

## SUMMISSION TO DDCMS CONCERNING PROPOSAL TO REDUCING MAX STAKES ON FOBTs (B2 MACHINES)

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### ***Introduction***

The purpose of this submission is to supplement the Report for which I was the lead researcher and principal author in 2016, entitled **“REPORT ON RESULTS OF RESEARCH INTO THE LIKELY EFFECTS OF SUBSTANTIALLY REDUCING THE MAXIMUM PERMITTED STAKE OF £100 PER 20-SECOND SPIN ON CATEGORY B2 ELECTRONIC GAMBLING MACHINES IN UK BETTING SHOPS.”**

I presented the findings of this report at the end of 2016 in a number of fora, including the “All-Parliamentary group on FOBTs,” the annual Gambleaware conference, as well as to industry professionals and regulators.

The report has, I understand, been sent to you by Bacta as part of their submission. Aspects of it have been criticised, in some cases by mere and false attribution of base motive and, in some cases, through misunderstanding of the methodology by people who ought to know better such as, most notably, the RGSB, whom I could have enlightened had they had the courtesy of giving me the opportunity to do so<sup>1</sup>.

I have no wish to defend the details of that long and careful report here. I am content that it has been fully endorsed (both the methodology and the conclusions) by Sir Alan Budd and others. Such people know much more about making gambling *policy* in the overarching public interest, in the UK and internationally, than many members of the too many and too expensive bodies in the UK charged with advising on responsible gambling matters – the GC, the RGSB, Gambleaware, and even the Boards of service-providing charities, who all naturally also have their own vested interests to protect.

For the record in writing this particular submission I personally have no vested interests: no-one is paying or otherwise incentivising me to write this. My purpose is solely to dissuade the Government from making what, in my view would be a very bad decision, and to suggest a better one.

### ***No right answer***

It is crucial that government in approaching the issue of regulating gambling machines and, in particular of setting maximum stakes, understand that (as in many other areas of policy-making) there is no one right or best answer but there are many wrong and bad ones.

This is for two reasons.

First, all gambling policy involves accommodating competing principles, notably consumer choice and consumer protection, and individual freedom and government in accordance with the wishes of the majority,

Second those who claim to offer “scientific” evidence on which sound policy can be based forget that even in the natural sciences, conclusions based on available evidence are always provisional. More seriously, they fail to acknowledge how impossibly expensive and time-consuming the gathering of near-conclusive evidence on gambling-harm-reduction measures would be. Consider how hard it is in medicine generally, where far more time, money and data are available, to assess the overall benign (or otherwise) consequences of any new treatment proposal, including new drugs.

In fact policy-makers do much better to employ a concept of evidence drawn from jurisprudence, rather than the natural sciences. This admits of notions like reasonable doubt, balance of probabilities, witness reliability, defeasibility, procedures for forcing consensus between opposing “expert witnesses,” and above all, the need for the exercise of judgment.

When evidence from many sources is understood and evaluated in this way – which is what we did in our report – a cumulative case can be built and authoritatively explained to all concerned for preferring one amongst the available policy options.

### ***The Case Against a £2 Max Stake on B2 machines in betting shops.***

According to the Bacta evidence to you, which I have seen, there is an astonishing consensus amongst very different groups that this is the right number. This consensus is demonstrably wrong.

The attractiveness of £2 as a number derives from the facts that a) it appears sufficiently drastic to appease the most virulent critics of FOBTs, and b) it appears to bring FOBTs into line with other forms of gambling which can be offered on the high street (i.e. mainly B3 machines).

With respect to a) I agree entirely, and said so at the time, that FOBTs should never have been allowed into bookmakers' shops in the first place. The book-makers at the time, however, completely out-manoeuvred the then Government by employing spurious legal arguments which it would have been very expensive and time-consuming to rebut in court. (The Government should rather have said to the book-makers, "Okay, you can have them but the tax rate is going to be 92% of GGY as in Berlin). However, given that we now have 33 000 of these machines, Government should abide by the principal of not disturbing the reasonable expectations of businesses, save for good cause shown. One possible "good cause" might be the harmful effects of the product being sold. This is what the somewhat muddled argument has so far been about. I address this question below.

However, with respect to "b," a reduction to £2 would not lead to a level playing field in the high street between arcades (AGCs) and LBOs. This is because, as some in RGSB have rightly pointed out the key measure for comparing playing times is theoretical expected loss per hour. This needs to include not only size of permitted stakes but also speed of play (24 plays per minute on B3 machines) and house advantage (somewhere closer to 10% on B3 machines as opposed to the statutory 2,7% at roulette)

If therefore bookies were held to a max stake of £2 for each play of their most popular game (i.e. roulette), as well as a max play of 3 spins per minute, they would cease to offer this game. Instead, they would offer B3 games with much faster playing times and much greater house advantage. The result would be that you would effectively abolish B2s and add 30,000-odd thousand B3 machines to the high street. Anything else would give the bookmakers an irrefutable case for claiming that the Government was favouring the AGC sector over them, just as the AGC has an irrefutable case for claiming that present regulations give LBOs an unfair advantage over them. Moreover why should the bookmakers now be held to 4 machines per LBO: this, like the £100 max stake and the 4-spins-per-minute rule, was part of a negotiated agreement (shamefully endorsed by Gamcare at the time) between the Government and the bookmakers in return for the Government's dropping all its objections to having FOBTs in betting shops. The terms of that deal no longer apply and the bookmakers could justly demand the same terms of trade as the AGCs.

