.

It is clear that under current regulations suppliers of gambling in the UK cannot compete with the facilities offered by Las Vegas, Biloxi or Atlantic City. Citizens of the UK may therefore take holidays in those resorts because nothing similar is available here and we cannot attract foreign visitors seeking that kind of experience. The UK is at a regulatory disadvantage.

- 24.35** Our proposals reduce that regulatory disadvantage while still meeting the social objectives of current legislation. They therefore both increase consumer choice and provide additional opportunities for UK suppliers to expand their activities. They should therefore help to improve the UK's economic welfare.
- 24.36** We believe that the case for Blackpool (or for another resort) to be given monopoly rights goes beyond our terms of reference. The core of the case is that the Blackpool economy will thereby be regenerated. While we can completely sympathise with that objective we cannot claim to be able to decide whether the granting of a monopoly to Blackpool to establish a gambling resort is an appropriate way of achieving it. That is a matter of public policy extending beyond our terms of reference.
- 24.37** Our proposals would make resort casinos a legal possibility. Whether they would be an economic proposition in Blackpool or anyway else is a matter of commercial judgement.



chapter twenty five

Bingo

- 25.1 A number of issues relating to bingo have been discussed in earlier chapters. This chapter deals with the issues that are unique to bingo.
- 25.2 Chapter 19 deals with the licensing of corporate bodies and individuals, and chapter 21 with the licensing of premises. In chapter 20 we have recommended that the demand test for bingo halls should be abolished. In chapter 22 we have set out our recommendations that membership and the 24-hour rule should be abolished; credit cards should be permitted to be used for gaming; and advertising restrictions may be relaxed (although, of course, bingo is already free to advertise widely). That chapter also discusses the mix of activities in gambling premises: we have recommended that casinos should be able to offer bingo (subject to the operator obtaining the necessary licence). Chapter 23 sets out our recommendation that individual bingo halls should be permitted to have both four jackpot machines and a number of all-cash machines (the maximum number to be determined by the local authority). In chapter 30 we have recommended that on-line gambling should be permitted and regulated. The implication for bingo operators in Great Britain is that they would be able to offer on-line bingo on regulated sites
- Bingo games**
- 25.3 The Bingo Association told us that it would like to be able to offer much greater variety in the games its members can provide, together with much higher prizes. Bingo was badly hit by the National Lottery and bingo halls continue to see the National Lottery as a principal competitor. The bingo industry is also concerned about the impact on its market of unlicensed bingo in pubs and clubs.
- 25.4 Bingo is widely regarded as soft gambling. We have noted in Chapter 17 that a soft form of gaming can be transformed into a far more addictive activity by changes to the frequency with which staking can take place. Opportunities for rapid re-staking when the stakes are high allow people to run considerable financial risk in a very short period of time. Games where the total money staked in a period is paid out in many trivial amounts may create the illusion that little money has been staked. If bingo operators were to be able to offer unlimited stakes in combination with unlimited game frequency and computer terminal based games, we think that the nature of the game could be changed into a much harder variety.
- 25.5 The Bingo Association has made clear its view that bingo should remain soft gaming, and should not be mixed with harder forms of gambling which could encourage punters to trade up to those harder forms. However, we note that bingo halls already rely on a harder form of gambling - gaming machines - for 25%-30% of their profits.¹ According to the MORI poll for BLSL, the average spend of bingo patrons on gaming machines (£6.05) is only a little lower than the average spend on bingo of £8.44 per night².
- 25.6 We have also noted the number of submissions from bingo operators that have emphasised the social framework in which bingo is played. Bingo is said to have a place at the heart of many communities and companionship and the chance to make and meet friends are often cited as reasons why people play. We have been told that bingo is regarded as a good night out for a modest outlay. Including food, drinks and other games, such as mechanised cash bingo or machine games, the spend is around £15-£20³. Bingo clubs are viewed as safe and comfortable, particularly for women.
- 25.7 The current rate of problem gambling among bingo players ranges from 2.0% to 2.6% according to the Prevalence Survey. According to the research commissioned by the Bingo Association, 31% of the public and 27% of bingo players thought that bingo tended to appeal to those with some form of gambling addiction. We think there are real risks in intensifying the addictive potential of the activity.
- 25.8 We understand the bingo operators' wish to offer a greater range of games and variations on the current game and we are content to make recommendations that would provide for this. However, we are concerned that there should be safeguards which would enable the Gambling Commission to assess whether new games and variations of the bingo game, by changing both the speed and the amount which can be staked, change the nature of bingo. **We recommend that any new games should be approved by the Gambling Commission. The Gambling Commission should also be able to intervene where games which are currently approved are so altered as to change their nature to become harder in their operation.**
- 25.9 In this context, we have been concerned to note the introduction of the "Electronic Dauber" (TED). This enables players to play simultaneously as many electronic bingo tickets as the memory capacity of the machine will permit. We believe that this fundamentally



changes the nature of the game. TEDs are not yet widely available and we understand that clubs have restricted TED's players to 30 or 40 tickets a time, although each machine has the capacity to read many more tickets. Most players are still limited to the number of tickets which they can register manually – six is usually the maximum, although some people can play up to twelve.

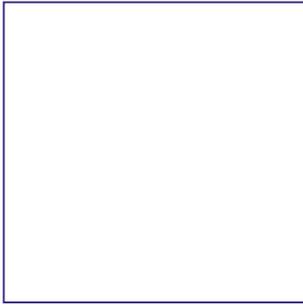
- 25.10 The use of TEDs increases the speed of the bingo game, and increases the number of games which can be played in any session, thus significantly increasing the average spend. More importantly, the introduction of TED means that there is an imbalance amongst the players. Those playing manually are dependant on their own ability to keep up with the game on all their cards, but they are playing head-to-head with others who are relying on a machine to read the cards for them. We question whether it is fair to mix the two systems. It is perhaps arguable that a player who chooses not to hire a TED machine to play against others in the same bingo hall can properly assess the odds against them and take a chance. But if TEDs are used by people playing linked bingo or the National Game, the inequality is greater and cannot be assessed by individual players.
- 25.11 In our view, using TED significantly alters the nature of bingo. We understand that the Gaming Board believes that it has no power under the existing legislation to prevent the introduction of TED. Certainly, if this system were not permitted under the current law, we would have reservations about its introduction alongside traditional bingo games. This is one of the reasons we have recommended that the Gambling Commission should have the power to intervene if the nature of the game is fundamentally altered.

Stakes, prizes and frequency of games

- 25.12 Smaller bingo companies have expressed concern about higher stakes and prize limits, because this could affect their ability to compete with larger companies who will offer bigger prizes. This is similar to the concern expressed by smaller casinos about the stake and prizes on casino slot machines. In the case of slot machines we have argued that the prospect of more competition should not artificially restrain stakes and prizes, and noted that smaller casinos could link together to offer bigger prizes. The same can be said about bingo. We recognise that more competition may adversely affect smaller bingo companies, but we do not consider that it is part of our remit to take specific steps to preserve any particular part of the industry. **We recommend that there should be no statutory limits on the stakes and prizes in bingo games.** We consider that the market should determine these limits. We note that the Bingo Association has reported that higher ticket prices are not popular with players and this will be the main restraint to big increases. Our proposal will mean the removal of the principle that prize money must only come from stake money.
- 25.13 There are currently restrictions on the number of times the National Game or other multiple bingo may be played. We do not think that such restrictions are necessary. The Bingo Association has argued that multiple games will never entirely replace mainstage bingo and our own observations during our visits lead us to accept that view. **We recommend that there should be no restriction on the frequency of multiple bingo games.**
- 25.14 The Bingo Association has asked that the principle of rollovers should be applied to bingo. This would operate by means of retaining a proportion of the stake on each game to generate a rollover to add to the prize on another game. The National Lottery is permitted to "rollover" three times. It would be difficult to apply a similar limit to bingo, but the Bingo Association has suggested that the money levied from any particular game should be paid out as an increased prize within one year. We think that such a system could be very complicated to administer, if the retained stake from every game had to be separately identified and accounted for. But that may nevertheless be the most simple solution. **We recommend that rollovers should be permitted.**

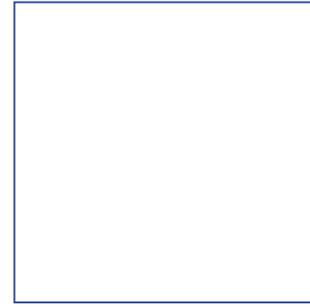
Pubs and clubs

- 25.15 The Bingo Association has proposed that all premises licensed for the sale of alcohol which intend to offer bingo should be registered in the same way as bingo halls. Bingo played in pubs and clubs is not liable for duty and is not regulated.
- 25.16 We understand that there are plans to introduce linked bingo to working men's clubs, to be run by a commercial company with prizes of up to £20,000. The Gaming Board has told us that it has been consulted about this proposal, but that it is not within its remit.
- 25.17 In our view, the exemptions in the Gaming Act 1968 were intended to provide for occasional gambling on a small scale, conducted primarily for entertainment rather than commercial gain. It is difficult to reconcile that with a linked game offering a big prize. If such a scheme were pursued, it would appear to evade current regulation. That cannot be right. We cannot have rigorous assessment of bingo on commercial premises, but no regulation at all of those offering similar prizes on private premises through the medium of a commercial company.



25.18 We do not think that the Gambling Commission should concern itself with the level of exempt bingo envisaged in the 1968 Act, but it should certainly have the ability to regulate all bingo conducted on a commercial scale. **We recommend that where the**

size of prizes for equal chance gaming (such as bingo) in pubs or clubs is beyond a limit of £1,000 per week, it should be regulated by the Gambling Commission in the same way as other commercial bingo.



chapter twenty six

Betting

- 26.1 The regulation of betting is quite different from that of the other gambling activities we have been examining. That does not, of course, mean that it needs to be changed. It was forcibly put to us by a number of those who submitted evidence that there was no need to change a system which worked perfectly well. We have considered whether that claim is correct. We believe that while most of it works well there are shortcomings in the present system which should be remedied.
- 26.2 The most significant difference is that betting does not have the equivalent of the Gaming Board to oversee its activities. Spread betting is regulated by the Financial Services Authority; on-course betting at racecourses tracks is supervised by the National Joint Pitch Council; off-course betting has no regulator. Licensing of bookmakers is undertaken by licensing magistrates. Apart from age, there are no controls on those who work in betting shops. Permission to provide betting at racecourses is given by the Horserace Betting Levy Board through the issue of Certificates of Approval and licences to provide betting at greyhound tracks are issued by local authorities.
- 26.3 Our proposals on certain aspects of gambling which are relevant to betting are presented in earlier chapters. This chapter concentrates on the issues that are unique to betting. Chapter 19 deals with the licensing of corporate bodies and individuals and chapter 21 with the licensing of premises. We have proposed that the Gambling Commission license betting shop managers, brokers and public tic-tacs. In chapter 20 we have recommended that the demand test for betting shops should be abolished. In chapter 22 we have set out our recommendations that credit cards should be permitted to be used for gambling and that bookmakers may continue to offer credit. We have also recommended that advertising restrictions may be relaxed. We have proposed that money laundering compliance measures should be applied to betting. That chapter also deals with our proposal that casinos should be able to offer betting in addition to other activities, but that betting shops should not be able to offer any other gambling apart from a limited number of gaming machines. We have also proposed that alcohol should not be served in betting shops and that betting should not be permitted in pubs. Chapter 23 sets out our recommendation that betting shops should be permitted to have a maximum of four jackpot machines.

Betting shops

Opening hours

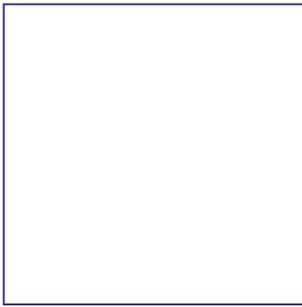
- 26.4 Chapter 21 sets out our view that the opening hours of gambling premises should be determined as a condition of the premises licence. It may be helpful to set out the current position on betting shops. Opening hours were restricted under the 1963 Act, but over the years the restrictions have been relaxed, particularly with the introduction of Sunday racing. However, betting shops cannot open on Good Friday or Christmas Day and opening hours are shorter in winter than in summer, when evening race meetings are held. Under our proposals, opening hours will be a matter for the local authority to determine.

