



Review of the Gambling Act 2005 Call for Evidence

Peers for Gambling Reform

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This is not an official publication of the House of Lords, nor the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry.

Peers for Gambling Reform is an informal group of Peers with a common interest in particular issues. The views expressed in this response are those of the group.

Summary

Who are PGR?

Peers for Gambling Reform (PGR) welcomes the Department for Digital, Culture, Media and Sport's Call for Evidence on the Review of the 2005 Gambling Act and this opportunity to respond.

PGR was formed in 2020 to ensure the recommendations made in the House of Lords Social and Economic Impact of the Gambling Industry Select Committee Report 'Gambling Harm: Time for Action' (Select Committee Report)¹ were carried forward and implemented by Government, the Gambling Commission or other relevant bodies. PGR is made up of over 150 cross-party members of the House of Lords, making it the largest 'interest' group in the Upper Chamber.

Since our formation, PGR have met with a variety of stakeholders, including the Gambling Commission, the Betting and Gaming Council, GambleAware, multiple operators, gambling charities and experts by experience.

What is the problem?

Since publication of the Select Committee report, new research has suggested that the levels of problem gambling may be higher than the report outlined, the Covid pandemic has altered the way gambling takes place and there is evidence that more women are now gambling. However, this does not alter the thrust of the concerns expressed at that time.

One third of a million of us are problem gamblers. On average, one problem gambler commits suicide every day.

The young are most at risk:

- 55,000 problem gamblers are aged 11–16;
- for girls aged 11–16, the rate of problem gambling is twice that of any other female age group;
- for boys, the rate is three times the rate for adults;
- for all of them, gambling is illegal, yet such efforts as the industry makes to prevent it are altogether unsuccessful.

The harm goes wider: for each problem gambler, six other people, a total of two million, are harmed by the breakup of families, crime, loss of employment, loss of homes and, ultimately, loss of life.

The gambling industry spends £1.5 billion a year on advertising, and 60% of its profits come from the 5% who are already problem gamblers or are at risk of becoming so.

Addiction to alcohol or drugs is high profile and highly resourced. The comparable harm caused by gambling addiction has not received the same attention and is only now beginning to be recognised.

How did we get to this state? Until the Gambling Act 2005, public policy decreed that while Parliament did not want to ban gambling, it would do nothing to stimulate it. All that changed with the radical Budd Report of 2001 which laid out a blueprint for the liberalisation of gambling, promoting consumer freedoms to choose

¹ <https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/79.pdf>

in a wider competitive gambling market. The Government accepted this departure, and it was on this that the 2005 Act was based.

A second revolution, unforeseen by policy makers at the time, was the almost universal adoption of the smart phone and other devices which enabled gambling 24/7—whenever and wherever the gambler wanted, totally unsupervised.

Gambling operators have made hay exploiting the laissez faire regime that has existed hitherto, while successive governments and regulators have failed to keep up with the revolution in the UK gambling sector. Our report demonstrates the wholly reactive nature of regulation since gambling was liberalised. The unscrupulous methods and ingenuity of some gambling operators makes for shocking reading. Their tactics are to change their working methods just enough to avoid more regulation being imposed on them from outside; and to date that has worked well. This cannot continue.

The report, however, acknowledged that there is a paucity of reliable research available to produce figures which will be agreed by those who consider the problem of gambling harm, whatever their interest in the topic may be. On a number of occasions the Committee cited sources which have produced very different figures which the Committee was not in a position to choose between.

These figures [on the scale of problem gambling] are sometimes disputed, and the size of the samples criticised. It has been suggested that newer methodologies such as expenditure tracking might in future provide more reliable figures on how many people are harmed by gambling. But what is beyond dispute is that there are a very large number of individuals afflicted by problem gambling, and a still much larger number who are at risk of joining their ranks.

The lack of reliable research is the reason why the report emphasised the need for more research to produce more reliable statistics, and has recommended that this research, though funded, at least in part, by the industry from a mandatory levy, should be commissioned by a body whose independence from the industry is beyond doubt.

What do we recommend?

- **A Public Health Approach**

We are concerned that the Government's review does not appear to be considering a public health approach. Nor, it appears, is the Department for Health and Social Care closely involved. We believe this is wrong and leads to discussion over gambling regulation being limited to a balance between the financial gains provided by the industry against an allegedly small number of serious addicts and people who need to be protected from harm. The public health approach we advocate would prioritise prevention of harm for the whole population, based on the evidence of the impact of the problem, and its drivers.

Gambling activities generate widespread harms across many parts of society. Gambling can negatively impact mental health, physical health, relationships, finances, employment and education, and can lead to suicide and premature mortality.² Recent research from the University of Oxford showed that as many as one in four gamblers are harmed and that all gambling can be harmful.³

Gambling has become highly 'normalised' in our society and, as it stands, the public's health is not adequately protected from its potentially damaging consequences.

² <https://www.bmj.com/content/365/bmj.11807>

³ <https://www.nature.com/articles/s41562-020-01045-w>

Anyone can experience harms from gambling. The characteristics of some products, like continuous, fast-paced play are well known to be highly associated with harms. Because of this, prevention needs to address the ways in which gambling products generate harms, as well as the wider social, economic and cultural factors which shape how gambling is provided and promoted in our society.

PGR believes that gambling products and activities, the conditions under which they are accessed, and the ways in which they are promoted need to be made safer through cross-departmental legislation and regulation. The Department for Digital, Culture, Media and Sport (DCMS), Department of Health and Social Care, HM Treasury and the Department for Education should all be involved.

It is important to note, however, that a public health approach must bridge the reduction of harm alongside personal responsibility.

The public health approach should also include education on gambling harms in schools and for the wider public health workforce; longitudinal data collection on prevalence, treatment and harms to continually inform policy development; and a smart industry levy to contribute to the funding of research, education and treatment. A prevention strategy needs to be supported and underpinned by high-quality and *independent* evidence, with certainty of funding to assure its delivery.

We see the benefits of a public health approach as:

- Protection of the public, particularly children and young people. Health is a fundamental human right, and the current gambling ecosystem is infringing this right by unleashing harm on the population.
- Improvements in mental health, financial wellbeing, and fewer lives lost to gambling-related suicide. Better health for those currently affected by gambling harm will result in more people able to contribute to society.
- Levelling up the economy – money not spent on gambling can be spent elsewhere to generate revenue and jobs. Additionally, there will be savings for the health service with fewer people requiring treatment for gambling harm.
- **Wider recommendations**

In the Select Committee Report, over fifty recommendations were made. Some have already been implemented and some are being considered in separate consultations. In summary, the recommendations in the report, in addition to the call for a public health approach, were:

- Affordability checks for gamblers to prevent harm
- An enforceable “duty of care” on the gambling industry to seek to avoid harm
- Speed of play and stake limits for on-line gambling – with a triennial review of all stake limits
- Testing for harm and the classification of all new gambling products
- A mandatory “smart” levy on the industry to fund the costs of research, education and treatment

- A ban on direct marketing and all inducements except for those registered in an approved VIP scheme
- Gambling operators should no longer be allowed to advertise on the shirts of sports teams or any other part of their kit. There should be no gambling advertising in or near any sports grounds or sports venues, including sports programmes
- A Gambling Ombudsman to redress wrongs
- Gambling regulation for Loot Boxes, which develop gambling in children
- A Reform of “VIP schemes”
- An NHS-led and commissioned treatment system to treat gambling addiction.

Notwithstanding recent measures in some of these areas, all the evidence points for the need for much further urgent action in the areas outlined above.

As set out below, the prevalence of gambling, particularly online gambling has expanded rapidly since 2005. As the Select Committee Report commented, half of all adults in the UK gamble at least once a month. Estimates vary on the level of problem gambling but this could be between a third and a half a million people. Although this number constitutes fewer than 1% of the adult population, the Select Committee Report noted that these gamblers contribute 25% of the profits of the gambling industry and 17% of adults who are at low to medium risk of becoming problem gamblers contribute a further 35%.⁴ A recent study by researchers from the University of Liverpool and the National Centre for Social Research found that 86% of bookmaker revenues come from the 5% of highest losing customers and that these big losers are more likely to come from the most deprived areas.⁵

With the increase in online gambling, this problem is likely to get worse. In 2012, 14% of people took part in online gambling, seven years later that figure is 21% (as set out in the Gambling Review Call for Evidence). There is a wide choice of games. There is no limit on when or where individuals can gamble, age is hard to verify and supervision is difficult. At the same time, gambling companies have every incentive to keep gamblers gambling even if problems are looming.

Given the potential risks here and the need for urgency, we welcome this Review of the 2005 Act. We also urge the Government and Gambling Commission (GC) to move forward with reform of the industry at pace and act swiftly, alongside the review, on areas that can be taken forward without requiring primary legislation. For this reason, we welcomed the Gambling Commission’s new guidance for operators in relation to High Value Customers as well as the consultation on Loot Boxes and urge the Government to bring forward regulation and legislation. We also welcomed the Gambling Commission’s Consultation on Customer Interaction and look forward to swift recommendations being brought forward in these areas.

Yet, while we welcomed these developments, they must be kept under careful review. For example, while restricting high value accounts to over 25 year olds is helpful, VIP schemes can still be highly harmful to over 25 year olds. In addition, we welcomed the new rules announced in February targeting the design of online slot games amending the remote gambling and software technical standards although we encourage the GC to go further in relation to applying stake limits to online games.

⁴ <https://committees.parliament.uk/publications/1700/documents/16622/default/> - p9

⁵ https://www.begambleaware.org/sites/default/files/2021-03/PoP_Interim%20Report_Short_Final.pdf

We also welcome the initiatives the gambling industry has taken itself to prevent harm. The Betting and Gaming Council (BGC) has announced a ‘whistle to whistle’ ban on advertising during sport; increased funding for research, education and treatment; implemented new ID and age-verification checks; ended any suggestion of exclusive rights to screen FA Cup games and a ban betting with credit cards. Yet, while these, often partial, initiatives are very welcome, they have often come after sustained calls for reform from those outside the industry. The whistle to whistle ban is a small step, for example, given the broad reach of gambling advertising in this country. Equally, given the scale of the profits being made by the industry (which will act as a disincentive to reform), self-regulation will not be sufficient. Government and regulatory intervention to prevent harm is required.

There are also important economic considerations to consider, particularly in the current climate. New research from the Social Market Foundation sets out the opportunity costs to the economy of money spent on gambling. The Social Market Foundation studied the economic impact of the gambling industry and concluded that – despite its size and rapid growth – less money spent on gambling would deliver greater benefits for the wider UK economy. The SMF estimated that £1m spent on retail would create 34 additional jobs once all effects are considered – more than twice as many jobs as would be created from £1m spent on gambling. Gambling also has a lower “tax multiplier” than other consumer sectors such as retail and food services. £1m net spend by consumers on gambling is estimated to lead to about £500,000 of additional tax revenue. The same £1m spend on retail or food services would generate over £600,000 of additional tax revenue. Modelling the impact of changes in consumer behaviour, the SMF estimated that if net gambling spend declined by 10% (about £1bn) and individuals spent that money on retail instead, then GVA would be £311 million higher, overall UK employment would be 24,000 higher and the Exchequer would receive an additional £171m in tax.⁶

Conclusion

We underline that reform needs to reconcile the need to protect people from harm-while allowing people to gamble if they wish to do so. We also urge the Government to move forward at pace with reform and take action immediately where it is possible to do so without Primary Legislation.

Below we respond to the specific question to the Call for Evidence. We would also like to submit the House of Lords Select Committee report alongside our response since it provides a comprehensive overview of gambling the areas in need of reform following the Select Committees’ inquiry.

Online protections - players and products

Q1: What evidence is there on the effectiveness of the existing online protections in preventing gambling harm?

Given the rapidly changing nature of the offers available for betting and gaming, not least on-line, and the failure, until recently, of the Gambling Commission to address growing concerns about the impact of these developments, it is not possible to assess existing protections. It is certainly too early to assess the impact of recent regulatory changes made by the Gambling Commission. Below we set out our concerns and draw attention – as we do throughout this response – to the urgent need for more research.

