

# Written evidence submitted by the Betting and Gaming Council

## Response to DCMS Select Committee Call for Evidence

We kindly provide our submission to the DCMS Select Committee 'Gambling Regulation' Inquiry.

By way of introduction, the BGC represents betting shops, online betting and gaming businesses, bingo and casinos. Our mission is to champion industry standards to ensure an enjoyable, fair, and safe betting and gaming experience for all our customers. A recent report published by EY in November 2022, shows our members support 110,000 jobs and contribute £4.2 billion to the Treasury in tax and £7.1 billion in gross value added to the UK economy in 2022.

Furthermore, each year our members contribute £350 million to horseracing in levy, media rights and sponsorship and over £140 million to the UK tourism industry through international visitors and their spend, mainly in London casinos. We have also set out how the regulated betting and gaming industry will generate 15,000 new tech jobs and 5,000 apprenticeships over the next five years, as part of an ambitious Levelling Up Agenda thereby benefitting the whole of the UK.

## Executive Summary

Gambling is a legal, regulated leisure activity in the United Kingdom. Since the 2005 Act gambling customers in the UK have had the ability to access a wide variety of products in a competitive market. The entire industry is underpinned by enabling legislation which allows the Government and the Gambling Commission to impose new policies and regulations in a rapidly evolving market. The outcome to the 2005 Gambling Act has been a thriving market and one of the UK's leading tech sectors.

At the heart of this market is the customer and operators have a responsibility to maintain a safe gambling environment for these customers. With over 22.5 million people having a flutter every month in the UK, it is imperative that the industry maintains a strong culture of safe gambling and assisting those at-risk and suffering from problem gambling. This effort has led to record low levels of problem gambling with the latest GC quarterly PG prevalence rate at 0.3%, down from 0.4% in the previous year [Gambling Commission Statistics on Participation and Problem Gambling, published quarterly].

The industry has not stood still while the White Paper has been under consideration. Since its inception in November 2019, the BGC has produced 20 standards to ensure a safe environment for customers. These include new measures on VIPs, game design, whistle to whistle restrictions on broadcast advertising, safer gambling measures ensuring visibility of tools and support for online and land-based operators, increased safer gambling messaging on all media, 25+ age filtering for advertising online and increased RET contributions, amongst others.

However, the sector also understands the deep sensitivities around the issue of gambling harm and its responsibility to support and work towards reducing such harms and providing support to those who need assistance for problem gambling. The sector has never resisted change to pursue this mission and have welcomed the White Paper as an opportunity to get the changes right.

The sector stands ready to implement the measures emanating from the White Paper.

It is also important that this White Paper finally ends the regulatory uncertainty. This will be a major set of reforms and the industry recognises its responsibility to implement these reforms in a timely and proportional manner, working with the Government and the regulator.

This submission lays out the Betting and Gaming Council's response to the five questions presented by the DCMS Select Committee. In summary the BGC notes the following views:

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

The scale of gambling-related harm is a highly debated and complex subject. We accept that a small minority of customers can suffer harm and we are dedicated to reducing these cases. While we are not complacent about harm where it occurs, the current debate has resulted in a large amount of misinformation around the prevalence of gambling-related harm, including by extending its definition.

We would recommend that the Committee consider the following points:

- The term 'gambling-related harm' describes a loosely defined and highly subjective concept. This is juxtaposed against long standing recognised definitions and screens for problem gambling and those considered to be at-risk. For example, identifying harms is not the same as attributing causality, particularly in a highly complex area such as addiction. This often leads to studies conflating correlation with causation of individual behaviours.
- It should be noted that problem gambling is not the same as 'gambling disorder' or 'gambling addiction'. While problem gambling must be treated seriously, better care needs to be taken to not conflate these distinct concerns.
- Participation in gambling by children (11-16 years) has fallen significantly since 2011 – from 23% of children participating in some form of gambling on a past-week basis to 7% in 2022.
- It should be noted that the majority of gambling by children is legal, encompassing private bets, playing machines at seaside arcades or playing cards with family or friends. Where children do participate in age-restricted activities, it is usually facilitated by a parent, guardian or other adult. In 2022, the past-week rate of age-restricted gambling was 1.7%.
- Numerous reports on the costs of gambling have been published in recent years (often funded by advocacy groups) – but it is unclear what guidance these can provide in terms of policy. An independent, transparent, and scientifically rigorous cost-benefit analysis may now be required.

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

The key priorities for the White Paper should be based on a sound approach to policy making. This approach is equally applicable to the ensuing set of consultations and eventual regulation and secondary legislation. This should include:

- An evidence-based approach. Any measures coming out of the White Paper need to be evidence-based as they go into detail in consultation and eventual adoption. This includes ensuring that the evidence is based on a thorough methodology and with the latest up to date data.
- Any measures should be proportional to the risk they seek to address.
- The views of customers need to be taken into account. This Review will affect all customers including those who gamble without issues.

- The transition from White Paper measures to enforceable regulation may be a long period of time. Therefore the risk of future regulatory enforcement not reflecting the original intent of the White Paper measures needs to be accounted for and monitored during implementation.

