

# chapter thirty

## On-line Gambling

30.1 Our terms of reference require us to

- consider the state of the gambling industry and the ways in which it may change over the next ten years in light of the growth of e-commerce and technological developments, and make recommendations for the kind and extent of regulation for gambling activities in Great Britain.

30.2 The development of on-line gambling, whether through the internet or television or some other medium, presents a particular challenge to the system of regulation. The basis of the present system is that regulation is related to the physical premises on which certain types of gambling are permitted and where the punter must be physically present. On-line gambling removes that basis. People can gamble in a wide variety of ways in any location provided they can communicate with the provider. That has long been true of telephone betting but now it extends to all forms of gambling. And it presents us with a particular dilemma: certain features of on-line gambling suggest it should be more heavily regulated than premises-based gambling; but its very nature makes it more difficult to regulate. We are not alone in trying to grapple with these problems and during the course of the Review, we have watched with interest the developments in Australia and in the United States in particular. Some US states seem to have concluded that banning internet gambling is not a practical proposition, or a sensible one in terms of the potential loss of revenue and the loss of opportunity for the domestic industry. Australia still hopes that it can ban internet gambling for its citizens, to prevent a further increase in problem gambling, but can allow its industry to offer gambling on the internet to people outside Australia. We shall be interested to see whether this can be achieved.

30.3 We are clear that it would not be right to try to ban on-line gambling in the UK, and it would not, in any case, be feasible to do that. Where relevant, our recommendations try to replicate for on-line services the regulation that will apply to UK casinos.

### What is on-line gambling?

30.4 Most of the submissions to us, and indeed the proposals made in other jurisdictions, have concentrated on gambling on the internet. But there are other ways to gamble on-line. Interactive television is becoming more common and on-line gambling can also be carried out using mobile phones. In this chapter (and elsewhere in this report), we have used the term "on-line gambling" to refer to gambling services that

use a telephone connection, including gambling services accessed via the internet, interactive television and mobile phones. The terms that others have used to describe the same activities include internet gambling, virtual gambling, interactive gambling and so on, as well as on-line gambling. These are visual services; we do not include traditional credit betting via the telephone in this category. More specifically, we use the term "on-line gaming" to refer to gambling services conducted purely on-line which may appear as virtual casinos, (some) lotteries and electronic gaming machines. Betting, pools and (some) lotteries which receive entries on-line but where the event, draw or competition occurs off-line are referred to in this chapter as "on-line betting".

## Current position in the UK

30.5 Gambling legislation pre-dates on-line gambling. This has different effects on different activities. The provision of on-line gaming, for example, is not legal in Great Britain because, under the 1968 Act, the punter must be present in the room in which the gaming takes place. Lotteries can be sold by machine, but there must be some human intervention: so they could be sold by e-mail, but not interactively. In summary, the rules are:

- casino, bingo and machine gaming. It is illegal to set up on-line sites in Great Britain
- betting. A bookmaker may accept bets on-line
- lotteries. Societies lotteries must not be sold by machine
- National Lottery. The National Lottery Act does not preclude the sale of tickets by machine, as long as the machine is attended
- punters. It is not illegal for British residents to gamble on-line. Nor is it illegal for overseas operators to offer on-line gambling to British residents (though there are restrictions on advertising).

## Overseas

30.6 Those in other countries who have concluded that on-line gambling should be permitted have done so for the following reasons:

- banning on-line services would not necessarily deter punters, because gambling is socially acceptable and individuals would not accept this restraint on their



behaviour. Prohibition would be unlikely to be effective in controlling problem gambling

- prohibition would be impractical and costly to enforce. Enforcement could be through the user's Internet Service Provider (ISP) putting a block on prohibited sites (identified by the domain name) or by blocking messages based on the source address. Neither approach is likely to be fully effective. Encryption and tunnelling can overcome source address blocks, and monitoring of messages would be expensive and could lead to a significant slowdown of all internet transmissions. Blocks on domain names can be avoided by the service provider changing its numerical address
- a ban could not be enforced through the option of banks not honouring payments to illegal gambling sites. This is because banks would find it difficult to identify such sites and if the sites were legal in their host country then the bank's actions would be difficult if not impossible to defend
- punters could get round the ban by registering with an ISP located outside their own country and/or using an off-shore account to pay for their gambling
- prohibition would lead to a loss of consumer and producer benefits and potentially a rise in criminal activity.

