HOUSE OF LORDS

Select Committee on the Social and Economic Impact of the Gambling Industry

Corrected oral evidence: Social and Economic Impact of the Gambling Industry

Tuesday 11 February 2020

3.20 pm

Watch the meeting

Members present: Lord Grade of Yarmouth (Chair); Baroness Armstrong of Hill Top; Lord Butler of Brockwell; Lord Filkin; Lord Foster of Bath; Lord Layard; Lord Mancroft; Lord Parkinson of Whitley Bay; Lord Smith of Hindhead; The Lord Bishop of St Albans; Lord Trevethin and Oaksey; Lord Watts.

Evidence Session No. 14 Heard in Public Questions 140 - 161

Witnesses

Neil McArthur, Chief Executive, Gambling Commission; Dr William Moyes, Chairman, Gambling Commission.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Neil McArthur and Dr William Moyes.

Q140 **The Chair:** Good afternoon. On behalf of the Committee, welcome. Thank you very, very much for giving us your time today. This is a really crucial session for our Committee's deliberations. We hope there will be enough time to cover your agenda and, indeed, our agenda. I hope you find the dialogue we are going to have today constructive.

As a formal notice for the record, a list of the interests of Members relevant to the inquiry has been sent to you and is available. The session is open to the public; it is being broadcast on BBC Parliament and is accessible via the parliamentary website. A verbatim transcript will be taken of the evidence and put on the parliamentary website. A few days after this session, you will be sent a transcript to check for accuracy. It would be helpful if you could advise us of any corrections as quickly as possible thereafter. If, after this evidence session, you wish to clarify or amplify any points made during your evidence, or have additional points to make, you are very welcome to submit supplementary evidence to us afterwards.

Could I ask you to introduce yourselves for the record and the recording? Thank you very much.

Dr William Moyes: I am Bill Moyes, the chairman of the Gambling Commission.

Neil McArthur: I am the Gambling Commission's chief executive.

Q141 **The Chair:** I will open the questioning. We will share it all out; it will be fairly freewheeling, but there are some set questions. Prior to the last Gambling Act, Parliament and the Government's attitude to gambling was essentially this: "We do not want to ban it, but on the other hand we do not want to stimulate and encourage it". Post the Gambling Act, the Budd report and so on, the sector has expanded quite dramatically. There is greater competition and the market has been stimulated. In addition, the Gambling Act predated the online boom.

We would be very interested to get your thoughts on whether you think that Gambling Act is now an anachronism given the way the market has developed. Is the government policy of stimulating gambling, which is what has happened, correct?

Dr William Moyes: Perhaps I could kick off, and then Neil will come in. He has much more experience of regulating gambling than I do. The legislation and the objectives for regulation set out in the Act are still broadly relevant: to make sure gambling is fair and safe; to make sure vulnerable people are protected; to make sure crime does not get a dominant hold on gambling. There is nothing in those statements that I would regard as now being wholly irrelevant. I do not hear from the executive team complaints that they would like to do things that somehow the legislation does not permit. There are things, but mostly we find that the legislation facilitates what we want to do. The question of whether the Government are right to promote gambling is more a matter of public policy than of regulation or legislation.

Neil McArthur: I would agree with all that. The Act imposes on us a duty to permit gambling, subject to it being reasonably consistent with licensing objectives. This is our constant touchpoint: "Does this create risks in terms of crime, or of harm to children or vulnerable people? Is gambling going to be conducted fairly and openly?"

We are constantly balancing, therefore, on the one hand consumer choice—because, as you have already heard in evidence, about 24 million people gamble in the UK—against the fact that gambling-related harm is a significant problem for a significant number of people. On our latest statistics, more than 340,000 people are problem gamblers; more than 1.5 million are at risk of experiencing gambling-related harm. Driving down the numbers of people being harmed by gambling or at risk is a constant reference point, but we are constantly looking to keep up with developments.

To the second part of your question, as Bill has said, we have found the Act mostly able to keep up, largely because of the power it gives us to make licence conditions and codes of practice to address emerging issues and risks. There are some areas where we can see the need for the regulations to keep up. Part of why the legislation was changed in 2014 to make all online operators licensed by the Gambling Commission was precisely because we could see emerging risks that we were not able to address at that time, which we can now address. But there is always more to be done. We are constantly reviewing our approach to make sure we are doing everything we can to address the risks.

The Chair: If I were a cynical journalist—and I am not—I might attempt to criticise the Gambling Commission for being reactive rather than proactive in dealing with problem gambling. There has been a lot of recent publicity of really quite difficult cases. The BBC's "Panorama" and the newspapers have picked it up. The media have acquired it. It could appear that you are reacting to that—with the measures you have taken, for example on the credit card issue—rather than being proactive. Why did you not do that before, if the problem existed a few years ago? Why have you not acted sooner?

Neil McArthur: I understand why people might say that. Actually, that is why just over two years ago the Gambling Commission published its corporate strategy, which set out a vision to make gambling safer for consumers. We have been systematically working through the priorities we set in that. The first strand was a much tougher approach to compliance and enforcement, deliberately aimed at changing the behaviour of operators. In the years preceding that, we were seeing too many instances of failures being repeated and were not seeing behaviour change. Ramping up enforcement was the first strand of addressing that concern.

The Chair: Has it been effective?

Neil McArthur: Yes, but more needs to be done.

On the second strand, until very recently, gambling-related harm was not looked at as a public health issue. Developing the national strategy to reduce gambling harms was a very important moment, because it brought together all the people with a part to play in a public health approach: the commission, our advisers, the NHS, the sector and the operators. That set a framework for addressing gambling-related harm.

The third strand, alongside our tougher approach to enforcement, was to adopt a more innovative approach to address risks and issues. We have recently embarked on accelerating that work. We have work taking place today, with more than 100 operators, technology providers and experts, to look at how you could use technology to create a better view of a consumer's behaviour and keep them safer. We also have other pieces of work that we are doing.

Over the last two years, we have really accelerated our work, because we know that consumers are moving online; we know they are moving to play on their mobile phones. We know the way they are playing and the games they play are changing. We are doing everything we can to stay on top of those issues. There is some force in the argument that perhaps we were too patient for too long, but under the current strategy—as I say, we are only at the end of two years—we have achieved a lot, albeit there is a lot more to do.

The Chair: You said that you have, more or less, the legislative powers you need to make gambling safer. Do you feel you have sufficient resources?

Dr William Moyes: No; that is the short answer.

The Chair: There is a surprise.

Dr William Moyes: But we never do. We are finding the pressures on us very considerable.

The Chair: It is a huge responsibility.

Dr William Moyes: It is. Our ability to flex our resources quickly does not exist. We have to depend on a fees review and so on. The inevitable answer is that we would like to have better resources, but we would also like to have a much more flexible resourcing system so that, as new problems arise, we can move more quickly.

The Chair: What prevents you having that flexibility at the moment? This is an important point.

Neil McArthur: The Gambling Commission's income to regulate gambling comes almost entirely from licence fees paid by operators. Those licence fees are set by a statutory instrument, which means that changes require secondary legislation. That is not the most flexible process.

The Chair: I see. It would be very helpful if you could write to us on that point. It is very important that you have the resources to carry out the responsibilities that Parliament lays on you. That is terribly important.

I have one last point. Sorry, I am going on too long. There are some very clever software writers and algorithm creators out there, working mostly for the operators, I would assume. Do you have the skills to know what they are up to?

Neil McArthur: In and of ourselves, we almost certainly do not, but we have the power to require operators to send us those people and deploy them on issues such as today's tech sprint or to look at product design, as we have. We also have the power to compel them to share their knowledge and expertise, and we can then bring other views to bear.

In the context of technology, we have established a digital advisory panel, which is a group of technology industry experts. They are not gambling experts; they are people with experience in social media, technology companies and games design. We also have the Advisory Board for Safer Gambling, which brings academic and health expertise to bear. We have been working really hard, under the new strategy and particularly under the challenges we set for the industry in the autumn, to create that space where you can get a real diversity of views and experience brought to bear on a difficult issue or question of our selection, where we think it would be really impactful.

You are right: the industry has many more data scientists and game designers than I could ever have, but we can set the exam question. We really need to change the tone at the top that has emerged, over the last few years, from the industry and its operators.

The Chair: How would you describe that tone?

Neil McArthur: Alongside the Gambling Commission's ramping-up of enforcement, and the fact that it was made public which companies were the subject of that and questions were asked by their boards and investors, the tone at the top is very much one of operators wanting to minimise gambling-related harm. The issue is how you change that tone at the top into actual tangible outcomes for the benefit of consumers.

They have had the wake-up call; I think some of the industry's chief executives would say they have had that call. They say they want to do the right thing and I am saying, "Free up the resources and channel them towards these areas, which will have the biggest impact", namely the incentivisation of VIP players, who have been much too prominent a part of my enforcement.

The Chair: The current management of the major operators may well have got the message. Indeed, we had a long session with them last week. On the face of it, they are putting their best foot forward and addressing the problem, which they understand. But that relies on the individuals who happen to be in situ today—before the next regime comes in. You need very strong regulation to ensure that whatever good changes happen now are sustained through the next generation of leaders in the industry.