### **3. How broadly should the term ‘gambling’ be drawn?**

The definition of gambling is long established and developed over decades. It underpins the provision of gambling products in the UK and is the first test for what is or is not gambling. But the Gambling Act is also an enabling one so the ability to adapt to new innovations in betting and gambling is built into the Act. The BGC views that any expansion of the definition won't affect the current status of the Act's applicability to our members offerings.

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

We believe that the Gambling Commission has the resources and powers to keep abreast of innovation in the online sphere. However, to do so requires several key changes to its approach to the evolution of the market. This includes:

- A general approach to adopt and implement policies and regulations which support innovation. This means avoiding any instinctive rejection of innovation or precautionary approach which would stifle such innovation via regulation.
- A distinct commitment to proportionality, acknowledging that every regulation needs to balance risks and that “zero sum” outcomes are not feasible, even if strived for.
- Considering the use of trials to test uncertain innovations instead of rejecting them outright.
- Create open, transparent protocols to encourage the submission, use of and analysis of data.
- Development of a forum where the sector and the Gambling Commission can discuss and collaborate on bringing innovation to the sector.

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

The key issue that arises from gambling companies operating outside of UK jurisdiction is the growth of a black market:

- No contribution to UK economy or society (whereas UK regulated operators contribute £4.2bn in taxes and 110,000 jobs from the regulated sector).
- No obligation to follow regulation including key areas such as self-exclusion or RET funding.
- A growing problem as illegal operators seek to entice customers with offerings free from the regulations, and protections, offered by the regulated market. This led to an increase in traffic to illegal sites during major sports events – for example, the Nov-Dec 2022 Football World Cup saw the number of people accessing black market sites increase threefold compared to the same period the previous year.
- Pernicious targeting of vulnerable players, including those who have self-excluded through GAMSTOP.

The BGC is a standards setting organisation. We embrace change as long as it is evidence-based, reasonable and proportionate. The vast majority of our customers enjoy our products with no harm, but we accept that more can be done to assist and focus on those who exhibit harms. This White Paper is a significant milestone as we seek to continue to raise standards to create a safe gambling environment. We are happy to engage with the Committee and provide any further evidence on any other matters arising from the Select Committee inquiry.

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

The term ‘gambling-related harm’ is increasingly used to describe a very broad range of issues and behaviours beyond those which would traditionally be considered to constitute problem gambling or addiction. While these issues are important in themselves, the broadening of the term has resulted in an approach which considers a much greater number of individuals at risk of harm than is accurate. These reasons include:

- A. The lowering of the bar on what constitutes harm. The Gambling Commission provides the following definition: *“Gambling-related harms are the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society.”* As part of the conduct of its Pilot Prevalence Survey 2022, the Gambling Commission’s list of harms, for example, includes: *“reduction or loss of spending on recreational expenses such as eating out, going to the cinema or other entertainment”*; *“feeling like a failure”*; and *“spending less time with the people you care about”*. There are few activities that would not involve ‘harm’ under these definitions.
- B. The second is the extension of the definition of vulnerability. The Gambling Commission’s recent consultation on Customer Interaction reflects a truly wide range of markers identifying people as vulnerable. These can relate to demographics, literacy and understanding and temporary conditions. It presents for instance that the Financial Lives 2020 survey conducted by the FCA, found that 46% of adults in the UK aged 18 or over (24.1 million people) have some sort of vulnerability.
- C. The third is the extension of the issue to affected others. Negative consequences of disordered gambling will extend beyond the individual and can be particularly challenging for their loved ones, as is the case more generally where mental health disorders are present. Statements around the wider harms from gambling are often presented without context or reference to other comparable activities. The psychiatric literature identifies a wide range of disorders related to inter alia shopping, internet use, eating, alcohol consumption and caffeine consumption. In most cases it is likely that a wider group of affected others will orbit the disordered individual. Where problematic gambling is concerned, the most obvious and least ambiguous of harms to affected others are likely to be financial. Such harms however may arise in relation to a much wider range of activities that result in financial loss (uncontrolled spending on a range of commodities; speculative investment and so on) and are not unique to gambling. While we should not be complacent about the impact of this harm, there is no evidence to suggest that the consequences to others of financial problems from gambling are more severe than if those problems are acquired in other ways.

The above approach to defining ‘gambling-related’ harm runs the risk of painting most UK adults as vulnerable and lowering the definition of what constitutes harm. This invariably creates a much larger pool of people and diverges significantly from previously accepted definitions of harm. As a

result, it encourages a blanket approach to regulation by effectively deeming everyone as at-risk rather than a targeted approach focused on the small numbers of customers who do experience harms.

With highly complex issues like uncontrolled gambling, it is very difficult to discern causality and understand whether gambling is indeed the contributor or symptom of a person’s experience of harm.

