



THE OPERATION OF THE NATIONAL LOTTERY

Government Response
to the First Report from the
Culture, Media and Sport Select Committee
Session 2000–01

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
October 2001*

CULTURE, MEDIA AND SPORT SELECT COMMITTEE



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DEPARTMENT FOR CULTURE, MEDIA AND SPORT

RESPONSE FOR GOVERNMENT TO THE FIRST REPORT

This response was submitted to the Culture, Media and Sport Committee on 8 May 2001. It does not take account of developments since then, including the report of the Gambling Review Body, which was published on 17 July.

- (i) We welcome the National Debt Office's moves to improve the returns to the Fund within the restrictions of its directions. However, Lottery proceeds are held in trust and it would not be appropriate for them to be placed in high-risk investments in an attempt further to improve the returns for good causes.**

The Government welcomes the Committee's endorsement of the policy of the National Debt Office in its management of the Lottery proceeds held in the Distribution Fund. The Government agrees with the Committee's view that Lottery proceeds should not be placed in high-risk investments in an attempt to improve the returns to good causes.

- (ii) We recommend that the Government commission and publish an independent scrutiny of the tax income lost as a result of the Lottery to ensure that tax neutrality is a valid concept.**

The Government does not accept that an independent scrutiny of the validity of the concept of tax neutrality is necessary. The Government acknowledges that it is impossible to know exactly what the revenue neutral rate of lottery duty is because it is not possible to establish precisely what expenditure patterns there would be if the National Lottery did not exist. However, the H M Customs and Excise analysis of current expenditure patterns does produce a robust estimate that the revenue neutral rate of lottery duty lies within a range between 12 per cent and 15 per cent, with the likelihood that the true revenue neutral rate is at, or around, 12 per cent. The Government provided a detailed note on the methodology of H M Customs' estimates under cover of the Chief Secretary to the Treasury's letter of 26 March to the Chairman, Gerald Kaufman.

- (iii) We consider the sale of Lottery tickets through retailers to have been a success. We welcome the much needed additional income to independent retailers provided by Lottery sales.**

The Government and the National Lottery Commission agree that the retailers have played a vital role in the success of the National Lottery. Both the wide geographical distribution of the retail estate and the mix retail establishments have helped this. The Commission has taken steps within the next licence to preserve the geographical coverage of the retail network, and has encouraged a continuing mix of independent and multiple retail stores.

- (iv) We expect the retailers to continue to provide the main distribution method for Lottery sales during the next licence period. We expect the Commission to ensure that the operator maintains the current level of geographical coverage and that Camelot fulfils its commitment to maintain terminals that are not necessarily profitable as a community service.**

The number of retailers with lottery facilities will be broadly similar during the next licence period to the numbers under the present licence. The National Lottery Commission believes the retail network will remain very important, and that there is a significant place for independent retailers. The Commission has required expanded minimum geographic coverage under the new licence.

- (v) We see no justification for the view that the Lottery is a tax, whether on the poor or anyone else. The purchase of a National Lottery ticket is a wholly voluntary decision, which players make to take part in the dream of winning a large amount of money.**

The Government welcomes the Committee's agreement with its view that the Lottery is not a tax.

- (vi) We agree with the National Heritage Committee's view that the licence-fee payer should not subsidise promotion of the National Lottery. It is not essential that the BBC is the broadcaster that covers the National Lottery draws. We note that, as the operator introduces new games, the broadcasting of multiple Lottery draws will probably alter the nature of the television coverage.**

It is a fundamental principle of broadcasting in the United Kingdom that the broadcasting authorities, including the BBC, are independent of Government. Decisions on programme content and expenditure are therefore matters for the BBC; it is for the Corporation to decide whether to pay Camelot for the rights to broadcast the National Lottery draw. In principle, the Government sees no difference between the BBC paying for the rights to broadcast the National Lottery draw and its paying for the rights to broadcast any other event which will be of widespread public interest. The National Lottery Commission's duty to maximise the returns for good causes means that it has an interest in securing payments from ancillary interests such as the broadcasting rights for the National Lottery. The new licence requires that 90% of the net receipts generated from the sale of broadcasting rights are passed to the good causes.

- (vii) The activities of numerous participants in the National Lottery have informed the public's opinion of that institution. There is no single view about the National Lottery as a whole that can be attributed to the British public. It is therefore important that all of those involved in the National Lottery's operation, regulation and distribution of proceeds conduct and promote themselves to the benefit of the Lottery.**

The Government agrees with this recommendation and is committed to encouraging closer working between DCMS, the distributing bodies, the operator, and the regulator in order to raise public awareness of Lottery funding.