Alcohol and amenities

- 26.5 In chapter 22 we discuss our reasons for not recommending that alcohol should be permitted in betting shops (and for not allowing betting in pubs). There are, however, other restrictions on the facilities that can be offered in betting shops. Any non-alcoholic drinks may be sold, but only pre-packaged food such as sandwiches, biscuits or cakes may be offered. Clearly the ban on anything other than non-alcoholic drinks must stay, but otherwise we see no need to retain these other restrictions. There are also restrictions on the material that may be displayed or broadcast in betting shops. We do not think it is unreasonable that such material is restricted to subjects on which bets may be made. **We recommend that betting shops should be able to offer any food as well as any non-alcoholic drinks.**

Betting on the National Lottery

- 26.6 The National Lottery Act prohibits bookmakers from taking bets on the UK National Lottery. This is the only event, subject to exclusions on grounds of bad taste, on which bookmakers are prevented from taking bets. Bookmakers in Great Britain do offer betting on the Irish National Lottery.
- 26.7 Bookmakers want to be able to offer betting on the UK National Lottery. Such a bet is likely to be attractive to some punters because a winning bet would pay very much more than the National Lottery for a correct prediction of, say, three numbers. It has been suggested to us that people would continue to buy their lottery ticket in addition to betting on the same numbers, because the risk of missing a very big win on the National Lottery would be too great to



bear. We note that the Culture, Media and Sports Select Committee recommended that betting should be allowed on the National Lottery. We recognise that any change could have an impact on National Lottery income, but that should not by itself rule out the possibility.

- 26.8 The National Lottery is outside our remit, but betting is within it. We regard this as a question about the regulation of betting and as such, **we recommend that betting on the UK National Lottery should be permitted.**

Betting tracks other than racecourses and dog tracks

- 26.9 The 1963 Act defines the term “track” very widely as “premises on which races of any description, athletic sports or other sporting events take place”. All such tracks on which there is regular betting (and those who operate them) would need to be licensed as we have described in chapters 19 and 21. Tracks with a “betting track licence” are most usually dog tracks, although this type of licence would also apply to betting at, for example, football and cricket matches.
- 26.10 Under the 1963 Act there is an exemption for tracks at which there is betting on no more than seven days a year. This is intended to allow bookmaking at occasional events, such as gymkhanas, without the need to obtain a track betting licence. In addition to the frequency of the event, a condition is that the police should be given seven days notice that betting will be taking place. An exemption of this kind should be carried over into new legislation, so that occasional betting can take place without the need for an operator to be licensed by the Gambling Commission, or the track to be licensed by the local authority. All the bookmakers operating at the event, of course, would be licensed. **We recommend that bookmaking should continue to be permitted on tracks on not more than seven days in any 12 months without the operator being required to seek a licence from the Gambling Commission or local authority. Seven days notice of the betting should be given to the police.**

Racecourses and greyhound tracks on non-race days

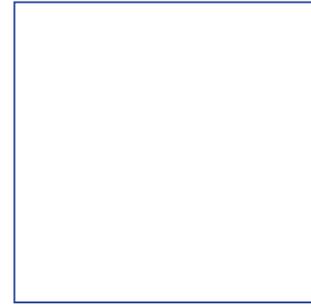
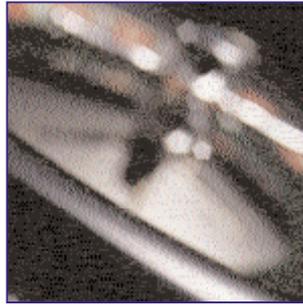
- 26.11 The use of racecourses for betting on non-race days is not currently permitted. The BHB takes the view that racecourses are under-utilised facilities. They would

like to be able to offer betting on non-race days on events other than horseracing, and gaming such as gaming machines. Similarly, the BGRB would like to offer dining and betting at a greyhound track on days when there is no racing at that track.

- 26.12 We understand the wish of racecourse and track operators to make greater use of their resources. However we are reluctant to propose a set of rules to cover this contingency. If the operators of racecourses wished to offer betting, alcohol, gaming and entertainment on non-race days we believe that they should be able to apply for a casino licence for such events, under our proposed licensing rules.

Restrictions on the entry charge racecourses may make to bookmakers

- 26.13 The horseracing industry would like to see the restrictions on the amount they can charge bookmakers for entry to racecourses lifted. The HBLB and the BHB have strongly recommended that section 13 of the 1963 Act, which limits the amount racecourses or dog tracks can charge bookmakers to five times the entry charge for the public, should be repealed. They argue that charges to bookmakers should be dictated by the market and not by legislation. The Rails Bookmakers Association and the National Association of Bookmakers are opposed to such a change. The NAB believes that Racecourses would try to price out bookmakers in order to benefit the Tote. The Rails Bookmakers assert that the five times rule protects the punter, and if it is abolished and bookmakers have to pay more for admission, the cost will have to met by the punter.
- 26.14 The presence and bustle of activity of on-course bookmakers at a racecourse is an integral part of the event, and we do not believe that it would be in the commercial interests of racecourses to price them out of the market. However, we do believe that the “five times” rule is an anachronism, and that racecourses and bookmakers should make their own commercial arrangements. At the same time we recognise the force of the bookmakers’ arguments and we would expect the competition authorities to intervene if racecourse owners acted unfairly. **We therefore recommend that the rules restricting charges for the entry of bookmakers to racecourses or dog tracks should be abolished.**



Ownership of tracks

- 26.15 Chapter 16 sets out our arguments for believing that competition, competition regulation and our proposed regulatory framework provide sufficient punter protection to obviate the need for any recommendations concerning the ownership of racecourses by bookmakers, the BAGS arrangements and the role of SIS. As far as the Starting Price system is concerned, we consider that the recommendations to reform the organisation and management of the starting price returners, made in the Arthur Andersen report¹, combined with our own proposals for the regulation of on-course betting, will provide adequate safeguards for the punter.

The Horserace Totalisator Board and totalisator betting on greyhound racing

- 26.16 A totalisator is a mechanised device for pool betting. It aggregates the total stakes paid into a pool. A predetermined percentage of the pool is deducted to cover the expenses of the operator and his profit. When the result of the race is known, the remainder of the pool is divided equally among the winning punters in proportion to their stakes. Totalisators offer a choice of pools on any one race or combination of races. There are differences between the operation of the totalisator run by the Horserace Totalisator Board (the Tote), which takes off-course as well as on-course stakes, and the totalisators run by licensed greyhound tracks (which take only on-course stakes.)

The Horserace Totalisator Board (Tote)

- 26.17 No pool betting at horse racecourses may take place unless it is authorised or conducted by the Tote. The Tote also has a monopoly on the conduct of off-course pool betting on British horseracing. It acquired the power to extend its pool betting activities to events other than horseraces in 1972, and to engage in bookmaking on any sporting event². Tote profits are devoted to the improvement of racing. The Home Secretary has announced that the Tote will be sold to a consortium of racing interests. This will coincide with the disbanding of the Horserace Betting Levy Board and the abolition of the statutory betting levy on horseracing. We understand that it is intended that the Tote should retain its monopoly position for a limited time after the sale, although the bookmakers have indicated that they might mount a challenge under competition law.

Totalisator betting on greyhound racing

- 26.18 The situation with regard to greyhound totalisators is rather different. Under the Betting, Gaming and Lotteries Act 1963, no pool betting on dogs may take

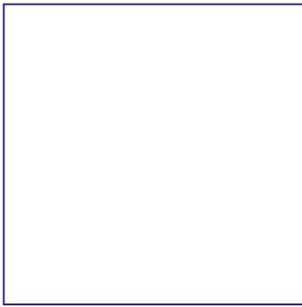
place except by way of on-course totalisator betting on a licensed dog track. Only the operators of licensed tracks (licensed by local authorities) may operate their own tote, or authorise someone else to operate it. The operation of on-course totalisators is governed by the Dog Racecourse Totalisator Regulations, which lay down a number of requirements including the display of information, the running of the totalisator and the statement and audit of accounts. There is no statutory betting levy on greyhound betting, although there is a voluntary levy.

- 26.19 The British Greyhound Racing Board recommended that the greyhound totalisator should have parity with the horserace totalisator and be permitted to accept off-track wagers. Section 16 of the 1963 Act restricts betting on greyhound totalisators to punters at the track while racing is taking place, or to punters at another track where there is racing going on at the same time (under the inter-track betting scheme). In chapter 16 we commented on the rather unsatisfactory arrangements for off-course and on-course fixed odds betting at greyhound racetracks where starting prices can be set by a very thin market. Off-course access to the tote would introduce a welcome element of competition and we believe this development should be encouraged. **We recommend that there should be off-course access to greyhound totalisators.**

Bookmakers rules

- 26.20 One of the major complaints of punters is that bookmakers make their own arbitrary rules, which are not clearly displayed, and are only pointed out to a punter when he goes to claim winnings – which may then not be paid or not paid in full. Certainly, during our visits to betting shops, we have seen bookmakers' rules displayed in such a way that they are not prominent or in print so small that they are difficult to read. The Independent Betting Arbitration Service (IBAS) gave the example of a punter who might bet £10 on a six horse accumulator at big odds, who could reach the shop's limit after the first four of his selections had won. Whatever happened to the final two selections his winnings could not increase, but if one of the two were beaten, his whole bet would be lost. IBAS have proposed that shops should be obliged to list their maximum payouts along with their rules. In the longer term, IBAS propose to produce model rules, adherence to which, they suggest, could be a statutory requirement.

- 26.21 We have heard from bookmakers that there are punters who engage in scams such as deliberately writing ambiguously on a betting slip so that they may claim a win on any one of several runners. It is reasonable that bookmakers should protect



themselves against dishonest activity by punters and against collusion between their staff and punters. We have noted that off-course betting shops do not produce computer generated printouts for the punter immediately the bet is laid, in the same way that many on-course bookmakers do. We understand the difficulty of doing that, given the complexity of the bets and the number of sporting events involved. The bet at a racetrack is usually a much more straightforward affair. However, a printout would ensure that there is no difference in perception between the bookmaker and the punter about the bet being laid and accepted. Such clarity could prevent a number of current disputes. We understand from IBAS that the use of technology in betting shops is being developed to produce a bet capture system, based on the Electronic Point of Sale (EPOS) process. That would certainly remove much of the basis of the disputes that currently occur. **We recommend that bookmakers' rules, and specifically the rules relating to the completion of betting slips should be clearly displayed. The Gambling Commission should have the power to scrutinise bookmakers' terms and conditions to ensure that they are fair and reasonable.**

Enforceability of gambling debts

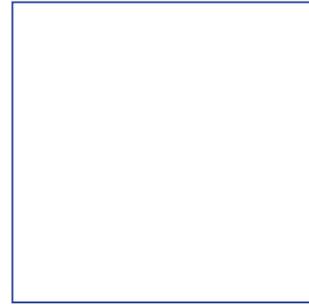
- 26.22 The Gaming Act 1845 (section 18) made contracts or agreements by way of gaming or wagering void and unenforceable, whilst making other betting transactions binding legal agreements. There are anomalies as a result of this legislation. For example, whereas betting debts are not generally enforceable, spread-betting debts are enforceable, and casinos can sue for payment of a cheque (but not on a contract).
- 26.23 We heard from the former officers of the, now defunct, National Association for the Protection of Punters and a number of punters who all stressed that betting transactions should be enforceable. Professor David Miers suggested that making debts enforceable would underline the responsibility of the individual and the importance of player protection.³
- 26.24 Some bookmakers, on the other hand, told us that the lack of enforceability worked more often to the punters' advantage, because they were not pursued through the courts for debts owed to the bookmaker as a result of gambling on credit; and because more money is owed to bookmakers by punters than by bookmakers to punters. They suggested that if debts were enforceable, bookmakers could be tempted to allow customers to run up big debts in the knowledge that they could sue for payment. We consider that if bookmakers were inclined to do that, the remedy could better lie in curtailing their ability to offer credit. We have not suggested that need be done, because we

do not think there is a real risk, in a regulated market, of bookmakers enticing customers to take more credit than they can afford.

