

# Written evidence submitted by Flutter Entertainment plc

## DCMS SELECT COMMITTEE – GAMBLING REGULATION INQUIRY

### Introduction

Flutter Entertainment is a FTSE30 company and the largest online sports betting and gaming company in the world, home to five of the UK's much-loved brands: Betfair; Paddy Power; PokerStars; Sky Betting & Gaming; and the recently acquired, tombola. In 2021, Flutter contributed £640 million to HMRC in UK taxes including employment taxes, and more than £100 million into horse racing via the Horserace Betting Levy, media rights, hospitality and sponsorship. We employ more than 5,000 people in the UK and, while our business is mainly online, we operate 365 retail bookmaker shops across the country. We are one of the UK's largest digital businesses – with offices located across the UK and Ireland, including major hubs in Leeds, London and Sunderland.

Furthermore, we are a truly global business with operations in over 25 different countries, including market leaders in the US (FanDuel), and Australia (Sportsbet). We have 20 million customers worldwide.

We are pleased to have the opportunity to respond to the Committee's Inquiry on gambling regulation.

We are proud at Flutter to be leading the race to the top in making gambling safer. It is a sincere objective. It is simply the right thing to do. In our view, it also makes strong business sense. Our aim is to be a leading and sustainable business - built on long-term relationships with our customers. As market leader in the UK, with around 30 per cent of the betting market, we consider effective regulation to be our friend. We also believe that achieving a consistent 'level playing field' for all operators in a fair competitive market, should be a key priority.

We have also contributed extensively to the separate submission of the Betting and Gaming Council, the industry standards body of which we are a founder member.

### Executive Summary

- Since the Gambling Act 2005, the way in which people bet, the way in which society views gambling and the way in which regulation is enforced has changed significantly. We therefore agree it is the right time for a review to take place to ensure the industry is put on a level playing field and policymakers create the right framework for the coming decades. It is vital that the review is based on evidence and builds on a regulatory framework that is already regarded as an example of best practice around the world. The opportunity exists to take this success and develop a model that is fit for the future, without causing unintended consequences.
- While there have undoubtedly been things the industry has got wrong in the past, it is important to remember that the vast majority of people gamble in moderation and for enjoyment. Increasingly our customer base is 'recreational' in nature, with more customers betting smaller amounts of money. We need to avoid building regulation on the back of flawed research, or

from the premise that gambling - something that 22.5 million people in the UK enjoy every month - is inherently harmful.

- The regulator needs to be given the right tools to do the job, including a bigger budget and more staff. But this must be combined with a collaborative approach and the right focus, including tackling the threat from unregulated gambling operators. It is only right that policymakers give the Gambling Commission the right tools for the areas it needs to police, and that the regulator engages constructively with industry to better understand it, keep pace with innovation and ultimately enable it to comply and grow.
- The Government should use the Gambling White Paper to provide robust, consistent regulation that creates a level playing field for all operators. Very careful thought is required when it comes to the current proposals for affordability checks, which we believe could currently lead to hundreds of thousands of Flutter customers facing untested and undeveloped background checks. The paper should also ensure that a statutory levy does not result in front-line services losing funding; and that advertising is allowed to continue. As a regulated entity, advertising helps distinguish our brands from unlicensed operators, communicate safer gambling messages and provide key financial support for sporting organisations. We would also ask that the Gambling Commission is genuinely consultative and provides reasonable timeframes for implementation of any regulatory changes proposed in the White Paper.
- While absolutely working with industry to protect vulnerable people and prevent under-age gambling, policymakers must not lose sight of the fact that gambling is enjoyed safely by the vast majority of society. This approach will help support the most effective regulation and enable us to target interventions where they are most needed.

Our submission goes into further detail on these and other points below.

