

THE FUTURE REGULATION OF REMOTE GAMBLING: A DCMS POSITION PAPER

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THE FUTURE REGULATION OF REMOTE GAMBLING: A DCMS DISCUSSION PAPER

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Introduction

Gambling Review report and the Government's response

The Gambling Review report was published in July 2001. One of its major recommendations was that online gaming should be permitted in the UK (the related commentary and recommendations are to be found between paragraphs 30.20 and 30.43 of the Review Body's report). That recommendation was endorsed in the Government's subsequent paper '*A safe bet for success*' which was published in March 2002. Both documents can be found on the DCMS website at www.culture.gov.uk.

2. Although both pieces of work supported the principle of a properly regulated UK based online gambling industry, neither of them was the right vehicle to consider the issues in detail. Since they were produced further consideration has been given to the practical implementation of this policy.

Next Steps

3. The necessary legislation will be contained in the Gambling Bill that is currently being drafted. The Government's intention is that the draft Bill should be the subject of a full pre-legislative consultation process. This will include both a public consultation exercise and a scrutiny of the Bill by a Parliamentary Committee. However, the Bill will only provide a regulatory framework and, as this is an area of gambling regulation that is largely new, it has been decided to take this opportunity to make publicly available its current thinking on some of the major issues in this field.

4. Consequently, the purpose of this paper is to outline how best the Government might achieve its aim of introducing a reliable system of regulation for a newly legalised onshore remote gaming industry. It will also seek to show how the existing remote betting operations could be incorporated within the same regulatory framework.

5. Many of the issues associated with remote gambling are interlinked, but for the sake of clarity this paper seeks to break them down under a number of key headings. They are:

- Background
- Role of the Gambling Commission
- Licensing
- Player Protection
- Safeguards for the young and vulnerable
- Player identification and verification standards
- Money laundering & payment methods
- Systems and software
- Territoriality
- Taxation

- Advertising
- Remote gambling in non-licensed public premises

6. Due to the rapidity of technological developments this, perhaps more than any other, is a sector of the gambling industry where flexible, responsive regulation will be a necessity. This can only be achieved by ensuring that the relevant parts of the legislation are broadly framed in certain areas. It follows that much of the detailed regulatory measures and procedures will be left to the Gambling Commission to determine.

7. Before implementation of the legislative reforms it will be important for DCMS and the Gambling Commission, when it is established, to maintain a constructive dialogue with interested parties, especially those within the gambling industry. It is only right that everyone involved seeks to keep an open mind about these issues and if the proposed regulatory controls envisaged in this paper prove to be unnecessary or, more probably, if the regulatory objectives can be achieved in better ways then they can still be amended. This paper then is, as its name implies, a snapshot of the Government's views. Those views have been shaped over a period of time and with a great deal of deliberation. The headline policies are very unlikely to change, but few of the details are set in stone. The main planks of Government policy for remote gambling can be adapted as necessary by the Gambling Commission so that they are appropriate to the activity in question.

Background

8. If there is one quote from '*A safe bet for success*' that sums up the Government's approach it is perhaps the following:

'Licensing and regulating online gambling will present a number of challenges that do not necessarily arise through more traditional forms of gambling media. The Government is satisfied that these challenges can be met, not least by giving the Gambling Commission sufficient flexibility to respond promptly to any new technological advances that may undermine the regulatory regime.' (Para 4.50)

9. That statement sets the boundaries for both this paper and any ensuing discussion of the issues. There is an obvious need to address the issues from a policy perspective and in the following pages there are suggested methods for meeting the 'number of challenges' that exist, but they can and should only go so far. At the end of the day the detail of the licensing and regulation of online gambling operators must be for the Gambling Commission. There is no alternative if it is to have the sort of 'sufficient flexibility' that it needs in moving forward.

10 The Gambling Commission will have broad powers in relation to the regulation of remote gambling. In spite of that it does not seem unreasonable in certain areas to give examples of the type of steps that the Government might expect the Gambling Commission to take in discharging its regulatory functions if these freedoms can be acquired.

Definitions

11. During most of the policy development phase the term 'online gambling' has been adopted as a catch-all phrase. It was used in both of the publications mentioned above. Others such as I-gambling, E-gambling or wireless gambling could have done just as well. In the legislation and in this paper the term 'remote gambling' will instead be used. The reason for this is that the Government wants the regulations to be technology neutral and to cater for all forms of player-not-present gambling. What matters is that there is a common understanding that the delivery systems included in these definitions encompass the internet, interactive television, and any other remote access devices that are currently available and, just as importantly, might be developed in the future.

12. For reasons which are readily apparent not every measure applied to one form of remote gambling will be precisely transferable to another (for example, the much smaller screens of WAP and next generation phones will impose different physical constraints on the links that might be made available at all times on them). That does not mean that the same regulatory principles cannot be applied to them.

13. It is envisaged that their starting point will be the regulation of online (eg internet or interactive) gambling which can then be tailored to meet the demands of other delivery systems such as the telephone. In the light of this most of the discussion in this paper focuses on online gambling.

The existing online industry

14. By its very nature the remote gambling market is a global one. This makes it very difficult to be precise in any way about its origins, size or potential. But to put matters into perspective it is worth quoting some indicative information:

- The first sites seem to have appeared in the mid 1990s.
- It is estimated that there are already around 1700 sites (indications are that increased consolidation might mitigate against a significant increase in this number).
- A Datamonitor 2001 report concludes that by 2005 there will be 15 million online gamblers generating a turnover of \$30 billion (other estimates vary but all underline that this is a significant and growing international market).
- Over 50 jurisdictions already allow some form of remote gaming.