- 26.25 We agree that the lack of enforceability of betting debts is an anachronism and should be remedied. **We recommend that all gambling debts should be legally enforceable.**
- 26.26 A further possible source of unfairness to the punter is what is known as the "palpable error rule." Bookmakers refuse to pay out winnings in cases where an employee has made an error during a betting transaction. An example would be where the employee has failed to photograph the betting slip. We fully understand that bookmakers wish to protect themselves from criminal collusion between punters and betting shop employees, but we do not believe that bookmakers should be able to protect themselves in this way from negligence by their employees. As a result of our recommendation that gambling debts should be legally enforceable, we assume that gambling contracts will be deemed to be consumer contracts, in the same way that other commercial transactions are.

Dispute resolution

- 26.27 The Independent Betting Arbitration Service (IBAS) currently deals with disputes concerning off-course betting and internet betting. IBAS told us that around 90% of the disputes it has dealt with were resolved in the bookies' favour. It believes this to be so because IBAS has had to rule on disputes according to the bookmakers' own trading rules, and bookmakers knew their own rules infinitely better than the customers. Many customers did not realise that they were tacitly agreeing to the bookmaker's own trading rules when they placed a bet in a betting office. IBAS considered that most disputes were due to a lack of information.
- 26.28 IBAS suggested that it should be compulsory for bookmakers to be members of an arbitration body, such as IBAS. The NJPC also said that punters should be confident that bookmakers would play by the rules and would comply with the findings of an independent body to resolve disputes. On-course betting disputes are currently resolved by the betting ring manager appointed by the NJPC. Resolution of these is assisted by the use of technology through the issue by the bookmaker of computerised betting slips at the time the bet is made, and by an audio recording of the transaction.
- 26.29 We do not think that there should be a statutory scheme for the arbitration of betting, or any other gambling disputes. That should be a matter for the industry. We recognise the good work that IBAS has carried out and we hope that the industry will



continue to support it, or a similar body. Our recommendation that betting debts should be enforceable should help to focus minds on the importance of resolving disputes without resort to the courts.

Corruption

26.30 Submissions received from the Jockey Club, the Metropolitan Police and the National Criminal Intelligence Service (NCIS) expressed concerns that bookmaking is an unregulated sector and offers money laundering opportunities. All three organisations, along with the Horserace Betting Levy Board, were concerned that there is considerable difficulty in identifying appropriate charges for those accused of corrupt activity such as doping, and recommended that there should be new, more substantive criminal offences relating to criminal offences in sport.

26.31 As we have discussed in chapter 16, the question of corruption in sport arising from collusion between bookmakers or punters and sporting participants is not limited to the sporting organisations which have given evidence to us. Concerns about relationships between bookmakers and sporting participants have recently had a high profile in cricket. Lord Condon heads the team appointed by the International Cricket Council to carry out an inquiry into corruption in cricket. He is investigating malpractice in England, but also co-ordinating investigations in other countries, and he told us that because of the opportunities to bet not only upon the final outcome of a sporting event, but upon individual events within it, there are increased temptations for participants to fix the outcome of those events. Fixing "an event within an event" is much easier than fixing the overall result, which it need not affect. This can be done alone or with the collusion of only one or two other participants. We note that Lord Condon's interim report, published in May 2001 said that "*there are indications that some players and other are still acting dishonestly and to the order of bookies*".

Criminal Offences

26.32 The general criminal law of corruption is contained in the Prevention of Corruption Acts 1889-1916, which cover both the public and the private sectors. The Home Office is committed to proposals for legislation which will reform the law and will contain a statutory definition of what is meant by "acting corruptly". The proposals were set out in the White Paper issued by the Home Office last year "Raising Standards and Upholding Integrity: The Prevention of corruption", which built on recommendations from the Law Commission of England and Wales.

26.33 The Jockey Club⁴ recommended that more specific criminal offences be introduced directly related to criminal behaviour in sport and related betting, for example:

- the doping of a racehorse or greyhound
- bribery of sports participants or officials
- corruption in connection with horseracing and other sports events, or in connection with betting on horseracing or other sports events.

The Jockey Club also recommends the establishment of a dedicated Police unit to cover gambling matters and corruption in sport.

Insider Trading

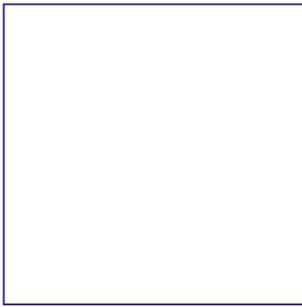
26.34 There is a grey area which has presented us with difficulties. In relation to most sporting events punters can seek to gain an advantage through obtaining and analysing information. But fairness should mean that all information is potentially available to all punters, should they wish to obtain it. If punters wish to bet by sticking a pin into the list of runners or because they like the horse's name that is up to them but those who rely on information should be confident that information is accurate and available to all. That does not appear to be the case in a number of sports, most notably horse racing. We have considered whether it is possible to apply the rules relating to insider trading in financial assets and we sought advice from the Financial Services Authority (FSA).

26.35 The FSA pointed out that insider dealing is a criminal offence under the Criminal Justice Act 1993. That legislation applies only to securities. The Financial Services and Markets Act 2000 will give the FSA the power to introduce a new Code of Market Conduct which will inter alia deal with the misuse of information (that is, information which the market would expect to be made available to it), the creation of false and misleading impressions, and distortion.

26.36 The FSA considered the case where jockeys/trainers are passing on information to bookmakers that is relevant when assessing odds and the bookmakers are factoring this information into their odds, or where jockeys/trainers are placing bets themselves. They consider whether this could be analogous to insider trading, with odds being equivalent to the price of an asset. Insider dealing legislation indicates that there should be restrictions imposed where the information in question:

- has not been made public; and
- is specific and precise.

⁴Jockey Club (2000)



The restrictions that by analogy would be imposed would include not using the information (ie. trainers not putting on bets themselves), not disclosing the information and not encouraging others to use the information. The Jockey Club raised a number of concerns with us concerning relations between jockey and trainers on the one hand and punters and bookies on the other. Under Jockey Club rules, jockeys are not allowed to place bets but they can pass on information which can prove profitable to punters or bookies.

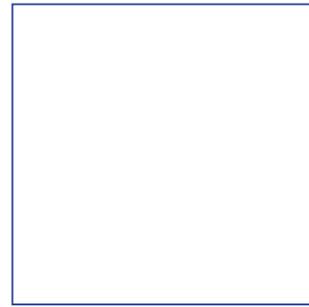
- 26.37** The FSA pointed out that debts relating to financial transactions are enforceable whereas gambling debts are not, hence the greater need to avoid insider trading in the former case. Our proposal to make gambling debts enforceable removes that difference. The FSA also questioned whether, in practice, betting on a sporting event at particular odds is analogous to dealing in a specific security. They comment that the insider dealer relies, in essence, on trading at a false price, to his advantage, ahead of his private information becoming public and moving the price. They suggest that, by contrast, the only information that would provide such a direct result for betting is that of match fixing, which would involve orchestration. We accept the argument but still believe that a similar principle can apply. The insider dealer, even when acting illegally, cannot be sure of making a profit, since his inside information might be offset by other news which moves the asset's price in the opposite direction. If we assume that our concern here is not with event fixing (which should clearly be prohibited and penalised) but with unfair access to information, the person who has or uses the information is dealing with probabilities and odds. He can make or lay bets at odds which do not reflect the probabilities. The outcome may not be certain; but repeated use of inside information would be profitable. Others (who may be bookmakers or other punters) would be cheated.

- 26.38** It could be argued that punters know this and are either resigned to the losses or hope that every now and then they will have inside information. But we believe that more rigorous steps should be taken to ensure fairness. (It is worth recalling that insider trading used to be prevalent in securities markets and is no longer tolerated.) We have some sympathy with the comment in the KPMG report for BISL⁵:

What is required is legislation that makes illegal the acquisition and use of privileged information by bookmakers and their staff. There has to be an impermeable membrane separating flows of privileged knowledge between those who take bets on and those who participate in the underlying activity on which betting takes place.

- 26.38** We consider that measures to improve the conduct of sportsmen, sporting officials or of punters are outside our remit. We do not think it should be the role of the Gambling Commission to monitor the behaviour of sportsmen. We can, however, propose measures to tackle the issue of the integrity of those who take the bets from punters. If, for example, the Jockey Club were to ban jockeys from making bets and a bookmaker knowingly accepted a bet from a jockey, we consider that the Jockey Club should deal with the jockey and the Gambling Commission should take action against the bookmaker. In our view, that would be the right division of responsibility.

- 26.39** We are not recommending that new criminal offences should be created for two reasons. Although we are not unsympathetic to the case that has been put to us, for example that there should be a specific offence of doping a horse, we do not consider that it is properly within our remit to make recommendations relating to such an issue. We have had to concern ourselves with matters that are more directly linked to the actual activity of gambling, although our proposals for the licensing of bookmakers would mean that swift action could be taken against any licensed person who became involved in attempting to influence the outcome of a race in such a way. Secondly, we consider that sports bodies could do more to regulate the participants in their sports, and they should not always look to the criminal law to enforce their regulations. We agree that the law on corruption could be clearer and suggest that the Home Office should consider whether the law could be clarified to meet the concerns we have heard. But overall, we consider that more could be done within the current framework to ensure that betting is fairly conducted. **We recommend that the Gambling Commission should work closely with the Jockey Club, and others, to ensure that betting is conducted in a fair manner and that there is not unfair access to information.** Areas they may wish jointly to consider might include whether the ban on betting should be extended to more people (for example, trainers).



chapter twenty seven

Spread Betting

27.1 As set out in chapter 9, the Financial Services Act 1986 and rules made under it govern spread betting. The Financial Services and Markets Act 2000 will govern the regulation of spread betting once it is fully in effect.¹

27.2 We received only two submissions primarily about spread betting – from the Financial Services Authority and from IG Index, currently the largest spread betting firm in the UK. Neither suggested that there should be changes to the regulation of spread betting. The key issue for us was whether the Gambling Commission should take over the regulation of spread betting from the FSA.

27.3 The FSA's main aims are to:

- maintain confidence in the UK financial system
- promote public understanding of the financial system
- secure an appropriate degree of protection for consumers and
- contribute to reducing financial crime.

These are not dissimilar from the reasons for regulating gambling of preventing crime and ensuring fairness to the punter.

27.4 There are three options for the future regulation of spread betting:

- transfer responsibility to the Gambling Commission
- split the different types of spread betting between different regulators
- leave responsibility with the FSA .

27.5 We considered whether the regulation of spread betting should transfer to the Gambling Commission for the sake of consistency, as it is undoubtedly a form of gambling. However, it is a specialised form of gambling because of the financially speculative nature of many of the transactions. It is clear that the FSA has

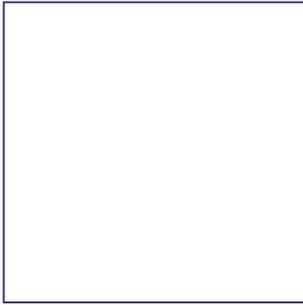
the appropriate expertise to regulate spread betting. The Gambling Commission would have no difficulty in testing the probity of operators, but it would take a little time to acquire the expertise and skills to understand the specialised financial markets in which spread betting is conducted. That is not to say that the people with those skills could not be transferred from the FSA to the Gambling Commission, at least in a transitional period. It is clear that the Gambling Commission could do this job if required to do so.

27.6 An alternative would be to split the regulation of spread betting between the FSA, which would regulate financial spread bets, and the Gambling Commission, which would regulate other spread bets. However, we think that this would be messy, and however closely the two bodies worked there would be inconsistencies between them. We are not attracted to this option.

27.7 The third option is to leave regulation of spread betting with the FSA. We have received no evidence to suggest that the current regulatory framework is unsatisfactory. Spread betting originated as an alternative method of speculating on financial instruments and a significant amount of spread betting continues to be financial betting.

