



Draft Gambling Bill

Regulatory Impact Assessment

November 2003



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

DRAFT GAMBLING BILL

Regulatory Impact Assessment

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
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Chapter 1: Gambling – Overview

Introduction

- 1.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the Gambling Bill as a whole. It updates the RIA set out in *A Safe Bet for Success*. It is supplemented by separate RIAs for individual sections of the gambling industry. It does not cover the review of the National Lottery licensing and regulation which is considered separately in Chapters 9 and 10.
- 1.2 Gambling is a popular and enjoyable leisure activity for most Britons. The last major study into gambling prevalence in Britain (published in 2000) found that over half the population gamble in a given week, while almost three-quarters gamble in a given year. Gambling activities also play a significant role in facilitating social interaction and community cohesion, through bingo halls, horse race meetings etc.
- 1.3 The gambling sector also makes a contribution to the UK economy. Gambling expenditure (ie. stake less winnings) in the year ending 31 March 2003 is estimated at £7.8 billion, less than 1% of UK GDP. This expenditure was used to pay around: £1.3 billion in betting duties, £300 million in corporation tax and VAT, and £1.5 billion in good causes contributions. It also funded employment of around 124,000 full time equivalents.

Purpose and intended effect

The Objectives

- 1.4 The law on gambling is now more than 30 years old. The current laws do not cater for modern technology or the Internet and have not kept up with changes in society. The Government has reviewed these laws and has drafted new legislation to modernise regulation and ensure that it can respond flexibly to future technological and market developments. In doing so it will continue to ensure that the main objectives for gambling are maintained, namely to:
 - Prevent gambling being a source of crime and disorder;
 - Ensure that gambling is conducted in a fair and open way; and
 - Protect children and other vulnerable persons from being harmed or exploited by gambling.
- 1.5 In delivering the reforms the Government will:
 - Replace three Acts of Parliament and subordinate legislation governing the conduct of gambling in Great Britain and consolidate them into one Act: the Betting Gaming and Lotteries Act 1963; and the Gaming Act 1968 and the Lotteries and Amusements Act 1976;
 - Set up a new regulator, the Gambling Commission, with powers to deal with gambling offences;
 - Extend choice for adult gamblers;
 - Ensure that consumers are fully informed about the products they use and the risks involved;

- Instigate a sustainable programme of related research and effective programmes for the prevention and treatment of problem gambling;
- Set up a system to regulate on-line gambling;
- Ensure that systems are in place to protect children and the vulnerable.

1.6 The Gaming Act 1845 made contracts or agreements by way of gaming and or wagering void and unenforceable. The Gambling Review body considered that the lack of enforceability of betting debts is an anachronism and it is something that the Government would like to remedy in the Gambling Bill.

The background

1.7 The Government set up an independent review of gambling law under the chairmanship of Sir Alan Budd in 1999 to consider how gambling should be regulated in future. *The Gambling Review Report* made 176 recommendations for changes to the current system of control. The report was published on 17 July 2001 and the Department invited comments. Around 270 formal submissions were received, together with more than 4,700 letters about individual recommendations. Widespread consultation included a series of meetings with industry representatives and other stakeholders, including representatives of faiths and charitable organisations.

1.8 The Government published its response to the report¹ in March 2002. Of the 176 recommendations that the Review body made, the Government announced that it was minded to implement, either in full or part, 157, rejecting only nine, with a further 10 subject to further consideration and consultation. These are explained in more detail under Option 2 and 3 below.

Risk assessment

- 1.9 There are several risks in failing to modernise the gambling laws. The current system of regulation has worked reasonably well but is increasingly unable to cope with innovations such as internet gaming and the development of betting exchanges. Retaining the status quo would:
- Maintain law that is difficult and complex to interpret and which does not cater for modern technology which could lead to abuse and unfair practices;
 - Fail to make proper provision for protecting children and vulnerable adults;
 - Hamper the proper sharing of information among gambling regulators and law enforcement agencies;
 - Hamper the growth of the gambling industry and the leisure sector in Great Britain;
 - Maintain unnecessary burdens on business through outdated regulation;
 - Hinder the development of gambling products in both the domestic and overseas markets and the speed at which they can be introduced;
 - Restrict choice of gambling products for punters.

¹ *A Safe Bet for Success Cm 5397.*

Options

1.10 Three broad options have been identified in reforming the gambling laws.

Option 1 – *leave all of the legislation unchanged (i.e. retain the status quo)*

1.11 This would not meet the objectives of new gaming laws. The risks of failing to do this are set out in section 1.9.

Option 2 – *implement all of the recommendations set out in the Gambling Review Report*

1.12 This option will meet the objectives and create a more open and competitive gambling sector that offers a wider choice for consumers and will create employment opportunities in parts of the industry.

Social issues

1.13 The main issue identified in extending choice and availability of gambling is that it could lead to an increase in problem gambling. It is estimated that there are between 275,000 and 370,000 problem gamblers in the UK. The Review Body recognised that some individuals become obsessed by gambling to the point at which they cease to function as normal members of society and may do great harm, not only to themselves, but also to their families and possibly the general public. They also recognised that their proposals would generally increase the gambling opportunities for adults, and concluded that children are a vulnerable part of the community for whom it is right to prescribe special rules. They were also concerned about the broader effect on communities through an increase in the number and size of gambling enterprises.

1.14 The Gambling Commission will be responsible for monitoring the impact of gambling reform and reporting to the Government. The Government also wishes to see a sustainable programme of research into the causes of problem gambling and into effective methods of counselling and treatment intervention. The Government has actively supported the creation of an industry-funded Gambling Trust to take forward these and other programmes. If the £3 million suggested by the Gambling Review to fund the Trust is not achieved the Government would impose a statutory levy through reserve powers in the Bill. Its first and overriding responsibility must be to the interests of citizens, consumers and families and it would not hesitate to use its powers if the level of commitment from the gambling industry is not maintained following the passage of reforming legislation.

Crime

1.15 Relaxing gambling regulations could potentially increase the risk of criminal infiltration and money laundering. This will be addressed through an effective system of licensing and regulation through the Gambling Commission. The Commission will have wide-ranging responsibilities and powers, including:

- Licensing, inspection and enforcement responsibility for all commercial gambling operators and their staff;
- Access to criminal records;

- Powers to support the effective investigation and prosecution of cases of illegal gambling;
- Sharing of information via statutory "gateways" with law enforcement bodies and others.

1.16 The Commission will also check that operators and certain categories of staff are fit and proper to run gambling activities.

Fiscal

1.17 Changes in the social law could impact on related revenue receipts. HM Customs and Excise are addressing the implications of the proposed reforms for the management and administration of the gambling duty regimes.

Commercial issues

1.18 The gambling industry indicated during DCMS's consultation on the Gambling Review Report that some of its proposals would impose unreasonable costs on some sectors. Some businesses stood to lose revenue as a direct result of particular recommendations and could as a result have ceased to be commercially viable. Those that potentially stood to lose the most were those premises where gambling – usually machine gambling – takes place which is incidental to the core business activity and licensed machine gambling venues, such as amusement arcades and private members' clubs. These issues are set out in more detail in Chapter 2 dealing with gaming machines

1.19 The industry also raised a number of concerns about the transfer of premises licensing responsibility to local authorities, and in particular objected to the Review's proposal that local authorities should be able to impose "blanket bans" on particular types of gambling. Concerns were also expressed about what was felt to be unnecessary and potentially burdensome tiers of regulation, for example the proposal to personally licence all betting shop managers.

The National Lottery

1.20 Implementing all of the recommendations in the Gambling Review Report would also have implications for the National Lottery and other related stakeholders – the Treasury, HM Customs and Excise, Camelot and beneficiaries.

1.21 The National Lottery is the only large-scale lottery permitted in the UK and since its launch has become an important part of national life, with about two-thirds of the adult population playing on a regular basis. It raises large amounts of money for good causes and the Government wants to ensure that this continues. The Government has also concluded that, whilst the National Lottery clearly involves gambling, it should not operate on the same playing field as other kinds of gambling given the unique support that it provides for good causes.

1.22 The two most significant recommendations in the Report, that limits on the size of prizes and the annual maximum proceeds should be removed for societies' lotteries – broadly charities and sports clubs – and that side betting on the National Lottery should be permitted, would have had a significant impact on the Lottery and on future income for good causes.

- 1.23 Bookmakers offer bets on a number of other countries' national lotteries as well as on their number games. The only numbers on which they are not allowed to offer bets are the National Lottery results. Evidence suggests that the introduction of side betting in Ireland coincided with, rather than contributed to, a substantial fall in Irish Lottery sales, but the extent of the risk that side betting would have is uncertain. The Government considered that the benefits of removing the remaining restrictions were not so great as to justify running the risk.
- 1.24 The removal of current limits on the size of society lotteries (£2 million ticket sales with a maximum prize of £200,000) would allow charities to compete head to head with the National Lottery. Competition would probably reduce total income for good causes; prize pools would each potentially be smaller and therefore less attractive to people seeking a life-changing winning amount. There was also a risk that charities with the most direct popular appeal would benefit at the expense of smaller charities now supported by the National Lottery.

Option 3 – *implement the majority of the Gambling review recommendations as set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others.*

- 1.25 The objectives would still be secured but this option will eliminate or ameliorate most of the associated risks identified in Option 2 and reduce the potential cost burden to business.
- 1.26 The key changes from the Gambling Review proposals relate to:

The industry

- A new regime to control gaming machines;
- Licence arrangements for bookmakers;
- The laws on prize competitions;
- Changes proposed for the regulation for remote gambling;
- Casinos;
- The size of prizes and the annual maximum proceeds for societies' lotteries.

Details are set out in Chapters 2 – 8.

Impact on the National Lottery

Side betting will not be allowed on the National Lottery and the limits on the size of society lotteries prizes and maximum annual proceeds to be doubled, rather than removed altogether. This will reduce the impact of the changes on the National Lottery.

Licensing and regulation

The proposal that all society lotteries and their promoters should register with the Commission and the concept of local authority "blanket bans" have been rejected. The Government did not think that it would be appropriate to give local authorities unfettered discretion to determine whether or not a premises licence should be issued or on the conditions attached to licences. But it is nevertheless

important that a balance is struck between giving local communities and local authorities the ability for local decision making and on the other hand giving businesses assurance and some certainty that there will be uniformity of treatment across local authority areas;

The planning appeals model for premises licensing decisions has also been rejected. Concerns were expressed about the cumbersome nature of the process, the potential for delay, high costs and lack of a real focus on decisions. The Planning Inspectorate also identified a number of practical and procedural differences between its basic appeals function and that likely to be needed to handle licensing appeals. The proposed new system that will be adopted is set out in paragraph 1.32

Benefits

Option 1 – *retaining the status quo*

- 1.27 There will be no additional benefits other than those enjoyed as a result of current legislation. Annual real gambling expenditure has remained static since the launch of the National Lottery in November 1994. The status quo offers limited opportunities for future growth in the gambling sector.

Option 2 – *implementation of all of the Review Body's recommendations*

- 1.28 *Better business opportunities* – these are described in the separate RIAs on individual sectors of the gambling industry.
- 1.29 A range of responses to the Gambling Review Report suggested that gambling expenditure (i.e. stakes less winnings) in the UK gambling sector and its constituent parts including the National Lottery could increase by an annual average of £567 million between 2004/05 and 2008/09, if all the proposals were implemented. This represents a small increase – around 7% – on current annual expenditure, thereby slightly increasing the sector's contribution to UK Gross Domestic Product.
- 1.30 *Greater employment opportunities* – Gambling employment – currently estimated at 124,000 full time equivalents – would be expected to rise in line with the expenditure growth outlined above. However, employment gains in an expanded gambling sector may be partially offset by lower employment elsewhere in the economy, given the potential for displacement of expenditure. The Government's proposals for bingo clubs and Family Entertainment Centres will also protect employment opportunities for young people.
- 1.31 *Better information* – advertising will be permitted but will be subject to a code of advertising practice drawn up by the Gambling Commission for licensed operators. The code will complement codes issued by the Advertising Standards Authority (ASA), the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS) and the Independent Television Corporation (ITC) and the Radio Authority (who are to be replaced by OFCOM). The proposed advertising code is far less restrictive than at present and will enable operators to market their products more effectively.

- 1.32 *A fair system of appeal* – there will be a system of appeals which will enable operators to challenge licensing decisions made by the Gambling Commission through a Gambling Appeals Tribunal, and those made by the local authority through a magistrates court sitting as an appeals court. There will be a statutory timescale for lodging appeals and for hearing them. This will be on both the law and merits. This is a significant improvement on the current system. The new system of appeals will ensure fair and impartial treatment.
- 1.33 *Greater consumer choice* – a wider range of gambling products will be available within some gambling venues, and a greater number of venues are also possible. Examples include:
- Casinos could offer customers bingo and betting;
 - There could be a greater range of games in bingo halls with unlimited stakes, big prize rollovers and linked games;
 - There will be casino gaming machines offering more attractive prizes and customers will be able to play Category B machines at racecourses greyhound tracks, adult arcades, betting shops and bingo clubs;
 - With the abolition of casino “permitted areas”, the 24 hour waiting rule and membership there will be a greater variety of casinos to chose from and easier access;
 - People will be able to gamble remotely with Great Britain based operators offering a fair deal for the customer.
- 1.34 *Better regulation* – the new Gambling Commission will regulate a larger part of the gambling industry than the current Gaming Board. It will have statutory powers of entry seizure and search in connection with compliance monitoring, and be better able to investigate breaches of gambling laws and regulations and consider administrative sanctions in connection with breaches of licence conditions. These are explained more fully in paragraph 1.45.
- 1.35 *Treatment of problem gambling* – the Government endorsed the Gambling Review Body’s concern to see a long term programme of research into the causes of problem gambling in Great Britain and into effective methods of counselling or treatment intervention. The Government also agreed that the gambling industry should establish and fund an independent trust to commission research into the prevention and treatment of problem gambling and to support treatment that does not engage the NHS. The funding of the Trust is considered in more detail in paragraph 1.62.

Option 3 – *adopt the recommendations as set out in ‘A Safe Bet for Success’*

- 1.36 The benefits identified in Option 2 would still be secured.
- 1.37 The overall impact on gambling expenditure and employment under this option may be a slight reduction in the growth expected under Option 2. This is because the regime for gaming machines described in Chapter 2, raises the threshold for the size for the small casino from 2000 sq ft proposed by the Review Body, to 5,000 sq ft described in Chapter 4. This is however outweighed by the social benefits that these changes will achieve and this is also explained in those chapters.

Business sectors affected

- 1.38 The business sectors affected will be all of those in the gambling industry – casinos, bingo clubs, gaming machine arcades, family entertainment centres, travelling showmans fairs, gaming machine suppliers and manufacturers, other premises that have gaming machines (including pubs), bookmakers, racecourses, greyhound racing, lotteries and those conducting prize competitions and promotional draws (including premium rate operators), proprietary and members' clubs, remote gambling operators and specialists, and the tourist industry. Details of the industry are set out in the individual chapters.
- 1.39 Charities and voluntary organisations will also, potentially, be affected by the recommendations on society lotteries and, indirectly, those recommendations that could have an impact on the amount of money available to good causes from the National Lottery.

Equity and Fairness

- 1.40 Those parts of the gambling and betting industry that could be disproportionately affected by the Gambling Bill are set out in the individual industry specific RIAs.

Costs

Compliance costs

- 1.41 The compliance costs for gambling and betting have been reviewed since the publication of *A Safe Bet for Success* and are set out below.

Option 1 – Retain the status quo (£7.1 million)

- 1.42 The Gaming Board regulates casinos, bingo, gaming machines and the larger societies' lotteries in Great Britain. It is a non-departmental public body, funded by grant in aid. It issues certificates of approval for bingo clubs and casinos and fit and proper certificates for certain gambling employees and gaming machine suppliers. This, together with other regulatory costs incurred by the courts, the police and others is recouped from operators via licence fees and from those employees who require "fit and proper" certificates.

Local authorities:

- Issue permits for tracks that provide betting, arcades, family entertainment centres and other non liquor licence premises that have AWP gaming machines;
- Regulate greyhound track totes;
- Register pools operators and appoint an auditor to ensure the integrity of their pools. Audit fees are recoverable from the operator;
- Register the smaller societies' lotteries.

Magistrates² issue:

- Bookmakers permits and licenses for betting offices and agencies;
- Premises licences for casinos and bingo clubs;

² In Scotland, local Licensing Boards undertake licensing of gambling premises.

- Register Clubs or institutions who wish to offer gambling or gaming machines to their members;
- Permits to other premises with an on-licence (e.g. pubs) that wish to operate gaming machines.

1.43 On-course bookmakers pay for the regulation and administration of their activities by the National Joint Pitch Council (NJPC).

1.44 Current regulatory costs are summarised, on an annualised basis, in the following table.

Current regulatory costs	Number	Estimated Annual Cost (£m)
Gaming Board, magistrates and police costs ³	10,000 applications	4.700
<i>Local authority costs</i>		
Gaming machine arcades	2,000	0.170
Gaming machines in pubs	60,000 pubs	0.640
Gaming machines in other locations with an on-licence	2,000 premises	0.020
Lotteries (registration fees)	40,000	1.000
Football Pools ⁴	3	0.007
Tracks (greyhound and others)	180	0.440
Tracks (horse) ⁵	60	0.050
Bookmakers permit and betting office licences ⁶	1,100 applications	0.049
Issued by magistrates	11,883 renewals	0.092
Total		7.100

Option 2 – with all the recommendations accepted (£16.7 – £20.1 million)

1.45 The Gambling Review Body proposed that betting, gaming and lotteries should be regulated by a new body, the Gambling Commission. It will be regulating a far wider sector of the gambling industry than the current Gaming Board and will have far wider powers. Its functions will be:

Licensing

- Undertake enquiries as are necessary in order to reach decisions in connection with individual licence applications;
- Interview applicants for operator or personal licences where necessary in order to determine whether they meet the necessary requirements;
- Require the production of criminal records certificates from applicants for operator or personal licences;
- Receive information from criminal records disclosures;
- Exchange information, using statutory gateways, with law enforcement agencies and other regulatory bodies, including those in overseas jurisdictions;

³ Annual figure based on the estimate of the number of licences for 2003/04. Gaming Board costs include certificates of consent issued by the Board to bingo clubs and National Game, casinos, certificates to specified staff employed in casinos and bingo halls, and to those who sell, supply or maintain gaming machines, lottery managers, and registration of certain societies' lotteries. Costs include work undertaken by licensing justices in issuing premises licences and permits to bingo clubs, casinos and members clubs and police costs in attending hearings.

⁴ Fees set by local authorities not to exceed £464. Figures includes costs of local authority accountancy services to the operator.

⁵ Includes estimated costs of Levy Board certificate of approval system.

⁶ Figures based on DCMS Statistical Bulletin: Betting licensing June 2000 – May 2003.

- Make ad hoc criminal records checks in respect of licensed persons;
- Maintain a central database of licensed operators, personnel and premises;
- Attach conditions to licences in respect of the conduct of particular types of gambling, or the conduct of licensed operators or persons, or the operation of particular types of gambling premises;
- Issue guidance to local authorities on minimum standards and mandatory requirements for individual categories of gambling premises, which local authorities will be required to take into account in determining applications for gambling premises licences or permits.

Enforcement

1.46 The Commission will also:

- Have statutory powers of entry, seizure and search in connection with compliance monitoring and the investigation of breaches of gambling law;
- Investigate breaches of gambling laws and regulations, including allegations of illegal gambling activities, and initiate criminal proceedings through the Crown Prosecution Service;
- Consider administrative sanctions on licensed operators or persons in connection with breaches of licence conditions, to include cautions, licence endorsements, financial penalties and removal of licences.

1.47 The Commission will not be responsible for licensing premises. These will be local decisions with responsibility transferring from magistrates to local authorities.

1.48 The Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system, the investigation and prosecution of, for example, unlicensed trader and the cost of appeals. The Bill will enable the Commission to set fees more flexibly than at present. The Commission will be able to cover the costs of imposing financial penalties but the excess will be returned to the Treasury Consolidated Fund to avoid any perverse incentives.

Costs of licensing and regulation by the Gambling Commission

1.49 If the Gambling Commission takes on the full range of responsibilities envisaged the costs of regulating the industry, enforcing compliance and tackling illegal gambling could be in the range of £9 – 11 million. This assumes an approximate doubling in the number of casinos (to around 250); no change in the total number of bingo clubs (c699); up to 50 machines manufacturers but little change in suppliers (c700 – 800): 700 society lotteries and their promoters to be registered; 4,000 bookmakers and 8,000 betting shops (with the personal certification of betting operators and specific categories of employee) and 30-50 licensed remote gambling operators.

Costs of licensing premises by the local authorities

1.50 Local authorities will establish a committee to determine applications for premises licences. Local authority costs will be recouped from operators and

licences will be valid for an indefinite period subject to the premises holder retaining a licence from the Gambling Commission and payment of an annual fee. Local authorities will be able to inspect premises and monitor compliance with the licence. A licence can be reviewed at any time if, for example, a complaint has been received that licence conditions have been breached.

- 1.51 The Commission and local authorities' regulatory roles will be separate but clearly they will need to share information about possible or actual infringements.
- 1.52 With increases in business as a result of the proposals in the draft Bill and with local authorities expected to adopt a more proactive enforcement role in support of the Commission, costs will inevitably increase. There will however, be some offsetting savings through the transfer of responsibility for licensing greyhound tracks and pools companies to the Commission.

Appeal against licensing decisions

- 1.53 The Bill will provide for a statutory right of appeal against licensing decisions by the Gambling Commission through a Gambling Appeals Tribunal and there will be a right of appeal against premises licensing decisions. Costs will depend on the complexity and length of individual cases. The costs of appeals to the Tribunal will be included in licence fees but parties to an appeal will be expected to meet their own direct costs unless they have legal assistance. This will be met by the Commission and funded through the fees it charges.
- 1.54 Administrative and hearing costs for premises appeals will fall to the Courts service in the normal way with parties to the appeals meeting their own costs.
- 1.55 At this stage there are no meaningful estimates of the likely number of appeals under the new arrangements for premises licensing. We will be working with the Gaming Board, local authorities and other stakeholders to see whether it is possible to get a clearer view of the potential increase in applications and, therefore, the number of consequential appeals.

Setting the fees

- 1.56 Fees will be set and adjusted by the Government in secondary legislation. In Scotland, the Scottish Executive will set the fees for premises licences.

Criminal Records Bureau (CRB) checks by employers

- 1.57 The Gambling Review Report recommended that there should be a formal duty on gambling operators to ensure that appropriate checks are made on employees who are involved in the gambling industry (including bookmaking employees) but are not licensed personally by the Gambling Commission. How this would work in practice will be a matter for further consultation with the industry, but it could, for example, include a requirement for criminal records checks every five years on employees who have remained in the same position, or who have been promoted to a position below manager in the same company and who would not otherwise need to be re-licensed by the Commission.
- 1.58 The CRB will carry out criminal records checks for individuals, on application for a fee. Basic, standard and enhanced disclosure fees cost £29. On the assumption

that 50% of staff not certified by the Gambling Commission are required to obtain a CRB certificate, costs would be in the region of £1m per year (on an annualised basis). With additional administrative expenditure for employers of half that amount, the total cost under that scenario would be in the region of £500k per year.

Other Costs

1.59 These are the same as for option 3

Estimated Regulatory costs for Option 2 ⁷	(£m)
Gambling Commission ⁸	9.610 – 11.720
Local Authorities	5.800 – 6.900
Employers/employees costs for CRB checks	0.922 – 1.026
Appeals (Gambling Tribunal)	0.405 – 0.550
Total	16.737 – 20.196
Net increase over current regulatory costs	9.637 – 13.036
Other costs	
<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust • Potential reduction in income for good causes via the National Lottery • Government costs in developing the Gambling Bill • Possible costs for the NHS and other law enforcement agencies 	

Option 3 – adopting the recommendations in *A Safe Bet for Success* together with modifications following discussion with stakeholders and others (£20.7 – £21.8 million)

1.60 The compliance costs will be largely the same as Option 2, but with reductions to reflect the modifications summarised in section 1.23.

1.61 Although costs are significantly higher than at present, costs will be directly proportionate to the work undertaken by the Commission in regulating the industry, which is anticipated to be much larger and diverse than at present. It will be important for the Commission to be adequately resourced to fulfil its regulatory functions to provide the confidence that the industry and public expect in the new laws.

⁷ Based on estimates supplied by the Gaming Board, Local Government Association and the Department of Constitutional Affairs.

⁸ Excluding set up costs.