⁶ <https://www.smf.co.uk/publications/double-or-nothing/>

1. Recent research from a team of academics utilising extensive data from Lloyds Bank laid bare the harm which gambling can cause.⁷ The researchers found:
 - All forms of gambling are associated with harm
 - Nearly 1 in 4 people who gamble (the highest proportionate spenders) actually suffer or are starting to suffer significant harms from gambling
 - Increased gambling is associated with higher mortality – high levels of gambling are associated with a 37% increase in mortality rate
 - Harms are associated with the proportion of spending that is devoted to gambling rather than the absolute level of spend – people on lower incomes suffer proportionately the same as people on higher incomes suffering larger actual losses
 - Increases in % spend on gambling deposits increase the amount of harm – eg. a 10% increase in gambling deposits is associated with a 52% increase in payday loan take up, a 81% increase in missing a loan repayment and a 98% increase in missing a mortgage repayment; a 10% increase in gambling deposits equates to a 12% increase in nights awake
 - At higher levels of gambling (at around 2 – 4% of gambling deposits as a % of total spend) harms start to become severe
 - Gambling harms happen very quickly but recovery takes a long time.
2. Online gambling has grown exponentially since the 2005 Gambling Act. The Gambling Commission’s *Gambling Participation in 2019: behaviour, awareness and attitudes* report gives a broad overview of gambling participation in Great Britain.⁸ Overall, 21% of respondents have gambled online in the previous four weeks, which is a three percentage point increase since 2018, and a six percentage point increase since 2015. Online participation was higher among men (25%) than women (17%). There has been a significant increase in those aged 16–24 (17%, a five percentage point increase) and 35–44 (28%, a six percentage point increase) gambling online.
3. In terms of problem gambling, in 2019, the Government submitted its written evidence to the Select Committee Report, estimating that “0.7% of the adult population, or approximately 340,000 individuals are problem gamblers”⁹. Without a consistent and annual gambling prevalence survey into gambling habits, these figures will be disputed by some, but the same Government submission stated that “we can be 95% confident that the actual figure is between 250,000 and 460,000 adults.”
4. The NatCen report on gambling behaviour found the prevalence of problem gambling in online gambling or betting is 3.5%, in comparison to the prevalence of 0.7% of problem gamblers across the population.¹⁰ The prevalence rate for online gambling on slots, casino or bingo games is considerably higher at 9.2%.¹¹

⁷ <https://www.nature.com/articles/s41562-020-01045-w>

⁸ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-participation-in-2019-behaviour-awareness-and-attitudes.pdf>

⁹ <https://committees.parliament.uk/writtenevidence/633/html/>

¹⁰ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2016.pdf>

¹¹ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2016.pdf>

5. It is difficult to accurately assess the scale of problem gambling in the UK, though it is reasonable to infer from the evidence of increased online gambling that problem gambling is also increasing. **We therefore recommend that the British Gambling Prevalence Survey should be reinstated as a first step towards understanding how gambling and gambling prevalence are changing in the UK. Knowing how much harm is occurring is critical in understanding how effective online protections are.**

Q2: What evidence is there for or against the imposition of greater controls on online product design? This includes (but is not limited to) stake, speed, and prize limits or pre-release testing.

6. In terms of existing online protections, as set out in the Select Committee Report, we are concerned that current online protections are insufficient given the evidence of the harm being caused and the potential for harm. A number of witnesses during the Select Committee inquiry said that they felt online gambling was “relatively free from regulation compared with land-based gambling.”¹² We provide a summary of the wide disparity of regulation for land-based and online gambling at Appendix A.
7. Witnesses reported that further regulation was required to improve protections in relation to areas including:
 - Responsible game design and testing
 - Stake, speed, spin and deposit limits
 - Testing for Affordability and
 - In relation to incentives offered to so-called ‘High Value Customers’
8. Since the publication of the Select Committee Report, the Gambling Commission has produced some material in relation to these matters.
9. We welcomed the Gambling Commission’s guidance on High Value Customers¹³ but are concerned about the potential for harm and difficulties in assessing affordability in relation to allowing customers into these schemes. **We recommend that such schemes be kept under close review.**
10. In terms of testing for Affordability, we welcomed the Gambling Commission’s consultation into Remote Customer Interaction¹⁴ but **clear affordability rules must be set in place as a matter of urgency.** We provide further comment on our recommendations on affordability below.
11. In relation to stake, speed, spin and deposit limits, currently there are very few restrictions on online gambling. It is possible to stake and deposit any amount and there is no effective control of the rapidity of play. We welcomed the package of measures the Gambling Commission introduced in February 2021, aimed at strengthening the protections and controls for online gambling products¹⁵. The ban on

¹² https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/7906.htm#_idTextAnchor063

¹³ <https://www.gamblingcommission.gov.uk/PDF/Consultation-responses-2020/Guidance-to-operators-on-high-value-customers.pdf>

¹⁴ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/Consultations/remote-customer-interaction-consultation-and-call-for-evidence>

¹⁵ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2021/Gambling-Commission-announces-package-of-changes-which-make-online-games-safer-by-design.aspx>

slot spins faster than 2.5 seconds, autoplay features and features that give an illustration of a win, for example, are positive measures. However, more still needs to be done to ensure a precautionary approach is taken by the Government and GC to preventing online harm.¹⁶ Under current regulations there are no restrictions on stakes, prizes and deposit limits for online gambling. **We recommend that the Government and GC brings forward new rules on stakes, prizes and deposit limits.**

12. Licence conditions should require the proportion of the stake retained by the house to be displayed prominently and clearly, in simple terms, on each gaming machine in all gambling premises, and in remote gambling.

13. Currently There is also no categorisation of online products in the same way that land-based products are given technical distinctions yet there is an increasingly common agreement among independent researchers about the range of structural characteristics of gambling products which are most important in determining addictiveness. New gambling products, notably online, have also been designed to draw people into gambling to keep them there as long as possible. Structural characteristics which contribute to levels of addictiveness include:

- Speed of play/event frequency/continuity of play – time gap between each gamble and the time between placing the bet and the result (win/lose)
- Stake sizes
- Prize structures – number and value of prizes
- Probability and frequency of winning
- Free or bonus ‘spins’
- ‘Losses disguised as wins’ – signalling a win which is less than the amount staked
- Skill or pseudo-skill elements – which may or may not be real
- Near misses – results which are perceived as “nearly winning” but which are a loss
- Physical design features – lights, colours, sounds, ergonomic features.

14. A “precautionary approach” should be taken and we recommend that the Government should work with the Gambling Commission to establish a category system for online gambling products. The Government and the Gambling Commission should also use these online product categories to set stake limits for online gambling products.

15. Further to this, when new games are assessed, current testing criteria do not consider the addictiveness or potential harm that could be caused by each game; instead the weight of testing is simply to establish “fairness” to the consumer. **We recommend that the Gambling Commission should establish a system for testing all new games against a series of harm indicators, including their addictiveness and whether they will appeal to children. A game which scores too highly on the harm indicators must not be approved.** Later we propose the establishment of a compulsory “smart” levy on the industry which could be correlated with this testing regime.

¹⁶ <https://beta.gamblingcommission.gov.uk/consultation-response/online-games-design-and-reverse-withdrawals/summary-of-responses-introducing-speed-of-play-limits>

Q3: What evidence is there for or against the imposition of greater controls on online gambling accounts, including but not limited to deposit, loss, and spend limits?

16. As set out above, the increase in online gambling participation, particularly on riskier slot and casino style games¹⁷, **is a cause for concern given the relatively low level of regulation for the online gambling industry.**
17. We welcome the recent enhanced regulations by the GC as outlined above but don't believe they have gone far enough. They still lag well behind regulation of the longer established land-based sector.
18. Delays in tightening online gambling regulation appear at odds with the Gambling Commission's Statement of Principles for Licensing and Regulation¹⁸ which state that "the Commission will adopt a precautionary approach when approaching new developments and interpreting evidence, where this is appropriate, having regard to its duty to promote the licensing objectives in the Act."
19. We recognise that arguments against the increase of controls on online gambling have been made. They include:
20. Firstly, the gambling industry has argued that gamblers themselves do not want to see greater restrictions online and have undertaken focus groups in so called 'red wall' seats setting out that voters do not want online restrictions¹⁹. But such polling by a body representing the online gambling industry needs to be viewed through the prism of those who have commissioned it, equally other polling has shown the opposite, that people in fact do want to see greater regulation.²⁰
21. Secondly, it has been argued that new regulation of the online industry would constitute a 'nanny state'. There are however, of course, numerous examples of the need for intervention to ensure harm prevention. We have seen this in many areas including with the land-based gambling industry, in relation to alcohol, High Fat Salt Sugar Food and tobacco.
22. Thirdly, the gambling industry has claimed that regulation of the licensed online gambling industry will drive gamblers to the unregulated or 'black market'. The Gambling Commission has also set out its views on the gambling industry's estimates of the black market and noted that it is not an argument to hold back from reform of the regulated market.
23. We set out further analysis on this below and are not convinced by arguments that regulation will drive gamblers to the unregulated or 'black market' and support – as set out in response to Q4 – increased control on on-line accounts.

¹⁷ <https://www.bbc.co.uk/news/uk-england-52633355>

¹⁸ <https://www.gamblingcommission.gov.uk/PDF/Statement-of-principles-for-licensing-and-regulation.pdf>

¹⁹ <https://www.politicshome.com/members/article/the-issue-of-gambling-wont-decide-the-next-election-but-red-wall-voters-will-and-politicians-should-listen-to-what-they-have-to-say>

²⁰ <https://www.survation.com/conservative-voters-backing-public-calls-for-gambling-restrictions/>

Q4: What is the evidence on whether any such limits should be on a universal basis or targeted at individuals based on affordability or other considerations?

24. Of the reforms which are required to improve the regulation of the online industry some will need to be applied on a universal basis and there should also be checks on how much an individual is able to gamble as levels of affordability will vary according to individual circumstance.
25. Reforms which should be applied on a universal basis to ensure they are able to operated include:
- a. The introduction on speed and spin limits.
 - b. The introduction of staking limits
26. Universal speed, spin and staking limits are already in place effectively in the land-based sector and similar restrictions should be applied online.
27. In terms of affordability, our recent response to the Gambling Commission’s consultation on Remote Customer Interaction proposed:
- An industry wide definition of affordability
 - A system to assess affordability that is independent of the industry
 - An industry wide system to assess affordability
 - Clear rules establishing acceptable customer interactions, and
 - The introduction of a statutory duty of care.
28. In line with the House of Lords Select Committee report, we recommend that the Gambling Commission must amend its Formal Guidance for Remote Gambling Operators to ensure that the revised provisions on customer interaction and affordability form part of the Social Responsibility Code (see below), which defines the minimum steps which operators should take when considering customer affordability, and to make clear that it is for the operator to take those steps, and any necessary additional steps which will enable them to identify customers who are gambling more than they can afford.
- 29. We recommend that the affordability system used by operators is fully independent of the industry and managed by a third-party. This could be a new Gambling Ombudsman which could be a public agency with a statutory authority as set out in the recent Social Market Foundation Report, “*Gambling Review and Reform*”²¹ or indeed the Gambling Commission itself.**
30. We support the proposal set out in this consultation to establish a new ‘Social Responsibility Code’ and a new ‘Customer Interaction Manual’.
- 31. We recommend that it should be considered a serious breach of Licence conditions if an operator makes contact with a customer who has self-excluded with the aim of encouraging, in any way, the placing of a bet.**

²¹ Social Market Foundation, *Gambling Review and Reform: Towards a new regulatory framework*

32. We recommend that gambling companies be required to keep records (for a period of time to be determined) of all interactions with customers and that these should be available to the Gambling Commission and any authorised body handling disputes between an operator and a customer.

33. We support the principles of the model of affordability based on Minimum Income Standards recently proposed by the Social Market Foundation. This proposal recommends a ‘soft cap’ of £100 per month on net deposits across all customer spending based on a view that “*expenditure of up to £23 a week is more than most gamblers spend while also being a threshold that ensures that gambling activity does not amount to serious harm*”.²² We urge the Commission to explore this idea of a ‘soft cap’ further although we acknowledge that what is affordable will vary according to individual circumstance. We therefore urge the Commission to do further work to define an industry standard on affordability. A ‘soft’ cap will mean that gambling affordability is tested and that those who can afford (and can demonstrate that they are able) to gamble more than £23 a week are able to do so.

