

Seven Years Later

Casinos in the aftermath of the 2005 Gambling Act

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Executive Summary

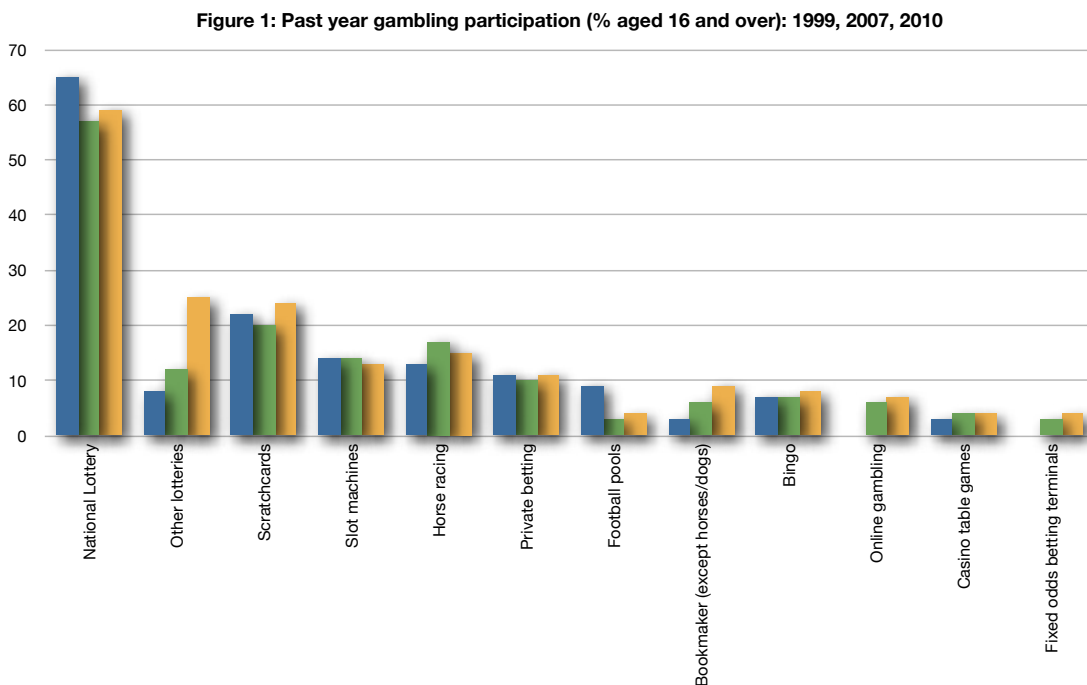
- The 2005 Gambling Act was intended to modernise gambling in the United Kingdom by replacing the anachronistic 1968 Gaming Act with legislation better suited to the twenty-first century. The 1968 Act had placed tight restrictions on the number of casinos that could open and these were limited to specified towns and regions. Gambling machines and jackpots were also strictly limited.
- The Blair government originally endorsed extensive liberalisation of the casino industry which would have effectively allowed the market to dictate how many casinos were in operation, subject to permission from local authorities and the Gambling Commission. It would have permitted a larger number of high stake jackpot and virtual gambling machines and would have allowed the creation of large entertainment complexes ('resort casinos') of the type seen overseas.
- In the months leading up to the 2005 General Election, sections of the media, faith groups and parts of the incumbent gambling industry led a campaign against the Gambling Bill which focused on so-called 'Las Vegas style super-casinos' and their supposed threat to British society. Faced with this backlash, the government hastily rewrote parts of the draft legislation pertaining to casino regulation. Limits were placed on the number of new casinos that could be opened and the number of resort casinos was reduced, ultimately to zero.
- By the time the legislation received Royal Assent in April 2005 it had not only been stripped of its boldest attempts at liberalisation but had also lost many of the uncontroversial reforms needed to allow casinos to compete in a rapidly changing marketplace. Specifically, it maintained the prohibition on opening casinos across large tracts of the country and failed to allow casino licences to be transferred from one region to another. As a consequence, many large towns are still unable to open casinos, regardless of public demand, and dozens of licences remain dormant. Seven years later, only one of the 16 casino licences created by the Act is in use.
- The 2005 Act placed new restrictions on the number of gambling machines that could be hosted in casinos and strictly limited the types of games and prizes available. Although casino regulation (and taxation) has always placed casinos at the top of the regulatory pyramid, current legislation is no longer commensurate with their status as 'the safest place to gamble'. Although casinos cannot offer online gaming or betting on horse-racing, for example, most casino games can now be played on the high street, on a mobile phone and on the internet for similar, or even higher, stakes.

- No one wants to see 'blackjack on every street corner', as the *Daily Mail* once put it, but there is no obvious reason why a reasonably sized town or city should not be able to host at least one small casino if the community is in accord. A more coherent regulatory structure would allow casinos to offer games, stakes and prizes which are consistent with their position at the top of the pyramid. The law should allow British casino operators to tailor their offering to consumer preference as their international competitors do. No new legislation would be required to fix the regulatory inconsistencies that the 2005 Act created and the economic benefits in terms of job creation and tax revenues would not be trivial.