Neil McArthur: Yes, I absolutely agree. Culture change is not a quick and easy thing to achieve. From a regulatory perspective, personal accountability is absolutely key. If you are the chief executive or one of the senior executives of a gambling operator, you have to be licensed. If you do not conduct yourself in a way that meets our expectations, your personal licence is at risk, as well as the operating licence of the operator you work for. Personal accountability is key. I am on the record as having said in a recent speech that if you do not believe you can make progress in relation to gambling-related har—and do not want to do that—you need to leave the industry. We will make that happen.

The Chair: If we were talking about health and safety, we would talk about board members having a liability: a public liability or a statutory liability. You would have a board member designated as the health and safety person, with responsibility to the shareholders and the workforce. In terms of gambling, the sanction you have is the licence. That is the big stick to beat them with. Would you like to see more personal liability imposed through the next gambling Act?

Dr William Moyes: A large number of senior managers in the industry have personal licences, and we have the power to take those away. When I used to regulate the foundation trust system that was a sanction I applied very effectively, because I defined failure as governance failure. I always asked the chairman, "How did this happen while you were chairman? How did you not know?".

The Chair: I have always found in my business experience that nothing gets the attention of individuals on a board better than personal liability. Are you not in favour of that idea?

Dr William Moyes: In certain circumstances, we are in favour of removing the licences of senior individuals for failing to make sure that their companies obey the licence terms they have taken on.

The Chair: That is very clear. I am sorry to have delayed the next question.

Lord Trevethin and Oaksey: What is the consequence of the removal of a personal licence for that individual?

Neil McArthur: The legislation lays out a regime under which there are specified management offices, as they are described, for which holding a personal licence is a requirement. If you did not have a personal licence, you definitely could not be the chief executive, the chief finance officer, the lead compliance officer or the marketing officer, or hold other roles that we specify. In practice, it means you would find it extremely difficult to get a job anywhere in the industry.

Q142 **Lord Filkin:** For a number of us, there are three central questions that we are seeking to get clear in our heads. It would be very helpful to get on the record the Gambling Commission's view and evidence about those three questions, initially orally, although no doubt, if the Chair wished it, you could substantiate that with data and evidence in writing subsequently.

Those three questions are pretty obvious ones. First, how has gambling changed since the 2005 Act? What are the main changes that we should be concerned about? Secondly, what are the new risks that have emerged, either in type or in volume, as a consequence since the 2005 Act? Thirdly, to put it in a picaresque way, if you were asked by a Secretary of State what you would recommend be done, either in your remit or more widely, to reduce those risks significantly with no holds barred, what would your advice be? Because you have not been asked that by them, you are perfectly at liberty to say that to us as you are not breaching confidentiality.

Could you give your initial thoughts on those, and your considered thoughts, if our Chair supports it, later? We want to be informed by that and to make a judgment about whether you are well sighted on the risks and the actions that are needed.

Neil McArthur: First, the 2005 Act undoubtedly changed the mindset around gambling from something that was to be tolerated as an activity—it was lawful but tolerated—to a more permissive regime. Since then, the biggest change has been in technology and consumer behaviour. We know that, year on year, the measure of gross gambling yield—effectively, that is stakes less prizes—in premises-based or destination-based gambling is broadly stable. In society, we know that lottery play is broadly stable or has seen a slight increase. The growth is principally online. That is the first thing that has fundamentally changed. That is why we worked with government to have the law changed in 2014. At that point, we regulated only a tiny proportion of online gambling in Great Britain; now we regulate all of it.

But the risks are always changing. At the point when we took over online gambling, a significant amount of it was being done via PCs and laptops. We know from the data we have that players are increasingly moving from playing on PCs or laptops to playing on phones. That shifts the risk. We look at the risks of gambling in four areas.

First, you look at the risk of the provider of the gambling. That is why we are so strict about the suitability tests before we will grant people a licence. That is why we work so hard on compliance. I will talk a little more about that in a moment, if I may. Secondly, we are interested in the risk to the individual player. One challenge is that risks are often looked at as whole-population risks, whereas actually these are people and their risks are personal to them. Therefore, some people are more likely to be harmed by some products than others. That is an important factor. Thirdly, we look at the products people are playing, because there are different risks depending on the type of gambling. Lastly, we look at the place people are playing. The place, if you play on your phone, is quite different. If you play on your laptop, it is very unlikely that you are carrying it around with you, but your phone is with you all the time. That shifts the risk profile, and we need to understand that.

We know that play online is itself shifting towards slot games and, in other products, towards higher intensity. It is moving from betting on a match to betting on in-play actions in the match. That intensity shifts the risk profile. That is why we are focusing so hard on product design as one area to bear down on those risks. We are continually working with operators to make them understand their customers better on a personal level, because that bears down on the risks.

The other thing it would be remiss of me to omit, which undoubtedly has changed in the intervening period, is the amount of advertising. The advertising of gambling has undoubtedly increased since the 2005 Act. We hear and understand the concerns about that. That area has also shifted over time. We require our operators to advertise only in a way that is socially responsible. The does everything it can to make sure adverts are legal and decent. Undoubtedly, however, the volume of gambling-related advertising since 2005 has increased substantially.

I am sorry it is a long answer, but I have one final point. Over recent years, while gross gambling yield has continued to increase, participation has decreased.

The Chair: Fewer people are spending more money.

Neil McArthur: Fewer people are spending more money. In a whole-population sense, the percentage of the population who are defined as problem gamblers on the screen has been broadly stable, but it is not moving downwards. That is why we are so focused on the things we are.

Lord Filkin: The last point you have not commented on at all. What needs to be changed? Does that imply there is nothing?

Dr William Moyes: Let me pick up the third point. The areas that need substantially increased investment are research, education and treatment. At the moment, GambleAware gets about £10 million from the industry to spend on those three headings. Manifestly, that is nothing like enough. We need to have proper programmes of research into the prevalence of problem gambling, how to tackle it, what works and what does not. That has been started by the NHS, but it needs an awful lot more investment. We need a lot of education—of children in school and students in university—to help them understand the risks of gambling and how to enjoy themselves without get dragged into gambling addiction. We also need treatment. Again, the NHS is starting that. It has developed clinics and so on.

The commission’s current view is that some form of statutory levy, providing reliable finance to underpin these activities, is the right way forward. There may well be other approaches. We are not saying it is the only approach, but we are quite clear that successive Governments need to ramp up their investment in research, education and treatment if problem gambling is to be tackled effectively.

The Chair: We are going to come back to research a little later.

Q143 **Baroness Armstrong of Hill Top:** Is the current architecture, if I can put it that way, right for delivering on those things that need to happen? We hear that people do not like that the money comes from the industry but I, as a taxpayer, want to make sure the industry is paying its share. Do you have an architecture, which you are at the centre of, that could deliver on those things if they worked properly?

Dr William Moyes: We are developing detailed proposals for how this might work, but the commission would want to see some form of organisation that collects the money from the industry while making sure the industry's contribution is appropriate and consistent with whatever government rules there are to apply. Then there would be some kind of organisation, probably a charity, to invest in schemes of education, along with the Department for Education, and treatment, along with the NHS, with the cost of treatment borne primarily by the NHS. We would like to see the development of some kind of research establishment, perhaps at arm's length from us, from which research would be commissioned by us and by other bodies. At a very conceptual level, that is the kind of architecture we have in mind, but we are developing detailed proposals to put to the Government in due course about that.

Q144 **Lord Watts:** Can I pursue the point you made about the level of people with gambling problems not changing very much? Is it your view, then, that people with addictive backgrounds will find an outlet for that addiction? The reason I ask the question is that there was a long discussion about high-stakes games in bookies' shops. It was felt that if you took action there, it will reduce the problem of compulsion. What is your experience of whether people will move from one addiction to another?

Neil McArthur: It is a very complex issue, and that is partly why it is important to have a greater focus on prevention and education, and a greater diversity of perspectives and expertise brought to bear on that complex question. There is a reasonable amount of research into problem gambling. The whole motivation for gambling, though, and what makes consumers gamble in the first place, is quite under-researched. It is an area the commission has started to dig into more, over the last couple of years. What are people's motivations for gambling?

You need to understand that, because the research also shows that it is not a linear progression. People will not necessarily gradually find their way here. For some people, moving from gambling at all to experiencing problems with their gambling is an extremely rapid process. For others, it can be a lot longer. We know from our enforcement casework that things often go from not problematic to very problematic rapidly. That is why the industry needs to have protections in place that capture that in real time.

You need to understand players' motivations, and the risk of generalised, whole-population views is a challenge. For example, we know that people under 25 who are highly engaged in gambling are at much greater risk of developing problems with their gambling than the general population.

Lord Watts: It is interesting that, since the last Act was introduced and your body was created, it does not seem to have had any real impact on the number of people with an addiction problem. That is what fascinates me. No matter what the Act says and what you do, the numbers are static.