34. The House of Lords Committee heard from stakeholders across the gambling industry, from the industry itself to gamblers who had experienced harm. Throughout our inquiry we heard numerous cases where the interaction of gambling companies with individual gamblers was insufficient and where gamblers were being allowed to gamble more than they could afford.

35. We recommend the Gambling Commission proceeds with the reforms around affordability, where it can without waiting for the conclusion of all aspects of the Gambling Review. The detail of our response to the Gambling Commission is set out in Appendix B.

Q5: Is there evidence on how the consumer data collected by operators could be better deployed and used to support the government’s objectives?

36. One of the main problems for researchers in this field is the lack of data available to them. There is no shortage of data and gambling companies have made clear on a number of occasions that they have very full and detailed data, especially in relation to online gambling. Bournemouth University told the House of Lords Committee:

“The scope and richness of data that flows between the gambler and the operator in online gambling has increased substantially since the publication of the Act, as has the ability of the operators to use data analytics predictive modelling to identify current and future problem gamblers ... Greater transparency and access to this data (anonymised if appropriate) by researchers, public health bodies and regulators can substantially improve our understanding of how gambling harm is distributed. Online gambling data in particular can be used to map the demographics of gamblers, often also including an approximation of their physical location. This in turn can be used to make an estimation of factors such as socio-economic status.”²³

37. Lloyds supported research,²⁴ as referenced in Question 1, shows the significant benefits that come from the use of banking data and we believe that similar benefits will be achieved if data from operators

²² Social Market Foundation, Gambling Review and Reform: Towards a new regulatory framework, p8

²³ <https://committees.parliament.uk/writtenevidence/49/html/>

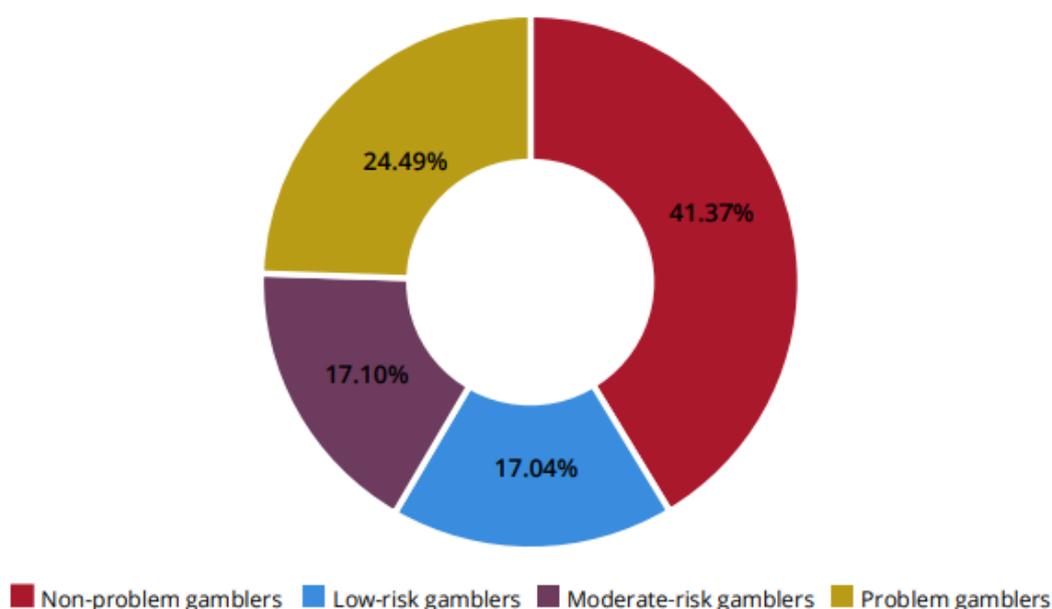
²⁴ <https://www.nature.com/articles/s41562-020-01045-w>

(including that already made available to the Gambling Commission) is made available in anonymised form to legitimate researchers authorised by either the Gambling Commission or an appropriate Research Council. We refer to this in more detail when answering Question 22.

38. Operator data will be invaluable for the work of the Gambling Ombudsman that we recommend in Question 26.

Q6: How are online gambling losses split across the player cohort? For instance what percentage of GGY do the top and bottom 10% of spenders account for, and how does this vary by product?

Figure 6: Percentage of online gambling industry profits derived from each category of gambler



39. The value of problem gamblers to the industry is illustrated by the above chart which is taken from the Select Committee report. It is limited to online gambling, and taken from a publication dated August 2018, and some of the figures come from the 2015 Gambling Commission Gambling Addiction Survey. There is however no reason to suppose that the figures have changed significantly. The 2.66% of the population who are low-risk gamblers contribute 17% of the industry's profits. A further 17% is contributed by the 1.03% who are moderate-risk gamblers, while the problem gamblers, on this measure 0.8%, contribute an astonishing 25%.

40. In addition, recent research by researchers at the Universities of Stirling and Glasgow based on a longitudinal survey of 3195 regular sports bettors found of the total gambling spend over their period of assessment:

- 39.9% of total spend (£108,618) was generated from the 15.3% of sports bettors who were experiencing moderate risk or problem gambling.
- Regular sports bettors experiencing moderate risk and problem gambling spend a disproportionately higher amount of money gambling, suggesting they contribute a disproportionately greater amount of money to industry turnover.²⁵

41. In further recent research funded by GambeAware, researchers from the University of Liverpool and the National Centre for Social Research found that most gambling accounts lost relatively modest sums, but that firms make at least 70% of their revenues from the biggest losers. They found:

- In sports betting, that proportion rises to 86%, with people in deprived areas more likely to go for longer-odds wagers with a lower prospect of success.
- Gamblers from the poorest areas were also more likely to lose money in online casinos, which the study found presented a particular risk of high- intensity play despite lower overall losses across all players.
- Nine out of ten online casino accounts either won money or lost less than £500 over the course of a year, but 164,000 lost more than £500 during a single session of play, and 47,000 people lost more than £5,000 in a year.
- This group was disproportionately likely to come from deprived areas and to have lost their money on virtual slot machines, which carry a higher rate of addiction than most other gambling products.
- Slots accounted for more than half of losses above £5,000 and 70% of sessions where someone played for three hours without a break.
- More than 14,000 accounts did this three times during the year, often at a rapid pace, although in practice this could have been a smaller number of people doing so more often, as the study could not factor in users holding various accounts.

Q7: What evidence is there from behavioural science or other fields that the protections which operators must already offer, such as player-set spend limits, could be made more effective in preventing harm?

42. In the Select Committee Report, evidence was noted from Dr Luke Clark, Professor in the Department of Psychology and Director of the Centre for Gambling Research at the University of British Columbia, who spoke of the research being carried out into determining the effect gambling products have on behaviour. His research into near misses found that:

“Gamblers typically find near misses to be exciting events that motivate continued play. With gambling machines and even scratchcards, it is quite straightforward for the game to be designed in a way that more near misses can be delivered than we would expect by chance. We have done a number of brain imaging studies in which we have seen that people with gambling problems show a stronger brain response to near misses in the parts of the reward system.”²⁶

²⁵ <https://osf.io/9cy37/>

²⁶ <https://committees.parliament.uk/oralevidence/128/html/>

43. Given how damaging behavioural responses chasing psychological reward system responses can be, PGR are pleased that the Gambling Commission are taking action in this area to bring in enhanced protections. We urge further regulation in this area, especially on online game design, to ensure increased intensity of play, loss of player control or binge play are addressed.

Q8: Is there evidence that so called ‘white label’ arrangements pose a particular risk to consumers in Great Britain?

44. The 2005 Gambling Act allowed ‘white-listed’ jurisdictions to access British Gamblers. It was not until the 2014 Licensing and Advertising Act that UK licensing was required, but inadequate due diligence has led to the phenomenon of “white label” licensees. These effectively act as license wholesalers for operators, which pay a fee to these licensees to access the benefits of a Gambling Commission license – such as advertising in Britain – without going through the application process, nor deriving any revenue from this jurisdiction. As a result, some affiliates of larger gambling companies have never been subject to direct Gambling Commission oversight. This practice appears wholly unsatisfactory and the Gambling Commission should urgently investigate the use and appropriateness of white labels.

45. The Advertising Standards Authority (ASA) defines affiliate marketing as follows: “Affiliate marketing is a type of performance-based marketing where an affiliate is rewarded by a business for each new customer attracted by their marketing efforts, usually with a pre-agreed percentage of each sale. Affiliates typically place ads and links online that direct consumers to the website of a company.” In the context of gambling, the reward of an affiliate is often proportionate to the losses incurred by the customers it attracts to the operator with which the affiliate has a contract.

46. Alex Macey, a police officer who had suffered an addiction to gambling since the age of 11, and in particular since he joined the police in 2003, said in written evidence to the Select Committee: “I had received a bombardment of emails and texts from companies I had never even signed-up with. Whilst it was apparent that the minority of this marketing were directly from the licence holders the majority clearly seemed to be from affiliates of the licence holders.”

47. Dan Taylor, the Chief Executive Officer of Paddy Power Betfair, explained to the Select Committee that they had a small number of affiliate partners; they had reduced that number by 50% over the previous 12 months because they did not approve of the way the affiliates operated. He added that he would welcome a licensing regime for affiliates to ensure that they were held to the highest possible standards. He “would expect it to come through the Gambling Commission and to be regulated as any other part of the industry would be”²⁷.

48. The then CEOs of Bet365, William Hill and GVC all admitted that their companies still used affiliates, at least some of whom received payments linked to the amounts lost by introduced gamblers.

²⁷ <https://committees.parliament.uk/oralevidence/97/html/>

49. The Responsible Affiliates in Gambling (RAiG) estimate that there are “tens of thousands of affiliates operating in the UK market. The vast majority of these will be very small indeed, often individuals who promote gambling on social media. At the other end of the spectrum are listed and multi-million pound companies such as those who established RAiG.”

50. They state: “It is widely accepted that affiliates deliver between 30%–50% of acquisition to operators in the UK and collectively, members of RAiG reach millions of unique customers each month via their websites and products.”²⁸ Affiliates are not individually licensed. They are regulated by the ASA, but not by the Gambling Commission, whose involvement is only indirect. Mr McArthur told us: “We have made it extremely clear to our operators that they are personally accountable for the actions of affiliates, so they cannot say, as some tried a little while ago, ‘We could not possibly control this, because it is all being done by affiliates. Although it is done in our name, it is done without our knowledge’ ... We are holding the operators to account, and we have fined operators for not controlling their affiliates.” The submission of the RAiG of course argues that they are sufficiently regulated. Among many arguments, they point out that “the Commission’s compliance policy has led to thousands of affiliate relationships being terminated because the operators could no longer be satisfied that some of the affiliates they were working with were sufficiently compliant. RAiG believes that these actions have already had a major impact and it again begs the question of how much additional impact licensing would have when taken together with the existing regulations.” They suggest that “improvements could be made by better enforcement of the current regulations and rules rather than introducing a licensing regime.” They note that the Gambling Commission has no plans to introduce a licensing regime for marketing affiliates and they claim that to do so would “create a huge burden on the regulator”.

51. It is clear from the evidence of those with lived experience that many of the contacts with gamblers who have self-excluded come from affiliates of the operators. We agree with Kenny Alexander, the CEO of GVC, who when asked whether affiliates should be licensed by the Gambling Commission, replied: “Absolutely—they should be under the same sort of controls and regulations as operators”. If, as we believe, the licensing of affiliates is necessary, the fact that this would undoubtedly be an additional burden on the Gambling Commission, involving perhaps the creation of a new category of licence, is no reason for not doing so.

52. We recommend that all affiliated operators should be licensed by the Gambling Commission before they can enter into contracts with gambling operators, and that operators should not be permitted to enter into contracts with unlicensed affiliates.

53. A number of licensed gambling companies in this country also operate on a white label basis in other jurisdictions. A report²⁹ by the Athletic recently highlighted how Premier League shirt sponsor facilitate illegal gambling in China. The report stated that ‘Gambling firms based in Asian countries, operating through offshore middlemen and the “white label” system, use Premier League football as a billboard to reach consumers in China, where the government does not allow gambling’. It also warned that ‘insufficient checks are being carried out to guard against money-laundering and criminal activity’

²⁸ <https://committees.parliament.uk/publications/1700/documents/16622/default/> Page 68

²⁹ <https://theathletic.com/2361984/2021/02/03/gambling-premier-league-shirt-sponsors-investigation/?source=emp-shared-article>

and that few of these companies have any significant presence in the UK and their personnel and funding remains opaque'. This is evidently extremely troubling and does need to be investigated by DCMS, to ensure that gambling companies operating or advertising in the UK are sufficiently licensed.