The Government's approach

15. This means that for both operators wishing to be based in Britain and for the Government itself there are already many lessons, good and bad, to be learned from what has already happened in other jurisdictions. While the

basics of good gambling business management and good regulation hold true no matter what the environment it has to be accepted that there are aspects of remote gambling that are unique. A slavish adherence to what might or might not have worked in bricks and mortar establishments in the past is neither appropriate nor sufficient.

16. The Government has shown itself to be mindful of the commercial imperatives that will determine whether operators will choose to be based here in the future and Ministers have expressed a hope that Britain will come to be a world leader in all fields of gambling activity. If the Government is going to create the right conditions for operators to thrive it will expect operators to adopt a co-operative approach. Ideally this will manifest itself in a shared commitment to the principles of good regulation, but as a minimum it must expect compliance with licence conditions and the adoption of socially responsible practices.

17. Remote gambling, by any criteria, has to be placed at the harder end of the gambling spectrum. That brings with it responsibilities for both operators and regulators. It must entail proportionate regulatory measures, but this does not have to mean over-regulation for the industry. Proper regulation should be welcomed by operators and in the main this seems to have been recognised. It will improve the credibility of the industry as a whole and should serve to reinforce the brands of operators licensed in this country. Customers have a right to expect probity and fairness. That must be deliverable.

18. Interests will rarely coincide precisely, but there is no reason why a suitably regulated remote gambling industry should not be of real benefit to the Government, operators and gamblers alike. This shared goal represents a very firm basis on which to build.

Role of the Gambling Commission

Skills base

19. The staffing structure of the new Gambling Commission has yet to be determined. Irrespective of its final organisation and form it will need to acquire the expertise to develop and maintain a detailed regulatory licensing framework for remote gambling. This must include the ability to satisfy itself as to the quality of the systems being used.

20. There are a number of reputable companies that provide software and systems testing services. It is not necessary for the Commission to take on this function directly and it should have the power to authorise a number of these companies to undertake that role. This would negate the need for the Commission to employ a large number of IT specialists. Nevertheless it is vital that the Commission has adequate resources in this area to monitor the performance of its 'sub-contractors' and to provide independent and expert advice to the Commission on related policy areas. Fortunately several

members of the Gaming Board's staff (who will provide the nucleus of the new Gambling Commission) have already shown themselves to have a good grasp of both the policy issues and the practicalities of this type of regulation in the future.

Powers

21. As with other sectors the expectation is that codes of practice will be issued by the Commission to licensed operators and these will be used to inform any decisions about whether or not they are abiding by the conditions on their licences. The codes will also set out the parameters within which operators can manage their businesses. It is intended that this will give operators sufficient leeway to develop and introduce new products without continual reference to the Gambling Commission.

22. The ability to issue or revise these codes will equip the Commission to respond quickly and effectively to new developments, technical or otherwise.

23. Although remote gambling is non-premises based, the Commission will need access to some of the operators' hardware and software (for example, primary gaming servers) and their inspectors will be given powers of entry, search and seizure.

24. Full details of the Commission's powers and sanctions will appear in the draft Bill to be published later in 2003.

Kitemark

25. It will provide a kitemark that, wherever possible, licensed operators must display on their sites. As a minimum that should appear on any internet home pages. It would be helpful if that kitemark could also double as a hotlink to the Commission's own website where, amongst other things, there would be an easily accessible register of all licensed operators. This would offer immediate reassurance to players wishing to try a site they were unfamiliar with and, hopefully, will go some way to prevent the possible pirating of the Commission kitemark.

Licensing

Operator and personal licensing

26. Levels of licensing across the whole gambling industry are under review separately, but all licensed operators will have to go through a thorough process to check their probity, their financial resources, and their expertise. As a minimum there will still be both operator and personal licensing.

27. For remote gambling the former of these speaks for itself. However, different types of remote operation will require different levels of finance and different types of expertise. Essentially there will be three categories of

remote licence, one for gaming, one for betting, and one for lotteries. Below that the Gambling Commission will adopt a pragmatic approach applying different tests, for instance, to an operator who only wants to run an online betting exchange as a betting intermediary, to those applied to a bookmaker merely wishing to run a telephone betting operation.

28. Obviously someone already holding a betting operating licence will not, in practice, have to go through the whole process as he will already have passed a comparable probity check and the focus would only be on the operation of the remote betting. A great deal of thought was given as to whether betting operators should automatically be allowed to offer remote betting without an additional licence. It was concluded that the checks would have to be made irrespective of which licence category remote betting fell in to and that in the interests of consistency remote gambling should be licensed in the same way as remote gaming. This was even allowing for the fact that remote betting raises less concerns than remote gaming because betting operators are not in control of the gambling event itself. Therefore, there are less fair play and player protection issues to address. Pulling in the opposite direction was the fact that there is a much greater similarity between remote betting and gaming when it comes to the other core regulatory objectives of combating criminality, protecting the vulnerable, and preventing underage access. Naturally just because, for instance, a company holds a betting operating licence it does not mean it will automatically qualify for a remote licence, but the aim should be to avoid any duplication of checks already made and to streamline the process as much as possible.

29. The level of personal licensing is more problematic. Below the licensed operator (be that an individual or the more common corporate body) there is a strong case for, as a minimum, having a personally licensed compliance officer. Apart from that, this is one of the detailed areas that would benefit from further discussion between the industry, Government and the Commission. It is likely though that the Gambling Commission will specify posts that have certain characteristics.

Licence costs

30. The price of any gambling licence should as far as possible be set at a level that meets not only the cost of issuing the licence but also the associated regulatory cost of monitoring that activity on the basis that this is a service to applicants. Licences will be time limited. The Bill will set out the details but the proposal will be for operating licences to run for ten years.

31. Until a detailed costing exercise is conducted there is nothing to be gained from speculating about the future price of an online operator's licence. But, solely for illustrative purposes, it is worth noting that in Antigua (where there are 90 or so sites) an online casino licence costs \$100,000pa and an online sports book licence is \$75,000pa; and in Alderney a three year online gaming licence costs £75,000.