Neil McArthur: The percentage is static of a population that was going up; it then tipped, and now participation levels are dropping. But the real issue for me picks up on a point made by the Chair earlier. There are people who would argue that there is a glass floor you cannot break through: there will just be that many people who have problems with gambling; people go into and come out of that state. I do not think anybody would run that argument in relation to health and safety at work. No one would say, "There will just be 350,000 people injured at work, and it is no one's responsibility to drive down those numbers". That is why I am so focused on and passionate about this. You can break through that by making lots of small improvements in the system, which cumulatively protect players better.

Q145 **Lord Mancroft:** Some of the witnesses we have heard from have been critical of the commission. For example, BACTA said that it felt regulation could be "overly pedantic"—that was its phrase—and "disproportionate". At the other end of the scale, the large bookmakers suggested that the commission was always playing catch-up. You yourselves said that more always needs to be done and therefore, in effect, you are always catching up. How do you view your relationship with the gambling industry? Is it a good relationship? How does it impact on your role as a regulator?

Neil McArthur: I have already spoken about the corporate strategy; I will not talk about that. It is not our job to be the industry's friend. We are the regulator of the industry. If there is any doubt about it, there should not be. We are on the side of consumers; we want to make gambling fair and safe for consumers. Therefore, we will regulate firmly. If there are compliance failings, we will take enforcement action that is firm but fair to drive up standards.

That does not mean you need to be in a completely adversarial relationship with the industry. I would like to think that our relationship is an appropriate one, whereby they know that, if there are failings, we will be firm and fair about that and then, if lessons are not learned and standards do not rise, our approach will get tougher. They know that and that is concentrating minds.

Alongside that, we are looking for ways to collaborate with the industry on particular areas that will benefit consumers. Some of the people involved in that work have been on the sharp end of our enforcement activity. As a result of that, first, they know the consequences of not getting it right. Secondly, they have had a wake-up call—that is the language they use, not us—to say, "We are now committed to this". That engenders them putting the resources in to make better outcomes for consumers.

In the end, this ought to give consumers a safer experience that is better all around. We are constantly trying to get that balance. I have described it as speaking softly and carrying a big stick; that was a phrase I used in a recent interview. We need to work with operators. At the end of the day, it is gambling operators that interact with customers. They are the ones offering facilities for gambling to consumers. We are not doing that. Therefore, we need them to understand what we are all driving towards and be really committed to putting their consumers' interests first. That is why we have this twin-track approach.

Dr William Moyes: To pick up the point about catching up, that is perhaps inevitable. I have regulated in a lot of different sectors. Particularly if you are regulating a commercial industry, it is very hard for the regulator to guess what is going to happen. If we guess, the chances are that we will get it wrong. In some cases we will end up stifling desirable innovation; in other cases we will get it right.

It is not so much the fact of catching up as the speed of reaction. That is what I perhaps am more interested in. When we spot things we do not like, we try to move very quickly, depending on how serious the risk is. We do not simply observe risks for years and years and do nothing about them. But I could not say to the Committee that we will stop playing catch-up, because that is a dangerous approach for a regulator to take.

Lord Mancroft: You mentioned these phrases several times. Are you confident that, at the moment, gambling in Britain is fair and safe? Are you confident that it is crime-free?

Neil McArthur: You get a licence from the Gambling Commission only after you have been through an extremely thorough assessment of your suitability to hold a licence. That involves an assessment of your criminality, to keep crime out, and the way you will approach being an operator. It is about the suitability of all the people involved, including the people who ultimately own the business and the people running it.

We then spend a lot of time and energy doing compliance assessments to check that people remain suitable. As you will have seen from our evidence, we have an increasing enforcement caseload, where we are dealing with people who have not met our expectations. People who are not suitable are being taken out of the industry, either as a result of action we take or very often because they surrender their licences rather than face this. Constant vigilance would be my approach to that.

In terms of whether gambling is fair and safe, there is always more to be done. We have had to do a lot of work on, for example, unfair terms and conditions, where we worked with the Competition and Markets Authority to address misleading bonus and sign-up offers. We are constantly vigilant about new initiatives in relation to that. In terms of gambling safety, I am absolutely clear that the numbers of people experiencing gambling-related harm must drastically reduce, and we must all work towards that end. I am not complacent. I am satisfied that only suitable people have licences; if they do not, we will take them out. But we all must do more. There is always more to do to make gambling safer.

The Chair: Forgive me, but you are not just complaints-led; you are proactive as well. You can spot things you think are questionable. You are not just sitting there waiting for somebody to complain.

Neil McArthur: No, we take the information from a variety of sources. We take information from the consumers who complain to us—and more of them have—and from law enforcement and other operators. We have an intelligence team that scans the horizon.

Q146 **The Chair:** This is an adjacent question. The operators made much of the argument—and it was quite a strong one, we thought, when we heard it; we would be very interested in your view—that the relationship between the regulator and the operators should not be so difficult as to drive consumers to unlicensed and offshore cowboy outfits, which can easily be accessed online. It is very important to keep people within the regulated and licensed framework in the UK. Is that something you are conscious of? Is that a genuine argument? Do you have to balance that?

Neil McArthur: My answer would be slightly different, perhaps, to the answer the operators gave. First, we are very vigilant about unlicensed operators. We spend a significant amount of effort on dealing with unlicensed operators.

The Chair: Yes, but a lot of them are completely outside your control.

Neil McArthur: In terms of online operators abroad, we have very close relationships with payment providers. Therefore, if you discover an operator that is in the UK without a licence, you can work with the payment providers to stop it being able to take the money, and that is important. We do not currently have, as we flagged in our evidence and we keep looking at, an internet-service blocking power, but we work closely there. We are very vigilant about the unlicensed market, because one thing is for sure: unlicensed operators are definitely not putting consumer safety at their heart.

The Chair: No, of course not.

Neil McArthur: I would take a slightly different tack from the gambling operators, in that, while we are constantly vigilant about consumers and the risks posed to them by unlicensed operators, this could not possibly be an argument for lowering standards in the licensed community. It needs to raise standards alongside us, pushing down on illegal operation. So I hear people talk, in reports to the market, about regulatory headwinds. There is no great sense of a burgeoning illegal market. We are as keen as anybody to make sure that does not happen. We have a lot of enforcement activity dealing with illegal operators.

The Chair: That is very clear. Thank you.

Q147 **The Lord Bishop of St Albans:** In 2018-19, there were 160 regulatory and criminal investigations by the commission, more than the previous two years in total, and you imposed record fines. Is the industry getting worse?

Neil McArthur: I do not think so. That reflects the fact that we have had to get tougher to raise standards in the online operating community in particular. A very significant amount of enforcement action and compliance activity has been about raising standards in the online community. We inherited operators that were already licensed in other jurisdictions and, when we did compliance, we did not like what we found.

The increase in enforcement is a combination of us getting on top of issues and making our expectations really clear online, and us implementing our promise to adopt a tougher approach to enforcement to change behaviour. You are starting to see signs that the behaviour has changed, and things that were features of enforcement improved when you visit operators.

The Lord Bishop of St Albans: You say it has not got worse. What woke you as the commission up to take more radical action, then, if it was at that level before?

Neil McArthur: I was around at the time, although I was not the chief executive. We have always had enforcement powers and done compliance and enforcement activity. But the reason we needed to change things in 2016-17 was that we were seeing repeated instances of the same failings. We were not seeing a mistake being made and lessons being learned from that. My picture of an effective regulatory regime is one where lessons are learned and taken forward to avoid the likelihood of them happening again. That is the reason we changed our approach to enforcement. We said, "We are going to get tougher. Fines will get bigger. Personal accountability will be at the forefront of our mind when we take action". You are seeing change, but I still want to see standards improve.

The Lord Bishop of St Albans: Are the numbers of investigations and cases and, indeed, the levels of fines likely to continue rising?

Neil McArthur: It is difficult to say. I can say with more certainty that, while the volumes may not rise, the complexity of the investigations will. As the prospect of us getting tougher and tougher increases, so does the likelihood of people fighting us each step of the way. It is difficult to predict the future in terms of volumes. Standards are rising, but we were starting from a low base and need to see rapid improvement.

The Lord Bishop of St Albans: How many companies have had more than one investigation or one fine during that period? Are there a number that have been fined repeatedly?

Neil McArthur: There are a number of operators. I do not have exact details to give you, but I would be happy to write. That was precisely why we did what we did in 2017 to change our enforcement operations.

The Lord Bishop of St Albans: Therefore, is there some sort of published standard that people know of: three strikes and you are out? Is that laid out to people as they are running their businesses?

Neil McArthur: There are two strands to our approach to that. First, alongside an increase in the toughness of our enforcement regime, we have done everything we can to make sure the messages about the lessons to be learned are out there. We publish our decisions on the enforcement action we take to say what lessons can be learned. Now, you can imagine that operators do not particularly like that because they feel they are being named and shamed, but that is not the principal purpose. It is a purpose; it encourages deterrence. The principal purpose is to learn the lessons.

Secondly, over the last two years, we have published an annual enforcement report, which is a summary of what we have found in the previous 12 months and the lessons that can be learned. At the end of each section—we broadly group them—there is a checklist, so that chief executives and board members can wander around their organisations asking, "Do we do this? Do we do that? Show me".

