

**The Royal College of Psychiatrists
Submission to
the Secretary of State for Culture Media & Sport
on the implementation of the Gambling Act 2005**

Summary

In a statement to the Commons, on 23 July, concerning the Gambling Act 2005, the Culture Secretary stated that, "*We will listen to the concerns that are expressed*". In response, The Royal College of Psychiatrists wishes to draw attention to certain vital matters regarding the implementation of the Gambling Act 2005.

Overriding attention needs to be given to ensuring that the regulation of remote gambling is consistent with the licensing objective set by section 1 of the Gambling Act 2005 that there should be adequate protection from harm and exploitation from gambling.

NO deregulation in relation to ANY aspect of ANY other type of gambling should be implemented before this has been demonstrated to be so.

With this in view, the following matters must urgently be dealt with:

- The commissioning of any of the new casinos made possible by the Gambling Act 2005 must be postponed for the present.
- The deregulation of the advertising of gambling should be postponed.

In addition,

- Children must not be allowed to have access to Category D gaming machines in any venue.
- The Culture Department should cease to claim on its website that "we sponsor" the gambling industry.

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The Royal College of Psychiatrists is the statutory body responsible for the supervision of the training and accreditation of psychiatrists in Britain and for providing guidelines and advice regarding the treatment, care and prevention of mental and behavioural disorders.

In the course of their work, psychiatrists deal with people needing help who are in difficulty as a result of excessive gambling. Consequently, The Royal College of Psychiatrists is concerned about the impact on the incidence of excessive gambling resulting from the implementation of the Gambling Act.

Therefore, The Royal College was pleased to note that the new Culture Secretary in a Commons statement on 16 July said that,

*Protecting children and consumers is our number one priority. I will ensure that our new system of regulation, as it covers every aspect of casinos and other gambling premises—from advertising to checks on entry to controls on games and machines—will place public protection first.*¹

Moreover, in his response to Questions in the Commons on 23 July, he stated that,

*"We will listen to the concerns that are expressed."*²

The Royal College of Psychiatrists therefore would like to use this opportunity to draw attention to the following matters of concern about the Gambling Act:

Government's handling of gambling regulation

The Royal College of Psychiatrists has been very concerned about the basic approach that the Government has adopted until recently to the regulation of gambling in general and commercial gaming in particular. Policy on gambling has been bedevilled by the attempt to provide protection from the harmful effects of gambling, while also deregulating gambling in general and casino gaming in particular.

The approach adopted is best illustrated by the statement made by the previous Culture Secretary, who in her Foreword to the Government's Response to the First Report of the Joint Committee on the Draft Gambling Bill ended by claiming that,

"In future we will continue to put the interests of children and vulnerable players first, second and third."

Yet, earlier in the Foreword she said,

*"Gambling is a massive global industry and is entitled to a **regulatory framework that ensures continued growth**"³ (our emphasis).*

Such a combination of views ignores those aspects of commercial gambling that lead to excess. **It has been clearly demonstrated that "the psychological and physiological effects on the gambler of commercial gambling inherently encourage the chasing of losses"**⁴.

Moreover, it is generally agreed that the greater the availability of gambling, the larger will be the number of those that develop problems as a result of excess. This is especially so if the gambling is actively promoted.

Consequently, in regard to gambling, the objective of arranging "a regulatory framework that ensures continued growth" for the industry is incompatible with a regime that places "the interests of children and vulnerable players first, second and third".

The then Secretary of State drew comfort in her statement from the fact that, "Great Britain has one of the lowest rates of problem gambling in the developed world". She chose to ignore that these relatively low rates were the legacy of a policy of providing gambling on the basis of unstimulated demand that had existed since the 1960s until the advent of the National Lottery.

In any case, it is important to recognise that prevalence studies have inherent flaws and inevitably underestimate the incidence of excessive gambling⁵.

Excessive gambling

The Royal College of Psychiatrists is concerned that the Government's approach to gambling arose from a very confused view of excessive gambling. This is illustrated by the distinctions that were made in 'Draft Gambling Bill: the Policy' (Cm 6040 – IV) between "*problem gambling*", "*addiction to gambling*" and "*compulsive or pathological gambling*". Moreover, the document goes on to state that, "*at what point problem gambling evolves into compulsive or pathological gambling is a subject of much debate amongst psychiatrists*" (para 6.27 and 6.28)⁶

While the Gambling Act 2005 refers to "problems related to gambling", the Culture Department and the Gambling Commission have chosen the term "problem gambling" for the disorder characterised by excessive gambling leading to harm. Indeed, the latter produced a paper on this matter shortly after the Commission was set up. This commences with the statement, "There is no universally agreed definition of problem gambling" but then goes on to use that term⁷.