## Responses to Questions

### 1. What is the scale of gambling-related harm in the UK?

#### General behaviour patterns

- 1.1 Overall, the customer base for Flutter's brands is largely low-spend, high volume. With nearly 4 million customers per month, during the recent FIFA World Cup we took more than 50 million individual bets on the tournament across our sites, and at the upcoming Cheltenham Festival we hope to exceed the 35,000 bets per minute processed by our sites in the build-up to the Gold Cup in 2022. A significant majority of our customer base are relatively low spending customers, with 65% of them depositing (that is gross deposits, not losses) less than £240 in total during 2022, and more than 25% of them were net winners over the course of that year.
- 1.2 Notably, across our brands in 2022, the average revenue per customer in the highest spending 20% of customers has reduced by 17% since 2020, to an average of just over £30 per week. This has driven a reduction of 16% in the average spend across all of our customers in the same period, to less than £8 per week.
- 1.3 This shift reflects our emphasis on safer gambling, which sits at the very heart of our strategy. In recent years Flutter has introduced voluntarily strict deposit limits on under 25s, £10 stake limits on online slots, and worked with our industry partners on responsible self-regulation in advertising. Alongside the rest of the regulated industry, we have also discontinued so-called VIP schemes and stopped accepting deposits from credit cards.
- 1.4 More than eight out of ten (83%) of our customers identify "fun/entertainment" as their primary motivation for gambling, with "excitement" and "thrill" as the second and third most popular motivations. It is important to remember that 22.5 million people in the UK enjoy a bet every month, whether that be from the boxes at Royal Ascot, to taking part in an office sweepstake, buying a scratch card, going to bingo, or playing an online casino.

#### Problem gambling

- 1.5 The most recent NHS Health Survey for England (2018) (categorised as "official statistics") estimated that approx. 0.5% of the adult population were "problem gamblers" according to at least one of the two screening instruments used. The more recent quarterly telephone surveys conducted by the Gambling Commission (using a smaller sample and a short form survey) indicate that rates of problem gambling have probably declined since 2018 (the most recent estimate is 0.3% of the adult population). Separately, there is an increasing focus on gambling-related harm but that is a loosely defined and subjective concept, and even where there appears to be some correlation between gambling and harm, it does not necessarily mean that harm was caused by gambling.
- 1.6 At Flutter, we work every day to gain a greater understanding of gambling-related harm and to develop our systems and processes to better protect customers. We do sincerely recognise that we as an industry have not always got this right and mistakes have been

made in the past, but we are determined to continue playing a leading role in driving higher standards across the industry. We also sadly recognise that the negative consequences of gambling disorder can be diverse and severe, and we have a strong collective interest in doing what we can to prevent such harm occurring.

- 1.7 We believe the account-based nature of online play, and our use of technology and data models (looking at hundreds of behavioural markers and data points), provides the best opportunity to put effective protections in place for customers. We are able to monitor customer activity, assess risk and apply controls in real time in a highly targeted way at customer account level. This is a really key point as such data-based real time interventions are generally far more effective than blanket limits or product-based interventions. We have invested significantly in developing a team of more than 185 customer-facing Safer Gambling team colleagues who use this technology to identify and manually review more than 100,000 customer accounts a year. Where necessary we will attempt to speak to customers to discuss any concerns we might have and agree which controls to apply to their account to ensure they continue to use our products safely. If it becomes clear during that conversation that the customer requires more help, we might consider closing the account and signposting to the appropriate help or support.
- 1.8 We frequently seek external input and advice on the approach summarised above, whether that be from academics, treatment providers or people with lived experience of gambling harm. Further, we are keen to engage in constructive debate in this area but we find it unhelpful that agenda-driven ‘research’ regularly leads to inaccurate headlines which distract from the real problems we should all be collectively trying to solve. Too often there is a lack of precision in how phrases such as at-risk customers, harm, problem gambling and gambling disorder are described. Indeed, such terms are often used incorrectly and interchangeably. Further, some studies reflect attitudes about moral desirability including suggestions that spending money or time on gambling instead of the cinema or gym memberships is somehow “harmful”.
- 1.9 That type of narrative is compounded when public bodies such as PHE and OHID produce deeply flawed reports on the costs and harms associated with gambling, while admitting that “mistakes” have been made, but carrying on regardless despite the Gambling Commission stating that, in reality, reliable data does not exist to support some of the claims made. The BGC response addresses this point and others in more detail. As one of the largest operators in the UK market, we find this approach by certain public bodies incredibly disappointing. We do not think it assists in developing sound policy or in addressing the challenge of harm prevention – both of which require a balanced and far more rigorous approach.
- 1.10 One initiative we launched to gain a greater understanding of the problem is a research project called the Positive Play Scale<sup>1</sup>. In essence, we believe we can reduce the potential