In general, claims in relation to gambling harms refer to adverse consequences associated with – but not necessarily caused by – excessive or uncontrolled gambling. As an example, the issue of comorbidity raises the question of complex and multiple factors being attributable to gambling related harms. *“Even after considering existing social cost estimates, it is important to consider if pathological gambling is simply a symptom of some more basic disorder, it is the more basic disorder rather than gambling itself that is the underlying cause of the adverse consequences and social costs” (Walker 2013).* Another example is context. It is in the interests of evidence-based policy that research on harms is contextualised. When considering information about ‘harms’ associated with any given activity, it is important to understand how they compare with other activities. By way of illustration, the Gambling Commission has presented (as evidence to two public consultations on affordability and customer interactions) a finding from a Money and Mental Health Policy Institute (‘MMHPI’) report on financial problems from online gambling, from a survey panel of people with mental health conditions. It did not, however, mention findings from the same survey panel that found similar (and in some cases higher) rates of financial problems attributable to online shopping.

**The scale of gambling-related harm is best found in the NHS Health Surveys.**

These large-sample, random selection in-person household surveys are considered to meet the ‘gold standard’ of social research and are categorised as ‘official statistics’. It should be observed that rates of PGSI and DSM-IV problem gambling remained fairly stable during the first two decades of the 21<sup>st</sup> century and – if anything – may have declined between 2010 and 2018.<sup>1</sup> The last survey [2018] reported a 0.5% problem gambling prevalence rate.

Chart 1: Rates of PGSI ‘at risk’ and ‘problem’ gambling (2007-2018)

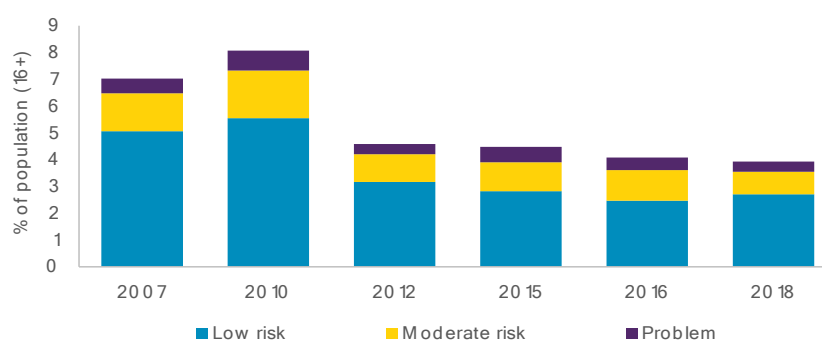
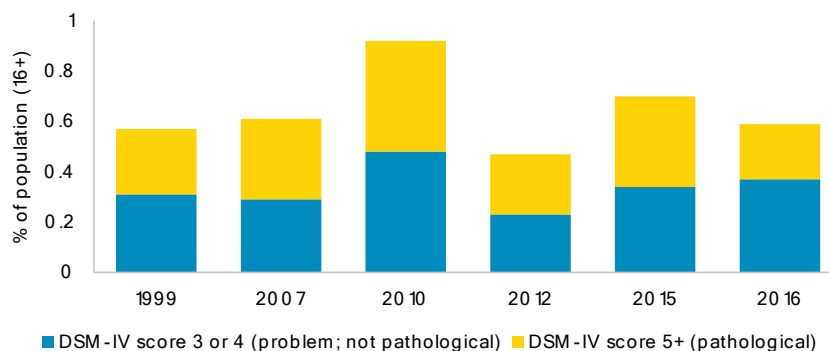


Chart 2: Rates of DSM-IV ‘problem’ and ‘pathological gambling’ (1999-2018)

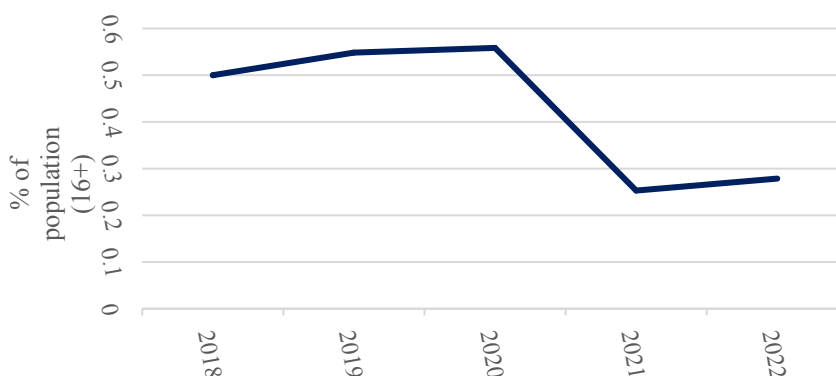
<sup>1</sup> It should be noted here that results from the British Gambling Prevalence Survey (1999, 2007 and 2010) may not be directly comparable with those obtained from the NHS Health Surveys (2012, 2015, 2016 and 2018) as a result of framing effects.



No Health Survey data on problem gambling has been published since the Health Survey for England 2018. However, the Gambling Commission estimates rates of ‘problem gambling’ using its smaller sample (n=1,000 per quarter) quarterly telephone survey. This survey uses the short-form PGSI (a three-item questionnaire where the full PGSI contains nine items).

Analysis of results from the telephone survey indicate that rates of problem gambling have probably declined since 2018. This may be at least partly related to the effect of lockdown restrictions, which limited the extent to which people were able to participate in most forms of betting and gaming. The latest rate was 0.3%, down from 0.5% in 2018.