- (viii) The National Lottery Commission and operator must continue to give priority to activities designed to reduce the incidence of under-age play. We do not consider it appropriate to raise the minimum age to play the Lottery.**

The Government has no plans to raise the age limit for playing the National Lottery and welcomes the Committee's endorsement of the current limit. The National Lottery Commission continues to attach the highest importance to combatting underage play. The Commission will continue to monitor the incidence of under-age sales and play of the National Lottery as a matter of priority, and to report on this regularly.

- (ix) We recommend that the National Lottery Commission conduct its own survey into the impact on charities, including differential impact, of the National Lottery.**

The National Lottery Commission's statutory duties are to ensure that the National Lottery is operated with all due propriety; to ensure that the interests of Lottery players are protected; and—subject to satisfying the first two criteria—to maximise the net proceeds of the Lottery. The Commission's remit does not extend to considering charities' income (except in so far as this coincides with its duty to maximise the net proceeds of the Lottery). The Government has already commissioned a report from the National Council for Voluntary Organisations (NCVO) which found no clear evidence that the Lottery had caused a fall in charities' income.

- (x) We welcome the efforts made by the pools industry to recover from the impact of the National Lottery on that industry. We recommend that the Government remove the restrictions on the pools industry where these restrictions hamper the ability of the pools to compete with the National Lottery.**

As the Committee recognises, the National Lottery is different from other forms of gambling because its primary purpose is to raise money for good causes. Around 28 per cent of Lottery turnover goes to the good causes and a further 12 per cent goes in duty: a much higher

percentage total to good causes and the Exchequer than is the case for other forms of gambling. The Government believes it is wrong to view the ability of other forms of gambling to compete with the National Lottery in isolation from this.

The Government announced an overall review of the current gambling legislation in December 1999. The Review is looking at the current state of the industry and the ways it might change over the next ten years in the light of economic pressures, the growth of e commerce, technological developments and the wider leisure industry and international trends, the social impact of gambling and the costs and benefits, and the kind and extent of regulation appropriate for gambling activities. In doing so it will take account of the effects of its recommendations on the National Lottery and on the potential effect on the income of good causes.

The Review will report in the summer. The Government will not reach final decisions until after the Gambling Review Body has reported.

- (xi) We recommend that the Government consider a relaxation on the prohibitions on society lotteries, including those on rollovers and the monetary limits on stakes and prizes.**

The Government is currently considering in conjunction with the Gaming Board for Great Britain and the Lotteries Council possible increases in the maximum ticket price in societies lotteries, from £1 to £1.50, and an increase in the maximum proceeds from a single lottery from £1 million to £1.5 million. The increase in the maximum proceeds from a single lottery will also have the effect of increasing the maximum permissible prize, from £100,000 to £150,000. The Government will wish to consider what the Gambling Review says about other aspects of societies' lotteries before considering any further changes in this area and has noted the Committee's views.

- (xii) The Committee recognises the positive aspects of Bingo clubs. We recommend that the Government assist the Bingo industry by, at the very least, removing the prohibition on rollovers for the National Bingo Game.**

The Government has assisted the Bingo industry in a number of ways recently.

The Gaming Clubs (Hours and Charges) (Amendment) Regulations 2000, SI No. 899 was amended last year to simplify the arrangements for charges at bingo clubs which were previously complex and obscure.

The Government has also laid a draft Deregulation Order before the Commons and Lords Deregulation Committees on the 26 March proposing to remove the requirements for licensed bingo clubs to notify changes to their charges at least 14 days in advance, to remove the prohibition on clubs offering lower-value Amusement with Prizes "AWP" gaming machines in addition to jackpot machines, and to allow for more than one national, one regional and one house prize in games of multiple bingo. It is hoped that these changes can be made later this year.

The Government recognises the case for rollovers but would like to see the recommendations of the Gambling Review on this issue before taking any final decisions.

- (xiii) We repeat the National Heritage Committee's recommendation that betting on the outcome of the Lottery should be permitted.**

The Government has no plans to allow betting on the outcome of the Lottery. The evidence from the Republic of Ireland is that allowing betting on the outcome of the National Lottery reduces lottery sales (and thereby income for good causes).