### The United States

- 30.7** The US National Gambling Impact Study Commission (NGISC) recognised the difficulties of prohibition, but did not regard them as sufficient to permit on-line gambling. The NGISC recommended that because of the lack of sound research on the effects of on-line gambling on the population and the difficulty of policing and regulating to prevent participation by minors, states should not permit the expansion of on-line gambling into homes.<sup>1</sup>
- 30.8** To implement this ban, the NGISC recommended that the relevant federal authorities should develop enforcement strategies that involved ISPs, credit card providers, money transfer agencies, makers of wireless communications, and others who might intentionally or unintentionally facilitate internet gambling transactions. The NGISC also asked the federal government to encourage foreign governments not to harbour internet gambling organisations which "prey on US citizens".
- 30.9** The threat of prosecution by the US government is a deterrent, but this has not stopped internet gaming sites outside the US continuing to accept bets from US citizens even in cases where the site owner has been

prosecuted. However, there are now signs that prohibition is giving way to regulation. A bill has been introduced to the Las Vegas Assembly which would allow casinos in Nevada to conduct internet gaming under licence. The bill makes recommendations for stringent regulations on security, under-age gambling and taxation. We understand that there are moves to introduce a similar bill in New Jersey.<sup>2</sup> The final direction of US policy regarding on-line gambling therefore is not yet clear.

### Australia

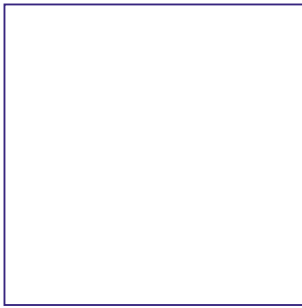
- 30.10** In Australia, the state governments initially chose to license internet gambling operators. A working party of state regulatory officials issued a report on internet gambling in May 1997. It recommended the introduction of a state licensing and inspection scheme as the best response to illegal gambling.<sup>3</sup> A programme of state approval and legislation followed, but the Australian federal government has since become concerned about the level of problem gambling arising from the accessibility of both off-line and on-line gambling.
- 30.11** This growing concern led the federal government to introduce a moratorium on interactive gambling services which took effect on 22 December 2000.<sup>4</sup> The government subsequently undertook a study into the feasibility and consequences of banning interactive gambling. The report was published on 27 March 2001, and concluded:

... there are several technical methods that could potentially be used to implement a ban on interactive gambling based on internet content control. However:

- ... all of these methods can potentially degrade general internet performance;
- ... none would be 100 per cent effective in preventing access by residents to interactive gambling services; and
- ... implementation would take at least six to twelve months and would require consultation with the gambling industry, telecommunications carriers and internet service providers.<sup>5</sup>

- 30.12** The Australian Government has said that it remains concerned about the potential of interactive gambling to increase problem gambling in Australia and is committed to fully exploring the option of a ban.<sup>6</sup> In April 2001 it introduced to Parliament the Interactive Gambling Bill 2001. The legislation is designed to ban Australian interactive gambling suppliers from offering their services to people located within Australia, but Australian on-line gambling suppliers would still be

1-National Gambling Impact Study Commission (1999) 2-Casino International (2) (April 2001) 3-Kelly, Joseph. M. (2000) 4-National Office for the Information Economy (1) website viewed 30 March 2001 5-National Office for the Information Economy (2) (2001) 6-National Office for the Information Economy (1) website viewed 30 March 2001



able to offer their services to people outside Australia. All gambling services are included in the Bill.<sup>7</sup>