Gambling in the UK

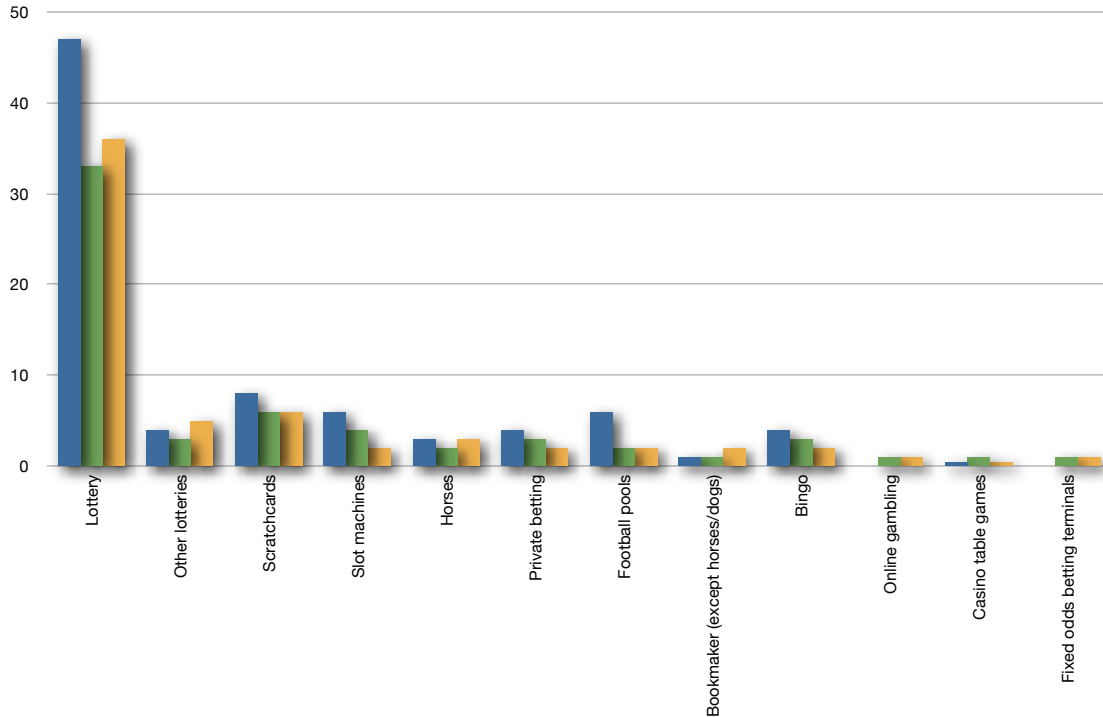
73 per cent of the British adult population took part in some form of gambling in 2010 (BGPS, 2010: 9), with an average household spend of £3.26 per week (Deloitte, 2010: 39). Excluding the National Lottery, which is by far the nation's most popular gambling activity, a slim majority of British adults (56 per cent) engage in some form of gambling (BGPS, 2010: 9). Scratchcards, slot machines and horse racing are the leading activities, but there has been a significant growth in online gambling, sports betting, virtual gaming (fixed odds betting terminals) and other lotteries in recent years. With the exception of scratchcards and bingo, men tend to gamble more than women (ibid.: 20).

Figure 1 shows the proportion of adults who have spent money on each form of gambling in the past year, based on the three British Gambling Prevalence Surveys (BGPS) conducted to date (1999, 2007 and 2010).¹ Gambling prevalence in 2010 was virtually the same as it was in 1999, but past week gambling has (shown in Figure 2) declined across most sectors, for which the recession may be partially responsible (ibid.: 28). Only lotteries and scratchcards are played by more than three per cent of the population on a weekly basis.



¹ Online figures come from page 10 and refer to 'casino, bingo or online slot machine style games, betting online or using a betting exchange'. When other forms of online gambling are taken into account (e.g. buying lottery tickets online), past year prevalence is 14 per cent.²¹

Figure 2: Past week gambling participation (% aged 16 and over): 1999, 2007, 2010



The significant decline in past week gambling since the turn of the century - from 53 per cent to 43 per cent - has come about despite increased opportunities to gamble; as the BGPS notes, 'the range of gambling products was more limited' in 1999 (ibid.: 28). This suggests that the relative liberalisation of gambling laws in recent years has not led to a rise in gambling activity, nor is there any compelling evidence that there has been a rise in problem gambling.

The BGPS defines problem gambling as 'gambling to a degree that compromises, disrupts or damages family, personal or recreational pursuits' (ibid.: 73). Despite predictions in the popular press that two per cent of the population would be 'addicted' to gambling by 2007,² the figure remained at around 0.6 per cent of the population between 1999 and 2007. Evidence from the the past five years is more equivocal, with one of the internationally recognised measures of problem gambling finding no statistically significant rise in prevalence between 2007 and 2010 (PGSI) and the other finding a rise from 0.6 per cent to 0.9 per cent that was on the margin of statistical significance (DSM-IV) (BGPS, 2010: 84-85). Even the highest estimates are at the low end of the range found in Europe which 'lies at around 0.5 to 3%' according to the European Gaming and Betting Association (n. d.), and are significantly lower than in some countries which have a more restrictive gambling market, such as the USA (3.5 per cent)³ and China (2.9 per cent) (Oei and Raylu, 2007: 22).⁴

² Choueke, M., 'Nearly a million addicted to gambling', Telegraph, 16 September 2007

³ <http://www.americangaming.org/industry-resources/research/fact-sheets/history-problem-gambling-prevalence-rates>

⁴ Gambling is illegal in China, with the exception of two official lotteries set up in 1987. It is estimated that £900 million is wagered illegally (Eimer, D., 'China's secret gambling problem', Telegraph, 9 January 2010).