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<sup>1</sup> (Wood et.al, 2017) The scale, devised and tested in Canada, is not an indicator of problem gambling, but instead aims to measure the extent to which a given population has positive beliefs and behaviours, thereby providing a more nuanced understanding of what it means to gamble responsibly for a specific customer base. It focuses on encouraging healthy attitudes and behaviours across the entire customer base rather than discouraging negative attitudes and behaviours exhibited by a minority. The PPS measures customer attitudes across four areas: personal responsibility; gambling literacy; honesty and

for problem gambling behaviour by helping our customers establish good, positive, behaviours at an early stage and by educating them about gambling and empowering them to use the tools they need to play in a safe and positive way. We measure this through an annual Positive Play Survey of approx. 10,000 customers in which we assess those customers' attitudes and beliefs towards their gambling. We then use the results to identify and encourage more positive behaviours among our customers, such as their use of safer gambling tools.

## 2. What should the key priorities be in the gambling White Paper?

### General

- 2.1 Flutter publicly welcomed the Gambling Act Review as an opportunity for the Government and industry to assess how we can further reduce the risks of gambling-related harm, without unduly disrupting the enjoyment of millions of customers who gamble safely. A focus on all customers - striking the balance between protecting the vulnerable, while not interfering in how the vast majority of citizens choose to spend their time and money - must be the key priority in the Review. It is also vital that the substantial progress and changes made by the industry and the Gambling Commission since the launch of the Review in December 2020 are recognised and built on. Achieving a consistent and fair level-playing field for all licensed operators through an evidence-based White Paper is essential.
- 2.2 We have engaged extensively with Government and Parliamentarians on the Review, including providing a substantial amount of evidence to DCMS. We have also continued to roll out our initiatives ahead of the Review's conclusion. As referred to above, in the past two years we have introduced voluntary measures such as monthly net deposit limits for all customers under 25, £10 stake limits for all our online slots games, and introduced safer gambling targets into the annual bonus award of all our staff. We have also played a leading role in developing an industry-wide initiative to reduce the amount of advertising that targets under 25s on social media.
- 2.3 The positive and proactive measures we introduced have come at a material cost to our business and have significantly reduced revenues. We are comfortable leading the way in the industry here as we believe it is the right and responsible thing to do. We are nonetheless eager to see the publication of the White Paper and believe it can bring much needed clarity to the industry by ensuring a fair level playing field across the regulated market in this country.
- 2.4 It is important to remember that the White Paper is only one milestone in the process and will be followed by extensive consultations managed by both DCMS and the Gambling Commission. While we believe that a meaningful package of reforms can be delivered without the need for primary legislation, it is important to us that DCMS gives clear direction and parameters to the Gambling Commission and maintains close oversight and management of those processes going forward to ensure good evidence-led and principles-based regulation.

### Specific policies

- 2.5 **Affordability:** The area of the White Paper which causes us most concern is so-called "affordability" checks, or "financial risk checks" as they appear to have been renamed. We understand that Government will propose that certain checks should take place behind the scenes, but there is a lack of clarity over how these will work, what data will be considered, or what operators will be required to do as a result of such checks. We strongly believe that

operators are the best people to manage the customer relationship and we encourage the Government to look to build on our existing data and risk-based approaches to customer protection.