The only generally agreed definitions of excessive gambling leading to harm are those drawn up by the World Health Organisation (WHO) and the American Psychiatric Association (APA). Both refer to this condition as pathological gambling.

The WHO ICD10⁸ describes pathological gambling under 'habit and impulse disorders'. This approach is based on the fact that the disorder is a form of behaviour resulting from processes of learning and the development of habits. Social and cultural factors therefore play a crucial role.

As against this, the APA DSMIV⁹ defines pathological gambling under 'impulse control disorders not elsewhere classified'. Detailed criteria for the recognition of the disorder are provided and defined precisely. This formulation views the condition as a type of mental disorder and by implication an illness.

The weight of evidence favours the WHO approach and the importance of public policy in the cultivation of habits in the causation of excessive gambling leading to harm¹⁰.

However, at a time when all types of deregulation are being actively pursued, the APA view inevitably is more popular, especially among gambling promoters. The reason is that it enables the separation of the casualties from the rest of the population. The preparedness of the business interests to provide educational and "treatment" facilities can then be seen as a social service. In the meantime, active promotion supposedly directed to the "normal" population can be made to appear to be justified.

In relation to this, the lesson of deregulation in Australia is very salutary. This resulted in one-third of the industry's total revenue being derived from "problem gamblers"¹¹.

The Royal College of Psychiatrists has drawn attention to all these aspects previously.¹²

"Vulnerable persons"

Closely related to the formulation of excessive gambling that has been adopted is the dubious concept of "vulnerable" people¹⁰, who need to be protected.

In fact, because of the nature of gambling, we are **all** vulnerable to take gambling to excess. However, the above 'disease' formulation enables the gambling industry to advocate active promotion of their products, on the assumption that as long as the "vulnerable" are catered for, the 'rest of us can just get on with it.' There is no doubt that such an approach is financially advantageous to the industry.

"Regeneration"

Gambling is a legitimate form of entertainment and prohibition is neither desirable nor practicable. However, the manner in which commercial gambling is organised ensures that financially the promoter always wins in the long run at the expense of those who gamble⁴. Therefore, the latter are unlikely to be successful in the majority of cases, if they attempt to "make money" out of gambling. Indeed, if the need to derive an income from gambling is allowed to become a necessity, the scene is set for the "chasing of losses" and all the consequent problems for both the individual and the family.

In recent years, the gambling industry has realised that it is tactically advantageous to share some of its winnings with the community. This has led to the dubious assertion that the development of gambling facilities will assist in "regeneration".

Thus, the stage is set whereby the gambling industry can actually be encouraged to develop and promote facilities such as casinos. In such a climate, individuals who gamble are encouraged to think that they too will be able to "make money" from their gambling with the inevitable outcome.

It needs to be recognised that, as is the case in individuals, there are great dangers for the community when gambling is allowed to become a way of attempting to deal with any problems, especially financial ones.

“Responsible gambling”

In an attempt to deal with this, the gambling industry formulated the notion of “responsible gambling”. However, this is disingenuous since it ignores fundamental aspects of the nature of gambling activity in a commercial setting. If the term ‘responsible’ is to have any meaning at all in relation to gambling, it must imply moderation. However, the way in which it is increasingly being used is in terms of advice, education and “treatment”, while, at the same time cultivating fantasies of large wins and dubious ways of achieving these⁴.

In such circumstances, The Royal College of Psychiatrists is concerned that, apart from the setting up of the Gambling Commission, the significant developments since the Act reached the statute book over two years ago have been deregulatory. Yet, the main purpose of the Gambling Act was to provide “protection” and regulate remote gambling on the web, TV and mobile phone.

Thus, it was reported that the director of operations at the Gambling Commission, predicted that, in the next few years, there would be a major increase in the number of casinos and that the middle classes would be targeted. However, he did not foresee “problem gambling” increasing among the middle classes. The reported reason that he gave was that, “the market they (casinos) are appealing to is generally speaking intelligent enough to know what the risks are about gambling”¹³.

The implication of this is that the only ‘vulnerable’ people are the stupid who know no better. This flies in the face of all the known facts. The 16th century scholar and medical doctor, Gerolamo Cardano best illustrated this. As a result of his own gambling, he was the original discoverer of the laws of probability.