The casino industry

The gambling industry's contribution to the British economy equates to around 0.5 per cent of GDP, with £670 million being paid in tax in 2008 (Deloitte, 2010: 2, 24). According to Deloitte, the industry directly and indirectly supports over 100,000 jobs and produces £6 billion in Gross Value Added to the economy (ibid.: 3). The non-quantifiable benefits of gambling are incalculable by definition, but there is ample evidence that casinos, bingo halls and other gambling venues provide entertainment, relaxation and sociability for many (Basham and Luik, 2011).

In terms of player numbers, casinos represent a relatively small part of Britain's gambling industry. The proportion of adults visiting one of Britain's 145 casinos on a weekly basis is less than one per cent. The number of less frequent (past year) visitors is also low, at four per cent (BGPS, 2010: 27-28). The abolition of the '24 hour rule', which prevented new members entering the premises on the day they joined, appears to have had little or no effect on visitor numbers, as the British Gambling Prevalence Survey notes:

'Interestingly, despite changes to legislation allowing casino members to gamble immediately after joining a casino, participation in casino table games did not vary between 2007 and 2010 (4%), though prevalence was higher than in 1999 (3%).' (ibid., 2010: 25)

Although casinos are visited by only one in 25 British adults each year, the casino industry's contribution to the economy is not insubstantial. Eleven per cent of the gambling sector's total tax bill is paid by casinos (Ernst & Young, 2010: 5) and the industry directly employs more than 13,000 staff, with many more employed indirectly (Gambling Commission, 2012: 22).

Gambling policy in the UK has long been rooted in the belief that betting should be neither prohibited nor encouraged. Until 1960, gambling on casino games was illegal and the industry therefore lay in the hands of criminals. Following the legalisation of casino gambling in 1960, over a thousand casinos proliferated, many of which were disreputable and/or had ties to organised crime. This perceived free-for-all was curtailed by the 1968 Gaming Act which put a limit on casino numbers and introduced a 'fit and proper persons' test for proprietors. The Act established the principle of confining casino licences to 53 permitted areas of the country and only in numbers which were sufficient to satisfy existing 'unstimulated demand'.

The 1968 Act ensured that Britain had one of the cleanest and most heavily regulated casino industries in the world, but by the end of the twentieth century it was widely agreed that reform was overdue. Parts of the Act had become anachronistic, notably the 53 permitted areas which had been set in stone based on population data from the 1960s. Towns and cities could only consider having a casino if they had a population of more than 125,000 in 1969. Such limits no longer made sense for places such as Swindon which saw a near-doubling of its population in the intervening years (from 90,000 to over 155,000 persons). The need to expand the number of permitted areas had long been

acknowledged. John Major's Conservative government discussed increasing the number of areas by 23 to include such places as London Docklands, Hastings and Morecambe, but was removed from office before action could be taken (Etches, 2011: 21).

Public attitudes towards gambling had also softened since 1968 and the introduction of the heavily advertised National Lottery in 1994 challenged the orthodoxy that gambling should not be stimulated or encouraged. Moreover, an embryonic online, and frequently offshore, gambling industry was emerging to compete with traditional casinos. Other countries, notably the USA and New Zealand, had deregulated their casino industries without experiencing the crime and addiction predicted by opponents of 'vice' (Scottish Executive Social Research, 2006: 46-47). By 2001, Britain's gaming laws, especially those related to casinos, were looking 'decidedly and uniquely peculiar' (Collins, 2003: 180).

Many of the necessary reforms would have required little more than updating regulations to reflect thirty years of demographic and inflationary changes. A more flexible system for setting stakes and jackpots was needed to reflect prices in the new century, and technological developments such as credit cards, linked gaming machines and the internet needed to be incorporated into the regulatory framework.

Tessa Jowell, then the Secretary of State for Culture, Media and Sport, recalls that it was her government's intention to 'modernise what by any measure was outdated legislation'.⁵ Had the Blair government limited itself to making the relatively modest amendments required to update the 1968 Act, it would have attracted little comment or complaint. Instead, it embarked on a major programme of liberalisation which sparked a fierce campaign against so-called 'super-casinos' led by faith groups, the incumbent gambling industry and some sections of the popular press (Etches, 2011: 21). Ultimately, no super-casino was ever built and by the time the Gambling Act (2005) came into full effect in September 2007, it had not only been shorn of its boldest attempts at liberalisation, but had lost many of the uncontroversial reforms needed for the casino industry to compete in the twenty-first century.

⁵ Jowell, T., 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling.' 12 January 2012

The rise and fall of the Gambling Act

In 2001, a Department for Culture, Media and Sport (DCMS) committee chaired by the economist Sir Alan Budd published its review of the UK's gambling laws. *The Gambling Review*, commonly known as the Budd Report, identified the need for a single Act of Parliament to 'simplify the regulation of gambling' and 'extend choice for adult gamblers' (DCMS, 2001: 2). It recommended that a new agency replace the Gaming Board to oversee all forms of gambling with the aim of achieving three key objectives: the exclusion of criminal activity from the industry, integrity and fairness in the games offered, and the protection of children and problem gamblers. These priorities were reasserted by the government many times in the years that followed and they remain at the core of the Gambling Commission's mission.⁶

The Budd Report recommended that various constraints on the casino industry be relaxed or removed. It suggested abolishing the '24 hour' rule and permitting casinos to be built outside the traditional 53 permitted areas. Casinos, it said, should not have to prove the existence of latent demand for their services and should be allowed to advertise their products and premises (hitherto, casinos were restricted to little more than listing their name and address in newspapers). The report proposed that casinos be allowed to accept credit cards for payment (except on gaming machines), offer live entertainment on the premises and serve alcohol on the gaming floor. It recommended abolishing the limit on the stakes and prizes offered by jackpot machines (then 50p and £1,000 respectively), expanding the range of games available and removing the prohibition on remote gambling (e. g. betting in a casino on a game being played elsewhere).