That is on one side of it. In terms of our more general approach, we have published indicative sanctions guidance that tells you the sorts of behaviours that will lead to a particular outcome. Fundamentally, the question is of a constant judgment about suitability.

The Lord Bishop of St Albans: To cover a little more of this question of regulation, you spoke very eloquently in one of your recent speeches about wanting a race to the top rather than a race to the bottom. If you are regulating a number of different companies, all of which are competing with each other for market share, is there not an inbuilt dynamic of racing to the bottom rather than racing to the top? How might your very laudable aim be helped to come about?

Neil McArthur: First, it is important that everybody understands—I think they do, but if they do not they will add to my enforcement caseload—that you cannot be competing on compliance. The competitive edge cannot be by cutting corners on compliance or having lower standards. I will give you a real-life example of behaviour that is not acceptable to us. We have only recently announced that GAMSTOP will become mandatory, but there was a period last year where some operators at the fringe were advertising themselves by saying, "Come and gamble with us, because we are not on GAMSTOP". That is not acceptable to us; we will deal with those. We did deal with them.

The race to the top is about saying, "Come and participate in the collaborative ventures we are trying to do, so we can rapidly make progress". As a regulator—we will be the ones to judge it, not the industry—if it looks like those things will be productive, we will make them mandatory by including them in technical standards or licence conditions and codes. Everybody else will have to meet that, so the minimum standard has been raised. That is one way we are hoping to generate this sense of competition and a race to the top.

When I was interviewed last year, one reason I said that I did not necessarily see consumer complaints as a bad thing was that more demanding consumers will be a force for good. If people understand that playing with a particular operator means they will be kept safer and have a better experience, that also ought to create a race to the top, and we will deal with the people who do not meet the minimum standards through enforcement.

Lord Watts: I want to be clear what benefit there was to operators in advertising that they were not members of GAMSTOP.

Neil McArthur: They were effectively saying to consumers who wanted to self-exclude, "In a moment of weakness, if you want to find a place where you will not be stopped, come and play with us". It was a device to work around a consumer protection mechanism, namely self-exclusion.

Q148 **Lord Butler of Brockwell:** I would like to ask some questions about sanctions. The Act requires you to take into account, when considering fines, the financial resources of the company. I think I am right in saying that, in the year 2018-19, there were £19.6 million worth of fines. That looks very small in relation to the total turnover of the companies we are talking about. I also noticed that it was applied to only a handful of companies. Is the ability to raise fines an effective sanction?

Neil McArthur: It is one of a range of sanctions that we have. At the conclusion of a licence review, we approach enforcement—this is fairly typical in regulation—on a kind of no-order principle. You would start by saying, "Is it necessary to use our formal powers at all or could we deal with this through advice on conduct?" Many cases are dealt with on that basis: "Here is advice about how to do better". Then we have the powers to impose warnings, attach additional conditions or impose financial penalties. In extreme cases, we have the power to suspend or revoke licences. We are constantly working our way through those.

The calculation of fines is a careful judgment, taking account of, first, our desire to change behaviour. It needs to be a sum that will concentrate the minds of the senior executives and the board. It is about eliminating any financial gain from non-compliance, because that is simply a no-no. If you have made money from being non-compliant, that definitely must go. It is about, then, proportionality and the nature of the breach that led to the enforcement action. Alongside that is deterrence.

I take your point that £19.6 million, as a proportion of a £14 billion industry, does not sound like a lot, but the fact that there has been a licence review, a decision notice or a fine is effective in giving operators a wake-up call. At times, there are calls to set out a tariff. We are reluctant to do that for one simple reason: I do not want people pricing in the risk. Of all the industries, this is not an industry to do that. I do not want people saying, "It would be £5 million for that, but the upside might be £7 million. Let's see if they spot it". We need people to understand that the penalties will be set in a way that is intended to change behaviour and deter it in the future. That is its intended effect. If, after that, there is no change in behaviour and there are repeated instances, you are starting to look at suspension and eventually revocation.

Lord Butler of Brockwell: I will come back to licence reviews, but may I just take a particular case? In October 2018, Paddy Power Betfair—PPB—was ordered to pay a regulatory settlement of £2.2 million, having failed to protect customers and stop stolen money being gambled. The commission found that it breached social responsibility when five customers were able to gamble extensively despite indicators of gambling-related harm. The commission also found, and Paddy Power accepted, that it failed to act in accordance with the commission's guidance on anti-money laundering. To a firm such as Paddy Power, a fine of £2.2 million would be laughable, would it not?

Neil McArthur: I can tell you it definitely did not laugh at that. Inevitably, it is a matter of judgment. We reach that judgment by reference to the factors I have just described, then we take the facts of the case to a panel of our commissioners and ask them to steer us to the appropriate level. Alongside that, having been on the receiving end of it, that firm absolutely knows that if this happens again all options will be considered, including bigger fines and reviewing the personal licences of those people involved. I understand the point and I have some sympathy for it, but ultimately these are all matters of judgment. To use the lawyerly expression, they turn on the facts of the individual case.

Dr William Moyes: I would not underestimate the reputational damage that is done and the extent to which the boards of directors of companies such as Paddy Power are aghast when they see these fines come along. The fine itself is not going to move the share price or anything like that but it sends a very powerful signal that next time, if there is a next time, it will be a different type of sanction altogether. They understand that.

The Chair: I wonder whether the chief executive at that time got his or her full bonus at the end of the year. That is not something over which you would have any locus.

Neil McArthur: It would be indirectly. I am not talking about that specific case but one outcome of enforcement action, as a sign which shows promise, is that operators now have in their remuneration policies the need for there not to have been enforcement action or social responsibility failings. It is not all about commercial upside. They are now remunerating on that basis.

The Chair: Is that widespread?

Neil McArthur: It is getting more widespread.

Lord Butler of Brockwell: I was impressed by what you said about the withdrawal of licences, and can see this is a real sanction. Seven operating licences and 40 personal licences were removed in 2017-19. Were any of those from the big five gambling companies?

Neil McArthur: I am afraid I do not have that information to hand.

The Chair: Can you write to us?

Neil McArthur: I would be very happy to write and confirm that.

Lord Butler of Brockwell: Finally, you are making some inquiries into criminal matters, but you do not have the right to prosecute. Should you have the right to prosecute?

Neil McArthur: We have the right to prosecute for offences under the Gambling Act. For example, operating without a licence is a criminal offence. There are various offences about allowing children to gamble; there are some advertising offences.

Technically, any breach of a licence means that you are not complying with the terms of your licence and, in theory, that is a criminal office. Early on in our statement of principles, to avoid all regulation getting gummed up with people wanting to say "no comment", and to create the right regulatory relationship, we committed not to prosecute people in those circumstances unless either they are guilty of cheating at gambling, which is a serious offence, or they provide false or misleading information to the commission, because that is a criminal offence.

We do some criminal investigations; in our activities on unlicensed operators, we will commence them. We do not often tend to need to see that all the way through to a prosecution and a conviction because disruption, such as having the payment providers stop them getting any money out of customers, is enough to deter and prevent the crime in action. But we do prosecute: as an example of a case where the legislation managed to keep up with developments, a couple of years ago we prosecuted a company called FutGalaxy, which had found a way to turn video game coins into real money and was allowing children to gamble on its site. We prosecuted the company, which had a very significant fine as a result, so we do some criminal prosecutions.

Q149 **Baroness Armstrong of Hill Top:** I want to turn to another aspect of the work of the commission, which is the individuals who come to you with complaints about the operators. We have heard from people with lived experience that they did not find the Gambling Commission responsive, supportive and so on. How do you see your role with individuals? Should there be an ombudsman or something like that, which can deal with those individuals in a different and more thorough way? This is given what I know you will have heard, because you will have seen the evidence we were given when people came before us.

Dr William Moyes: First, I am sorry to hear that people with lived experience and others with complaints feel we have not been as supportive and open to their approach as we should have been. I would regret that. The commission has taken the decision to set up an advisory group of people who have lived experience of serious gambling problems and we are now in the process of bringing that together. We have already engaged people with lived experience in a number of workshops and events, but we want to have a standing group that will deal with commission staff and the commission, to help us make sure our policies, our processes and our approach reflect something of what they would like to see.

I am a bit sceptical about an ombudsman, personally, but the commission itself does not have a position on that. I would at least want us to be satisfied that the ombudsman could move quickly. My sense is that when complaints come in about gambling, the complainant wants fast action and is not terribly interested in a deep analysis of systems, in the way that in some other sectors—health, for example—the ombudsman plays a really valuable part. There is a question about whether an ombudsman would be the right approach, but we do not have a closed mind; we just have not given it enough thought yet.

Neil McArthur: First, can I repeat the apology that Bill gave? I am very sorry if people who have contacted us feel we have not looked after them properly. There is a challenge here. As I said a few minutes ago, we take information from a variety of sources, including from consumers, but the Gambling Commission's role is not to seek individual redress for consumers. When information comes in from consumers, we will draw the common themes together and take that into our investigations, which fundamentally address the whole question of the operator's suitability and compliance with our licence.

