

chapter twenty

Licencing of Premises: General Issues

20.1 This chapter discusses some issues that are common to gambling premises. It covers permitted areas for casinos, the demand criterion for casinos and bingo halls and the demand test for betting shops. In chapter 21 we discuss our recommendations on the role of local authorities in the licencing of gambling premises.

Permitted areas

20.2 Casinos may operate only within the 53 areas defined by the Gaming Clubs (Permitted Areas) Regulations 1971 and the Gaming Clubs (Permitted Areas) (Scotland) Regulations 1971. Within a permitted area, the licensing authorities are able to refuse a licence for a casino if they consider that there is insufficient unmet demand for the gaming facilities. The system of permitted areas was originally introduced to reduce the number of casinos to a manageable amount: there were around 1,000 casinos in the 1960s and, as discussed in earlier chapters, there was widespread abuse and criminal infiltration was not uncommon.

20.3 Permitted areas were first introduced in 1969. The areas were chosen on a subjective basis and this led to disputes. The 1971 Regulations included a formula under which any county borough outside Greater London with a population of 125,000 became a permitted area. When county boroughs were abolished in 1974, an amendment was made to the formula to bring in those former county boroughs which had a population of 125,000 or more at any time between December 1970 and October 1973. The list has remained frozen ever since. In summary, this means that casinos are permitted only in:

- parts of inner London
- county boroughs in England and Wales with populations in the 1970s of over 125,000
- certain seaside resorts in England and Wales
- Scottish cities of Aberdeen, Dundee, Edinburgh and Glasgow.

20.4 The Home Office issued a consultation paper on casino and bingo clubs in 1996¹. This suggested that abolition of permitted areas was not a realistic option, because there could be a massive increase in the number of casinos bringing "unmanageable vetting and regulating difficulties".

20.5 The consultation paper proposed new criteria for permitted areas. These were areas with a population of

at least 300,000 (150,000 in resort areas) within a 20 mile radius of the centre of the area; and at least 20 miles from the centre of another permitted area (10 miles in London). At that time, the Gaming Board was said to "strongly oppose" the abolition of permitted areas. We understand that this objection may have been principally on resource grounds.

20.6 The Gaming Board² now takes a very different view of permitted areas. It does not believe that permitted areas need to be retained for casinos, although it argues that safeguards will be required to ensure that this does not lead to a plethora of small, unregulatable casinos.

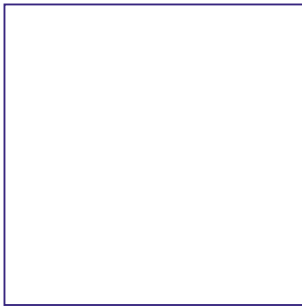
20.7 The British Casino Association³ and a small number of other respondents suggested to us that the concept of permitted areas should be retained and that the proposals floated by the Home Office in 1996 should be implemented. This would result in thirteen more permitted areas.

20.8 We believe that several of those who have suggested modifying the criteria rather than abolishing them, may have done so in the expectation that this would be more favourably received than a call for abolition. The British Casino Association acknowledges in its submission that a minority of its members favours the abolition of permitted areas.

20.9 The criteria suggested by the Home Office in 1996 are complicated, and re-drawing the areas would be an unsatisfactory and temporary solution. The population density of a particular part of the country is not a good test of the likely demand for a casino. As a number of respondents have pointed out to us, in many areas the potential customers for new casinos are likely to be domestic and foreign tourists and not local residents.

20.10 We believe the constraints that permitted areas introduce are artificial and we are not persuaded that they are the only, or best, way of controlling numbers. **We recommend that permitted areas should be abolished.** We are, however, conscious that a sudden huge increase in the number of casinos could be difficult to regulate and damaging to the industry. There are ways to avoid this.

20.11 One of the problems of the 1960s was the proliferation of small casinos. That is a problem we must avoid recreating. In addition, the new work for the Gambling Commission must be manageable. The British Casino Association suggested to us that, as an interim measure, the number of permitted areas could be gradually increased. We are not attracted to that



idea: as discussed earlier, it would be very complex and could be out of step with the commercial judgement of would-be operators. We have considered what alternatives there may be: any that explicitly restrict the number or location of casinos inevitably look like a reintroduction of permitted areas under another guise. We think that we can better achieve our objective by regulating the minimum size of a casino. We do not want, for example, nightclubs simply adding one or two gaming tables in a back room.