- 2.6 It is clear the amount a customer spends on gambling is an important component in assessing whether they are experiencing or may develop harm through their gambling. Levels of spend that are clearly unaffordable should (and currently do) raise an important flag. We already use a host of similarly relevant data points to assess individual customers and follow a risk-based approach to identifying potential signs of harm. Examples of these behavioural markers include: previous history of that customer; age; transaction patterns (loss chasing/quick withdraw/deposit etc.); time spent playing; and type of products typically played. We would like the White Paper to recognise and build on this approach and we were encouraged by the words of the Minister when he said it is not the job of Government or the Gambling Commission to tell people how much of their salary they are allowed to spend on gambling.
- 2.7 We know this is a very sensitive area for customers. 90% of customers have told us they think any checks should be at levels above what they themselves spend; 40% of our customers say they would not provide financial documents for an affordability check; and 75% of those who would not comply say they would instead gamble with different companies, including unregulated ('black market') sites, to circumvent the checks. Any poorly thought-through approach here has the potential to direct hundreds of thousands of players to unregulated sites where, by definition, they will not benefit from the protections available on regulated sites. A material number of these players are the ones who arguably need the protections of a regulated operator the most.
- 2.8 If we are mandated to concentrate exclusively on spend (net losses) and conduct a 'check' at the reported level of £2,000 in any 90-day period, it would impact a very significant number of regular players. Some have claimed that checks at these levels would only impact 3 per cent of all customers (which includes those who bet only once a year, or those who are net winners over the course of the year). However, we believe the proposed threshold for the 90-day checks would impact a significantly higher percentage of our 'regular' players (i.e. those spending £10 or more each month). We should note that the checks have neither been developed nor tested at this stage. The impact could have a severe knock-on effect on not only our business, but also on tax revenues, and the industry's £350 million contribution to horse racing.
- 2.9 **Research, Education and Treatment (RET):** We are aware of the debate around a Statutory Levy. A final decision is – rightly – in the hands of the Government. We are naturally concerned about the financial impact of yet another tax on the industry. However, we are most concerned about where the money would go, how it would be used, how much would be 'lost' on administration costs, and the governance and oversight of any such distribution process.
- 2.10 We should point out that in every year since 2019, Flutter has voluntarily increased the amount it donates to RET organisations, meaning that in 2023 we will donate 1% of our gross

gambling yield to RET (estimated to be nearly £20 million). In 2022, the Flutter brands' RET expenditure included: donations of nearly £14 million to GambleAware; significant contributions to the ongoing four-year youth education programme delivered by YGAM and GamCare; and funding the fifth year of an education programme for all 72 clubs in the English Football League, delivered by EPIC Risk Management.

- 2.11 With the other largest operators having made similar voluntary commitments, the industry is donating substantial amounts of money to RET generally, and to GambleAware specifically. By the end of this year, GambleAware will have received £110m over the four years since 2019 (£10m more than was pledged) and has been distributing that money entirely independently from the industry (which has no say over how the money is spent) to support a well-established network of front-line services. We will of course comply with whatever model Government puts in place, but we are concerned that a new model may put at risk funding to, and even the existence of, the organisations which really need it the most.
- 2.12 **Advertising and sponsorship:** We strongly believe that, as a licensed operator, we should have the right to advertise, be it on the television, social media or in sport. One of the key benefits of being a licensed operator in a regulated industry (as opposed to those who are not licensed) is having the exclusive right to advertise. We are subject to stringent regulations which go further than those imposed on advertisers from other industries. In addition, we have, as an industry, introduced voluntary restrictions, including mostly recently the “whistle-to-whistle” ban on broadcast advertising during pre-watershed live sport and the “adtech” changes to the IGRG Code to reduce visibility of digital adverts to under-25s. There are also clear benefits to others such as the important revenues to sports organisations and media companies (including, crucially, horse racing which would simply not be broadcast on free to air terrestrial television without bookmaker sponsorship and advertising), product information and choice and safer gambling messaging to customers, as well as enabling the public to identify the licensed operators. Further, if the industry's ability to advertise were to be constrained, those who would benefit most would be unlicensed (black market) operators, with more customers likely to use those sites where often even the most basic of safeguarding controls are not in place.
- 2.13 We are proud of the longstanding partnership between Sky Bet and the English Football League (the “EFL”), which we believe is the leading example of a responsible relationship between the gambling and sport sectors. This partnership has been in place since 2013. Through this partnership we have invested tens of millions of pounds in the league, which funds an important range of benefits for clubs and their supporters – not least in putting money into grassroots football. Safer gambling is at the heart of this partnership, which is why we agreed a Memorandum of Understanding with the EFL which sets out how we collectively deliver the partnership in a socially responsible way. Those measures include various collective commitments to reduce visibility of betting brands to minors and to deliver safer gambling messaging on at least 70% of available inventory such as in-stadia advertising and the shirt sleeve badges of all clubs.
- 2.14 Also within our EFL partnership we have invested £1m into a five-year safer gambling education programme for players and staff at all 72 EFL clubs annually. We work with EPIC



who provide annual workshops for each EFL club, as well as any follow-up counselling and support where required. We are now looking to extend this programme into the academies and communities of a number of clubs, and we plan to do even more in the coming years.