Q9: What evidence, if any, is there to suggest that new and emerging technologies, delivery and payment methods such as blockchain and crypto currencies could pose a particular risk to gambling consumers?

54. Virtual currencies, or cryptocurrencies, are digital currencies that are secured by data encryption, allowing currency to be transferred and transacted. Some cryptocurrencies are widely known such as Bitcoin, and social media firms like Facebook have proposed cryptocurrencies of their own. Decentralised gambling, which is also known as blockchain or cryptogambling, is a form of gambling which uses cryptocurrency technology. As this is an emerging technology and the variety of cryptocurrencies available is increasing rapidly, this area of gambling creates another area of risk. Oliver Scholten, PhD student, Dr James Walker, lecturer in Computer Science and Dr David Zendle, lecturer in Computer Science from the University of York told us that the “online and unrestricted nature of decentralised gambling applications means that there are no theoretical limitations to the use of these gambling services by minors.”³⁰

Q10: Is there any additional evidence in this area the government should consider?

55. In addition to online gambling protection measures, there are clear, practical measures that can be put in place now by the banking industry to support those suffering and at risk of gambling related harm. One of the most important is offering bank account gambling blocks that are easy to access but harder to instantly uninstall.

56. We are particularly concerned that for 40% of current accounts a block is not an option despite the technology being readily available and proven. We will be writing to those banks identified not currently offering such software to ask them to explain their rationale, and we would appreciate the support of Ministers in encouraging the industry to adopt these readily available, but highly impactful, tools to support those suffering from gambling-related harm.

57. However, we also understand from our discussions with technical experts that further advances in “blocking” technology, require changes in banking procedures. Changes are needed to the way certain categories of banking transaction are identified to capture emerging forms of gambling (for example as would be required were loot boxes to be redefined as gambling). And, to ensure all gambling companies are covered by the blocking tools, there needs to be a central register of the bank details of all gambling operators.

58. **So, in parallel with the work being undertaken on the Review of the Gambling Act 2005, we urge the Government to work with HM Treasury, to bring about the changes needed to ensure that those who want to access gambling self-exclusion tools should have access to the most effective possible methods. We recommend:**

³⁰ <https://committees.parliament.uk/writtenevidence/169/html/>

- **Introducing a new requirement for account providers in the UK to make sure every consumer can access a friction driven, card based gambling block - regardless of who they bank with.**
- **Mandating gambling firms to disclose their bank account details on a central registry.**
- **Finding a way to differentiate and identify loot box transactions from typical gaming purchases.**

Advertising, sponsorship and branding

Q11: What are the benefits or harms caused by allowing licensed gambling operators to advertise?

59. The gambling industry currently spends in excess of £1.5 billion a year on advertising. Gambling advertising has increased exponentially since the Gambling Act 2005 came into force. A financial analysis by Regulus Partners, published by GambleAware in November 2018, revealed that 80% of all gambling marketing activity is now on the internet, with companies spending five times more online than on television. Although further changes will have taken place since then, the most recent figures we have seen suggest marketing spend in 2017 was allocated as follows:

- Total spend by gambling companies on marketing went up by 56% between 2014 and 2017, reaching £1.5bn;
- Direct online internet marketing costs in 2017 were £747m, almost half (48%) of total gambling marketing spend;
- Advertising through marketing affiliates—websites, tipsters and publications who earn commission for generating new business for the gambling companies—was £301m, 19% of total expenditure;
- TV gambling advertising was £234m, only 15% of total gambling marketing spend;
- Social media spend was £149m, more than tripling over three years, and 10% of total gambling marketing spend;
- Sponsorship: £60m was spent in 2017, double the amount spent in 2014.³¹

60. It is generally assumed that the increase in advertising is one of the causes, perhaps the main cause, of gambling-related harms. Recent research by researchers at the Universities of Stirling and Glasgow has found a clear correlation on this point and notes that:

- Among regular sports bettors, those experiencing gambling problems were more likely to recall seeing and receiving gambling marketing communications.

³¹ https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/7910.htm#_idTextAnchor178

- More than three quarters of those experiencing moderate risk and problem gambling recalled receiving direct marketing in the past month, compared with just under half of non-problem gamblers.
- Those experiencing gambling problems were three times more likely than those experiencing no problems to report that the amount of gambling advertising they saw, and the amount of direct marketing they received from gambling operators, increased during the initial Covid-19 lockdown.
- Marketing was also successful in instigating behavioural response among those gambling at higher risk. Around half (54%) of those experiencing gambling problems stated a gambling advert, promotion or sponsorship often or very often prompted them to spend money on gambling when they were not otherwise planning to during the initial Covid-19 lockdown. Equivalent estimate for those not experiencing gambling problems was just 2%.
- In the in-depth interviews, some participants described a sense of a relentless onslaught of adverts – ‘it’s almost like it’s a frenzy of adverts’; ‘my email box is constantly filled with gambling adverts, constantly’. Some voiced a need for greater regulation.
- Gambling marketing is successful in reaching, and engaging, sports bettors through a variety of advertising and direct marketing. When received, the data suggests that marketing communications may have a disproportionate behavioural impact on those who are already moderate or problem gamblers.

61. Beyond this it would be helpful for there to be further data available to investigate the relationship between gambling and advertising. Aggregated data, such as the prevalence rate of problem gamblers and overall gambling advertising spend, will not reveal what the prevalence rate of disordered gambling would be *in the absence of gambling advertising*. Even if prevalence rates of problem gambling were trending down, they might have trended lower still if there was no advertising. Research could look at policy changes, such as Italy’s 2019 gambling advertising ban, to understand better the causal effect of gambling advertising. Greater access to gambling operators’ data on which parts of the population are exposed to the most gambling advertising could help reveal whether those subgroups also show excess increases in gambling-related harm.

62. A key concern of PGR is the amount of gambling advertising that is reaching children and young people. In the Select Committee Report, a link was made between an exposure to gambling at an early age and problem gambling later in life.

63. In March 2018 GambleAware commissioned two independent consortia to assess the extent, nature and impact of gambling marketing and advertising on children, young people and vulnerable groups in the UK. In July 2019 Ipsos MORI published an interim synthesis report, and it used this as a basis for written evidence submitted to us. The final report was published in March 2020.

64. Ipsos MORI explained that a core part of the current advertising regulations relates to whether or not particular advertising content has “particular appeal” to children. When this is deemed to be the case, the advertisement is not allowed. Examples of themes or features that may be deemed to have particular appeal include the use of cartoon characters or animated style, bright colours or depiction of young people (i.e. under the age of 25). Their research found that children were attracted to a wide variety of themes and features within advertising, for example, humour and contemporary cultural references. These features may appeal to adults as much as to children, but this of course does not diminish the appeal to children. Ipsos MORI therefore questioned whether it makes sense to base regulations on the premise of “particular appeal”. They estimated that 41,000 UK followers of gambling-related accounts were likely to be under 16, and that children make up 17% of followers of accounts focused on eSports gambling. They concluded that: “there are serious concerns related to gambling advertising, particularly on social media and for eSports betting. On Twitter, 68% of traditional sports and 74% of eSports adverts were perceived by the researchers to violate at least one of the advertising regulations put in place to protect children and the vulnerable.”

65. The ASA launched avatar monitoring in 2019. They designed profiles that mimicked the behaviour of children of different ages: very young children, children aged eight to 12, and young teenagers. They used the avatars on hundreds of websites and video-sharing platforms, and gathered and analysed the advertising that was served to them. During the two-week period of monitoring:

“We found examples of gambling advertising that should not have been served to those children ... There were 10,754 times that ads were served to the child avatars across 24 websites and 55 YouTube channels clearly aimed at children ... Gambling ads were served to the child avatars on 11 of the children’s websites monitored [where] they were seen ... a combined total of 151 times. ... One of the gambling operators—a company called Vikings Video Slot—was responsible for 122 of those 151 ad impressions in that two-week period. It was being very careless and not filtering when it should.”

66. There are also clear indications that the effectiveness of current gambling advertising codes should be carefully looked at. For example:

- The ASA found gambling advertising appearing on children’s websites and You Tube channels in 2019 and 2020.
- A study found that 11% of traditional media advertising contained features that are likely to appeal directly to children and young people as defined within the codes.³²
- A further study judged that adverts were likely to appeal to children in 21% of traditional betting tweets and 59% of tweets promoting e-sports bets.³³

67. A research paper in 2019 by researchers at Goldsmiths University found that in a study of 99 children aged between 8-16, almost half the children could name one or more betting brands with Bet365 and Betway most commonly recalled. This is despite regulations that prohibit gambling advertising aimed at children.³⁴

68. Gambling companies are also permitted within ASA rules to show adverts and sponsor day time TV programmes such as Neighbours which are watched by and appeal to children.

³² <https://stir.app.box.com/s/1bbrq4bh9gozi3yv748y8ha44dhoobe4>

³³ <https://www.begambleaware.org/media/1988/biddable-youth.pdf>

³⁴ <https://www.gold.ac.uk/news/gambling-adverts/>

- 69.** Researchers have also shown that every children’s football magazine and over 40% of collectible stickers and cards feature gambling logos. Current regulations prohibit the explicit direct marketing of gambling to children but when logos on players’ shirts are photographed or ‘depicted’ they are permissible for example when shirts are photographed and then published in children’s media. **This is a clear anomaly and we recommend that this loophole is closed.**³⁵
- 70.** The Government should commission independent research to establish the links between gambling advertising and gambling related harm for both adults and children.
- 71.** Given the potential risks to children of exposure to gambling advertising and marketing, , gambling operators should no longer be allowed to advertise on the shirts of sports teams or any other part of their kit.
- 72.** There should be no gambling advertising in or near any sports grounds or sports venues, including sports programmes. These restrictions should not take effect for clubs below the Premier League before 2023. A similar flexibility should be allowed in the case of other sports.
- 73.** These restrictions should not apply to horseracing or greyhound racing.

Q12: What, if any, is the evidence on the effectiveness of mandatory safer gambling messages in adverts in preventing harm?

- 74.** Safer Gambling messages in adverts have been previously highlighted as being insufficient and some, most notably the slogan used by parts of the gambling industry ‘when the fun stops. Stop’, have been widely criticised.
- 75.** In recent research by researchers at the Universities of Stirling and Glasgow they note that:
- Ongoing analyses of the advertising and social media marketing highlights a range of deficiencies in the current self-regulatory approaches to age warnings, consumer protection messages and terms and conditions in gambling marketing.
 - This includes consumer protection messages that are: missing entirely, use strategically ambiguous language, are overshadowed or juxtaposed against more stimulating marketing content, do not explicitly reference gambling harms, infrequently promote harm minimisation strategies, and are inconsistently formatted across different media and gambling subsectors.

³⁵ <https://www.gold.ac.uk/news/gambling-and-football-products/>

- In the in-depth interviews, a few participants [from research surveys] spontaneously expressed scepticism about the intent and effectiveness of current ‘safer’ gambling messages. They made comments such as ‘the companies just pay lip service.. more should be done than simply sort of saying ..be GambleAware’ and ‘Simply chucking beGambleAware at the end of a three-minute advert is irrelevant’, and ‘Don’t do it , but do it! ..like here’s a gambling advert, but don’t gamble!’.
- There are limitations in the current self-regulatory approach to safer gambling messages. A change in practice is needed to increase the visibility, design, and tone of messages so that they provide greater protection to consumers.³⁶

Q13: What evidence is there on the harms or benefits of licensed operators being able to make promotional offers, such as free spins, bonuses and hospitality, either within or separately to VIP schemes?

