

POSITION PAPER: PERSONAL LICENSING IN THE BETTING INDUSTRY

Introduction

The purpose of this paper is to outline the current, very limited, level of personal licensing in the betting industry and to suggest where and how a new regime might be applied post legislation.

2. The Gambling Review Report did not consider every sector of the betting industry in great detail, but they each clearly raise different issues and therefore this paper will address them in turn under the following headings: off-course bookmakers; on-course bookmakers; betting exchanges; betting agents; spread betting operators; online bookmakers; and pool betting operators.

3. However, for ease of reference, the relevant Gambling Review recommendations can be summarised as:

- The Gambling Commission should license all gambling operators and key workers (para 18.13)
- The Gambling Commission should regulate all bookmakers who, as with other gambling operators, should undergo a fit and proper test and be investigated in relation to their competence and knowledge as well as honesty and financial probity (19.35)
- The licensing of betting shop managers should be at a similar level to casino dealers (19.40) [NB this recommendation was not accepted]
- Betting brokers/exchanges should be licensed and regulated in the same way as bookmakers (19.42)
- The Gambling Commission should take over the NJPC's duties of approving bookmakers who operate on-course (19.46)
- It is not necessary to license workers in the betting ring (19.48)
- Tic tacs should be licensed by the Gambling Commission (19.50)
- The Tote and its employees should be licensed by the Gambling Commission, in the same way as other bookmakers and its licence should, in addition, reflect the special status that it enjoys as the exclusive provider of pool betting (19.55).
- Spread betting should continue to be regulated by the FSA, at least until the Gambling Commission is well established – the issue should then be reviewed (27.8)

Current statutory licensing requirements for bookmakers

4. Under the Betting, Gaming & Lotteries Act 1963 (Schedule 1, paragraphs 15 and 16) there are no exclusively personal licensing provisions. Instead a bookmaker's permit can be issued to an individual or a body corporate. Where it is an individual, the key requirements are that they are:

- a 'fit and proper' person to hold a permit;
- over twenty one;
- resident in GB or have been for the preceding six months;
- not someone who in the preceding 12 months has been refused the grant or renewal of a permit.

5. The application form also calls for details of where they have been residing for the last five years and for two references to be supplied. Where the application is on behalf of a company the names and addresses of every director and the company secretary have to be provided. In that case two references for each of them are also required.

6. Bookmakers' permits can vary in length between six months and three years five months depending on the date when it was granted, running in three yearly licensing cycles (the next of which commences on 1 June 2003).

Current number of licences and permits

7. To inform consideration of these issues it is worth noting the current scale of licensing (using latest available figures from December 2000). There are:

- 3791 bookmakers' permits (around 890 of these are for on-course bookmakers)
- 8732 betting office licences (although the number of LBOs actually operating is believed to be at least 200 lower than this)
- 8 betting agency permits.

8. In terms of staff employed it is hard to be precise but the industry normally refers to there being over 40,000.

9. Betting exchanges and spread betting are relatively recent developments and there has been some debate about their legal status. In spite of this they all appear to have sought and obtained bookmakers' permits. Available information suggests there are about eight exchanges and five spread betting companies.

Off-course bookmakers

10. It is fair to say that the current permit system places an over-emphasis on the permit holder, be that a company or an individual, without placing any direct personal responsibility on those employed in the industry. In particular, this is out of line with the regulation of staff in the gaming sector where personal licensing by the Gaming Board is well established.

11. The Gambling Review body identified this discrepancy and recommended that betting shop managers should be licensed in the same way. Whilst the Government agreed that a greater degree of licensing was required it was not felt that regulation down to that level was warranted. The crucial difference being, for instance, that croupiers in casinos had the capacity to affect directly the event being gambled on whereas betting office managers were merely retailing events and markets provided by others.

12. However, even though there is less risk to the customer in an off-course betting environment than in a casino, there is still a risk. The question then is not whether there should be more personal licensing in the betting industry, but how much more?

13. There is a real diversity in the size and type of betting operations and so there would be practical problems with the one size fits all approach.