Licence conditions

32. Although the Gambling Commission will be empowered to issue its own codes of practice it is likely that it will need to attach particular licence conditions over and above standard requirements to any of the licensed online operators. This should not raise concerns amongst potential licence holders, but if it does then they can take reassurance from the fact that a robust appeals system is being developed so that there will be a formal, independent process for reviewing decisions made by the Commission.

Player Protection

Informed adult choice

33. One of the core elements of good gambling regulation is player protection. That applies as much to remote gambling as elsewhere. Indeed, given the relative lack of transparency of remote gambling operations, it is must be even more of a precondition.

34. An underlying principle of the planned gambling reforms is informed adult choice. In online gambling for instance that means that information is made available to the player and the information must be as accurate as possible. That includes rules of play, game representation, and rates of return.

35. Behind the scenes where the player cannot have access to systems it is the responsibility of the operator and the regulator to ensure that the gambling event (primarily the random number generator) and all the procedures linked to it are fair and reliable. The section on systems and software covers this in more detail.

Practical measures

36. In the final instance the core needs of an online gambler are fairly few. It is not a definitive list, but those frequently stated are fair games, entertainment, simple procedures, fast payment methods, privacy and security. How successfully some of these are provided will be a purely commercial decision for the operator. Others will need input from the Gambling Commission.

37. Many protection measures will be covered in later sections on identification and payment methods. Aside from those the Gambling Commission will wish to include in its codes instructions on the following:

- Privacy – safeguards to ensure that personal information provided to gambling operators is secure and used only for the purposes that it has been supplied (compliance with the Data Protection Act will be mandatory).
- Security – the provision of reliable systems to ensure that financial transactions are as secure as possible.

- Customer service – availability of clear dispute resolution procedures, customer helplines & operator e mail addresses.
- Information in other languages – if an operator is going to advertise and, or, accept bets in foreign languages then social responsibility information should be made available in those languages too. In other words the same player protection safeguards should be in place.

Safeguards for the young and vulnerable

Underlying importance of the issues

38. Preventing underage gambling and combating problem gambling have always been at the heart of the Government's regulatory objectives. The extent to which the Government opens up the gambling market will largely be determined by how confident it can be that these objectives will not be undermined.

39. For various reasons more questions may be asked of the new online gaming sector than any other part of the gambling industry. It is untested, it lacks many of the physical controls available to premises based gambling, it facilitates unsupervised gambling, and it will be more widely available than any other gambling product. This underlines why the Government attaches so much importance to regulating it effectively.

40. Detailed measures will be for the Gambling Commission to finalise in co-ordination with operators and experts in the field, but this aspect of online gambling is one on which the public and Parliament will want some real assurance that the risks can be properly managed. While there can be no absolute guarantees, it will be essential to put in place a package of viable measures that will minimise the downside of any reforms.

Practical safeguards

41. Online gambling is still a relatively new phenomenon and reliable research about its effects is at a premium. Once more becomes known about this field the Gambling Commission will be well positioned to respond. Such an evolutionary approach should produce an increasingly focussed and well-informed body of practical safeguards to address every potential area of problem gambling.

42. As with the other gambling sectors this will call for ongoing liaison with the industry and those organisations, such as Gamcare and Childnet International, that specialise respectively in the treatment of problem gambling and the overall problem of child access to unsuitable sites.

43. In the meantime it is not unreasonable for the Government to indicate the sort of controls it would expect and to offer some specific examples for the

Gambling Commission to consider. For ease of reference they are grouped together in several categories:

Screening of players

- More detailed consideration of this subject is in the next section on identification and verification standards, but it cannot be stressed too frequently how important this is in preventing children from gaining access to gambling sites.
- At every stage of the registration process there should be clear and persuasive warnings that children are not allowed to play and that if they are discovered to be doing so any deposited funds may be forfeited. A warning that comprehensive checks will be made to verify information given should also act as a deterrent.
- The only exception to this will be in those very few areas (eg football pools and lotteries) where the current age limit is 16 rather than 18. This will call for careful handling, but could be accommodated.

Reality checks

- As it is the escape from reality that underpins so much of the problem gambling that exists, adequate reality checks must be available.
- Most of these checks will be voluntary in nature. Players must have the opportunity to self limit their losses, the amount of time they play for and even to exclude themselves from the site for whatever period they determine. If any of these limits are passed then the operator must exclude the player until the prescribed period has passed.
- There are also attractions to having counters on display that automatically update a player's balance.
- Above these checks it is recommended that there is an automatic reality check imposed on the player at least every hour. This need not be onerous for operator or player. It should be sufficient for play to be suspended; for a message to be displayed telling the player how long they had been playing for and how much they were winning or losing; and for the player to click once to confirm he had read the message, and for him to then be given the option of ending the session or returning to the game. This procedure would take only a few seconds but would require the player to stop and, in the light of time and cost, make a rational decision about whether to continue or not.

- Having a clock continuously on screen could be useful, but some reservations have been expressed about refresh rates and their accuracy. If problem gambling experts feel this is worth pursuing then the Gambling Commission could revisit this option, but the combination of a compulsory break after an hour and a prohibition on anything that obscures a PC's own clock could be sufficient.
- Player perception is always a factor to be considered and there is a risk that they can lose their appreciation of the real value of money. Together the measures mentioned here will go a long way to preventing difficulties, but it would also be worth insisting that all amounts quoted are given with the symbol of the currency that the player is using. It is not unknown for existing sites to merely show a figure (eg 10, 50 or 100 rather than £10, £50, £100 – this is not helpful to the problem gambler). This would not call for the site to display a wide range of different currencies but rather to continue to display the symbol for whichever currency the player is playing with, For example if the player was depositing US dollars and the operator exchanged that for British pounds then the counter would only need to show the player's running total in pounds and not in dollars.