We recommend that the Gambling Commission should set a minimum size for a casino. To begin with, the size should be larger than the smallest casinos currently operating - say 2,000 square feet (185.8 square metres) for the gaming floor devoted to table games - with an exemption for existing casinos. Over a period of some five years, and as the demand for new licences becomes clearer, the minimum size could be altered.

20.12 In terms of the minimum number of tables that would be required, a table gaming area of 2000 square feet, would mean that there were at least eight tables available for play in any new casino licensed by a local authority. The Gaming Board issues advice to local authorities on the floor layout and minimum floor area for table games. We envisage that the Gambling Commission would continue to offer such advice. To help illustrate what may be provided in 2000 square feet, the following are some of the current floor areas (per gaming table)

- American Roulette 200sq.ft
- Baccarat 200sq.ft
- Blackjack 90sq.ft
- Casino Stud Poker 90sq.ft
- Chemin de fer 150sq.ft
- Craps 250sq.ft
- Punto Banco (7 places) 90sq.ft
- Super Pan 9 150sq.ft

20.13 In the long term, we suggest that the minimum size should not fall below the size of the smallest casinos that currently exist, to ensure that the number of casinos does not become uncontrollable. The smallest casinos currently have a gaming floor of around 1600 square feet (148.6 square metres).

20.14 Another factor determining the growth of casinos is the mix of activity that they are required to provide. We discuss that in detail in chapter 22, but in brief we

are ruling out slot-machine only casinos of the kind seen in some places overseas.

The demand criterion

20.15 Under schedule 2 to the Gaming Act, licensing authorities can refuse to grant or renew licences for gaming facilities where they consider that there is insufficient unmet demand. The Act does not distinguish between casinos and bingo clubs, but in practice there are differences. For example, in considering applications licensing authorities must take account of the advice of the Gaming Board in relation to casinos, but the Gaming Board does not advise on bingo clubs.

Casinos

20.16 The 1996 Home Office consultation paper said the demand criterion had prevented the proliferation of casinos and identified the benefits as:

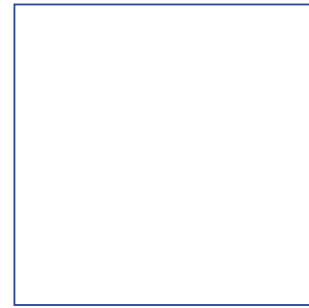
- ensuring that the number of establishments does not itself stimulate demand
- keeping the number of casinos down to a scale which can be supervised effectively by the Gaming Board
- avoiding excessive and damaging competition

20.17 The paper argued that removal of the test would lead to a rapid increase in numbers. Competition would encourage casinos to break the rules and rapid expansion could mean that organised crime would get a foothold.

20.18 In its submission to us the Gaming Board said that it did not believe that the demand criterion should be retained. It argues that the "test has largely become an academic exercise, involving sometimes convoluted, lengthy and artificial arguments about the meaning of particular figures and over witness evidence."

20.19 In its submission the British Casino Association did not discuss the demand criterion. It states that it recognises that "casino demand and location issues" would still need to be determined locally, which we take to be support for the status quo. In their oral evidence to us, the BCA spoke of a "desirability test", but as they described this to us it appeared to be a demand test under another name. The BCA is alone in suggesting a test of this kind should be retained. The Ritz Club⁴ and others argued for the demand criterion to be abolished on the grounds that it is out-dated.

20.20 We agree that the demand criterion is out-dated. It reflects an era when gambling was not something people were expected to want to do, and the

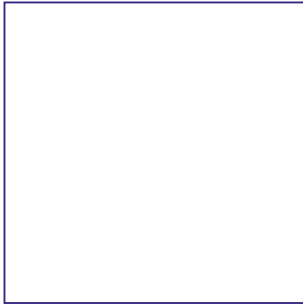


legislation was guided by a wish to restrict opportunities. The experience of those who have had to operate this system is that it is difficult convincingly to separate responding to demand and stimulating it.