27.8 There are no strong arguments which would favour regulation by the Gambling Commission over regulation by the FSA. In time we think that it would be neater for all spread betting to be dealt with by the Gambling Commission, in line with other betting. Indeed, several of the spread betting firms are already licensed bookmakers. But any transfer of responsibilities should certainly wait until the Commission is well established. In any case, we expect that the two regulators will want to work fairly closely together on matters of mutual interest and to that end we have recommended, in chapter 33, that there should be formal gateways between them.

We recommend that spread betting continues to be regulated by the Financial Services Authority, at least until the Gambling Commission is well-established when the issue should be reviewed.



chapter twenty eight

Lotteries

- 28.1 As described in chapter 4, the Lotteries and Amusements Act 1976 states that all lotteries which do not constitute gaming are illegal, subject to a limited number of exceptions. Lotteries are not defined by the Act. The exceptions largely relate either to private lotteries or to charities for good causes. The Act also prohibits certain types of competitions.
- 28.2 We understand why the legislation is drafted in this way, but it does mean that a great deal of time and ingenuity is devoted to inventing competitions which are not defined as lotteries and which escape the prohibitions on competitions. (For example by demonstrating that success depends to a substantial degree on the exercise of skill.) We have considered the purpose of these prohibitions. We believe they go beyond our standard three principles of regulation and are intended primarily to preserve lotteries for the exclusive purpose of good causes. We recognise that is enshrined as a matter of public policy and do not propose changing it. However, we believe that the preservation of that objective is consistent with some simplification and relaxation of the present regulations and our recommendations have been made accordingly.

Definition of a lottery

- 28.3 There is no statutory definition of a lottery. The following criteria were set out by Lord Widgery:¹
- A lottery is the distribution of prizes by chance where the persons taking part, or a substantial number of them, make a payment or consideration in return for obtaining their chance of a prize.*
- 28.4 There is currently no appetite to prosecute those who run, what seem to be, lotteries masquerading as prize competitions. The operators who are currently regulated under the 1976 Act have made it clear to us how unsatisfactory this situation is.
- 28.5 We believe that in the minds of most people, lotteries are associated with charities and good causes. We accept that some prize competitions may be lotteries within the terms of the criteria set out above, but we do not believe that the customer makes a connection between the two. The argument that a customer would make a choice between buying a charity lottery ticket and entering a free draw or ringing a premium phone line is not one we find persuasive.
- 28.6 We are told by ICSTIS (Independent Committee for the Supervision of Standards of Telephone Information Services) and others that prize competitions are very

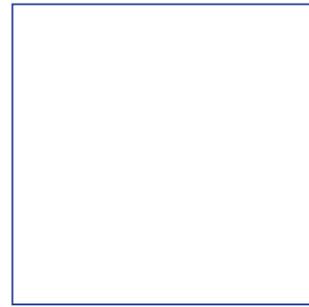
popular with the general public. Where a competition is plainly an illegal lottery, ICSTIS will take action on the basis that the service is in breach of their requirement that services must comply with the law. In the greater number of cases where the nature of the service is less clear-cut, ICSTIS refer complainants to enforcement agencies such as the police, Gaming Board or Trading Standards.

- 28.7 We think that the argument of what is or is not a lottery is a sterile one. We do not believe that there is a case for banning prize competitions, but there must be some acknowledgement that they are different from lotteries. A statutory definition of a lottery would clearly be helpful, which would distinguish between "lotteries" and prize competitions or prize draws. We consider that, of these categories, only lotteries should be the concern of the gambling regulator.

Small lotteries incidental to an exempt entertainment

- 28.8 We received no submissions relating to small lotteries and, because of their nature, we have little solid information about them. Anecdotal evidence suggests that they are very common, popular with the public who participate and an essential fundraiser for many organisations. We see no reason to recommend substantial changes to the existing legislation. We recommend that small lotteries should continue to operate as they do now. If there were any complaints about the way in which a particular lottery had been operated, the Gambling Commission or the police could investigate a potential breach of the gambling legislation.
- 28.9 The limit on expenditure on prizes for small lotteries is currently £250, although prizes above that level can be donated. As we discuss elsewhere, we do not think that specific figures should be included in primary legislation: the Gambling Commission should advise on the limit for prizes, and it should be contained in regulations that can easily be amended. That is not to say that the current limit is wrong. These are one-off unregulated events and we suggest that it would be wise to maintain a relatively low ceiling on expenditure on prizes to guard against abuse.
- 28.10 One provision which we do believe is now out-dated is the ban on money prizes contained in section 3(3)(b) of the 1976 Act. Given the low prize limits and the limited scope for abuse, we consider that this is an unnecessary restriction. **We recommend that the**

¹Lord Widgery CJ, Readers Digest Association Ltd v Williams, 1976, 1 WLR 1109 at 1113



ban on money prizes for small lotteries should be removed.

Private lotteries

- 28.11 As with small lotteries, we have very little information about private lotteries because they are not regulated. Private lotteries are confined to society members, or to people living or working on the same premises. There are no limits on stakes or prizes, but there are restrictions on advertising. The lack of control on stakes and prizes makes the restrictions that do exist all the more important. There would clearly be scope for abuse by unscrupulous operators of such lotteries, although no examples of this have been brought to our attention. We do not know how many private lotteries are operating, but our own experience of such activities leads us to believe that there is a great number.
- 28.12 We do not think that the potential for mischief is great enough for us to recommend that private lotteries should be regulated by the Gambling Commission, but as with small lotteries, if there are complaints the regulator should certainly have the ability to investigate them. **We recommend that legislation should make it clear that private lotteries should not be run for private or commercial gain.**
- 28.13 In its evidence to us, Littlewoods² suggested that there should be two changes to the provisions in the 1976 Act.
- First, societies may currently advertise a private lottery only within their premises. Littlewoods suggested that that this restriction should be lifted, subject to advertising guidelines and regulations. One objective of this restriction is to distinguish private lotteries, which are unregulated and intended to target specific groups, from societies' public lotteries, which are regulated and can be sold more widely. In the unregulated environment of private lotteries we believe that this is a reasonable restriction. Advertising opportunities should be curtailed to ensure that a wider audience is not targeted in competition with societies' public lotteries.
 - Second, Littlewoods suggested that private lotteries should not be confined to a single club. Section 4(2) of the 1976 Act requires that each local or affiliated branch of a society is treated as a separate society. Littlewoods pointed out that removal of this restriction would, for example, allow the British Legion to link lotteries in their clubs. Again this seems to impinge on societies' public lotteries (which, of course, the British Legion could and do run) and we believe that it would be

undesirable to allow such unrestrained growth in an unregulated system.

- 28.14 We recommend that the current restrictions on private lotteries should remain.

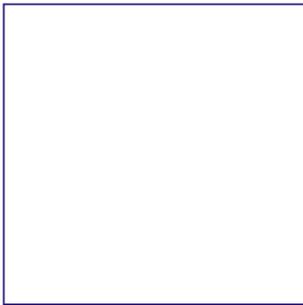
Societies' lotteries

- 28.15 Societies' lotteries are public lotteries which are (S.5, 1976 Act):
- promoted on behalf of a society which is established and conducted wholly or mainly for one or more of the following purposes, that is to say*
- (a) *charitable purposes;*
- (b) *participation in or support of athletic sports or games or cultural activities;*
- (c) *purposes which are not described in paragraph (a) or (b) above, but are neither purposes of private gain nor purposes of any commercial undertaking.*

- 28.16 We have noted earlier that lotteries are generally conducted only on behalf of good causes and not-for-profit organisations. We recognise that, in strict terms, this may not be compatible with sub-section (b) of section 5 set out above. Football, cricket and other sporting clubs, which are plainly commercial organisations, currently run societies' lotteries. We are uncomfortable with this and if we were starting with a fresh sheet, there is no doubt that we would want to define "good causes" more narrowly than section 5 of the 1976 Act. But, as in other areas we have considered, we are not starting from that happy position. We have to acknowledge that many smaller clubs may have come to rely on income from their lotteries, and we imagine that Parliament would find it difficult to justify closing off that avenue of income. Perhaps what is more important here is that the supporters who subscribe to such lotteries should be clear what the proceeds are used for. In the light of these considerations, **we recommend that "good causes" should be interpreted so as not to exclude the purposes currently set out in the 1976 Act.**

Local Authority Lotteries

- 28.17 The number of local authority lotteries has declined over the years. At 31 March 2000 there were only two local authority schemes registered with the Gaming Board and in the previous year only four lotteries were run under such registration. This may be due to a lack of interest on the part of local authorities, may be part of the ebb and flow of the fortunes of lotteries, or it may be that there is simply too much competition.



The Lotteries Council has suggested to us that the limit on expenses has driven local authorities out of the market.

- 28.18** We note that the Rothschild Commission³ was not keen on local authority lotteries:

None of us are enthusiastic about them and it would appear from the report of the public opinion survey we commissioned that the public has little real enthusiasm for them either. The fact that up till now some local authority lotteries have been successful has little relevance. In the main they have simply benefited from the new public interest in lotteries.

- 28.19** It may be that the lack of public enthusiasm the Rothchild Commission detected in 1978 is what lies behind the steady decline of local lotteries in the last few years. We have received no evidence relating to local authorities, and we wonder whether there could be a resurgence in their popularity, particularly if the market becomes even more competitive. Given the attractions of the National Lottery, we do have doubts that the fortunes of local authority lotteries will be revived. However, we recognise that those that do survive are for good causes (as broadly defined) and the only good reason for recommending their cessation would be administrative and legislative convenience. **We recommend that legislation should provide for the continuation of local authority lotteries, which should be registered with the Gambling Commission.**

External Lottery Managers

- 28.20** There are currently seven External Lottery Managers (ELMs) registered with the Gaming Board. ELMs are employed by societies and local authorities to run their lotteries and such persons have only been licensed since 1994. We have no evidence to suggest that there are any regulatory problems arising from the functions they carry out on behalf of charities. We would only make the point that, given the scope for the commercial exploitation of charities by individuals offering a service of this kind, it is important that their activities should continue to be carefully regulated. This comment is not intended to reflect on the integrity of those currently operating in this field, but simply to highlight the potential that there may be for abuse. **We recommend that legislation should continue to provide for the regulation of External Lottery Managers by the Gambling Commission.**

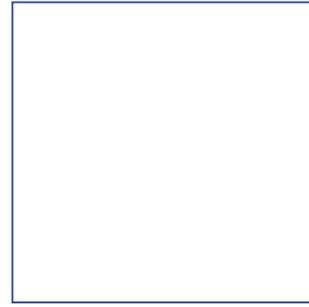
General issues

Age

- 28.21** We have discussed elsewhere our view of what should be the minimum age for gambling. It has been put to us by the Lotteries Council that the minimum age both for buying and selling lottery tickets should remain at 16. The majority of those who have commented on age limits take a different view that the minimum age for all gambling should be 18. That is also the line that Camelot has taken in its evidence to us. We are sympathetic to that view, but overriding that is our concern that charity lotteries should not be treated differently in this respect from the National Lottery. As set out in chapter 22, our recommendation is that the minimum age for buying and selling lottery tickets should be 18, but the age should only be increased if the change applies equally to the National Lottery.

Regulation

- 28.22** Under the 1976 Act, a society operating a lottery must be registered with a local authority or with the Gaming Board. As we discuss in chapter 19, we are recommending that there should be a fit and proper test for all gambling operators that is consistently applied. In pursuit of that, **we recommend that all societies wishing to promote societies' lotteries should register with the Gambling Commission, whatever the size of the proposed lottery.**
- 28.23** This recommendation may result in a large influx of work in the first year, though it is difficult to assess what the numbers might be. Our enquiries suggest that local authorities generally do not maintain any statistics about the societies they have registered. Moreover, whereas societies that register with the Gaming Board currently pay a fee on registration and a renewal fee every three years, societies registered with local authorities pay a fee each January to maintain their registration. So that the Gambling Commission is not overwhelmed with applications in the first year, some administrative action to extend registrations while applications are being processed may be necessary.
- 28.24** We do not believe that the primary legislation should be prescriptive about the conditions that the Gambling Commission must apply to every lottery or society. The regulator may, for example, conclude that returns do not have to be submitted for lotteries involving ticket sales up to a specific level, but they may be subject to random checks. What is more important is that the integrity of those operating lotteries is properly tested and that the Gambling Commission has the ability to investigate and take action in relation to any complaints, for example, of misappropriation.