Responsible management

- Staff should be trained to identify any gambling patterns that may indicate that the player has a problem and to be aware of wider social responsibility issues.
- In developing or upgrading games or types of bet the operator should bear in mind any social responsibility guidance or codes issued by the Commission.
- Players should have ready access to their playing history (ideally no more than two clicks from the home page) so that they can easily monitor their long term performance and have the information available to make an informed choice about whether to continue and how much to risk.
- The ability of operators to offer credit or inducements to gamble carry with them a heavy responsibility. They are both cross-cutting issues of particular sensitivity and ones which will be considered further. These sorts of business developments are common place in other parts of the leisure sector and used responsibly are valid marketing tools. Despite that it has to be recognised that gambling as an activity is perceived differently to many other types of leisure activity and, as noted elsewhere, can carry with it a risk of harm. The Gambling Commission will not want to restrict the commercial freedom of operators, but it is

inevitable that it will want to monitor operators' practises particularly carefully.

Filtering services

- It would be good practice for all gambling operators to register with a filtering service such as Internet Content Ratings Association (ICRA), NetNanny or Safesurf. ICRA, for example, provides software to parents who can then use this free service to prevent children being able to visit gambling websites.

Play for fun games

- Many operators will wish to offer free play versions of their games. There is nothing wrong with this in itself and it may well be an effective marketing technique. These games cannot be allowed to offer a misleading impression of the real games; playability and rates of return must be the same in both cases.
- If there is an issue around free to play games it is whether or not they are accessible by children. The concern is that if they are it will arouse their interest, possibly contribute to problem gambling at a later date, and may encourage them to evade controls and play on the real games. It can be argued that gaming simulation software is already popular and readily available and there are no restrictions on its sale to children. Further consideration needs to be given to this issue.

Payment methods

- Gambling operators will be able to accept a wide range of payment methods. Some of these, such as credit cards, are usually only available to adults. It is therefore anticipated that when inspecting an operator's business the Gambling commission will look closely at those transactions where payment is from a source that might be available to children. An example would be the Solo debit card.
- The Gambling Commission would also have the option of pursuing with banks and the Financial Services Authority whether it might be possible to build in a new age identifier to credit and debit card numbers to assist operators in filtering out underage players.
- Banks are understandably protective of data relating to their clients. This should not prevent them from co-operating with gambling operators if there is any margin for them to do so. Even if they cannot provide information, it would be an enormous help if they could confirm any details put before them

by licensed gambling operators. This is another area where the Gambling Commission may be able to play a productive role.

Displays

- Operators should be prevented from offering full screen games on computers (this would ensure that the PC's internal clock is visible at all times).
- Links to the Gambling Commission and information about problem gambling should be available on screen at all times. The latter should include advice about underage play, symptoms of problem gambling, details of player protection (such as reality checks) options on the site, and details of where a player might be able to turn to for support if required (eg Gamcare, Gamblers' Anonymous etc).

Rapidity of play

- Rapidity of play is a well known driver of gambling addiction and the Commission should make best use of any research that emerges in this area to ensure that, if necessary, proportionate restrictions can be put in place.

Parental responsibility

44. In opening up the remote gambling market the Government and the Gambling Commission can be expected to do everything in their power to prevent children from gaining access to gambling sites. But there are also additional steps that responsible parents can take.

45. With the proliferation of delivery systems, especially home computers and interactive television, personal supervision has become increasingly difficult. Despite this parents must bear some responsibility for the material that their children access. Registering with filtering services will be one weapon at their disposal. The Gambling Commission will inevitably play a part in the Government's push to raise the awareness of parents in this and other areas of potential risk (see following section).

Related internet initiatives

46. Both law enforcement agencies and parents have voiced concerns about some of the sites and services to which children can gain access. It is fair to say that gambling sites have not figured prominently amongst these concerns, but some of the initiatives may well pay dividends in this area anyway.

47. The Gambling Commission will have to cast its net wide to keep abreast of developments. Current examples of the sort of initiatives it might be able to call upon are outlined below:

- The present Communications Bill will give a new regulator, OFCOM, the task of promoting 'media literacy' so that people will be in a better position to make informed decisions about what they and their children access;
- The EC's 'Safer internet action plan' has provided a budget to (i) promote hotlines to report illegal content; (ii) develop filtering and rating systems; and (iii) promote awareness of internet dangers and how to protect children from undesirable content; and
- The Home Office's Internet Task Force is considering how to improve the protection of children from inappropriate content of all kinds.
- The new Interactive Age Check service operated by Citizencard (www.citizencard.net) allows operators to verify user details against existing proof-of-age databases.

Underage gambling - final responsibility

48. The Gambling Commission will of course do all it can to enforce best practice to prevent children gambling, but it cannot be emphasised strongly enough that the ultimate responsibility rests with the licensed gambling operator.

Player identification & verification standards

49. It is in the interests of the players, the operators and the wider public good that there should be high standards of identification and verification. They are crucial to combat crime, fraud, and underage play.

50. In what will be a truly international market there can be no one size fits all model of what identification evidence is required before a player can open an account. It will therefore fall to the Gambling Commission to set minimum standards, probably which reflect personal data that is available in this country. Above this operators would be expected to use the best publicly available information for verification purposes from whichever country the player is situated in.

Registration process

51. The point at which a prospective player registers on a site is self evidently the first step in the process. There is fairly common ground over the most basic information that should be requested (name, address, e mail, phone number, age, bank details, preferred payment methods etc).

52. But it is the next step, when the operator must verify that this information is truthful, that is really vital.

Verification

53. No system of verification can be completely foolproof, but there are already various sources of information about people that can be readily accessed to help confirm that the person registering and opening an account is who he or she claims to be.