- (xiv) It is interesting to note the contrast between the Secretary of State's praise of the National Lottery Commission's "robust" decision on 23 August and the lack of equivalent praise for the decision on 19 December.**

The National Lottery Commission announced on 23 August 2000 that neither of the bids for the Lottery operating licence met the statutory criteria for the award of the licence. The Secretary of State welcomed “the robust way in which the National Lottery Commission has done the job of an independent regulator” in deciding that neither of the bids, as they stood at that time, met the criteria. The Secretary of State was not in a position to assess the relative merits of the two bids, either in August or December, and did not do so.

- (xv) **Whatever the quality of the legal advice proffered to the National Lottery Commission, its decision to exclude Camelot from the process was the result of a fundamental error in failing to recognise that the relationship between the operator and its principal supplier could satisfactorily be altered.**

The National Lottery Commission relied heavily on legal advice throughout the competitive process but has never sought to evade its own responsibility for the decision. Both the Government and the National Lottery Commission accept that the Commission made an error in deciding how to proceed after deciding that neither of the two original bids for the operating licence met the statutory criteria for the award of the licence.

- (xvi) **We do not consider the Commission to have had the relevant skills or expertise prior to the appointment of Lord Burns. The Government was fortunate that someone of his quality was available. In 1999, this Committee concluded that the process by which the Chairman of the Commission is appointed was unsatisfactory. It has transpired that the failure of the Secretary of State to appoint someone to the Commission with the qualities required of the Chairman, prior to Lord Burns, was instrumental in the problems which arose during the selection process.**

The Government does not accept that the National Lottery Commission lacked the necessary skills prior to the appointment of Lord Burns. In August 2000 the members of the Commission were: Dame Helena Shovelton (who chairs the Audit Commission and has chaired the National Association of Citizens Advice Bureaux), Harriet Spicer (a former Managing Director of Virago Press), Brian Pomeroy (former Senior Partner of Deloitte Consulting, who chairs Centrepoin, and has chaired the AIDS Awareness Trust, the European Public Health Foundation and other bodies), Hilary Blume (Director of the Charities Advisory Trust) and Rosalind Gilmore CB (a director of Allied Zurich, who has chaired The Building Societies Commission, the Homeowners Friendly Society, Arrow Broadcasting and Atlantic East Broadcasting, and other bodies). As is clear from this, all of the Commissioners have experience at senior level, several of them as chairs.

- (xvii) **The Commission’s decision was not influenced by the fact that one bidder was not-for-profit, but was based on identifying what the Commission considered to be an unacceptable level of risk associated with the bid. We recommend that the Government consider the financial and cost implications of a not-for-profit operator, and if it concludes, as it has previously, that the National Lottery could have such an operator, then the Government should publish in time for the next competition its conclusions on how such an operating structure would work.**

The National Lottery Commission did not conclude that The People’s Lottery’s bid represented an unacceptable level of risk; it did, however, conclude that the risks associated with The People’s Lottery’s bid were greater than those associated with Camelot’s.

The Secretary of State has announced that he will be reviewing the procedure for selecting the Lottery operator. The review will be completed in good time for its recommendations to be considered and acted upon before the award of the next licence.

- (xviii) **The £15 billion for good causes that both bidders believed they could deliver would require an almost 50 per cent increase in Lottery sales. Such an increase would require either an increase in the average player’s weekly expenditure on the Lottery, or an even greater proportion of the population being prepared to play regularly. The first requirement would be unwelcome, the second unlikely. This Committee therefore shares the Commission’s scepticism about the level of sales.**

We note the Committee's views on the likely level of future sales, which, as the Committee acknowledges, endorses the National Lottery Commission's view.

- (xix) **The National Lottery has more to lose than to gain by indulging in the risks that innovation brings. If the price of reliability is less innovation in the Lottery's operation, it is a price worth paying. Camelot has a proven track record of running the Lottery. That reliability is paramount because the implication of failure is a huge loss of revenue for good causes.**

The Government and the National Lottery Commission agree that the reliability of the Lottery operating systems is an extremely important consideration. As its statement of reasons for selecting Camelot acknowledges, the Commission recognises that there is a need to weigh risk and reward when assessing specific proposals for operating the National Lottery.

- (xx) **Future development of the Lottery will happen in a changing shopping environment. There is a greater reliance on electronic communication, with fewer face-to-face transactions. Consumers are demanding more immediate and self-service retailing.**

The National Lottery Commission required applicants for the new licence to set out proposals for utilising new media in its Invitation to Apply for the Lottery licence.