Stakes, prizes and expenses

- 28.25 The price for a society lottery ticket must not exceed £1, and there is a limit on proceeds of £1 million for a single lottery or £5 million for all lotteries run by a society in a calendar year.
- 28.26 The limit on prizes is £25,000 for a single prize, or 10% of the proceeds whichever is higher. Not more than 55% of proceeds may be used for prizes. No more than 35% of proceeds may be used for expenses. The combined prizes and expenses limit is 80% of lottery proceeds, leaving at least 20% for the good cause.
- 28.27 Both Littlewoods and the Lotteries Council have told us that the 35% limit on expenses makes it very difficult for lottery operators to cope with their rising expenses. They have suggested that the overriding principle should be that no less than 20% of proceeds of the lottery should go to the beneficiary. The Gaming Board has no objection to this.
- 28.28 We have recommended that all lottery operators should be subject to a fit and proper test. In the light of that we have considered whether there would be any scope for abuse if we were to adopt an overriding principle that 20% of proceeds should go to the good cause, but otherwise abandon the existing limits. In its oral evidence to us, the Lotteries Council made the point that in charity lotteries the level of the prize is often unimportant: the player regards the stake as a donation and the prospect of winning is not a material consideration in the decision to buy a chance. That may suggest that there would be room for unscrupulous operators to maximise expenses and reduce prize levels without damaging the customer base. Provided that there is a requirement for expenses to be reasonable, and that the Gambling Commission can check this is so, we consider that this is not a serious danger. There are clear benefits to the operator of giving more flexibility in how proceeds are divided between expenses and prizes; and no detrimental effect on the proceeds to good causes.
We recommend that the limits on expenses and prizes as a percentage of proceeds should be removed, subject to an overriding requirement that no less than 20% of proceeds must go to the good cause.
- 28.29 In addition to this overriding principle, the Lotteries Council has asked for an increase in the maximum proceeds of a single lottery to £2m; and an increase in the value of the maximum single prize to £200,000. However, it suggested that the annual maximum of £5m for all lotteries promoted by a society should be retained, but index-linked. Littlewoods, on the other hand, suggested that the market should determine the level of (stakes and) prizes. The Gaming Board has

taken the view that limits on prizes are not necessary for societies' lotteries. We agree. **We recommend that the limits on the size of prizes and the maximum annual proceeds should be removed for societies' lotteries.**

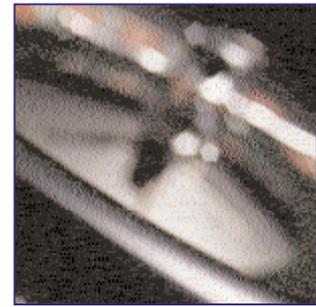
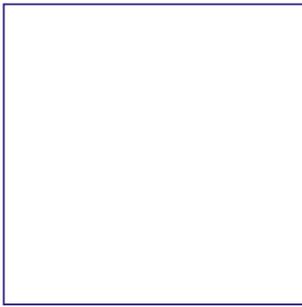
- 28.30 The price of individual chances must currently be no more than £1. The Woodland Trust⁴ made the point to us that many people are happy to spend £5 on a book of tickets and it would reduce costs if the value of each ticket could be up to £5. The Lotteries Council suggested that an increase to a maximum of £2 per chance would be appropriate.
- 28.31 We consider that what the market may stand would be better judged by each lottery operator. Those customers who regard buying a lottery ticket as a donation to charity may be happy to pay £10 for a ticket. Others may be more attracted by a book of 10 chances for the same price. Smaller lotteries might want to offer more modestly priced tickets and prizes. The important principle should be that the price of each chance in the same lottery should be the same.
We recommend that restrictions on the size of the stake in societies' lotteries should be removed, subject to the overriding principle that the price of every chance in the same lottery should be the same.

Rollovers

- 28.32 Both Littlewoods and the Lotteries Council ask for rollovers. Subject to the minimum of 20% of the proceeds of each lottery going to good causes, there seems little reason to object. **We recommend that rollovers should be permitted for societies' lotteries.** We note that this recommendation (and one on relaxing limits on stakes and prizes) was also made by the Culture, Media and Sport Committee of the House of Commons in March 2001⁵.

Geographical restrictions

- 28.33 Under section 2 of the 1976 Act, societies' lotteries are restricted to Great Britain, and lotteries registered or licensed in other countries may not be promoted in Great Britain. We are aware that other countries protect their lottery market in much the same way. For example, where national lotteries can be entered on the internet, there are usually controls to ensure that only residents/nationals can purchase tickets to ensure that the sales are limited to that territory and to appease neighbouring countries who want to protect their own market.
- 28.34 However, restricting sales to Great Britain prevents the promotion of societies' lotteries in Northern Ireland, the Channel Islands and the Isle of Man. That



restriction seems odd, particularly in relation to societies that may operate across the United Kingdom. Subject to the views of those territories, we consider that it would be right to remove the provisions restricting sales and promotion only to Great Britain. We note that the National Lottery operates across the United Kingdom – most recently extending to the Isle of Man in December 1999 – but that sales outside the UK are not permitted (with some exceptions for British Forces).

We recommend that societies' lotteries should be able to promote and sell chances throughout the same territory as the National Lottery.

- 28.35 The proceeds of such lotteries are used in the United Kingdom, although the focus of the charities that benefit may be in other parts of the world. We have noted that, as a matter of public policy, the UK takes steps to protect its lottery market and the same is true of other countries. This has the added benefit of making lotteries more easily regulated. We want to ensure that the UK lottery market is regulated and regulatable. **We recommend that societies' lotteries should not be promoted or sold outside the United Kingdom (with the exception of British Forces) and, that the law should continue to prohibit the promotion of overseas lotteries here.**

Sale of lottery tickets by machine and frequency of draws

- 28.36 The 1976 Act prevents the sale by machine of chances for societies' lotteries. There is no such restriction on private lotteries. Both the Lotteries Council and Littlewoods argue that terminals may be an ideal medium for dispensing lottery chances. On the face of it, this seems to be a reasonable request: the Act simply pre-dates the technology. But the decision is more complex than that. It is complicated by issues relating to the frequency of draws, the type of machine used and the location of machines. The consequences of vending by machine and of on-line lotteries can be looked at separately, but it is clear that their potential use also binds them together.
- 28.37 There are currently no limits on the number or frequency of lotteries that may be held. That was exposed by the activities of Pronto, which we discuss briefly below.

Pronto

- 28.38 Interlotto, an External Lottery Manager, started to run Pronto in 1997-98. It was a fast-draw on-line lottery designed to run in pubs. Each participating pub had a terminal, and there were draws every few minutes for

which customers could buy tickets from the bar staff. Customers could choose the numbers or have a 'lucky dip'. The amount they could win - up to £25,000 - depended on how many numbers they chose and how many came up in the draw. The results of each draw appeared on a large screen in the pub, and the pub paid out the smaller prizes over the bar.

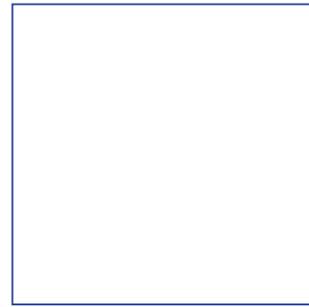
- 28.39 Pronto signed up several charities as beneficiaries. About 50% of receipts were paid in prizes and some 30% related to expenses, including payments to the pubs. The remaining 20% (of a potential £5m in annual ticket sales) went to charity.
- 28.40 The Government objected to the scheme. They recognised that on-line lottery draws of this kind presented several hard gambling features. There were rapid draws and opportunities for repeat play every few minutes, no limit on entries, a continuous sequence of draws throughout the day, and there were immediate payouts.
- 28.41 The Home Office published a consultation document in January 1998 on a draft Lotteries (Frequent Draws) Bill, to "prevent repetitive, frequent on-line lottery games". The Bill would have limited the frequency of on-line draws in societies and local authority lotteries to one a day in particular premises. Ministers announced in July 1998 that they would go ahead with the Bill at an early legislative opportunity. Pronto collapsed soon afterwards and the Bill was not taken forward.

Frequency

- 28.42 We share the concerns expressed by the Home Office in its consultation paper about the problems that rapid draws could create. Our reservations may be increased if lotteries remain available to 16 and 17 year-olds, for whom the attraction of repetitive play may be more crucial. We do not believe that permitting only one on-line draw a day would have an adverse impact on the established lottery market. We do accept that it would impede the growth of the on-line market, but gradual change of this kind is in keeping with our general wish to proceed carefully.
- 28.43 We acknowledge that a daily draw would be more frequent than the National Lottery, but these are draws restricted to particular premises and we do not anticipate that they will achieve a similar scale. **We recommend that the frequency of on-line draws should be restricted to one a day in any particular premises.**

Location of on-line terminals

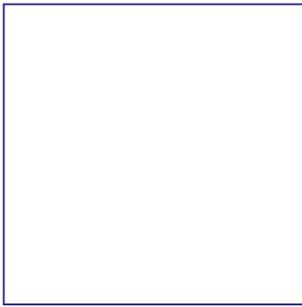
- 28.44 We have set out elsewhere our view that, in general, gambling should be restricted to premises where



gambling is the principle purpose. We recognise that societies' lotteries are an exception to this, because of the wide variety of places where tickets are already sold. We have said that we do not favour extending the gambling opportunities available in pubs and we have to acknowledge that lottery chances are already lawfully sold there. The Home Office consultation paper noted that this practice does not give rise to concern and, therefore, it ruled out making a regulation banning the sale of society and lottery tickets in premises selling alcohol. The Home Office also expressed concern at the prospect of on-line lottery draws operating in places such as airport lounges, railway stations, shops and cafes. The Home Office concluded that the balance lay in permitting on-line draws in any premises, but restricting their frequency to prevent players gambling excessively and chasing losses. **In the light of the proposed controls on the frequency of draws, we agree that it is not necessary to restrict the premises in which on-line terminals for the sale of individual chances may be provided.**

Vending chances by machine

- 28.45** There is no restriction on the sale of private lottery tickets by machine. We understand that such machines do currently exist in some private clubs. It is clear that the 1976 Act did not envisage the use of machines, since the expenses of private lotteries can relate only to printing and stationery. Where machines of this kind are being used, to remain within the law the club will have had to buy or rent the machine from club profits and provide it free for the sale of lottery tickets. The lesson here is that if something is undesirable, the law must rule it out unequivocally.
- 28.46** Societies' lotteries chances cannot be sold by machine: there must be human intervention. What would be permitted under the current law would be for a player to buy a smartcard (which holds data on whether it is a winner) from, say, the bar in a pub and to play it on a machine which would disclose whether it was a winner. The machine would have the appearance of a gaming machine, but because the element of chance is provided elsewhere than the machine on which the person is playing, that machine is not caught by Part III of the 1968 Act.
- 28.47** Permitting vending by machine could mean that machines of the kind described above (without the smartcard) could proliferate in pubs and other venues. These "automated lotteries" have more to do with gaming machines than they do with lotteries, and they would have the same attraction as gaming machines. Elsewhere we have set out our proposals to ensure that gambling opportunities are restricted in pubs and other non-gambling specific venues, and we are keen
- to ensure that there are not loopholes that would quickly undermine the principles on which we have tried to build.
- 28.48** Vending tickets by machine also raises other questions about maintaining the integrity of age controls and changing the nature of the gambling in such a way that removes any justification for a lower minimum age of 16. The Lotteries Council and others are keen to exploit new technology and, in principle, we would be happy to see them do that. But it must not be in a way that circumvents other restrictions designed to protect the vulnerable. As the Home Office noted in its 1998 consultation paper, *"the benefits to individual charities cannot be the overriding consideration in determining the controls necessary over gambling"*.
- 28.49** We hope that there is a balance to be found here. We would be content to see National Lottery-type terminals in pubs and elsewhere and for society lottery chances to be sold on the internet and interactive TV. But we are unhappy at the prospect of machines being placed in pubs (in addition to their two all-cash machines) that would, to the customer, look like rapid-play gaming machines. A restriction on the frequency of on-line draws may not affect such machines, as machine sales would still allow the downloading of large numbers of pre-determined lottery chances once a day in the manner of automated scratchcards.
- 28.50** We know from experience in some US states that a wide definition of a lottery, together with no restrictions on sales by machine, has resulted in large numbers of so-called Video Lottery Terminals (which are in reality gaming machines) being sited in all sorts of premises, including convenience stores. We would not want that situation to develop in the UK.
- 28.51** As far as the internet and inter-active TV sales are concerned, we are satisfied that adequate controls could be put in place to regulate societies' lotteries sales. The Gambling Commission will be regulating on-line gambling sites and will be registering the society. The basic controls should include a requirement to register players, to ensure that those under-age are not playing, and to have measures in place that prevent excessive play by individuals. **We recommend that the selling of individual lottery chances by machine or on-line (as opposed to what amounts to gaming for good causes) should be permitted, subject to regulation by the Gambling Commission.**
- 28.52** Any interactive or electronic lottery play that is not the straight sale of a ticket will look, to the layman, like gaming (whether on a gaming machine in a pub or club, or virtual gaming on the internet). We believe that it



will be essential for such activity to be subject to the same approval and regulation as gaming machines and virtual gaming. The only real difference between the two is that the proceeds of the lottery games go to good causes rather than for commercial profit.

