



Cory Clive Hawkwood

10th December 2003

Alison Mara
Committee Office Scrutiny Unit
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Dear Ms Mara

I write on behalf of the Association of British Bookmakers (ABB) in response to the invitation of the Joint Committee to comment on the draft Gambling Bill.

ABB supports the Government's aim of modernising gambling legislation in a manner that will facilitate quick and appropriate responses to technological advances. We endorse the Secretary of State's wish to keep gambling crime free, to protect children and vulnerable adults, and to create an environment in which a socially responsible industry can expand in a manner that is fair to the consumer and beneficial to the UK economy.

The Committee will appreciate that the proposed changes represent the most important regulatory event in betting since the 1963 Betting, Gaming and Lotteries Act. The Committee is also aware that the Bill, of which some 30% is still to be published, is already both lengthy and complicated and that we have had only three weeks to digest the content and prepare our views. In addition, the Committee has asked that submissions be kept short.

Given this combination of circumstances, we have limited the enclosed memorandum to matters of vital interest to the betting industry. This means that there are many important issues on which we have been unable to comment and we look forward to expanding on our views in oral evidence. In this context, we anticipate that the Committee will permit ABB and its members to raise issues that have been omitted from this paper, or which arise following its submission. We are also fully prepared to provide the Committee with any other material that may be required.

Finally, although we recognise that the National Lottery is not within the Committee's remit, we believe it should be and we remain advocates, as was the Gambling Review Body, of side-betting being allowed on the Lottery draw.

We will be pleased to respond to any questions, or to clarify any points that may arise from our submission.

Yours sincerely

Tom Kelly
Chief Executive

THE GAMBLING BILL

Prepared by the Association of British Bookmakers for the Joint Scrutiny Committee

1. Introduction

The Association of British Bookmakers (ABB) was formed in November 2002 following the amalgamation of the Betting Office Licencees Association and the British Betting Office Association. ABB is betting's main trade body and betting is by far the largest sector in gambling, accounting for more than 8,000 retail outlets and providing employment for some 36,000 people.

2. Definitions

- 2.1** The draft Gambling Bill does not define what constitutes bookmaking, or being a bookmaker, and does not clearly establish what is betting and what is gaming. ABB believes it is essential in the interest of objectivity, clarity and to aid future planning that clear definitions are included in the final version of the Bill.
- 2.2** Under present legislation, a bookmaker is a person who by way of business accepts a wager placed by an individual on an undetermined event, the outcome of which is not within the bookmaker's control. To qualify as a bookmaking transaction (fixed odds bet) both parties to the contract must be capable of winning or losing and the customer must have access to the odds associated with the event on which he is betting. Bookmakers have always been able to offer odds about the result of any such event, regardless of whether skill is involved, and it is with regard to these established principles that bookmaking should be defined in the Bill.
- 2.3** Gaming, on the other hand, involves a number of parties, including the operator, all being present and taking part in a game. Amusement with prizes machines (AWPs), also qualify as gaming because the game mechanism is encompassed within the machine and inter-activity between the machine and the player is possible. Also, the operator is guaranteed a profit and the player has no indication of how much he might win.
- 2.4** In addition to distinguishing between bookmaking and gaming, ABB contends that virtual events, which are an increasingly popular betting office innovation, should continue to be defined as betting. Clause 192 of the Bill proposes that virtual betting (i.e. random number generated bets graphically presented as horse and greyhound racing) should be re-classified as gaming simply because it is "virtual", even though such bets are in every respect fixed odds betting opportunities. There is no logic, or advantage, in redefining virtual events and we strongly recommend that the status quo be maintained.
- 2.5** ABB also has strong opinions on how fixed odds betting terminals (FOBTs) and betting exchanges should be defined. These are expanded on below.