- 20.21 We are not unsympathetic to the second “benefit” identified by the Home Office, as set out in paragraph 20.16, of keeping the industry to a size that can easily be regulated. It must be the Government’s responsibility to ensure that the regulator has the resources and the power to regulate the industry: the resources of the regulator should not be an artificial restriction on the growth of the industry. However, we have recognised in paragraph 20.11 that the speed of expansion should be controlled to ensure that the ability of the Gambling Commission to regulate the industry can grow with the market. Of course, the ability of the regulator to keep pace with market forces must be matched by the willingness of the industry to pay for the service it receives. We discuss the funding of the Gambling Commission in chapter 34.
- 20.22 We have no sympathy with the third “benefit” identified in the Home Office paper. It is not a purpose of regulation to restrict competition. We were reminded by Lord Haskins, and by a number of other respondents who quoted from Better Regulation Task Force guidance, that regulation should promote competitive markets.
- 20.23 It has been suggested to us that the demand test is necessary because operators may behave inappropriately if supply begins to outstrip demand. We note that concern, but think that this should be controlled by regulation, not by rationing of supply. If there are complaints about operators, the regulator should intervene. The situation in 2000 is very different from that in the 1960s, when casinos had been operating in an unregulated environment. We are starting now from a position of a strong Gaming Board and an industry run by people who are fit and proper.
- 20.24 As with permitted areas, we are not persuaded that numbers should be controlled by an artificial demand criterion. Demand is best assessed by operators’ commercial instincts. Some operators will be prepared to run on smaller margins than others.
- 20.25 That is not to say that there should not be local input to decisions about the locations of casinos. The premises will be assessed as suitable for gaming by the local authority acting on good practice guidelines from the regulator (see chapter 21), and the local authority will take into account planning requirements to ensure that the development is appropriate to the area.

Bingo

- 20.26 The 1996 Home Office consultation paper proposed that the demand criterion should no longer apply to bingo. The reasons were:
- *traditional bingo carries a low social risk and it is not necessary in the public interest to prevent the stimulation of demand caused by the number of premises*
 - *market forces, combined with the requirement for operators to obtain certificates of consent from the Gaming Board and gaming licences... would keep premises to a manageable number*
 - *within an effective regulatory framework, greater competition between bingo clubs is likely to bring benefits to players.*
- 20.27 The proposal to remove the demand criterion for bingo was not adopted, but the reasons put forward in support of it hold good today.
- 20.28 In its submission to us, the Bingo Association⁶ stated that the demand criterion should be retained, because it enables magistrates to consider local issues that might otherwise be ignored. The Association argued that licensing responsibilities should not be transferred to local authorities because they are not independent. In its oral evidence to us, the Bingo Association amplified its concerns that planning authorities allow political considerations to influence their opinions and they were also concerned that, in the absence of any measure of demand, market forces could mean that bingo clubs were forced to close. The Association suggested that this would be undesirable because bingo clubs “are part of the social fabric of this country”. As discussed in chapter 18, we do not agree that licensing should remain with magistrates and we consider that local authorities are better placed to reflect the opinions of local people. We cannot agree with the Bingo Association that the demand criterion serves to highlight any particular local issues that might otherwise be overlooked and, whilst, we might sympathise with its wish to retain the status quo, we cannot agree it is a purpose of regulation to stifle competition. **We recommend that the demand criterion should be abolished for both casinos and bingo clubs.**



Betting shops: the demand test

- 20.29 The issuing of licences by the magistrates for betting shops is subject to the demand test in the same way as the issue of licences for casinos and bingo halls. There was a provision in the Horserace Totalisator and Betting Levy Boards Act of 1972 to exempt Tote Board applications for betting shop licences from the demand test, but this provision has never been enacted⁷.
- 20.30 We received contradictory evidence from the bookmaking associations about the value of the demand test. BOLA told us that it should be retained, because larger bookmaking firms could squeeze out smaller ones. It argued that if smaller bookmakers were driven out of business, it would lead to an increase in illegal betting. BOLA also argued that it would simply not be desirable to allow a number of betting shops in close proximity. In contrast, the BBOA (representing independent bookmakers) argued in favour of the abolition of the demand test. It told us that the test does not protect small bookmakers. The

BBOA noted that in 1968 there were some 16,000 betting shops, but there are now about 8,800, about half of which belong to the "big three". In the BBOA's experience, if a small bookmaker tries to open a shop near to one of the major bookmakers, the larger companies do what they can to prolong the licensing decision and make it difficult for the small bookmaker to retain the lease. The BBOA's view is that the demand test has served the major bookmakers well, because they have the financial resources to ensure it works to their advantage.

- 20.31 As with casinos and bingo halls, we think that demand is best assessed by potential operators on commercial grounds alone. The evidence we have received suggests that the demand test is currently employed by bookmakers to drive away competition. This restricts new trade and is not good for the punter. **We recommend that the demand test should be abolished for betting shops.**