Estimated Regulatory costs for Option 3⁹	(£m)
Gambling Commission	08.960 – 10.930
Local Authorities	9.100 – 10.40
Employers/employees costs for CRB checks	0.990 – 1.275
Appeals (Gambling Tribunal)	0.370 – 0.501
Total	19.420 – 23.106
Net increase over current regulatory costs	12.32 – 16.006
Other costs	
<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust • Potential reduction in income for good causes via the National Lottery • Government costs in developing the Gambling Bill • Possible costs for the NHS and other law enforcement agencies 	

Other costs

Problem gambling

1.62 The Review Body called for more and better research into problem gambling and the creation of the independent, industry funded Trust with an annual budget of £3 million. They further recommended that should this figure not be achieved the Government should impose a statutory levy through secondary legislation. How this might be apportioned between the various sectors would be a matter for further consideration and advice from the Gambling Commission. This levy would be collected from operators in addition to their annual license fees and will be paid into the Treasury Consolidated Fund. The Treasury will decide how this might flow back to the Commission and it would then be for the Commission to decide how this money would be used in the research, prevention and treatment of problem gambling.

The social impact of change

1.63 As detailed in paragraphs 1.10 and 1.12 extending the choice and availability of gambling could lead to an increase in problem gambling and relaxing gambling regulations could potentially increase the risk of criminal infiltration and money laundering. This could potentially have implications for the NHS and other law enforcement agencies, but as explained in paragraphs 1.11 and 1.12 this will be mitigated by codes of practice and research and through an effective system of licensing and regulation by the Gambling Commission.

The National Lottery

1.64 The Bill will enable a number of regulatory changes for other forms of gambling which could have a consequential impact on National Lottery. This is in addition to the proposals to introduce scope for greater competition to run the Lottery, which are considered in the separate RIAs.

1.65 The central forecast scenario for National Lottery sales over the second licence period, which began at the end of January 2002, is £5 billion a year. Camelot plc as holder of the second operator's licence is taking steps to improve sales

⁹ Costs do not include transitional costs – fees may contain an element of this in the early years of the Commission.

performance. This together with the steps that the Government proposes to safeguard its position takes account of the unique support that it provides for good causes.

- 1.66 The overall impact on the Lottery of the proposed changes is hard to quantify but could potentially involve some reduction in income for good causes, in a range from zero to £70m a year. But in the total forecast ticket sales of £5 billion a year this is well within the margin of normal forecasting uncertainty.

Policy implementation

- 1.67 There will be a cost in finalising the legislation and in Parliamentary time.

Small Business

- 1.68 Lower barriers to entry should limit the possibility of market dominance and monopoly profit taking. The Bill's proposals lower the barriers to entry to the UK gambling sector, by eliminating the demand test (for casinos, bingo clubs and licensed betting offices) liberalising operating restrictions and facilitating the establishment of on-line gambling sites in the UK. This should make it relatively easier for competition to enter the sector.
- 1.69 The Small Business Service has been involved in the consultation process. Trade organisations that have both large and small operators as members, have been consulted in preparing the policy for the Bill. The Government's objectives, within the overall framework for effective regulation, will be to minimise any disproportionate impact on small business, and a number of the specific recommendations in the Gambling Review Report have been modified or rejected.

Competition Assessment

- 1.70 It is expected that implementation of the Gambling Bill will generally have a positive effect on competition within the sectors that comprise the gambling industry. This view is reached on the basis that the Bill will remove many restrictions and statutory requirements for businesses that may currently act as barriers to entry. Whilst the Bill will also create some additional compliance costs, these are not expected to be sufficient to have a significant impact on competition in any of the sectors identified in the various chapters.

Enforcement and sanctions

- 1.71 The Gambling Commission will ensure compliance and there will be an enforcement role for local authorities. There will also be scope for the use of new technology as a tool for compliance and enforcement. Software is available that could be used, for example, to monitor internet sites and gaming machines.
- 1.72 Implementation of the Bill will facilitate better cross-agency working and sharing of information between law enforcement bodies such as Customs and Excise, the Financial Services Authority and others, which will help to combat crime.
- 1.73 The Bill contains a wide-ranging list of specific criminal offences and sanctions that will enable effective action to be taken against those who break the law. Operator and personal licences will be supported as an alternative to criminal

proceedings, by a flexible range of sanctions ranging from cautions and licence endorsements to financial penalties and withdrawal of licences.

Monitoring and Review

- 1.74 The Gambling Commission will keep the operation of the new legislation under review and will monitor the social and economic impact of gambling, adjust regulations as necessary and advise the Government on the need for legislative changes. It will liaise and consult with stakeholder interests. An annual report of its activities will be published.

Consultation

Within government

Office of the Deputy Prime Minister	Local Authority Co-ordinators of Regulatory Services
HM Customs and Excise	Local Government Association
Home Office	National Criminal Intelligence Service
HM Treasury	National Lottery Commission
Scotland Office	Gaming Board for Great Britain
Department of Health	
Department for Education and Science	
Cabinet Office	
Department for Constitutional Affairs	
The Court Service	
Department of Trade and Industry	
Office of Fair Trading	
Scottish Executive	

Stakeholders & the public

- 1.75 In developing the Bill the Government consulted stakeholders and other members of the public and also took into account views expressed by respondents to a consultation paper *Government Consultation on the Law on Prize Competitions* published on 23 May 2002, the Culture Media and Sport Committee's report *The Government's Proposals for Gambling: Nothing to Lose* published in July 2002.
- 1.76 Meetings have been held with industry representatives and other stakeholders, including representatives of faiths and charitable organisations.

Summary and recommendation

Option	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implementing the recommendations set out in <i>A Safe Bet for Success</i> and additional Government proposals
Net increase over current regulatory costs	No additional costs	£9.6 – 13.0m	£12.3 – 16.0m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Better regulation • More effective treatment and prevention of problem gambling • An efficient system of appeals against decisions from the Gambling Commission and local authorities 	The benefits are the same as in option 2 but the overall impact on gambling expenditure and employment under this option may be a slight reduction in the growth expected under Option 2 given the new regime for gaming machines and casinos. This is however outweighed by the social benefits that these changes will achieve
Other costs		As in option 3	<ul style="list-style-type: none"> • Voluntary contributions to the Gambling Industry Charitable Trust
			<ul style="list-style-type: none"> • Potential reduction in income for good causes via the National Lottery • Government costs in developing the Gambling Bill • Possible costs for the NHS and other law enforcement agencies

1.77 **Option 1 & 2** There will be no additional benefits other than those enjoyed as a result of current legislation if the status quo is retained. Although Option 2 will deliver the Government’s stated objectives in reforming gambling laws, it will impose costs that some sectors of the gambling industry consider unreasonable. There could also be some loss of revenue to the Exchequer and good causes from the consequential impact on National Lottery sales.

1.78 **Option 3** This is the Government’s preferred option. It is likely to create a more open and competitive gambling sector and would deliver the objectives set by the Government in reviewing the gambling laws, that is to keep gambling crime free, ensure a fair deal for the customer and protect children and the vulnerable. It will enable a more rigorous system of regulation of the gambling and betting industry through a new Gambling Commission with enhanced powers and procedures and, unlike now, covering bookmaking and on-line and remote

gambling. Although costs are significantly higher than at present, they will be directly proportionate to the work undertaken by the Commission in regulating the industry, which is anticipated to be much larger and diverse than at present. Option 3 will ensure that a Trust is set up to help problem gamblers and will also significantly reduce the financial impact on the National Lottery. There will be better choice for customers and enhanced opportunities for business both in the UK and abroad. It would also mitigate or eliminate some of the risks identified in the other options and will significantly reduce the potential cost burden on the industry. Additional regulatory costs for this option will be in the region of £12 million – £16 million per year, set against a projected annual average increase in net expenditure on gambling of at least £500m over the period 2004/05 to 2008/09.

Chapter 2: Gaming Machines

- 2.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the Gambling Bill on the gaming machine industry.
- 2.2 The gaming machine industry has been taken in its widest sense. Many sectors of the gambling and leisure industries use gaming machines including bingo clubs, casinos, betting offices (LBOs), bowling alleys, pubs, private members clubs, arcades and other non-licensed premises. This RIA takes account of the impact of the proposals on all those sectors, with the exception of the bingo, betting and casino sectors. In these three cases the effect of those changes is included in the separate RIAs for those sectors in Chapters 3, 4 & 5.
- 2.3 Figures provided for the Gaming Board by BACTA, the industry trade body, show that there are some 255,000 gaming machines lawfully in operation throughout Great Britain. They provide an important source of revenue for many businesses including: 2,000 arcades and gaming centres, 60,000 pubs, 29,500 private clubs and 894 jackpot machines in casinos. Money retained by gaming machine suppliers and site owners in 2002/03 was £1.5 billion with £149 million paid in duty¹. Extracts from a model prepared by the Henley Centre show that the industry employs some 23,000 people comprising 1,922 suppliers, 130 distributors, 7,662 operators and 13,387 at other premises where gaming machines are offered for play².

Purpose and intended effect

Objective

- 2.4 The proposals for gaming machines are set within the overall objectives for gambling as set out in Chapter 1, but in announcing its proposals in *A Safe Bet for Success* the Government said that in relation to gaming machines it specifically wanted to create:
- An environment in which there is more choice for adult gamblers and new opportunities for business within a regulatory framework that provides better protection for children and other vulnerable persons; and
 - More effective controls on both the location of different categories of machines and the numbers permitted in individual premises.

The background

- 2.5 It is estimated that there are currently about 255,000 legally sited gaming machines in Great Britain. Gaming machines grew out of amusement machines that were first introduced at the beginning of the 20th century and the law has regulated them with a varying degree of success since then, but that regime has become ill-suited to regulating gaming machines in the 21st century. The existing law has led to a number of problems with regard to regulation caused in the main by technological changes that have led to equipment being used for gambling never contemplated by the 1968 Act. The law therefore needs to be modernised to provide effective, comprehensive and flexible regulation.

¹ Gaming Board Annual Report 2002/03.

² BACTA Basics.

- 2.6 The Gambling Review Body was concerned about gaming machines. They highlighted concerns about certain features of these machines that could lead to repetitive play, in particular among children and were also concerned about gambling that is incidental to a non-gambling activity. This led the Review Body to recommend that gaming machines should be banned from venues such as fish & chip shops, taxi cab offices, and private members clubs; that maximum stakes in machines for family entertainment centres should be reduced to 10 pence; and that prizes on these machines should be frozen. On the other hand, the Review Body was content that some of the regulations could be relaxed in a strictly regulated environment of a casino, by permitting slot machines with unlimited stakes and prizes. A full list of recommendations about gaming machines is at Annex A.
- 2.7 Out of the 32 gaming machine recommendations made by the Review Body the Government accepted 23, rejected 3 and modified 5. The Government announced in *A Safe Bet for Success* that a clear distinction would be drawn between machines that adults can play and those to which children have access. It therefore proposed a new regime for gaming machines as follows:
- A clear legal distinction to be drawn in terms of stakes and prizes between so-called amusement with prize machines (AWP) – i.e. Category D machines as defined below – and gaming machines;
 - Children to be banned from playing gaming machines; and premises (or parts of premises) to which they have access, not to be allowed to have gaming machines;
 - Machine arcades to be separated into two distinct categories; family entertainment centres, which may have AWP but not gaming machines (unless they have a dedicated and secure adults-only area); and adult gaming centres, with an entitlement to the same range of machines as betting shops and bingo clubs;
 - Pubs and other premises licensed for the consumption of alcohol to be allowed to apply for more than two gaming machines, subject to controls on access by children;
 - No immediate statutory ban on low stake/low prize machines in unlicensed premises, but local authorities to retain the power to decide whether other types of premises may install AWP machines;
 - Members' Clubs to retain current entitlement to jackpot machines, on acceptance by individual clubs of an appropriate level of external regulation;
 - Increases in stakes and prize limits not to be limited to inflation;
 - Research to be conducted into the risks presented to children by machine gaming, but with no presumption that this will lead to a ban; and
 - Ensure the new legislation is drafted in such a way as to enable the Gambling Commission to bring betting machines (FOBTs), which in reality involve gaming within the relevant controls for gaming machines.
- 2.8 There will be four new categories of gaming machines, Category A, B, C and Category D amusement with prizes with varying entitlements as shown in the table below.

Category	Maximum stake	Maximum prize	Location(s)	Maximum number Per premises
A	Unlimited	Unlimited	Casinos	Variable – see paragraph 2.9 for details
B	£1	£500	Bingo clubs, betting shops and adult gaming centres	4
		£250	Registered clubs	3
C	50p	£25	Bingo clubs, betting shops, adult gaming centres, adult-only areas of family entertainment centres Pubs and other premises with an alcohol licence	Subject to local authority discretion 2, but may apply for more to local authority
D	10p (30p for “cranes”)	£5 (cash or non cash)	Primarily family entertainment centres and travelling showmen’s pleasure fairs, but any one who wishes to operate these machines can apply for a licence	Subject to local authority discretion

- 2.9 With regard to jackpot machines in casinos the Gambling Review Body recommended that they could be linked, and that the number of machines should be controlled by the number of gaming tables that are available for play, with the maximum determined by a ratio of eight machines to each table (but where the number of tables exceeds 80 there should be no maximum on the number of machines).
- 2.10 In announcing its policy on casinos, the Government said however that whilst casinos were free to install gaming machines with no fixed prize limits, they would not be able to link them to machines on other premises to create progressive jackpots and that small casinos (including those now in operation) should be able to install up to three machines for each gaming table that is available for use but that those in the large category would, if they had more than 40 gaming tables, be entitled to offer an unlimited number of gaming machines. The background is covered in more detail in Chapter 4 dealing with casinos.

Risk assessment

- 2.11 There are several risks in failing to modernise the gambling laws relating to gaming machines. Part III of the Gaming Act 1968 which deals with the laws on gaming machines is one of the most complicated pieces of legislation on the statute books and is difficult to understand. It does not cater for modern technology and that could lead to abuse and unfair practices. The controls which it imposes can be outflanked by modern technology.

- 2.12 The new laws will reduce the risks of access to gaming machines by children by making a clear distinction in the machines that adults can play and those to which children can have access and which can properly be seen as essentially for amusement but which may also offer small prizes. Under the new law, the Gambling Commission will draw up codes of practice which will be incorporated into licensing provisions that licensing authorities will be under a duty to consider when considering a licence and which will be admissible as evidence in criminal or civil proceedings. These will be more effective than current voluntary codes.
- 2.13 The current law also requires suppliers and those who maintain machines to have an operators licence issued by the Gaming Board to ensure that they are “fit and proper” to carry out those functions. This has worked well but the new law will enhance this protection by extending the system to manufacturers as well and will clarify the position of software suppliers.
- 2.14 Failure to change the law will also hamper the growth of the machine industry and restrict choice of gambling products for punters. Casinos will for instance be able to link gaming machines on their premises (but not to machines on other premises) to create progressive jackpots and they will be able to have a greater number with unlimited stakes and prizes than is currently available as explained in paragraph 2.9.
- 2.15 The Government has noted with concern the increasing installation in licensed betting offices of machines, described as fixed odds betting machines (FOBTs), which enable customers to play virtual casino games for prizes up to £50,000. It takes the view that the uncontrolled proliferation of high-prize machine gaming on the high street risks seriously increasing problem gambling. The Government stated that new legislation will be drafted in such a way that these betting machines will be brought within the relevant controls for gaming. This current unsatisfactory position with regard to FOBTs will be maintained if the law remains unchanged.

Options

- 2.16 Three broad options have been identified in reforming the gambling laws on gaming machines.

Option 1 – *leave the relevant legislation unchanged*

- 2.17 This would not meet the objectives set out in paragraph 2.4.

Option 2 – *implement all of the changes set out in the Gambling Review Report*

- 2.18 This option will meet the objectives but there are a number of risks involved.

Social issues and crime

- 2.19 The general risks involved in extending choice and availability leading to problem gambling and the potential increase in criminal activity is considered in Chapter 1, in relation to gaming machines specifically in paragraph 2.6 and casino jackpot machines (where by offering unlimited prizes and linked machines repeat and compulsive play might be encouraged in the hope of chasing a large prize), in paragraph 2.10.

Commercial issues

- 2.20 The industry indicated during the consultation on the gambling review that some of the proposals would impose unreasonable costs on some sectors of the gaming industry. Some businesses stood to lose revenue as a direct result of particular recommendations and could potentially have ceased (all other things being equal) to remain commercially viable. Those that potentially stood to lose the most were venues such as fish & chip shops; licensed machine gambling venues such as amusement arcades; private members' clubs and pubs – these are dealt with in turn below.
- 2.21 The National Federation of Fish Friers Ltd, which represents the interests of 8,500 fish and chip shop outlets, had similar concerns about the recommendation that gaming machines should only be allowed in premises specifically licensed for gambling or the sale of alcohol. They said that many of their small outlets relied on the profits of these machines to maintain a "reasonable" standard of living and that there was often a fine line between profit and loss. Similar claims were made on behalf of cafes and minicab offices.
- 2.22 The gaming machine industry and a number of related interests have drawn attention to what they see as the very serious threats to arcades, machine manufacturers and suppliers and a variety of ancillary commercial activities from a number of the recommendations on gaming machines. Particular concerns remain about the potential impact on arcades and seaside resorts of the freezing of stakes and prizes in Category D machines. Arcades, particularly in seaside resorts, are concerned by the proposals to reduce the maximum stake for £5/£8 token AWP machines to 10 pence.
- 2.23 Particular concerns were also expressed about the potential impact on arcades and seaside resorts of what was expressed as an implied suggestion in the Gambling Review report that children should, subject to a review in 5 years time, be banned altogether from playing machines.
- 2.24 Members clubs argued that recommendation 70 of the Gambling Review Body's report (i.e. that jackpot machines should be removed from private clubs and that they should have the same entitlement to all-cash machines as pubs and other premises licensed for the on-sale of alcohol) would lead to the closure of clubs, loss of employment, and have a detrimental impact on local communities.
- 2.25 The British Beer and Pub Association were concerned about the proposal to limit pubs and similar premises to no more than two machines per location, regardless of their size and competition from other gambling establishments with larger entitlements. They have said that income derived from machines could represent up to 15% of gross profits in smaller premises and in larger ones 6-8%.
- 2.26 The Government's response to these risks is set out in Option 3.

Option 3 – *implement the recommendations set out in A Safe Bet for Success plus other modifications following further discussion with stakeholders and others*

- 2.27 The objectives set out in paragraph 2.4 will still be met but Option 3 will eliminate or ameliorate most of the associated risks identified in Option 2.

- 2.28 The Government decided not to accept the recommendation by the Gambling Review that clubs should lose their current entitlement to jackpot machines, recognising that well run clubs should be able to regulate access to and the use of machines in an acceptable way which provides full safeguards for children and the vulnerable. Under the proposed Bill clubs in seeking a permit from the licensing authority will have to show how they will prevent children gaining access to their machines. This may simply be through assurances that they are adhering to a Code of Practice issued by the Commission. It will be for the Commission to decide what the Code will contain, but they will do so in conjunction with those affected.
- 2.29 The Gambling Commission will also be given the power to inspect club premises and to monitor compliance with the permit conditions. The Government appreciates the importance that clubs attach to their responsibilities for managing their own affairs and enforcing their own rules and the necessity to do this may be rare.
- 2.30 The Government also decided that there should be no immediate ban on low stake/low prize machines in unlicensed premises. Local authorities will retain the power to pass resolutions banning gaming machines from premises such as fish and chip shops and taxi offices and will monitor and enforce compliance with permit conditions in these premises.
- 2.31 In response to the recommendations of the House of Commons select committee on Culture, Media and Sports *The Government's Proposals for Gambling; Nothing to Lose* the Government said that it sees no reason to fix a point in time for a review of machine play by children mentioned in paragraph 2.22 and that it will be for the DCMS and the Gambling Commission to monitor research and other evidence on an on going basis, and to take action as necessary in the light of that evidence.
- 2.32 The Government also decided in December 2002 that for Category D amusement machines stakes can remain at 30p if the machine does not offer prizes in money or exchangeable tickets and tokens, and 10p in all other cases. This will enable "cranes" found predominately in seaside arcades to operate with the existing 30p stake although the maximum prize limit will remain at £5. The industry remains concerned about redemption machines where players win tickets or tokens which they can put together towards a big prize, but the Government takes the view that the position on redemption machines is different. The essence of these machines is that they allow for, and encourage, repeat play in the hope of getting a bigger prize.
- 2.33 Pubs will have an automatic entitlement to two Category C machines but it will be at the discretion of the licensing authority to grant permission for more if an application is made.
- 2.34 Casinos, while free to install gaming machines with no fixed prize limits will not be able to link them to machines on other premises to create large progressive jackpots. The Government also decided that the ratio of gaming machines to gaming tables recommended by the Gambling Review Body as described in paragraph 2.9 were too high and that they should take a more cautious approach

noting the problems that have arisen in other countries from over-rapid easing of regulatory controls.

Benefits

Option 1 – *retaining the status quo*

2.35 There will be no additional benefits other than those enjoyed as a result of current legislation.

Option 2 – *implement all of the changes set out in the Gambling Review Report*

2.36 There will be several benefits. These are:

Greater protection for children and vulnerable adults – for example with restrictions on premises where gaming machines can be located and restricted stakes and prizes. Licensing authorities will have responsibility for ensuring that conditions limiting the number of machines on particular premises are being observed and the Gambling Commission will have statutory powers to investigate breaches of gambling laws and regulations and consider administrative sanctions in connection with breaches of licence conditions.

Greater consumer choice – the proposals will allow different types of casino gaming machines offering more attractive and larger prizes and multiple staking and multiple line staking on all cash machine and jackpot machines.

Higher revenue generation – by permitting unlimited stakes and prizes for casino jackpot machines, the proposed Bill will increase casino turnover and therefore (all else being equal), tax/duty revenue. The scale of the increases are unknown at this stage, because they are critically dependent on the future duty regime, which is currently undecided and additional spending is likely to be diverted from other forms of entertainment.

Option 3 – *implement the recommendations set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others*

2.37 The benefits are the same as in Option 2. However, there will be greater potential for additional revenue generation under Option 3, because of the reversal of the proposals to (a) ban low stake/prize machines from unlicensed premises, (b) ban jackpot machines from private members' clubs, and (c) reduce the maximum stake for amusement machines from 30 pence to 10 pence for "cranes" and other machines that do not offer prizes in money or exchangeable tickets and tokens. In addition the new regime for gaming machines described in paragraph 2.7 will ensure a clear distinction in the machines that children can play and those they cannot and because of the tighter regulation, the prevalence of illegal gaming machines is also expected to decline.

Equity and fairness

2.38 Although some aspects of the Bill are seen as being unfavourable to gaming machine manufacturing interests, the industry could potentially benefit from the expected increase in the numbers and range of casino machines (although there

is some evidence that foreign-sourced machines are currently preferred. This is difficult to quantify).

- 2.39 Licensed betting offices (LBOs) are expected to be adversely by the proposal to redesignate fixed odds betting terminals (which are currently unregulated) as gaming machines in the proposed Bill. These machines currently offer very high prizes but in future LBOs will only be allowed to have up to four Category B machines with a maximum prize of £500. This may constrain longer-term growth.
- 2.40 As noted below in the Competition Assessment, the proposal to reduce the maximum stakes and prizes of some amusement machines may mean that some family entertainment centres are worse off under the Bill.

Business sectors affected

- 2.41 Arcades, family entertainment centres, bowling alleys, pubs, casinos, bingo clubs, private members clubs, other premises with an alcohol licence, non licensed premises such as fish and chip shops, licensed betting offices, racecourses and tracks, travelling showmen’s fairs, and those who manufacture, distribute and service machines.

Costs

- 2.42 The costs of regulating gaming machines in the bingo, casino and betting industry are included on the separate RIAs for those sectors in Chapters 3, 4 & 5.

Compliance costs

Option 1 – Retaining the status quo

- 2.43 Licence and other regulatory costs incurred by the Gaming Board the courts, the police and others is recouped from operators via licence or certification fees.
- 2.44 The Gaming Board issues certificates to those who sell and maintain gaming machines in Great Britain. It is a non-departmental public body, funded by grant in aid. Local authorities issue permits for arcades, family entertainment centres and other premises that have AWP gaming machines and magistrates issue permits for clubs, pubs and other premises with an on licence.
- 2.45 Current regulatory costs are summarised, on an annualised basis, in the following table.