He wrote about gambling as follows: “The losses incurred include...the danger that it may become a settled habit... As a result, he (the gambler) throws out large sums of money and may be said to abandon them rather than play for them.” Yet, he himself gambled very heavily and would now be labelled a ‘problem gambler’. He was certainly “intelligent enough to know ... the risks”.

Gambling advertising

Advertising is a very powerful form of promotion and persuasion. It is only justified if one believes, as the previous Cultural Secretary clearly did, that gambling “*is entitled to a **regulatory framework that ensures continued growth***”³ (our emphasis).

However, as has been demonstrated on many occasions, this will inevitably lead to more gambling and result in an increase in excessive gambling and consequent harm. Wishful thinking about “responsible gambling” will not negate this.

Moreover, in spite of assertions about advice, warnings and educational messages in advertisements, the experience in relation to tobacco and alcohol indicates that these have little effect when they are associated with active promotion of the product. Indeed, as is increasingly already happening in relation to gambling, especially the remote variety, warnings can be used by promoters as an image-building device that can actually entrap people¹⁴.

Enforcement

As far as remote gambling is concerned, the Gambling Commission's ability to deal with infringements of the law, even as it is at present, appears largely ineffective. Recently, the Enforcement Section's attention was drawn, on two separate occasions, to a website providing casino gaming "Live from our London studios" that appeared to be illegal under the present law.

The first response from the Commission was, "Unfortunately I am unable to access the ... website in order to find out where the site is licensed and how they are operating." When this matter was pursued, on a later second occasion, the response was even more cryptic – "Unfortunately access to this site is denied at the Commission."

RECOMMENDATIONS FOR URGENT ACTION

As the new Culture Secretary stated, it is vital that

"Protecting children and consumers is our number one priority. I will ensure that our new system of regulation, as it covers every aspect of casinos and other gambling premises—from advertising to checks on entry to controls on games and machines—will place public protection first."¹

With this in view, The Royal College of Psychiatrists makes the following recommendations that need urgent action:

Remote gambling

The regulation of remote gambling presents considerable problems, some of which are clearly insurmountable at the present time. The Royal College of Psychiatrists has demonstrated that the regulations for remote gambling drawn up by the Gambling Commission proposals are unlikely to meet the licensing objective set by section 1 of the Gambling Act 2005 that there should be a minimisation of harm and exploitation from gambling.¹⁵

The Royal College of Psychiatrists therefore strongly advises that overriding attention must be given to the regulation of ALL types of remote gambling. This must be associated with an early independent review and assessment of the efficacy of the regulatory regime that has been set up to minimise harm and exploitation.

Until the latter has been demonstrated, NO further deregulation in relation to ANY type of gambling should take place.

Casinos

If public protection is the "number one priority", there is no justification for **ANY** of the new types of casinos. Unlike the existing ones, these would provide greater enticements for the hardest forms of addictive gaming than previously available in Britain.

Until it has been established that all types of remote gambling are adequately regulated, the opening of **ANY** of the new style casinos under the Gambling Act will be highly damaging, fuelling pathological gambling.

Therefore, The Royal College of Psychiatrists recommends that the opening of the new types of casinos should be postponed. A major expansion of casino gaming and its promotion is certainly not an urgent matter and must also be, in the Prime Minister's words, "subject to reflection".

Gambling advertising

The Royal College of Psychiatrists has pointed out that, "A policy that promotes gambling by advertising cannot also encourage moderation. The inconsistency in trying to do both inevitably will have a harmful effect on any educational attempt to provide a sensible attitude to gambling, especially in children. It will also undermine any help for those whose gambling has become excessive."¹⁴

The Royal College of Psychiatrists advises that the proposals for the deregulation of advertising gambling are inconsistent with the licensing objective set by section 1 of the Gambling Act 2005 that there should be protection from harm and exploitation from gambling. Deregulation of advertising should be postponed and the matter reviewed when it has been established that remote gambling is adequately regulated.

As far as the 'White Listing' of countries¹⁶ that may advertise their gambling operations in Britain is concerned, this should be abandoned.

Other matters of concern

Children and gambling

The Royal College of Psychiatrists recommends that the anomaly whereby children have access to Category D gaming machines must be rectified. Children must not be allowed to have access to these gaming machines in any venue¹⁰.

The role of the Culture Department

The Royal College of Psychiatrists wishes to point out that it is anomalous for the Government department that regulates gambling to claim on its website at the head of the section that deals with gambling that "we sponsor" the gambling industry¹⁷.

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August 2007

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