3. Fixed Odds Betting Terminals

- 3.1 The Committee will be aware that DCMS, the Gaming Board and ABB recently agreed a Code of Practice governing the use and supply of FOBTs in licensed betting offices. ABB understands that this Code will form the basis of FOBT regulation under the Gambling Commission. Mr Paul Bellringer, Chief Executive of GamCare, advised throughout on the preparation of the Code. A copy is at appendix one.
- 3.2 Given that the Government's desire to limit proliferation of machine gambling prompted the ABB to identify in its Code four FOBTs as the maximum number per betting office, the Committee may wish to consider how proliferation in other premises should be controlled.
- 3.3 FOBTs are bet acceptance terminals in that they offer customers an opportunity to bet at fixed odds at stakes of their choice on the outcome of a graphically packaged future event decided by a random number generator that is independently controlled and located away from the premises on which the bet is struck. This description conforms entirely to the long established definition of betting as discussed above.
- 3.4 Gaming machines do not offer fixed odds and do not enable the player to identify prior to the event the amount he might win. On FOBTs, the punter knows what the return will be if he wins. It is ABB's contention that the fundamental differences between FOBTs and gaming machines lead logically to the conclusion that FOBTs should be defined as bet acceptance terminals and placed in a separate machine category.
- 3.5 This would mean that, under proposed Government policy, FOBTs would be limited to outlets licensed specifically for betting (betting offices and casinos) and would not be available in premises licensed for gaming (bingo halls, adult entertainment centres and public houses). This would both address the Government's concerns about proliferation and deny access to those less than 18 years of age. We look forward to enlarging on this view in oral evidence.

4. Betting Exchanges

- 4.1 ABB members are fully prepared to meet the commercial challenge presented by betting exchanges. There are, however, a number of concerns that arise from the exchanges currently being unregulated and also about the way it is intended to regulate them in the future. These concerns fall into two categories – integrity and taxation.
- 4.2 In the draft Bill, betting exchanges are defined as “betting intermediaries” and are to be licensed as such. This definition implies that exchanges are not bookmakers, a contention with which we agree.
- 4.3 It is, in fact, the users of exchanges, specifically those who act as layers (bookmakers), who are very often engaged in the business of betting rather than the exchanges themselves. The Government believes the licensing of such layers to be unnecessary. We disagree and contend that the exchanges are eroding, and under present plans will continue to damage, this country's reputation for firm and sensible regulation of gambling.

- 4.4 It is ABB's strong opinion that the exchanges pose a serious threat not only to the integrity of the licensing system, but also to the stability of the tax regime and the reputations of those sports on which betting takes place. It should, therefore, be incumbent on those who lay bets on the exchanges to pass the "fit and proper test" applied to all others who act as bookmakers.
- 4.5 With regard to the very real threat of corruption of betting and sport, particularly betting on horseracing, the exchanges provide opportunities for anyone, based anywhere in the world, to lay horses to lose and to do so anonymously. Recent reports clearly indicate that this opportunity has led some exchange customers to seek to influence the outcome of races and/or to employ privileged knowledge to the detriment of the ordinary punter. Typically, this would involve offering attractive odds about a fancied runner in the near certain knowledge that it is going to lose.
- 4.6 This situation promotes a motive for criminal intervention in any betting event and we see the Government's stance on non-licensing of exchange layers as inconsistent with the aim of keeping gambling crime free. Again, there is a clear public interest issue here that requires a licensing regime that encompasses individuals who lay bets other than by way of recreation.
- 4.7 We accept that the exchanges provide an innovative and successful medium for betting. However, they are no longer the preserve of the person-to-person recreational bettor – if indeed they ever were. Accordingly, we urge the Committee to consider what constitutes recreational betting and to take a view as to whether licences should be required by those who bet above a particular threshold, be that defined by frequency, volume, or both.
- 4.8 Clarification of what constitutes recreational betting would also permit a review of the basis upon which exchanges are taxed. We strongly believe that the current gross profit payment of 15% of commission in tax and 10% in horserace levy does not represent a fair contribution in either case. We attach under appendix two examples of how this differential works in practice. ABB wrote recently to Customs and Excise on this and associated issues and a copy of this correspondence is at appendix three.
- 4.9 We also suggest that consideration be given to transferring the regulation of betting exchanges to the Financial Services Authority. A regime which required the registration and licensing of betting exchanges and much more detailed information about their customers would help protect the integrity of that market and generate the trust that is essential to the long term health of all sports betting.

5. The Gambling Commission

- 5.1 ABB endorses the need for effective regulation of gambling and looks forward to working constructively with the proposed Gambling Commission. Betting is by far the largest sector in gambling. We believe, therefore, that it is important that the sector is well represented on the executive and management of the Gambling Commission – and any Shadow Commission that precedes it. To win the confidence of bookmakers, it will be important for the Commission to include in its composition those with the experience of working in sectors other than those currently regulated by the Gaming Board.