Current regulatory costs	Number	Annual Cost (£m)
Gaming Board costs ³	124 applications	0.56
Local Authority costs ⁴	2,000 arcades	0.17
	3,000 other premises with liquor licence	0.03
	Licensing magistrates costs ⁵	60,000 pubs
	3,709 clubs	0.17
	2,000 other premises	0.02
Total		1.60

³Annual figures based on Gaming Board estimate for the number of grant and renewal applications for section 27 licences to supply and maintain gaming machines in 2003/04.

⁴Estimated number of permits issued under section 34.

⁵Club figures based on Gaming Board estimate of grant and renewal permit 2003/04. The assumption is that each pub will have at least one gaming machine.

Option 2 – *implement all of the changes set out in the Gambling Review Report*

- 2.46 Details of the new licensing regime are set out in Chapter 1. The Gambling Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system.
- 2.47 The areas involving costs for the gaming machine industry specifically are:
- Costs of personal licensing and regulation by the Gambling Commission;
 - Costs of licensing by the local authorities – this will include premises licences for adult gaming centres and family entertainment centres and permits for low value machines in non-licensed premises (Category D machines under Option 3);
 - Appeals against licensing decisions;
 - Criminal Records Bureau (CRB) checks by employers.

Other costs

- 2.48 These are the same as for Option 3.

Estimated Regulatory costs for option 2⁶	Annual Cost (£m)
Gaming Commission costs ⁷	0.900 – 1.100
Local authorities costs ⁸	2.800 – 3.200
Employers/employees costs for CRB checks	0.280 – 0.310
Appeals (Gambling Tribunal)	0.036 – 0.044
Total	4.016 – 4.654
Net increase over current regulatory costs	2.410 – 3.054
Other costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 2.50)	
Possibly re-siting and conversion of some machines (paragraph 2.51-52)	

Option 3 – *implement the recommendations set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others*

- 2.49 The costs take into account the modifications set out in paragraphs 2.7 and the risks in 2.19 – 2.25.
- 2.50 Although costs are significantly higher than at present, costs will be directly proportionate to the work undertaken by the Commission in regulating the industry that is anticipated to be much larger and diverse than at present. It will be important for the Commission to be adequately resourced to fulfil its regulatory functions to provide the confidence that the industry and public expect in the new laws.

⁶ Option 2 & 3 costs based on estimates of future licenses set out in chapter 1, paragraph 1.48 plus 2,000 arcades, 60,000 pubs and 2,000 other premises.

⁷ Excluding costs of regulating private members clubs and other non licensed premises where the Gambling Review recommended that machines should be banned.

Estimated Regulatory costs for option 3	Annual Cost (£m)
Gaming Commission	1.120 – 1.360
Local authorities	6.500 – 7.300
Employers/employees costs for CRB checks	0.280 – 0.310
Appeals (Gambling Tribunal)	0.036 – 0.044
Total	7.936 – 9.014
Net increase over current regulatory costs	6.336 – 7.414
Other costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 2.51) Possibly re-siting and conversion of some machines (paragraph 2.52-53)	

⁸ Excluding clubs and other non licensed premises that would have been issued with a permit under Part III of the Gaming Act 1968.

Other costs

- 2.51 The Gambling Industry Charitable Trust – the industry will contribute to the Trust or will be subject to a statutory levy. Details are in Chapter 1, paragraph 1.14.
- 2.52 Some premises, such as pubs and clubs, may need to re-site machines to comply with Gambling Commission Codes of Practice to ensure that children do not have access.
- 2.53 Conversion – there will be some, as yet unquantified costs associated with the conversion of 30p stake/£8 top prize gaming machines to 10p/£5 AWP.

Small Firms' Impact Test

- 2.54 The views of the Small Business Service have been sought as part of the consultation process. BACTA, the industry representative group, represents both small and large businesses and has been consulted in preparing the policy for the Bill.

Competition assessment

- 2.55 The proposed gaming machine reforms are expected to have a broadly neutral impact on the competitiveness of pubs and other liquor-licensed premises. Under the proposals, liquor-licensed premises may be permitted (by local authorities) to have more than two gaming machines. Existing premises with more than two machines will be allowed to retain them.
- 2.56 The proposal to reduce the maximum stakes and prize limits of some amusement machines (from 30 pence to 10 pence and from £8 to £5 respectively) may reduce the income that family entertainment centres derive from these machines, and hence their competitiveness. However, this impact is partially mitigated by the fact that the focus of these centres is not gambling per se, but the amusement of children and families – therefore, prospective customers won't necessarily be deterred by the reduction in stake and prize limits.
- 2.57 The proposed gaming machine reforms are expected to have a positive effect on the competitiveness for adult gaming centres (otherwise known as inland arcades). This is largely attributable to the proposal to permit adult gaming centres to operate gaming machines with a higher maximum prize – specifically, 'jackpot' machines with a maximum prize of £500.

2.58 The gaming machine proposals will also impact on a range of businesses that manufacture, service and sell gaming machines in the UK – there were 678 certificates in force as at 31 March 2002, to sell, supply and/or maintain gaming machines. Most machines currently in use in the UK are manufactured domestically, although some of the manufacturers are foreign-owned. There are nine major UK manufacturers, plus a number of smaller manufacturers and game design houses. In 1999, UK manufacturers sold approximately 107,000 new machines worth around £180 million – 68% of these were sold on the domestic market.

2.59 The competitive impact of the proposed Bill on UK gaming machine manufacturers is uncertain. On the positive side is the expected market growth in casino gaming machines, resulting from the proposal to permit unlimited stake/prize gaming machines in casinos. It is difficult however, to estimate the extent to which domestic (as opposed to foreign) manufacturers will benefit from this growth. The potential benefits of this proposal are at least partially offset however, by the proposals to designate fixed odds betting machines as gaming machines, and thereby restrict their potential number in licensed betting offices and to reduce the stake/prize limits of some amusement machines.

2.60 Casinos, bingo clubs, licensed betting offices and private members’ clubs all rely on income from gaming machines, and each will be affected by the proposals, in the following manner:

- Casinos will become more competitive as a result of the gaming machine proposals; in particular, the proposal to permit unlimited stakes and prizes;
- The bingo club gaming machine proposals are expected to have a broadly neutral impact on their overall competitiveness. However, bingo clubs may be less able to compete with casinos, given their relatively more attractive gaming machine proposals;
- Licensed betting offices are likely to become less competitive under their proposed gaming machine regime, because of the expected reclassification of fixed-odds-betting-machines as gaming machines – refer to paragraph 2.38 above for more detail; and
- The gaming machine proposals for private members clubs are expected to have a neutral impact on their competitiveness.

2.61 In summary, we do not expect the gaming machine proposals as a whole to have a negative impact on competition.

<p>Enforcement and sanctions Monitoring and review Consultation</p>	}	<p>these are all described in Chapter 1</p>
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Summary

	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implementing the recommendations set out in <i>A Safe Bet for Success</i> and additional Government proposals
Net increase over current regulatory costs	No additional costs	£2.4 – 3.0m	£6.3 –7.4m
Total benefit per annum	No additional benefit	<ul style="list-style-type: none"> • Greater protection for children and vulnerable adults • Better regulation • Greater consumer choice 	The benefits are the same as in option 2
Other costs		<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust • Possible re-siting and conversion of some machines 	The other costs are the same as in option 2

2.62 There will be no additional benefits other than those enjoyed as a result of current legislation if the status quo is retained. Although Option 2 will reform the gambling laws on machines and ensure better protection for children and the vulnerable it will not deliver the Government's proposals for a new regime for gaming machines and will retain some of the concerns raised by clubs and seaside arcades which the Government has agreed to address. Option 3 is therefore the Government's preferred option.

Annex A

Gambling Review Body recommendations

- Gaming machines should be banned from premises such as cafes and taxi cab offices [M];
- The provisions in section 33 of the 1968 Act that allow machines at exempt entertainments should be repealed and not replicated in new legislation [A];
- Further research should be commissioned to examine the impact of machine gaming by children and that the government should formally review the position in five years time to determine whether any such gaming by under 18s should continue to be permitted, or whether Great Britain should come into line with other jurisdictions and ban it [A];
- "Coin in/coin out machines" in family entertainment centres (outside any restricted area) should have a maximum stake of ten pence [A];
- Low stake/low prize machines should be limited to cash prizes only [R];
- The prize limit on low stake/low prize machines should be frozen, together with the level of the stake, at £5 and ten pence respectively [A];
- Machines such as cranes should not fall in the category of gaming machines and that the legislation should make that clear [R];
- In the strictly regulated environment of a casino, slot machines with unlimited stakes and prizes should be permitted. The legislation should make it clear that under 18s may not play casino slot machines [A];
- The maximum prize for jackpot machines should be £500 in all premises in which they are installed [M];
- The maximum stake for jackpot machines should be increased to £1 [A];
- Betting shops should be permitted to have jackpot machines [A];
- The legislation should make it clear that under 18s may not play jackpot machines, wherever located [A];
- Jackpot machines should be removed from private clubs. Such machines should be restricted to gambling specific premises. Private clubs should have the same entitlement to all-cash machines as pubs and other premises licensed for the on-sale of alcohol [R];
- Subject to minimum space restrictions that no more than four jackpot machines should be permitted in any bingo hall or betting shop [M];
- The maximum stake for an all cash machine should be fifty pence and that the maximum prize should be £25 [A];
- Subject to any limits imposed by local authorities, bingo halls should be permitted to have all-cash machines in addition to a maximum of four jackpot machines [A];
- Betting shops should not be permitted to have all-cash machines in addition to a maximum of four jackpot machines [A];
- Up to two machines should be permitted in premises as an adjunct of a liquor on license. There should be an exception in favour of those premises which at the date of publication of the report carry an entitlement to more than two machines [M];

- The legislation should be explicit that under 18s may not play on all-cash machines, wherever they are located, and that this restriction must be enforced by the operator. Failure to observe this requirement should be a ground for revocation of, or refusal to renew, a licence [A];
- The Gambling Commission should set out guidelines for the delineation and supervision of restricted areas in arcades to ensure that a consistent standard operates across the industry [A];
- Local authorities should set the limit on the number of machines that an arcade may have, in tandem with considerations about the size of the arcade that may be determined in the planning process [M];
- Traveling showmen’s pleasure fairs should be permitted to have low stake/low prize machines and that the machines should be exempt from regulation provided that the machines should continue to be subject to the criteria relevant to such fairs currently contained in the 1968 Act [A];
- The maximum stakes and prizes for jackpot machines and all-cash AWP’s should be increased only in line with inflation, as and when agreed with the Gambling Commission [R];
- The proposals contained in the Home Office consultation paper “*Gaming machines: Methods of Payment*” should be implemented, but the use of methods of payment should be monitored by the Gambling Commission to ensure that winnings and change can always be easily redeemed, so as not to encourage extended play [A];
- Casino slot machines with unlimited stakes and prizes should be required to be random and that the display of results must be random [A];
- Casino slot machines only may be linked to provide bigger prizes [A];
- Multiple staking should be permitted on all-cash and jackpot machines (subject to the normal maximum stake and prize for each game) and on casino slot machines with unlimited stakes and prizes [A];
- Multiple-line staking should be permitted on all-cash and jackpot machines (subject to the normal maximum stake and prize for each game) and on casino slot machines, subject to such machines operating on the random basis [A];
- Electronic roulette and any other similar machines should be caught by the definition of gaming machines in new legislation, and that the Gambling Commission should have discretion to determine the legal status of any new machines that may be developed [A];
- On multi-player machines, each playing position should count as a machine [A];
- The Gambling Commission should have powers of machine testing sufficient to satisfy it that the machines are fair and otherwise comply with regulations. The Gambling Commission should consult the industry before determining the appropriate level of testing [A];
- Profit sharing on machines should be permitted [A].

Government recommendations

A = Accept
M = Modify
R = Reject

Chapter 3: Bingo

- 3.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the Gambling Bill on the bingo industry and others, such as arcades, who offer bingo games to the public.
- 3.2 There were 699 commercial bingo clubs operating in Great Britain as at 31 March 2003. Figures published by the Gaming Board suggests that around £1,222 million was staked on bingo gaming in licensed bingo clubs during 2002/03 – with around 83 million admissions per annum, this means that the average amount staked per visit is currently around £14.70. Over £1 billion of the £1.2 billion staked was returned to bingo players as prizes. The industry contributed £122 million to the exchequer in 2003/04, in bingo duty. The industry employs around 19,000 people, according to the latest Gaming Board Annual Report.
- 3.3 In addition to licensed premises, bingo is offered by an estimated 1,000+ clubs and institutes, under sections 40 and 41 of the Gaming Act 1968 – under these provisions, bingo is subject to a number of restrictions, and is intended to be small scale and non-commercial.

Purpose and intended effect

Objective

- 3.4 The proposals for bingo are set within the overall objectives for gambling outlined in Chapter 1, but in announcing its proposals in *A Safe Bet for Success* the Government said specifically in relation to bingo that it wanted to provide:
- Greater choice and enjoyment for players;
 - More options for the industry in designing bingo games and meeting the needs of their customers; and
 - An environment where bingo continues to operate to the same high standards of integrity and transparency as it does now.

The background

- 3.5 Bingo is currently categorised as “equal chance gaming” and is widely regarded as soft gaming. It is played in a variety of circumstances depending on where it takes place, for example as a commercial enterprise in a licensed bingo club for cash prizes, or as prize bingo in amusement arcades, or on a non commercial basis with low stakes and prizes in clubs, pubs and other institutes. Variations of club based bingo include linked bingo where two or more clubs play a joint game using pooled stakes and multiple bingo, often known as the National Game, played across the country for large prizes. Clubs also offer machine gaming which is largely played during intervals between bingo games.
- 3.6 Commercial bingo clubs operate on premises licensed under the Gaming Act 1968 and operators require consent from the Gaming Board and a premises licence from a magistrate. There is a membership requirement for players and a range of regulations in respect of admission, participation charges and prize levels. Commercial bingo can also be played in arcades but under current law casinos cannot offer bingo.

- 3.7 The Gambling Review made a number of specific recommendations about bingo which were accepted by the Government in *A Safe Bet for Success*. These were that:

Commercial bingo clubs

- There should be no statutory limits on the stakes and prizes in bingo games;
- There should be no restriction on the frequency of multiple bingo games;
- Any new games should be approved by the Gambling Commission; and
- Rollovers should be permitted.

Pubs and clubs

- Where pubs or clubs offer prizes in equal chance games such as bingo above £1000 per week, they should be regulated by the Gambling Commission in the same way as commercial bingo.

Casinos

- Casinos will also be able to run bingo games.

- 3.8 In addition the Government announced that:

- The distinction between cash and prize bingo in bingo clubs would be abolished so that all games could be played under the same regulations and control; and
- Where cash bingo was played in arcades £25 would remain the top prize, but the £90 stake for a single game would be abolished.

- 3.9 Other controls such as a requirement for membership and the 24-hour rule before a player can take part in a game will be abolished.

Risk assessment

- 3.10 The current law has worked well and bingo has a reputation for fairness and transparency, but failing to modernise the laws on bingo will leave in place regulations that are outdated and cumbersome and will stifle innovation to the detriment of players and the bingo industry. It will also fail to meet the concerns expressed by the Gambling Review about bingo games played in pubs and clubs that can be run for large weekly prizes. The Review Body did not think that the Gambling Commission should concern itself with small-scale bingo, but that there should be a licence requirement for those that offer large prizes and are comparable to a commercial operation.

Options

- 3.11 There are three broad options in reforming the gambling laws on bingo.

Option 1 – *leave the relevant legislation unchanged*

- 3.12 This would not meet the objectives set out in paragraph 3.4 but will retain the risks identified in paragraph 3.10.

Option 2 – implement the changes set out in the Gambling Review Report

3.13 This will meet the objectives but there are a number of risks involved in achieving them, notably:

Social issues and crime

3.14 The general risks involved in extending choice and availability leading to problem gambling and the potential increase in criminal activity is considered in Chapter 1.

3.15 Bingo operators have suggested that the proposal to permit casinos to offer bingo will expose customers to harder forms of gambling and lead to greater problem gambling. The industry has also suggested that some smaller clubs may be forced to convert to casinos to stay in business and that existing players may be led into hard gaming.

3.16 Other operators however see this as an opportunity for growing their business and bringing in a new customer base and say that as casinos are distinct market places that a migration of bingo customers to them is unlikely.

Option 3 – implement the recommendations set out in 'A Safe bet for Success' and other modifications following further discussion with stakeholders and others

3.17 This option will also meet the objectives but further simplifies regulation. The risks are the same as those in Option 2.

Benefits

3.18 The benefits of changing the gambling laws as a whole, of which bingo forms one part, are set out in Chapter 1. Those specific to bingo are set out below.

Option 1 – leave the relevant legislation unchanged

3.19 The number of licensed bingo clubs has declined sharply over the past 30 years, they appear to have stabilised over the past few years at around 700. The total amount stakes also appears to have bottomed out – indeed, over the past four years the real stake has increased by an annual average of 3%. Retaining the status quo would permit further modest growth in licensed bingo but there will be no additional benefits other than those enjoyed as a result of current legislation.

Option 2 – implement the changes set out in the Gambling Review Report

3.20 The Henley Centre¹ believes that bingo revenue will rise from £472 million in 2002/03 to £498 million over a five-year period as a result of the proposed reforms.

3.21 Other potential benefits are:

- *Greater consumer choice and better business opportunities.* Clubs will be able to offer a greater range of games, with unlimited stakes, big prize rollovers and linked games offering a more attractive product to customers.
- *Better regulation of bingo in clubs and pubs.* This is explained in paragraph 3.7.

¹An assessment of the impact of the Gambling Review Body's Proposals Nov 2001.

Option 3 – implement the recommendations set out in ‘A Safe bet for Success’ and other modifications following further discussion with stakeholders and others

3.22 The benefits are largely the same as Option 2 but there may be additional benefits following the Government’s announcement that the £90 stake for a single game in arcade bingo would be abolished. This will give greater choice to customers playing bingo in arcades and better business opportunities for operators.

Equity and Fairness

3.23 Some (particularly larger) clubs may opt to convert into casinos whilst retaining bingo as a core product. Some operators believe that the effects of allowing bingo in casinos on the existing bingo player base, and on the structure of the bingo industry would be out of proportion to the benefits of wider gambling choice for customers in casinos, and that international experience has shown that bingo quickly fades when positioned alongside casino games and casino slots operations. They say that the Henley Centre predicts that 13% of bingo clubs would close if the recommendations were implemented and that many clubs might be compelled to follow the market into hard gaming to survive.

3.24 Relaxation of controls on the frequency of multiple bingo games and on stakes and prizes may put smaller businesses under competitive pressure.

Business sectors affected

3.25 Bingo clubs, gaming machine suppliers and operators, pubs, clubs and other institutions. Casinos may be affected, as they will be able to offer bingo.

Costs

Compliance costs

Option 1 – Retaining the status quo

3.26 Licences and other regulatory costs incurred by the Gaming Board, the courts, the police and others is recouped from operators via licence or certification fees. The Board is a non-departmental body, funded by grant in aid.

3.27 Before a bingo operator can apply to a magistrate for a bingo club premises licence he/she must first obtain a certificate of consent from the Gaming Board. A premises licence lasts for one year and must then be renewed. The Board also issues personal certificates to bingo managers to ensure that they are fit and proper to act in that capacity.

3.28 Current regulatory costs are summarised, on an annualised basis, in the following table.

Current costs of regulation ²		Annual Cost (£m)
Gaming Board costs	37 applications	0.26
Magistrates costs	700 applications	1.00
Total		1.26

² Annual figures based on Gaming Board estimate for the number of grant, renewal and transfer applications for operators and premises licences in 2003/04.

Option 2 – implement the changes set out in the Gambling Review Report

- 3.29 Details of the new licensing regime are set out in Chapter 1. The Gambling Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system, the investigation and prosecution of, for example, an unlicensed trader and the cost of appeals.
- 3.30 The areas involving costs for the bingo industry will be in:
- Obtaining an operators licence from the Gambling Commission;
 - Obtaining a premises licence from the local authority;
 - Appeals against decisions;
 - Criminal Records Bureau (CRB) checks by employers.
- 3.31 Pubs and clubs will require a licence to operate bingo where prizes exceed £1,000 per week and must keep records of the bingo games that are played on the premises.

Other costs

3.32 These are the same as in Option 3.

Estimated Regulatory costs for option 2 ³	Annual Cost (£m)
Gaming Commission costs	0.780 – 0.950
Local authorities costs	0.300 – 0.400
Employers/employees costs for CRB checks	0.230 – 0.260
Appeals (Gambling Tribunal)	0.036 – 0.044
Record keeping by pubs and clubs	0.020 – 0.040
Total	1.366 – 1.694
Net increase over current regulatory costs	0.106 – 0.434
Other costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 3.34)	

Option 3 – implement the recommendations set out in ‘A Safe bet for Success’ and other modifications following further discussion with stakeholders and others

3.33 The costs are largely the same as Option 2. Although they are significantly higher than at present, they will be directly proportionate to the work undertaken by the Commission in regulating the industry which is anticipated to be much larger and diverse than at present. It will be important for the Commission to be adequately resourced to fulfil its regulatory functions to provide the confidence that the industry and public expect in the new laws.

³Gambling Commission and local authority costs for option 2 & 3 based on estimates of future licenses set out in Chapter 1.

Estimated Regulatory costs for option 3	Annual Cost (£m)
Gaming Commission costs	0.780 – 0.950
Local Authorities costs	0.300 – 0.400
Employers/employees costs for CRB checks	0.230 – 0.260
Appeals (Gambling Tribunal)	0.036 – 0.044
Record keeping by pubs and clubs	0.020 – 0.040
Total	1.366 – 1.694
Net increase over current regulatory costs	0.106 – 0.434
Other costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 3.34)	

Other costs

- 3.34 *The Gambling Industry Charitable Trust* – the industry will contribute to the Trust or will be subject to a statutory levy. Details are in Chapter 1, paragraph 1.14.

Small Firms' Impact Test

- 3.35 The views of the Small Business Service have been sought as part of the consultation process. The Bingo Association has been consulted about the proposals. They represent large and small clubs. BACTA, who represent arcade operators who offer bingo, have also been consulted.
- 3.36 Some operators are concerned that large bingo operators will get casino licences and run joint ventures, which will lead to structural changes and the downsizing of the existing bingo sector with smaller operators being unable to compete.

Competition Assessment

- 3.37 We do not expect that the proposed bingo reforms will have a negative effect on competition.
- 3.38 There is significant concentration in the bingo market, whereby the four largest operators possess 50% of the bingo licenses as at 31 March 2003 (the two largest operators account for 42% of the market).
- 3.39 It is anticipated that the proposed removal of the demand test (by which local authorities require existing or potential bingo operators to demonstrate that there is sufficient local demand for bingo) would reduce barriers to entry. Bingo operators will also have more operational flexibility under the new legislation, given the proposals to permit unlimited stakes and prizes, multiple bingo games and rollovers. These proposals will increase the potential attractiveness of the services offered by bingo clubs, and may in this respect enhance competition. In addition, it is proposed that statutory membership requirements for bingo clubs are eliminated.
- 3.40 The removal of statutory limits on the size of prizes may result in smaller operators being unable to match the prizes offered by larger operators, and therefore being less able to compete under the new Bill. Also, the proposal to regulate bingo in pubs and registered clubs where prizes exceed £1,000 per week,

may potentially increase the regulatory burden on the bingo sector and smaller bingo providers in particular.

- 3.41 In summary, it appears likely that the bingo proposals will not erode the competitiveness of the bingo sector as a whole. However, depending on what specific policy is finally implemented, some smaller bingo providers *may* become less competitive.
- 3.42 Although bingo clubs entitlements to gaming machines will remain as it is now, other sectors (arcades), will become more competitive if they convert to Adult Gaming Centres, while betting shops, by virtue of having their Fixed Odds Betting Terminals (FOBTs) turned into Category B machines, will be put more on a par.

Enforcement and sanctions
Monitoring and review
Consultation] these are all described in Chapter 1

Summary

	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implementing the recommendations set out in <i>A Safe Bet for Success</i> and additional Government proposals
Net increase over current regulatory costs	No additional costs	£0.1 – 0.4m	£0.1 – 0.4m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Greater consumer choice, a greater variety and more attractive games • Better regulation of bingo in clubs and pubs • Better regulation of commercial bingo 	The benefits are the same as in option 2 but will also include benefits for customers and operators of arcades that offer bingo
Other costs		<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust 	These are the same as in Option 2

- 3.42 It is recommended that Option 3 is pursued. This would deliver the Government’s objectives of greater choice and enjoyment for players, it will provide more options for the industry in designing bingo games and meeting the needs of their customers and will create an environment where bingo continues to operate to the same high standards of integrity and transparency as it does now. This would not be met by retaining the status quo in Option 1 and provides slightly better opportunities for arcade customers and operators than Option 2.

