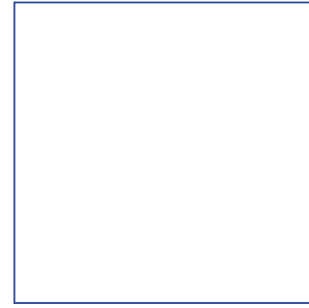


part four

discussion and recommendations



chapter eighteen

Regulation Introduction

18.1 We have set out earlier the principles that we believe should govern the regulation of gambling:

- gambling should be crime-free, conducted in accordance with regulation and honest.
- players should know what to expect and be confident that they will get it and not be exploited.
- there should be some protection for children and vulnerable persons.

18.2 Lord Haskins, of the Better Regulation Task Force (and many others) reminded us of the principles of good regulation¹. In brief, these are that regulation should be transparent, accountable, targeted, consistent and proportionate. Those considerations have been at the front of our minds in reaching the conclusions set out in the following chapters.

Should there be one regulator?

18.3 In our request for evidence we asked “should there be a unified body to license and regulate gambling?” There were differences in how respondents viewed the likely responsibilities of such a body and this makes a simple statistical analysis of the responses quite difficult. Many of those who said that they were in favour of a single regulator also mentioned the need for local involvement in decision-making. Some of those who said “no” did so because they believed a single regulatory body would mean that there was no local involvement in any aspect of licensing. About half of those who submitted evidence did not comment on this question at all. Of the 100 who did comment, 72 were in favour of a single regulator; 11 were against; and 17 put more emphasis on a mix of central and local licensing. We conclude that most respondents would like to see a single regulator take on responsibilities for the whole of the gambling industry, including sections that have hitherto escaped such scrutiny, but there should be local decisions about the location and number of gambling premises in a particular area.

18.4 Those who supported a single regulatory body argued that it would be logical to bring licensing under the auspices of a single regulator. There are strong arguments, over and above administrative tidiness, to favour one regulator over several. We believe that it could lead to better and quicker decisions, and be more efficient. The Levy Board² suggested that a single body would ensure a common underlying

philosophical approach, which would lead to consistent regulatory standards.

18.5 We have heard that differences in the approach of licensing magistrates currently lead to inconsistencies. The evidence is anecdotal only, but the concern seems largely based on the failure of the magistrates’ court to make sufficient enquiries to make an informed judgement on whether an applicant is fit and proper. We have received no evidence to indicate that decisions on premises’ licences are a cause for concern.

18.6 Those who said they were opposed to the establishment of a single regulatory body argued that it would be remote from local feeling and could be unnecessarily bureaucratic. These are real concerns.

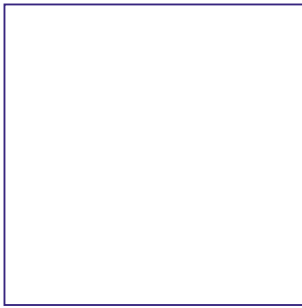
Licensing individuals and corporate bodies

18.7 Two of the key principles underlying regulation are to keep criminals and crime out of the industry and to ensure that the punter has a fair and transparent deal. The key to achieving these objectives is a rigorous licensing system for the individuals who manage gambling activities. It is essential that decisions about the suitability of gambling operators and the operation of the fit and proper test should be consistent throughout the country.

18.8 As well as a consistent test being applied across the country, we believe that the same basic “fit and proper test” should apply across gambling. Although more enquiries may be made, the standardisation of procedures and the increased expertise of staff should bring efficiencies of scale and a professional service.

18.9 Gambling is big business and some operators have a hand in different activities in different parts of the country. That means that the same individuals and companies are currently regulated by a number of different bodies. It would be more efficient to maintain a central record and avoid this duplication.

18.10 A single regulator should achieve better economies of scale, dealing with the same companies across gambling activities. In oral evidence to us, the Betting Office Licensees Association (BOLA) noted that in addition to local licensing, bookmakers were regulated by the Gaming Board (in relation to gaming machines in betting shops). We were told that BOLA members did not find this dual licensing onerous. In its written



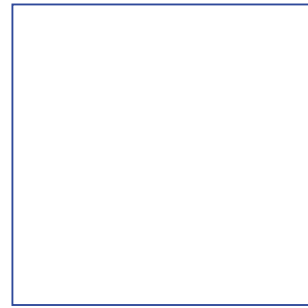
submission, BOLA suggested that a single regulator was unnecessary³. It argued that a central body would be remote and that local decisions were important because bookmakers work in a micro-environment. We find that argument difficult to sustain, particularly in the case of the larger bookmakers who operate across the country on the basis of a locally issued betting permit. During oral evidence, BOLA said that it was simply not convinced that a case had been made out for a central body and its principal concern was that it would be wrong to add an unnecessary layer of bureaucracy that would slow things down. We note those concerns, but would counter that the single body would be a different authority not an additional one.