We know that is disappointing for consumers who want redress. We have worked hard over recent years to make alternative dispute resolution processes more effective for consumers, but we know they are not as effective as they need to be. There is still a gap in the framework when allowing individual consumers to get individual redress. There is a mixed economy of alternative dispute resolution bodies for gambling. We are on record as saying that there are too many, to be frank. Each one deals with it in a slightly different way. Some will deal with some things and some will not. At its heart, there is a gap on individual consumer redress. As Bill says, the question of an ombudsman is probably a matter for government. It will be important to make sure that, in plugging the gap, it addresses what the consumers are looking for. I am very aware that, when a consumer comes to us with information, they want their individual complaint to be looked at and to have redress. I am not able to give that to them.

Baroness Armstrong of Hill Top: What happens when a consumer comes to you?

Neil McArthur: We require operators to deal with consumer complaints themselves and to make alternative dispute resolution arrangements for people to complain through, but that still does not always give the consumer what they want. Ultimately, in certain cases consumers have the right to go to court. That is a very long process.

Baroness Armstrong of Hill Top: But you would just explain the process to them.

Neil McArthur: Yes, we will explain the process, but it is a very frustrating thing for my colleagues in our contact centre to deal with, because you end up talking to consumers about all the things you cannot do for them.

Baroness Armstrong of Hill Top: One consequence of what you are describing is that, before they will agree the redress, some companies insist on a non-disclosure agreement with the customer. Part of the NDA will state that the customer should not talk to you. What have you done about that?

Neil McArthur: I first heard about this at a Gambling with Lives reception here. I said then, to the member of the press who was talking to me about it, that it was not acceptable—and it is not. We have investigated the circumstances of the operator doing that and dealt with it. We have put out a note for the whole industry talking about the use of non-disclosure agreements, and what should and should not be in them. We have made it absolutely clear that, first, non-disclosure agreements must not prevent people talking to the regulator about failings they have had. Secondly, they must not inhibit that person's ability to talk frankly with counsellors or treatment providers about their experience. I hope that the issue has been dealt with but, if it has not, we will deal with it. That should never have happened. I understand having non-disclosure agreements to protect intellectual property, but the idea that such agreements are out there cuts across our whole approach. We expect our operators to be open and frank with us about these things.

The Chair: Why do you think they need these NDAs? What is in it for them? What are they trying to prevent?

Neil McArthur: I suppose they are trying to create certainty that they have resolved any particular complaints arising from a set of facts. I am afraid they have got a bit ahead of themselves in saying "In addition to settling any civil claims you might have in court, one condition of this is that you should not speak to the regulator". We are not having that.

Q150 **Lord Trevethin and Oaksey:** Could I pick up some points on this question of consumer redress? You have said, correctly I think, that you perceive there to be a gap when it comes to consumers obtaining redress, because they have been or feel they have been unfairly exploited in one way or another by gambling operators. You have told us that, as a commission, you cannot really help with that. If a consumer comes to you with a complaint, you can raise the matter with—and perhaps bring enforcement proceedings against—the operator, but you cannot assist the consumer to obtain personal redress. Is that correct?

Neil McArthur: Yes.

Lord Trevethin and Oaksey: Given that, I must say I am puzzled that you do not have a favourable position in relation to the establishment of an ombudsman. We know that ombudsman systems work pretty well in relation to pensions, financial services, insurance, et cetera. They enable consumers who have been unfairly treated to get redress without necessarily using lawyers, without incurring large liabilities for costs and relatively swiftly. Is there any good argument for not creating a gambling ombudsman? I cannot think of one.

Dr William Moyes: As Neil said, we have a number of alternative dispute resolution organisations. One would have to work out whether you replace them with a single ombudsman for the whole industry or how else you do it. I am not saying for a minute that the commission is in any way opposed to an ombudsman. We have not given it a lot of thought. It would ultimately be a matter for the Government. The gambling review that the Government have said they plan to conduct would be a vehicle for pursuing this.

In the light of the session today, we probably will give it some thought, but I would not advocate having an ombudsman on top of alternative dispute resolution mechanisms. We would have to have some rationalisation of the whole system.

Lord Trevethin and Oaksey: Help me, if you would, to understand the nature of the ADR mechanisms that you have in mind. On one view of the matter, an ADR mechanism will work satisfactorily in getting appropriate redress only if it is backed, ultimately, by some form of compulsion. If the gambling operator has misconducted itself and refuses to provide redress, there must be some way for the exploited gambler to obtain redress and compel the operator to provide it. An ombudsman system would enable an exploited gambler to go to the ombudsman, prove his or her case and obtain an order with which the operator would have to comply. How does some other form of ADR mechanism provide a gambler with an effective right to redress?

Neil McArthur: The way ADR currently works fundamentally concerns contractual disputes. A lot of the adjudication will be about bets and whether they should have been honoured. We have been working very hard to make ADR more effective for consumers, because it is too much of a mixed economy at the minute.

We are not against an ombudsman. My predecessor spoke in her last speech about seeing the need for better solutions for redress. We absolutely see that but you have to be really careful about the nature of the claims that people might then want to bring. Is it contractual? Is it contractual plus customer service-related: “I do not think I was treated fairly”? Is it around how other protective mechanisms such as self-exclusion did or did not work? There are some nuances in how gambling works that need to be taken into account in framing the solution.

Ultimately, there are different sorts of ombudsmen. Based on the consumer issues that I see, an apology at the end would not be what people want. People want rapid redress for how they have been treated. It is simply a question of making sure you cover all the grounds on which consumers want redress through the arrangements you have.

Lord Trevethin and Oaksey: Normally, where they have been unfairly exploited, what they want is their money back. I do not understand how any form of ADR mechanism, as contemplated by you, could provide them with that redress, whereas an ombudsman could. Is that a fair point?

Neil McArthur: It is a fair point. There are some nuances in gambling. From time to time, particular issues emerge in gambling that are unusual. For example, in the early days of the Gambling Act, you would find people sending in 17 year-olds to bet in premises. If the bet won, they cashed it; if it did not, they went in and said, "You need to give us the money back, because that person is 17". There are some risks at the margins. I am not suggesting that the current regime is particularly effective. I acknowledge there is a gap, but you need to take account of the range of activities that might end up needing to be adjudicated on by an ombudsman.

Lord Trevethin and Oaksey: I have been asked to raise this specifically to get your views on it. We have been talking about an ombudsman, which would of course be applying not the law as such but whatever principles were established by the scheme. A different type of redress is that provided by a law court, if an aggrieved gambler in fact goes to court. Does the commission have a view on whether an effective way of promoting good conduct in this field might be to create a duty of care—a fuller duty of care than is currently recognised by the law—to enable a gambler who has been unfairly treated to go to court and make a claim? Is that a matter that you have considered and formed a view about?

Neil McArthur: Specifically on that question, no, but the general thrust of our approach to regulation is consistent with saying that operators must look after their customers. It is not a great leap of faith to say that we are pushing them to adopt a duty of care model. I can imagine that there is significant scope for legal argument about where those lines are, but that is our whole focus: "Know your customer; look after your customer; take responsibility for the services you provide to that customer to keep them safe". The Gambling Commission's position on that is already fairly clear.

As a demonstration of that, there was a lot of talk, for a very long time, about responsible gambling. That created a sense that somehow all the responsibility here is on the individual gambler to look after themselves and keep themselves safe. We are talking about safer gambling. We moved from having a Responsible Gambling Strategy Board to the Advisory Board for Safer Gambling precisely because we are trying to create the sense that it is a responsibility of operators to keep their players safe. In that space, there is a gap at the minute in the redress consumers are able to seek, because ADR is about contracts.

The Chair: You used the phrase "duty of care". Would a statutory duty of care placed on the operators be a plus or a minus?

Neil McArthur: I genuinely do not know.

The Chair: We would very much welcome your thoughts, not necessarily after we have thrown this at you now. Your considered view of that would be very helpful to us, because it is quite a live issue.

Lord Trevethin and Oaksey: To clarify: in a sense, your view will be, rightly, that gambling operators owe a duty of care, in that they should be careful in trying to comply with their regulatory obligations. But we are considering the concept of a duty of care in a different and more legal sense. We are considering a duty of care that exists as a matter of law so that, if it is broken, the party who has suffered loss as a result of the breach of that duty of care can go to court and, in certain circumstances, may recover the damages in respect of the relevant loss. We are considering the concept in that sense, and we would be greatly assisted by any observations you could make to us about the development of law in that direction, to fill the gap that I think you agree exists.

Neil McArthur: Yes.

Q151 **Lord Watts:** The All-Party Group on Gambling Related Harm suggested that there should be a review of the role and effectiveness of GambleAware. What are your views on GambleAware? What are your views on the relationship it has with key stakeholders? How could it improve that relationship, if at all?

Dr William Moyes: GambleAware gets an income from the industry of about £10 million to fund research, education and treatment. That is almost impossible; £10 million does not even begin to touch the need. A little bit of me feels sorry for GambleAware, but only a little bit. In its recent work, it developed what are described to me as strong arrangements for commissioning and quality-assuring research. However the system evolves over time, we would be keen to see that preserved in some way.