- 76.** Every business seeks to attract customers to start buying with them, to continue doing so, to buy more and to buy more often than they otherwise might. The betting operators are leaders in this field. But in the case of gambling, those who buy more will be those who lose more.
- 77.** It is one of the rules of the ASA that gambling advertisements (wherever they appear) should not undermine safe gambling and should be socially responsible. The rules aim to do that by ensuring that the content does not exploit vulnerabilities associated with gambling.³⁷
- 78.** However, this approach assumes that advertisements should be banned if they are thought to influence “vulnerable people”. Adopting, as we recommend, a public health approach coupled with the Gambling Commission’s “precautionary principle” approach, requires a different strategy. Such a strategy would see the end of advertisements with offers of “free” bets to attract new customers, or better odds offered to new customers, more attractive odds offered for a brief period, or advertisements that create an inappropriate sense of urgency, such as those including “bet now” offers during live events. Such advertisements are impossible to define or to list exhaustively, but they are easy to identify.
- 79. Advertisements which are objectively seen as offering inducements to people to start or to continue gambling, or which create a sense of urgency about placing bets, should be banned. The Advertising Standards Authority and the Gambling Commission must act together to police this ban.**
- 80.** Gambling operators are spending an ever greater percentage of their advertising budget on-line and through direct on-line marketing to individual customers. We are especially concerned about direct marketing.
- 81. The licence conditions should be amended to prohibit operators from sending communications offering inducements to bet to individuals, or identifiable groups of individuals, unless they have**

³⁶ <https://osf.io/9cy37/>

³⁷ <https://committees.parliament.uk/writtenevidence/141/html/>

agreed to take part in VIP schemes (by whatever name these are called) which satisfy the conditions currently in force or any stricter conditions which are imposed.

Q14: What is the positive or negative impact of gambling sponsorship arrangements across sports, esports and other areas?

82. During the Lords Select Committee’s evidence gathering sessions, the English Football League emphasised the importance to them of the sponsorship agreement they have had with Sky Bet since 2013/14, which is likely to continue until 2023/24 at least³⁸. The EFL informed the Committee that Sky Bet had been an excellent partner to football and the EFL. In addition, more than 60 of their clubs also have co-existing arrangements with competitor betting brands (some including front of shirt sponsorship) and beyond that many carry paid-for advertising on pitch side perimeter boards and in matchday programmes.

83. Banning the sponsorship of sports shirts and kits and banning the advertising of gambling on or near sports grounds, would in our view be very beneficial in terms of reducing young people’s exposure to gambling, and the “normalisation” of a relationship between sport and gambling. However, we recognise it would of course mean that gambling companies would no longer have much incentive to sponsor football clubs and the government should look to more sustainable sources of funding for particularly lower league clubs.

84. The government could look at the current situation where the use of drones to film sporting events currently isn’t illegal and the use of that footage can therefore be circulated to illegal betting sites, promoting the black market. Introducing a system of sports rights or intellectual property rights would provide sporting clubs with an income stream and a possible alternative source of funding other than from gambling companies. We note that other countries have already introduced measures along these lines.

Q15: Is there any additional evidence in this area the government should consider, including in relation to particularly vulnerable groups?

85. In responding to this section we draw attention to our concerns about the use of “vulnerable groups” (see earlier section on “public health approach”).

86. Bet to View inducements, allowing gamblers to watch sport—usually football—if but only if, they have bet with a particular company, have been of particular alarm to PGR.

87. The social responsibility code of practice must be amended to prohibit licensees from offering bet to view inducements, such as making the watching of a sport conditional on having an account with a gambling operator or placing a bet with an operator.

³⁸ <https://committees.parliament.uk/writtenevidence/199/html/>

88. In addition to ensuring that a public health approach is taken, we also urge the government to ensure that women gamblers are prioritised in gambling reform. Specifically, funding bodies should dedicate a portion of their budgets to research on women and gambling and make the consideration of gender mandatory for every proposal / request for funding and include this as a section in their standard application forms. They should also require treatment providers to provide evidence of the involvement of women, including those with experience of gambling harm, in program development, implementation, and evaluation of treatment and prevention strategies. Finally, every new policy intended to reduce and prevent gambling-related harm should be designed and assessed in relation to gender. Policy-making groups should include equal numbers of men and women, including people with experiences of gambling harm.

Gambling Commission's powers and resources

Q16: What, if any, evidence is there to suggest that there is currently a significant black market for gambling in Great Britain, or that there is a risk of one emerging?

89. The Gambling Commission, though very alive to the potential risk of the black market state “this could not possibly be an argument for lowering standards in the licensed community” and believe “there is no great sense of a burgeoning illegal market.”³⁹

90. Whilst we agree that the black market is, of course, a key consideration in this Review and that we must look at international evidence on it, research has already shown that the UK does not currently have an extensive gambling black market or a culture of gamblers using it. The reality is that the vast majority of gamblers gamble on regulated sites and do not seek out unregulated sites – which tend to be the last resort for those who are already suffering from high levels of gambling harm, chasing their losses or attempting to circumnavigate self-exclusion. The Gambling Commission has also confirmed to PGR that the risks of the growth of the black market should not be a reason to hold back reform.⁴⁰

91. In a letter⁴¹ published in the Times newspaper 30 former addicted high stakes gamblers set out their collective losses of almost £12m across 507 regulated gambling sites accounts, compared to £113,000 on ‘black market’ sites. This suggests that it is in fact licensed operators offering totally inadequate consumer protection rather than the black market which is leading to the scale of current problems.

92. Indeed, of the many addicted gamblers and former addicts that we have met through our work in this area, not one has reported to us that they developed their addiction through gambling on unregulated sites. The argument follows that if we want to prevent growth of the black market, regulation to prevent the incidence of harm leading to addiction is the solution to eliminating demand for a black market and not its cause. Harm prevention will mean fewer addicts, fewer self-exclusions and fewer attempts to circumvent the regulated market in the first place.

³⁹ <https://committees.parliament.uk/oralevidence/98/html/>

⁴⁰ <file:///C:/Users/katherine.morgan/Downloads/080321%20Letter%20to%20Lord%20Foster%20re%20PWC%20report2-2.pdf>

⁴¹ <https://www.thetimes.co.uk/article/we-gambled-away-11-8-million-its-time-to-make-the-betting-industry-pay-0zln9xfv8>

93. Further action can also be taken by the Gambling Commission to prevent the expansion of the black market through enhanced action targeting unregulated operators – via through their payment processors and via domain blocking, blocking them at an Internet Service Provider level.
94. It's already possible for the regulator to revoke the licence of any supplier that is providing platforms to unlicensed sites, and it should be doing more to make blocking software available for those who self-exclude from regulated sites via GAMSTOP - as we have seen happen in other jurisdictions such as Norway.
95. The gambling industry talks up the threat of the 'black market' but it is in their interest to do this. As the GC itself has said it should not be allowed to use it as a justification for unacceptably low standards in the regulated industry. The size of the black market has been exaggerated. If proper regulation of the industry led to a significant increase in black market activity, which we think unlikely, then steps could and would be taken to curb such activity.

Q17: What evidence, if any, is there on the ease with which consumers can access black market gambling websites in Great Britain?

96. Even though comparatively few people do (see above) it is relatively easy to gamble on the black market or on sites which are not licensed by Gambling Commission. Some websites⁴² inform UK consumers how to gamble online and also with credit cards even if they are registered with GAMSTOP. It is therefore essential that the GC continues its work to ensure that technological solution is available to prevent the development of the black market in the UK via enhanced action targeting unregulated operators – via through their payment processors and via domain blocking, blocking them at an Internet Service Provider level.

Q18: How easy is it for consumers to tell that they are using an unlicensed illegal operator?

97. It isn't. As mentioned above, the absence of the availability of GAMSTOP would provide evidence. However, we recognise that this is not something most customers would even look for.

Q19: Is there evidence on whether the Gambling Commission has sufficient investigation, enforcement and sanctioning powers to effect change in operator behaviour and raise standards?

98. As we explain in response to question 21, we believe that the Gambling Commission is inadequately resourced to appoint a sufficient number of specialist technical staff, to deal with its increasingly complex licensing function as ownerships, not least to non-UK ones, change and contain "black market" gambling.
99. Nevertheless, even within their financial constraints we have been concerned about the Gambling Commission's activities in this area.

⁴² <https://www.notongamstopcasinos.com/>

100. Until relatively recently the use made by the Commission of its power to fine operators in breach of the LCCP was totally inadequate. The total of the penalties imposed in 2016–17 was a derisory £1.7 million. However, in June 2017 the Commission issued a new *Licensing, compliance and enforcement under the Gambling Act 2005: policy statement*, since when it has made a rather more proactive use of its powers. It has also started to issue annual reports on its use of the enforcement powers, with the dual purpose of encouraging operators to comply with the rules and explaining what happens when they fail to do so. The first of these reports covers the year 2017–18, when the total of the penalties imposed was £18.4 million.

101. The report for 2018–19 explains that in that year the Commission carried out more than 160 regulatory and criminal investigations, an increase on previous years. The Commission also dealt with 2,000 intelligence reports and carried out hundreds of risk-based compliance assessments. Enforcement action resulted in £19.6 million in penalty packages, the surrender of three Personal Management Licences (PMLs), warnings for four PML holders and two advice as to conduct notices for PML holders. A further £6,541,188 was divested back to impacted parties and good causes.

102. When Mr McArthur gave oral evidence to the Select Committee, together with Dr Moyes, they were asked about the case of Paddy Power Betfair, which in October 2018 was ordered to pay a regulatory settlement of £2.2 million after the Commission found that it breached the social responsibility code when five customers were able to gamble extensively despite indicators of gambling related harm, and also failed to act in accordance with the Commission’s guidance on anti-money laundering. It was put to them that, to a firm the size of Paddy Power, a fine of £2.2 million would be laughable. Mr McArthur strongly disagreed: “I can tell you it definitely did not laugh at that ... having been on the receiving end of it, that firm absolutely knows that if this happens again all options will be considered, including bigger fines and reviewing the personal licences of those people involved.”

103. After this evidence session the Commission sent the Select Committee supplementary written evidence with further details of their enforcement strategy:

“We adopted a strategy of escalating enforcement alongside the publication of our Corporate Strategy in 2017. This has made clear to operators that repeated failures will not be tolerated and will lead to escalating penalties. That message, backed up by more than £30 million in penalty packages since 1 April 2018, and our published Enforcement Reports has helped to start to change the culture at the top of Operators.”

104. For an operator, even a very large fine does not have the same effect as the revocation of its licence. The Commission added:

“Regarding the number of operating and personal licences revoked, since November 2014 we have revoked: 9 operating licences; 9 personal management licences; 59 personal functional licences (these are for operator staff such as croupiers or cashiers). There have also been a number of occasions when operators or personal management licence holders have surrendered their licences rather than face the prospect of regulatory action by the Commission.”

105. While PGR welcome the fact that the Gambling Commission seems now to be prepared to make more effective use of its powers, we question whether settlements of these sizes are sufficient to bring home to operators the magnitude of their failures. Certainly, the sums involved are small compared to those imposed under deferred prosecution agreements (DPAs). A DPA, introduced into English law in 2014 by the Crime and Courts Act 2013, is a way of penalising a company which has committed an economic crime without the expense of a trial and without a criminal conviction as a result. DPAs have to be approved by the Crown Court, and the sums involved are of a different order of magnitude. In a recent case involving Airbus, the financial penalty and costs agreed by the Court totalled €991 million, even after a 50% discount for cooperation with the Serious Fraud Office. This was part of total financial sanctions in excess of €3.5 billion imposed in different jurisdictions, a sum which Counsel for Airbus confirmed would have “a real economic impact on the operation of the company”⁴³. Airbus is a company employing some 13,000 people in the UK. The gambling industry employs more than 98,000 people; GVC alone has 15,000 employees and William Hill 16,000. We mention the figures involved in DPAs, in order to show that in another field it is thought entirely appropriate to impose penalties which will make a meaningful impact on the company involved.

106. **Fines currently imposed and penalties agreed by the Gambling Commission do not make a sufficient impact on large corporations. They should reflect not just the seriousness of the offence but the size of the offender. In the case of repeat offences or other extreme circumstances the Commission should demonstrate much greater willingness to exercise its power to withdraw an operator’s licence.**

Q20: If existing powers are considered to be sufficient, is there scope for them to be used differently or more effectively?

107. As explained above, we do not believe the existing powers are sufficient nor, as explained below, do we believe the Gambling Commission currently has the resources to enable it to take on additional powers or deal with a fast changing industry.

Q21: What evidence is there on the potential benefits of changing the fee system to give the Gambling Commission more flexibility to adjust its fees, or potentially create financial incentives to compliance for operators?