54. A number of commercial databases provide the sort of service that gambling operators will need to employ and they already help other industries in assessing the credit worthiness of their customers. Information can be drawn from these services electronically within seconds and their use should not deter players seeking to register with gambling operators in Britain.

55. It will be for the Gambling Commission to map what is available and on that basis to issue guidelines for operators to use, but there is nothing to be gained from being prescriptive about sources this far removed from the issuing of licences.

56. At the far end of the verification scale are systems such as the 'hundred point check' which calls for the supply of a very wide range of information, such as certified copies of passports and employer references, before an account can be opened. There can be little doubt that this level of verification would act as a disincentive to players interested in using British sites. More importantly, it would not be a proportionate level of regulation. It is suggested that a more pragmatic approach for any Gambling Commission guidance to use would be a risk-based layering model.

57. In broad terms the layers might be:

- a. Basic registration questions (anecdotal evidence indicates that even this filters out some underage players);
- b. Location checks (see section on IP addresses below);
- c. ID checks relating to name, date of birth & address;
- d. Banking checks (are the cards being registered valid, were they issued in the player's country of origin etc)
- e. Credit risk assessments.

58. At the end of even this basic process the operator will normally have enough information to determine whether or not to allow the player's registration to proceed. However, as the risk remains predominantly with the gambling operators, it would still be open to them to request written proof of

identity (a copy of a passport or ID card are the most commonly quoted types) if an unacceptable degree of doubt remained.

59. Like so much in the field of emerging technologies it is impossible to predict what the next helpful development might be. Things like the increased use of smart cards, e-signatures, or even finger or retina scans may aid the operators and regulators of the future. All they must do is remain open-minded and ready to make the best use of whatever becomes available.

60. Following these checks the player should be given a dedicated user name and password. These should provide a safeguard against someone else accessing the player's account. A further example of good practice would be to prevent the player from depositing or withdrawing funds above a set level unless they had a unique digital code to input. This code would only be available to them after it had been sent by mail to the address given when they registered. This would combat fraud, confirm the player's whereabouts, and may make it even more difficult for underage players to conceal themselves.

Internet Protocol (IP) addresses

61. IP addresses are frequently referred to as a useful device for identifying a computer user's whereabouts. They are by no means completely reliable, but they are usually accurate. They could help gambling operators confirm that a player is in the country he claims to be in (for verification purposes) they could also help the Gambling Commission to police any restrictions that may be placed on the jurisdictions from where players are gambling (see section on cross border gambling).

62. Either way, in order to put this into context, there is merit in briefly outlining what an IP address is and how the addresses are allocated.

63. The address itself is a unique numerical code allocated to every computer that can be used to access the internet. It identifies both networks and individual computers.

64. The addresses themselves originate from the Internet Assigned Number Authority (IANA) which allocates blocks of addresses to Regional Internet Registries (RIRs) which then assign them within the areas they are responsible for. The three RIRs cover the following geographical areas:

APNIC	-	Asia/Pacific
ARIN	-	Americas & sub-Saharan Africa
RIPE NCC	-	Europe & surrounding regions.

65. The RIRs can assign addresses in further blocks and there are different classes of address depending on usage.

66. These electronic addresses are exchanged whenever computers communicate over the internet. Filtering software or tracking services at the

gambling operator's end should be able to use the IP address to automatically check the location of the player.

67. More than one operator presently based offshore has praised the benefits of this system. If it is truly dependable then the use of a mechanism of this kind ought to be encouraged. However, before any over reliance is placed on it, the Gambling Commission will need to consult the IANA, the RIRs, and others to determine properly its worth and how easily the protections it appears to offer can be circumvented.

Money Laundering and payment methods

Money Laundering

Background

68. The issues surrounding domestic and international money laundering are complex and longstanding. This means that there is already a high level of experience within British law enforcement agencies, especially the National Criminal Intelligence Service (NCIS), for the Gambling Commission to refer to. As part of the gambling review process the DCMS established a Crime Issues Group where these agencies were represented. It provided a forum where detailed consideration could be given to these matters.

69. More widely multinational organisations such as the 31 member Financial Action Task Force (FATF) have been, and will continue to, take a close interest. Its 2001 paper, '*Report on Money Laundering Typologies*' indicated that in some of its members' states there was evidence that online gambling had been used as a way to launder money. However, no further information on this has become available and there appears to be a paucity of proof that this is a significant problem.

70. Using this available expertise and taking full account of initiatives such as the EC Money Laundering Directives, the Gambling Commission would be expected to play a full part in combating money laundering.

71. Underpinning all this would be a requirement for operators to comply with any present and future Money Laundering Regulations issued by the Government. The Gambling Commission is likely to issue its own advice to licensed operators on practical steps that might be taken to comply with those regulations.

Safeguards

72. It is safe to say that gambling transactions completed online can be more secure than cash business conducted in traditional gambling outlets. There can be no room for complacency, but the presence of audit trails, registration processes, and the fact that operators will have a double due diligence system in place (eg having not only their own anti-money laundering

procedures in place but also those of the existing banking system when taking and paying out funds. This will offer a good degree of reassurance.

73. For the sake of completeness, one risk that must be mentioned is the possibility that a criminal organisation seeking to launder large amounts will actually try to obtain a remote gambling licence to run its own gambling business. This would make it much easier for the money laundering controls being placed on players to be avoided. But this is a risk in all areas of gambling and will be addressed by the Gambling Commission's vetting process when applications are made.

Payment Methods

Which methods?

74. Because it is the most popular, there is a tendency to assume that credit cards will continue to be the most common method of paying for remote gambling. This cannot be taken for granted, particularly as the global market expands further into regions where credit cards may be less available or less fraud resistant than is perhaps the case in Britain. There is also the possibility that, as in the USA, credit card companies may no longer allow their services to be used to facilitate gambling.