The commission's observation would be that treatment is primarily a matter for the NHS. The NHS has started now to develop the research base, through work by Public Health England and the National Institute for Health Research. It is investing in creating 14 or 15 clinics in England, with similar work in Scotland and Wales, more focused on public health than on the provision of treatment, although that will emerge. I feel that is carrying on in the right way now. It needs a lot of support, but it is not going to stop.

Education is an area where more could be done, undoubtedly. There is a need for a lot more work in schools and universities with young people to get them to really think about the risks they run if they start gambling seriously. From what little I know about it, GambleAware has not given that perhaps the priority it deserves, but I would come back to the resources at its disposal.

Some people feel that GambleAware has recently become too antagonistic towards gambling and is perhaps forgetting, as Neil said at the beginning of our session today, that 24 million people a year gamble, more than half of whom appear to gamble perfectly safely and treat it as just another form of entertainment. There is a question mark as to whether GambleAware needs to be a little less critical of gambling as a pastime. That would be my perspective.

Neil McArthur: We work very closely with GambleAware. We rely on some of the research that it does. Going back to the national strategy to reduce gambling harms, it is vital here that, first, whoever is doing it, they get the right balance between prevention and education, and treatment and support. Preventing people getting into difficulties is better than treating them afterwards. In the context of treatment and support, you then need to understand the scale of the need and how you would address it. I agree with Bill: first and foremost you can see the NHS's role in that. It is very welcome that it does that.

The other challenge there has always been under those voluntary arrangements is the difficulty of making plans in circumstances where the availability of money is not guaranteed, sustainable and demonstrably independent of the industry, because that puts some people off participating. The other important bit is the evaluation of effectiveness. Evaluation is a key plank of the national strategy. If you are doing stuff, you need to know it is having the impact you hoped.

Lord Watts: GambleAware said it was reviewing its structure and that its structure was going to grow. We are waiting for that structure to be presented to the Committee, because it would give some idea of the direction in which the organisation is going and how it is spending resources. I take the point about there not being enough resources, but are you convinced that the resources it has are being directed in the right way? Do you have any mechanism for evaluating the effectiveness of the organisation?

Neil McArthur: It is not the commission's role, and we are not particularly well placed, to evaluate the effectiveness of GambleAware. Evaluating the impact of what work is done is really important. We need to apply that to our own work as well. We need to be sure that the interventions we make have the effect we want. The need for properly funded and sustainable prevention and education alongside treatment and support is very, very important. That is what we are really focused on.

Lord Watts: The Committee will take the point about the resources, but, if you are to add to those resources, you have to be convinced that the organisation receiving those resources is effectively using them in the right direction. That is why we are interested in your view about whether the organisation is fit for purpose and can deliver with the right resources and the right direction.

The Chair: It is really a governance question. To whom are they accountable?

Neil McArthur: As an independent charity, it is not to the Gambling Commission.

Dr William Moyes: It is not us, no.

Neil McArthur: I am not trying to evade your question. My point is that, in developing the implementation plan for the national strategy, a number of bodies, including GambleAware, have a part to play.

Q152 **Lord Trevethin and Oaksey:** In your evidence, you state that the gambling industry has a critical front-line role to play in reducing gambling-related harms. You have touched on this in your answers already, but could you just bring together the threads and explain what that role, in your view, should be?

Neil McArthur: Gambling operators are the ones dealing with customers. They are the ones with the customers in their premises; they are the ones with the customers online; they are the ones providing facilities for gambling. Therefore, their critical front-line role in reducing harm is, in my view, about making sure consumers are safe, keeping them safe, tracking their play, intervening appropriately when people appear to be getting into difficulties and doing so swiftly, and being really focused on knowing their customer in all the different dimensions.

Therefore, to use a metaphor I used earlier, the role of gambling operators is similar to health and safety. Employers owe their employees a duty of care, to use that phrase, to keep them safe. That is the space. Joining the two questions together, there is a distinction here. I do not see gambling operators having a role to play in shaping research, education and treatment. That is a matter that needs to be taken away from operators. To have the direct involvement of operators in that would not be a good thing.

Lord Trevethin and Oaksey: That is very helpful; I was going to come on to exactly that matter. You have given your answer about that. What, if any, steps should be taken to break or attenuate the link between gambling operators and research, education and treatment? The context of that question is that a number of witnesses have expressed concern about the connection between the industry and research, et cetera.

Dr William Moyes: We would like to see an organisation that receives money from the industry, whether it is a statutory levy or the arrangements the previous Secretary of State negotiated around the big five companies growing. In a sense, that does not matter for today’s purposes. That organisation would make sure that the money the industry is required to produce is produced and that people do not shirk those responsibilities.

Separately, we would like to have an organisation that sees its job as being to commission research, to run programmes of education or to work with the NHS in the NHS's research facilities and so on, to develop correct models of treatment, find out what works for different types of patient and make sure those treatments are provided.

We would like to see a separation. We would not like to see a world in which the industry can appear to dictate priorities and say, "We want research done on this, but we are not happy to fund research on that". The decisions as to what is researched, how education is run and what kinds of things are done with the money should be completely separate from the industry.

Lord Trevethin and Oaksey: You will certainly know that, in August last year, the big five asked Lord Chadlington to chair a committee to consider how best to allocate their increased contributions. As you know, that led to the creation of a body called Action Against Gambling Harm, which I believe was registered as a charity only a few days ago. Is it the commission's view that there is a sufficient degree of separation between that body and the gambling industry to meet the concerns we have been discussing?

Dr William Moyes: That is something we have raised with Lord Chadlington and Lord Carlile in correspondence and in discussion. We are open to persuasion. At the moment, we slightly wonder whether the organisation is as insulated from the industry as Lord Chadlington believes it is, but we are definitely open to persuasion. It is an issue he recognises, and that is the main thing. The development of the charity, its staff, its processes, its objectives, and so on, is at a very early stage. The main thing is that Lord Chadlington and his colleagues clearly intend to build into the organisation as much insulation as they can.

Q153 **The Lord Bishop of St Albans:** Much of my question has been covered. Could I throw in one that is related to it, though? Those of us who campaign in these areas find that, repeatedly, when we ask questions, the Government say, "We do not have good data". One of the frustrations of many of the academics is that gambling questions were omitted from the 2014 morbidity survey, and that the British gambling prevalence survey, which a lot of academics found hugely helpful, was not continued after 2010.

Were you involved in any of those decisions and have you campaigned to get those reinstituted? Academics believe they provide really important data.

Neil McArthur: We have some influence and some control but not the final say on questions and surveys. Undoubtedly, we would agree in the sense that there needs to be better research and understanding of all the aspects.

The Lord Bishop of St Albans: What have you done about that?

Neil McArthur: There is a combination of things. In terms of the data we are reliant on, the best and most robust data is the data that comes from the health surveys, and we are expecting the latest version of those. But there is a significant lag in that. I am very aware that the data I am using when I put evidence in to a committee such as this is based on 2016. The next health survey will give us numbers that broadly coincide with the start of my strategy, not where we are today.

The Lord Bishop of St Albans: When will the next set of stats be published?

Neil McArthur: It is later this year. I could not give you the precise date, but I expect it to be reasonably soon. Alongside that, we do other research, which tends to have a smaller sample. We are engaging in our own research to understand consumers and consumer motivations. We understand the need for better data, particularly in terms of checking that the interventions we are making are having the effect we want. I understand why people have concerns about that. We share those concerns and are keen to make progress in those areas.

The need for better data and the availability of data is a strand in the national strategy. The more academics and experts you can have looking at this, the better the answer will be. Joining this to the conversation we just had about funding, access to data is also really important. In addition to not wanting to feel you are being funded by the gambling industry, we know researchers say that they do not want to feel that they themselves have to go and ask operators for the data, because that creates a proximity they are uncomfortable with. Creating a data repository for academics and then getting a richer array of research, including potentially a longitudinal study, is something we support.

Q154 **Lord Foster of Bath:** You talked earlier about firms not getting a competitive edge through non-compliance, and I want to raise one example where that might in fact be the case. Then I want to move on to perhaps getting a competitive edge because there is not a tight enough licence condition framework, to get your views on that.

First, probably the biggest threat to the creative industries is illegal websites from which you can get free films, free music and so on. I am sure you are aware that the City of London Police's Police Intellectual Property Crime Unit has identified over 3,500 of these infringing websites. Many of them are supported by and get their money from advertising. As I am sure you are well aware, a lot of the advertising on those illegal websites is from gambling companies. Some of them are non-licensed companies. You said earlier that you are very keen to chase up unlicensed gambling companies that advertise in this country, and some of them are doing it on these illegal websites. I would be interested to hear, very briefly, what action you are taking on that.

Much more importantly, it is a licence condition. It says, "You must ensure that you do not place digital advertisements on websites providing unauthorised access to copyrighted content and must take all reasonable steps to ensure that third parties with whom you contract do similar”. I have here some examples of infringing websites that have advertisements by gambling companies that you licence. For instance, there is a pop-up advertisement here for 10bet on the Aliez website, and a Coral advertisement on the Tugaflix website. I would just be interested to know what action you are taking about cases like that and what you are doing about non-licensed websites.