Under Budd's proposals, the decision to allow casino development in an area would be solely a matter for local authorities. Although later portrayed as laissez-faire, Budd's philosophy was more indebted to localism. Casino operators would have to persuade the Gambling Commission, the planning committee and the local authority that new premises were in the interests of the community. The committee even recommended that local authorities should have the power to ban all forms of gambling if they so desired. It also called for a ban on gambling machines in 'ambient' locations such as fish and chip shops and taxicab offices.

To avoid the proliferation of small casinos and 'machine sheds', Budd recommended a minimum table gaming floor of 2,000 square feet and a machine-to-table ratio of 8:1. If a casino had more than 80 tables, there would be no limit on the number of machines it could install. Such a premises would be very large by British standards - no existing casino came close to having so many tables - and the committee acknowledged that if its recommendations were acted upon in full, the opening of 'resort casinos' which combined hotels, restaurants, live music and gaming would become a possibility. Of the 176 recommendations made in the Budd Report, it was this that would become the most hotly contested aspect of gambling reform.

⁶ The Gambling Commission was created by the 2005 Gambling Act, replacing the Gaming Board for Great Britain.

After a period of consultation, the DCMS published a White Paper in 2002 entitled *A Safe Bet For Success* which endorsed the Budd Report's policy proposals and made a principled case for liberalisation. It noted that Britain's gambling laws reflected an attitude of 'grudging toleration', having been created at a time when 'gambling was widely regarded as an activity which was at best morally questionable' (DCMS, 2002: 3). This was evidently not the view of the Blair government, which believed that 'the law should no longer incorporate or reflect any assumption that gambling is an activity which is objectionable and which people should have no encouragement to pursue' (ibid.: 29). To this end, it supported all of the Budd recommendations listed above and calculated that, by 'removing unnecessary barriers to customer access to gambling', the reforms would lead to an increase in expenditure on gambling products of £500 million per annum (ibid.: 12). At this stage, the government saw no natural limit to the number of casinos beyond that which the market would support, nor did it see a reason to limit gaming machines in each casino. Of Budd's 176 recommendations, the government rejected only nine, none of which were specific to casinos (ibid.: Appendix B).

When a draft Gambling Bill appeared in 2003, deregulation remained the name of the game, but a number of concessions were made to faith groups and the incumbent gambling industry. In particular, it proposed a 3:1 machine-to-table ratio for small casinos which was significantly lower than the 8:1 limit suggested in the Budd Report (DCMS, 2003: 58). Since casinos rely on gaming machines for much of their business, this restriction reduced the economic viability of many new casinos at a stroke. Furthermore, because the government did not wish to see 'the proliferation of small casinos on every street corner', the minimum size of new 'small' casinos was set at 5,000 square feet - considerably larger than the previously mooted 2,000 square feet (ODPM/DCMS, 2003).

The Bill was watered down further the following year when a House of Lords and House of Commons Joint Committee made various recommendations 'aimed at ensuring that the Government proceeds more cautiously than was recommended by the Budd review and as envisaged in the subsequent White Paper, *A Safe Bet for Success*'.⁷ The committee heard evidence from the casino industry's competitors, such as the British Greyhound Racing Board, Gala Bingo and the British Beer and Pub Association, as well as faith groups who were intractably opposed to gambling, such as the Salvation Army and Quaker Action on Alcohol and Drugs.

The Christian Institute appealed directly to the bible, prefacing its comments with the observation that: 'Gambling directly appeals to covetousness and greed, which the bible teaches is a form of idolatry' (Christian Institute, 2004: 1). Others used concerns about problem gambling as a vehicle for their moral and commercial objections to casino liberalisation, despite the paucity of evidence connecting casino development to pathological gambling (Loveman, 2011: 18).⁸ Although Tessa Jowell had earlier stated that she did 'not accept that the Bill will lead to an increase in problem gambling',⁹ the Joint Committee took the view that any increase in the absolute number of gamblers would inevitably lead to a rise in the number of addicted gamblers. As a result, it supported the government's plan to set a 3:1 machine-to-table limit in small casinos and agreed with the plan to set a 5,000 square feet minimum for new casinos, despite protests from the Office of Fair Trading which

⁷ 'Draft Gambling Bill', Joint Committee on the Draft Gambling Bill: Session 2003-04', Vol. 1, Stationery Office; p. 7

⁸ The data show that 'there is a background level of pathological gambling in Western societies that is relatively unaffected by marginal or even significant changes in the availability of and customer access to casinos' (Loveman, 2011: 18).

⁹ Draft Gambling Bill', Joint Committee on the Draft Gambling Bill: Session 2003-04', Vol. 1, Stationery Office; p. 60

complained that such a limit would be anti-competitive. The committee then quashed the plan to allow any casino to have an unlimited number of gaming machines, recommending a (still generous) maximum of 1,250 for the planned resort casinos.