### Why should on-line gambling be regulated?

**30.13** On-line gambling should be seen as just another way of delivering a service. We have set out in chapters 15 to 17, the principles that should govern the regulation of gambling and these apply as much to on-line gambling as to any other type of gambling. In addition, there are particular characteristics of on-line gambling that may make regulation even more desirable:

- on-line gambling is available 24 hours a day. Gambling in premises may be restricted to certain hours
- there is greater continuity of gambling activities. Most forms of gambling can be made continuous by breaking events into a series of mini-events, by betting on events all over the world, or simply by running games more frequently.
- stakes can be lower. More low value gambles may be feasible because the cost of providing them is low
- it is easier to use: the gambler can learn on-line (sometimes through free practice sessions) at his own pace
- entry conditions are negligible. No dress or other physical requirements apply
- social barriers are easier to overcome. Services are offered in many languages and can be consumed in a safe environment; people may be able to bet while at work.

**30.14** A recent report by the National Office for the Information Economy (NOIE) in Australia found that key social concerns surrounding gambling on the internet were:

- internet gambling will greatly increase the accessibility of gambling. Research shows a significant relationship between accessibility and the prevalence of problem gambling;
- the special attributes of interactive gambling, such as its ease of use and the type of products available may exacerbate the prevalence of problem gambling;
- interactive gambling will expose new audiences, such as young people to gambling, thereby increasing the potential for an overall increase in problem gambling.<sup>8</sup>

**30.15** The last point is important, because under 25s tend to use the internet more than older people and that is the age group with the highest incidence of problem gambling. Continuous forms of gambling that are accessible to young adults (especially males) have been found to be likely to result in increased problem gambling.

**30.16** Our conclusion is that on-line gambling should be regulated. The following paragraphs suggest how that might be done.

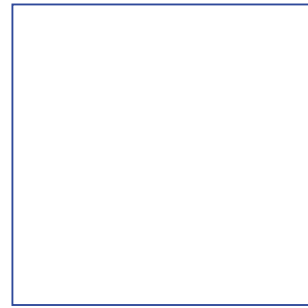
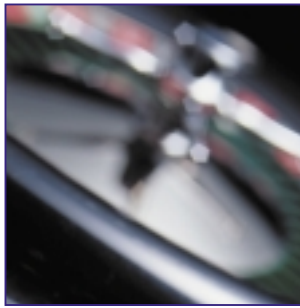
### Which sites should be regulated?

**30.17** Total control and regulation of on-line services around the world is not likely to be achieved. It would need to rely on co-operation from other countries and the on-line gambling industry, including internet service providers. The UK government has worked with the internet industry on issues such as child pornography, where there is a common interest in banning criminal activity across national boundaries. Such concerted action in relation to gambling could not be justified and we know from the developments in other countries that it would be hard to reach agreement on a common approach.

**30.18** A punter gambling in Great Britain will be able to access gambling sites operating from anywhere in the world. We cannot hope to regulate all those sites, but what we can do is regulate those based in Great Britain, so that the punter has the choice of gambling in a regulated environment or taking a chance with an overseas operator (who may, of course, be regulated in another jurisdiction). Recent newspaper reports have suggested that over a third of on-line casinos fail to pay winnings<sup>9</sup> and in some parts of the world there are reports of criminal activity clearly being linked to on-line gambling. Antigua has earned a reputation as one of the world's internet gaming capitals, but it has been reported that:

*...plans to attempt to regulate the internet companies in Antigua have been met with hostility from many operators. Last year plans to introduce a "black box" system, which would enable regulators to track financial transactions led to many operators threatening to pull out of Antigua all together and saw... the Antiguan Director of Offshore Gaming receiving death threats.<sup>10</sup>*

**30.19** Punters using regulated sites will be reassured that they are playing fair games, that they will receive their winnings and that their banking details and money are being handled by a legitimate business and not funding criminal activity. Although we may be concerned about the integrity of some of the gambling services offered by operators in other countries, and accessed by UK



residents, it cannot be the Gambling Commission's responsibility to regulate them all.