Chapter 4: Casinos

- 4.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on casinos.
- 4.2 There are 126 casinos currently in operation in Great Britain employing over 12,000 people. Of these about 60% are directly involved in the conduct of gaming (croupiers, inspectors and casino managers) and the remainder are non-gaming staff dealing with ancillary activities such as restaurant, bar and security work. There were 11.86 million visits to casinos in Great Britain in 2002/03. The money exchanged for gaming chips (drop) in 2002/03 was £3.7 billion and the duty paid £151 million. There were 894 jackpot gaming machines in operation in casinos in 2003¹.

Purpose and intended effect

Objective

- 4.3 The proposals for casinos are set within the overall objectives for gambling as set out in Chapter 1, but in announcing its proposals for casinos the Government said that there should be a comprehensive de-regulation of casinos, with the objective of enhancing innovation, competitiveness and customer choice but in achieving this there must be:
- No weakening of effective regulation necessary to keep them free of crime, to ensure fairness to participants and to protect children and the vulnerable; and
 - Safeguards against the proliferation of small casinos and the potential increase in problem gambling with ready access to a wide range of high street premises could entail.

The background

- 4.4 Under the Gaming Act 1968 casinos may only operate in 53 areas defined by the Gaming Clubs (Permitted Areas) Regulations 1971 and the Gaming Clubs (Permitted Areas) (Scotland) Regulations 1971. These are generally the areas of former county boroughs with population of over 125,000 or more at any time between 1 December 1970 and 1 October 1973. In Scotland casinos were limited to the areas of the former counties of the cities in Scotland. The Act also places a responsibility on licensing authorities to consider demand for gaming before granting a licence and gives them discretion to refuse an application if unmet demand is not demonstrated. Casinos can only open between 2pm and 6am on weekdays and until 4am on Sundays, and advertising is currently restricted. Casinos must operate as clubs and members or their guests can play. Members have to wait 24 hours in advance of playing. The games that can be played and the odds are regulated and players are restricted to payment by cash, cheque or debit card². Casinos are allowed to have up to 10 jackpot gaming machines with a maximum stake of 50p and maximum prize of £2,000.

¹Gaming Board Annual Report 2002/03.

²Players can also use their credit cards to obtain a cheque to procure the issue of a cheque payable to the casino drawn on the account of a third party which can be exchanged for cash. The system currently applies to an arrangement with Global Cash Access. Once the player has specified an amount the machine checks with his/her credit provider before a cheque is issued.

- 4.5 The Gambling Review Body, which was set up by the Government in 1999 to consider how gambling should be regulated in the future, recommended that there should be a number of changes. These were that:
- With respect to gaming machines:
 - The limits on the number of gaming machines should be eased;
 - The limits on stakes and prizes should be removed;
 - Linking of machines should be allowed;
 - The number of machines should be determined by the number of gaming tables that are available for play, with the maximum determined by a ratio of eight machines to each table (and where the number of tables exceeds 80 there should be no maximum on the number of machines);
 - The statutory membership requirement and the 24 hours rule be abolished;
 - Permitted areas restrictions and the demand test for new casinos be abolished;
 - Restrictions on advertising should be relaxed;
 - The use of credit cards should be allowed;
 - The minimum size for a casino should be 2,000 sq ft for the gaming floor devoted to table games with an exemption for existing casinos;
 - Tipping should be allowed; and
 - Alcohol should be allowed on the gaming floor and entertainment should be allowed. The current law has already been amended to permit both of these.
- 4.6 The Government accepted the majority of these proposals but said that it wanted to give further thought to several key issues relating to casinos including, in particular, the minimum size of a new casino and the relationship between the number of gaming machines in casinos and gambling products. In this process it took into account the advice of the Culture, Media and Sport Committee, which recommended in its seventh report of the 2001–02 session that:
- Casinos should have a minimum gaming floor area of 2,000 sq feet (which the Committee considered too small);
 - There should be a reassessment of planning guidance to ensure that local opinion has a voice in proposed casino developments;
 - Local authorities should develop the most beneficial strategy for licensing and approving planning for resort casinos, so that they contribute to the areas in which they are built; and
 - The Government should endeavour to strike a balance between gaming tables and machines in casinos.
- 4.7 DCMS issued a consultation on future casino controls in August 2003. This can be found on the DCMS web site at www.culture.gov.uk. This said that:
- The proposed Bill would recognize two categories of casino – small (with a total gaming area, and excluding other gambling facilities such as betting, bingo and gaming machines) of between 5,000 and 10,000 sq ft and large above 10,000 sq ft;

- Casinos with gaming areas of less than 5,000 sq ft will be able to continue to operate as small casinos under the new licensing framework, but that no new development below this threshold would be licensed;
- That local authorities would be able to entertain applications for premises to be licensed as small casinos if they satisfied statutory regulatory criteria including minimum size. They would also need to take into account guidance from the Gambling Commission;
- That casinos, whilst free to install gaming machines with no fixed prize limits, would not be able to link them to machines on other premises to create progressive jackpots;
- That small casinos (including those now in operation) should be able to install up to three machines for each gaming table that is available for use, but that those in the large category would, if they had more than 40 gaming tables, be entitled to offer an unlimited number of gaming machines;
- That the market will determine the number, size and character of casinos and where they will be located, but the Government was keen to secure the benefits that large leisure developments comprising for example, casinos, hotels, restaurant, entertainment and other facilities would bring, subject to the new regulatory proposals and planning guidance.

4.8 The Government said that it would welcome comments on these proposals. The results of the consultation are expected to be available by mid-November 2003.

Risk Assessment:

4.9 The current law has worked well. It has limited the prevalence of problem gambling and has kept casinos free from crime. However, failing to modernise the law will leave in place regulations that are outdated and cumbersome, do not cater for modern technology, that unnecessarily limit consumer choice, and which make it increasingly difficult for British-based casinos to compete in what is increasingly a global market.

Options

4.10 There are three broad options in reforming the laws on casinos.

Option 1 – *leave the relevant legislation unchanged*

4.11 This would not meet the objectives set out in paragraph 4.3 and will retain the risks identified in paragraph 4.9.

Option 2 – *implement the changes proposed in the Gambling Review Report*

4.12 This will partly meet the objectives in paragraph 4.3 but there are a number of risks involved.

Proliferation

4.13 The Review Body was concerned about the proliferation of small casinos that would be hard to regulate effectively and the potential increase in problem gambling that might arise. To prevent this they recommended that the minimum size for a casino should be 2,000 sq ft for the gaming floor devoted to table

games. A number of stakeholders and the Gaming Board felt however that this was too small to be effective in terms of preventing a proliferation of small casinos.

Gaming Machines

- 4.14 There is a risk that casino jackpot machines offering unlimited prizes and linked machines may encourage repeat and compulsive play by vulnerable adults in the hope of chasing a large prize. This is considered in more depth in Chapter 2.

Crime

- 4.15 There is a risk that relaxing the casino laws could potentially increase the risk of illegal gambling, criminal infiltration and money laundering into casinos. The Government is committed to combating criminality. The new Gambling Commission will have strong and effective powers to address any problems that may arise. These are described in more detail in Chapter 1.

Credit

- 4.16 Relaxing the controls on credit may increase problem gambling. In *A Safe Bet for Success*, the Government recommended that, with the exception of direct use in gaming machines, credit cards should be approved for gambling.

Option 3 – implement the changes set out in the Government’s statement on casinos

- 4.17 This option would meet in full the objectives set out in paragraph 4.3 but, as described in paragraph 4.7, the Government decided that it wants to take a more cautious approach to deregulation with a larger size for small casinos and a lower ratio of gaming machines to tables than envisaged by the Gambling Review. The Government says that it wishes to proceed with caution and to take note of problems that have arisen in other countries from over-rapid easing of regulatory controls. If deregulation goes well then there may be a case for further deregulation.

Proliferation

- 4.18 The Government has addressed this by setting a higher size criteria of 5,000sq ft for new casinos that must be taken into account by local authorities when considering a licence application.
- 4.19 It is envisaged that the market will determine the number, size and character of casinos, and where they will be located. However, the Government recognises that there are likely to be some large leisure developments, comprising, for example, casinos, hotels, restaurants, entertainment and other facilities, and that these developments, which attract visitors from further afield, may present major opportunities for regeneration and tourism development which could have a significant effect on the economy of the area.
- 4.20 The Government is keen to secure these benefits where they can make the greatest contribution to its objective of encouraging economic development and creating sustainable communities. It therefore expects Regional Planning Bodies to set out, where they deem it appropriate, planning policies for leisure developments of regional significance, including the largest casinos, which

identify suitable locations within the region that would optimise their contribution to tourism and regeneration. Local planning authorities will need to develop policies and identify sites for such developments in their local plans that are consistent with regional policies.

Benefits

Option 1 – leave the relevant legislation unchanged

4.21 There will be no additional benefits to those enjoyed under current legislation.

Option 2 – implement the changes proposed in the Gambling Review Report

4.22 The benefits are:

Greater consumer choice and convenience – casinos will be able to offer a wider choice of games, including betting and bingo. Customers will no longer be required to wait 24 hours before they can play casino games, and there will be no statutory requirement for them to be members (although some casino may decide to retain membership). Since the publication of *A Safe Bet for Success* customers can now have a drink on the gaming floor if they wish and are able to watch live entertainment.

There will be no limits on stakes and prizes on casino jackpot machines which can be linked within premises to offer a larger prize. This is discussed in more detail in Chapter 2 on gaming machines.

Better and more appropriate regulation – the Gambling Commission will have statutory powers of entry seizure and search, will investigate breaches of gambling laws and regulations and consider administrative sanctions in connection with breaches of licence conditions in casinos. Outdated regulation, such as permitted areas, will be abolished.

Higher revenue generation – With the removal of the demand test and the system of restricting casinos to “permitted areas” the number of casinos seems likely to increase significantly from the current figure of around 126, much from new builds. There is likely to be a move towards a higher proportion of large casinos offering a wider range of gambling activities. Some will offer a larger range of gaming machines with jackpot gaming machines with unlimited stakes and prizes. There will be the ability to link machines offering large prizes. This should increase casino turnover and therefore (all being equal) tax/duty revenue.

The Henley Centre estimates that the frequency of visits and spending will rise leading to an increase of about 60% in casino revenues and that net spend will rise from £606 million in 2002/03 to £645 million in 2006/07. Information provided by CIBC (a leading international bank involved in financing casino developments) suggests that³, following reform additional business from international visitors could be worth £200 million per annum; that there will be additional gaming turnover of £2.8 billion per annum; and additional tax revenue approximately £400 million per annum. Additional revenue will however be dependent on decisions by visitors to visit this country’s casino otherwise higher revenue generation will be a result of displacement from other forms of entertainment.

³Based on casino numbers rising from 122 to 205 (including 5 resort casinos).

Greater employment opportunities – casino employment is expected to rise in line with the predicted expansion of the sector outlined above although no reliable estimates are available. However employment gains in the casino sector may be partially offset by lower employment elsewhere in the economy, given the potential for displacement of expenditure.

Option 3 – *implement the changes set out In A Safe Bet for Success and the Government's statement on casinos*

- 4.23 The benefits attributable to option 3 are largely the same as for option 2, but revenue potential may be slightly lower given the higher minimum size specified for new casinos and a lower ratio of gaming machines to gaming tables.

Equity and fairness

- 4.24 It is possible that the proposals may disadvantage some Licensed Betting Offices (LBOs) and bingo halls given that: (a) casinos will be able to offer bingo and betting, (b) casinos will no longer be constrained by permitted areas or the demand test, and (c) they may find it increasingly difficult to compete with new casino jackpot machines. Further, some established restaurants, accommodation and conference providers may be adversely affected by large mega-casinos.
- 4.25 Some operators are concerned that setting a minimum table gaming area for a new casino of 5,000 sq ft, and insisting on a minimum of 10,000 sq ft and 40 gaming tables before allowing operators to have unlimited numbers of high-prize gaming machines, would drive existing UK operators out of the market and that they would find it hard to compete with large operators. This is considered further in the competition filter which follows later in this document.

Business sectors affected

- 4.26 This will be limited to casinos, gaming machine manufacturers and – to some extent – bingo operators and licensed betting offices (LBOs), as the Bill will permit bingo and betting to be offered in casinos. It will also have lesser implications for the catering, liquor, accommodation, conference and entertainment sectors.

Costs

Compliance costs

Option 1 – *leave the relevant legislation unchanged*

- 4.27 Before a casino can be set up or transfer its license, the operator or transferee must obtain a certificate of consent from the Gaming Board. The Board also certifies employees such as casino dealers, cashiers and managers. The Board is a non-departmental body, funded by grant in aid. This, together with other regulatory costs incurred by the courts, the police and others, is recouped from operators/employees via a licence fee.
- 4.28 A premises licence must also be obtained from a licensing magistrate. This lasts for one year and must then be renewed.

4.29 Current regulatory costs are summarised, on an annualised basis, in the following table.

Current costs of regulation	Annual Cost (£m)
Gaming Board costs ⁴	0.1
Magistrate costs ⁵	1.4
Total	1.5

Option 2 – implement the changes proposed in the Gambling Review Report

4.30 Details of the new licensing regime are set out in Chapter 1. The Gambling Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system, the investigation and prosecution of, for example, unlicensed trader and the cost of appeals.

4.31 The major areas involving costs for the casino industry will be:

- Obtaining an operators/personal licence from the Gambling Commission;
- Obtaining a premises licence from the local authority;
- Appeals against decisions;
- Criminal Records Bureau (CRB) checks by employers.

Other costs

4.32 These are the same as Option 3.

Estimated Regulatory costs for option 2 ⁶	Annual Cost (£m)
Gaming Commission	1.280 – 1.560
Local Authorities	0.200 – 0.100
Employers/employees costs for CRB checks	0.017 – 0.190
Appeals (Gambling Tribunal)	0.053 – 0.064
Total	1.550 – 1.914
Net increase over current regulatory costs	0.050 – 0.414
Other Costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 4.35)	

Option 3 - implement the changes set out in the Government's statement on casinos

4.33 The costs may be slightly lower than Option 2 as entry to the market will be more difficult as explained in paragraph 4.17. This would lower the cost of regulating the casino sector as a whole.

⁴Annual figures based on Gaming Board estimate for the number of consent grant and renewal applications for in 2003/04.

⁵Annual figures based on Gaming Board estimate for the number of premise's licences likely to be granted by magistrates together with renewals and transfers in 2003/04.

⁶Option 2 & 3 costs based on estimates of future licenses set out in Chapter 1, paragraph 1.48.

- 4.34 Although costs are significantly higher than at present, costs will be directly proportionate to the work undertaken by the Commission in regulating the industry which is anticipated to be much larger and diverse than at present. It will be important for the Commission to be adequately resourced to fulfil its regulatory functions to provide the confidence that the industry and public expect in the new laws.

Estimated Regulatory costs for option 3	Annual Cost (£m)
Gaming Commission	1.290 – 1.580
Local Authorities	0.100 – 0.200
Employers/employees costs for CRB checks	0.019 – 0.021
Appeals	0.068 – 0.083
Total	1.477 – 1.884
Net increase over current regulatory costs	0.000 – 0.380
Other Costs	
Contributions to the Gambling Industry Charitable Trust (paragraph 4.35)	

Other costs

- 4.35 *The Gaming Industry Charitable Trust* – the industry will contribute to the Trust or will be subject to a statutory levy. Details are in chapter 1, paragraph 1.14.

Small Firms Impact Test

- 4.36 The views of the Small Business Service have been sought as part of the consultation process. The British Casino Association and the Casino Operators' Association, the two main industry representative groups, have both been consulted in preparing the policy for the Bill.
- 4.37 Most casinos are under 5,000 sq feet – 26 casinos are below 2,000 sq ft, a further 94 are between 2,000 and 5,000 sq ft and 7 are between 5,000 and 10,000 sq ft. One (licensed but not yet open) is above 10,000 sq ft. Those under 5,000 sq ft will be able to continue to operate as small casinos under the new licensing framework and would be able to transfer their existing licence to a new operator if necessary.

Competition assessment

- 4.38 Overall, we expect that the proposed casino reforms in the Bill assist the development of an open, well-informed and competitive casino market.
- 4.39 The current legislation restricts the location of casinos in the UK to specific permitted areas. An additional constraint arises from the so-called demand test, whereby licensing authorities have to consider demand for gambling in the local area before granting a license.
- 4.40 The proposed reforms are expected to lower barriers to entry through the elimination of the demand test and permitted areas. These reforms will increase the choice of sites for businesses wishing to enter the casino market and should facilitate new entry generally. Some of these new entrants will be purpose-built casinos, while others will be conversions of existing bingo clubs. The Bill will also

enable large “destination” type casinos to operate – these would offer accommodation and/or conference facilities as well as a range of entertainment, and as such would further improve the ability of casinos to compete. In addition, casinos will be allowed more operational flexibility than they are presently allowed through the abolition of the 24-hour rule and the introduction of a more liberal advertising regime.

- 4.41 Alongside the removal of various restrictions, the casino reforms will also introduce more ‘checks and balances’, to ensure that they are operating within the law. This will probably increase the regulatory burden and compliance costs of casino operators, which will reduce financial returns (all else being equal) and may disadvantage smaller casino operators. While the scale and structure of the new casino license fee regime has yet to be determined, it appears unlikely that any such increase will have a material impact on the financial viability of casino operators.
- 4.42 The new legislation is expected to reduce player uncertainty and enhance the quality of gambling services. The Gambling Commission will be able, by means of Codes of Practice, to ensure that casino customers are well-informed about the risks they take and the prices they pay. As a result, conditions of open competition between casinos are likely to be strengthened.
- 4.43 It is also expected that the new regime will reduce the external costs that some casinos overseas impose on society at large. The Gambling Commission will be expected to monitor the industry for signs of problem gambling, to require Codes of Practice to be observed, to commission studies and treatment regimes and to advise the Secretary of State on developments. In these ways, casinos will be forced to bear the social costs of the services they supply which are currently borne by other firms and individuals.
- 4.44 Nevertheless, application of the Competition Filter indicates that the measure potentially has a significant effect on competition in the casino industry and that a full Competition Assessment is required. Information arising from the completion of the filter is at Annex A. The full assessment cannot be completed until the results of the consultation with the casino industry are to hand in November 2003. It is proposed, therefore, to compile a Competition Assessment of the casino industry for presentation by Christmas 2003.

Enforcement and sanctions
Monitoring and review
Consultation



these are all described in Chapter 1

Summary

	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implement the changes set out in the Government's statement on casinos
Net increase over current regulatory costs	No additional costs	£0.05 – 0.41m	£0 – 0.38m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Greater consumer choice and convenience • Better and more appropriate regulation • Reduction in illegal gambling • Possible higher revenue generation and greater employment opportunities (see paragraph 4.21) 	The same as in option 2 but the costs may be slightly lower as entry to the market will be more difficult under this option
Other costs		<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust 	These are the same as in Option 2

4.45 It is recommended that Option 3 be pursued. This will deliver the Government's objectives to bring about a comprehensive de-regulation of casinos, but will retain effective regulation necessary to keep them free of crime, to ensure fairness to participants and to protect children and the vulnerable and guard against proliferation. It will bring about the same benefits as Option 2, but the costs may be slightly lower as entry to the market will be more difficult, but is a more cautious approach to deregulation which the Government will keep under review.

Annex A

Competition Filter

Q1 In the market(s) affected by new regulation does any firm have more than 10% market share?	Yes	Three firms of roughly equal size have 75% of the casino market. Four firms own 94% of the casinos.
Q2 In the market(s) affected by new regulation does any firm have more than 20% share?	Yes	Three firms of roughly equal size have 75% of the casino market. Another has just below 20% of the casino market.
Q3 In the market(s) affected by new regulation does any firm have more than 50% market share?	No	The three largest firms are of roughly equal size and between them have 75% of the casino.
Q4 Would the costs of regulation affect some firms substantially more than others?	No	The regulations apply to all firms equally.
Q5 Is the regulation likely to affect the market structure, changing the number or size of firms?	Yes	Larger operators will be able to operate with fewer restrictions over the mix of games than smaller casinos.
Q6 Would regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?	Yes	New entrants will have to be a minimum size but existing small casinos rights will be grandfathered.
Q7 Would the regulation lead to higher on-going costs for new or potential firms that existing firms do not have to meet?	Yes	New entrants will have to be of a minimum size while existing small casinos will continue.
Q8 Is the market characterised by rapid technology change?	No	Although several new products are being developed technology is mature.
Q9 Would regulation restrict the ability of firms to choose the price, quality, range or location of their products?	Yes	Existing restrictions and regulations over the games on offer would be eased for casinos. Quality controls will be enhanced. Location will continue to be controlled. Price will continue to be monitored.

Chapter 5: Betting

- 5.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on the betting industry. The industry is made up largely of bookmakers, betting intermediaries and pools operators.
- 5.2 This RIA does not cover the sale of the Tote or the abolition of the Horserace Betting Levy Board, or spread betting which is outside of the scope of the Gambling Bill and regulated by the Financial Services Authority.
- 5.3 The last published figures on betting licensing were produced by DCMS in 2003.¹ This showed that there were 3,572 bookmakers permits and 8,804 betting office licences in force at 31 May 2003. Over 37,000 people were employed in Licensed Betting Offices in 2001/02 – in addition 1,300 by the Totes and 1,140 by pools operators.
- 5.4 Betting turnover has shown very strong growth since the duty regime was changed to a gross profits tax in October 2001 – it rose by 84% to £15.5 billion in the year ending March 2003. Because of the lower effective tax rate however, exchange revenue fell by 30% to £303.8 million in the same period. Further gains in turnover are expected over the short to medium term, as the internationally competitive duty regime permits bookmakers to attract a greater share of the global betting market.

Purpose and intended effect

Objective

- 5.5 The Gambling Review pointed out that the regulation of betting was different from other gambling activities and that whilst it worked well there were shortcomings in the present system that must be remedied.
- 5.6 The proposals for betting are set within the overall objectives for gambling in Chapter 1, but in announcing its proposals in *A Safe Bet for Success* said that in relation to betting that:
- The betting industry should be regulated by the Gambling Commission in the same way as other gambling activities;
 - Bookmaker and totalisator rules should be fair and reasonable; and
 - Punters should be made properly aware of the terms under which bets are accepted and settled and that there is adequate redress in the event of a dispute.

The background

- 5.7 Betting is governed by the Betting Gaming and Lotteries Act 1963. Bets taken by bookmakers present at a racecourse are known as on-course bets. All other betting is known as off-course betting. Off-course betting usually takes place at licensed betting offices, via the telephone or the internet. The types of bet available are fixed odds and pool betting.

¹DCMS Bulletin: Betting Licensing Great Britain, June 1990 – May 2003.

- 5.8 Betting is regulated in a variety of ways:
- Bookmakers permits and betting office licences are issued by the Betting Licensing Committee at the Magistrates Court, who have to be satisfied that the applicant is a fit and proper person to hold a permit and that the premises are suitable and there is a demand for them.
 - Betting areas at racecourses are approved by the Horseracing Betting Levy Board. The Horserace Totalisator Board operates pool betting on course. Horseracing at racecourses is self-regulated with responsibility divided between the British Horseracing Board and the Jockey Club.
 - Greyhound tracks are either registered with the National Greyhound Racing Club or are independent and the local authority licenses the tracks.
 - Pools competitions are regulated by the local authority that appoints an auditor to ensure that the pools are operating fairly.
- 5.9 A fuller description of the betting industry and its regulation can be found in Chapter 9 and 11 of the Gambling Review Report.
- 5.10 The Gambling Review made a number of specific recommendations about betting and pools that were accepted by the Government in *A Safe Bet for Success*. These included:
- The Gambling Commission should take over the responsibility of regulating bookmakers, betting agencies, totalisator operators, public tic-tacs and pools operators;
 - Betting exchanges should be licensed by the Gambling Commission;
 - Betting operators should be subject to the Commission's fit and proper test, and specified categories of employee (including directors and senior manager of corporate operations) would in addition require personal licences;
 - Fixed odds and totalisator betting would be allowed on premises offering betting products as now, but will also be allowed in casinos, subject to the operator being licensed for the purpose;
 - Betting allowed by telephone or post and on-line subject to the bookmakers being specifically licensed for those media;
 - Jackpot machines allowed with a maximum stake of £1 and maximum prize of £500 in betting offices. Fixed Odds Betting Terminals (FOBT) will be treated as gaming machines (this is dealt with in more detail in Chapter 2);
 - The Gambling Commission to issue codes of practice governing the detailed operation of premises, for example requiring the display of the bookmaker's rules and terms of business, restrictions on the services and facilities that may be provided or the designation of particular areas within racecourses and tracks as "betting areas";
 - Football pool entries can be received on line;
 - Other pool betting to be offered only through licensed betting offices, on licensed racecourses and tracks and in casinos; and

- Spread Betting should continue to be regulated by the Financial Services Authority, at least until the Gambling Commission is well established and the issue can be reviewed.