The Joint Committee did not, however, raise any objection to the licensing of a theoretically unlimited number of new casinos, nor to the abolition of the 'permitted areas' rule. It accepted that reforms to the gambling laws were 'long overdue'¹⁰ and acknowledged that resort casinos had the potential to create jobs and regenerate run-down areas.

When the Joint Committee's report was published in April 2004, the press seized on the apparent admission that the Bill would lead to a rise in problem gambling¹¹ and the spectre of 'Las Vegas style super-casinos' invading the British Isles sparked a heated public debate over the summer. In October, the *Daily Mail* launched its 'Kill the Casino Bill' campaign, having warned its readers that the country was on the brink of being infested with 'hundreds of mega-casinos' and 'slot machines offering £1 million jackpots, roulette on tap and blackjack on every street corner'¹² even though the Joint Committee had gone to great lengths to rule out such a scenario.¹³ The newspaper formed an unlikely alliance with opponents of gambling from Labour's backbenches such as Roy Hattersley and lauded the Left's traditional social conservatism as being 'Old Labour at its best'. 'The fathers of socialism', it wrote in an improbable lament, 'must be spinning in their graves'.¹⁴

Stung by criticism in the press, the government beat a hasty retreat from its broadly free market position in December 2004 and restricted the number of new licences to 24, eight for each of the three casino types (small, large and 'resort'¹⁵). Tessa Jowell did not agree with restricting casino numbers so drastically, but saw it as necessary horse-trading if the Bill was to proceed before the election. 'If it meant reducing the number of casinos', she said in 2012, 'then it seemed to me that that was a small price to pay for securing the legislation'.¹⁶

Had the government made an educated guess a year earlier about how many casinos needed to be built to satisfy latent demand, a much larger number would almost certainly have emerged, but once the moral panic about casino development caught fire in the media, even this climb-down could not extinguish it. With an election due in 2005, the government made a further concession to the anti-gambling lobby by reducing the number of licences for the controversial resort casinos from eight to one. This was unambiguously a political decision, as Richard Caborn - then the Minister for Sport and Tourism - recalls:

'Not to overstate it, there were two things. The first was that you've got a campaign run by a national newspaper, the *Daily Mail*. The second thing was that you were coming up to an election in 2005. That was the reality of it.'¹⁷

Having been introduced to the Commons in October 2004, the Gambling Act received Royal Assent

¹⁰ Tempest, M., 'MPs: bill will increase problem gambling', *Guardian*, 7 April 2004.

¹¹ *Ibid.*

¹² 'Gambling with our futures', *Daily Mail*, 15 October 2004.

¹³ The *Daily Mail* also claimed that: 'In the last three years alone, the amount of money gambled in Britain has rocketed from less than £8 billion to £40 billion'. This was unbelievable and untrue. Around £42 billion was spent on gambling in 2000. The newspaper seems to have compared one year's turnover with another year's profit.

¹⁴ 'Gambling with our futures', *Daily Mail*, 15 October 2004.

¹⁵ As the Joint Committee noted in 2003, the definition of a resort casino was never properly defined.

¹⁶ 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling', 12 January 2012.

¹⁷ 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling', 12 January 2012.

in April 2005. Thereafter, 27 local authorities fought for the sole resort casino licence, with the ailing seaside town of Blackpool widely viewed as the most suitable location, but when the final decision was announced in January 2007, the Casino Advisory Panel overlooked the bookmakers' favourite and instead chose the 16-1 outsider Manchester. 'This is fantastic news for Manchester, and the region', said the leader of the city's council, but Mancunian joy was short-lived.¹⁸ Six months later, Tony Blair handed the premiership to Gordon Brown, a man whose Presbyterian suspicion of vice more closely matched the qualities the *Daily Mail* professed to admire in the Labour Party. Within days of becoming Prime Minister, Brown abandoned the 'super-casino' scheme in its entirety.¹⁹

The Gambling Act came into full force on 1 September 2007. A year which should have been auspicious for casinos turned decidedly gloomy when the government increased their top rate of tax from 40 per cent to 50 per cent and raised the starting rate from 2.5 per cent to 15 per cent - making casinos by far the most heavily taxed industry in the gambling sector. This was followed by the introduction of smoking bans in England and Wales which hit casino (and bingo) attendance hard and accelerated the shift towards online betting.²⁰

The result of these U-turns, tax rises and unhelpful laws was that Britain's casinos took one step forward and three steps back. As a report from Ernst & Young later concluded, 'measures introduced in 2007 (specifically the Gambling Act 2005 changes, smoking ban (albeit not uniquely impacting the casino industry) and changes in gaming duty rates) have contributed significantly to fostering an environment which acts as a barrier to growth for casino operators' (Ernst & Young, 2010: 1). The report estimated that 'casinos' revenue generation saw large and significant reductions, by as much as 20%' between 2007 and 2010 (ibid.).

¹⁸ 'Manchester wins super-casino race', BBC, 30 January 2007.

¹⁹ Quinn, B. & Wilson, G., 'Gordon Brown scraps super-casinos', *Daily Telegraph*, 12 July 2007

²⁰ 'I would add that one piece in the briefing that I read in preparation for today made reference to the impact of the change in smoking laws and there being no smoking in many of the places that people would visit to play on machines or whatever. That has also had an effect, so it is hard to look at the impact of the Gambling Act in isolation from other regulatory change which has also had an impact on the use of facilities', Jowell, T., 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling', 12 January 2012.

