

Paddy Power

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THE DRAFT GAMBLING BILL

MEMORANDUM FROM PADDY POWER

February 2004

About Paddy Power

Paddy Power plc is the largest bookmaker in the Republic of Ireland. It is listed on both the London and Irish Stock Exchanges and is headquartered in Dublin. Paddy Power's turnover in 2002 was €673.8m (a 46% increase on 2001). It has grown from under 8% market share in 1988 when it was formed, to become the market leader in Ireland with over 30% market share, while competing against both Irish bookmakers and a number of the major UK bookmakers. Paddy Power shops turnover far in excess of the United Kingdom average. This has been driven by its focus on customer service and better value through its special bets offering and is in excess of the average for the UK and London. We are also the largest on-line and phone betting operator in Ireland.

2. Paddy Power entered the UK market in 2001 through the establishment of an on-line operation, followed in 2002 by a telephone operation. 2003 has seen the commencement of a shop roll out programme; with 14 shops currently in operation there are plans to open a further 16 by the end of 2004, mainly within the M25. We have plans for further expansion in the UK over the medium term.
3. Paddy Power positions itself as the most pro-punter and pro-competition of all the bookmakers operating in the UK or Ireland and it is from this perspective that we make this contribution to the consultation on the draft Gambling Bill. The Irish betting market is extremely competitive due to its open licensing regime. This drives better value for customers and allows the most competitive operators to prosper. The system provides for a self levelling mechanism in that competition drives a continued upgrading of standards, ensures that the market remains relatively fragmented and limits the proliferation of outlets due to the competitive impact on profit margins.

Impact on Competition

4. Paddy Power greatly welcomes the deregulatory tenor of the draft Gambling Bill and in particular we support the removal of the "demand test" against which the need for new betting and gambling premises is presently judged. The demand test is inherently anti-competitive in that it creates an automatic advantage to incumbent operators, and makes it very difficult for new entrants – like Paddy Power – to

establish new operations in a locality. The abolition of this regime should, on the face of it, improve competitiveness in the licensed betting office (LBO) sector.

5. However, removing one anti-competitive regime does not necessarily mean that what follows is competitive. We are concerned that the draft Bill does not seek to address the market dominance of the “big three” bookmakers (Ladbrokes, William Hill and Coral). Moreover, Paddy Power believe that the proposed new arrangements, by which local authority licensing committees assume responsibility for issuing premises licences, could exacerbate the anti-competitive nature of the industry.
6. This concern is based upon two factors:
 - i. there is no proposed statutory requirement for a local authority to take account of the competitive conditions in the sector in coming to its decisions;
 - ii. by bringing licensing decisions into the political sphere the Bill opens up the possibility that electoral and political factors will influence decision-making. The decision whether or not to allow a licensed betting office in a locality could become subject to the short-term tensions and cross currents of election campaigning. (This is clearly the case with many planning decisions in the UK, especially in the grocery retail sector, where local authorities are often unable to make purely objective decisions based upon the merits of the case because of the undue influence of short-term political factors.)
7. Paddy Power believes that the licensing objectives should refer to the need to ensure a competitive market in the gambling sector. If this were made an objective it would, by definition, become part of the requirements of a local authority in considering applications, and would at a stroke remove any concerns that the market may be unfair. The Government may retort that laws already exist (from the Competition Act) which provide such assurance. However, these are unlikely to be routinely considered at a local authority level. If the Gambling Bill were to make specific reference to the economic conditions of the local gambling market, it would bring clarity to the process, focusing the minds of licensing committees and applicants alike on the competitive conditions.