- 5.2 We welcome the intention to use agreed codes of practice, such as ABB's GamCare and FOBT codes, as a principal policy tool of the Commission. We are concerned, however, that regulation should be as 'light-touch' as possible and that the Commission should not become a costly and unwieldy bureaucracy. In this context, DCMS's regulatory impact assessment estimates that some £12 million to £16 million will be added to the costs currently underwritten by those activities within the Gaming Board's remit.
- 5.3 While it is anticipated that the gambling market will grow under the Government's proposals, the best betting can hope for is to hold its present position. It is entirely possible that the new regulatory regime will have an overall negative effect on the betting market. Indeed, it is possible that betting could gain no benefit from these reforms but, because it is the largest gambling activity, could pick up the greatest part of the cost. This would be detrimental not only to bookmakers, but also to horse and greyhound racing, which derive much of their funding from betting.
- 5.4 One area in which cost could escalate unnecessarily is that of personal licensing. It is appreciated that DCMS has already concluded that it will not be necessary to license betting office managers. ABB endorses this view, but would add that there are other, more senior people in betting who have no influence on the betting transaction and no obvious need to be licensed. We understand that in such circumstances it is intended that the licensing requirement will be confined to a compliance officer. ABB believes that this is the correct way to proceed.
- 5.5 More important than cost, however, is the extent of the powers to be exercised by the Commission. As it is not clear what these will be, or how the appeals procedure will work, ABB must reserve the right to comment in detail on these issues when the situation become clearer.
- 5.6 We are also less than sanguine about the proposal to transfer responsibility for premises licensing from magistrates to local authorities. The present method has worked perfectly satisfactorily for years and we see the proposal as a move to a potentially more politically charged and controversial system.

6. Remote Gambling

- 6.1 The need for effective regulation of remote gambling was one of the main drivers of the Budd Review and the consequential decision to replace outdated legislation through a Gambling Bill. ABB is pleased to learn, therefore, that the Committee will be dealing with this important matter separately. We have been advised by DCMS that it will be appropriate to submit a more detailed paper on this single issue early in the New Year. This we intend to do.
- 6.2 It is the Government's wish that British-based remote casino gambling will provide the safest, fairest gambling opportunities available anywhere in the world. If this objective is to be achieved, UK-based operators must be in a position to compete successfully in the international market. If regulation or the tax regime are too onerous and/or too expensive operators will choose to base themselves elsewhere and customers, including British based clients, will be denied the ability to gamble in the secure environment the Government is seeking to create. We look forward to commenting further on these issues in the paper referred to above.

10th December 2003

1. INTRODUCTION

This Code is a response to Government policy on control and usage of Fixed Odds Betting Terminals (FOBTs) in Licensed Betting Offices. It is intended to operate in conjunction with the Good Practice and Social Responsibility Code for Betting Offices recently agreed by ABB and GamCare, the charity that assists problem gamblers.

ABB and its members wish to help create an environment in which the public enjoy fair and responsible gambling. Accordingly, ABB membership will, from 19th November 2003 be open only to bookmakers who accept and operate according to the conditions laid out in Section One of this Code and who obtain their FOBTs from approved manufacturers/suppliers.

Section Two comprises a method of ensuring that manufacturers/suppliers of FOBTs and the products they offer also adhere to socially responsible procedures.

By requiring licensed betting offices to comply with the conditions outlined in Section One and by establishing a standard for operators and manufacturers/suppliers, this Code will seek to ensure that access to the market is available only to those who are prepared to be socially responsible.

To ensure adherence to this Code, ABB will appoint a Compliance Committee, which will have responsibility for policing the Code and for approving manufacturers/suppliers.

The Compliance Committee will have at least four members; to include a lawyer, an independent technical expert, a representative of an organisation that assists problem gamblers, and a member of the ABB executive. Other members may be appointed as appropriate.

This Code will be reviewed on an annual basis and, where necessary, will be amended to ensure its continued effectiveness.