5.11 Other proposals were not accepted by the Government:

- It rejected the proposal that side betting on the UK Lottery should be permitted;
- It wanted to consider further the proposition that all betting shop managers should be licensed; and
- Further discussion would be needed with racecourses and bookmakers over whether rules restricting the entry of bookmakers to racecourses or dog tracks should be abolished.

5.12 The Government has also proposed that the Gambling Commission will have power to freeze and, if there is evidence of unfair practice, void particular bets. There are concerns about the ways in which betting exchanges could be used to enable individuals to profit from cheating or possession of inside information. "Betting Exchanges" operating on line offer users the ability to offer odds to other users. In this way it is possible for unwitting members of the public to be exploited with apparently tempting odds.

5.13 Although the law will create a new offence of cheating, gambling debts will in future be enforceable at law. The Gambling Commission will have powers to exchange information with the regulatory authorities for sports on which betting takes place and where information is relevant to the fairness of betting transactions. It will also require exchanges to identify such bets laid by bookmakers or other specified categories who may have access to information which is not generally available. The Government nevertheless believes that there is a case for an additional measure to deal with the new threat posed by betting exchanges.

5.14 The new power will be used where there was a suspicion that:

- The person who laid the bet has failed to supply information to the betting exchange, or has supplied information that is misleading or wrong;
- The event upon which the bet was placed was carried out in breach of the rules and the person knew about the breach in advance of the bet; or
- There was cheating in relation to the bet and the person who laid the bet knew about it in advance of the bet; and
- That one or more of these circumstances led to unfairness to the person who has lost the bet.

Risk assessment

5.15 The regulation of betting has worked reasonably well but the current arrangements whereby different regulatory responsibilities are exercised by licensing magistrates, local authorities, the Horserace Betting Levy Board and the Tote and regulation of other gambling products by the Gaming Board do not fit today's market, where operators are frequently providing services and products

across a variety of gambling sectors. Maintaining the status quo would preserve this unsatisfactory system and not meet the objectives set out in paragraph 5.6.

- 5.16 Maintaining the status quo would also prevent many of the reforms set out in paragraphs 5.10 – 5.14 that the Government considers necessary in ensuring that the betting industry is up to date and is conducted in a fair and transparent manner. One of the major complaints of punters is that bookmakers make their own arbitrary rules which are not clearly displayed and are only pointed out when the winnings are claimed and which may then not be paid or paid in full. This leads to many complaints. One of the Gambling Commission's roles will be to ensure that punters are made properly aware of the terms under which bets are accepted and settled and that they have an adequate redress in the event of a dispute.

Options

- 5.17 There are three broad options in reforming the laws on betting.

Option 1 – *leave the relevant legislation unchanged*

- 5.18 This would not meet the objectives set out in paragraph 5.6 and will retain the risks identified in paragraph 5.15 – 5.16.

Option 2 – *implement the changes proposed in the Gambling Review Report*

- 5.19 This will meet the objectives set out in paragraph 5.6 but there are a number of risks involved in achieving them, notably:

Social issues and crime

- 5.20 The general risks involved in extending choice and availability leading to problem gambling and the potential increase in criminal activity. This is considered in Chapter 1.

Commercial issues

- 5.21 *Betting Exchanges* – bookmakers are concerned about the proposals to license Exchanges. They consider that those who lay bets on the exchange should in fact be licensed and that they are acting as bookmakers and are therefore avoiding regulation and taxation.
- 5.22 *On course bookmakers* – are concerned that the proposed abolition of the 5 times limit (whereby racecourses and tracks are required to charge no more than 5 times the normal admission fee) will lead to increase charges that may force them out of the market This is covered in more detail in paragraph 5.24.

Regulation

- 5.23 The Government announced in *A Safe Bet for Success* that it accepted the Review Body's proposal that the Gambling Commission should issue personal licences to those engaged in the betting industry but it was not convinced that betting shop manager was the right level. Licensing every manager could have placed a significant burden on the Gambling Commission and managers were largely retailing events and markets provided by others, rather than having the capacity to directly affect the event, as say a croupier in a casino.

- 5.24 The Government also said that it wanted to give further consideration to the proposal that current rules restricting charges for the entry of bookmakers to racecourses should be abolished. Currently a bookmaker who wishes to operate on-course on race dates can be asked to pay no more than 5 times the relevant entrance fee. While this restricts the freedom of the racecourse and track owners to charge according to the market, it also ensures that bookmakers are not denied access by means of entry price and plays a part in ensuring that there is a competitive on-course market.
- 5.25 The Government's future proposals for both of these aspects of regulation are set out in Option 3 below.

Option 3 – *implement the majority of the Gambling Review recommendations as set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others*

- 5.26 This option will also meet the objective set out in paragraph 5.6 but will address the concerns raised by the Government relating to personal licensing and the 5 times rule and so called fixed odds betting terminals (FOBTs).
- 5.27 *Personal licences* – Betting operators will still be subject to the Commission's fit and proper test but specific categories of employee, including directors and senior managers of corporate operations will also require personal licences. Senior managers may decide that other employees in their operation should also be licensed to ensure that high standards of probity are maintained in a particular area.
- 5.28 *The 5 times rule* – Admission charges in areas designated for betting at racecourses by the British Horserace Levy Board will be maintained for a transitional period with five years as the suggested duration. After that, admission of bookmakers to all areas of betting premises will be a matter of commercial negotiation between parties.
- 5.29 *Fixed Odds Betting Terminals (FOBTs)* – the Government raised concerns about FOBTs in *A Safe Bet for Success*. This is discussed in Chapter 2 dealing with gaming machines.

Benefits

- 5.30 The benefits of changing the gambling laws as a whole, of which betting forms one part, are set out in Chapter 1. Those specific to betting are set out below.

Option 1 – *leave the relevant legislation unchanged*

- 5.31 There will be no additional benefits other than those enjoyed by current legislation.

Option 2 – *implement the changes proposed in the Gambling Review Report*

- 5.32 There will be several benefits. These are:

Better regulation – operators will be subject to regulation by the Gambling Commission which will have statutory powers of entry, seizure and search, will investigate breaches of gambling laws and regulations and consider

administrative sanctions in connection with breaches of licence conditions. Operators will be subject to a fit and proper test and specified categories of employee will, in addition; require personal licences. Operators will be bound by the terms of their operating licence and codes of practice issued by the Commission;

Greater choice – punters will have a greater choice of products in betting offices, horse racecourses and greyhound tracks. It will also be easier for punters to forward coupons to football pools companies through retail premises;

Higher revenue generation – licensed betting offices (LBO) will be permitted to have a mix of gaming machines, including £500 jackpots, up to a maximum of four per office. This may attract more people to betting offices. The Henley Centre estimated that around 5% of those consumers who do not currently bet (around 2 million adults) might be attracted to an enhanced LBO at some point over the year and they will spend around £4.5 million net.² With an increased turnover tax/duty (all else being equal) should rise. Racing sees the new proposals overall as an opportunity to diversify and make better use of their premises on non-racing days.

Option 3 – *implement the majority of the Gambling Review recommendations as set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others*

- 5.33 The benefits are largely the same as Option 2 but regulation through personal licences will be more effective and proportional to the risks identified by the Gambling Review Body discussed in paragraph 5.27. There will also be better regulation to protect punters against unscrupulous bet layers using betting exchanges as explained in paragraphs 5.12 – 5.14.

Equity and fairness

- 5.34 Had the Gambling Review Body's recommendation about the abolition of the rules restricting charges for the entry of bookmakers to racecourses or dog tracks been acted on immediately, some on-course bookmakers would have been left at a disadvantage. A transition period will be fairer and allow bookmakers a reasonable period to adjust.
- 5.35 Smaller bookmakers are concerned that, with the removal of the demand criteria, they could be put out of business if larger bookmakers obtain licenses in areas where they would currently be prevented from doing so.
- 5.36 The on-course betting market may be potentially worse off under the proposal to ban the "5 times" rule as described earlier – this is covered in more detail in the Competition Assessment.

Business sectors affected

- 5.37 Bookmakers, racecourses, greyhound racing and other tracks.

²An assessment of the impact of the Gambling Review Body's proposals: A Report for the British Horseracing Board.

Costs

Compliance costs

Option 1 – Retaining the status quo

- 5.38 Bookmakers, betting offices and betting agencies require a permit/license from local licensing justices before they can offer betting products. These last for 3 years before they are renewed. Greyhound tracks require a license from the local authority, which lasts 7 years before renewal. Fees are payable in these cases to the licensing authority. Horse racecourses are approved annually by the Levy Board, with fees absorbed into the Levy system.
- 5.39 On-course bookmakers pay for the regulation and administration of their activities by the National Joint Pitch Council (NJPC).
- 5.40 Pools operators are required to register with the local authority who are required to appoint an auditor to examine the conduct of pools competitions. A continuation fee is payable to the authority annually.
- 5.41 Current regulatory costs are summarised, on an annualised basis, in the following table.

Current costs of regulation	Number	Annual Cost (£m)
<u>Magistrates costs</u>		
Bookmakers permit and betting office licences ³	1,013 applications 1,403 renewals	0.050 0.009
<u>Local authority costs</u>		
Tracks (greyhound and others)	180	0.440
Tracks (horse) ⁴	60	0.060
Football Pools ⁵	3	0.007
Total		0.560

Option 2 – implement the changes proposed in the Gambling Review Report

- 5.42 Details of the new licensing regime are set out in Chapter 1. The Gambling Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system, the investigation and prosecution of, for example, unlicensed traders and the cost of appeals.
- 5.43 The Gambling Review proposed that the Gambling Commission should in future regulate betting and that the local authority license premises. The four major areas that involve costs for betting in the future will therefore be:
- Costs of licensing and regulation by the Gambling Commission;
 - Costs of licensing Licensed Betting Offices (LBOs), horse racecourses and greyhound tracks by the local authority;

³DCMS Statistical Bulletin: Betting licensing June 2000 – May 2003.

⁴Includes estimated costs of Levy Board certificate of approval system.

⁵Fees set by local authorities not to exceed £464. Figures includes costs of local authority accountancy services to the operator.

- Appeals against licensing decisions (this is discussed in Chapter 1);
- Criminal Records Bureau (CRB) checks by employers (this is discussed in Chapter 1).

Other costs

5.44 These are the same as in option 3.

Estimated Regulatory costs for option 2 ⁶	Annual Cost (£m)
Gaming Commission	2.510 – 3.070
Local Authorities	2.200 – 2.500
Employers/employees costs for CRB checks	0.380 – 0.420
Appeals (Gambling Tribunal)	0.068 – 0.083
Total	5.158 – 6.073
Net increase over current regulatory costs	4.598 – 5.513
Other costs	
Contributions to the Gambling Industry Charitable Trust (para 5.49)	
Money laundering compliance costs (para 5.48)	

Option 3 – *implement the majority of the Gambling Review recommendations as set out in 'A Safe Bet for Success' plus other modifications following further discussion with stakeholders and others*

- 5.45 The costs are slightly lower than in Option 2 because not all betting shop managers will be required to obtain a personal licence from the Gambling Commission.
- 5.46 The costs of freezing actions in relation to betting exchanges mentioned in paragraphs 5.12 – 5.14 will be paid for from operators' license fees. The proposal will however have the merit of diverting disputes about the fairness of debts from the courts.
- 5.47 Although costs are significantly higher than at present, costs will be directly proportionate to the work undertaken by the Commission in regulating the industry, which is anticipated to be much larger and diverse than at present. It will be important for the Commission to be adequately resourced to fulfil its regulatory functions to provide the confidence that the industry and public expect in the new laws.

⁶Costs for Option 2 & 3 are based on estimates of future licenses set out in Chapter 1, paragraph 1.48.

Estimated Regulatory costs for option 3 [to be revised]	Annual Cost (£m)
Gaming Commission	2.14 – 2.62
Local Authorities	2.20 – 2.50
Employers/employees costs for CRB checks	0.45 – 0.50
Appeals (Gambling Tribunal)	0.18 – 0.22
Total	4.97 – 5.84
Net increase over current regulatory costs	4.41 – 5.28
Other costs	
Contributions to the Gambling Industry Charitable Trust (para 5.49)	
Money laundering compliance costs (para 5.48)	

Other costs

- 5.48 *Money laundering* – the Gambling Review Body recommended that money laundering compliance should be extended to betting. The Government and the industry have drawn up a voluntary code of practice that is subject to further discussion. Firms may need to appoint an officer to ensure compliance.
- 5.49 *The Gaming Industry Charitable Trust* – the industry will contribute to the Trust or will be subject to a statutory levy. Details are in Chapter 1, paragraph 1.14.

Small Firms Impact Test

- 5.50 The views of the Small Business Service have been sought as part of the consultation process. The Association of British Bookmakers, the industry representative group, represents both small and large businesses and has been consulted in preparing the policy for the Bill.
- 5.51 Smaller bookmakers are concerned about the removal of the demand criteria as explained in paragraph 5.35.

Competition Assessment

- 5.52 As with casinos and bingo clubs, it is proposed that the demand test for off-course bookmakers is abolished – this will reduce barriers to entry and may encourage new entry, increasing the level of competition. New entry will also be facilitated by the proposal to allow casinos to provide bookmaking facilities – this will provide another retail channel for bookmakers, and may result in greater market penetration. The competitiveness of bookmakers will also improve as a result of the proposal to introduce a more liberal advertising regime.
- 5.53 Off-course bookmakers will face a higher regulatory burden under the proposed reforms – compliance costs will increase as a result. While the proposed reforms for off-course bookmakers as a whole will have an uncertain impact on competition, they are expected to be broadly neutral.
- 5.54 The competitive impact of the proposed reforms relating to on-course betting is potentially negative, because the current restrictions on course admission charges for bookmakers are due to be 'grandfathered' for a limited period of five years. After that, the admission of bookmakers will be subject to commercial negotiation between the parties involved – this may lead to an increase in access

charges, which could potentially disadvantage smaller bookmakers who have less negotiating power. Note however, that a market already exists for places in the betting ring (with market values being in direct proportion to the desirability of a given place), and so any increase in access charges is likely to be reflected in lower market values for a given place – therefore, while the barriers to entry for on-course bookmakers are likely to change relative to each other, in absolute terms they could remain broadly constant.

- 5.55 The likely competitive impact of the spread betting proposals are neutral. This is because, for the time being at least, it is proposed that spread betting continues to be regulated by the Financial Services Authority. This policy is due to be reviewed however, once the new Gambling Commission is well established.
- 5.56 The likely impact of the pools competition proposals on competition in this market is likely to be positive. This view is based on the proposals to permit pools competitions on all sports, on-line pools entries and unlimited rollovers. These will increase the range and broaden the delivery of the services upon which pools competition businesses can compete.
- 5.57 In summary, while the likely impact of the proposed betting reforms (as a whole) on competition is uncertain, it is expected to be broadly neutral.

Enforcement and sanctions
Monitoring and review
Consultation

these are all described in Chapter 1 and paragraph 5.10 – 14, 5.31 & 5.50

Summary

	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implementing the recommendations set out in <i>A Safe Bet for Success</i> and additional Government proposals
Net increase over current regulatory costs	No additional costs	£4.5 – 5.5m	£4.4 – 5.2m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Better regulation • Greater choice for punters • Better procedures for combating crime 	The same as in option 2
Other costs		<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust 	These are the same as option 2

5.58 It is recommended that Option 3 is pursued. This would deliver the Government’s objectives and will ensure that betting is regulated in the same way as other forms of gambling by the Gambling Commission and provides a more proportional approach to the issue of personal operating licenses in bookmakers premises. This would not be met by retaining the status quo in Option 1 or Option 2.

Chapter 6: Remote Gambling

6.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the Gambling Bill on remote gambling.

Purpose and intended effect

Objective

- 6.2 The proposals for remote gambling are set within the overall objectives for gambling set out in Chapter 1, but in announcing its proposals in *A Safe Bet for Success* the Government said that:
- On-line gambling should be permitted in the UK;
 - A system should be set up to regulate it;
 - A key priority will be to prevent children using on-line gambling sites through payment and other controls.

The background

- 6.3 There have been many technological developments over the last 30 years, which have presented opportunities to operators to offer their gambling products in a completely different way to traditional “bricks and mortar” methods. The most noticeable of these have been in interactive television, digital and satellite services, the Internet and mobile phones.
- 6.4 Remote gambling is a means of providing gambling activities where the participant is not present where the gambling activity is carried out. Under the current law:
- Casino, bingo and machine gaming are not allowed on-line because current legislation says that a punter must be present in the room in which gaming takes place;
 - A bookmaker may accept bets remotely (e.g. by interactive TV, Internet or telephone);
 - Societies lotteries cannot operate remotely as tickets must not be sold by machine;
 - It is not illegal for British residents to gamble on-line and it is not illegal for overseas operators to offer on-line gambling to British residents (though there are some restrictions on advertising).
- 6.5 One of the major recommendations of the Gambling Review set up by the Government in 1999 to consider how gambling should be regulated in the future, was that remote gambling should be permitted in Great Britain. The Review Body recommended that:
- Operators seeking a licence from the Commission should be registered as a British company; locate its server in Great Britain and use a UK web address for its gambling site;

- Betting (including pools and lotteries) should be permitted on 'real time' events taking place off-line;
- On-line gaming should be permitted;
- Software systems should be inspected by the Commission and should operate on a random basis;
- The Commission should set the parameters for the development of on-line games;
- Customers should be made aware of the game rules and terms and conditions of play on-line gaming sites before play commences;
- Customers should be identified on-line before they are allowed to play; and the Commission should issue guidelines to ensure that identification standards are comparable with off-line casinos;
- On-line operators should make any payments only to the debit and credit card used to make deposits into the customers account, or by cheque to the customer;
- Any prizes won by minors should be forfeited;
- Operators should be required to set up facilities that enable players to set maximum stakes and limits and to self ban;
- Clocks and counting systems should be provided that are displayed on screen at regular intervals;
- On-line gambling sites should provide information about problem gambling treatment and services and direct links to those services;
- The Commission should establish a portal on its web site listing licensed on-line gambling providers; and regulated sites should display the Commission's kite mark. It should be an offence for an operator to claim falsely that a site is licensed by the Commission, or make unauthorised use of the kite mark;
- Only those sites licensed by the Commission should be allowed to advertise;
- The Commission should have the powers to take action in relation to premises, not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing on-line gaming or on-line betting services.

6.6 The Government announced in *A Safe Bet for Success* that it would be working with the industry and other interests to develop detailed proposals; and it published a paper *The Future Regulation of Remote Gambling* in April 2003 which set how best the Government might achieve its aim of introducing a reliable system of regulation for a newly legalised onshore remote gambling industry. This is available on the DCMS web site www.culture.gov.uk. In essence it considered:

- *The Role of the Gambling Commission* – the ability of the Commission to satisfy itself as to the quality of the systems being used; the issue of codes of practice to licensed operators; and a system of kite marking;
- *Licensing* – a probity check for operators with different categories for gaming, betting and lotteries;

- *Player protection* – including practical measures to safeguard privacy, security, dispute resolution procedures, customer help lines and information in various languages;
- *Safeguards for the young and vulnerable* – detailed measures will be for the Commission to decide in co-ordination with operators and experts in the field; for example, screening of players, reality checks, responsible management, filtering services, payment methods, displays and rapidity of play;
- *Player identification and verification standards* – to combat crime, fraud and underage play with registration processes, verification of details, and whereabouts using Internet Protocol addresses;
- *Money laundering and payment methods* – using available expertise and taking full account of initiatives such as the EC Money Laundering Regulations, payment methods and effective account management;
- *Systems and software* – what should and should not be tested. For example the operation of Random Number Generators, account systems and player protection measures, access to servers and approval of software;
- *Cross border gambling* – and how this might be managed;
- *Taxation* – an appropriate regime essential to the success of the remote gambling sector that will not prohibit the gambling operator from being based here;
- *Advertising* – the Government's proposals are to ease restrictions, subject to safeguards for children and the vulnerable, but items such as 'hotlinks' or 'spam' cause particular difficulties for on-line activities. The Commission should, therefore, have powers to monitor and restrict the forms and content of related advertisements in conjunction with other regulators such as the ITC and ASA;
- *On-line gambling in non-licensed premises* – the Commission's powers to take action in relation to premises not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing on-line gambling services.

Risk Assessment

- 6.7 The current law does not cater for modern technology and leaving the current legislation unchanged will retain this position. There is a potentially vast international market for which gambling operators based in this country will be encouraged to compete and consumers both here and abroad will be able to access a full range of gambling sites licensed and located here, safe in the knowledge that probity and integrity of the gambling operators and products they offer are assured. This will not be possible if the status quo is preserved.

Options

- 6.8 The Government broadly accepted the Gambling Review Body's recommendations, so there are therefore two options.

Option 1 – leave the relevant legislation unchanged

6.9 This will not meet the objectives set out in paragraph 6.2 and will retain the risks identified in paragraph 6.7.

Option 2 – implement the changes set out in the Government’s paper *The Future Regulation of Remote Gambling*

6.10 This will meet the objectives in paragraph 6.2 but there are risks in extending choice and availability through remote gambling which could lead to an increase in problem gambling. Detailed regulations, codes of practice and other guidance will, however, be issued by the Gambling Commission who will be responsible for monitoring the impact of gambling reform and reporting to the Government.

6.11 Testing, player identification and verification and probity checks will guard against crime.

Benefits**Option 1 – retaining the status quo**

6.12 There will be no benefits in retaining the status quo.

Option 2 – implement the changes set out in the Government’s paper *The Future Regulation of Remote Gambling*

6.13 Technology will play an increasingly important role in the future of the UK gambling market, via a diverse range of products such as interactive television, traditional land-based and mobile telephones and Internet. The future impact of technology on the UK market place is, however, very difficult to accurately predict given the rapid changes taking place. The Henley Centre estimates that the internet betting and gaming market shares will increase rapidly over the next few years, from 2% in 2001, to 9% of the total market in 2005.¹ By permitting on-line gaming sites to be based in the UK, a proportion of sites may decide to locate to the UK. If they do, this will increase domestically regulated UK and non-UK resident gambling expenditure, and associated duty tax receipts.

6.14 The Likely benefits of remote gambling are:

- *Greater employment opportunities* – with the number of remote gambling sites increasing as noted above, it is anticipated that employment in this new sector will expand to rise in line with this growth.
- *Higher revenue generation* - the UK could capture a significant proportion of the international remote gambling market. The regime for taxing these operations has yet to be decided but (all else being equal) tax/duty revenue will increase. The scale of the increases is unknown at this stage and a large percentage of this increase will be driven by new revenue from off-shore players.
- *Better regulation* – the Gambling Commission will licence operators and ensure that sites are crime free and honest and conducted in accordance with the law.

¹ Reported in *An Economic Analysis of the Options for Taxing Betting – a Report for HM Customs and Excise*, D Paton, D Siegal and L V Williams, September 2000.

- *Better choice, information and safeguards for customers* – the new laws on remote gambling will result in a wider choice of gambling opportunities for customers in Great Britain. The sites will be regulated by the Commission and identified as having been approved through a kitemarking system. There will be strict rules to prevent access by children and facilities to reduce the risks of problem gambling. It will also mean that British gamblers will no longer have to visit gaming sites in jurisdictions where less comprehensive player protections might be in place.

Equity and fairness

6.15 There are no issues of equity and fairness as a result of these proposals.

Business sectors affected

6.16 All firms who can offer access to products that can be used remotely such as the Internet, mobile telephones, interactive TV and other firms who provide ancillary services such as servers and security software. Existing gambling operators such as casinos, pools operators and lotteries may also wish to offer remote gambling products.

Costs

Compliance costs

Option 1 – leave the relevant legislation unchanged

- 6.17 Bookmakers and those registered as a pools operator can currently offer on-line gambling products. Bookmakers require a permit from a local licensing magistrate and a pool operator approval from the local authority before they can offer betting products.
- 6.18 Statistics for those running on-line products are not available and it is not therefore possible to give the current regulatory costs and comparisons with what is essentially a new market. At present a bookmaker's licence currently costs £160 and last for 3 years with a renewal fee of £20. A pools operator can pay up to £464 for registration and in addition have to pay accountants fees for checking individual competitions.