- (xxi) **We are concerned about the possible introduction of harder gambling into the National Lottery and expect the National Lottery Commission to ensure the imperative to maintain Lottery sales does not infringe its primary task of ensuring the protection of players.**

Neither the Government nor the National Lottery Commission wishes to see hard gambling products forming part of the National Lottery. The legislation governing the Lottery makes it quite clear that the Commission's first duties are to protect the interests of players and to ensure that the Lottery is operated with all due propriety, and that the duty to maximise returns to good causes is subject to those. The Commission's Invitation to Apply for the new licence made clear the Commission's requirements for safeguards against excessive play, and its particular concerns about Keno and Video Lottery Terminals.

- (xxii) **We agree with Lord Burns that the Commission's functions of regulation and selection may not necessarily be best performed by the same people. We recommend that the review announced by the Secretary of State considers how the evaluation process for the licence beginning in 2008 can be strengthened. This may involve broader involvement in selection than is necessary for regulation of operational issues.**

The Government will ensure that the Committee's comments are taken into account in the review of the selection of the Lottery operator that has already been announced.

- (xxiii) **We consider it very likely that, unless further legislative action is taken, the National Lottery will become a perpetual private monopoly for the licensee. If this situation is to be avoided, it is likely that there will need to be a move away from a single licence towards separate licensing processes for different parts of the Lottery operation.**

The review announced by the Secretary of State will consider the selection process for the Lottery operator to be used in the future.

- (xxiv) **We recommend that the Secretary of State require the National Lottery Commission to meet in public unless is satisfied that, in the case of any particular issue under consideration, the interests of public disclosure are outweighed by the need for commercial confidentiality. With such a need to weigh these factors in the balance, we would not expect all meeting concerning commercial activities to be held in private. We further recommend that regular public meetings take place involving the operator and its suppliers at which they are cross-examined by the Commission.**

The Government encourages the National Lottery Commission to be as open as possible, but it must be for the Commission itself to decide how best to achieve this. However, the Commission has already held one public meeting and will consider very carefully how it can make its activities more open to players and the public, both through meetings and other means, while protecting legitimate needs for commercial confidentiality.

- (xxv) We accept that there is a distinction between the National Lottery and other forms of gambling. The National Lottery was established by Parliament specifically to raise money for good causes. Other forms of gambling are commercial activities and any contributions they make to charities, though welcome, are incidental to their primary purpose.**

The Government agrees that there is an important distinction between the National Lottery and other forms of gambling, and this distinction needs to be borne in mind when comparing the control framework governing the Lottery with the control frameworks for other forms of gambling.

- (xxvi) However, we are disappointed that the Government saw fit to exclude the question of the National Lottery's regulation from the current Gaming Review Body. This issue should therefore be considered by the review of the selection process announced by the Secretary of State.**

The Government will ensure that the Committee's comments are taken into account in the review of the selection of the Lottery operator that has already been announced.

- (xxvii) We support the need for an early review of the process for the selection of the operator of the National Lottery and the role of the Commission in that process. Such a review should be able to recommend changes to the legislation controlling the process and should report in time for any recommendations to be fully considered by this Committee's successors and for any legislative changes to be in place well before the selection of the operator for the licence beginning in 2008.**

The Government welcomes the Committee's endorsement of the review that it has announced. The review will be completed in good time for its recommendations to be considered and acted upon before the award of the next licence.

- (xxviii) The review should also take account of the impact of changes on the current operator and consider, if necessary, what remedial action might be taken for the staff of the operator. Camelot should be given sufficient notice of changes that will affect the operation, the company or its employees.**

The Government will ensure that the Committee's comments are taken into account in the review of the selection of the Lottery operator that has already been announced.

- (xxix) We would accept that the Lottery can fund projects that are in those sectors usually associated with funding by the Exchequer, such as health and education. However, we treat with caution the Chief Secretary's assertion that some things should not be excluded from Lottery funding because they are too important. There is a fundamental unpredictability about the level of income of a lottery, and that factor supports the use of Lottery funds for time-limited projects that improve the quality of life, but that are not so indispensable to the public that they receive funding from taxation.**

The Government agrees that the National Lottery should not fund core Government services. This does not, however, invalidate the Chief Secretary's point that there is a strong tradition of voluntary funding for many important services (for example, palliative care) and it would be perverse if, simply because they are so important, these services were excluded from Lottery funding.