Picking up the pieces

With the benefit of hindsight, a wiser political strategy would have been for the government to set limits on the number of new casino licences and the size of jackpots from the outset. The government never had any intention of allowing limitless casino gambling. Instead, it wanted to replace the centrally planned regime that had been enshrined since the 1960s with a system that empowered local communities to decide how much gambling (if any) they were prepared to authorise. In practice, no casino would have had unlimited jackpots and the number of licences would have been decided by local authorities as well as by the laws of supply and demand. The problem was that the original Gambling Bill theoretically allowed an infinite number of casinos to be built and that was enough for critics to paint a picture of a country on the brink of being riddled with dens of iniquity.

The government also underestimated the moral indignation of a significant minority of the population who viewed gambling with, at best, 'grudging toleration'. *A Safe Bet for Success* acknowledged the problem of compulsive gambling and recommended many safeguards, but it assumed that society no longer saw gambling as taboo. With three-quarters of the population engaged in at least occasional gambling, this was not an unreasonable conclusion to draw, but only four per cent visited casinos and their unwarranted reputation as seedy establishments with links to organised crime had not entirely disappeared. In alliance with rival companies in the hospitality and gambling sectors - aided and abetted by those who wished to give the government a bloody nose for political reasons²¹ - the vocal anti-gambling minority capitalised on the government's apparent laissez-faire approach and forced a drastic U-turn which left plans for casino deregulation in tatters.

In its haste to appease the critics, the government discarded a number of necessary reforms which would have attracted little attention had they not been part of a broader package of liberalisation. The casino industry had waited forty years for the gambling laws to be updated, but it never sought the free-for-all that was implied by 'unlimited' development. After blowing too hot in 2000-03, the government blew too cold in 2004-07 and the modest reforms required for the casino industry to adapt to the twenty-first century were abandoned along with the headline grabbing schemes for 'super-casinos'. Seven years after the baby was thrown out with the bath water, it is time to reflect on what was lost and gained.

²¹ '...the then Opposition were doing what an Opposition do, which is make trouble for the Government, and they made trouble for us on the number of casinos. I was perfectly willing to concede on that to protect the legislation. That is what you do if you are a Government - you just have to face the realities.' (Jowell, T., 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling', 12 January 2012).

Licensing

The casino industry did not walk away from the Gambling Act entirely empty-handed. Casinos created under the 1968 Act can now have twenty jackpot machines, rather than ten. There is no longer a requirement for casinos to be private members' clubs and the 24 hour rule was abolished in 2005. Casinos are also able to advertise more extensively than before. The most significant change, at least in theory, is the scrapping of the 'permitted areas' rule and the creation of sixteen new casino licences (eight large, eight small).

On the face of it, these slivers of liberalisation should add up to a boon for casinos and their customers, but one only needs to dig a little deeper to see that most of these new freedoms are incidental or irrelevant. Although casinos are now free to advertise on television, the industry has unilaterally chosen not to do so. Magazine and broadcast advertising for betting shops and online casinos is now widespread, but bricks-and-mortar casinos remain committed to the traditional approach of meeting 'unstimulated demand'. Similarly, casinos are no longer obliged to operate as private members' clubs, but many prefer to do so. And whilst the 24 hour rule was a relic of the past, it was always more of an inconvenience to a few individuals than it was a hindrance to the industry. There has been no increase in casino attendance since the rule was abolished, which suggests that the law never had the intended deterrent effect in the first place.

None of these reforms address the key issues of demographic and technological change which the Gambling Act was supposed to put right. The population of the UK has increased by more than seven million since 1968 and a number of medium sized towns have since become large towns or cities. In theory, the abolition of the permitted areas rule and the creation of sixteen new casino licences should go some way to satisfying latent demand. In practice, however, it will not do so and dozens of casino licences are destined to remain unused.

Although the permitted areas rule was abolished for new casinos, the 186 licences created under the 1968 Act remain locked in those same areas. Almost incredibly, all of Greater London's 23 casinos are crowded into two pockets of the city centre in and around Westminster and the Royal Borough of Kensington and Chelsea. An energetic pedestrian could visit them all in a day, but having reached Hyde Park would have to walk another 53 miles before finding the next casino to the south (Brighton). None of these 186 licences can be transferred out of the existing zones to places such as Watford or Croydon and, as a consequence, there is no prospect of all 186 licences ever being used (41 of them are currently dormant). There are enough casinos in the permitted areas to satisfy local demand, but where demand exists elsewhere, no licences are available.

The sixteen new licences created by the 2005 Act would go some way to alleviating this under-provision if it were not for the fact they too are confined to specified towns and cannot be moved. 57 local authorities applied for these new licences (an indication that fears about casino

development are not widely shared in the communities that might host them), but when the final list was published, all but six were awarded to towns within the traditional permitted areas.²² Of those six, several are patently unviable. The only new licence in Scotland, for example, was awarded to Stranraer, a remote coastal outpost with a population of 10,000. Although this small town would welcome the investment, it is highly unlikely that a casino operator will take the gamble of building a premises in rural Dumfries and Galloway in the hope of customers taking the ferry from Belfast to have a flutter (Stranraer's 'main claim to fame', says *The Scotsman*, 'is the unremarkable boast that it hosts Scotland's second-busiest passenger terminal.'²³)

The only 'new town' on the list is Milton Keynes while well populated destinations such as Telford, Slough and Swindon were overlooked in favour of places which are already reasonably well served with casinos (Leeds, for example, has four). Seven years after the Gambling Act appeared on the statute books, only one of the sixteen casinos has been built - a large casino in Newham which is now the only such establishment inside the M25 not situated in central London.