75. Nor can one say with any certainty what the next best option may be, since all are at risk from possible restrictions. For example, in August 2002, PayPal, the electronic payment service, agreed to block online gambling operators from using its transaction system to process payments from players based in New York State. This followed an enquiry by the New York Attorney General.

76. Consequently, there should be no restriction (except perhaps relating to money laundering concerns) on operators accepting other payment methods that could include debit cards, cheques, wire transfers, cash deposits, pre-pay, smart cards, third parties (eg paybox) etc. If this is the case then Gambling Commission controls would have to relate to the risk of each, with credit cards being at the safer end of the spectrum and cash deposits at the opposite end. If suitable controls cannot be identified for a particular payment method then the Gambling Commission would not approve its use.

77. The Gambling Review Report (para 30.33) recommended that payments should only be made back on to the cards or accounts from which deposits had originally been lodged. Although it did not explicitly refer to other types of payment method, this principle holds good for most of them. Cash deposits are the clear exception, but these are likely to be unattractive to most operators and should be rare. Where they are used then money laundering controls must be imposed which are at least as strict as those currently applied to cash gambling in a bricks and mortar casino.

78. Where these payment methods are available to children it will be the operators' risk if they choose to accept them and it is to be expected that when carrying out inspections the Gambling Commission may look more closely at those sorts of accounts.

79. A detailed issue that has been raised is whether or not players should be allowed to use more than one payment method or to register more than one type of card as a source of gambling funds. At present it is not clear that this would have any significant practical effect in preventing problem gambling as, even it was imposed, players would have the option of simply changing sites/operators and carrying on regardless. If anything, this is a good example of a specific topic where better research on player behaviour is needed before the Gambling Commission acts to add a restriction on the industry.

Account management

80. As part of the procedure for obtaining a remote gambling licence the operator will have to demonstrate the security and efficacy of the financial systems it will employ.

81. It is accepted good practice that funds in players' accounts are held separately and are recoverable by the players even if the operator encounters financial difficulties. The failure of a number of online bookmaking companies in recent years underline the dangers if this is not made compulsory. It follows that this ought to become an explicit condition and one that Gambling Commission inspectors monitor as a matter of course.

82. There can be little justification for a player having more than one account with a particular operator and, given money laundering concerns, this should not be allowed.

83. Gambling on credit is a pan gambling industry issue where an overview will be taken. The only observation made here is that betting on credit is traditionally popular, has raised relatively few problems and, if removed, would have serious implications for the bookmaking industry.

Systems & software

Systems' approval

84. The Interactive Gambling, Gaming & Betting Association (IGGBA) has proposed that the Gambling Commission should approve operational systems, equipment and processes, and technical competence. It is accepted that this would provide the comprehensive level of regulation that the Government would want to see.

85. Precisely what should be tested under each of those headings will demand further discussion. However, it is anticipated that it would include:

- The operation of the Random Number Generators (RNGs)
- IT report systems;
- Security systems (eg UK banks use a 128 bit encryption system and gambling operators should do likewise);
- Backup systems;
- Disaster recovery systems;
- Account systems;
- Player protection measures;
- Banking facilities;
- Contracts with third parties;
- General compliance and internal controls (eg limiting staff access to critical systems); and
- Software compliance (including game specifics, presentation etc).

Servers

86. Servers are the mechanisms that hold all of the information relating to the gambling operation and, for gaming, where the virtual result and its presentation are generated.

87. The main issues relating to servers are their location and access to them by the Gambling Commission.

88. There is no need to be overly restrictive in this regard and there may be good commercial reasons why gambling companies will wish to put part of their operation on servers located overseas. It would though be unacceptable if this included the gaming itself and critical records (eg the RNG, game logic, player/game/financial records, audits, reports and casino management software) and these must be held on a primary server based in the UK so that Gambling Commission inspectors have not just online but also physical access to them.

89. The Gambling Commission will have to draw a clear line between what must be on the primary server mentioned above and any secondary servers (that could be based in the UK or elsewhere) which could perhaps be permitted to hold items such as graphics, website material, download software, and archived records.

Random Number Generators

90. RNGs are algorithm driven systems that produce the result of online games. In reality it is the generation of these numbers that is the gaming event on which people wager. They are at the core of every online gaming product and it is essential that the Gambling Commission can be assured that they are run honestly, reliably, and within certain parameters.

91. There are many tried and tested RNGs available, but the Gambling Commission will still need to satisfy itself about them and any new versions

that arrive on the scene. This will require both initial approval and ongoing testing once they are in use.

Games

92. It is explicit in the systems approval process outlined above that various aspects of gaming software will also have to be approved before they can be used.

93. A distinction has to be made between the software driving the game (and producing the result) and how that game is presented to the consumer. At the most basic level all online games are RNG produced irrespective of whether they look like roulette, slot machines or anything else.

94. If the RNG has been approved and the presentation of games is covered by Gambling Commission guidelines, there will be no need for the operator to obtain Commission approval before introducing a new game or presenting an existing game in a new way. This will reduce the workload for the Gambling Commission and give operators the commercial freedom they need to refresh the front end presentation of games at a rate that will enable them to compete with offshore competitors.

95. For this to work to everyone's satisfaction there must be a balance between control, inhibiting change and the operator's ability to respond to market demand. Given a sensible approach on both sides this must be attainable.

96. A recent development, but one that may well continue to grow in popularity, is person to person or multiplayer gambling (such as online card rooms). On the face of it the regulation of mainstream remote gambling could easily be adapted to adequately cover this sort of gambling too. It does raise slightly different questions about player protection and money laundering, but suitable audit checks and monitoring should suffice to deal with them satisfactorily.