Chart 3: Estimated population prevalence of ‘problem gambling’ (PGSI short-form) 2018 to 2022



**However, during the last two years since the Call for Evidence by the Government, there have been attempts to dismiss long standing, internationally recognised problem gambling prevalence statistics in favour of estimates which wildly inflate the PG rate.**

In 2020, GambleAware published a YouGov report suggesting that the rate of PGSI ‘problem gambling’ was much higher than previously estimated – possibly as high as 2.7% of the population. Peer review of the same analysis suggested “*selection bias in online surveys*” as the “*primary cause of discrepancy*” and a “*pattern of online surveys overstating the true level of problem gambling*”. Similar sentiments have been expressed by the Gambling Commission. The Gambling Commission itself is in the process of changing the way that official statistics on gambling participation and problem gambling prevalence are collected. From this year, it intends to use its own Gambling Prevalence Survey. This will create a discontinuity in reporting as the new survey will differ from the Health Surveys, both in terms of participant recruitment and survey framing. In May 2022, the Gambling Commission published selected results from its online Pilot Gambling Prevalence Survey, which, as with the GambleAware/YouGov survey, is also likely to have suffered from sample bias and

framing effects. It estimated that 1.3% of adults were likely to be PGSI ‘problem gamblers’ – more than three times the rate reported in the Health Survey for England 2018 and more than four times the rate reported in the Commission’s Quarterly Telephone Survey. Analysis conducted by Regulus Partners however revealed a number of serious flaws in the Pilot Survey, including a failure to cross-check results with data from regulatory returns or to consider the impact of lockdown measures on its comparison of ‘problem gambling’ rates. As noted above, the Health Surveys have shown good internal consistency with NHS and DCMS surveys as well as data from regulatory returns.

### Children and gambling and problem gambling

This submission must address the continued rhetoric and headlines around children and harm, particularly the claim “55,000 children being addicted to gambling”.

The Gambling Commission operates an annual survey of gambling participation and ‘problem gambling’ amongst schoolchildren, between the ages of 11 years and 16 years. Analysis of survey results reveals that participation in gambling by schoolchildren has fallen substantially over the last 11 years. In 2011, 23% of children stated that they had participated in a form of gambling during the prior week. **By 2022, this had fallen to 7%.**

Furthermore, references about the rate of problem gambling prevalence among children often fail to then provide context around the types of gambling which are prompting this risk. The majority of gambling by children is legal, encompassing private bets, playing cards with friends or family and playing amusements in seaside arcades. In 2022, the past-week rate of age-restricted gambling (out of the 7% total past-week rate) was 1.7%.

The industry has a wealth of measures and policies in place for preventing those under the age of 18 from gambling. Test purchasing programmes are used to test the effectiveness of land-based operator controls in preventing access by those under the age of 18. Figures released by analysts Serve Legal revealed that betting shops’ record on age verification checks are better than those of supermarkets, convenience stores and petrol forecourts [August 2021].

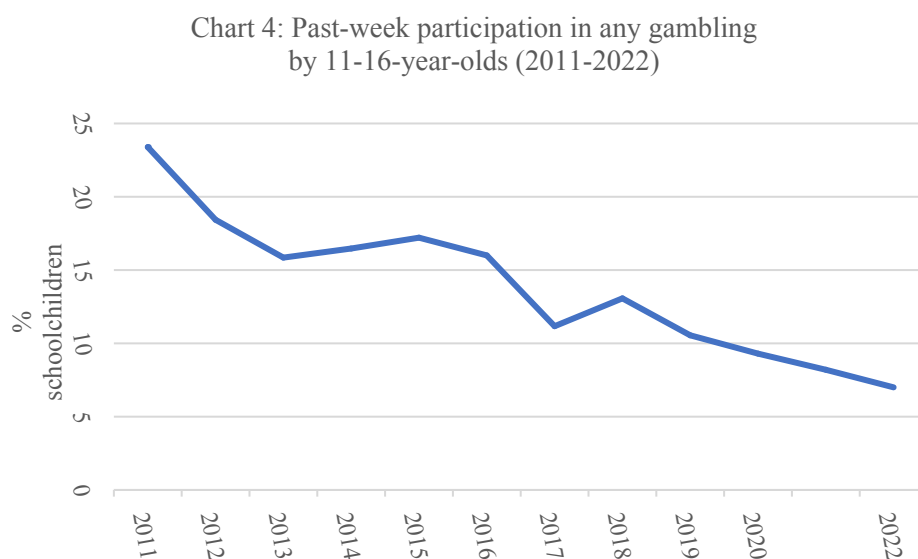


Chart 5: DSM-IV-MR-J 'problem' and 'at risk' gambling prevalence (2015-2022)



\* Changes to survey methodology in 2017, 2018 and 2022 affect comparisons with other years

Chart 6: Highest activity prevalence rates for DSM-IV-MR-J 'problem gambling' - Young People and Gambling Survey (2015-2019)