2. Conditions to be complied with by Licensed Betting Offices

2.1 Terminal Operation

- A maximum of four machines (FOBTs or a mix of FOBTs and AWP) per LBO. This number not to include the type of terminal used to accept traditional 'over the counter bets'.
- A maximum payout per single transaction of £500
- A maximum stake of £15 per bet and £100 per transaction.
- To prevent potential problem gamblers from "chasing losses", the minimum cycle time between customers inputting money, selecting their bet(s) and settlement shall be not less than 30 seconds. When customers are betting from their original stake or from accumulated winnings, the minimum cycle time for this type of transaction will be not less than 20 seconds.
- No cash payouts directly from terminals. All payouts to be made at the counter.
- No credit, debit or smart card transactions to be accepted on terminals.
- Odds for each betting event to be clearly displayed on all terminals.
- An on-screen balance meter allowing customers to track winnings/losses per session.
- The ability for customers to 'cash-in' at any time following the completion of each betting event and to set a limit on the time they play and on the amount they wish to spend per session.
- Point of sale promotional material not to encourage excessive play.
- All random number events to be organised independently of the bookmaker.
- Random number communication to be independently audited by a third party.

ABB members to obtain FOBT/FOBT products only from manufacturers and suppliers approved by the ABB Compliance Committee

2.2 Terminal content

All FOBT content must comply with the following:

- Clear help pages to be present on all terminals, including contact information for GamCare and warnings on excessive gambling. Access to help pages to be available at all times by use of button/icon.
- GamCare signage and leaflets provided by the ABB Compliance Committee to be prominently displayed adjacent to terminals.
- Representations of casino games other than roulette or numbers games are not permitted. A casino game is defined as any game which is authorised under the Gaming Clubs (Bankers' Games) regulations or is any derivative of such a game or is promoted in such a way as the players may believe they are participating in such a game.

The following bet process must be adhered to:

- Customers must make a positive selection
- Customers must choose a stake
- Odds must be clearly visible at time of selection
- Customer to select 'start' or 'bet' button/icon
- Result to be announced/displayed on terminals

3. Conditions to be met by suppliers

- FOBT manufacturers/suppliers wishing to supply LBOs must register with and be approved by the ABB Compliance Committee (under the terms of Section One of this Code ABB members will not be supplied by non-approved companies).

- To be authorised to supply LBOs, companies must state in writing that they accept and are prepared to fully comply with the ABB Code.

In addition, manufacturers/suppliers must undertake to:

- Comply with all regulatory requirements relating to the use of FOBTs.
- Display prominently on help files any notices that may be required by ABB.
- Operate in a manner that will not bring the betting industry or the ABB into disrepute.
- Maintain strict security controls over all FOBT hardware and software.
- Ensure that number generation is entirely random and that no third party access (including by bookmakers) is possible.
- Ensure that all customers (betting office operators) are adequately trained in the operation, maintenance and control of machines as appropriate.
- Establish that all employees of suppliers/manufacturers are familiar with this Code and with the betting industry's commitment to fair and responsible trading.
- Supply FOBTs and/or similar products only to bona-fide licensed bookmakers, according to the criteria outlined in this Code.
- Ensure that all betting events offered on FOBTs comply with this Code and have been approved by ABB as suitable for this purpose.

19th November 2003

APPENDIX 2

Taxation and Levy Differential: Layer on a betting exchange v traditional bookmaker

Actual transaction example

One UK-based betting exchange is understood to have recently had an individual customer who made a number of 'lays' and 'bets' on the outcome of a single World Cup rugby match. The total value of his 'lays' and 'bets' was in excess of £100,000 and his total winnings from his net 'lays' was £450.

GBD on layer's profit – betting exchange

Under the current General Betting Duty ('GBD') regime for betting exchange transactions, this will have generated GBD revenue to the Government only on the commission paid to the betting exchange. This commission is typically a maximum of 5% of the layers profit, although likely to be less for large players such as this. GBD at 15% is then charged only on this commission, not on the customer's gross profit. This amounts to maximum revenue to the Government of only £3.38.

GBD on layer's profit – traditional bookmaker

By contrast, under the current GDB regime a traditional bookmaker must pay GBD at 15% of gross profit. On the same winnings of £450, this amounts to revenue to the Government of £67.50, being 15% of his £450 gross win.

Conclusion

Therefore, on a betting exchange, the transaction will generate a maximum of only 1/20th of the GBD revenue for Government that it would if transacted by a traditional bookmaker. If a betting exchange is charging a customer a commission of less than 5%, the differential could be even greater than this.

UK horse racing

Were this same series of transactions to take place on a UK horse race, rather than on a World Cup rugby event, the GBD differential would have been the same. In addition, the amount of levy paid to British horseracing would similarly have been 1/20th of the amount payable by the traditional bookmaker.

Conclusion

The total, cumulative loss to the Exchequer and to horseracing – as well as the competitive disadvantage at which this places the traditional bookmakers – is considerable.