Option 2 – implement the changes set out in the Government's paper *The Future Regulation of Remote Gambling*

- 6.19 In regulating remote gambling products, there will need to be protection for customers against fraud and other crime, safeguards for children and vulnerable adults; and checks to ensure that operators are fit and proper to offer gambling products. Operators will be required to obtain an operators licence from the Gambling Commission and costs will be recouped from operators via the licence fee.
- 6.20 An operator already holding an operating licence to conduct off-line gambling will not have to go through the whole process of gaining an operators licence, as some of the checks will already have been made. The aim will be to avoid any duplication of checks and to streamline the process as much as possible.

- 6.21 The major areas that will involve costs are as follows:
- Costs of licensing and regulation by the Gambling Commission;
 - Appeals against licensing decisions (discussed in Chapter 1);
 - Criminal Records Bureau (CRB) checks by employers (discussed in Chapter 1).

Estimated Regulatory costs for option 2 ² [To be revised]	Annual Cost (£m)
Gaming Commission costs	2.710 – 3.310
Appeals (Gambling Tribunal)	0.061 – 0.075
Employers/employees costs for CRB checks	0.013 – 0.015
Total	2.784 – 3.400
Other Costs	
Additional software to protect the vulnerable and prevent crime and training to identify problem gambling (see paragraph 6.23)	

Other costs

- 6.22 Operators will be required to provide the following:
- Screening, e.g. to prevent under age play;
 - Reality checks to counter problem gambling;
 - Screen links e.g. to the Gambling Commission and those providing help to problem gamblers;
 - Player identification and verification procedures;
 - Money laundering controls which will ensure security and efficiency of financial systems;
 - Training so that staff will be able to identify gambling patterns that may indicate problem gambling and wider social issues.

6.23 *The Gaming Industry Charitable Trust* – the industry will contribute to the Trust or will be subject to a statutory levy. Details are in Chapter 1 paragraph 1.14.

Small Firms Impact Test

6.24 The views of the Small Business Service have been sought as part of the consultation process.

Competition Assessment

6.25 The proposed remote gambling regime is expected to increase competitiveness within the market. This is primarily because of the lower barriers to entry created by the proposal to permit operators to base their on-line operations in the UK (albeit within a strict framework of guidelines and controls). This is expected to attract a number of new entrants to the market (including some non-UK based gambling companies) and thereby increase the level of competition.

² Costs based on estimates of future licenses set out in Chapter 1, paragraph 1.48.

Enforcement and sanctions
Monitoring and review
Consultation



these are all described in Chapter 1

Summary

	Option 1 Retaining the status quo	Option 2 Implement the changes set out in the Government's paper <i>The Future Regulation of Remote Gambling</i>
Total cost per annum	No additional costs	£2.7 – 3.4m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Greater employment opportunities • Higher revenue generation as a result of some players basing their websites in the UK and non-UK residents visiting UK based websites • Better regulation • Better choice, information and safeguards for customers
Other costs		<ul style="list-style-type: none"> • Contributions to the Gambling Industry Charitable Trust • Additional software to protect the vulnerable and prevent crime • Training to identify problem gambling

6.26 It is recommended that Option 2 be pursued. This will deliver the Government's objective to permit remote gambling in the UK; will attract business to Great Britain; lead to a number of benefits to the economy through greater employment opportunities; higher revenue; and greater choice of gambling products for customers. None of these will be achieved under Option 1 and it will become increasingly difficult to regulate new technology through outdated laws.

Chapter 7: Lotteries

- 7.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on lotteries (but not including the National Lottery – see Chapters 9 and 10).
- 7.2 650 society lotteries and 1 local authority lottery were registered with the Gaming Board during 2002/03. Proceeds from the 650 society lotteries were £129.9 million and of that around £28.1 million went on prizes, £34 million on expenses and the remaining £67.8 million to the beneficiaries. Proceeds from lotteries promoted by local authorities, however, continue to decline and only £8,279 worth of tickets was sold.¹
- 7.3 Small lotteries remain popular events for raising money for good causes or for the purposes of the society at bazaars, fetes and other events. Data on these lotteries are not available, because they do not need to register with the Gaming Board.

Purpose and intended effect

Objective

- 7.4 The proposals for lotteries are set within the overall objectives for gambling as set out in Chapter 1, but in announcing its proposals for lotteries the Government said that:
- There should be greater clarity about what constitutes a lottery;
 - Commercial lotteries should not be permitted;
 - Society and local authority lotteries should remain subject to money limits but benefit from a relaxation of money limits regulations including the detailed controls for, expense and prizes;
 - The law required updating to allow for technology. For example, by allowing ticket sales by machine and on-line lotteries and lottery terminals, but ensuring safeguards to prevent the possibility of repetitive and damaging addictive play; and
 - The Gambling Commission would take over the Gaming Board's current responsibilities for the regulation of lotteries.

The background

- 7.5 The Lotteries and Amusements Act 1976 makes all lotteries that are not gaming illegal, subject to a limited number of exceptions. These relate either to private lotteries or to societies or local authority lotteries where money goes towards good causes or, in the case of local authority lotteries, to a scheme approved by the authority. Lotteries are not defined by the Act, but the courts have ruled a lottery is a 'distribution of prizes by chance where the persons taking part, or a substantial number of them, make a payment or consideration in return for obtaining their chance of a prize.' Lottery tickets cannot be sold by means of a machine.

¹ Figures for Gaming Board Annual Report 2002/03.

- 7.6 Small lotteries are one-off events with prizes up to the value of £250 (non money prizes can be of any value) and do not need to register with any statutory body. They are usually run at events such as bazaars and fetes. Private lotteries are 'not for profit' lotteries, which may be run within a residential environment, workplace or club. They also do not need to register. Society lotteries have to register either with the Gaming Board or the local authority depending on the level of their ticket sales and submit returns for each of the lotteries that they run. Local Authority lotteries have to register with the Gaming Board.
- 7.7 Some charities use external lottery managers to conduct their lotteries for them. The Gaming Board must register a person who wishes to act in this capacity.
- 7.8 The Gambling Review made a number of recommendations relating to lotteries. In considering these proposals, the Government accepted the broad deregulatory thrust of the Gambling Review Body's proposals, in particular the suggestion that:
- Society and local authority lotteries should be allowed to have 'rollovers';
 - Percentage limits on expenses and prizes as a proportion of proceeds, and absolute limits on ticket prices, in society and local authority lotteries should be removed (subject to a requirement that at least 20% of the lottery receipts should go to its 'good cause'; and retention of the principle that every ticket in a lottery should cost the same);
 - In post-drawn lotteries, 24 hours should elapse between the time of issue of the last ticket sold and the time of the draw;
 - Lottery tickets can be sold by machine;
 - Remote lotteries would be allowed; and
 - Small and private lotteries to be retained. Small lotteries to be allowed to have money prizes.
- 7.9 The Review Body recommended that current limits on prizes and proceeds for societies lotteries' should be lifted completely. However, the Government rejected this because of the potentially adverse impact on the National Lottery (see paragraph 7.20 below). It also rejected the Review Body's recommendation that the Gambling Commission should register smaller society lotteries (see paragraph 7.19 below).
- 7.10 Following consultation with stakeholders and others, the Government also decided that:
- A new type of lottery – small customer lotteries – will be introduced that could be promoted by the occupier of a single business premises for its customers. Tickets will be sold on the premises and the whole proceeds of the lottery – after deduction of expenses – will be devoted to the provision of prizes, which would not exceed £50; and
 - There should be greater clarity about what constitutes a lottery – the main reasons for this are covered in Chapter 8.

Risk Assessment

- 7.11 The current law has worked well in ensuring that society lotteries are conducted properly and make a significant contribution to good causes of all kinds. But

failing to modernise the laws on lotteries will maintain some restrictions which are no longer necessary. Lotteries would be unable to take advantage of new technology in operating their draws which would hinder the opportunities for charities to generate more money for good causes.

- 7.12 Failure to provide greater clarity about what constitutes a lottery will hinder effective regulation of illegal lotteries. This is discussed in more detail in Chapter 8.
- 7.13 Although the Gaming Board effectively regulate lotteries through a system of registration and checking of lottery returns, only the police can prosecute those operating illegal lotteries. Under the proposed Gambling Bill, the Gambling Commission will have statutory powers of entry, seizure and search in connection with the investigation of gambling law, including unlawful lotteries, and will be able to initiate prosecutions direct through the Crown Prosecution Service. This should create a more efficient and effective regulatory process.

Options

- 7.14 There are three broad options in reforming the law on lotteries:

Option 1 – *leave the relevant legislation unchanged*

- 7.15 This would not meet the objectives set out in paragraph 7.4 but will retain the risks identified in paragraph 7.11 – 7.13.

Option 2 – *implement the changes set out in the Gambling Review Report*

- 7.16 This option will meet the objectives set out in paragraph 7.4 but there are a number of risks in achieving them:

Social issues and crime

- 7.17 The general risks involved in extending choice and availability leading to problem gambling and the potential increase in criminal activity is considered in Chapter 1.
- 7.18 In relation specifically to lotteries, the Government's proposals to allow on-line lotteries and to remove restriction on the kinds of premises in which lottery terminals may be located could lead to the possibility of repetitive play. Repetitive play is most commonly associated with gaming machines, but there is a risk of addiction and suffering in any gambling situation in which there is the opportunity to chase losses by repeatedly purchasing tickets or chances. To avoid this risk the Government will require that in post-drawn society and local lotteries whose results are announced on more than one premises (and which will be potentially large given that tickets will have been available to buy on those different premises), there must be a delay of 24 hours between the time of the last ticket sold in that lottery and the time of the draw. This will effectively break what could become a potentially repetitive and addictive cycle of play.

Regulation of small society lotteries

- 7.19 Local authorities currently register smaller societies' lotteries. The Gambling Review Body said that as it was recommending that there should be a 'fit and

proper test' for all gambling operators, that it would aid consistency if all societies' lotteries' should be registered with the Gambling Commission regardless of their size. However, the Government was not convinced that there would be a need for the Commission to regulate smaller society lotteries in this way and it therefore rejected this proposal.

Competition with the National Lottery

7.20 The Review Body also recommended that current limits on prizes and proceeds for societies lotteries' should be lifted completely but the Government rejected this because of the effect on the National Lottery. Competition would probably reduce total income for good causes and, as prize pools could potentially be smaller, they could be less attractive to people seeking a life-changing winning amount.

Option 3 – *implement the recommendations set out in A Safe bet for Success and other modifications following further discussion with stakeholders and others*

7.21 This option will also meet the objectives in paragraph 7.4. It will give more scope to lotteries in running their draws, for example, by allowing rollovers and the sale of tickets by machine; but it will reduce the risks inherent in option 2 by reducing the adverse effect on the National Lottery by allowing unlimited prizes and proceeds. This is described in more detail in paragraph 7.9.

7.22 An additional risk with option 3 is that in allowing small customer lotteries - described in paragraph 7.10 – that the concession will be abused. Controls will therefore be included in the proposed Gambling Bill. For instance, draws will be limited to one draw in any seven day period, the whole proceeds of the lottery, after deduction of expenses incurred for printing and stationery, must be devoted to prizes whose value cannot exceed £50 each.

Benefits

7.23 The benefits of changing the gambling laws as a whole, of which lotteries forms one part, are set out in Chapter 1. Those specific to lotteries are set out below.

Option 1 – *leave the relevant legislation unchanged*

7.24 There will be no additional benefits other than those enjoyed by current legislation.

Option 2 – *implement the changes set out in the Gambling Review Report*

7.25 The Henley Centre estimates that societies' lotteries could increase their turnover by almost threefold over the five years 2006 – 2011 as a result of the proposed changes.

7.26 Specific benefits attributable to Option 2 include:

Better regulation – the Gambling Commission will have more effective powers to deal with illegal lotteries as explained in paragraph 7.13 and the proposed Gambling Bill will remove regulations which the Government no longer feels are appropriate for lotteries.

Enhanced customer confidence – that the money they are contributing to good causes is being used for the purposes for which it is intended. Effective regulation of lotteries is an important safeguard to ensure that lotteries are run properly and fairly, and it will be easier for the Gambling Commission to take action against illegal lotteries which will lead to greater consumer confidence.

Better choice and easier access for customers – with lottery tickets sold on-line and participation in remote lotteries allowed. Small and private lotteries, which under the proposals will be allowed to have cash prizes, may be more attractive.

Option 3 – *implement the recommendations set out in A Safe bet for Success and other modifications following further discussion with stakeholders and others*

7.27 Benefits attributable to option 3 include:

Better regulation – is much the same as in option 2 but regulation of small lotteries will be more proportional to the regulatory risks involved with registration with local authorities rather than the Gambling Commission.

Better choice, easier access, and enhanced customer confidence – will be much the same as in option 2 but with a reduced risk to the National Lottery (see paragraph 7.20). There will be a wider choice of lotteries for customers with the introduction of small customer lotteries (see paragraph 7.10).

Protection from problem gambling – by putting in safeguards against repetitive and addictive play on fast lottery games as explained in paragraph 7.18.

Greater clarity in the law – the current definition of a lottery is through case law² but the proposed Gambling Bill will contain a statutory definition that will simplify the law.

Equity and Fairness

7.28 There are no issues of equity and fairness as a result of these proposals.

Business sectors affected

7.29 Charities, lottery managers, sports clubs and institutions and others who organise and benefit from lotteries.

Costs

Compliance costs

Option 1 – *leave the relevant legislation unchanged*

7.30 The Gaming Board registers societies lotteries with proceeds in a single lottery of over £20,000 or cumulative annual proceeds of more than £250,000. Thereafter lotteries must forward a return to the Board for every lottery they promote which is checked. A fee is paid for registration and an annual fee for renewal.

7.31 Lottery managers must also apply to the Gaming Board for an operator's certificate. This is also subject to a fee.

² By Lord Widgery in *Readers Digest Association Ltd v Williams*.

7.32 Local Authorities register smaller societies lotteries. A fee is paid for registration and renewal.

7.33 Current regulatory costs are summarised, on an annualised basis in the following table:

Current regulatory costs	Annual Cost (£m)
Gaming Board costs ³	0.4
Local authority costs ⁴	0.5
Total	0.9

Option 2 – implement the changes set out in the Gambling Review Report

7.34 Details of the new licensing regime are set out in Chapter 1. The Gambling Commission will operate on a net running cost basis and those applying for licences and renewals would be charged a non-refundable application licence fee to cover the cost of their licence. Each sector would be self funded and licence fees would include a charge to cover administration and enforcement of the system, the investigation and prosecution of, for example, unlicensed trader and the cost of appeals. The major areas involving costs for society and local lotteries will be:

- Costs of registration and renewal by the Gambling Commission for *all* society lotteries and local authority lotteries and external lottery manager registrations;
- Appeal against decisions by the Gambling Commission.

Estimate regulatory costs for Option 2 ⁵	Annual Cost (£m)
Gambling Commission	1.400 – 1.710
Appeals (Gambling Tribunal)	0.040 – 0.054
Total	1.440 – 1.764
Net increases over current regulatory costs	0.540 – 0.864

Option 3 – implement the recommendations set out in 'A Safe Bet for Success' and other modifications following further discussion with stakeholders and others

7.35 The costs will be largely the same as in Option 2, but with smaller societies paying fees to the local authority rather than the Gambling Commission and with slightly increased regulatory costs for ensuring that small customer lotteries remain within the law. If the local authority refuses to register a small society lottery the society may appeal to a magistrates court against the decision.

³ Annual figures based on Gaming Board estimate for the number of registration, renewals, returns and lottery manager applications in 2003/04.

⁴ Based on an estimated figure of 20,000 lotteries registered with local authorities. No central figures available.

⁵ Option 2 & 3 costs based on estimates of future registrations set out in Chapter 1, paragraph 1.48.

Estimate regulatory costs Option 3	Annual Cost (£m)
Gambling Commission	0.930 – 1.130
Local authority costs	0.400 – 0.600
Appeals (Gambling Tribunal)	0.004 – 0.054
Total	1.334 – 1.784
Net increases over current regulatory costs	0.434 – 0.884

Small Firms' Impact Test

7.36 The views of the Small Business Service have been sought as part of the consultation exercise. The Lotteries Council has also been consulted about the proposals. It represents small and large societies lotteries.

Competition Assessment

7.37 The proposed reforms are not expected to have a negative affect on competition within the lotteries market. This view is based on the fact that the proposals will double existing statutory limits on societies' lotteries stakes and prizes, to £2 million and £200,000 respectively, and permit rollovers. This will increase the range of products that these lotteries may offer and which they can compete on. The proposals also include removing the ban on money prizes for small lotteries and the introduction of a new type of lottery – small customer lotteries – both of which may encourage new entry. These initiatives are expected to more than outweigh the increased regulatory costs associated with the new regime.

Enforcement and sanctions Monitoring and review Consultation

these are all described in Chapter 1

Summary

	Option 1 Retaining the status quo	Option 2 Implementing all of the Gambling Review	Option 3 Implementing the recommendations set out in <i>A Safe Bet for Success</i> and additional Government proposals
Net increase over current regulatory costs	No additional costs	£0.54 – 0.86m	£0.43 – 0.88m
Total benefit per annum	No additional benefits	<ul style="list-style-type: none"> • Better regulation • Enhanced Customer confidence • Better choice and easier access for customers 	<ul style="list-style-type: none"> • Better regulation • Enhanced Customer confidence • Better choice and easier access for customers • Protection from problem gambling on fast lottery games • Greater clarity in the law
Other costs			

Summary

- 7.38 It is recommended that Option 3 is pursued. This would deliver the objectives set out in paragraph 7.2 but will ensure that regulation for smaller societies lotteries is more appropriately carried out by local authorities rather than the Gambling Commission. It will also ensure that National Lottery income is afforded greater protection and will be protected; that a lottery will be defined in law for the first time; and that a further category of small scale customer lottery is created.

Chapter 8: Prize Competitions

- 8.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on operators who run prize competitions (including scratchcards).
- 8.2 References to lotteries in this RIA do not include the National Lottery.
- 8.3 Prize competitions today are an important source of revenue for the media sector including television and mobile phone companies. They have also become an important element of advertising and product promotion. Their current value is in excess of £0.5 billion a year¹, and it is clear that there is potential for growth in the sector. By way of illustration Sky Broadcasting Ltd estimates that its involvement in prize competitions was worth £186m in the year up to June 2002; and that 24% of its subscribers (1.5 million households) regularly used their services. ITV drew attention to the fact that its daytime programme *This Morning* averaged 45,000 competition entries per day during the 2001/02 season and that over 3 million entries were generated by *This Is My Moment's* prize competition in 2001.
- 8.4 A report commissioned by the scratchcard industry suggested that 1.2 billion free scratchcards were distributed in the UK in 2001 which resulted in 12,000,000 Premium Rate telephone calls leading to a total call revenue of £42,000,000 distributed between British Telecom second tier operators and in VAT payments. It also generated approximately 10,000,000 postal entries. The scratchcard industry also employs 100 staff and indirectly supports another 350².

Purpose and intended effect

Objective

- 8.5 The Government does not consider that prize competitions are a form of gambling. The Lotteries and Amusements Act 1976 prohibits certain types of prize competitions. The purpose of the prohibition is to ensure that prize competitions do not offer what would in effect be betting (i.e. forecasting) or lotteries.
- 8.6 The Gambling Review Body suggested that the ban on forecasting competitions should be removed. The Government agreed the proposed Gambling Bill will allow for competitions of this sort, but will require that they be regulated as betting.
- 8.7 Section 14(1)(b) of the 1976 Act also prohibits prize competitions in which success does not depend to a "substantial degree" on the exercise of skill. The aim of this prohibition is to distinguish prize competitions from lotteries by ensuring that their outcome does not depend solely on a draw or other chance factors, but reflects the exercise of a degree of skill or knowledge.
- 8.8 There are a wide variety of prize competitions, run by media outlets such as newspapers, magazines, TV, radio and interactive media such as mobile phones

¹ Compiled from responses to the Government's consultation on prize competitions and lotteries.

² "The impact of the Budd report on the Free Scratchcard Competition Industry" March 2002.

and the Internet. Many involve payment to the organisers via premium rate telephone line or other means, and whatever the degree of skill or knowledge most involve a draw or chance element to determine the winners.

- 8.9 The Government takes the view that the current legal distinction between lotteries and prize competitions has largely broken down. Partly this is because there is no single national agency with the remit to enforce it in an effective and consistent way; but is also because the distinction is confusing and ambiguous. If the current ban on commercial lotteries is to continue, then it is important to establish a clear distinction between lotteries and prize competitions.
- 8.10 The objectives of the proposals are therefore to:
- Make sure that there is a clear distinction between prize competitions and lotteries in order to protect genuine lotteries and to ensure that their role in raising money for good causes is preserved;
 - Remove the restrictions on prize competitions in section 14 of the Lotteries and Amusements Act 1976;
 - Ensure that if a competition is run for gain then it must involve a degree of skill or offer a genuine free entry route to participants;
 - Make a clear distinction between prize competitions and betting; and
 - Provide for promotional prize draws.

Background

- 8.11 Prize competitions are those in which success depends on the skill of the participant and usually involves the answering of questions, solving puzzles, tie-breakers etc. for which a prize is awarded. They include:
- Promotional competitions linked to a product, costing the price of a stamp or a cheap telephone call to enter;
 - Competitions linked to TV or radio programmes, some involving premium rate lines;
 - Skill competitions involving a draw to decide the winner from among several, or many correct entries;
 - Commercial competitions, usually involving premium rate lines; and
 - Competitions usually based around a scratchcard which ask players to pay in order to find out what prize they have won.
- 8.12 In reviewing Britain's gambling laws, the Gambling Review Body made six recommendations concerning prize competitions. These were that:
- Commercial lotteries should not be permitted;
 - That the New Zealand model³ should be adopted here for promotional draws or competitions, rather than lotteries;
 - The cost of premium rate competitions should be minimal, possibly linking the maximum to no more than twice the cost of a first class stamp;

³ i.e. one in which draws tied to a product promotion do not have to be free to enter, so long as the cost of entering them is no more than the cost of the product.

- There should be a category of prize competition that involves the exercise of a substantial degree of skill, which may at some point in the competition involve a draw;
 - The restrictions in section 14(1)(a) of the 1976 Act preventing forecasting should be removed; and
 - That prize draws that are run only for profit should be prohibited.
- 8.13 The Government agreed that commercial lotteries should not be run in Great Britain, but concluded that the current law in this area was unclear; had not kept pace with modern technology; and that further consideration and consultation was required.
- 8.14 DCMS issued a consultation document on 23 May 2002 to stakeholders and other interested parties setting out a number of questions. Seventy responses were received. The Government considered these responses and announced its policy in June 2003. Both documents can be viewed on the Department for Culture Media and Sport's web site at www.culture.gov.uk. In summary, the Government clarified the circumstances in which a prize competition will be a lottery and therefore be deemed illegal and stated that it would:
- Repeal Section 14 of the Lotteries and Amusement Act 1976;
 - Provide that a lottery is a scheme, requiring payment to enter, in which the destination of the prize or prizes is determined entirely by chance. A scheme in which an element of skill or knowledge is needed in order to secure a prize will not, therefore, be capable of being a lottery;
 - Specify that where a draw, which is entirely by chance, genuinely does not require payment for entry, it will not be regarded as a lottery; and
 - Clarify what is meant by payment for entry into a lottery by specifying that a scheme will not be regarded as requiring payment to enter if:
 - it provides a means whereby persons can enter free of charge; and
 - the means of doing that are displayed equally as prominently as other means of entry in all material explaining or promoting the scheme; and
 - it is no less convenient to enter for free than by other means; and
 - free entries are no less likely to win all or any of the prizes advertised or on offer than entries which are paid for.
 - Make it clear that a payment which is required to claim a prize, or to find out whether or what the player has won, should be treated as payment for entry. But it will treat the submission of an entry by post or other media at the ordinary cost of reimbursing the provider of the postal or media service (e.g. a standard rate telephone call or first class postage) as being free of charge;
 - State that in promotional prize draws, as long as the good or service is sold at its usual retail price, this will not be regarded as a 'payment for entry', so the scheme will not fall within the definition of a lottery; and
 - Remove the prohibition that commercial prize competitions cannot be based on forecasting. In future such activities should be regulated as betting.