- 2.15 We believe that the EFL and Sky Bet partnership demonstrates how sports and betting operators can work together responsibly to promote safer gambling and could provide the basis for a new standard model for all such relationships in the future.

## **Implementation**

- 2.16 We expect that the Gambling Commission will be tasked with consulting on, and implementing, several policies proposed in the forthcoming White Paper. We therefore think that establishing a clear process and giving clear direction to the Gambling Commission should be a priority for the White Paper. The reason for this is that we have concerns about the general consultation process used by the Gambling Commission. Flutter, along with many other licensees, puts a huge amount of work into responding to Gambling Commission consultations. We provide the evidence requested, seek to explain the practical issues involved in the implementation of the proposed requirements, and provide our interpretation of those requirements. We find that it is rare for our feedback to be reflected in the final outcome, be it in the relevant Licence Conditions and Codes of Practice requirements, or guidance. It is even rarer for the Gambling Commission to provide feedback on our response so that, for example, we can understand why our evidence was not seemingly taken into account in that final outcome.
- 2.17 We would encourage DCMS and the Gambling Commission to ensure that consultations are an iterative discussion, because working with licensees who have considered all of the relevant issues and can provide pertinent evidence will undoubtedly help in our mutual aim of raising standards across the industry.
- 2.18 We also note that the Gambling Commission has, on a consistent basis, seriously underestimated the complexity of the technology operated by licensees with many interconnected systems (some proprietary and some third party), and the time that it therefore takes to safely implement technical solutions. It is important that the Gambling Commission not only allows sufficient time for considered responses to be made to its consultations but also provides reasonable timeframes for implementation of any regulatory changes.

### 3 How broadly should the term, 'gambling', be drawn?

- 3.1 Our understanding is that this question relates to the debate about games or products such as “loot boxes” or “prize competitions” which are not considered to meet the technical definition of “gambling” in the 2005 Gambling Act, and therefore are not subject to gambling regulation, but may contain gambling-like mechanics leading to concerns about their visibility to and use by children.
- 3.2 We recognise that the statutory definition of gambling is broad, but there are still ‘edge cases’. While it is for Parliament to decide on the correct definition for gambling, the question of whether something is technically “gambling” or not should not get in the way of ensuring products with gambling-like mechanics have the necessary protections in place. This may mean they should be subject to similar regulatory requirements as those imposed on licensed gambling products. We know Government has looked at this in its work on immersive and addictive technologies and we would expect the Gambling Commission to be able to continually monitor new products and regulate accordingly.
- 3.3 However, this debate has been marked by a string of inflammatory and misleading media reports about the “normalisation” of gambling among under 18s, often pointing the finger at gambling operators such as ourselves. We would note that in compliance with gambling regulation, we conduct robust age and identity verification checks online on 100% of users (including the use of external credit reference agencies) before any customer is able to deposit or gamble with us. This includes withholding access to any demo play games or free bets until customer age has been verified. In our retail betting shops, we enforce a number of policies to enhance our age verification procedures. We operate a “Think 21” policy which means that we require physical ID from anyone who looks under the age of 21, and we have our entire retail estate tested by a third party twice per year. We are ready to share more details of our approach to verification with others if it would be helpful in addressing their challenges in this area.
- 3.4 In any debate about the normalisation of gambling among children, it should be remembered how gambling is and always has been part of the nation’s fabric – from runners and riders lists for the next Prime Minister to radio phone-ins where listeners are encouraged to stake the price of a text for the chance to win life-changing sums. We believe it is important to put the debate about gambling and children into perspective: According to the Gambling Commission’s Young People and Gambling Survey (2022), the numbers of schoolchildren having gambled in the past seven days fell by 70% (from 23% to 7%) between 2011 and 2022. The vast majority of gambling by under 18s is using amusement machines at seaside arcades; making private bets with friends or playing card games with family. Online gambling has one of the lowest rates of participation of any form of gambling by children and has declined since 2011.
- 3.5 In the rare instances where under-age children have participated in online gambling, it is almost always facilitated by adults (parents and guardians or other adult family members), who allow them access to their accounts. A meaningful proportion of schoolchildren classified as ‘problem gamblers’ have taken part in non-age-restricted forms of gambling such as card games, seaside amusements and (prior to 2021) the National Lottery. The activities where participation is most strongly correlated with ‘problem gambling’ are lottery products.