14. *Against this background it is proposed that the following licensing framework would be sufficient to meet the Government's aims:*

- *all executive directors and company secretaries of betting operators would require personal licences; and*
- *below them there would be a category, perhaps best described as 'compliance managers,' who would take personal responsibility for the probity of certain parts of the business. It is therefore expected that, at least for the larger companies, there will be a number of personal licence holders, for instance, at area manager level; it is expected that the Gambling Commission will offer advice and guidance on this point.*

On-course bookmakers

15. The case has not been made that separate, different categories of personal licence should be introduced for on and off course bookmakers. Although the nature of their businesses tends to be quite distinct from one another the key probity checks related to a fit and proper test should apply equally for both. It is also anticipated that anyone acting as a bookmaker's representative (eg acting as a bookmaker when the holder of the bookmaker's permit is not on site) will need to obtain a licence in his own right. The Gambling Commission will have powers to attach specific licence conditions if it feels that to be necessary. One example of this might be a requirement that on-course bookmakers wear some form of identification so that it is clear who the bookmaker on a pitch is (frequently the name on a pitch is not the name of the bookmaker and it is not always clear whether someone is a bookmaker or a workman). The important point, and one which is reflected throughout plans for the Gambling Commission's wider operations, is that it will need the flexibility to address practical regulatory issues of this kind.

16. *This aside, the Government has already accepted the Review body's recommendations that, apart from bookmakers:*

- *Tic tacs (meaning the handful of self employed people who transmit information and broker the movement of some monies around the betting rings) should be licensed;*

- *But workmen should not (they will be the responsibility of the bookmaker who employs them – again this is an area where the Gambling Commission may see fit to attach conditions to an on-course bookmakers licence if it is felt that this particular group of bookmaker staff present unique problems).*

Betting Intermediaries (including exchanges and brokers)

17. Betting intermediaries per se do raise very different regulatory issues to traditional bookmakers. However, the personal licensing requirements of those operating the exchanges are basically the same.

18. There is a clear logic in proposing that, because the exchanges operate almost exclusively on the internet, personal licensing should be based on a combination of those conditions applying to betting operators (see above) and those applying to remote gambling operators (see below).

19. *It follows that personal licences would be needed by:*

- *executive directors and company secretaries; and*
- *a nominated systems compliance officer for each exchange.*

Spread betting companies

20. Like betting exchanges there is no specific reference in gambling legislation to spread betting companies. As they evolved from traditional stock and commodities style trading from the City, and because they offer spreads on a wide range of financial markets, the spread betting companies have always been regulated by the Financial Services Authority (FSA).

21. Because of the uncertain legal position, spread betting companies have opted to also take out bookmakers' permits. This has led to an unnecessary system of dual regulation. This was recognised by the Gambling Review body and the plan has been that the FSA should continue to regulate the spread betting companies pending a review, say five years after the Gambling Commission has been established.

22. The confusion over whether spread betting is a 'bet' or a 'financial transaction' is longstanding and there is now the opportunity to draw a more defined box around this activity. The difficulty stems from the spread companies choosing to refer to what they are doing as offering as a 'bet' and because they can offer markets on the same sort of sporting events as bookmakers. The perception therefore has been that they are involved in a betting operation. In legal terms, the situation is quite different and technically every 'bet' they lay is actually a contract that, unlike gambling debts, is already enforceable by law.

23. *As all gambling debts in future will be enforceable this distinction will be eroded, but it is nugatory for the Gambling Commission to have any involvement in the regulation of spread betting companies and the personal licensing of those involved. This is especially true once it is acknowledged that the FSA's regime is much tighter than the Gambling Commission's is ever likely to be. In short, it is planned that the Gambling Commission should not issue personal licences or permits to spread companies unless and until full responsibility is transferred from the FSA.*

Remote betting operators (online, interactive etc.)

24. A large number of bookmakers will offer remote betting in addition to betting offices and there will always be some who operate solely through the internet and other interactive media.

25. *The section on betting intermediaries has already referred to some of these issues, but the additional risks created by remote betting rests with the IT systems used, in relation to their reliability and integrity, access by children and the vulnerable and money laundering. It is therefore suggested that, in addition to the standard personal licences for directors and company secretaries, licences should be required for nominated systems compliance officers. Further information about the future regulation of remote gambling is contained in a separate paper.*

Pool betting operators

26. Provision will have to be made for a degree of personal licensing for operators of pool betting.

27. *For on-course horse or greyhound racing, the following might be expected to be licensed:*

- *nominated raceday managers to be responsible for the staff retailing pool bets;*
- *nominated systems compliance officers (essential given that tote returns are generated by machines).*

28. *For all other types of pool betting only the latter of these will be relevant.*

DCMS: Betting and Racing Team
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