**30.20** We have considered what should be the criteria for an operator to be regarded as being based in Great Britain. The difference between on-line gambling and terrestrial forms is that no premises in this country need be used to carry on the business. If an on-line operator is to be regulated by the Gambling Commission, we believe that it is essential that it should be providing a service that is readily identifiable with the UK. **We recommend that an on-line gambling operator seeking a licence from the Gambling Commission should, at the minimum:**

- be registered as a British company
- locate its server in Great Britain and
- use a UK web address for its gambling site.

**30.21** We do not believe that these requirements will prevent overseas companies from seeking a licence, and, in any case, we think that it is important to distinguish between being licensed by the Gambling Commission and being able to operate in Great Britain. It will not be an offence for punters in Britain to use unlicensed sites, but they will do so at their own risk. Similarly, it will not be an offence for unlicensed operators to allow UK punters to use their sites, although we are suggesting that there should be a prohibition on advertising such sites in this country.

**30.22** We believe that there will be strong incentives for operators to apply for on-line licences, particularly if we are one of the first European countries to offer them. The kudos of the Gambling Commission's approval is likely to be attractive to a large number of operators and this makes it all the more important to set some boundaries on the Commission's jurisdiction. The Gambling Commission will not have the resources to license companies based outside Great Britain, and attempting to do so could mean that its monitoring and enforcement functions were difficult to carry out.

**30.23** The location of the operator, as well as being central to regulation, is also relevant to any tax liability. This has been an issue in relation to betting duty. It was announced in the 2001 pre-Budget report that the General Betting Duty of 6.75% on total stakes would be replaced with a 15% tax on bookmakers' gross profits. This makes it possible for bookmakers to absorb the tax, meaning that punters will not pay a separate duty (though they may face poorer odds). The intention is that bookmakers will be encouraged to come back from overseas and benefit from the UK's good reputation in betting. There is a lesson here for the taxation of on-line

gaming. We simply note that, although the prestige of being regulated by the Gambling Commission will attract operators, unless the rate of tax is set at a sufficiently low level it may be a disincentive to on-line operators to base their sites in Great Britain. As we note in chapter 36, the mobility of on-line operators makes it difficult to impose what might otherwise be thought desirable, namely higher tax rates for harder forms of gambling.

### Nature of the regulation

**30.24** Some of the issues we have discussed in earlier chapters will be relevant to on-line gambling. For example, chapter 19 deals with the licensing of people and corporate bodies. On-line operators will have to show that they are fit and proper and financially sound in the same way as terrestrial operators. They will need to show that they are competent in the type of gambling they wish to offer, as well as having the skills necessary to operate on-line.

**30.25** As mentioned in paragraph 30.4, we envisage that operators will be licensed to provide on-line betting or on-line gaming. The distinction is that:

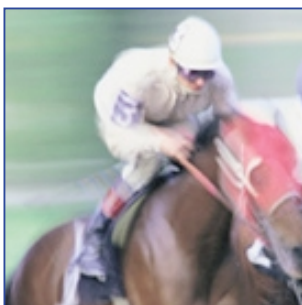
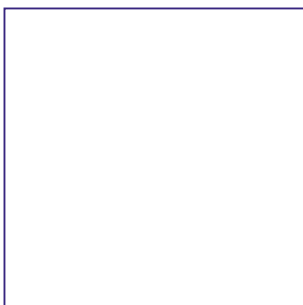
- on-line betting, using the internet or interactive television is simply a means of placing bets on real-time events
- on-line gaming requires the stake to be made on-line and the gambling to be generated on-line by a random number generator of some kind.

Some gambling activities, particularly lotteries, can fall into either category depending on the exact nature of the game. Where there is doubt, the Gambling Commission should have the authority to make a binding ruling.

### On-line betting

**30.26** On-line betting raises no new regulatory issues. It is no different from using a telephone. We can see no need to add another layer of regulation specific to this activity, although the Gambling Commission will want to pay particular attention to the measures taken to ensure that bets are not accepted from under 18s.