Variability across UK

8. Paddy Power recognises the political and administrative requirement for each local authority to develop its own licensing policy, reflecting the desires and pressures of their particular area. The creation of a patchwork of different licensing regimes does, however, impose a burden on companies seeking licences in a number of different areas as it is unlikely that there will be a uniformity of approach. In order to mitigate any unduly harsh and negative effects we request that the Bill and subsequent Guidance introduces a cap on the level of fee which local authorities may charge for processing licences. We also request that the Bill is not amended to allow fees to be variable across the country.
9. We note that the Local Government Association seeks to amend the Bill to provide councils with “local discretion to set fees for the issuing of licences as the associated costs will vary from area to area”.¹ Whilst we can understand why the LGA takes this position we believe that it would have an adverse effect on the competitiveness of the sector. Local authorities seeking to reduce the development of gambling premises in their jurisdiction could do so simply by creating a high fee level; this would deter the smaller companies from entering that market and would ensure that the dominance of the larger players continued unchecked. Only through setting a capped non-variable rate can the Government ensure that the market is not skewed in this way.
10. We are concerned that the draft Bill creates a number of hurdles to granting of new premises licences. There would seem to be a triple jump to complete, consisting of (as paragraph 3.67 of the Policy Document states): compliance with gambling bill licensing objectives; compliance with guidance from the Gambling Commission; and the licensing authority permitting gambling insofar as it is “reasonable consistent with the pursuit of the licensing objectives.” Given that, at this stage in the policy development process, we only have sight of one of these elements (the licensing objectives) it is perhaps understandable that we have some trepidation about the regime we could be facing in three or four years time.
11. The vagueness of the terms suggest that it will be far from clear-cut as to how an application will be received. This uncertainty is potentially costly to businesses, either because of the possibility of lengthy appeals which the bill allows, or through the potential for applications to fail for reasons which are not initially clear. Bigger companies can absorb these costs but smaller operators will be disadvantaged. Again, therefore, we can see how the draft Bill may undermine competitive conditions in the LBO market and reinforce the dominance which already exists.
12. Similar uncertainty will be introduced through the ability of local authorities to potentially impose onerous conditions when granting gambling premises licences.

Paddy Power is concerned that the lee-way available to local authorities under Clause 139 (Conditions imposed or excluded by licensing authorities) is too great. It introduces yet a further unknown variable into the application system, thus potentially adding to costs and again this raises concerns about the competitiveness of the market: larger operators will soak this extra costs up easily, the less big operators will be forced to think twice and even back out of applications due to the uncertainties involved. We believe that whilst it is appropriate for local authorities to be able exclude a condition (should they wish to follow a more relaxed regime than the Bill stipulates) they should not be able to attach one (and thus create a more rigid regime). Given that the stated aim of the Bill is “a managed relaxation” of regulation it would be perverse if local authorities were able to undermine this aim simply by attaching conditions on licenses. Furthermore, one of the Bill’s stated aims is to simplify regulation, but allowing each local authority to follow what could end up being radically different licensing regimes does precisely the opposite.

Conflation with Alcohol and Entertainment Issues

- 13** Paddy Power is concerned that the proposal for a single committee to consider applications for both types of licence (Clause 126) creates the danger that, in the minds of some local authority members, the problems associated with pubs and bars will become conflated with those of LBOs. The potential for public nuisance and the negative of social impact of premises with alcohol and entertainment licences (and which is detailed in the Licensing Act 2003) is not found with betting premises. Whilst both types of premises have in common the need to retain an adult focused policy, there are no immediate adverse social impacts caused by LBOs.² It is feasible to envisage a scenario in which a premises application is turned down because members feel that the location in question is already densely populated by other premises.
- 14.** Clearly, we are not suggesting here that councillors will be confused between the two licences being considered, but rather that they may feel unwilling to provide further development of what some may see as equally undesirable types of premises. Such a point-of-view may have some coherence, but it would not be fair under the law and the draft Bill should not even allow the circumstances to arise. Therefore Paddy Power proposes that an entirely different committee be created by local authorities to consider applications for licences under the Gambling Act.

² This is in no way to seek to diminish the social problems that can be associated with problem gambling, but rather to point out that such effects do not have an immediate impact on amenity.

Thank you for this opportunity to contribute to the Gambling Bill team's consultation and we would be happy to provide you with any further information you may require.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ross Ivers', with a stylized flourish at the end.

Ross Ivers
Director
Paddy Power plc