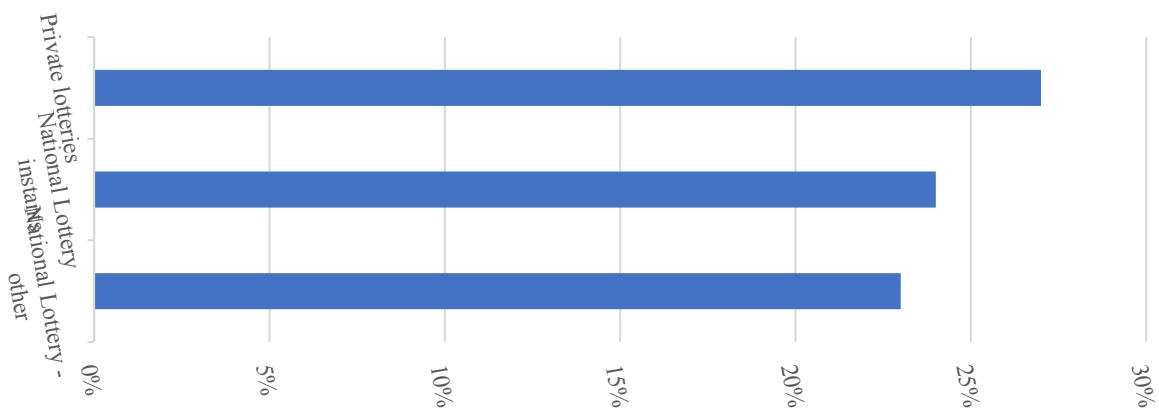
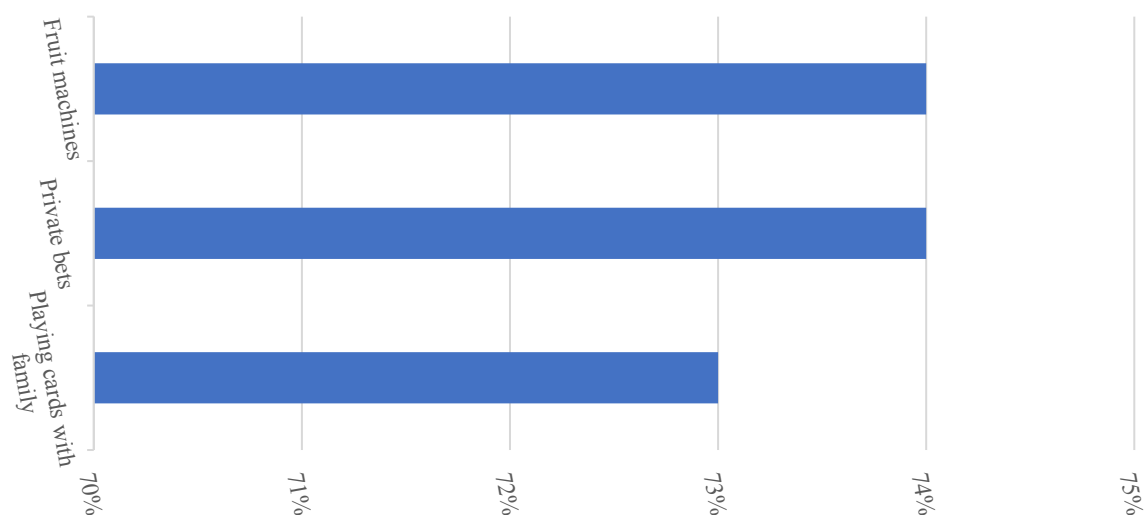




Chart 7: Most common activities for DSM-IV-MR-J  
'problem gamblers'  
Young People and Gambling Survey (2015-2019)



### Understanding benefits as well as costs

In recent years, six projects have been commissioned in order to assess the costs of gambling and/or gambling harms. There has not however been a single study of the economic and social benefits of gambling – and in particular the psychosocial benefits to consumers, despite evidence that these may be substantial. In the absence of such analysis, any assessment of harms will have only very limited policy relevance. Changes to legislation or regulation based upon an assessment of harm alone risk giving rise to unintended negative consequences – and in particular the imposition of 'restriction effects' on recreational consumers, whose enjoyment, freedom of choice and right to privacy may all suffer impairment.

The Gambling Commission recognised this in 2021, when it wrote in an internal memorandum (released under the Freedom of Information Act): *"A full economic evaluation of the gambling*

*industry could be slightly awkward politically as it would fund work to identify the benefits of gambling but... feels like the most balanced approach.”<sup>2</sup>*

It is demonstrably in the interests of sound policy formulation that attempts to quantify harms (or, more pertinently, marginal harms) associated with gambling are accompanied by estimation of consumer benefits.

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

The Government’s White Paper will cover a number of broad issues, as recognised in the Call for Evidence. The scope of the measures being contemplated requires a reasonable, proportionate and evidence-based approach to policymaking. These universal principles should be the priorities when considering measures to implement.