Neil McArthur: You will forgive me, but I cannot give you the details of those exact cases. I would be very happy to take those away. In general terms, as you say, we have imposed a condition that says, “Our expectation is that you will make sure advertising does not take place in inappropriate ways”. We have worked pretty hard over a number of years, working closely with the City of London police, to bring pressure to bear.

We have made it extremely clear to our operators that they are personally accountable for the actions of affiliates, so they cannot say, as some tried a little while ago, “We could not possibly control this, because it is all being done by affiliates. Although it is done in our name, it is done without our knowledge”. We have said extremely clearly and had casework that shows the affiliates are listening. We are holding the operators to account, and we have fined operators for not controlling their affiliates.

Lord Foster of Bath: I am conscious that the Chair is getting very anxious about the time. I want to move on to one other issue very quickly. Could I ask you to write to us and let us know details of actions you have taken against licensed gambling companies that have been advertising—we know they have—on the infringing websites, and what steps you are taking in relation to non-licensed gambling companies that are doing the same? I accept that is much less of a responsibility for you.

The other way in which you can get a competitive advantage is if the actual regulatory regime is relatively lax. I am fascinated by the fact that you said on “Panorama” on 12 August last year, “We’ve not yet reached a point where we would impose limits on stakes or limits on prizes. The information operators have on customers”—this is predominantly online, where I accept there is much more data—“means they ought to be able to keep players safe and playing with money they can afford and allowing them to play in a way the keeps them protected from risk of problem gambling”. You believe the operators have sufficient data to take the steps they should be taking.

On the other hand, we know that is not actually happening, because you yourself said it on 12 June. You referred to operators’ failure to address affordability. You said, “Common to all these cases has been the ineffective controls framework used by the operators to identify and manage the risk”. You yourself say that they have the data, but they need an effective control mechanism, which presumably means some triggers in relation to affordability and so on. Why have we not yet seen from the commission a licence condition in relation to affordability? The great good news is that, when we asked all the gambling companies themselves about it last week, they all said they were up for working together and developing something. You can work with them and get it done quickly.

Neil McArthur: I have said more than once, and it has been a recurring theme, that there is always more to be done. In terms of the work we have done, if I can start there and move on, we did a review in 2018 of online gambling. We have been working through that. We took steps to improve age verification to protect children; we took steps to improve customer identification, to make self-exclusion more effective and to make it possible for GamStop to be implemented in such a way that people could not work around the edges. We have done other work in relation to that.

We did work on improving unclear contract terms with the CMA and improving the way operators interact with their customers. The customer interaction touches a bit on affordability. We have just announced a ban on credit cards. We have already made changes to make it easier for customers to withdraw their funds. Questions of online stakes and continuing to push on affordability are in our forward work plan. Affordability is implicit in our push on "know your customers" in particular, and there is much more work to be done.

I am glad the operators understand the need to focus on that. Progress is being made. If it becomes apparent that we need to do more on licence conditions and codes of practice to make sure of that, we will not hesitate.

The Chair: What is the outcome you hope for from the removal of credit cards?

Neil McArthur: We did a call for evidence, and then we carefully considered the evidence. The evidence showed a significant proportion of people using credit cards who would be defined as problem gamblers. Therefore, it is fundamentally about the risk of financial harm to those people.

The Chair: You eliminate debt.

Neil McArthur: We need to stay vigilant about the prospect of people borrowing money in other ways to fund their gambling. That is why affordability and understanding the source of funds for people is so important. It might be right that it is not explicit, but everybody understands that it is implicit in the conditions that are already there that they need to know their customers.

Q155 **Lord Layard:** At present, the stake limits are much stricter for offline than for online gambling. Is there any good reason why online gambling should be so much more laxly regulated?

Neil McArthur: I am not sure I agree that online gambling is regulated laxly.

Lord Layard: It is not so strict.

Neil McArthur: I am not sure about that either, but let me explain why. The difference between gambling in premises and gambling online is that, currently, it is possible to gamble in premises anonymously. The question about whether you track play is a live one for us. Online, you have data about the player. You know who they are, what they are playing and when. Although there is much more to be done, you ought to know the source of the funds, et cetera. You have a better picture of an online player and their behaviour than you do in premises.

It is not that we have said we are not interested in online stakes. From 2018, we systematically worked our way through our forward work plan on the basis of impact. We started with those areas that would have an effect for 100% of the population. Customer identification will improve things for everybody. Our data showed in 2018 that 93% of stakes online are under £2 anyway. What we are grappling with now—I hope this will come out as part of the follow-up design work—is to understand the staking above £2, and we are looking at that.

Part of why it was not put at the top of the priority list is that imposing that limit would not have affected the vast majority of staking online anyway. It was simply a question of priorities. They played with me a bit on "Panorama"; I did not get the whole of that answer out.

Lord Layard: Going back to the Chairman's question about unlicensed offline gambling, which you seem to suggest is not a big problem at the moment, what is stopping that being a problem? Is it the operation of the banks? How is that that is not emerging as a problem? You almost suggested that it would not emerge as a problem even if we were stricter with British online operators.

Neil McArthur: I want to assure the Committee that I am not complacent about this. We have taken a significant number of investigations that led to disrupting online operators that were unlicensed. What has been very effective in terms of disruption is us working closely with payment providers to turn off payment. Gambling without money is not a product. Where we find an illegal operator, we will write to them and we will say "stop". If they do not stop, having done the investigation, we will work closely with Visa or Mastercard. That ultimately underpins most payment provision.

The Chair: They help and co-operate.

Neil McArthur: Yes, we have very good working relationships with them. This has proved to be highly effective in terms of disruption. As we flagged in our evidence, there is always the possibility that people phoenix very quickly, and then you need to look at other tools. We work closely with internet-service providers.

But that is why we have been reasonably effective. I have an intelligence team that keeps an eye on this. Where you find an illegal site, we have the technology to check the amount of traffic. We are constantly vigilant about it, because we hear the operator saying, "Everything you do might create a push towards an illegal market", and we are very keen to avoid that as an outcome.

Q156 **The Chair:** I will be very brief, and hopefully you can be very brief in return without diluting the answer. If I am a gambling operator, licensed by you, and I want to launch a new product online, in bricks and mortar or whatever, do I have to get that product approved by you before I can market it?

Neil McArthur: Not quite, no. We do not approve games. We require operators to have them tested. We have accredited test houses, where they must have the games tested to make sure they are running in a compliant way. We set the technical standards, but the testing is done by experts.

The Chair: How independent are the testing houses?

Neil McArthur: They are independent of operators.

The Chair: No, but they are paid for by the operators.

Neil McArthur: They are paid for by operators.

The Chair: Take the case of the National Lottery. In my past life, I was the chairman of Camelot many years ago. I remember when the Lottery Commission was separate from the Gambling Commission. Every point of sale, every game we wanted to launch, had to have prior approval by the regulator. Does that still apply to the lottery?

Neil McArthur: It does on the lottery.

The Chair: But it does not in gaming.

Neil McArthur: No. In the early days of the Gambling Act, we carried over pre-approving casino games and stuff, but the commission stopped doing that quite a while ago.

The Chair: Is that satisfactory? Does it keep you awake at night? It would keep me awake, I have to say.

Neil McArthur: The variety is endless. We are setting the outcome, which is fairness and the game operating in the way it should. Focusing on individual game design and approval would be a very significant challenge for any regulator.

The Chair: You can do it for the lottery. Why can you not do it here?

Neil McArthur: I suspect there are many, many more variants—I could not put a number on it—of game that would end up being tested than we will ever consider under game approvals for the National Lottery.

The Chair: But the object of the operator is to create an addictive product, is it not?

Neil McArthur: That is precisely why we have embarked on the product design piece of work, where we have got advice from the Advisory Board for Safer Gambling and the Digital Advisory Panel, and put a challenge to the industry: "You must not design games that are addictive. They can be engaging, yes, but what are the features?" That is why we are focused on that piece of work. Engaging is fine; loss of control is not.

The Chair: Have you ever asked or required a licensee to drop a product?

Neil McArthur: Yes.

The Chair: Does that happen very often?

Neil McArthur: It does not happen that often, because there is a testing regime in place to test games. Sometimes we become aware of a particular issue. I will give you a real-life one, from when the decision was taken to reduce stakes on fixed-odds betting terminals.

The Chair: I do not mean this pejoratively, but you must have huge confidence in the testing organisations and their independence.

Neil McArthur: We accredit them; we check them. We do not actually get any licence fees from them. There is no licensing regime. We do a lot of work to make sure they are suitable to do the role they are doing.

The Chair: Would it not be better if you were the client rather than the operator, leaving aside resources? I know there is a resource issue here.

Neil McArthur: The infrastructure is such that they kind of understand that is how it is anyway. I was in a meeting with a number of the test houses last week.

The Chair: Would it make a big difference?

Neil McArthur: I am not sure it would make an enormous difference, because everybody understands that it needs to work.

Q157 **Lord Parkinson of Whitley Bay:** Could we turn to the issue of self-exclusion? You mentioned earlier that some operators were, in effect, boasting that they were able to get around GamStop. Have they all now signed up to the new provisions that come in by the end of next month?