Testing of systems

97. IT testing will be needed both on entry when applying for a licence and afterwards. While the Gambling Commission will have its own experts in this area, it would be much more practical and cost effective to sub-contract the bulk of this work to companies specialising in providing accredited testing facilities. The Gambling Commission will need to determine how best to enlist the assistance of external bodies in testing systems prior to licensing.

98. The Gambling Commission will set out exactly what it requires of these companies and an operator would not be granted a licence until a certificate of approval has been supplied by one of them.

99. The testing companies could 'fingerprint' all code modules used to ensure that the software that was originally tested was that being used once

the gambling operation was up and running. Random remote testing should then be sufficient for monitoring purposes in nearly all cases. This is not to rule out other options that the Gambling Commission may wish to consider in the light of experience or new best practice.

Role of Service Providers

100. ISPs, telephone companies and similar service providers offer conduits for gambling operators and their customers to make contact and do business. They are not providers of the gambling product. Irrespective of whether any have responsibility for the content of the material provided through them, it is expected that they would co-operate with the Gambling Commission where appropriate.

Cross border gambling

101. The growth of this activity through remote means has put this issue firmly on the international agenda. The UK's prospective position on this has sparked a good deal of international interest from operators, regulators and governments. It is therefore important to explain the stance taken.

102. In taking the decision to accept the Gambling Review body's recommendation to allow British based online gaming, the Government took the view that continued prohibition was neither desirable nor practical. All of the evidence pointed towards a growing global market for online gambling where national boundaries had come to have little meaning. Nowhere is this better illustrated than in the USA where, despite the apparent illegality of cross border gambling, more of its citizens gamble online than anywhere else in the world (it is estimated that they still constitute over half of the online gaming market).

103. To deny this appears in many ways to fly in the face of the reality of international banking and the inherently international nature of 21st Century telecommunications.

104. This is not to say that the issues are by any means clear cut and full note was taken of other viewpoints such as that of the well regarded Gaming Regulators' European Forum (GREF). GREF has stated that:

'Gambling offered should be restricted to residents of the jurisdiction concerned and residents of such other jurisdictions with whom there are co-operative or reciprocal arrangements.'

105. Effectively, this would require a succession of bilateral or multilateral trade agreements to enable British operators to access overseas players and for operators in those countries to access British customers. This avenue is not without its attractions, but the problems with it can be summarised as follows:

- British based operators will be put at a competitive disadvantage with many existing operators – there must be a good chance that operators would instead locate in other, perhaps less well regulated, jurisdictions offering poorer protections for players irrespective of their nationality;
- It would impose a trade barrier that does not occur with most other types of financial transaction;
- The policing of such restrictions would inevitably be difficult – for instance, an interim report issued in September 2002 by the US General Accounting Office mentioned two ways of compromising credit card coding systems: ‘ (1) by Internet gambling merchants that attempt to disguise their transactions by miscoding them, and (2) by cardholders who attempt to circumvent the system by using online payment methods;
- It potentially would require the Government or the Gambling Commission to negotiate access and standards with practically every country in the world; and
- For bookmakers it would impose a restriction that they are not presently faced with and one that the Government has not previously considered applying to them.

106. If other jurisdictions wish to prevent their citizens from gambling with British based operators then that of course is open to them. There are numerous mechanisms that they might be able to use, such as restricting advertising or making it an illegal act for the players (eg from 31 May 2002 this approach has been adopted in Hong Kong to combat betting with offshore bookmakers – the penalties include imprisonment for up to 9 months and a fine of up to HK\$ 30,000). Another notable measure applied in both Australia and the USA has been to ask credit card issuing banks to block the cards’ use for gambling transactions.

107. Rather than this the Government favours a much more free market approach. This is the preferred option as it is the one that most closely matches the Government’s vision of a global market where a well regulated British based industry is able to establish itself as a world leader. Quite apart from that the pitfalls with the other alternatives are there for all to see.

108. For the gambling operators this will mean that there is no ‘black list’ of countries from where they are unable to accept customers. Instead the responsibility will rest with each of them to make those sorts of decisions based on their individual business profiles. For instance, at present many companies will not take business from the USA. This is either because they respect the wishes of the federal government there, fear possible action being taken if they hold any assets that might be seized, or licences threatened, or risk arrest if venturing into the USA. A similar situation could develop in other

jurisdictions that were also seeking to prevent their citizens from gambling with operators in other states.

109. That cannot be taken to mean that the Government is not supportive of international co-operation. It will be to the advantage of every jurisdiction as there will inevitably be many issues of common interest. The Government should also retain a reserve power to impose geographical restrictions to enable it to review and amend this policy if the situation demands it in the future. For instance, the Government could decide to stop operators from accepting bets from those countries where all gambling or perhaps just remote gambling is not allowed. This may be viewed differently from the scenario where another country is seeking to prevent access by British operators, but where it still permits remote gambling with its own licensed operators. The latter of these would be an attempt to treat the global internet as some form of commercial intranet. While in both cases respecting these countries' preferences and without seeking actively to undermine their domestic policies, Britain will not automatically accept extraterritoriality in this matter. Beyond that it would be for the British courts to determine whether to apply the findings of courts in other jurisdictions.

110. Attempts by other governments to block access to well regulated sites and operators in Britain may have the unwanted effect of driving citizens of those countries to operators in perhaps less reliable jurisdictions. This could not be in anyone's best interests and it is the Government's hope that international standards and agreements could be reached in the longer term.

111. It is appreciated how important state sponsored gambling opportunities are in some countries and it is evident that the UK Government values the National Lottery in the same way. Nevertheless, even there, the Government has not sought to prevent UK citizens from having access to similar online lotteries abroad.

Location of the gambling event/activity

112. In part, the perspective of each state will be shaped by its understanding of where any gambling event is actually taking place. There is no right or wrong answer, but it is something that each jurisdiction will need to decide upon. For example, the US Department of Justice has opined that online wagering takes place simultaneously in both the player's point of origin and the jurisdiction where the gambling operator is based.

