

## WATERSHED:

# Closing the Loopholes in Gambling Advertising

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## About the Campaign for Fairer Gambling

The Campaign for Fairer Gambling is a not-for-profit organisation that aims to ensure delivery and enforcement of the licensing objectives of the 2005 Gambling Act, including preventing gambling from being a source of disorder or crime, ensuring that gambling is conducted in a fair and open way, and protecting children and other vulnerable persons from being harmed or exploited by gambling.

## About ResPublica

The ResPublica Trust (ResPublica) is an independent non-partisan think tank. Through our research, policy innovation and programmes, we seek to establish a new economic, social and cultural settlement. In order to heal the long-term rifts in our country, we aim to combat the concentration of wealth and power by distributing ownership and agency to all, and by re-instilling culture and virtue across our economy and society.

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## Foreword by Rt Hon John Hayes MP

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The debt caused by addiction to gambling devastates lives and destroys communities. It is clear that the gambling industry is in urgent need of reform and tighter regulation. Which is why the Government's recent announcement on the reduction of the maximum stake available to users of Fixed Odds Betting Terminals (FOBTs) is a welcome move in reducing the damage that can be caused by this form of gambling. Yet, it must be the first step in our battle against gambling addiction.

In this spirit, I warmly welcome this timely intervention from ResPublica which calls for greater compliance, fairness and social responsibility in the advertising and licensing of gambling. The report provides

important evidence that demonstrates that existing regulations are not being upheld, whilst a system of self-regulation is not doing enough to encourage compliance.

The 2005 Gambling Act was designed to liberalise gambling, while providing safeguards to prevent harm done to vulnerable people and their communities. This report by ResPublica shows us that much of the legislation is failing, as the industry finds loopholes through which to promote gambling as an inevitable part of everyday life.

Of particular concern is the increasing use of advertising by the gambling industry on social media sites typically

used by teenagers and young children. According to a survey cited in this report, an incredible 70% of this vulnerable group have seen gambling adverts on social media. The industry's use of affiliate marketing on the internet and social media has been found to be in regular breach of advertising standards. We run the risk of dragging a generation of young people into the misery and despair of gambling addiction as a part of their everyday life. As this report recommends, if the industry fails to conform to the rules then the ultimate sanction of revoking operator's licences must be enforced.

I believe that the Government should build on the recent FOBT announcement and continue to take a decisive lead in regulating the gambling industry to protect vulnerable consumers and young people. We all want to live in a country where gambling can be an enjoyable recreational activity without the fear of exploitation, addiction or harm. This report puts forward a series of recommendations that provide Government with a means of achieving that goal. I am very pleased to endorse ResPublica in their efforts, because the stakes are too high for us to gamble with the futures of young and vulnerable people.



## Executive Summary

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This report explores the relationship between the advertising of gambling products and the license conditions incumbent on the industry. It focuses on practical ways in which greater compliance, fairness and social responsibility can be encouraged in the advertising and licensing of gambling.

Contrary to the view of Government, this report argues that the present arrangement of minimal regulatory prescription is not “working well”. Advertising standards are frequently breached by the gambling industry, with little or lenient penalty in return.

At the same time, the number of problem gamblers has increased, especially among vulnerable and young people, creating a significant economic, social and public health challenge in the United Kingdom today.

This report argues that only one penalty is capable of stopping this destructive trend. It is already enshrined in the 2005 Gambling Act: the ability of the Gambling Commission to revoke an operator’s license. Yet it is a penalty that, to date, has rarely been employed.

We call this penalty the “ultimate sanction”. In this report, we make the case that unless the Gambling Commission is prepared to revoke a license for breaches of advertising

standards, its wider calls for industry compliance and social responsibility risk falling on deaf ears.

To this end, the report provides three examples of where loopholes are being exploited, and where the regulatory powers already available to both the Gambling Commission and the Advertising Standards Authority could be enhanced and employed.

The first is the use of public health warnings. At present, the industry is responsible for the placement and design of these warnings, meaning that their power is diminished. Too often, the language of these warnings normalises the idea of gambling. This is in contrast to the warnings given on other addictive products such as cigarettes, which are presented with clear information about harm and which have in part resulted in a decline in their consumption. The need for a stronger public health warning is demonstrated by the fact that over half of industry profits are derived from at-risk and problem gamblers. This report argues that gambling advertising should therefore be consistent with other types of harmful product, by featuring public health warnings that no longer trivialise addictive or harmful behaviour.

The second example is the current exception to the watershed that permits gambling adverts during live sporting events. Echoing a range of expert voices, this report argues that the loophole undermines the principle of a watershed and poses a risk to young and vulnerable people. It concludes that only a comprehensive ban on gambling advertising during live sporting events will enable this loophole to be closed.