The White Paper must have a sound basis of evidence to support any change. Such evidence must meet a standard of reliability and accuracy that underpins trust in statistics and information generated by third parties. This was a key priority for the Government’s Review which stated it must be evidence-based. This involves transparency, peer review where necessary and sufficient evaluation where such studies have been presented. Much of the debate since the publication of the Call for Evidence has been based on flawed research, resulting in misinformation around key issues.

The above commentary on problem gambling rates is one such point where PG rates, over time and presented by recognised bodies such as the NHS, show a continual decline across all risk categories. However, over the last 24 months there have been attempts to recast PG rates at much higher levels, often using completely different methodologies based on inference, rather than the PG screening which has existed for decades on determining PG levels. There are also further studies such as the PHE report which have been shown to have deficiencies in their findings to such a degree that they are no longer acknowledged as having sufficient enough rigour to justify consideration. Further to this are the many studies and reports which attribute causality without any basis of evidence, or where the disclaimer is often buried in the footnotes or text. While the presentation of evidence during a highly visible public policy debate is to be encouraged, the evidence must meet a standard which builds trust with policy makers for its use. These points have been made in the previous question but reinforce the concern: that policy may be drafted on the basis of faulty or inaccurate reporting. While any methodology will have its flaws, these need to be transparent. Too often the weaknesses of a report are buried in the text or footnotes but have major ramifications if missed.

A second priority for the White Paper should be to recognise proportionality and balance in the policy judgements. During the debate on gambling reform there have been many calls for banning the privileges of a gambling licence without a recognition of their unintended consequences. The BGC has been forthright in its commentary that change is welcomed but that it needs to be proportional and balanced in its approach. Therefore, it is critical to scope out, analyse and judge the

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<sup>2</sup> The Commission also wrote: “It’s likely that we would be critical of any industry-funded effort to estimate the benefits of the gambling industry.” Given that the Commission, GambleAware and the Government have all ruled out funding of research into consumer benefits, the regulator’s a priori bias is concerning.

marginal return of increased restrictions on gambling and their effects on customer behaviour. Banning items is clearly disproportional if other means are available to achieve the same outcomes in a more efficient and effective manner. The previous question noted the small % of problem gambling (0.3%) so any measures being considered should be proportional to addressing this cohort. The fault lies in the fact that many reports which advocate population-wide binary measures do so to prevent gambling, not problem gambling. There should also be a recognition that there is risk associated with use of all products, heavily regulated or not. While maintaining a culture of pursuing a zero tolerance for problem gambling is required, the fact is that there will always be a statistically small portion of customers who are at-risk. This is why the industry voluntarily provides for independent financial support for prevention and treatment services.

A third priority should be to consider the status of punters in the debate. The focus on problem and at-risk gamblers is prudent but should not be done in a vacuum of the effect of proposed measures on regular customers. While learning from lived experience provides a wide perspective there appears to be little done by the Government to understand the impact on general customers. To date it is not discernible if any effort has been made to connect with regular customers who enjoy betting and gaming but are not at risk or showing signs of problematic behaviour. This is the vast majority of the 22.5 million people who enjoy a bet every month.

A fourth priority is that the White Paper is not an end point but part of the journey to enforceable final regulation or secondary legislation. The ability to translate the spirit and word of the White Paper into effective and clear obligations for operators is critical. The principle must be to adopt a process which follows due process and is transparent to all parties. One of the challenges of the process will be to translate the intentions stated within the White Paper into more detailed consultations and eventual regulation. There is a deep concern about this process and how transparent and preparatory the evidence and documentation will be. This exercise should be required to guarantee due process, transparency and full consultation.

A fifth priority will be to ensure the Gambling Commission enforces in the spirit of the upcoming regulation. To date the enforcement patterns of the Commission has often misinterpreted or overzealously interpreted the very policies it develops and enacts. This disconnect from policy development to policy enforcement is a real threat to the intentions of the White Paper being converted into balanced regulation. This is why Guidance will need to be clear and concise. Given this risk to White Paper recommendations, it is critical that the Government continue to take an interest and commitment to the follow up from the publication of the White Paper.

The White Paper offers an opportunity to re-establish the better regulation principles which underline the promulgation of policy as well as long-term certainty which has been lacking for the nearly 2 ½ years since the Call for Evidence was published. The sector stands ready to engage with the DCMS and Gambling Commission on collaborating and consulting on the means of delivering better regulation following the White Paper publication.

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

Gambling is defined in legislation as follows:

- Gaming: playing a game of chance for a prize;
- Betting: making or accepting a bet on—(a) the outcome of a race, competition or other event or process, (b) the likelihood of anything occurring or not occurring, or (c) whether anything is or is not true.

It is inevitable that the boundaries between activities considered to be or not to be gambling will always be blurred.

It is important therefore that the DCMS and the Gambling Commission keep a close eye on developments in the marketplace and apply common sense in determining what should and should not be considered to be gambling for the purposes of the law and regulation.

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

The Gambling Act 2005 is an enabling Act (as described in our response to Q3). As such there are mechanisms which allow the Government to amend secondary legislation or Gambling Commission licensing conditions to futureproof and prepare for the evolution of new innovations in the gambling sector. The same conditions go for the Gambling Commission which has wide discretion to bring forward new regulation based on its view of new products and services offered by its licensees.