Even if all 16 new casinos are built - a most unlikely scenario for reasons given below - the number of permitted areas will, in effect, only have risen from 53 to 59. After fifteen years of deliberation, this is a feeble and unsatisfactory outcome.

²² The full list is: Bath, Stranraer, Scarborough, Wolverhampton, Swansea, Luton, Torbay and East Lindsey (small casinos) and Great Yarmouth, Hull, Leeds, Middlesbrough, Newham, Solihull, Milton Keynes and Southampton (large casinos).

²³ 'Forget Las Vegas—it's viva Stranraer as casino bid gamble pays off for town', *The Scotsman*, 31 January 2007

Machines

Fruit machines no longer resemble the one-armed bandits of old and are an essential adjunct to gaming tables in the modern casino. Although the 2005 Act increased the permitted number of high-stake gambling machines from ten to twenty, it changed the rules to include lower stake fruit machines as part of this allocation. Having previously been able to offer an unlimited number of these 'Section 21' machines, casinos were effectively obliged to remove them to receive their full quota of high-stake machines. As a result, there are now 1,200 fewer machines in British casinos than before the Act came into effect.

Moreover, although the 2005 Act permitted resort casinos to have up to 1,250 'Category A' machines (i. e. jackpot machines with unlimited stakes and prizes), no resort casinos will now be built and so no Category A machines are available to punters anywhere in the UK. The previous government's mission to 'extend choice for adult gamblers' has manifestly not been fulfilled, at least for casino customers.

One reason why so many of the 16 new casino licences will never be used is that the Gambling Act's gaming machine regulations underwent an eleventh hour revision which has hamstrung the potential for development. The 8:1 machine-to-table ratio suggested for small casinos in the Budd Report was reduced to 3:1 in 2004 and then dropped again to just 2:1 when the final Bill was voted on. This downshifting attracted little attention at the time, but it represents a serious obstacle to uptake of the eight small casino licences.

Large casinos, however, are permitted a ratio of 5:1 (with a maximum of 150) and established casinos are limited to twenty regardless of size. There is no obvious reason why machine-to-table restrictions should vary so greatly between casinos. With a ratio of 2:1, a small casino would require 40 gaming tables to reach its maximum allocation of 80 machines. This is not only unrealistic, it is illogical. It means that a small casino needs 40 tables to reach its maximum allocation, but a large casino only needs 30. Even if a casino could afford to run so many tables, it could not possibly be described as 'small' and since few casinos can survive without being able to offer a reasonable range of jackpot machines (which offer a better profit margin and lower labour costs than table games), there is little incentive for operators to embark on the costly process of applying for a licence, let alone building a casino.

Tessa Jowell and her former colleague Richard Caborn have since accepted that this rule makes little sense and should be reviewed. 'When I reflect back on it', said Caborn in January 2012, 'there were areas where we could have applied more common sense. I must admit that this is one of the areas. It is something that needs to be revisited in my view.'²⁴ A simpler and more practical approach would be to allow all casinos - large and small, old and new - to have the same machine-to-table

²⁴ 'House of Commons Oral Evidence taken before the Culture, Media and Sport: Gambling', 12 January 2012.

ratio. Budd's original recommendation of 8:1 does not seem unreasonable, but 5:1 or 6:1 would be fair compromises since the former would level the playing field with large (new) casinos and the latter would create parity between the number of machines and the number of seats at gaming tables. However flexible the rules are made, the net effect on the total number of gambling machines available in the UK would be negligible. Of the 248,000 machines in operation, just 1 per cent of them are in casinos.²⁵

²⁵ 'Uncorrected transcript of oral evidence to be published as HC 1554-i', House of Commons oral evidence, DCMS, 18 October 2011.

Restoring the regulatory pyramid

Gambling legislation in the UK does not attempt to create a level playing field, nor should it. The gambling industry resembles a pyramid, with regulation becoming tighter as stakes and prizes increase. At the bottom of the pyramid lie amusement arcades which offer modest cash prizes, cuddly toys and gadgets for stakes of between two and thirty pence. Above this sits the National Lottery and its various scratchcards, followed by bookmakers, on-course betting and bingo, all of which are restricted to customers of a certain age and are subject to varying degrees of regulation by the Gambling Commission.

At the top of the pyramid stands the casino industry which has traditionally offered the highest stakes and prizes and is therefore subject to the greatest regulation. Although there is no reason to think that casino games are more addictive than other forms of gambling,²⁶ the potential for greater losses in the course of one session means that casino operators are expected to keep a close eye on customers to prevent impulsive, reckless and/or drunken play. Stringent controls on the floor and door mean that UK casinos are responsible for just 0.09 per cent of all reported underage gambling (Rank Group, 2011: 3).

Online gambling and virtual casino machines have fundamentally challenged the regulatory pyramid. Seven per cent of the British population played online gambling games in 2010 (not including lotteries) (BGPS, 2010: 10). Two out of five people who played casino games in 2010 did so online, rising to fifty per cent for past week players (ibid.: 32). Most online players did not enter a physical casino at all (ibid.: 31).²⁷ Much of the offshore internet gaming industry is destined to remain untaxed and unregulated for the foreseeable future, offering ample scope for the kind of underage and under-the-influence gambling that casinos are able to curb. It also offers the kind of unlimited jackpots on multiple games that the Gambling Act pulled back from when it came to casinos.