108. Noting that without any changes Gambling Commission costs (with efficiencies taken into account) will be approximately £4.7 million higher than projected income, PGR supports the proposed increases in fees paid by operators to fund the activities of the Gambling Commission. We also support the delayed introduction of higher fees for non-remote operators.

109. Given the fast-changing nature of the gambling industry we acknowledge the need for the Gambling Commission to respond appropriately including:

- 1) Hiring more specialist technical staff, including a Chief Product Officer, will allow the Gambling Commission to evaluate and test products much more effectively, identifying problems early using

⁴³ Judgment of Dame Victoria Sharp P, para 113: <https://www.sfo.gov.uk/download/airbus-se-deferred-prosecution-agreement-statement-of-facts/>

technical and investigative expertise. Likewise, with increased fees, the Gambling Commission can invest in tools to analyse the data coming from the rapidly evolving industry, to ensure that player safety is not compromised and that the industry are held to a high standard.

- 2) As outlined in the scope of the changes, the effects of industry consolidation are clear. Increasingly global operations of industry players will require the Gambling Commission to invest in a team that can drive for international regulatory reform, working with partners across both established and emerging international markets.
- 3) Finally, whilst PGR feels that the actions of some of the licensed industry are currently far more of a ‘pollutant’ than the relatively small ‘black market’, it is not an issue that should be ignored. More staff and systems are needed to ensure illegal gambling is not easily accessible in the UK, so that the most vulnerable of problem gamblers are protected.

Such changes require increased funding.

110. However, we believe the current regulatory framework whereby fees are reviewed, typically, every four years but without any agreed frequency means that the resources available to the Gambling Commission can – as is presently the case – be inadequate to meet the challenges of a fast-changing industry. Further, it is increasingly the case that the necessary activities of the Gambling Commission are not directly proportionate to Gross Gambling Yield (GGY) on which fees are currently based. So, and in line with recommendations from the NAO, we believe that Government and the Gambling Commission should consider alternative means of funding the Gambling Commission’s work. In this regard we share the Gambling Commission’s view, as expressed in evidence to the House of Lords Committee that:

“Our immediate focus must be on securing the resources we need to continue to regulate effectively and we are developing proposals for revised fees for discussion with DCMS. In addition, we think there is merit in exploring alternative ways of setting fees and recovering costs which would better align with the nature of the work involved in regulating this industry. Alternative approaches already exist and are operated by other regulators.”⁴⁴

111. In summary, we support the fee increases currently being considered by Government as an interim measure but believe the Government should work with the Gambling Commission to devise a new funding structure in order to provide it with more flexibility and allow it to react and adapt to fast changing regulatory requirements.

Q22: What are the barriers to high quality research to inform regulation or policy making, and how can these be overcome? What evidence is there that a different model to the current system might improve outcomes?

112. The Select Committee report underlined the need for reliable and independent research into all aspects of gambling-related harm. Education of the public, children in particular, about the potential dangers of gambling, and how to gamble (if at all) within one’s means, should be equally important for the prevention of problem gambling, while the need for treatment for problem gamblers hardly needs

⁴⁴ <https://committees.parliament.uk/publications/1700/documents/16622/default/> , page 57

emphasising. But it all needs to be paid for—something other countries seem to appreciate better than we do. Research will not be entirely trusted so long as it is funded, or even just potentially influenced, by the industry, for example. The same logic can apply to research commissioned by campaigning groups or people with a vested interest in bringing about certain legislative change.

- 113.** The Gambling Act 2005 included, in section 213, provisions for a “reserve powers for an industry levy”, allows the Secretary of State to make regulations requiring the industry to pay an annual levy to the Gambling Commission, which has wide powers to use it “for purposes related to, or by providing financial assistance for projects related to (a) addiction to gambling, (b) other forms of harm or exploitation associated with gambling, or (c) any of the licensing objectives.” The Explanatory Notes to the Act explain that the levy would be treated as if it was part of the annual fee, so that a licence would be revocable if the levy was not paid.
- 114.** The DCMS memorandum for the Commons post-legislative scrutiny of the Act stated: “Following the Gambling Commission’s RET Review in 2008 the Government decided that the voluntary levy should continue, and section 123 would not be enacted unless the voluntary approach failed to generate sufficient funding to sustain a programme of research, education and treatment.” This is a misunderstanding of the legislative process. The whole Act, including section 123, was “enacted” when the Act received Royal Assent on 7 April 2005. Section 123 was brought into force, along with the majority of the Act, on 1 September 2007. But it remains ineffective unless and until Ministers use their powers to make regulations imposing a mandatory levy. This is what successive Governments have refused to do.
- 115.** For many years the industry has on a voluntary basis contributed 0.1% of its GGY to research, education and treatment. The amount has been subject to increasing criticism, as has the Government’s refusal to implement a mandatory levy. In their *Strategy 2018–2021: Making Gambling Fairer and Safer*, the Gambling Commission noted that the response by gambling operators to the voluntary levy had been “slow and insufficient”, and “continued failure in this would be unsustainable and unacceptable for the future.” The Commission therefore recommended a mandatory levy, which would “be a fair and credible way of addressing some of these weaknesses should they continue and indeed has support within the industry, including among the largest operators.” If there is indeed support for a mandatory levy among the largest operators, it has not been apparent to us.
- 116.** On 11 March 2019 Mims Davies MP, the minister then responsible for gambling, said in a Westminster Hall debate that if the industry did not hit its voluntary target of £10 million a year then she did not rule out a mandatory levy. A month later the Gambling Commission published its *National Strategy to Reduce Gambling Harms*, which stated that:
- “The Gambling Commission is committed to pushing industry to meet their responsibilities in this space, but we have also publicly stated our support for an appropriate levy as provided for in the Gambling Act 2005 which would be a significant part of providing a greater consistency of funding based on need.”

- 117.** On 25 April 2019 the chairman of the Commission, presenting the National Strategy, said that the voluntary levy was not working, but moments later the minister contradicted him and said that the Government would not be bringing in a mandatory levy, a decision which attracted much criticism.
- 118.** On 19 June 2019 the five biggest operators, perhaps sensing which way the wind was blowing, wrote to DCMS offering to increase their voluntary contribution from 0.1% of GGY to 1% over the next five years. At the heart of this package is a very significant increase in their financial contribution to fund support and treatment. In 2019, voluntary contributions across the whole industry to problem gambling yielded less than £10 million. Now five operators—William Hill, Bet365, GVC, which owns Ladbrokes and Coral; Flutter, formerly known as Paddy Power Betfair; and Sky Betting & Gaming—have pledged that over the next four years they will increase tenfold the funding they give to treatment and support for problem gamblers. In this same period, they have committed to spending £100 million pounds on treatment specifically. The companies will report publicly on progress with these commitments, alongside their annual assurance statements to the Gambling Commission.”
- 119.** The voluntary levy is currently paid mainly to GambleAware to be the commissioning body, and we see no reason why the mandatory levy should not similarly be paid to a commissioning body or a number of such bodies. If this is the Government’s reason for not imposing a mandatory levy, in our view it is a bad reason.
- 120.** Another reason given by Ministers for not imposing a mandatory levy is that “A mandatory levy on operators would also be a hypothecated tax. Public services are not usually funded by such taxes as they risk raising too much or too little for the purposes for which they are intended.” This may be unusual, but the possibility has been on the statute book for 15 years, and this is no reason for not giving effect to the intention of Parliament. The Horseracing Betting Levy, which can also be regarded as a hypothecated tax, has been in force since 1961, and the rate is set by statute. If the mandatory levy raises too much or too little money, the rules for calculating the levy (to which we refer in the following paragraphs) can be amended. The Commission in any case has power under paragraph 12 of Schedule 4 to the Act to pay money into the Consolidated Fund.
- 121.** Yet another reason given by the Secretary of State for not imposing a mandatory levy was that “legislating ... would take ... in all likelihood more than a year to complete”. Later he added: “I said it would take at least a year; it may in fact take nearer to 18 months because any of these changes will need to begin at the start of a tax year.” Why this should be, he did not explain. He would have to consult the Gambling Commission, and no doubt he would also consult the industry. The Regulations would need affirmative resolutions of both Houses. They would be fairly complex since they would have to set out the amount of the levy and the basis on which it is calculated. Section 123(2) provides five options for calculating the levy. Three are based on a percentage of the licence holder’s receipts, profits or annual fee, a fourth is “according to a specified formula”, and the last is “in some other way”, giving DCMS and the Gambling Commission complete discretion in negotiations with the industry. With goodwill, there is no reason why this should take anything like a year, let alone more.
- 122.** It is not for us to recommend which of these options should be used for calculating the levy, but we emphasise the importance of certainty. A mandatory levy dependent on receipts or profits will not be fixed; in these uncertain times there may well be major short-term changes in receipts and profits. It would not be possible to plan long-term research, education and treatment on that basis. As a result, as with the current levy, we do not see the new levy as the sole source of income to fund research, education and treatment.

123. We recommend that Ministers should exercise their powers under section 123(1) of the Act to require the holders of operating licences to pay to the Gambling Commission an annual levy sufficient to fund research, education, and treatment, including treatment provided by the NHS. This level should be a “smart levy”, based on the “polluter pays” principle.

124. We recommend that the Government should work closely with UKRI and ESRC who can advise on a structure for the commissioning of gambling-related research, funded by the mandatory levy, which would be independent of industry involvement and would be understood to be so by researchers and others.

Q23: Is there evidence from other jurisdictions or regulators on the most effective system for recouping the regulatory and societal costs of gambling from operators, for instance through taxes, licence fees or statutory levies?

125. PGR has commissioned expert economic research on this issue and will publish the results separately and submit them as soon as they become available.

Q24: Is there any additional evidence in this area the government should consider?

126. The Gambling Act 2005 should be amended to give local authority licensing committees deciding on the licensing of premises for gambling the same powers as they already have when deciding on the licensing of premises for the sale of alcohol.

Consumer Redress

Q25: Is there evidence of a need to change redress arrangements in the gambling sector?

127. One key concern for PGR is that gamblers who find themselves in dispute with an operator feel they have “nowhere to turn”. Short of turning to the courts which, as we have said, individuals would seldom be in position to do, alternative dispute resolution (ADR) is currently the only available avenue. They cannot turn to the Gambling Commission, which is a regulator, and the current disputes resolution body IBAS is seen to be ineffective in many cases. Neil McArthur, CEO of the Gambling Commission described ADR as “too much of a mixed economy at the minute”.⁴⁵ This, together with the fact that the operators are (at least in the case of IBAS) bound by decisions only up to £10,000, makes us doubtful of the value of ADR in practice.

128. The lack of transparency that was found during the Select Committee inquiry during dispute resolution procedures is one of the main factors which persuade us that only a wholly independent scheme will be adequate to settle disputes between operators and their customers. PGR believes an Ombudsman scheme would help to tackle this issue. Many other industries have an ombudsman, who customers can take their complaints to. Gambling with Lives also favoured “an independent ombudsman with responsibility for protecting the individual consumer.”⁴⁶

⁴⁵ https://publications.parliament.uk/pa/1d5801/1dselect/1dgamb/79/7908.htm#_idTextAnchor151

⁴⁶ <https://committees.parliament.uk/writtenevidence/237/html/>

129. We note that many within the industry also back calls for a Gambling Ombudsman.

130. An independent Ombudsman would require a statutory basis. Such a body would need to replace existing ADR providers so that consumers were clear about who to turn to.”⁴⁷ A mandatory ombudsman scheme for the gambling industry would need a degree of coercion which only statute could provide.

131. The introduction of an Ombudsman scheme would tend to bring into the open the improper exploitation of problem gamblers by operators. The Ombudsman should be empowered to bring to the attention of the Gambling Commission evidence of unacceptable conduct on the part of operators. This, we believe, would bring about a significant improvement in the regulation of the industry.

Q26: If so, are there redress arrangements in other sectors or internationally which could provide a suitable model for the gambling sector?

132. A precedent for this is provided by the Financial Ombudsman Service (FOS), which settles individual disputes between consumers and businesses that provide financial services: bank accounts, investment products, mortgages, loans, some pension products, PPI etc. Their service is free for consumers, and over one million people a year contact them with their problems. The FOS was set up under Part 16 of the Financial Services and Markets Act 2000. The complaint initially goes to a case handler for informal adjudication, but a consumer who is dissatisfied with the case handler’s assessment can ask an ombudsman to carry out a formal review of the case. The ombudsman’s decision in writing is communicated to both sides. If it is accepted by the consumer, it becomes legally binding on the financial business.