**30.27** In addition, we see no reason why on-line services should not be used for purchasing a lottery chance or entering a pools competition. Operators wishing to use the internet or interactive television as a mechanism of entry, or even the only mechanism of entry, will need to be licensed as a pools or lottery operator and the same regulations will apply as if the entry was made off-line. **We recommend that on-line betting (including pools and lotteries) should be permitted on "real-time events" taking place off-line.**



## On-line gaming

- 30.28 On-line gaming may include virtual casino gaming, lotteries, gaming machines or scratchcards. Such activities raise new challenges for regulation, because the punter has no way of independently verifying that the gambling is honestly and fairly conducted. The Gambling Commission will need to ensure that the software used for the gaming operates on a random basis and that there are controls to ensure that the outcome of the games cannot be influenced. There is clearly scope for abuse in operating a service of this kind, but the stringent requirements with which all gambling operators will need to comply lead us to believe that such abuse is unlikely to occur and if it did, it would quickly be identified. **We recommend that on-line gaming should be permitted.**

### Testing on-line gaming sites

- 30.29 On-line gaming sites may well appear in a variety of formats, but they are likely to be based on random number generation. The software should be made available for testing and inspection by the Gambling Commission. **We recommend that on-line gaming software systems are tested and inspected by the Gambling Commission and that the software should operate on a random basis.**
- 30.30 There are already hundreds of on-line casinos offering a variety of games that are similar to those played in off-line casinos. Unlike land-based casinos, there may be no limit on the design and type of virtual games. But, as far as possible, there should be parity between on-line and off-line gaming. For off-line casinos the Gambling Commission will list the games it has approved and operators will select from that list. For on-line casinos the Gambling Commission will need to set the parameters within which games can be developed to ensure that they are fair and transparent to the punter. Given the speed with which on-line games may change, we do not consider that it would be reasonable to require each new game to be separately approved, and the Gambling Commission's random inspections should identify problems. **We recommend that the Gambling Commission should set the parameters for the development of on-line games.**

### Information to the punter

- 30.31 It is important that punters should be able to make an informed choice about the games they play. As with off-line gaming machines, information on the return, game rules and nature of the game should be clearly displayed or accessible to the punter. Punters should have ready access to this information whilst they are playing. **We recommend that punters are made**

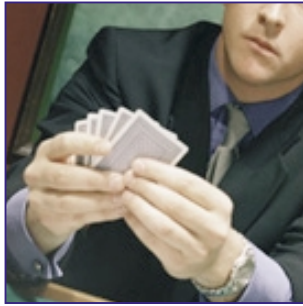
**aware of the game rules and terms and conditions of play on on-line gaming sites before play commences.**

### Identifying punters

- 30.32 It is possible to win and lose very large sums of money by gaming on-line. In this respect, on-line gaming is no different from terrestrial casinos and equally vulnerable to attempts to launder money. We have recommended that all those visiting casinos should be positively identified to reduce the risks of money laundering and to keep out underage players. The same conditions should be placed on on-line gaming operators. On-line gaming is relatively anonymous, because there is no face-to-face contact with the punter. **We recommend that all punters who register to play on-line should be properly identified before they are permitted to play. The Gambling Commission should issue guidelines to ensure that identification standards are comparable with those of off-line casinos.**
- 30.33 As an anti-money laundering measure, it is essential that punters should be paid any winnings or the balance of their account in the same way in which the money was originally deposited. Punters gambling on-line will generally use debit or credit cards, although an account could be opened with a cheque (as long as it is from an account held by the person opening the on-line account). Operators should pay any money back on to the card from which the original payment was made or send a cheque in the name of the account holder. **We recommend that on-line operators should make any payments only to the debit or credit card used to make deposits into the punter's account, or by cheque to the punter.**