We recommend that the Gambling Commission should approve interactive lottery games in the same way as other virtual gaming and should approve lottery gaming machines, with the proviso that they should be permitted only in premises where gaming machines may be sited, and are instead of not in addition to any entitlement to such machines.

Processing of returned tickets

- 28.53 One other issue mentioned to us by the Lotteries Council is that the Gaming Board's rules on record keeping should be relaxed. We consider that this is an administrative detail, which should be left to the Gambling Commission to determine in due course.

Prize Competitions and Commercial Lotteries

- 28.54 We have considered whether commercial lotteries should be permitted. They could, in theory, operate in the same manner and compete with charitable lotteries, including the National Lottery. Although there are no grounds, under our general principles, for banning them, we recognise that, as a matter of public policy, lotteries are reserved for good causes, broadly defined. We do not wish to challenge that policy.
- 28.55 Other examples of commercial lotteries involve the use of expensive phone lines: these run only for the profit of the operator. We discuss these in more detail later in this chapter. In brief, we believe that a distinction should be made between such lotteries and promotional competitions, or prize competitions that genuinely involve skill. **We recommend that commercial lotteries should not be permitted.**
- 28.56 Prize competitions are currently defined in section 14 of the 1976 Act:

(1) it shall be unlawful to conduct in or through any newspaper, or in connection with any trade or business or the sale of any article to the public –

(a) any competition in which prizes are offered for forecasts of the result either –

(i) of a future event; or

(ii) of a past event the result of which is not yet ascertained, or not yet generally known;

(b) any other competition in which success does not depend to a substantial degree on the exercise of skill.

- 28.57 Subsection (1)(b) causes particular problems. It is used as a somewhat flimsy figleaf to conceal what are, in effect, lotteries in all but name. The exercise of skill required can be utterly trivial. "What is the capital of France?" would be a particularly challenging example. Success depends, in practice, on luck in being picked from the large number of people with the right answer.

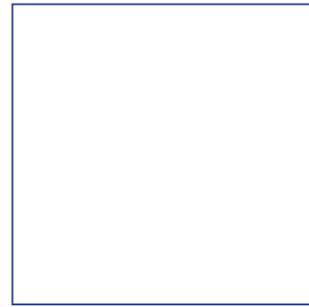
- 28.58 As we have made clear in paragraph 28.5, we do not think that it is helpful to prolong arguments of this kind. Lotteries are generally the preserve of good causes, but that does not mean that other activities, such as prize competitions or promotional draws, should not exist alongside them. The Lotteries Council, and others, are concerned about the proliferation of such competitions on the grounds that it blurs the distinction between games of chance for charity and games for commercial gain. Although their concern to preserve the good reputation of lotteries is understandable, it is difficult to imagine that "illegal lotteries" really do have a detrimental effect on charitable income. Do customers choose between – or even make a connection between – buying a charity lottery ticket and making a premium rate phone call?

- 28.59 In its Code of Practice ICSTIS currently identifies five kinds of telephone competition services: lotteries; competitions; other games with prizes; entry mechanisms into a draw; and services offering information about prizes. Competition services form about one third of the UK's £280million per year premium rate industry.

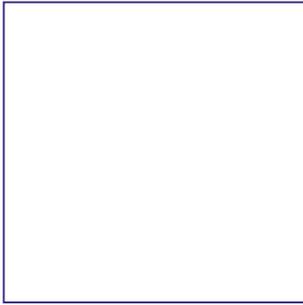
- 28.60 More generally, there are possibly four main types of competitions that may involve a draw:

- promotional competitions linked to a product (price of a stamp or cheap phone call to enter)
- competitions which, for example, are linked to TV and radio programmes. Some are entered using cheap calls or entry by post, and some involve premium lines. The latter are means of paying for the prizes offered in the show and in the competition
- skill competitions, such as crossword or chess competitions, which may involve a draw to identify a winner from a large number of eligible entries
- competitions run principally for commercial gain, most usually using premium lines advertised in magazines and in direct mail shots.

We address each of these categories below.

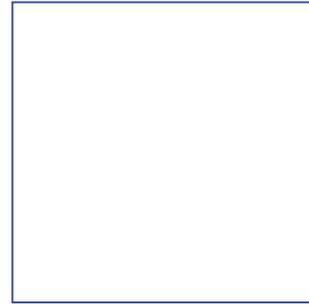
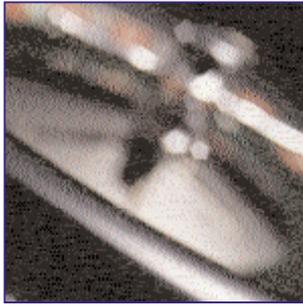


- 28.61 Promotional competitions.** We understand that in New Zealand it is now legal to operate “promotional lotteries” provided that the customer has to pay no more for the product than he would without the offer. In similar circumstances in the UK, the operator has to demonstrate the “free” nature of the competition by ensuring that entries can also be made without a purchase. In reality few people take up the “no purchase necessary” option and this itself throws doubt on whether the competitions are really free. **We recommend that the New Zealand model should be adopted here, for what we would prefer to call promotional draws or competitions, rather than lotteries.**
- 28.62 Competitions which, for example, are linked to TV and radio programmes.** Such competitions are very popular and we see no grounds to ban them. What is more important is that the real cost of entering so-called free competitions should be transparent. We believe that the key element of a prize competition or draw should be that entry is genuinely free (as with the New Zealand promotional competitions) or that the cost of entry is minimal. We have discussed what “minimal” should mean in today’s currency. We note that the cost of premium rate calls can be reasonably low: we have seen examples of 25p calls of which 15p has been for charity. That suggests that there is a great deal of profit to be made from more expensive lines.
- 28.63** The experience of the 1976 Act is that the courts have not regarded the cost of postage as a significant factor in “free” competitions. That suggests that a call cost of 50p might currently be regarded as minimal. At the top end of the scale we would suggest that a total cost of more than £1 per call could not be described as minimal. Given the analogy of the postage stamp, a link to the cost of a stamp might be a good measure for determining the cost of what would be reasonable for a premium-rate competition. Accepting that phone calls may be more expensive than postage, twice the first class rate could be appropriate: that would currently result in a cost of no more than 54p. **We recommend that the cost of premium-rate competitions should be minimal, possibly linking the maximum cost to no more than twice the cost of a first class stamp.** The Gambling Commission should keep the limits under review.
- 28.64** We recognise that some people may choose to maximise their chances by making a large number of telephone calls to the same competition line. It would be wrong to try to restrict the freedom to do that: it is akin to buying more than one lottery ticket. We do note with concern that considerable debts could be incurred as a result of repeated calls. That perhaps reinforces the desirability of maintaining a minimal entry fee.
- 28.65 Skill competitions.** As set out earlier, the reference to “skill” in the 1976 Act tends to cause some confusion. **We recommend that there should be a category of prize competition that involves “the exercise of a substantial degree of skill”, which may at some point in the competition involve a draw.** The entry fee for such competitions need not be minimal, in the same way as other prize competitions, not involving skill.
- 28.66** In the context of skill competitions, our attention has been drawn to another sub-section of section 14 to the 1976 Act. This relates to competitions involving prizes for forecasting future events. It is arguable whether such competitions would amount to betting: bookmakers would no doubt say that they do. Associated Newspapers’ have suggested to us that newspapers should be able to run competitions won on the results of future events such as the Grand National. As their evidence points out, newspapers are able to run competitions to forecast share prices at a particular date on the basis that this is not a specific event, but is the aggregate of a larger number of events. We accept that this is anomalous. We assume that the object of this section was to try to maintain a distinction between lotteries and betting. In the light of our recommendations on prize competitions, we think that this would be difficult to sustain. **We recommend that the restrictions in section 14(1)(a) of the 1976 Act should be removed.** Competitions involving forecasting would, of course, be subject to the requirements governing skill competitions.
- 28.67 Competitions run principally for commercial gain.** This is the category in which there is most scope for abuse. The cost of a premium-rate call can be very high and a “guaranteed prize” relatively worthless or non-existent. It is interesting that ICSTIS has told us that complaints about competition services have been a significant proportion of all complaints received by them in the last four years, and that the majority of those complaints “can be attributed to a string of similar services connected by the identity of the individual concerned in operating them”.
- 28.68** The Metropolitan Police⁸ told us of a fraud involving premium rate calls costing £9 for the chance to win a top prize of a BMW and several thousand other prizes of mobile phones. Anyone winning a mobile phone was obliged to sign up to an expensive tariff and high call costs to make any use of the prize. What worried the police most about the competition was that the operator had established the premium rate service by providing nothing more than a mobile phone number and an accommodation address.



28.69 We consider that such competitions amount to commercial lotteries. It would be very odd to allow competitions of this kind to continue, having recognised that the public policy is to reserve lotteries for good causes. Moreover, we are recommending that the restrictions that currently exist to protect the lottery market should be preserved (for example, preventing the promotion of overseas lotteries in Great Britain). In

this context, we have noted that it is frequently reported that many of the “lottery scams” to which people fall prey originate from outside the UK. **We recommend that prize draws that are run only for commercial profit should be prohibited.** We recognise that enforcing such a ban may not be easy, but it would greatly assist the enforcement agencies to have the law clarified in this way.



chapter twenty nine

Pool Competitions

- 29.1 As set out in chapter 19, we are recommending that all gambling operators should be licensed by the Gambling Commission. That will apply to companies which promote pools competitions. There are currently three such companies. The largest of which is Littlewoods, which has an 80% market share.

Products

- 29.2 Following the introduction of the National Lottery, the 1963 Act was amended to allow pools coupons to be delivered to, for example, newsagents and betting shops, to be forwarded to the pool promoter. The only coupons that may be administered in this way are those relating to competitions which feature at least four association football matches. In its submission, Littlewoods said that these restrictions were anti-competitive and should be lifted.¹
- 29.3 The prize pool system means that there are similarities between pool competitions, which generally use a points system and are based on the outcome of multiple matches or games, and pool betting which is based on the outcome of a single event. There is sense in requiring pools competitions to be limited to a series of events, but we do not think that there is any justification (on regulatory grounds) to connect the use of retail premises only to coupons related to association football matches. **We recommend that pool competitions on any sport should be permitted to operate through retail premises, rather than be restricted to four association football matches.**

Method of sales

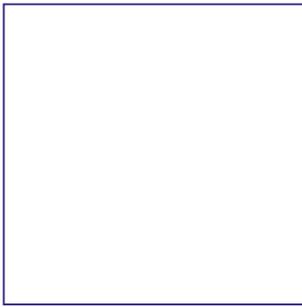
- 29.4 We understand that the Home Office has advised pools companies that the transmission of pool entries must be by physical coupon. This means that on-line sales, for example using the internet, are prohibited. As discussed elsewhere, it is already legal for bookmakers and spread betting firms to receive bets by other channels, including telephone and internet. As long as the event is conducted offline, **we recommend that on-line pools entries should be permitted.** This is also discussed in chapter 30.