- 18.11** We are mindful that more multi-function venues may develop as a result of our recommendations, and we believe that it would be unnecessarily and increasingly bureaucratic to require an operator to seek approval from a number of regulators.
- 18.12** Some respondents have also argued that different gambling activities bear little relation to each other and should therefore be regulated separately. We do not accept that view. Whether or not a prospective operator, for example, is honest, competent and financially sound is relevant across gambling activities. The nature and level of competence in relation to different gambling activities may change, but the basic elements of the test should be the same.
- 18.13** **We recommend that a new single regulatory authority (Gambling Commission) should license all gambling operators and key workers.** The functions of the Gambling Commission in this respect are discussed in chapter 19. The Gambling Commission will also have responsibility for regulating the operation of gambling: those functions are discussed in chapter 33.
- 18.14** Several of those who gave evidence to us argued that the Gaming Board's remit should be widened so that it could take on the role of a single regulatory body. The Gaming Board for its part did not advocate this approach, but instead recommended that a new body should be set up into which it would be subsumed. We have earlier commented on the success achieved by the Gaming Board in carrying out its responsibilities since it was set up in 1970, and on the enviable reputation for integrity enjoyed by the industry as a result of that. It is important that these benefits should not be lost.
- 18.15** Whilst it would be possible to expand the Gaming Board's duties to encompass the broader role, we favour the creation of a new statutory body – which

we have called for convenience the Gambling Commission – to reflect the fact that it will have significantly wider areas of responsibility and new functions and powers. We envisage the Gaming Board being subsumed into the Gambling Commission (as the Gaming Board contemplated), and we would expect the Gambling Commission to take advantage of the practices and procedures successfully developed by the Gaming Board and to build on them.

Licensing premises

- 18.16** Licensing Magistrates currently have a role to play in granting licences for premises used as casinos, bingo clubs and betting offices. Local authorities license amusement arcades and other single locations with amusement with prizes machines.
- 18.17** We have noted with interest that the Government's Liquor Licensing White Paper⁴ says that the Better Regulation Task Force favoured moving to local authorities responsibility for decisions on liquor licensing premises, because licensing is not a judicial function. The White Paper acknowledges that issues relating to the premises licence are mainly local issues. It points out that "local authorities plan town and city centres with an eye to the range of social and entertainment facilities available for residents and tourists, encouraging a social environment which all can enjoy". The Paper concludes that local authorities should be the licensing authority for premises serving liquor.
- 18.18** The White Paper says:
- There are... compelling reasons in favour of giving the local authority (at district level) the responsibilities...*
- *Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken;*
 - *Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.*
- 18.19** We consider that the same arguments apply to gambling premises. Several operators have suggested to us that "small-town" politics could adversely influence some decisions by local authorities. We recognise that risk, but do not find it a substantial one. The increased freedom of gambling operators to exploit opportunities to their commercial advantage must not outweigh the ability of local residents to help shape the community in which they want to live.



- 18.20 Since some gambling premises may also want to apply for a liquor licence, there is additional value in ensuring that the issues can be considered at the same time by the same authority.
- 18.21 **We recommend that the licensing of premises should remain a local decision, but that responsibility should transfer from magistrates to local authorities.** The role of local authorities is discussed in chapter 21.

Nature of the legislation

- 18.22 It seems clear that the current legislation has worked well and that the Gaming Board has performed a very useful service but that the arrangements need review. One major difficulty has been that the legislation has been stuck in the form it acquired thirty years ago and that it has failed to evolve in keeping with market and technological changes. This is not surprising since regulation is dominated by primary legislation and requires considerable parliamentary and government time to change it. That has been a major frustration for the industry.
- 18.23 We are not competent to offer advice on how our recommendations should be given legislative effect. But our working assumption has been that the existing Acts will be repealed and replaced by a single Act. We hope that lessons will be learned from the inflexibility of the current arrangements and that, as far as possible, discretion will be given to the Gambling Commission to adjust regulation to respond to new demands and to fill any loopholes that may be exposed. For example, the level of stakes and prizes should not be enshrined in primary or secondary legislation. **We recommend that future legislation should be in the form of an enabling act which delegates the detailed provisions to subordinate regulation and to codes issued by the Gambling Commission.** The “accountability” of decision making would arise from putting regulations before Parliament and by the Gambling Commission’s Annual Report to Parliament. Such an approach would allow gambling regulation to remain appropriate to prevailing conditions whilst operating within the broad guidelines of primary legislation.
- 18.24 Whilst we have tried to pay attention to the experience and practices of other jurisdictions, it seems unlikely that there can be any early harmonisation of regulatory arrangements in Europe or across the gambling countries. The UK must therefore develop its regulatory arrangements within its own context.
- 18.25 Gambling is, nevertheless, an international business, both by reason of the cross-jurisdictional reach of many operators and because of the Internet and other new technologies which respect no jurisdictional borders. We are aware that two international associations of gambling regulators have been formed in recent years to facilitate co-operation and improve regulatory practice across jurisdictions. They are the International Association of Gambling Regulators and the Gaming Regulators European Forum. We understand that the Gaming Board has played a prominent role in these organisations and we expect the Gambling Commission to follow suit.