3.6 According to the Gambling Commission, 22.5 million adults gamble every month. People have gambled for millennia and will continue to do so. That is why it is important that gambling is treated as a “normal” age-restricted activity, regulated properly and consistently, with the necessary protections in place for children and other vulnerable people. As a gambling operator in Britain, we are subject to extensive regulation through the licences issued by the Gambling Commission and associated Licence Conditions and Codes of Practice. For example, as an industry we have implemented world class age verification which others could follow. We simply must not have, and do not want, children playing our products. There is no incentive for us to encourage or permit that to happen.

#### 4 Is it possible for a regulator to stay abreast of innovation in the online sphere?

- 4.1 We recognise the significant challenge here. The Gambling Commission is an organisation going through a period of change and we anticipate it will soon be asked by Government to implement an important set of regulatory updates as a result of the Gambling Act Review. To do this while keeping pace with digital change in a complex industry, including keeping on top of the growing threat from unregulated operators, will be especially challenging.
- 4.2 The Gambling Commission has wide-ranging powers under the Gambling Act 2005 which, if used appropriately, should be more than sufficient to be an effective regulator of the Great British gambling market and stay abreast of relevant innovation in the online sphere.
- 4.3 To achieve this in practice, Flutter believes that a more collaborative relationship between the Gambling Commission and operators (individually and collectively), which is fostered on communication, interaction and education, would, in our view, be beneficial in terms of improving the Gambling Commission's understanding of the industry and specifically the online sector. This may include, for example, regular engagement sessions, education briefings and/or workshops. We would like to see greater regular engagement between the Gambling Commission and the industry at various executive levels to facilitate a greater understanding of each other's businesses, strategies, priorities and challenges. That may also assist the Gambling Commission in discharging its obligation under the Regulators' Code to "carry out their activities in a way that supports those they regulate to comply and grow".
- 4.4 One specific area where we would like the Gambling Commission to demonstrate a dramatically more proactive approach to keeping up with online innovation would be in addressing the very real threat posed by unregulated gambling operators targeting British consumers. We are concerned by anecdotal stories of 'WhatsApp betting'. Equally troubling is the long list of unregulated sites which a simple Google search of "*casinos not on gamstop*" returns – nearly 2 million search results. (As an aside, the fact that Google permits searches of this type on its search engine is clearly unhelpful.) Of deep concern are the reports from PWC and YieldSec which demonstrate the extent of the problem: with 460,000 British consumers using unregulated sites in (2021) and 150,000 doing so in the four weeks in December 2022 when the FIFA World Cup took place. A Gambling Commission executive earlier this year appeared to dismiss concerns by stating the regulator had "*no time for those [black market] risks being overstated, without credible evidence*". To be clear, these sites target British consumers who do not want to provide financial documents to licensed operators. None of these sites offer the protections which British-licensed operators are required to put in place. We should be doing all we can, collectively, to keep these customers in the regulated market.
- 4.5 While we accept that measures such as ISP blocking are imperfect, we would like to see a more strategic, proactive, innovative, and collaborative approach from our regulator to this real threat to players in Great Britain.

**5 What additional problems arise when online gambling companies are based outside of UK jurisdiction?**

5.1 All companies providing facilities for gambling (and advertising) to British consumers are required to have a licence from the Gambling Commission. The Gambling Commission should regulate those activities consistently, irrespective of where the operator is domiciled to ensure that an operator acts in accordance with its regulatory obligations in respect of consumers, including to ensure that gambling is conducted in a fair and open way, and to protect children and other vulnerable persons from being harmed or exploited by gambling.

5.2 Provided that: (a) the facilities for gambling are, pursuant to the Gambling Act 2005, only provided by a licensed operator; and (b) the consumer only has a contractual arrangement for gambling with a licensed operator, we are not aware of any evidence that because an operator is based outside of British jurisdiction this poses a particular risk to consumers. All operators licensed by the Gambling Commission are required to comply with the same regulatory requirements, including the Licence Conditions and Codes of Practice.

5.3 Therefore, there would only be a particular risk to consumers in Great Britain and problems arising if an operator is not complying with its regulatory obligations, which we would expect the Gambling Commission to assess and, where necessary, take action.

**Flutter Entertainment, 9 February 2023**