Rollovers

- 29.5 The pools industry has pointed out that the Tote, which conducts pool betting, is able to enjoy unlimited rollovers which allow it to build up substantial prizes. In comparison, pool competitions are limited to three consecutive rollovers. The National Lottery is also restricted to three rollovers, apparently to prevent huge jackpots accruing. We have suggested that bingo and lotteries should be permitted to roll over prizes and we see no reason why pools competitions should not enjoy greater freedom. **We recommend that pools competitions be allowed to offer unlimited rollovers.**
- 29.6 Submissions from the Pools Promoters Association and from Littlewoods suggested that there should be a separate rollover facility for different aspects of a single event such as the half-time result jackpot. We concluded that once the principle of offering rollovers on a fragment or part-event had been established, there would be no limit to the variety that could be offered. Therefore, we are recommending that the rollover facility is available only on events in their entirety, and not on part events.

Prize payout

- 29.7 The pools companies must pay out centrally all winnings on pool competitions. They have suggested that the outlet to which the punter delivers his entry should be permitted to pay small winnings, in the same way as National Lottery retailers. If our earlier recommendation is accepted, more entries may be made through retailers and it would be convenient if the punter could be paid any winnings from those premises. **We recommend that retail outlets should be permitted to pay out winnings to a similar level as National Lottery retailers.**



chapter thirty

On-line Gambling

30.1 Our terms of reference require us to

- consider the state of the gambling industry and the ways in which it may change over the next ten years in light of the growth of e-commerce and technological developments, and make recommendations for the kind and extent of regulation for gambling activities in Great Britain.

30.2 The development of on-line gambling, whether through the internet or television or some other medium, presents a particular challenge to the system of regulation. The basis of the present system is that regulation is related to the physical premises on which certain types of gambling are permitted and where the punter must be physically present. On-line gambling removes that basis. People can gamble in a wide variety of ways in any location provided they can communicate with the provider. That has long been true of telephone betting but now it extends to all forms of gambling. And it presents us with a particular dilemma: certain features of on-line gambling suggest it should be more heavily regulated than premises-based gambling; but its very nature makes it more difficult to regulate. We are not alone in trying to grapple with these problems and during the course of the Review, we have watched with interest the developments in Australia and in the United States in particular. Some US states seem to have concluded that banning internet gambling is not a practical proposition, or a sensible one in terms of the potential loss of revenue and the loss of opportunity for the domestic industry. Australia still hopes that it can ban internet gambling for its citizens, to prevent a further increase in problem gambling, but can allow its industry to offer gambling on the internet to people outside Australia. We shall be interested to see whether this can be achieved.

30.3 We are clear that it would not be right to try to ban on-line gambling in the UK, and it would not, in any case, be feasible to do that. Where relevant, our recommendations try to replicate for on-line services the regulation that will apply to UK casinos.

What is on-line gambling?

30.4 Most of the submissions to us, and indeed the proposals made in other jurisdictions, have concentrated on gambling on the internet. But there are other ways to gamble on-line. Interactive television is becoming more common and on-line gambling can also be carried out using mobile phones. In this chapter (and elsewhere in this report), we have used the term "on-line gambling" to refer to gambling services that

use a telephone connection, including gambling services accessed via the internet, interactive television and mobile phones. The terms that others have used to describe the same activities include internet gambling, virtual gambling, interactive gambling and so on, as well as on-line gambling. These are visual services; we do not include traditional credit betting via the telephone in this category. More specifically, we use the term "on-line gaming" to refer to gambling services conducted purely on-line which may appear as virtual casinos, (some) lotteries and electronic gaming machines. Betting, pools and (some) lotteries which receive entries on-line but where the event, draw or competition occurs off-line are referred to in this chapter as "on-line betting".

Current position in the UK

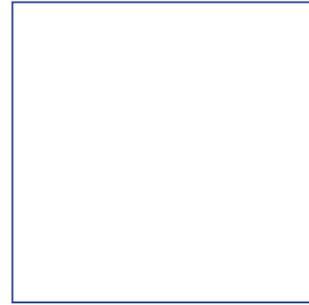
30.5 Gambling legislation pre-dates on-line gambling. This has different effects on different activities. The provision of on-line gaming, for example, is not legal in Great Britain because, under the 1968 Act, the punter must be present in the room in which the gaming takes place. Lotteries can be sold by machine, but there must be some human intervention: so they could be sold by e-mail, but not interactively. In summary, the rules are:

- casino, bingo and machine gaming. It is illegal to set up on-line sites in Great Britain
- betting. A bookmaker may accept bets on-line
- lotteries. Societies lotteries must not be sold by machine
- National Lottery. The National Lottery Act does not preclude the sale of tickets by machine, as long as the machine is attended
- punters. It is not illegal for British residents to gamble on-line. Nor is it illegal for overseas operators to offer on-line gambling to British residents (though there are restrictions on advertising).

Overseas

30.6 Those in other countries who have concluded that on-line gambling should be permitted have done so for the following reasons:

- banning on-line services would not necessarily deter punters, because gambling is socially acceptable and individuals would not accept this restraint on their



behaviour. Prohibition would be unlikely to be effective in controlling problem gambling

- prohibition would be impractical and costly to enforce. Enforcement could be through the user's Internet Service Provider (ISP) putting a block on prohibited sites (identified by the domain name) or by blocking messages based on the source address. Neither approach is likely to be fully effective. Encryption and tunnelling can overcome source address blocks, and monitoring of messages would be expensive and could lead to a significant slowdown of all internet transmissions. Blocks on domain names can be avoided by the service provider changing its numerical address
- a ban could not be enforced through the option of banks not honouring payments to illegal gambling sites. This is because banks would find it difficult to identify such sites and if the sites were legal in their host country then the bank's actions would be difficult if not impossible to defend
- punters could get round the ban by registering with an ISP located outside their own country and/or using an off-shore account to pay for their gambling
- prohibition would lead to a loss of consumer and producer benefits and potentially a rise in criminal activity.

The United States

- 30.7 The US National Gambling Impact Study Commission (NGISC) recognised the difficulties of prohibition, but did not regard them as sufficient to permit on-line gambling. The NGISC recommended that because of the lack of sound research on the effects of on-line gambling on the population and the difficulty of policing and regulating to prevent participation by minors, states should not permit the expansion of on-line gambling into homes.¹
- 30.8 To implement this ban, the NGISC recommended that the relevant federal authorities should develop enforcement strategies that involved ISPs, credit card providers, money transfer agencies, makers of wireless communications, and others who might intentionally or unintentionally facilitate internet gambling transactions. The NGISC also asked the federal government to encourage foreign governments not to harbour internet gambling organisations which "prey on US citizens".
- 30.9 The threat of prosecution by the US government is a deterrent, but this has not stopped internet gaming sites outside the US continuing to accept bets from US citizens even in cases where the site owner has been

prosecuted. However, there are now signs that prohibition is giving way to regulation. A bill has been introduced to the Las Vegas Assembly which would allow casinos in Nevada to conduct internet gaming under licence. The bill makes recommendations for stringent regulations on security, under-age gambling and taxation. We understand that there are moves to introduce a similar bill in New Jersey.² The final direction of US policy regarding on-line gambling therefore is not yet clear.

Australia

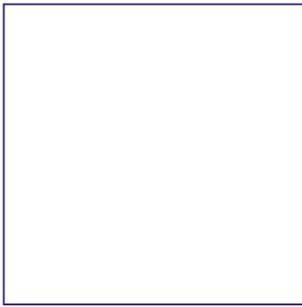
- 30.10 In Australia, the state governments initially chose to license internet gambling operators. A working party of state regulatory officials issued a report on internet gambling in May 1997. It recommended the introduction of a state licensing and inspection scheme as the best response to illegal gambling.³ A programme of state approval and legislation followed, but the Australian federal government has since become concerned about the level of problem gambling arising from the accessibility of both off-line and on-line gambling.
- 30.11 This growing concern led the federal government to introduce a moratorium on interactive gambling services which took effect on 22 December 2000.⁴ The government subsequently undertook a study into the feasibility and consequences of banning interactive gambling. The report was published on 27 March 2001, and concluded:

... there are several technical methods that could potentially be used to implement a ban on interactive gambling based on internet content control. However:

- ... all of these methods can potentially degrade general internet performance;
- ... none would be 100 per cent effective in preventing access by residents to interactive gambling services; and
- ... implementation would take at least six to twelve months and would require consultation with the gambling industry, telecommunications carriers and internet service providers.⁵

- 30.12 The Australian Government has said that it remains concerned about the potential of interactive gambling to increase problem gambling in Australia and is committed to fully exploring the option of a ban.⁶ In April 2001 it introduced to Parliament the Interactive Gambling Bill 2001. The legislation is designed to ban Australian interactive gambling suppliers from offering their services to people located within Australia, but Australian on-line gambling suppliers would still be

1-National Gambling Impact Study Commission (1999) 2-Casino International (2) (April 2001) 3-Kelly, Joseph. M. (2000) 4-National Office for the Information Economy (1) website viewed 30 March 2001 5-National Office for the Information Economy (2) (2001) 6-National Office for the Information Economy (1) website viewed 30 March 2001



able to offer their services to people outside Australia. All gambling services are included in the Bill.⁷

Why should on-line gambling be regulated?

30.13 On-line gambling should be seen as just another way of delivering a service. We have set out in chapters 15 to 17, the principles that should govern the regulation of gambling and these apply as much to on-line gambling as to any other type of gambling. In addition, there are particular characteristics of on-line gambling that may make regulation even more desirable:

- on-line gambling is available 24 hours a day. Gambling in premises may be restricted to certain hours
- there is greater continuity of gambling activities. Most forms of gambling can be made continuous by breaking events into a series of mini-events, by betting on events all over the world, or simply by running games more frequently.
- stakes can be lower. More low value gambles may be feasible because the cost of providing them is low
- it is easier to use: the gambler can learn on-line (sometimes through free practice sessions) at his own pace
- entry conditions are negligible. No dress or other physical requirements apply
- social barriers are easier to overcome. Services are offered in many languages and can be consumed in a safe environment; people may be able to bet while at work.

30.14 A recent report by the National Office for the Information Economy (NOIE) in Australia found that key social concerns surrounding gambling on the internet were:

- internet gambling will greatly increase the accessibility of gambling. Research shows a significant relationship between accessibility and the prevalence of problem gambling;
- the special attributes of interactive gambling, such as its ease of use and the type of products available may exacerbate the prevalence of problem gambling;
- interactive gambling will expose new audiences, such as young people to gambling, thereby increasing the potential for an overall increase in problem gambling.⁸

30.15 The last point is important, because under 25s tend to use the internet more than older people and that is the age group with the highest incidence of problem gambling. Continuous forms of gambling that are accessible to young adults (especially males) have been found to be likely to result in increased problem gambling.

30.16 Our conclusion is that on-line gambling should be regulated. The following paragraphs suggest how that might be done.

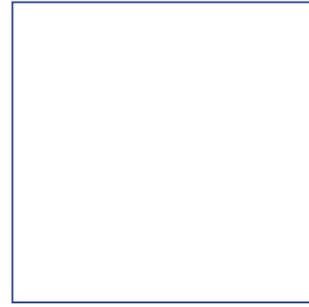
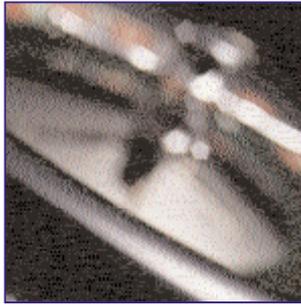
Which sites should be regulated?

30.17 Total control and regulation of on-line services around the world is not likely to be achieved. It would need to rely on co-operation from other countries and the on-line gambling industry, including internet service providers. The UK government has worked with the internet industry on issues such as child pornography, where there is a common interest in banning criminal activity across national boundaries. Such concerted action in relation to gambling could not be justified and we know from the developments in other countries that it would be hard to reach agreement on a common approach.