### Protecting the vulnerable

- 30.34 On-line operators will need to take measures to ensure that children do not gain access their sites. If they do not take adequate steps, the Gambling Commission may take enforcement action against them. But in addition to any action that may be taken against the operator, we consider that there should be a disincentive for children to attempt to gamble. **We recommend that any prizes won by minors should be forfeited.**
- 30.35 We are not recommending that any limit should be placed on the amount of money that a punter should be able to gamble on-line, or on the time that he spends on a particular site. However, we consider it essential that individual punters should have the ability to self-impose a maximum level of stakes or daily expenditure, or to self-ban. **We recommend that**



**on-line operators should be required to set up facilities that enable players to set maximum stakes and limits, and to self-ban.**

- 30.36 On-line gambling is easily accessible and it may increase the risks of problem gambling. Players may become engrossed in the game and, unlike in gambling premises, there may be no distractions to draw attention away from the screen. It would be a simple matter to keep players informed about their gambling by installing counters which show how much they have won and lost and how long they have been playing. These "reality checks" would help to reduce the risk of problem gambling. Clocks and counters could be on screen at all times, be accessible with one click, or appear at regular intervals, perhaps every thirty minutes. Of these options, we suggest that it would have most impact if the clock and counters were displayed automatically at regular intervals.  
**We recommend that on-line operators set up clocks and counting systems that are displayed on the screen at regular intervals.**

- 30.37 It is essential that punters who develop problems as a result of their gambling should have ready access to information and services which can help them. In time, we envisage that punters may be able to access a range of information on-line and benefit from the accessibility and anonymity associated with on-line services.  
**We recommend that on-line gambling sites provide information about problem gambling treatment and services, and links direct to those services.**

### The Gambling Commission's kitemark and advertising

- 30.38 A number of submissions to us recommended a kitemark system so that punters could identify licensed sites. Alternatively, it was suggested that the regulator should establish a portal through which players could gain access to licensed sites. We propose to adopt both suggestions.
- 30.39 The Gambling Commission will have its own website. Simply listing the sites it has licensed will create a portal (a gateway) because of the nature of hyperlinks. This will be an easy way for punters to ensure that they are gambling on a regulated site.

- 30.40 In addition, we recommend that the Gambling Commission should authorise licensed sites to display its kitemark, to demonstrate that the Commission regulates it. **We recommend that the Gambling Commission establishes a portal on its website, by listing licensed on-line gambling providers. In addition, regulated sites should display the Gambling Commission's kitemark. It should be an offence for an operator to claim falsely that a site is licensed by the Gambling Commission, or to make unauthorised use of the kitemark.**

- 30.41 There are currently restrictions on the advertising in Great Britain of overseas lotteries or betting services. We have recommended that such restrictions should continue to apply and these restrictions should also apply to on-line services. **We recommend that only on-line gambling sites that are licensed by the Gambling Commission should be permitted to advertise in Great Britain.**

- 30.42 We would not expect a hyperlink to be regarded as advertising. However, if it became clear that a regulated site was, in fact, diverting much of its business to another, unregulated, site offshore, the Gambling Commission should have the power to take enforcement action. The Gambling Commission should have a clear code of practice to prevent licensed sites diverting most of their British custom to an overseas site in order to avoid regulation or paying tax.

### Access to on-line gambling in public places

- 30.43 We cannot, and would not want to, prevent people from gambling on-line in their homes or at work. We recognise that the internet, and therefore on-line gambling, is already accessible in many public places. Even if we were minded to do so, it would be impossible to enforce an absolute ban on any gambling being accessed or viewed via a public access internet terminal, or other similar facility. However, this is difficult to reconcile with one of our over-riding principles that gambling generally should be restricted to regulated premises in which gambling is the principal purpose. We recognise that there is a risk that some unregulated premises could try to circumvent regulation by offering internet terminals or other on-line facilities directly linked to gambling sites or provided primarily for the purpose of accessing gambling sites. **We recommend that the Gambling Commission should have the power to take action in relation to premises, not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing on-line gaming or on-line betting services.**