The internet genie cannot be put back in the bottle. UK spending on online gambling is already estimated to be £1.45 billion per annum and this is only likely to grow (Ernst & Young, 2010: 3). The internet may not present a mortal threat to bricks and mortar casinos - they offer different user experiences - but this unregulated newcomer has a clear advantage over the over-regulated and heavily taxed incumbent.

Meanwhile, the appearance of fixed odds betting terminals – ‘virtual mini casinos within a betting shop’ (Rivers, 2011: 5) - has closed the gap between bookmakers and casinos. While visitors to a casino are limited to £2 stakes on jackpot machines, anyone visiting a high street bookmaker can place £100 on a spin of a virtual roulette wheel up to 180 times an hour. The 2005 Act allows betting shops to host up to four of these machines and there are now over 30,000 fixed odds betting terminals in the UK (by contrast, there are fewer than 3,000 gambling machines of any kind in British

²⁶ In Britain, symptoms of problem gambling are most common amongst people who play poker in a pub or club (12.8 per cent), online slot machines (9.1 per cent) and fixed odds betting terminals (8.8 per cent), and lowest for those who play lotteries (1.3 per cent) (BGPS, 2010: 94-95).

²⁷ 39 per cent played online; 27 per cent played online only; 61 per cent played in person only.

casinos) (Ernst & Young, 2010: 4).

Anyone entering a casino is aware that they are in a 'hard gambling' venue, but the law currently prevents patrons from engaging in various forms of 'softer' gambling which they could enjoy under looser supervision in many other locations or at home on the internet. Customers are free to use their mobile phones in a casino to place unlimited stakes on a multitude of online games which are not available in the controlled environment in which they sit. There is no compelling reason why a casino punter should be permitted to play roulette, but forbidden from playing virtual roulette or betting on a horse race. Similarly, a casino customer who plays a hand of blackjack for £25 should not be forbidden from playing a jackpot machine for £5 a spin. Twenty per cent of high-end London casinos do not currently offer any machines because a £2 stake and £4,000 jackpot is too low to draw customers away from the tables (ibid.: 17).

A more coherent regulatory structure would allow casinos to offer games, stakes and prizes which are commensurate with their position at the top of the pyramid. At present, the highest stake machines in an elite London casino can be played in a seaside arcade, and higher stake machines can be played in thousands of betting shops as well as online. Casinos are not only more heavily taxed and regulated than other gambling venues, they are also acknowledged as 'the safest place to gamble'.²⁸ This should be reflected in the stakes, prizes and range of gambling activities available in casinos. The law should allow British casino operators to tailor their offering to consumer preference as their international competitors do.

²⁸ According to Richard Caborn, former Minister for Sport and Tourism at DCMS, 'To be honest, casinos are the safest place to gamble. You can control them more easily than any other area of gambling, yet it is the one that was focused on. I say this honestly: if I had my time again, as a Minister in this context, I would have pushed very hard for it to have been in one place, and that would have been Blackpool. That had universal support. It ought to have gone there... My strong advice, Mr Chairman, is never to give to an academic or civil servant something that needs a blob of common sense applied to it' (evidence to the Select Committee on Gambling, 12 January 2012).

Conclusions

No one wants to see 'blackjack on every street corner', as the *Daily Mail* once put it, but any reasonably sized town or city should be able to host at least one casino if the community is in accord. It is perverse that many Britons do not have access to 'the safest place to gamble' and that those who do are not able to play games which are available in 'softer' gambling venues, on their mobile phone and on the internet.

A future government may look again at regenerating one or more seaside destinations with a resort casino, but the current government should at least allow the take-up of existing licenses by the many local authorities who would welcome the jobs and investment a casino would bring. Councillors in such places as Swindon, Peterborough and Bognor Regis have expressed interest in applying for casino licences but are unable to do so. In contrast to 2005, newspapers have been largely positive, or at least neutral, about local casino development.²⁹

The economic benefits that would derive from the modest reforms listed above - which require no new laws to be passed - would not be trivial. The National Casino Industry Forum estimates that an average casino generates between 120 and 150 jobs (Ernst & Young, 2010: 23). Ernst & Young estimate that each dormant casino licence could generate £600,000 per annum in gaming duty. With more than fifty licences currently unused, the exchequer is potentially foregoing more than £30 million in gaming duty alone. Ernst & Young also estimate that introducing a 5:1 machine-to-table ratio and expanding the range of games available could net the government a further £32.9 million per annum (ibid.: 30).

The 1968 Act, which was principally aimed at driving criminality out of the casino industry, should not be seen as a model of casino regulation. Archaic and anachronistic, there was near-universal agreement that it was past its sell-by date over a decade ago. And yet, in several important respects, the 2005 Act was worse than the 1960s legislation which preceded it. It is often said that laws are like sausages - it is better not to see how they are made. The evolution of the Gambling Act is a fine example of how legislation can be built up, torn down and patched together again in a hurry. Ultimately, casinos and their customers bore the brunt of a government's pre-election jitters. It is to be hoped that they do not have to wait another forty years for the shortcomings of that legislation to be put right.

²⁹ For example, see 'Let's take a gamble on casinos', Swindon Advertiser, 1 November 2011, 'Casinos in bid to end area ban', Mail on Sunday, 20 November 2011 and 'Land-based casinos call for overhaul of tax system that favours online rivals', Mail on Sunday, 19 February 2012

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