30.18 A punter gambling in Great Britain will be able to access gambling sites operating from anywhere in the world. We cannot hope to regulate all those sites, but what we can do is regulate those based in Great Britain, so that the punter has the choice of gambling in a regulated environment or taking a chance with an overseas operator (who may, of course, be regulated in another jurisdiction). Recent newspaper reports have suggested that over a third of on-line casinos fail to pay winnings⁹ and in some parts of the world there are reports of criminal activity clearly being linked to on-line gambling. Antigua has earned a reputation as one of the world's internet gaming capitals, but it has been reported that:

...plans to attempt to regulate the internet companies in Antigua have been met with hostility from many operators. Last year plans to introduce a "black box" system, which would enable regulators to track financial transactions led to many operators threatening to pull out of Antigua all together and saw... the Antiguan Director of Offshore Gaming receiving death threats.¹⁰

30.19 Punters using regulated sites will be reassured that they are playing fair games, that they will receive their winnings and that their banking details and money are being handled by a legitimate business and not funding criminal activity. Although we may be concerned about the integrity of some of the gambling services offered by operators in other countries, and accessed by UK



residents, it cannot be the Gambling Commission's responsibility to regulate them all.

30.20 We have considered what should be the criteria for an operator to be regarded as being based in Great Britain. The difference between on-line gambling and terrestrial forms is that no premises in this country need be used to carry on the business. If an on-line operator is to be regulated by the Gambling Commission, we believe that it is essential that it should be providing a service that is readily identifiable with the UK. **We recommend that an on-line gambling operator seeking a licence from the Gambling Commission should, at the minimum:**

- be registered as a British company
- locate its server in Great Britain and
- use a UK web address for its gambling site.

30.21 We do not believe that these requirements will prevent overseas companies from seeking a licence, and, in any case, we think that it is important to distinguish between being licensed by the Gambling Commission and being able to operate in Great Britain. It will not be an offence for punters in Britain to use unlicensed sites, but they will do so at their own risk. Similarly, it will not be an offence for unlicensed operators to allow UK punters to use their sites, although we are suggesting that there should be a prohibition on advertising such sites in this country.

30.22 We believe that there will be strong incentives for operators to apply for on-line licences, particularly if we are one of the first European countries to offer them. The kudos of the Gambling Commission's approval is likely to be attractive to a large number of operators and this makes it all the more important to set some boundaries on the Commission's jurisdiction. The Gambling Commission will not have the resources to license companies based outside Great Britain, and attempting to do so could mean that its monitoring and enforcement functions were difficult to carry out.

30.23 The location of the operator, as well as being central to regulation, is also relevant to any tax liability. This has been an issue in relation to betting duty. It was announced in the 2001 pre-Budget report that the General Betting Duty of 6.75% on total stakes would be replaced with a 15% tax on bookmakers' gross profits. This makes it possible for bookmakers to absorb the tax, meaning that punters will not pay a separate duty (though they may face poorer odds). The intention is that bookmakers will be encouraged to come back from overseas and benefit from the UK's good reputation in betting. There is a lesson here for the taxation of on-line

gaming. We simply note that, although the prestige of being regulated by the Gambling Commission will attract operators, unless the rate of tax is set at a sufficiently low level it may be a disincentive to on-line operators to base their sites in Great Britain. As we note in chapter 36, the mobility of on-line operators makes it difficult to impose what might otherwise be thought desirable, namely higher tax rates for harder forms of gambling.

Nature of the regulation

30.24 Some of the issues we have discussed in earlier chapters will be relevant to on-line gambling. For example, chapter 19 deals with the licensing of people and corporate bodies. On-line operators will have to show that they are fit and proper and financially sound in the same way as terrestrial operators. They will need to show that they are competent in the type of gambling they wish to offer, as well as having the skills necessary to operate on-line.

30.25 As mentioned in paragraph 30.4, we envisage that operators will be licensed to provide on-line betting or on-line gaming. The distinction is that:

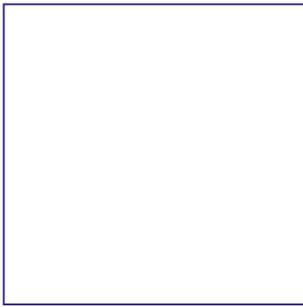
- on-line betting, using the internet or interactive television is simply a means of placing bets on real-time events
- on-line gaming requires the stake to be made on-line and the gambling to be generated on-line by a random number generator of some kind.

Some gambling activities, particularly lotteries, can fall into either category depending on the exact nature of the game. Where there is doubt, the Gambling Commission should have the authority to make a binding ruling.

On-line betting

30.26 On-line betting raises no new regulatory issues. It is no different from using a telephone. We can see no need to add another layer of regulation specific to this activity, although the Gambling Commission will want to pay particular attention to the measures taken to ensure that bets are not accepted from under 18s.

30.27 In addition, we see no reason why on-line services should not be used for purchasing a lottery chance or entering a pools competition. Operators wishing to use the internet or interactive television as a mechanism of entry, or even the only mechanism of entry, will need to be licensed as a pools or lottery operator and the same regulations will apply as if the entry was made off-line. **We recommend that on-line betting (including pools and lotteries) should be permitted on "real-time events" taking place off-line.**



On-line gaming

- 30.28** On-line gaming may include virtual casino gaming, lotteries, gaming machines or scratchcards. Such activities raise new challenges for regulation, because the punter has no way of independently verifying that the gambling is honestly and fairly conducted. The Gambling Commission will need to ensure that the software used for the gaming operates on a random basis and that there are controls to ensure that the outcome of the games cannot be influenced. There is clearly scope for abuse in operating a service of this kind, but the stringent requirements with which all gambling operators will need to comply lead us to believe that such abuse is unlikely to occur and if it did, it would quickly be identified. **We recommend that on-line gaming should be permitted.**

Testing on-line gaming sites

- 30.29** On-line gaming sites may well appear in a variety of formats, but they are likely to be based on random number generation. The software should be made available for testing and inspection by the Gambling Commission. **We recommend that on-line gaming software systems are tested and inspected by the Gambling Commission and that the software should operate on a random basis.**
- 30.30** There are already hundreds of on-line casinos offering a variety of games that are similar to those played in off-line casinos. Unlike land-based casinos, there may be no limit on the design and type of virtual games. But, as far as possible, there should be parity between on-line and off-line gaming. For off-line casinos the Gambling Commission will list the games it has approved and operators will select from that list. For on-line casinos the Gambling Commission will need to set the parameters within which games can be developed to ensure that they are fair and transparent to the punter. Given the speed with which on-line games may change, we do not consider that it would be reasonable to require each new game to be separately approved, and the Gambling Commission's random inspections should identify problems. **We recommend that the Gambling Commission should set the parameters for the development of on-line games.**

Information to the punter

- 30.31** It is important that punters should be able to make an informed choice about the games they play. As with off-line gaming machines, information on the return, game rules and nature of the game should be clearly displayed or accessible to the punter. Punters should have ready access to this information whilst they are playing. **We recommend that punters are made**

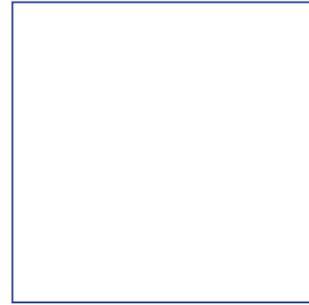
aware of the game rules and terms and conditions of play on on-line gaming sites before play commences.

Identifying punters

- 30.32** It is possible to win and lose very large sums of money by gaming on-line. In this respect, on-line gaming is no different from terrestrial casinos and equally vulnerable to attempts to launder money. We have recommended that all those visiting casinos should be positively identified to reduce the risks of money laundering and to keep out underage players. The same conditions should be placed on on-line gaming operators. On-line gaming is relatively anonymous, because there is no face-to-face contact with the punter. **We recommend that all punters who register to play on-line should be properly identified before they are permitted to play. The Gambling Commission should issue guidelines to ensure that identification standards are comparable with those of off-line casinos.**
- 30.33** As an anti-money laundering measure, it is essential that punters should be paid any winnings or the balance of their account in the same way in which the money was originally deposited. Punters gambling on-line will generally use debit or credit cards, although an account could be opened with a cheque (as long as it is from an account held by the person opening the on-line account). Operators should pay any money back on to the card from which the original payment was made or send a cheque in the name of the account holder. **We recommend that on-line operators should make any payments only to the debit or credit card used to make deposits into the punter's account, or by cheque to the punter.**

Protecting the vulnerable

- 30.34** On-line operators will need to take measures to ensure that children do not gain access their sites. If they do not take adequate steps, the Gambling Commission may take enforcement action against them. But in addition to any action that may be taken against the operator, we consider that there should be a disincentive for children to attempt to gamble. **We recommend that any prizes won by minors should be forfeited.**
- 30.35** We are not recommending that any limit should be placed on the amount of money that a punter should be able to gamble on-line, or on the time that he spends on a particular site. However, we consider it essential that individual punters should have the ability to self-impose a maximum level of stakes or daily expenditure, or to self-ban. **We recommend that**



on-line operators should be required to set up facilities that enable players to set maximum stakes and limits, and to self-ban.

- 30.36 On-line gambling is easily accessible and it may increase the risks of problem gambling. Players may become engrossed in the game and, unlike in gambling premises, there may be no distractions to draw attention away from the screen. It would be a simple matter to keep players informed about their gambling by installing counters which show how much they have won and lost and how long they have been playing. These "reality checks" would help to reduce the risk of problem gambling. Clocks and counters could be on screen at all times, be accessible with one click, or appear at regular intervals, perhaps every thirty minutes. Of these options, we suggest that it would have most impact if the clock and counters were displayed automatically at regular intervals.
We recommend that on-line operators set up clocks and counting systems that are displayed on the screen at regular intervals.

- 30.37 It is essential that punters who develop problems as a result of their gambling should have ready access to information and services which can help them. In time, we envisage that punters may be able to access a range of information on-line and benefit from the accessibility and anonymity associated with on-line services.
We recommend that on-line gambling sites provide information about problem gambling treatment and services, and links direct to those services.

The Gambling Commission's kitemark and advertising

- 30.38 A number of submissions to us recommended a kitemark system so that punters could identify licensed sites. Alternatively, it was suggested that the regulator should establish a portal through which players could gain access to licensed sites. We propose to adopt both suggestions.
- 30.39 The Gambling Commission will have its own website. Simply listing the sites it has licensed will create a portal (a gateway) because of the nature of hyperlinks. This will be an easy way for punters to ensure that they are gambling on a regulated site.

- 30.40 In addition, we recommend that the Gambling Commission should authorise licensed sites to display its kitemark, to demonstrate that the Commission regulates it. **We recommend that the Gambling Commission establishes a portal on its website, by listing licensed on-line gambling providers. In addition, regulated sites should display the Gambling Commission's kitemark. It should be an offence for an operator to claim falsely that a site is licensed by the Gambling Commission, or to make unauthorised use of the kitemark.**

- 30.41 There are currently restrictions on the advertising in Great Britain of overseas lotteries or betting services. We have recommended that such restrictions should continue to apply and these restrictions should also apply to on-line services. **We recommend that only on-line gambling sites that are licensed by the Gambling Commission should be permitted to advertise in Great Britain.**

- 30.42 We would not expect a hyperlink to be regarded as advertising. However, if it became clear that a regulated site was, in fact, diverting much of its business to another, unregulated, site offshore, the Gambling Commission should have the power to take enforcement action. The Gambling Commission should have a clear code of practice to prevent licensed sites diverting most of their British custom to an overseas site in order to avoid regulation or paying tax.

Access to on-line gambling in public places

- 30.43 We cannot, and would not want to, prevent people from gambling on-line in their homes or at work. We recognise that the internet, and therefore on-line gambling, is already accessible in many public places. Even if we were minded to do so, it would be impossible to enforce an absolute ban on any gambling being accessed or viewed via a public access internet terminal, or other similar facility. However, this is difficult to reconcile with one of our over-riding principles that gambling generally should be restricted to regulated premises in which gambling is the principal purpose. We recognise that there is a risk that some unregulated premises could try to circumvent regulation by offering internet terminals or other on-line facilities directly linked to gambling sites or provided primarily for the purpose of accessing gambling sites. **We recommend that the Gambling Commission should have the power to take action in relation to premises, not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing on-line gaming or on-line betting services.**