133. We recommend the setting up of a statutory independent Gambling Ombudsman Service, modelled on the Financial Ombudsman Service, to settle disputes between gambling operators and gamblers. Membership of the service should be a condition of the grant of an operator’s licence.

Q27: Individual redress is often equated with financial compensation for gambling losses. However, there may be risks associated with providing financial lump sums to problem and recovering gamblers, or risks of creating a sense that gambling can be ‘risk free’. Are there other such considerations the government should weigh in considering possible changes to redress arrangements?

134. The current legal and regulatory context does not sufficiently deter gambling operators who stand to benefit from allowing problem gamblers to lose money. There is an obvious and acute conflict between, on the one hand, complying with regulatory obligations such as those relating to self-exclusion and affordability checks and, on the other hand, the natural commercial desire to maximise profit.

135. We believe that the existence of a legal liability to pay compensation to gamblers who have lost money when gambling in circumstances which gave rise to an obligation on the gambling operator to refuse

⁴⁷ <https://committees.parliament.uk/writtenevidence/163/html/>

to accept their bets would be beneficial. It would create a strong incentive for gambling operators to comply with their regulatory and statutory obligations.

136. The law should be amended to make an operator who contravenes provisions of the licence conditions and social responsibility codes liable to an action for breach of statutory duty at the suit of a customer who has suffered loss as a result of that contravention.

Q28: Is there any additional evidence in this area the government should consider?

137. Although not included within the remit of the terms of reference of this Review, the Gambling Commission and Government should also look beyond it to products that are effectively gambling products but are not regulated as such. Loot Boxes, as mentioned above, is one example of a product which should be brought within the remit of gambling legislation and regulation.

Age limits and verification

Q29: What evidence is there on the effectiveness of current measures to prevent illegal underage gambling in land-based venues and online?

138. With evidence that at least 55,000 11-16 year olds are problem gamblers, it is clear that current measures are inadequate.

139. Simon Thomas, Chief Executive and Chairman of the Hippodrome Casino London, explained some of the features of casinos that allow gambling to be tightly controlled⁴⁸:

“They are purpose-built for gambling. They have the correct levels of player protection and control; if you go to the Hippodrome, it says “Casino” above the door in big letters. It is not a surprise. You go in through manned door control and are checked to see whether you are sober and old enough. We have no issues with underage gambling. You then gamble across tables with trained and licensed employees, and even on the electronic side like the slot machines, there are people monitoring them at all times.”.

140. The Gambling Commission and local trading standards officers should undertake regular age test purchases and visits in all land-based gambling venues such as betting shops, amusement arcades and National Lottery retailers, and develop an appropriate age testing scheme for online gambling operators.

Q33: Is there comparative evidence to support society lotteries and the National Lottery having different minimum ages to play?

141. PGR supports the Government’s decision to increase the minimum age for buying National Lottery products to 18+ , but regrets that this will not be done before October 2021 even though the National Lottery have confirmed that they would be ready for the change several months earlier.

⁴⁸ <https://committees.parliament.uk/writtenevidence/161/html/>

142. The minimum age at which an individual can take part in any online gambling should be 18.

Q34: What are the advantages and disadvantages of category D slot machine style gaming machines being legally accessible to children?

143. In the Select Committee Report, the Gambling Commission’s evidence raised concerns about Category D machines:

“The Commission does have concerns about Category D fruit machines which are typically found in premises catering for children and young people—it is confusing for children and parents when products for children look and feel exactly like those which are limited to adults, and we do not know enough about the long-term impacts.”⁴⁹

144. We also heard from the European Lotto Betting Association who has suggested that children should not have access to “any type of gambling products regardless of their perceived risk profile⁵⁰.” They also stated that “Category D games machines could act as gateway gambling products for young children.”.

145. BACTA, the trade association for the amusement machine industry, responded to our concerns about children accessing Category D gaming machines, with John White (CEO, BACTA), explaining to the Select Committee that the Category D fruit machines in arcades are there “for the adult members of the family”⁵¹ and that Category D machines at the seaside should be “legally able to be in the same room as the other machines” that children use.

146. Mr White acknowledged that it is “undoubtedly a fact that for some of the people you have had before this Committee that their gambling problems are associated with their early exposure to gambling.” He suggested that “the vast majority of people have very similar or the same experiences and do not end up with the same issues.”.

147. BACTA also emphasised to the Select Committee the likely impact of banning children from playing Category D machines on seaside arcades, and on the wider economy of seaside towns:

“[...] these types of games formed the backbone of Britain’s family seaside arcades. We know from our PWC report that approaching a third of the British population enjoys visiting these arcades each year. They provide local jobs and economic activity in towns up and down the country that have little in the way of other economic activity. Without them these towns would fall into further decline... the private investment provided by seaside amusement arcade operators has added considerably to the amenity value of towns up and down the country. It is also true that it is the income from the seaside arcades that keeps Britain’s Piers from falling into the sea.”⁵⁰⁰ 471.

148. PGR acknowledges that allowing children to play on Category D machines in Britain is an international anomaly, and the Select Committee recognised that, if we were starting from scratch in creating a new gambling industry, it is unlikely that children would be allowed to play on such machines. However,

⁴⁹ <https://committees.parliament.uk/writtenevidence/163/html/>

⁵⁰ <https://committees.parliament.uk/writtenevidence/60/html/>

⁵¹ <https://committees.parliament.uk/writtenevidence/132/html/>

PGR are considering the gambling industry as it is, and as it has been in Britain, and as BACTA has explained, family amusement arcades are an integral part of seaside resorts. Banning children from playing on Category D machines could well have a devastating impact on individuals, businesses and communities.

149. The minimum age at which an individual can take part in any online gambling should be raised to 18.

Q35: Is there evidence on how the characteristics of category D slot machine style gaming machines (for instance whether they pay out in cash or tickets) factor into their association with harm in childhood or later life?

150. Research by Dr Philip Newall and colleagues⁵² investigated links between use of legal gambling under the age of 18 and current problem gambling symptoms among a group of British gamblers aged 18 to 40. This research, as the Select Committee recognised, found that adult gamblers with more problem gambling symptoms tended to have engaged more often with Category D fruit machines (when aged below 18), and the National Lottery and National Lottery scratchcards (when aged 16 or 17).

151. While this does not show a causal link between the use of these products and later life outcomes, the research does indicate that the children who tend to use these gambling products frequently are more likely to become problem gamblers as adults.

152. These concerns about fruit machines and childhood gambling are not confined to academic research. Three of four witnesses with lived experience who spoke to the Select Committee explained how fruit machines had played a part in introducing them to gambling.

153. Owen Baily, one of our witnesses with lived experience, stated: “When I look back at my entry point to gambling, on reflection, I developed a very unhealthy attachment to a fruit machine, which grew and developed.”⁵³

154. Tony Parente, another lived experience witness, also pointed to fruit machines as a gateway into gambling: “When I was 17 or 18, I slowly started on the fruit machines in pubs and service stations,”⁵⁴

155. As did Alex Macey: “I live in a seaside resort, and probably at age 10 I started to go into town with friends on the weekend and into the arcades—there were plenty of them, and still are. My friends would go on the normal games, perhaps putting a little bit of money in a fruit machine, but I was compelled to lose everything on the fruit machines.”⁵⁵

156. The Gambling Commission also gave evidence to the Select Committee, informing the Committee that:

⁵² <https://academic.oup.com/eurpub/article/doi/10.1093/eurpub/ckz176/5580543>

⁵³ <https://committees.parliament.uk/oralevidence/19/html/>

⁵⁴ <https://committees.parliament.uk/oralevidence/19/html/>

⁵⁵ <https://committees.parliament.uk/oralevidence/19/html/>

“The Commission does have concerns about Category D fruit machines which are typically found in premises catering for children and young people—it is confusing for children and parents when products for children look and feel exactly like those which are limited to adults, and we do not know enough about the long-term impacts.”⁵⁶

Q36: What, if any, is the evidence that extra protections are needed for the youngest adults (for instance those aged between 18 and 25)?

157. Young people aged 18-24 routinely have higher rates of problem gambling. Earlier evidence from the Avon Longitudinal Study of Parents and Children, for example, showed high onset of problem gambling between the ages of 17 and 21, with researchers calling for special protections for this age group (Forrest & McHale, 2018). Little is known, however, about the specific gambling behaviours of those aged 18-24 and how this compares with older adults. The Emerging Adults Gambling Survey (a study of young people aged 16-24, see Wardle, 2019) showed that online sports betting was the third most common gambling activity in this age group, after the purchase of scratch cards and lottery tickets.

158. An illustration of the potential for greater harm amongst this cohort is set out by researchers at the Universities of Glasgow and Stirling in recent research of regular sports bettors:

- Among regular sports bettors, the prevalence of problem gambling was highest among those aged 18-24: 13.1% compared with 1.2% for those aged 65% and over.
- Gambling behaviours among younger sports bettors varied in some distinctive ways: they were far more likely to bet in-play than older age groups (64% of those aged 18-24 had bet in-play in the 3 months prior to the Covid-19 outbreak compared with 35% for those aged 65+). This is likely related to young people’s greater propensity to place sports bets online. On average, younger sports bettors also tended to take part in a slightly greater range of gambling activities (4.0) than people aged 65+(3.0).
- It was unclear whether the amount of time or money spent gambling varied by age group, though young sports bettors were less likely to gamble on a weekly basis (74.5%) than older sports bettors (89.4%).
- In the in-depth interviews, people noted that not just young adults, but also teenagers and children, were effectively being advertised to through the sponsorship of football teams by gambling companies. For example, one participant said ‘a lot of children or teenagers are active watchers of football .. you’re effectively advertising to children..if a child supports a team .. and some gambling company has been sponsoring that team, that’s really getting in psychologically . I support [team], that means I support this company’.
- Among regular sports bettors, those aged 18-24 have significantly elevated rates of problem gambling although their gambling consumption may not differ greatly to others’. This suggests

⁵⁶ <https://committees.parliament.uk/writtenevidence/163/html/>

that among younger sports bettors there may be specific risks with regards to the range and type of gambling activity they engage with. There may also be specific risks relating to the stage of life of this age group, requiring greater regulatory safeguards.⁵⁷

Q38: Is there any additional evidence in this area the government should consider?

159. PGR has also responded in full to the Gambling Commission's consultation on Loot Boxes and urges the government to take swift action in this area. Our key findings were that:

- Research suggest that loot box spending is linked to problem gambling in both adults and adolescents. Various studies have found that spending money on loot boxes is linked to problem gambling, and that the more money individuals spent on loot boxes, the more severe their problem gambling is.
- As loot boxes share many features with gambling, such as containing randomised rewards which are uncertain at the point of purchase, and that spending on loot boxes is linked to problem gambling in both adults and children, they should be regulated immediately.
- The prevalence of loot boxes is of primary concern because of the welfare of children. Loot boxes are a deliberately crafted product and marketing mechanism to instil in children an appetite for gambling. Underage gambling is banned for just this reason. Loot boxes are effectively a surrogate form of gambling and should not be played by children.
- Peers for Gambling Reform understand that any legislative changes should be based on evidence; the evidence presented to the House of Lords Select Committee stressed the urgency of taking action and did not draw attention to any unintended consequences.
- While we welcome the Government's intention to consider the relationship between gambling and video gaming through this consultation, we believe that this issue requires more urgent attention.
- We echo the conclusions of the Children's Commissioner's report, that if a product looks like gambling and feels like gambling, it should be regulated as gambling. We also agree with the House of Commons Digital, Culture, Media and Sport Committee's recommendation that loot boxes should be regulated as a game of chance, and the Group feels this should be regulated immediately.

160. We recommend that Ministers should make regulations under section 6(6) of the Gambling Act 2005 specifying that loot boxes and any other similar games are games of chance, without waiting for the Government's wider review of the Gambling Act.

161. Section 3 of the Gambling Act 2005 should be amended to give Ministers a power, analogous to that in section 6(6), to specify by regulations that any activity which in their view has the characteristics of gambling should be treated as gambling for the purposes of the Act.

⁵⁷ <https://osf.io/9cy37/>

Land based gambling

Q39: What, if any, changes in the rules on land-based gambling would support the government's objectives as set out in the document? Please provide evidence to support this position, for instance how changes have worked in other countries.