Does the Government really want to be dealing with the claim that it has just made a bad situation worse?

### ***Stakes and Protecting the Vulnerable***

One of the principal and more original elements in our report relates to defining vulnerability for the purposes of ensuring that the third objective of the Gambling Act is adequately met. We defined vulnerability as “vulnerability to unaffordable and unexpected losses.” This is surely what parliament had in mind when they wrote the third objective, and it is surely what ordinary people are likely to believe that government should protect its citizens against?

Stakes are only one ingredient in vulnerability thus defined, and may play no role at all, however high they are. Thus a billionaire who goes into a Mayfair casino and stakes several thousand pounds per spin of a roulette wheel may lose well over £1m in a single session. This is entirely unproblematic from a regulatory point of view since such a gambler can afford her/his losses and is likely to shrug them off, hoping to win most of their money back at their next visit to a casino. Such a person may indeed even be a pathological gambler who spends so much *time* gambling that their families suffer from their neglect. However, this is not what Government is concerned about and there has never been proposals, as far as I know for limiting what wealthy foreign visitors can stake and lose at the Mayfair casinos.

With B2 machines in betting shops, by contrast, the currently very high permitted maximum bet on roulette is a major factor in exposing people to unaffordable and unexpected losses, as all the evidence shows. This was also agreed to be so by all the stake-holders we interviewed, including staff who work in betting shops, people who treat problem gamblers, members of the general public who know about FOBTs, and, most importantly, people who regularly play roulette in betting shops, including those who like to bet sometimes or often £40-50 per spin (or more).

They overwhelmingly thought that reducing the max stake from £50 to “something closer to £10” would be helpful in protecting especially people at high or moderate risk of being problem gamblers. From our own simulation studies, which we were extremely careful (despite the dismissive remarks of RGSB) to ensure were highly realistic, we found that reducing the max stake from £50 to £10 would considerably reduce vulnerability in a small but not

insignificant number of cases. On average, the reduction was by a factor of more than 2. In the top 20% of cases it was by a factor of more than 3.

We were, however, careful not to claim to have shown that the max stake should be precisely £10. In fact, we thought that £10 was the lowest figure at which there would still be a meaningful distinction between B2s and B3s. Indeed, we mentioned two arguments for making the max stake £15. First, this would allow players to win the maximum amount permissible on a single spin at roulette (£500). Second, it would bring the average expected losses per hour on B2s roughly into line with B3s, thus ensuring a more level playing field.

### **B3s**

We have been criticised for not addressing the question of whether B3s also expose people unduly to unaffordable and unexpected losses. In the opening pages of our report we explain why this is so and indicate that we have no evidence one way or the other on the issue of B3s. After all, B3s have not generated the high degree of public alarm that FOBTs have, nor had the Government at the time specifically asked for evidence relating to them.

We are therefore agnostic as to what, if anything, needs to be done to increase protection for the vulnerable amongst B3 players. We would be happy to undertake such research or to see our methods applied by others to estimate the riskiness of B3s as presently regulated. It seems, on the face of it, however, that, though the maximum possible loss per hour on B3s is about £50 and the average expected loss about £5, players are less likely to incur unaffordable losses if they have to accumulate them in £2 increments.

### **B2 revenues**

We do not believe it possible to calculate realistically the future earnings of bookmakers in the event of a max stake reduction to £10 or £15. As indicated above, it would depend entirely on what they tried, and were permitted to do instead. Whatever the figure is, however, the crucial question to be asked is how much of this allegedly-about-to-be-lost revenue is coming from excessive play by vulnerable players. If the answer is “most of it,” then the issue of impact on bookmaker earnings ought to be irrelevant to Government policy.

This is true not only in relation to protecting the vulnerable but also to taxation since, as we and the CEBR point out, the money no longer spent on high stakes roulette in betting shops will still be spent on taxable goods and services.

Alternatively, it may hopefully go in some cases to reducing impoverishment and consequent demand for welfare services.

### ***Player enjoyment***

A more important economic impact issue is consumer surplus or player enjoyment. If this were to be much reduced as a consequence of a substantial reduction in the max stake, that would be a reason, though not necessarily a decisive one, for not enforcing lower limits. On this, we can only report that of the regular players we spoke to only a tiny minority thought their enjoyment would be significantly impaired by a substantial stake reduction.