- (xxx) The distribution bodies, operator and regulator should consider how to improve the public's understanding of Lottery distribution in general and of Lottery-funded projects.**

The Government agrees that it is important to ensure that the public understand Lottery distribution. Distributors have already set up a joint hotline and a website portal to guide potential applicants for Lottery funds. As indicated in response to recommendation (vii) above, the Government is committed to encouraging closer working between DCMS, the distributing bodies, the operator, and the regulator in order to raise public awareness of Lottery funding.

- (xxxix) While the additionality principle can be of use in preventing the Treasury from substituting Lottery income for mainstream Government spending, nevertheless we believe that at some stage the rigidity of the additionality principle should be a matter for discussion.**

The Government remains committed to the principle that Lottery funding should not substitute for Exchequer funding.

- (xxxix) This Committee has considered aspects of the work of the original Lottery distributing bodies in previous Reports and we do not intend to revisit those issues here. We also do not propose to consider the vagaries of the distribution process. We note that, although improvements have been made, many concerns remain.**

The Government reformed the Lottery in 1998, giving distributors new powers to solicit applications and delegate decisions; requiring them to publish strategic plans; and shifting the emphasis of Lottery grants from buildings to people. These reforms are now having a significant impact: for example, there is now a more even spread of Lottery awards throughout the country, and the number of grants of £5,000 or less has tripled. As the Committee points out, however, Lottery distribution needs to continuously evolve, and the Government is working with distributors on this.

- (xxxix) There is a misunderstanding about what the New Opportunities Fund is for and who can apply to it.**

- (xxxix) We recommend that the New Opportunities Fund take action to increase awareness of its role, particularly among those that might benefit from its support.**

The Government and the New Opportunities Fund recognise the importance of communicating the benefits and opportunities flowing to communities from the Fund's health, education and environment programmes.

The Fund is the newest of the National Lottery Good Cause distributing bodies, and has committed £701.7 million in lottery funding across the UK since 1999 through its health, education and environment initiatives. With current and future programmes worth over £3 billion UK-wide and covering a broad range of themes, the Fund has a challenging raft of programmes to develop, communicate and deliver.

The Fund's communications strategy focuses on increasing awareness amongst potential applicants and beneficiaries of its role and the funding opportunities available to communities. The Fund's media strategy is central to this, and its latest evaluation showed that press coverage of its work had increased by 62% since June 2000, with much of the increased coverage at the local and regional level. Future activities include increased use of the internet as part of the consultation on the Fund's new round of programmes, extensive work with groups and facilities which have received funding to maximise the benefits to local communities, and a series of community focused local events across the country. The Fund also offers a local rate information line and undertakes an extensive programme of attendance at relevant conferences and events.

The Fund already has offices in Scotland, Northern Ireland and Wales, and is currently recruiting staff for each England Region to help maximise the benefits of the funding available and increase community participation.

- (xxxix) We cannot respond to individual requests for funding of particular sectors, but it is clear that the Lottery is an important source of funding for those sectors and there is a continuing need for Lottery funding in the sectors it is already serving.**

The Government is committed to maintaining the percentages for the arts, sport, heritage and charities at their current levels until at least the end of the next licence period in 2009.

(xxxvi) We do not propose any changes to existing good causes, either in their composition or their funding. However, the Government must allow the good causes to evolve and consider changes in the future. Furthermore we recommend that the emphasis on distribution of Lottery proceeds by the good causes should be shifted from major national projects to smaller projects which will have a more beneficial impact on local communities.

The Government agrees that Lottery distributors must be allowed to evolve: they have been doing so since the Lottery began. There has already been a shift in Lottery funding away from major capital projects to smaller community grants: the number of grants of £5,000 or less, for example, has tripled since the Government reformed the Lottery in 1998.

(xxxvii) Any proposals for change should allow plenty of notice of changes to sectors and distribution bodies.

The Government has no plans at present to change the sectors benefiting from the Lottery or the distributing bodies (other than switching the Millennium Commission's funding share to the New Opportunities Fund from August 2001, as has already been announced), but will ensure that if it does make any changes, it gives adequate notice to those affected.

(xxxviii) We expect the Government, in considering the good causes, to adhere to the principles under which the Lottery was established and ensure that it continues to enhance the quality of life.

The National Lottery has been a major force in improving the quality of life of people throughout the United Kingdom and the Government intends to ensure that this continues into the future.

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