Issues around horizon planning in advance of new regulation typically fall into several areas. One is whether any of the innovations are in scope of the current Act and regulations. There are distinct definitions of what constitutes gambling, which are the immediate qualifiers for what comes under the Gambling Commission's remit and what does not. The other area are regulations which address inputs into the gambling sector which themselves are borne out of innovation. Questions around new financial payment instruments, facial recognition for land-based premises and safer gambling tracking technology are areas where the GC should remain cognisant to the effects on the gambling sector and work to ensure the promise of these technologies in upholding the three principles by which the Gambling Act is founded.

#### **Proportionality**

A key challenge and concern of the gambling sector is the lack of proportionality in applying innovation to regulation. Many of the approaches being embraced by the Gambling Commission involve population-wide measures which do not take into account emerging technologies that improve the confidence level of targeted regulation. A good example would be the issue of marketing suppression. The industry would like to roll out industry-wide measures to prevent the dissemination of social media advertising to anyone signed up to GAMSTOP, the nationwide self-exclusion scheme which prevents anyone trying to access any UK regulated online site. While operators already block marketing to self-excluded customers on their databases, a full GAMSTOP-wide marketing suppression would add additional strength to these obligations. The innovation exists to meet this objective but needs Gambling Commission commitment to applying this at the social media platform level.

## **Validation**

Another key issue is validation. There are multiple services arising now which provide open banking and other customer identification measures to ensure the customer is who they say they are and/or are over 18. Yet, despite the promise of this technology, the Gambling Commission can question whether the information is valid. For instance, if a customer uploads a passport to a tech provider for onboarding purposes with an operator, the regulator may require the operator to further validate whether that is a real passport. This renders the less friction-based technology obsolete given the disproportionality of the level of validation necessary. No technology has a degree of accuracy that is 100%. While the industry understands the importance of remedial actions to mitigate against relevant risks posed by new technologies and their given degree of accuracy, this type of confidence level should be recognised in Gambling Commission assessments, as opposed to enforcing an absolutist measure where operators have to turn into private notaries for validation.

## **Testing “un-tested” technology**

The Gambling Commission should have a toolbox of methods to examine and consider new technologies, working with affected stakeholders. A good example is the possible promotion of a ‘frictionless’ check to determine financial risks, one of the markers of harm. These checks, if not thoroughly tested, analysed and evaluated run the risk of undermining their potential. The fact is that credit registrars are adapting a credit check for the purposes of checking a customer’s financial status. It is built on credit, not debit (credits cards are not allowed for gambling). The data going into the check is also not always of the highest quality. For instance, rents are based on population wide postcode data, not on actual knowledge of a customer’s real rent. This means estimations of discretionary income can be widely different from a customer’s own self-declared income. This gives rise to the need for serious testing, analysis and evaluation of these future checks. Only in that way can trust be built across all stakeholders.

Keeping abreast of the latest innovation in technology will always pose challenges for the Gambling Commission. We understand that and sympathise with the Commission’s challenge in this regard. Often technology and innovation can seem misunderstood (if understood at all) and that can lead to an immediate antipathy against its use or accommodating it within regulation. Take for instance the use of cashless financial payment instruments. The fact is that most adults use a form of digital payment and cash is now used in less than 19% of transactions, especially since Covid. Yet, it is not an acceptable form of payment in casinos, bookmaking offices and arcades. This is despite the type of monitoring opportunities it gives operators to discern safe patterns of play or to prevent money laundering.

## **Data**

Another key area is data. We know that building trust in the sector requires a trusted use of data to inform the regulator of the repercussions of their measures on the innovation. This requires several confidence building measures to encourage the submission of data to the Gambling Commission. Without this data it would be hard to see how the Gambling Commission can prepare for innovation. A successful data gathering exercise would provide a clear protocol on its use, output and communications. It should also be prepared to objectively consider the outcomes, as opposed to seeking data to justify an already decided conclusion. This is especially true in technical areas like game design and algorithms. Innovation is simply not helped if data is not being requested and analysed to determine the risks and opportunities of any new advance in the sector.

## **Marketing**

Innovation in marketing is also significant for the industry. Business development often uses marketing as a key differentiator in offerings to customers. It makes the market competitive and provides an appealing product to customers. However, the current trajectory of the regulatory approach tends to restrict the diversity of marketing. In this case it is about reducing the innovation of marketing, not supporting it. This results in a dynamic of reducing the attractiveness of the regulated market compared to the black market. If the UK market is not determined to entertain innovation there is an entire illegal sector out there willing to do so.

## **Concerns of a prohibitive approach**

The downside is that the fear of innovation results in a precautionary approach which will hinder the use of such technology and its benefits. This occurs in areas like facial recognition, blockchain and business models which could hold promise. While any approval must come against seeking assurances on preserving a safer gambling experience, the two are not incompatible. If the UK is to maintain its lead as a hub of cutting-edge technological advances in the betting and gambling market, it must not be reluctant to explore new technologies, tested and evaluated against the three principles of the Gambling Act. We would advocate that there needs to be a forum between operators and the regulator which exchanges information on new technologies for education on both sides. Operators are often at the forefront of new technology while the regulator has to review how they fit into appropriate regulation. This would create a more dynamic openness to innovation. One such innovation – digital identity – could revolutionise the way consumers onboard with customers. This should already be on the radar of the Gambling Commission. For instance, the Gambling Commission has a Digital Advisory Panel (DAP) but the work of this Panel is completely unknown to the industry which could provide commentary and insight to their work.