### ***Regulatory Principles***

In some ways, the debate about max stakes on FOBTs is only a part of a much wider issue in relation to gambling regulation. This is that FOBTs when they were introduced breached – and were believed by the then Gambling Board as well as the officials at DCMs to have breached (and are still believed by the Chair of the RGSB to breach) – a long-standing and well-tried principle of good gambling regulation in the UK and indeed in most other jurisdictions. This principle was strongly reasserted and endorsed in the original “Budd” report. It states that high stakes gambling on “casino” games – typically table games with near unlimited stakes and prizes and a small house advantage – should only be permitted in a small number of licensed casinos, requiring a dedicated visit. Only small stakes gambling should be available at large numbers of non-casino venues of many types, located close to where people live, work and shop, and where they might be tempted to “drop in”.

One reason for this policy is to reduce the temptation to gamble away large amounts of money on impulse.

The even more decisive reason why this principle is essential to any gambling policy which is serious about protecting the vulnerable relates to regulatory capacity. Thus, a fairly small number of fairly large casinos can be effectively regulated to ensure that they have sound responsible gambling policies in place, that these are understood by all relevant staff, and that they are actually put into practice. In the UK it is impossible for the GC (despite the best efforts of its 280 employees) to regulate effectively some 10 000 LBOs, plus all the Bingo clubs and AGCs. All these venues should, therefore, only be permitted to

offer gambling which exposes players to very little vulnerability to large losses. This clearly excludes casino-style roulette, blackjack and similar high stakes games outside of casinos, regardless of the way in which the opportunity to play is delivered.

### ***Conclusion***

**The maximum stake on casino games, notably roulette as played on B2 machines, should be reduced to £10 or £15 or somewhere between. A maximum permitted bet of less than £10 would effectively abolish the distinction between LBOs and AGCs and lead to continued acrimonious lobbying about the need to change regulations in the interests of commercial fairness. A maximum permitted bet of more than £15 would not result in the actual and perceived increase in protection for the vulnerable which a more substantial reduction would secure. Government should, in general, reaffirm the policy of confining high stakes gambling to a fairly small number of well regulated casinos and permit only low stakes gambling “on the high street” and similar locations.**

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<sup>1</sup> This is the report to which the RSGB refer at para 116 of their “Advice” document to DCMs, dated Jan 2017. They dismiss our 30 000-word report, which contains extensive discussion of methodology, in a single paragraph which reads:

“A recent study funded by the trade association for amusement arcade operators (Bacta) concluded that there would be a reduction in harm if stakes were substantially reduced. This conclusion was largely based on simulated player sessions using laptops and involving a sample of 58 gamblers. Laboratory experiments of this kind can be useful for some purposes. We do not believe, however, that simulated sessions in artificial circumstances involving small samples over a very short period provide evidence nearly as compelling as analysis of real play over a sustained period. The study also has the serious methodological weakness that it makes no allowance for the

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possibility that over time players will adapt their style of play to changes in product characteristics. We do not believe that any weight should be placed on its conclusions.”

I passed these comments on to my co-author, Graham Barr, Prof of Statistics and Economics at the University of Cape Town and someone who has not only published extensively on gambling matters but has also frequently been an expert witness in this area and has indeed designed slot machines himself. He replied:

“The appropriate response is:

The problem with real play is that it simply reflects a particular status quo including the set of parameters (including the £50 max bet) under which play can take place.

**In contrast, simulation with regular players does allow one to assess the effect of changed parameters (in this case £10 max bet) on play.**

**There is NO OTHER WAY of assessing the effect on players of changing play parameters, APART FROM SIMULATION.**

The size of the sample is related to cost. One generally uses as large a sample as possible under current budgetary constraints. The larger the sample the better.

Moreover, one would ideally like to assess whether patterns of play (under changed parameters, say £10 max bet) change over time. Again this is possible, but costly.

**Certainly, simply analysing the current data (however much there is of it) with current max bet of £50 gives one no inkling at all of what the effect of reducing the max bet to £10 would have.”**

If the RSBG’s document really does reflect the unanimous views of its membership (which I greatly doubt since it does not conform to what some of them communicated to me when they first read the report) then it is astounding that the entire board could have overlooked the utterly obvious and elementary points highlighted in Prof Barr’s response above. This causes one to wonder what the Board might actually be competent to do and, indeed,

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whether we need such a body at all, given that we already have DDCMs and the GC to set strategy. Besides, this the whole “advice” document, apart from being periphrastic, self-congratulatory and inconsistent, is so tentative that it fails to give any useful advice at all, except to concur with us that reducing the maximum stake on FOBTs to £2 would be tantamount to abolishing them. It also has more than a whiff of committee compromise, not to say regulatory capture. Consequently, in respect of the “advice document” **we do not believe that any weight should be placed on its conclusions.** On the other hand, and in flat contradiction to the RGSB’s view, we believe that a great deal of weight should be placed on our conclusions.

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Oxford.

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