Risk Assessment

- 8.15 The concerns raised by the Government in its consultation paper, and its response to the Gambling Review's recommendations, will continue if the objectives set out in paragraph 8.10 are not met. These are:
- 8.16 *Lotteries run only for commercial profit will continue* – because the current legal distinctions between prize competitions and lotteries have largely broken down as explained in paragraph 8.9 and inherent difficulties in enforcement. A new Gambling Commission, which will be responsible for enforcing the law against unlawful gambling, including unlawful lotteries.
- 8.17 *Ambiguity in the law will continue*. There is a great deal of uncertainty within the prize competitions and lottery sectors about the meaning of the requirement of section 14(1)(b) of the 1976 Act that for a prize competition to be lawful, success in it must 'depend to a substantial degree on the exercise of skill'. There is also uncertainty about the degree of skill which is required of a prize competition if – assuming that entry requires payment – it is to avoid being classed as a lottery; and about what organisers of schemes which do not involve the exercise of skill must do to make it clear that they do not require payment to enter.
- 8.18 *Difficulties in deciding circumstances in which a scheme will fall within the definition of a lottery will continue*. The proposed Gambling Bill will clarify this and will provide that a lottery is a scheme, requiring payment to enter, in which the destination of the prize or prizes is determined entirely by chance. Therefore:
- A scheme in which a degree of skill or knowledge is needed in order to secure a prize will not, therefore, be capable of being a lottery; and
 - Where a draw, which is entirely by chance, genuinely does not require payment for entry, it will not be regarded as a lottery.
- 8.19 Many prize competitions and prize draws currently employ so-called free entry routes which nevertheless do effectively require the participant to make a payment, such as by premium rate telephone call, in an effort to avoid being caught by lottery law. To avoid this abuse of lottery law, the Bill will provide clarity about what is meant by payment for entry into a lottery.

Options

- 8.20 There are three broad options in reforming the law on prize competitions.

Option 1 – *leave the relevant legislation unchanged*

- 8.21 This would not meet the objectives set out in paragraph 8.10 and will retain the risks identified in paragraphs 8.15 – 8.18.

Option 2 – *implement the changes proposed in the Gambling Review Report*

- 8.22 This will meet the first objective ensuring that commercial lotteries are not run for commercial gain but the Government did not think that there was a clear consensus on the way forward on the other recommendations made by the Gambling Review Body and that further consideration and consultation was needed.

Option 3 – *implement the changes set out in the Government’s statement on prize competitions and lotteries*

- 8.23 This option will meet the objectives set out in paragraph 8.9 and will address the risks set out in paragraphs 8.15 – 8.18. It should provide for a clear and enforceable distinction between lotteries and prize competitions.
- 8.24 As explained in paragraph 8.17, uncertainties with the definition of “a substantial degree of skill” in Section 14 of the Lotteries and Amusements Act 1976 have led to difficulties in interpretation and whether the structure of competitions is lawful. The abolition of Section 14 and the new regime described in paragraph 8.14 should remove these uncertainties. It should also be easier for those running product promotional draws as they will no longer have to offer a free entry route to avoid being an illegal lottery and they can require customers to buy the product to enter the draw provided it does not cost any more than its retail price.
- 8.25 Some operators may have to alter the nature of the competitions they run to ensure that they comply with the new law and there may be costs relating to this but revenue for most firms should increase as a result. The benefits are explored in more depth in paragraph 8.28 and the risks to scratchcard operators in paragraph 8.29.

Benefits

Option 1 – *leave the relevant legislation unchanged*

- 8.26 There will be no additional benefits other than those enjoyed by current legislation.

Option 2 – *implement the changes proposed in the Gambling Review Report*

- 8.27 As stated elsewhere in this RIA, the Government was not convinced that the issues had been fully explored and analysis of the benefits has not therefore been made.

Option 3 – *implement the changes set out in the Government’s statement on prize competitions and lotteries*

- 8.28 The benefits of changing the prize competition laws are as follows:
- *More information* for those participating in the competition. For instance those operators who are offering a free entry route to ensure that their competitions are not illegal lotteries, will have to ensure that the free entry route is just as prominent and as easy to use as paid for entry;
 - *Added protection* for participants by ensuring that players do not pay any more for a prize than its actual costs;
 - *Clearer laws* as detailed above to ensure that lotteries are run only for good causes. The Gambling Commission will have powers to deal with prize competitions that are clearly illegal lotteries. Many firms operating prize competitions pointed to the fact that current legislation was unclear about the level of skill required to ensure legality, and the difficulty of choosing

winners from correct entries that had been received. It will give businesses more confidence that the products they are offering are within the law.

- *A sustainable prize competition industry* – the proposed legislation will help legitimise the industry by clarifying what is and what is not permitted, and ensure that prize competitions can grow at a sustainable rate in the future.

Equity and fairness

- 8.29 The scratchcard industry may be affected to a greater degree by the proposals in the Gambling Bill, as their existing products usually require no skill (results are obtained by scratching panels to reveal symbols). To ensure that they are not deemed illegal lotteries under these proposals, they will have to add a skill or knowledge element, or they will have to offer a free entry route which is just as prominent and as easy to use and gives an equal chances of winning.
- 8.30 The Lotteries Council has expressed a concern that the Government's proposals will reduce future returns to good causes derived from lotteries. This could put a strain on the resources of some charitable organizations that rely on money from societies' lotteries.

Business sectors affected

- 8.31 Prize competitions are offered by a wide range of media companies. Many involve the phone, in particular premium rate lines. Print and broadcast media – newspapers, magazines, TV, radio – are other important distribution media, as is the post, the Internet, and voice and text messaging. It is also possible that charitable organisations that rely on good cause funding from lotteries, could be impacted by the proposed new legislation, albeit indirectly.

Costs

Option 1 – *leave the relevant legislation unchanged*

- 8.32 Prize competition operators are not subject to regulation by the Gaming Board and do not pay any licence fee to the Board. To remain within the law, they must comply with Section 14 of the Lotteries and Amusement Act 1976. Failure to do so could lead to prosecution. They are, however, bound to abide by Codes of Practice of other bodies such as the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS), the Independent Television Commission (ITC) and the Radio Authority. ICSTIS sets and reviews standards relating to content and promotion of premium rate phone services and the ITC and Radio Authority standards and practice in advertising and sponsorship in broadcasting.

Option 2 – *implement the changes proposed in the Gambling Review Report*

- 8.33 As stated elsewhere in this RIA, the Government was not convinced that the issues had been fully explored and analysis of the costs of this option has not therefore been made.

Option 3 – *implement the changes set out in the Government's statement on prize competitions and lotteries*

- 8.34 Operators will, as now, be required to determine whether the competitions they run are within the law and within the codes of practice issued by regulators such as ICSTIS. The Gambling Commission will issue guidance to the organisers of prize competitions and promotional draws on what they should do to ensure that their offerings are legal competitions and not unlawful lotteries. This should make it easier for operators to decide whether the contents of competitions are within the law than is currently the case and should reduce their costs accordingly. The costs of these codes and who should meet them have yet to be decided.
- 8.35 Some operators may have to review the competitions that they run to ensure that they continue to operate within the law. The costs will vary from operator to operator and may involve staff and/or lawyers; possible change in the way the competition is run and new information requirements.
- 8.36 There may be some savings for regulators such as ICSTIS, the ITC and the Radio Authority through clarification of the law. The Radio Authority, for instance, handles a number of complaints each year dealing with the question of whether a particular competition has infringed its Code of Practice and these should reduce as a result of the proposed Bill.

Costs of Options 1 & 3	
Current costs – Option 1	Compliance with the current law and ICSTIS, ITC and Radio Authority codes of practice as appropriate. No direct licence fees to cover the cost of regulation.
Future costs – Option 3	Compliance with the current law and ICSTIS, ITC and Radio Authority codes of practice as appropriate. No direct licence fees to cover the cost of regulation. Gambling Commission costs of issuing codes of practice for prize competitions, costs, and who will meet them yet to be determined.

Small Firms Impact Test

- 8.37 The views of the Small Business Service have been sought as part of the consultation process on the gambling review. The Government said in the statement that it made to Parliament, and which was sent to stakeholders, that it would continue to open to suggestions on how the proposals for the law in this area might be developed and would be happy to discuss them with those who might be affected.

Competition Assessment

- 8.38 The likely competitive impact of the prize competition proposals is positive overall, although the impact varies depending on the specific product being considered.
- 8.39 Scratchcard operators, for example, may become less competitive under the proposals. Because many scratchcards do not currently require an element of skill, a significant proportion of current scratchcards would be classified as an illegal lottery under the proposed new regime. However, these operators will have the opportunity to add an element of skill or knowledge to their product offerings, and therefore retain their legal status. Therefore, the scratchcard proposals are not expected to increase barriers to entry significantly, and possibly not materially.

- 8.40 Barriers to entry to the prize competition market as a whole will be reduced by the proposal to dilute the test of what constitutes a prize competition, from one which requires a “substantial” degree of skill, to one which requires a “degree” of skill. Whilst this ‘test’ will still require some interpretation, it effectively lowers the threshold for prize competitions, and should make it easier for new entrants to enter the market and increase the level of competition amongst incumbents.
- 8.41 The proposals related to product promotional draws are not expected to have a negative impact on competition. Under current legislation, promoters have to offer a free entry route to avoid being deemed an illegal lottery, given that there is usually no skill or knowledge involved in such promotions. Under the proposed new legislation, however, product promotions will be permitted so long as the product concerned costs no more than its normal retail price. This should make it easier and more attractive for companies to operate this type of prize competition, but may not necessarily result in more promotions being undertaken.

Enforcement, sanctions, monitoring and review

- 8.42 The Gambling Commission will issue guidance to operators of prize competitions, and will monitor the effectiveness by the number of complaints it receives and the number of competitions that fail to meet the guidance and which are deemed to be illegal lotteries. The Commission will liaise closely with other regulators such as ICSTIS to increase protection for the public from fraud. Operating an illegal lotteries will be an offence and could lead to prosecution.

Consultation

- 8.43 This is set out in Chapter 1 and paragraph 8.14.

Summary

Option	Total cost per annum	Total benefit per annum
1. Retaining the status quo	No additional costs	No additional benefits
2. Implementing the changes set out in the Gambling Review Report	The Government was not convinced that the issues had been fully explored and analysis of the costs and benefits of this option has not therefore been made.	
3. Implement the changes set out in the Government’s statement on prize competitions and lotteries	1. Costs of Guidance for industry yet to be determined. 2. There will be some costs to operators in checking compliance with the new law. This will vary from operator to operator 3. Some small saving to organisations such as the Radio Authority in handling complaints.	<ul style="list-style-type: none"> • Better information for those participating in the competition; • Added protection for participants; • Clearer laws to ensure that lotteries are run only for good causes.

- 8.44 It is recommended that Option 3 be pursued. This will deliver the Government's objectives to clarify the law make sure that there is a clear distinction between prize competitions and lotteries in order to protect genuine lotteries and to ensure that their role in raising money for good causes is preserved. It will provide better information, added protection from unfair practices and better choice for those participating in competitions and make compliance with the law easier for business. Costs for business will be minimal although it has yet to be decided where these costs will fall.

Chapter 9: Review of National Lottery Licensing and Regulation (Licensing Changes)

9.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on National Lottery licensing and regulation.

Purpose and intended effect

Objective

9.2 The Government published a consultation document in June 2002 which sets out options for changes to the arrangements for licensing and regulating the National Lottery. It set out three specific objectives, which are:

- Ensuring that the National Lottery raises as much income as possible for good causes without weakening necessary protections;
- Ensuring effective competition for its operation; and
- Maintaining public confidence in the National Lottery and the arrangements for running it.

9.3 This document sets out the responses to the Government's consultation exercise and the Government's conclusions in relation to licensing. A separate RIA has been prepared on changes to the machinery of regulation. In line with the approach set out in the consultation document, the Government does not envisage any changes to the basic concept of the National Lottery as the only large-scale lottery allowed in the United Kingdom and whose purpose is to maximise income for good causes that they would not otherwise receive from public funds. But the proposals set out in the decision document identify changes to legislation that the Government intends to make to introduce greater competition into the licensing of the National Lottery.

Background

9.4 The 1993 and 1998 Lottery Acts set down the framework within which the UK National Lottery is operated and established the National Lottery Commission (NLC) to licence and regulate the operator. The Acts do not prescribe the design of the Lottery: it is for companies wanting to run the Lottery or promote games within it to develop their own proposals. So, for example, game design, prize structure and distribution mechanisms are all left unmentioned in the legislation. What the Acts do is lay down the control framework within which the Lottery is to be managed.

9.5 This framework recognises four key parties:

- The Secretary of State, whose overriding duty is to ensure that the Lottery is run properly and that players' interests are protected and subject to that, to maximise the income for good causes. The Secretary of State has the power to give directions about how the Lottery is to be licenced, and to make regulations about how it is run.

- The NLC whose duties mirror those of the Secretary of State. The key function of the NLC is to issue and enforce licences for the operation of the Lottery. There are two kinds of licence: a licence under section 5 of the 1993 Act, which is granted to a company to run the National Lottery; and one or more licences under section 6 of that Act, granted to companies to promote lotteries as part of the National Lottery.
- The section 5 licensee: currently Camelot. The present law allows for only one section 5 licence to be issued. It is the responsibility of this licensee to provide the technical, retailing and marketing infrastructure within which section 6 licensees can operate, and for ensuring that payments to prizewinners, the NLDF, and the Exchequer are made.
- The section 6 licensee(s), responsible for the games. At present Camelot holds all section 6 licences.

9.6 Following publication of the Gambling Review Body's report, the Government's response – '*A Safe Bet for Success*' – and the publication of the National Audit Office's (NAO) report into the award of the last licence¹, the Government has reviewed the structure of licensing and regulation through the consultation document issued in June 2002². In reaching its decisions the Government has also had the benefit of the Committee of Public Accounts' report into the award of the last licence³.

Risk assessment

9.7 There is a risk that there will not be effective competition for the licence to run the National Lottery when the current licence ends in 2009. Eight applications for the first seven-year licence were submitted. The NLC decided to run a competition for the second licence along the same lines as the first, which resulted in only two compliant bids, although several companies had expressed an interest in bidding. The NAO report on this process considered how successful the NLC had been in achieving genuine competition for the second licence. It concluded that while there had self-evidently been a reduction in the number of bidders from 1994, the level of competition was comparable with that of other countries who run a national lottery on a similar basis. The Committee of Public Accounts has also expressed its concern about the risk that there will be no effective competition for future licences. It also considered that the incumbent operator, who has an inherent competitive advantage, will have held the licence for 14 years by the time the next licence is due to be awarded.

Options

9.8 An option is to make no change to the existing legislation and to look to the NLC to improve the arrangements for selecting a National Lottery operator next time within the existing legislation.

9.9 The Government has also consulted on four more radical options. The more radical options would require legislation and the following appear possible:

¹ "*Awarding the new licence to run the National Lottery*" Report by the Comptroller and Auditor General HC803 Session 2001-2002: 10 May 2002.

² "*Review of Lottery licensing and regulation: consultation document*" DCMS June 2002.

³ "*Awarding the new licence to run the National Lottery*" Committee of Public Accounts' Sixty-Fifth Report of Session 2001-2002: HC881, 6 December 2002.

Option 1 – separation of infrastructure and Lottery products

9.10 Under this option, the NLC would offer separate licences for the provision of Lottery infrastructure, supplied and maintained to specific standards, and for the management of the Lottery using the systems supplied. The second licensee would therefore be responsible for game and prize design, marketing, the collection of sales income and all other functions. There would be no reason to exclude one company from applying for or holding both licences, if it made the best bids; but the essence of the option is that there should be separate competitions for distinct licences. If different companies held the two licences, they would have to work together to develop and operate the portfolio of games comprising the Lottery.

Option 2 – NLC runs the Lottery through the private sector

9.11 Under this option, the NLC would become more than the body responsible for licensing the operator or operators. It would follow the route taken by most overseas lotteries and become responsible itself for the operation of the Lottery. This option would be intended to address the points that could be argued against Option 1 (discussed at section 4 below), so that the NLC would not have to hold the ring between independent licensees.

9.12 The most direct way of realising this option would be for the NLC to let a contract for the infrastructure of terminals and communications, and then licence one or more companies to supply games products. In principle, this could supply substantial flexibility. The NLC might, for example, issue one licence for the main on-line game, a second for scratchcard games and a third for new Internet games. Alternatively, and again in principle, it would be possible, for example, to issue separate licences for Wednesday and Saturday draws. They could have different formats and prize structures. Any rollovers would run for a week rather than to the next draw. There are a number of possible variations on this licensing theme. But the key points are that private sector operators would be responsible for developing and managing these games using the NLC's systems, and each would have the same relationship with the NLC. There would not be a section 5 licensee in charge of the whole operation. The NLC would be in charge, and would therefore have to decide whether the games that it licenced should be marketed and sold by their licensees, within an overall strategy which it laid down, or whether it should itself be responsible for sales and marketing through a further private sector contractor (as happens, for example, in Texas).

Option 3 – Maximum flexibility

9.13 This option is one, which by definition cannot be firmly characterised now. It is based on the view that the gambling market is changing fast and the Government is creating more opportunities in this area through its proposals as set out in 'A Safe Bet for Success'. Therefore, by the time we get nearer the end of the second licence period the needs of the Lottery may call for solutions that are not now obvious. It is not impossible that a much wider range of infrastructure suppliers will be available, as doubts about the scalability of smaller systems are resolved. The growth of interactive platforms for gambling products could change the nature of the Lottery operation and the expectations of the public. Such

thoughts prompt the idea that it might not be sensible to embed in relatively early legislation any specific structure for the organisation and management of the Lottery. On this approach, amending legislation would remove the section 5 and section 6 licence requirements, and instead give the NLC discretion to decide at the time what the best approach would be: whether to maintain the current split licensing structure or bring forward one of the more radical options discussed in this document.

Option 4 – A National Lottery operating company

- 9.14 This option would essentially involve the separation of the question of which company should operate the Lottery from the question of ownership of that company. There would be a permanent private sector operating company, holding a section 5-type licence; but it would not necessarily keep the same shareholders and top management. The NLC would run periodic competitions in which companies would bid to run the operating company. It would require Camelot's current shareholders to sell their interests in the company, at an agreed price, to a new set of shareholders, unless of course the incumbent owners and top management team put forward the best bid.
- 9.15 Such an option would have strong parallels to the transfer of television broadcasting franchises. A prospective new franchisee does not have to develop a wholesale alternative to the incumbent's personnel and plant: the only things that have to change are the shareholders and top management, reflecting a different view of what the company should provide and how it should be directed. In the case of the Lottery the new shareholders would take over all contracts, including those of the staff working on sales, games, accounts, infrastructure and all other continuing operations. It would then be for the new owners to run the company as efficiently and effectively as possible, making such changes in staff or plant, as they judged necessary over time.

Risks and Benefits

- 9.16 The Government has considered the option of making no change to the existing legislation and looking to the NLC to improve the arrangements for selecting a National Lottery operator next time. Such improvements could include a two stage bidding process, less detailed information during the early stages, a more prescriptive bidding framework, an extension of the licence period and key supplier phased competitions. However, on their own they may not be enough to ensure that there is effective competition at the end of the current licence period in 2009.

Option 1 – Separation of infrastructure and Lottery products

- 9.17 The consultation document identified possible benefits and risks from this approach which would include:

Benefits:

- Separate companies would make it easier, on the face of it, for more companies to compete. The number of technology suppliers would no longer constrain the number of bidding consortia; and

- The NLC would be less likely to find itself in a situation in which it had to balance one bid which was strong on technology but weaker on game innovation against another where it was strong on game innovation but weaker on technology.

Risks:

- The separation of the licences would be analogous to the split of responsibilities for the railways. The Lottery infrastructure would correspond to the track, stations and signalling equipment, the game portfolio to the rolling stock using them. This parallel must raise concerns that, as in the case of railways, there could be scope for disputes about where responsibility lay for problems or poor performance and who should pay what for the action needed to address them. Indeed, the distinction between games and infrastructure is arguable less sharp than between track and trains, especially if the Lottery involves increasing use of the Internet, interactive television and new mobile communication networks, not just distribution mechanisms for selling tickets but as parts of new games themselves. The separation of infrastructure has been less problematic in the case of the other industries; but the relationship between different Lottery licencees would be complex, and would have to be actively managed: the NLC would have to acquire a new capacity and expertise;
- This option could also restrict the ability of the Lottery to innovate and be flexible. The requirements sought of the infrastructure licencee at the time of the competition might be apt for circumstances applying and foreseeable then, but less apt for circumstances several years into the licence period. It is not clear what incentives or levers could be used to encourage improved responsiveness and willingness to innovate. This is partly because it is not clear under this option how and on what basis the infrastructure licencee would be paid. It would have no direct source of income: it would have to be paid either by the NLC or by the other licencee. It could be argued that in either case the relationship should be seen more naturally as one of contract rather than licence; and
- The requirement to have two licence competitions would lengthen the licensing process and potentially introduce more uncertainties into it.

Option 2 – NLC runs the Lottery through the private sector

9.18 The consultation document identified possible benefits and risks from this approach which would include:

Benefits:

- This option, like the first more radical option, would involve breaking the Lottery down into constituent parts, and so potentially bring about greater competition for smaller and more manageable elements of the operation;
- It would also be possible to see competition beyond the point of the licensing decision: if, for example, midweek and Saturday draws were run by different companies then their effectiveness in selling tickets could be compared; and
- The infrastructure would be provided on behalf of the NLC, so the NLC could drive changes to it – at a cost.

Risks:

This option would not avoid all the problems arising under radical Option 1:

- The overall Lottery competition would become more complex than it is now. The coordination of separate licences and contracts would be a substantial management challenge, not least because the NLC would want competition between the licencees to result in overall growth rather than simply transferring sales from one product to another;
- The available evidence suggests that national lotteries managed by public bodies are less efficient, and the NLC has no track record of management of the kind required. Part-time Commissioners could not possibly run it as now;
- It has been argued – by Camelot amongst others – that any large lottery works best when run as a single integrated business with a clear unity of purpose. There are successful lotteries that are exceptions to this rule. But in the UK context this option would involve a large step into the unknown;
- It might be difficult for the NLC both to be responsible for the operation of the Lottery and its regulation in the public interest. There are of course precedents for public bodies to regulate their own activities: in the gambling context the Tote provides one. It has an exclusive licence to provide pool betting on horseracing and is its own regulator. But there are fixed odds alternatives for dissatisfied punters. For people who want to play a lottery there are smaller society lotteries to choose between. But there is nothing to rival the National Lottery for prizes; and
- Having different companies running main draws could be confusing for some players, especially if they used different formats and were differently branded.

Option 3 – Maximum flexibility

9.19 The consultation document identified possible benefits and risks from this approach which would include:

Benefits:

- This option would have the benefit of flexibility. As it would allow some of the features of some of the other more radical options it could attract similar benefits.

Risks:

- This option would place on the NLC a responsibility which would not only be onerous but arguably one which should be for Parliament. Apart from anything else, the NLC would not be a disinterested body. One model would give it far more responsibility and require substantially greater resources than another. It might be possible to construct a provision that made the choices subject to approval; and
- This option would lose much of its apparent value if it turned out that the decision at the time was no easier than it is now. It would also inevitably elongate the process. The NLC would have to decide not just the form of the competition before launching it, but a whole set of prior basic questions to do with licences and contracts.

Option 4 – A National Lottery operating company

9.20 The consultation document identified benefits and risks from this approach, which can be summarized as follows:

Benefits: This option would provide a high degree of continuity for the Lottery operation:

- Camelot's workforce would be retained, and there would be no risk of a wholesale loss of experienced staff fearing that the company would lose its licence as a new licensing round approached;
- At the same time competitions would be more inviting for prospective bidders: they would bid to take over a going concern, rather than starting from scratch; and
- The NLC could keep its present form: indeed its task would be eased. Instead of having to make one very large decision every seven years, it would be able to evaluate a series of changes over time as the company's new owners brought proposals forward, so that the NLC's workload would have a less lumpy profile, as it would be responsible for checking key suppliers' competence and propriety at staged points during the licence period.

Risks: Against these benefits a number of drawbacks have to be considered:

- Every competition involves a mixture of objective and subjective considerations. Whatever might be said now, it is probable that a competition under this model would place increasing weight on the latter;
- The establishment of a permanent operating company could then make it more difficult for the NLC to act if the hopes reflected in its decision were disappointed: radical changes would be closed off;
- The option places a lot of weight on the premise that, while the Camelot operation might be capable of marginal improvement and innovation, the day-to-day operations are basically as good as they can be. It is not clear why another set of shareholders would have stronger incentives to put the company's assets to more productive use; and the assurance of permanence could itself lead to a loss of edge and drive; and
- It might be hard to assess what price Camelot (or future owners of the company) should receive. Camelot does not itself own substantial assets, and what it does own should fully written down by the end of the licence period. But the price paid could still prove controversial; and the basis for it would have to be agreed with Camelot during the current licence period.