We believe that the Gambling Commission has the resources and powers to keep abreast with innovation. But to do so it needs to adopt some fundamental principles to engender a culture of supporting innovation instead of being programmed to suspect innovation as seemingly against the objectives of the Act. It has the building blocks – an enabling Act, outcomes-based regulation, data request rights and access to experts across industry and academia. Simple steps such as horizon planning, transparency on the work of internal bodies and early engagement with would-be innovators would go a long way in turning the regulator into an early adopter and implementer of regulations, which utilise the UK's willingness and capacity to innovate. We would look forward to the Government to set this tone and expectation as part of its White Paper.

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

Companies that offer betting and gambling products to UK citizens, but are not regulated by the UK Gambling Commission, are not subject to the regulation and standards followed by the rest of UK operators. This covers not only statutory legislation and Gambling Commission licencing requirements and codes of practice (LCCP, SRCP), but also standards set by the industry themselves and adhered to as part of the membership requirement to trade bodies; such as the BGC. This includes funding commitments to research, education and treatment (RET) for instance.

Companies operating in the black market contribute nothing to the UK economy or society. They do not contribute anything to the Exchequer (£4.2bn in taxes from the regulated industry) and they employ nobody (110,000 jobs in the regulated sector). This is despite taking £2.8bn in stakes in 2020, according to PwC data.

The regulated industry takes their responsibility for promoting safer gambling and protecting vulnerable players seriously and are subscribed to industry sector-wide tools such as GAMSTOP, MOSES and SENSE. This is in addition to being subject to the Gambling Commission's LCCP, which have stringent measures on social responsibility, requiring intervention with customers who are displaying evidence of being at risk. Companies that operate outside of UK jurisdiction have none of these commitments and in actuality operate with contrasting practices to those followed by the regulated industry. For example, on average it takes 12 minutes to open a gambling account with a legal UK gambling website. On an illegal website, this takes just 30 seconds. Customers are encouraged to sign up and start playing as quickly as possible. The UK Gambling Commission has also put in place requirements that protect players against unfair gaming conditions, which can be both direct and indirect. Customers using an unlicensed site could be more susceptible to misleading and/or vague gameplay as well as possible technical failures resulting in loss. Customers will then find themselves with little or no recourse against the operators in these situations.

As well as social responsibility conditions and checks, the LCCP lays down strict conditions on operators to perform anti-money laundering (AML) checks. Unlicensed operators are likely to have far less rigorous (and in many cases no) AML policies, putting these sites at high risk of breaching UK AML regulation. Indeed, these sites may be sought out for this explicit purpose.

Rates of play of illegal online sites are increasing from UK players. According to Yield Sec data, the number of UK players visiting illegal gambling sites rose from 79,813 per month in 2021, to 147,737 in 2022; an increase of 85%. In addition to average numbers, major sporting events also drive people to use these sites. As a recent example, the number of people accessing black market sites from the UK during the 2022 Football World Cup was three times more than the same period the previous year.

We know that there are illegal operators who focus on those wishing to bypass self-exclusion (specifically through GAMSTOP). Total visits to these operators increased 140% in 2022 (from 2021), with a 115% increase in the number of individuals accessing these sites. Again, major sporting events exacerbate the issue of operators targeting individuals attempting to circumvent self-exclusion. In the Nov-Dec 22 period (when compared with Sept-Oct 22) total visits grew 83%, with the number of individuals accessing sites up 27%. This equates to 64,500 unique players looking for ways to circumvent GAMSTOP in this period alone.

It is imperative that Government legislation and Gambling Commission regulations seek to strengthen the quality of the UK regulated betting market, whilst not implementing policies that drive customers away from reputable operators and into the black market. This includes attracting online gambling companies based outside of the UK to seeking licences in the UK which carry the full responsibility of regulation and payment of gambling taxes.

Since 2014 the UK government has required non-UK gambling companies to hold UK gambling licences, to comply with UK gambling regulations, and to pay UK gambling taxes.

Indeed, the UK government's ability to ensure non-UK gambling companies adhere to UK law and pay UK taxes and GB horseracing levy is a global success story. The UK's approach provides multinational businesses which inevitably have functions and employees around the world, with

flexibility in how they serve UK customers. At the same time, UK customers benefit from better quality, choice, and competition in the available products and services, without compromising on safety or negatively affecting UK gambling tax receipts.

Whilst the government does not publish separate statistics for the amount of UK gambling tax paid by non-UK companies, it can be reasonably inferred from published statistics that the amount exceeds £500m per year. In addition, non-UK gambling companies contribute tens of millions of pounds to the UK horseracing industry including through the GB horseracing levy.