Neil McArthur: Most of those were not licensed, so we have disrupted them. When it became apparent, we dealt with it.

Lord Parkinson of Whitley Bay: Were these UK-based companies?

Neil McArthur: No, not to the best of my knowledge.

Lord Parkinson of Whitley Bay: What can you or do you do next in cases like that?

Neil McArthur: If you are an illegal operator, we have specialist investigators with the skills to do internet-based investigations. We will check the level of traffic coming from Great Britain to see if there are GB consumers. If there seem to be, the first step is that we write and say, "You need to stop. This is illegal. You can only do this with a licence". If they do not stop, we will pursue that further. So far we have found disruption, through working collaboratively with payment providers, a very effective way of stopping those businesses being able to transact with British consumers.

Lord Parkinson of Whitley Bay: Are all the payment providers taking it as seriously as each other?

Neil McArthur: Yes.

Lord Parkinson of Whitley Bay: We have heard in previous sessions from individuals who have self-excluded but have found that they have been contacted by, in some cases, the same company or by a subsidiary of the same company. Is that a problem you are witnessing as well?

Neil McArthur: We are aware of the issue. We have taken enforcement action in the past in relation to people contacting self-excluded customers. It was partly why, in the work we did in the past, we wanted to make customer-identification processes stronger, with more data points and more checks, to make it harder for people to find ways round self-exclusion online.

In terms of the effectiveness of self-exclusion in premises-based, there are multi-operator self-exclusion schemes. There are inevitable weaknesses in that, because it relies on people recognising faces as they come through the door. But one emerging opportunity is that, increasingly, there are technological solutions to that. I am aware of casinos that are using facial recognition so that, if you have self-excluded, you will be stopped on the door. We are constantly trying to make that more effective.

Online, I am hoping that the concerns there were 12 months ago or so have been significantly remedied by the changes we made to customer identification.

Lord Layard: If there was an operator that persistently did not do the right thing about self-exclusion, could that be a ground for a revocation of the licence? What other grounds could there be for revoking a licence?

Neil McArthur: The fundamental test for revoking a licence is that the operator is carrying on its activity in a way that is fundamentally inconsistent with the licensing objectives. That raises questions about its suitability. If an operator was refusing to impose any requirement—self-exclusion is a good example—and was simply not getting it, we would take its licence away. That is just not acceptable.

Q158 **Lord Mancroft:** Earlier, you touched on the protection of children from online gambling. Do you believe you are being sufficient proactive to cover this? Some of our evidence has suggested that you are reluctant to do as much as you could. Lastly, what are you doing to tackle the proliferation of loot boxes?

Neil McArthur: In relation to protecting children, in the online space we have increased the protections in age verification. There was a time when we would allow operators to have free-to-play games before you got to the age gate. We have now required our operators to put even free-to-play games behind the age gate. In the online space, we have increased the protections for children to prevent online gambling with licensed operators. Customer identification and age verification are very important, and we have done that.

In the context of premises, we do test purchasing. One of the challenges we have set is how to use advertising technology to make sure adverts are actively being directed away from children. We are taking action in a number of areas that are within our remit.

In the context of loot boxes—I have given evidence to the DCMS Select Committee about this—we take the view that they do not fall within the legal definition of gambling at the minute, so they are outside my legal remit. However, we are very concerned about the blurring of lines between gambling and gaming. We were in the meeting of European regulators where we all agreed a declaration, which has now been signed by 18 regulators around Europe and some in America, expressing that, while our jurisdictions differ, we are all concerned about this blurring of lines. Loot boxes are part of that.

I am also equally concerned about social casino games, which are games you can play on your phone. You may even pay to play them. They are slot-style games that are described as intense gambling simulation games, which are not always 18-plus age games. We are doing what we can.

If you cross the line, as FutGalaxy did, and move from the point where you are involved in a video game and now you can turn it into cash, we will take action, as we did. FutGalaxy is one of the few prosecutions I am aware of anywhere in the world in that space, so we have done quite a lot.

The Chair: Is there a case for some of the kids' gaming activities to be more effectively regulated or be regulated for the first time?

Neil McArthur: Yes, that is effectively what the declaration I spoke about says: that we ought to be concerned about this. These are games that look and feel like gambling but are not, for technical reasons.

Q159 **Lord Smith of Hindhead:** That is the point, is it not? They look and feel like just that. In Belgium, they have categorised loot boxes as gambling. The Dutch are also concerned about it. Action is being taken in other countries. Anyone who has taken even the briefest interest in this Committee's work will recognise that the modern, up-to-date gateway for young people getting involved in the gambling world, where they may be harmed, has to be loot boxes and skins. It is not rolling a penny down a machine in a seaside arcade.

I am really surprised—in fact I am astounded—that you have taken a view that this is not an area of concern. Everyone here is concerned about it.

Neil McArthur: Can I just be really clear? I am extremely concerned about this.

Lord Smith of Hindhead: Yes, but you are not doing anything about it.

Neil McArthur: No, that is not right.

Lord Smith of Hindhead: What are you doing about it?

Neil McArthur: I am extremely concerned about it. We have expressed our concern and joined with other regulators around the world to express our concern. We work very closely with those other regulators. We are applying pressure to the gaming community. But my fundamental problem is that the law in other jurisdictions is not the law in the UK.

Lord Smith of Hindhead: Would you like to see a change of law here on loot boxes?

Neil McArthur: A change of the law is a matter for Parliament. If that decision was taken, we would regulate it.

Lord Smith of Hindhead: Would you welcome it? This Committee's job is to recommend to the Government what changes they may make in a review of the Gambling Act. That is what we are doing. As the commission, would you ask this Select Committee to make a recommendation that loot boxes be considered as gambling and therefore regulated?

Neil McArthur: The question—

Lord Smith of Hindhead: That is my question, not the question.

Neil McArthur: I understand that. One possibility is the Gambling Commission regulating this; one is these products not existing; one is somebody else regulating it. But I absolutely agree that we should be concerned about this, because these games look and feel like gambling and they are not, due to a technicality. That was the evidence I gave to the DCMS Select Committee, and that is my answer here.

I am not making a land grab to regulate the gaming industry. I would rather they stayed away from the perimeter in the first place. But I absolutely understand and share the concern. If you have a game that looks like gambling and acts like gambling, and the only thing that stops it being gambling is the ability to cash out, that is not a good place to be.

Lord Smith of Hindhead: What about skins?

Neil McArthur: We already regulate skins betting if you can turn it back into cash. The hurdle you have to get over is whether it is possible to readily convert that into money or money's worth. It is the prize that makes it gambling in the context of gaming, not staking. Staking is important for betting and lotteries. It is an important area that needs to be resolved; I agree.

Lord Smith of Hindhead: Let me ask the question in a different way. Do you have a concern that loot boxes, even though they may not technically constitute gambling under our current legislation, are an area where young people playing online are more likely to develop, perhaps, gambling addictions?

Neil McArthur: Yes. If I have not been clear about that, let me put it this way. I am very concerned about children playing gambling-like games.

Q160 **Lord Butler of Brockwell:** The commission has recently announced the formation of a working group to address issues about VIP schemes, of which we have heard quite a lot. It is to be led by GVC. Is it actually appropriate that a gambling company should lead an inquiry into a problem that has been created by the gambling companies themselves?

Dr William Moyes: We are not asking GVC to lead an inquiry and to take charge of this area. We are saying—I will admit that it is an experiment—that how you manage and relate to VIPs, what you can give them and what you cannot give them, is really important.

We have asked GVC to pull together a number of large operators to propose a code of conduct. In our view, if the code of conduct is strong, the industry is well bound into it and it has the industry's support, we could import it into our licensing regime. If the code of conduct is poor, we do not have to follow it. We will do our own work, and we will not follow that experiment again. But we would like to feel that the industry, particularly the bigger companies that the industry would regard as the leaders of the sector, can be brought into developing solutions to new problems as they emerge. If the evidence shows us that they cannot be brought in and they will always propose something that is pretty weak, we will not do it again.

Q161 **The Chair:** There is a last question from me; I am sorry. This may be too big a topic at this late hour, but, from your position as the key regulator in this sector, would you have a view of the effect, good or bad, on the sector if the Government banned advertising? You may have needed notice of that.

Dr William Moyes: It raises a lot of questions, not least of which would be the position of the National Lottery, whether that would escape a ban, whether it would be part of a ban and what that would do to the amount of money it could raise for good causes. It is something we think about. Ultimately, the Advertising Standards Authority is in the lead on this.

The Chair: If the Government asked you for your view in the consultation, what would you say?

Dr William Moyes: I would need notice for that. It is complicated. It is not straightforward.

The Chair: Of course it is. Any thoughts you might have on advertising would be very helpful.

Dr William Moyes: We will do that.

The Chair: I am sorry to give you even more homework, but it would be much appreciated. On behalf of the Committee, can I thank you enormously for your patience and candour, and for helping us so greatly with our inquiry? We hope to do justice to the subject in due course. We are hoping to publish in late June, but who knows? Thank you very much indeed.

Dr William Moyes: I hope it has been helpful.

The Chair: It has been hugely helpful. Thank you.