113. In Britain we are coming at it from a different policy angle with the presumption that the regulated activity takes place where the operator is based. The reasoning behind this is that player, wherever he is situated, must go to the operator's site to take part in the gambling event and a bet is not struck until it is accepted by that operator. At its most fundamental, the analogy is of an overseas citizen choosing to travel to the UK and gamble in a properly regulated establishment. So far there has been no sign that other jurisdictions will be seeking to prevent their citizens from accessing UK

gambling operators in this manner and yet the only real difference between this and the remote model is one of speed and convenience.

114. Notwithstanding this there are points of principle at stake and both the Government and the Gambling Commission will want to take every opportunity to explain their position to counterparts in other countries. Equally important it would allow them to better understand why some jurisdictions have different policies.

European Dimension

115. Within the European Union gambling legislation is not centrally determined and is left to the competence of each member state. As such each state has developed a unique regime in response to national requirements. There is no harmonisation and in the short term to medium term there is no realistic prospect of this being achieved.

116. For this reason gambling was excluded from the scope of the E-Commerce Directive which came into force in 2002.

117. At a more informal level European regulators or groups of them (eg GREF) will continue to meet and, hopefully, reach common views on various issues. This should be encouraged, but the differences as regard the detailed regulation of remote gambling are such that any consensus will be extremely difficult to reach.

118. There are a handful of European Court of Justice cases (Schindler, Zenatti, Gambelli, etc) relating to gambling products. Due respect will have to be paid to these, but it is far from clear how they could be applied to a comprehensive British based remote gambling industry offering its services on a global basis. It would be perverse if British remote gambling products were freely available all around the world, but because of case law not within the EU. For now it is enough to acknowledge that any British legislation/regulation would have to take account of these rulings.

Taxation

119. An appropriate taxation regime will be essential to the success of the remote gambling sector in Britain. Unlike bricks and mortar operations, remote gambling operators will be in daily competition with offshore competitors. This commercial pressure means that, despite the many attractions of Britain as a jurisdiction and place of business, there will be a level of fiscal cost that would in practice prohibit the gambling operator from being based here. That does not mean there is a case for ultra low taxation levels, but it will need to be a consideration.

120. It is more than understandable that, for planning purposes, this is something that potential licence holders will want certainty about as soon as possible. Unfortunately, both for policy and procedural reasons, Customs & Excise will not be in a position to offer anything explicit until there is greater

certainty about when the new legislation will come into force and how the licensing of operators will fit into the annual tax cycle.

121. Any decisions on that front must quite rightly be left to them to make. They have kept in touch with the evolution of the regulatory policy and are considering the revenue implications. In due course they will no doubt consult both existing and potential operators. Until then a period of uncertainty is unavoidable.

Advertising

122. The bulk of advertising issues apply to all forms of gambling and are being addressed in a separate exercise. That will include, for instance, provisions for preventing advertisers from targeting children and will take into account the provisions of the E-Commerce Directive (although gambling falls outside the scope of the directive, the advertising of gambling does not). Generally, there will be a liberalisation of the advertising of gambling products but there are though one or two points that ought to be made about remote advertising in particular.

123. There are certainly more uncertainties about what exactly constitutes online or telephone advertising. What might be called traditional presentations of advertising, equivalent perhaps to an advertisement in a newspaper are easily identifiable and regulated. Where it becomes harder is in deciding whether items such as hotlinks (icon type features that take someone straight to a gambling site) or even spam (unsolicited e mails) should also be regulated in the same way.

124. Because of this the Gambling Commission must have powers to monitor and restrict the forms and content of related advertisements. This will call for close liaison with existing regulators like the ITC and Advertising Standards Agency.

125. To enforce these powers the Gambling Commission should expect the co-operation of the ISPs, even if they are not held liable.

126. A current anomaly is that while it is illegal to operate online gaming from a British base, offshore operators are free to advertise their services in print and many have done so in newspapers and on billboards. This cannot be allowed to continue and the new legislation will at the same time open up this avenue of advertising for licensed British operators and close it down for non-EEA operators.

Online gambling in non-licensed premises.

127. One effect of the reforms will be to make it safer than it presently is for people to gamble outside of licensed premises.

128. In a sense this is 'private' gambling, but the Government believes that 'public' gambling should normally be restricted to premises licensed for that purpose.

129. The practical difficulties in enforcing this distinction are not to be underestimated, but that is insufficient cause to abandon the policy. The Gambling Review Report (para 30.43 refers) states that:

'The Gambling Commission should have power to take action in relation to premises, not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing online gambling services.'

The key word there is 'primarily' and it will shape further thinking on this matter. The aim though is to have the necessary controls contained in the Gambling Bill.

Conclusions

130. The policy outlined in this paper has been shaped by what is currently available in terms of good and bad practice, the views of a diverse range of interested parties and gambling operators, the latest technologies and information sources, and the Government's over-arching vision of how it wants the industry to evolve.

131. Flexibility will be the key to managing the development of a successful British based remote gambling industry. Practical lessons will be learnt and new research will increasingly contribute to a better understanding of the effects of this form of gambling. The Gambling Commission must have the right balance of expertise, resources, and freedom to act in order to build on this knowledge and to react promptly to rectify any weaknesses in the system.

132. While much more detailed work can and should be done by the Gambling Commission in order to introduce a pragmatic, robust licensing and regulatory regime, there should be no doubting that this objective can be met.

133. In moving toward that position it will need to bear in mind the Government's desire to see Britain become a world leader in the field of online gambling and yet, at the same time, be sensitive to any reservations that there may be in other jurisdictions.

134. Effective regulation is by far the most important consideration but, as long as that is not undermined, every effort should be made to appreciate the commercial pressures faced by licensed gambling operators and to help them compete with their competitors in other jurisdictions.