Issues of equity and fairness

9.21 None have been identified.

Costs

9.22 This section estimates the regulatory and compliance costs attributable to the National Lottery Acts, and compares this with the estimated costs under the radical options discussed elsewhere in this RIA.

Option 1 – No change option

- 9.23 The NLC is the regulator for the UK National Lottery. The main compliance costs associated with the current regulatory framework are:
- Bidding costs for section 5 licence;
 - Bidding costs for section 6 licences; and
 - Costs involved in complying with licence conditions.
- 9.24 The NAO report identifies that “based on reported experience from the competition for the first licence, the Commission believed that the direct costs of bidders were likely to be between £3 million and £4 million.” This is consistent with the £3.3 million “win related costs” (excluding £8.7 million paid out in “win bonuses”) reported by Camelot in securing the second operating licence⁴. Based on these estimates, the total cost of the second section 5 licence bidding round, in which there were two bids, is estimated at between £6-£8 million. In addition, the winning bid needs to pay a licence fee, currently £70,000.
- 9.25 The compliance costs associated with bidding for section 6 licences are unknown. Of all the section 6 licences issued by the Commission during the first licence period, all but one was issued to Camelot (the section 5 licence holder). The only identifiable bidding cost attributable to section 6 licences is the £20,000 licence fee payable upon grant.
- 9.26 The section 5 and 6 licence conditions are comprehensive and detailed. While the costs associated with complying with these conditions is unknown, they are assumed to be significant.

Proposals – options 2-4

- 9.27 The government proposes that the NLC should remain the regulator of the Lottery, and that it remains outside the proposed Gambling Commission. This is considered in more detail in the separate RIA on machinery of regulation.
- 9.28 Options one and four do not involve any material change to the NLC mandate and budget, and therefore regulatory costs under these options should remain relatively constant. Option three may result in higher or lower regulatory costs, depending on the choices made by the NLC at the time. Under Option two, the NLC would take on responsibility for operating the Lottery, a function currently undertaken by the section 5 licence holder and whilst this may result in higher regulatory costs – estimates of the scale of this increase are difficult to make – this would not necessarily lead to an increase in total regulatory and compliance costs, because it involves a comparable reduction in compliance costs currently incurred by the section 5 licence holder.
- 9.29 In terms of compliance costs, the average unit cost of bidding for a section 5 licence may decline under each of the proposed options (because of the potential for the section 5 licence to be broken up). However the impact on total bidding costs is unknown because a greater number of bids is expected under each of the more radical options (i.e. extra competition). Assuming that each of the proposed more radical options results in more competition for licences, the compliance costs associated with bidding for these licences may increase.

⁴ Camelot Annual Report and Financial Statements 2002.

- 9.30 With the exception of Option two, none of the options would necessarily result in different licence conditions and compliance costs (compared with the status quo). As noted above, Option two would probably result in lower compliance costs because the section 5 licence holder would no longer be responsible for operating the lottery.
- 9.31 In summary, there may be a slight upward bias to total regulatory and compliance costs under the more radical options. The magnitude of this change is unknown at this stage.

Consultation with small business

- 9.32 The Small Business Service has been consulted about the proposed changes. The legislative changes proposed in this document do not directly affect small firms. Small firms are currently involved in the Lottery, mainly as ticket retailers but decisions about which retailers receive Lottery terminals are a matter for the operator. Nevertheless, the proposed changes increase the potential for smaller companies to become involved in the National Lottery.

Competition Assessment

- 9.33 The Office of Fair Trading has been consulted about the competition assessment. The proposed changes to the National Lottery licensing and regulatory regime increase the potential for competition in (a) the operation of the Lottery, and (b) the provision of specific Lottery products – the two interrelated markets to which these proposals relate. Indeed, this is one of the primary objectives of the proposal.
- 9.34 Under current legislation, there can be only one operator of the National Lottery (i.e. section 5 licence holder). Further, while there can be more than one provider of Lottery games (i.e. section 6 licence holder), these can be granted only with the agreement of the operator. The NLC cannot currently require the section 5 licensee to let in other companies. During the first licence period Camelot had only one agreement with another company, when Vernon Pools were granted a section 6 licence to operate one game. It was not thought to be a success. Since then Camelot has held all section 6 licences.
- 9.35 Each of the four more radical options (outlined above) provides the opportunity for more than one operator of the Lottery, and hence the introduction of competition to this market which is currently dominated by a single operator.
- 9.36 The proposals should also make the market for Lottery game provision more contestable, by removing the requirement in the 1993 Act that any section 6 licencees can promote a game within the National Lottery only under agreement with the section 5 licensee. Such changes would reduce barriers to entry and provide greater opportunities for new entrants to specialise in the provision of specific Lottery products, e.g. online, scratchcards, etc.
- 9.37 While the existing operator may have an advantage over potential new entrants, in terms of having a proven track record (thereby providing a barrier to new entrants), this factor is outweighed by the pro-competitive elements of the proposals including the ability of the NLC to issue more than one licence for different parts of the Lottery operation.

Enforcement and sanctions

9.38 The proposal, as with arrangements under the current licence, will be enforced by the NLC, as regulator of the National Lottery. As part of the licence issued to the operator, it has a range of sanctions available for non-performance or non-compliance. The proposal includes no new sanctions for future operators.

Monitoring and review

9.39 The key test for the effectiveness of the proposals will be the extent of effective competition at the time of the next licence competition in 2009. The Government would expect the NLC to assess the effectiveness of competition following the conclusion of the next licence competition.

Consultation

9.40 In developing both the consultation document and this document, note has been taken of those who responded to the consultation exercise and recommendations put forward by the Culture, Media and Sport Select Committee, the Committee of Public Accounts and the National Audit Office.

9.41 10 responses were received from the public, private and voluntary sectors. Most responses broadly favoured options for change within the current framework, whereby the Lottery is delivered by the private sector.

9.42 **Option 1** (*separation of infrastructure and Lottery products*): There was no support for this option. There was general agreement that lotteries work best when run as integrated businesses and there was a need to maintain a balanced portfolio of games that would deliver significant jackpots and avoid a large number of jackpot games reducing the level of the main jackpot game.

9.43 **Option 2** (*NLC runs the Lottery through the private sector*): There was no support for this option. The general view was that the private sector was best placed to plan and manage commercial activities requiring investment, innovation and risk.

9.44 **Option 3** (*maximum flexibility*): There was limited comment on this option. Those who did respond considered that this option could create uncertainty that might serve to discourage competition. Nevertheless, there was agreement that the regulator would require some flexibility for the next licensing round, so that it would take account of market conditions prevailing at the time.

9.45 **Option 4** (*A National Lottery operating company*): Most of the respondents opposed this option, seeing it as creating uncertainty without potential compensating benefits.

Summary and recommendation

9.46 The Government has concluded that while there is scope, without legislation, for the NLC to improve the arrangements for selecting a National Lottery operator this will not go to the heart of the problem. The Government has therefore decided that more fundamental change is needed. While preserving the best of the current system, the law needs to give the NLC much more flexibility to bring different companies into the Lottery to maintain its freshness and the breadth of its appeal broadly in line with Option 3.

- 9.47 Therefore, the Government proposes to end the requirement that the NLC issue just one operator licence for the National Lottery. Instead, the Government proposes that the NLC should be empowered – after consulting on its licensing plans – to offer a number of new-style operating licences covering different aspects of the delivery and marketing of the Lottery. Decisions on what offers the best combination of efficiency will require an assessment by the NLC nearer the time, after carrying out research and talking to potential suppliers. But there is scope for much greater competition at all stages, not least because a single section 5 licence is a large challenge which very few companies could contemplate taking on. The NLC would also have flexibility to offer licences for different time periods, taking account of the investment required and the rate of technological change.
- 9.48 Such a change will meet the Government’s intention to introduce greater competition into the operation of the Lottery by allowing a wider range of companies to participate in the Lottery. It would also offer the opportunity for companies of varying sizes and with different specialisations to participate in the Lottery – although the most important consideration will remain the amount any operator is able to raise for good causes. This should ensure that public confidence is maintained in the National Lottery and the arrangements for running it.

Chapter 10: Review of National Lottery Licensing and Regulation (Machinery of Regulation)

10.1 This Regulatory Impact Assessment (RIA) assesses the impact of the measures to be included in the proposed Gambling Bill on National Lottery licensing and regulation.

Purpose and intended effect of measure

Objective

- 10.2 The Government published a consultation document in June 2002 which set out options for changes to the arrangements for licensing and regulating the National Lottery. It set out three specific objectives, which are:
- Ensuring that the National Lottery raises as much income as possible for good causes without weakening necessary protections;
 - Ensuring effective competition for its operation; and
 - Maintaining public confidence in the National Lottery and the arrangements for running it.
- 10.3 This document sets out the responses to the Government's consultation exercise and the Government's conclusions in relation to machinery of regulation. A separate RIA has been prepared on the proposed changes to licensing. In line with the approach set out in the consultation document, the Government does not envisage any changes to the basic concept of the National Lottery as the only large-scale lottery allowed in the United Kingdom and whose purpose is to maximize income for good causes that they would not otherwise receive from public funds. But the proposals set out in the decision document include changes to the machinery of regulation that the Government intends to make.

Background

Legislative framework

- 10.4 The 1993 and 1998 Lottery Acts set down the framework within which the UK National Lottery is operated and established the National Lottery Commission (NLC) to license and regulate the operator. The Acts do not prescribe the design of the Lottery: it is for companies wanting to run the Lottery or promote games within it to develop their own proposals. So, for example, game design, prize structure and distribution mechanisms are all left unmentioned in the legislation. What the Acts do is lay down the control framework within which the Lottery is to be managed.
- 10.5 This framework recognises four key parties:
- The Secretary of State, whose overriding duty is to ensure that the Lottery is run properly and that players' interests are protected and subject to that, to maximise the income for good causes. The Secretary of State has the power to give directions about how the Lottery is to be licensed, and to make regulations about how it is run.

- The NLC whose duties mirror those of the Secretary of State. The key function of the NLC is to issue and enforce licences for the operation of the Lottery. There are two kinds of licence: a licence under section 5 of the 1993 Act, which is granted to a company to run the National Lottery; and one or more licences under section 6 of that Act, granted to companies to promote lotteries as part of the National Lottery. The role of the NLC is described in greater detail below.
- The section 5 licensee: currently Camelot. The present law allows for only one section 5 licence to be issued. It is the responsibility of this licensee to provide the technical, retailing and marketing infrastructure within which section 6 licensees can operate, and for ensuring that payments to prizewinners, the NLDF, and the Exchequer are made.
- The section 6 licensee(s), responsible for the games. At present Camelot holds all section 6 licences.

10.6 Following publication of the Gambling Review Body's report, the Government's response – '*A Safe Bet for Success*' – and the publication of the National Audit Office's (NAO) report into the last licence¹, the Government has reviewed the structure of licensing and regulation through the consultation document issued in June 2002². In reaching its decisions the Government has also had the benefit of the Committee of Public Accounts' report into the award of the last licence³.

National Lottery Commission

- 10.7 The NLC is the statutory body created under the National Lottery Acts responsible for licensing and regulating the National Lottery. Under the National Lottery Acts the NLC has a duty to:
- Ensure that the National Lottery, and every lottery that forms part of it, is run with all due propriety;
 - Ensure that the interests of every participant in the lottery are protected; and
 - Subject to these two duties, to do its best to secure that the proceeds of the National Lottery are as great as possible.
- 10.8 The NLC has the following functions:
- To issue a licence to authorise a body corporate to run the National Lottery (under section 5 of the Act). Only one such licence may be in force at any one time;
 - To issue licences to authorise a body corporate to promote lotteries as part of the National Lottery (under section 6 of the Act). Each game that forms part of the National Lottery is subject to such a licence; and
 - To ensure that the provisions of the licences that it grants are complied with. The NLC has a range of remedies available to it, which include publicly recording licence breaches, powers to fine, powers to seek enforcement in the High Court, and, in extreme cases, revocation.

¹ '*Awarding the new licence to run the National Lottery*' Report by the Comptroller and Auditor General HC803 Session 2001-2002: 10 May 2002.

² '*Review of Lottery licensing and regulation: consultation document*' DCMS June 2002.

³ '*Awarding the new licence to run the National Lottery*' Committee of Public Accounts' Sixty-Fifth Report of Session 2001-2002: HC881, 6 December 2002.

- 10.9 In its role as independent regulator of the National Lottery, it ensures that the correct payments are made to the National Lottery Distribution Fund (NLDF). The NLC has no responsibility for the distribution of grants from the fund; this is the responsibility of the distribution bodies.
- 10.10 The NLC is a non-departmental public body funded by vote from Parliament. Its net expenditure is recovered from the NLDF and licence fees.

Risk assessment

- 10.11 There is a risk that there will not be effective competition for the National Lottery when the current licence ends in 2009. Eight applications for the first seven-year licence were submitted. The NLC decided to run a competition for the second, licence along the same lines as the first, which resulted in only two compliant bids, although several companies had expressed an interest in bidding. The NAO report on this process considered how successful the NLC had been in achieving genuine competition for the second licence. It concluded that while there had self-evidently been a reduction in the number of bidders from 1994, the level of competition was comparable with that of other countries who run a national lottery on a similar basis. The Committee of Public Accounts has also expressed its concern about the risk that there will be no effective competition for future licences. It also considered that the incumbent operator, who has an inherent competitive advantage, will have held the licence for 14 years by the time the next licence is due to be awarded.

Options

- 10.12 In addition to the licensing changes described in a separate RIA, the consultation document also suggested changes to the machinery of regulation. The status quo option would leave the National Lottery regulated by the NLC.
- 10.13 Some of the options described in the separate RIA on licensing changes would change the NLC's functions and size but they are not significant when set against the total potential costs and benefits arising from the licensing changes themselves. But in any event the consultation document considered whether there is a case for:
- Separating the NLC's current functions of licensing the Lottery and regulating it; or
 - Whether there is a case for bringing the regulation functions within the new Gambling Commission, which the Government proposes to establish for the rest of the gambling sector.
- 10.14 The consultation document also considered a number of options for change in the way in which the NLC is organised:
- **Chair:** the requirement of the 1998 Act that the role of chairing the NLC should rotate at least annually has caused difficulties in continuity and has few friends;
 - **Executives:** The 1998 Act does not expressly preclude the appointment of a Commissioner who is also the chief executive, but leaves it unclear whether such an appointment could be made;

- **Flexibility of size:** In normal circumstances the NLC with five, all part-time, members is large enough to carry out the responsibilities set out in the 1993 and 1998 Acts. But, the process of selecting and licensing a new operator is a substantial responsibility of a different kind, requiring a wider range of expertise. This is considered further below but the case for setting up a special body, separate from the NLC, just to run a section 5 competition when one is needed is hard to argue. There may be a case for empowering the NLC to co-opt, or the Secretary of State to appoint, additional members.

Risks and benefits

- 10.15 One reason for looking at the issue of separating the NLC's current functions of licensing the Lottery and regulating it is that, at any rate under the present arrangements, the NLC faces one very large task every seven years, in organising the award of its section 5 licence, and a less onerous set of tasks in the intervening period. It has to license new games, monitor the operator's compliance with licence conditions, vet key operator personnel and in other ways give effect to its statutory duties to protect players' interests and ensure that the Lottery is operated fairly. These are of course essential and important responsibilities. But they do not require the same resources and effort as the big licensing decision, and the two tasks arguably do not require the same set of competences: the issue is not simply one of achieving a more even work flow.
- 10.16 But there are wider issues too. The establishment of a single regulator for all gambling in the form of the proposed Gambling Commission would deliver some economies of scale, for example in common functions such as personnel. And it should be easier for that body to achieve consistency of regulation, in relation for example to the measures which should be taken to protect against excessive play and to control the sale of Lottery tickets in premises selling alcohol.
- 10.17 However, the current role of the NLC goes beyond straightforward licensing and regulation: it has, as has been noted above, a statutory responsibility to maximise income for good causes. In this respect the contrast between the NLC and the current regulator of most commercial gambling, the Gaming Board, is instructive. Both are NDPBs, are of similar sizes and have similar regulatory objectives relating to propriety and fairness. The Board regulates casinos, bingo clubs, gaming machines and society lotteries. It has a chairman and four members, all appointed by the Secretary of State. It is funded by grant-in-aid, although fees paid by those it regulates broadly cover its costs. Its annual budget is about £3.9 million. The NLC also has five members, all appointed by the Secretary of State. It too is funded by grant-in-aid, at a similar level.
- 10.18 But the Gaming Board has no responsibility for the commercial outcome of the gambling activities that it regulates, and does not license operators on the basis of a competition for a restricted number of licences. The Board's responsibility is rather to consider whether applicants meet the prescribed standards (including competence and probity) and then enforces them. How licensed operators then fare is a matter for the market. This is as true of society lotteries as for commercial gambling. The Gambling Commission, which the Government proposes will subsume the current functions of the Gaming Board, will in this respect have an equivalent relationship with the gambling industry.

- 10.19 What might the arguments for the separation of the NLC licensing and regulation functions be? If the NLC's role in relation to the management of the Lottery was increased, for example under the more radical Options 2 and 3 (see the separate licensing RIA), it would make no sense at all to strip it of "sponsoring and commercial" functions: these functions are the essence of these options. Even under the other more radical options or the no change licensing option the arguments are unclear, because the Government wants the Lottery to prosper and there will be no direct market competition to it. Without a duty to maximise revenue for good causes it would be open to the Gambling Commission to select an operator which was wholly safe and of unquestionable integrity but also wholly ineffective. It might be argued that the operator itself has a strong incentive to maximise sales, so that no further duties on its regulator are needed. But that incentive is only there because the NLC structured the licence and competition for it in such a way as to provide that incentive. However, a regulator might approach the task quite differently depending on what its statutory duties are in respect of maximising income. Furthermore, the issue does not arise only at the initial competition stage, but throughout the licence period, whenever the NLC has to consider proposed changes to games, prizes, sale arrangements etc, in each case having to balance its current statutory duties.
- 10.20 It might be argued that the Government should find other ways of meeting this point. Such an argument would concede that the NLC has from the outset had a duty to maximise good causes, subject to fulfilling the essential regulatory duties; and that this combination of duties has not in practice caused serious problems. It would also concede that state-run lotteries around the world had to find ways of reconciling sales success with player protection. But it would note that the potential conflict between them was likely to become sharper in future years: especially if there was pressure to extend the promotion of games through the Internet or interactive video terminals which carry more risks of addiction or misuse than traditional lottery products. The licensing proposals considered in the separate RIA have, after all, stressed the importance of innovation.
- 10.21 So long as the NLC retains a responsibility for the proceeds of the Lottery there are obvious arguments against contemplating its incorporation into the Gambling Commission. Clearly the Gambling Commission would be expected to treat all the 26 National Lottery Licensing and Regulation Decision Document gambling activities that it regulated even-handedly. The case for bringing the regulation of the Lottery under the Gambling Commission turns in part precisely on the idea of consistency of regulation. But it would always be at risk of complaints from commercial operators that it was holding them back in order to advantage the Lottery. The Gambling Commission would be judge in its own cause. On this view, consistency of regulation would be better served by greater liaison and discussion on matters of common interest between the NLC and the Gambling Commission as independent regulators.
- 10.22 As outlined above, the requirement that the chair of the NLC should rotate at least annually has caused difficulties in continuity of approach and has few friends. It artificially constrains the selection of members to serve on the NLC. The appointment of the chair by the Secretary of State for a fixed period would be a more normal arrangement for a public body. Likewise, the appointment of

executive Commissioners would follow the normal commercial pattern where the chief executive and another member of the top executive team are members of the board. So it is in the case of the Tote. But such a change should go hand in hand with the ending of the rotating chair, so that different people would always fill the chief executive and chairman roles. To enlarge the membership of the NLC would allow them to share the responsibility for the big decision and to make sure that, the full range of relevant interests is properly represented in the NLC's deliberations. The contrary view would be that to enlarge the NLC would probably make the decision even harder than it is now, as there would be more scope for disagreement. The NLC can, as it did before, appoint expert advisers from all relevant professional disciplines.

Costs

10.23 The NLC's current resources⁴ are:

Resources £m	2001-02 Outturn	2003-04 Estimated outturn	2003-04 Plans	2004-05 Plans
Expenditure	3.076	3.443	3.937	3.797

10.24 The increased expenditure incurred in 2000–01 reflects the particular costs of running a section 5 licence competition.

10.25 The changes to licensing are not expected to have a significant impact on the total costs of the NLC but are likely to affect the pattern of expenditure across years, where a small number of licences are issued for different periods, rather than a major competition every seven years.

Consultation with small business

10.26 The Small Business Service has been consulted about the proposed changes. The machinery of regulation changes proposed in this document do not directly affect small firms. Small firms are currently involved in the Lottery, mainly as ticket retailers but decisions about which retailers receive Lottery terminals are a matter for the operator.

Competition assessment

10.27 The Office of Fair Trading has been consulted about the proposed changes. However, the proposed changes to the National Lottery licensing and regulatory regime relate more directly to the increased potential for competition for licences.

Enforcement and sanctions

10.28 The proposal includes no new sanctions.

⁴ "Annual Report 2003: DCMS Sponsored Bodies" Cm5423 May 2003.

Monitoring and review

10.29 The key test for the effectiveness of the machinery of regulation changes will be the extent to which the NLC is able to deliver effective competition at the time of the new licence competition in 2009. The Government would expect the NLC to assess the effectiveness of competition following the conclusion of the next licence competition. Alongside this, the Department for Culture, Media and Sport would assess the effectiveness of the proposed changes to the machinery of regulation and in its ongoing monitoring of the NLC.

Consultation

10.30 10 responses were received from the public, private and voluntary sectors⁵. Most responses broadly favoured options for change within the current framework, whereby the Lottery is delivered by the private sector. There was also support for a range of changes to the machinery of regulation by the NLC. But respondents generally considered that the Lottery should continue to be separately regulated by the NLC, given its duty to maximise returns to good causes.

10.31 Most of the responses recognised the special legal position of the Lottery and the unique support it provides for good causes. There was also acceptance that the regulator should continue to have its existing responsibilities. Given this responsibility, most respondents believed that to combine the regulation of the Lottery with that of the rest of the gambling sector could give rise to irreconcilable conflicts of interest for the regulator. There was general acceptance that the Lottery should therefore continue to be regulated by a separate regulator, the NLC, rather than the proposed Gambling Commission. Only one response considered that the proposed Gambling Commission should regulate the Lottery, although it recognised the difficulties inherent in such an approach.

10.32 In relation to the other changes in which the NLC is organised, there was support for: the chair to be appointed by the Secretary of State for a fixed period; for executive staff to be appointed as Commissioners, in line with general business practice; but there was no general agreement on flexibility of numbers of Commissioners. Some considered that there should be the option of extra Commissioners whilst others considered that there should be fewer but that they should be full time appointments.

Summary and recommendation

10.33 The Government has considered the position of the regulator of the National Lottery – currently the NLC. The Government recognises, as did the majority of respondents that the regulator should remain responsible for maximizing returns to good causes. Given this, the Government agrees with respondents who considered that to combine the regulation of the Lottery with that of the rest of the gambling sector could give rise to irreconcilable conflicts of interest. Furthermore, it is not clear that separating the functions of licensing and regulation would offer a useful way forward as there is significant overlap between the two functions. The Government therefore proposes to adopt the no change option, whereby the National Lottery remains regulated by the NLC.

⁵ Association of Medical Research Charities (AMRC); Bingo Association; Business in Sport and Leisure (BISL); Camelot plc; Gaming Board (GB); G-Tech; Neighbourhood Lottery Alliance (NLA); National Lottery Commission (NLC); Tattersall's; The People's Lottery (TPL).

10.34 Nevertheless, the Government also proposes to introduce changes to the way in which the NLC is organised, thereby meeting the objective of ensuring its continued effectiveness and maintaining public confidence in the National Lottery and the arrangements for running it. The changes include removing the restriction on the number of Commissioners and ending the requirement that the chair rotates at least annually. There would instead be provision for the Secretary of State to appoint the chair for a fixed period and provision for the Chief Executive of the NLC and one other executive to be appointed as Commissioners.

Declaration

I have read these Regulatory Impact Assessments and I am satisfied that the benefits justify the costs.

Rt Hon Lord McIntosh of Haringey
Minister for Media and Heritage
Department for Culture, Media and Sport
November 2003-10-17

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