162. We recommend that the Government should reinstate the triennial reviews of maximum stake and prize limits, and they should be extended to include both gaming machines and online gambling products. Consultation for the next review should begin before the end of this year, with conclusions drawn and action taken by the middle of 2021.

Q42: What is the evidence that the new types of casino created by the 2005 Act meet (or could meet) their objectives for the sector; supporting economic regeneration, tourism and growth while reducing risks of harm?

163. The Select Committee heard evidence from the Hippodrome Casino in London, that currently, there is a discrepancy in the way casinos are regulated⁵⁸. The majority of casinos at the time of publication of the Select Committee Report (145 out of 152) operating in Great Britain are/were restricted to 20 gaming machines, "regardless of size or the volume of customer visits." These 145 casinos have preserved the entitlements of their licences originally granted under the Gaming Act 1968. However, there are seven casinos established under, and regulated by, the Gambling Act 2005, which are entitled to offer a higher number of machines. Three "small" casinos established under the 2005 Act are entitled to offer up to 80 machines, and four "large" casinos established under the 2005 Act are entitled to offer up to 150 machines.

164. We therefore remain in the strange position of having the number of gaming machines in any given casino decided by the date on which it was opened, and whether it is regulated by the preserved provisions of the 1968 Act or the 2005 Act, rather than its size, number of customers or demand. We are sympathetic to the call to increase the number of gaming machines available in casinos but believe that the Government must undertake its assessment of casino regulations before making any changes. We believe that the Government should undertake the assessment of casino regulations which should have been undertaken in 2014 and ensure that all casinos are regulated consistently.

165. The Government should forthwith undertake the assessment of casino regulations which it promised would take place in 2014, and apply the same regulations to all casinos, regardless of when they opened.

Q43: Is there evidence on whether licensing and local authorities have enough powers to fulfil their responsibilities in respect of premises licenses?

⁵⁸ <https://committees.parliament.uk/writtenevidence/161/html/>

166. The Act should be amended to give licensing committees deciding on the licensing of premises for gambling the same powers as they already have when deciding on the licensing of premises for the sale of alcohol.

Appendix A

	B1	B3	Category C	Online	Online after 31 st October 2021
Maximum Bet	£5	£2	£1	Unlimited	Unlimited
Maximum Win	£10,000	£500	£100	Unlimited	Unlimited
Minimum Game Time	2.5 seconds	2.5 seconds	1.5 seconds (2.5 seconds average)	No minimum (BGC non statutory code of conduct 2.5 seconds from February 2021)	2.5 seconds
Linked Progressive Jackpot	Local Area Network only (i.e. not linked across venues) £20,000 maximum	Not allowed	Not allowed	No limitations	No limitations
Holdover (e.g. hold reel symbols, build trail from game to game to win or trigger bonus win)	50% holdover after losing game 0% holdover after winning game	50% holdover after losing game 0% holdover after winning game	100% holdover after losing game 50% holdover after winning game	100% holdover after losing game 100% holdover after winning game	100% holdover after losing game 100% holdover after winning game
Simultaneous Game Play	Not allowed	Not allowed	Not allowed	No limitations	Not allowed within the same account
Additional stake within a game	Not allowed	Not allowed	Not allowed	No limitations	No limitations
Enriched Periods (series of forced wins with 100% control)	Not allowed	Not allowed	Not allowed	No limitations	No limitations
Raking Periods (series of games returning < target RTP with 100% control)	Not allowed	Not allowed	Not allowed	No limitations	No limitations
Transparency (undocumented game features or	Not allowed	Not allowed	Not allowed	No limitations	No limitations

<i>elements, player hints)</i>					
Playing positions	20 (1968 Act Casino) 80 (2005 Act Small Casino) 150 (2005 Act Large Casino)	20% of playing positions in an AGC	Not limited in AGCs/Bingo halls Limited by local authorities in pubs	No limitations	No limitations
Jackpot Repeat	Not allowed	Not allowed	1 (one) repeat allowed	Unlimited repeats	Unlimited repeats
Cash value committed to autoplay per player action	£10	£10	£5	100 times (unlimited) bet	£0 (Autoplay not allowed) [although would be surmounted through the use of a programmable mouse or by 'banking' start button presses]
In game enticements to continue playing	Not allowed	Not allowed	Not allowed	No limitation	No limitation
Game completion	One game must be completed before another game starts.	One game must be completed before another game starts.	One game must be completed before another game starts.	Unlimited winning games may be paused and then completed one after another enhancing the "winning" experience.	Unlimited winning games may be paused and then completed one after another enhancing the "winning" experience.

Appendix B

Peers for Gambling Reform response to the Gambling Commission Consultation on Remote Customer Interaction Consultation

1. Our experience is that too many licensees have “set thresholds for interaction too high” and are not intervening until “tens of thousands of pounds” have been deposited.
2. Case studies reflecting this were set out in the House of Lords report. For example, our report cites the case of Caesars Entertainment:
 - Customer L visited a casino and was allowed to buy-in for circa £60,000. The customer’s occupation was recorded as a retired ‘Postman’. The casino was aware the customer had previously self-excluded for six months before returning to gambling. Despite this knowledge, the customer was allowed to gamble for a period of 44 days, losing over £15,000⁵⁹⁶⁰.
3. A further example of a company failing to check the source of customer funds, and ignoring issues of affordability, is provided by the Gambling Commission’s decision in the case of Betway which was also detailed in the Lords’ report:
 - Customer A held 11 separate accounts with Betway. The customer deposited more than £494,000 over a period of one year and five months, £300,000 of which was over five months, and was the subject of 18 reviews by Betway’s risk and fraud team. Betway did not undertake any checks to establish Customer A’s source of funds as the customer failed to trigger any of Betway’s financial thresholds in place at the time. Customer A has subsequently been convicted of fraud. Customer A also displayed signs of problem gambling having self-excluded on a number of occasions, one of which followed depositing and losing over £50,000 in a single day. Betway could not provide evidence of any social responsibility interactions being carried out with this customer.⁶¹
4. The need for greater customer interaction and more rigorous affordability checks was also shared by gambling operators themselves. Kenny Alexander, the former CEO of GVC (now Entain) noted:

“Affordability is absolutely key. There is a huge desire for the industry to get to a standard view among all licensed operators, all using the same affordability checks, all agreeing and making the same decision about an individual player if they were to come to that business. If possible ... we could take one view of a player, so that he is not spending an amount with me and the same with Ulrik [Bengtsson, i.e., William Hill]. There should be a single standard view for looking at the affordability of players for all licensed operators We should take best practice across the industry, put it in place as what any licensed operator should be using, and we should be able to share that information so that it cannot be abused by breaching my affordability and doing the same with Ulrik—that completely defeats the purpose. ... If we can address it and get it right, I think that the number of problem gamblers in existence today—a magnitude of about 400,000—will come down significantly once that plays through over the next three to five years.”⁶²

⁵⁹ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, Gambling Harm: Time for Action, para 316

⁶⁰ Gambling Commission, ‘Systemic failings at Caesars Entertainment leads to the departure of three senior managers and sanctions of £13m’: <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/systemic-failings-at-caesars-entertainment-leads-to-the-departure-of-three-senior-managers-and-sanctions-of-13m>

⁶¹ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, Gambling Harm: Time for Action, para 317

⁶² House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, Gambling Harm: Time for Action, para 312

5. He did not explain why it should take as long as three to five years and we were not convinced of this point.
6. We agree with the proposals set out in the GC consultation that there should be stronger requirements on licensees to improve customer interactions and a new customer interaction manual.
7. We also agree that the requirement to identify harm is clarified and that there should be indicators including on affordability, vulnerability and time. There could for example be a ‘soft cap’ considered on the amount of time spent gambling. Action should be undertaken in a timely manner and these should be carefully evaluated.
8. The Select Committee Report suggests that these should be eminently possible requirements for operators. Online operators confirmed to the House of Lords Select Committee that their automated systems can already detect the profiles of problem gamblers and that they are already able to intervene when someone is spending more than they can afford.
9. Moreover, in February 2019 the Gambling Commission themselves published responses to a consultation showing that licensees could access information relating to a customer’s financial circumstances, such as bank statements, proof of income, and credit checks. Others suggested that licensees could analyse income and expenditure, with a number suggesting using socio-demographic data to form an understanding of affordability. One respondent said that a customer’s lifestyle could inform a licensee about how much they could afford to gamble.
10. The challenge currently is, of course, that at the moment there is no industry-wide definition of affordability and we urge the Gambling Commission to remedy this as a result of this consultation, so that interventions are not left to the discretion of a particular company and are instead consistently applied across the industry.
11. BeBettor is a gambling compliance data processing company assisting gambling companies with the issue of affordability. They told the House of Lords Committee that they help gambling companies understand how much their customers can afford to gamble before experiencing financial harm, and measure gambling activity data within their network of operators against these affordability estimates. They said:

“The affordability estimates we provide are calculated through processing individual customer data, and mapping this against socio-demographic and economic data sources available in the public domain (“Open Data”). Part of the difficulty in assessing the social and economic impact of gambling to date is that the industry response has been fragmented, with operators reluctant to work together. However, operators working collaboratively will achieve greater results in the area of problem gambling than more isolated efforts.”⁶³

⁶³ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, *Gambling Harm: Time for Action*, para 320

12. Since May 2019 the Licence Conditions and Codes of Practice (LCCP) has required operators to have in place systems for age and identity verification. These are questions of fact and so are relatively easy to measure and police. There is currently no provision of the LCCP specifically about affordability; the word does not feature in the Licence Conditions or in the Codes of Practice. We hope this will change as an outcome of this consultation. Since 31 October 2019 there has been a Social Responsibility Code provision on customer interaction which requires licensees to “interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling”. This vague wording is supplemented by Formal Guidance for Remote Gambling Operators which has passages on affordability, vulnerability, and how to spot harmful gambling. There is also a link to current compliance and enforcement casework, giving operators an indication of where the Commission draws the limits of what it deems to be unacceptable interaction with customers on affordability. This document leaves much to the discretion of individual operators.
13. As the Select Committee set out, the question of affordability should not be left in the hands of the operators. Gambling operators are subject to a conflict between their commercial interests (which may be promoted by allowing problem gamblers to bet more, when they should not be permitted to bet at all) and their duty to comply with the Social Responsibility Code. In order to reduce the danger that the conflict between interest and duty will cause operators to allow or even encourage problem gamblers to gamble when they should not, it is essential that the Guidance be tightly drafted so as to define clearly and prescriptively the steps operators should take.
14. The Guidance states: “Historically, gambling operators have not systematically considered customer affordability when developing their customer interaction policies.” There is the question of how to make this system effective, but we would urge consideration that it is fully independent of the industry and managed by a third-party depository. This could be the Gambling Commission itself or a new Gambling Ombudsman which could be a public agency with a statutory authority as set out in the Social Market Foundation Report. This report suggests:
- “A working model of gambling affordability depends on access to operator data. We recommend that the most suitable third-party depository for remote operator affordability data should be the new Gambling Ombudsman. This Ombudsman would be a public agency with statutory authority and would provide a formal, independent point of liaison between remote gambling operators, credit agencies and banks in order to maintain customer data ‘under one roof’. This would also ensure that the Ombudsman already has full access to the information needed to make an independent assessment of potential customer complaints.”⁶⁴
15. Beyond this there is also a question of what an affordable level to gamble is. We agree with the operators that different people will have different affordability limits depending on their income. Gambling is affordable when it does not impact on wider household financial commitments and that amount will vary from household to household.
16. The Social Market Foundation has recently put forward a model of affordability based on Minimum Income Standards. They recommend a ‘soft cap’ of £100 per month on net deposits across all customer spending. Expenditure of up to £23 a week is more than most gamblers spend, while also being a

⁶⁴ Social Market Foundation, Gambling Review and Reform: Towards a new regulatory framework, p8

threshold that ensures that gambling activity does not amount to serious harm”.⁶⁵ We underline that careful consideration needs to be given to what is affordable and note that the amount will vary according to individual circumstance, we therefore urge the Commission to do further work to define an industry standard on affordability and to consider the idea of the ‘soft cap’ which would enable those who wish to gamble more to do so.

⁶⁵ Social Market Foundation, Gambling Review and Reform: Towards a new regulatory framework, p8