The third example is the use of so-called “affiliate marketing” by the industry – the use of third party agencies – as a means of harvesting data on consumers. This report argues that recent rulings in response to breaches of advertising standards by affiliates have been inadequate, and that only the revocation of a operator’s license will deter operators from such breaches in the future.

Each of the measures outlined in this report are designed to uphold the regulatory powers already enshrined in the 2005 Gambling Act. In doing so, they present a way forward for wider reform – by promoting a culture of gambling that values personal choice and social responsibility over industry profit and exploitative harm.



# 1. Introduction: Gambling, Advertising and Social Responsibility

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Successful regulation depends on a balance between permission, choice and responsibility.

It is a balance that marks the line between consumption and addiction. It applies to the decisions of corporations and governments, individuals and societies. And, like any other type of potentially harmful product, it defines the nature of gambling in Britain today.

Since the 2005 Gambling Act, this balance has failed. Changes in gaming technology and loopholes in legislation have created conditions in which opportunities for public exposure to gambling have risen disproportionately. Betting shops now cluster on our high streets. Sports events are dominated by gambling adverts on billboards, squad shirts and live coverage. And our online activity is targeted by sophisticated forms of marketing, with promoted posts pushed through clicks and hits on devices that we carry around

with us at every minute of every hour of every day of our lives.

It has not always been like this. But gambling has become so ubiquitous, so normalised, that we have forgotten what it used to mean to be free from exposure to its omnipresent market. At the same time, the number of problem gamblers has increased in our country,<sup>1</sup> especially among vulnerable and young people, creating a significant economic, social and public health challenge in the United Kingdom today.

To argue for better regulation of gambling advertising is not to advocate a nanny state. On the contrary, it is to rectify the loopholes in legislation which currently tip the balance away from personal recreation in favour of industry profit.

In this way, the question of gambling regulation goes to the heart of a wider debate over the relationship between the freedom of individuals and the enabling responsibility of the state. We argue that to reform flawed gambling legislation is actually to uphold true personal liberty, because it guarantees a level playing field on which people have the freedom to gamble without fear of addiction and its consequences.

In other words, we believe in fair play.

Three political generations have passed since the 2005 Gambling Act: one Labour, one Coalition, one Conservative.

For the present generation of politicians, a consensus has arisen between all parties that the loopholes must now be closed in order to redress the balance of gambling in favour of social responsibility and fair play. In May 2018, a group of 40 MPs sent a cross-party letter to *The Times* arguing that Government has a “moral duty” to cut the maximum stake available to users of Fixed-Odds Betting Terminals (FOBTs) to £2 a spin.<sup>2</sup> This followed a concerted campaign by both Conservative and Labour politicians to encourage reform and greater social responsibility in the industry. In response, the Government has explored strategic ways of achieving legislative change, culminating in a recent Department for Digital, Culture, Media and Sport (DCMS) Consultation that sought “to ensure we have the right balance between a sector that can grow and contribute to the economy, and one that is socially responsible and doing all it should to protect consumers and communities.”<sup>3</sup>

The Gambling Commission has recently launched a similar consultation to explore the relationship between the advertising of gambling products and the License Conditions and Codes of Practice (LCCPs) incumbent on the industry. As the organisation responsible for granting licenses to operators, the Gambling Commission seeks to encourage greater compliance by the industry to UK advertising codes set out by the Advertising Standards Authority (ASA). These codes make clear to gambling operators that

they are responsible not only for their own conduct but also for the actions of any third party affiliates that they use.<sup>4</sup>

This emphasis on the connection between gambling licenses and advertising practices is designed to have two key benefits in terms of social responsibility. First, it is designed to create a market in which consumers are empowered to make informed decisions about gambling, confident that they will be treated fairly. And second, it is designed to protect vulnerable people from being harmed or exploited by gambling.

While the Gambling Commission does not seek to change the “over-arching framework” that defines the relationship between the Commission, the ASA and the Committees of Advertising Practice, the Consultation does propose to introduce a “Social Responsibility” provision that obliges the industry to act in accordance with the terms of its license. Failure to adhere to these license conditions through a breach in advertising rules could, the Consultation states, result in “the full range of [the Commission’s] regulatory powers, which includes financial penalties.”<sup>5</sup>

We welcome these calls for reform. But we believe that the current approach to “regulatory powers” does not go far enough in order to achieve compliance on the part of the industry.

This is the problem: within the current framework, the onus of social responsibility remains subject to the self-regulation of the licensee. The Consultation states that “we consider that licensees themselves are best placed to decide how to secure those outcomes cost-effectively within their own particular circumstances with the minimum of regulatory prescription. This makes the LCCP more proportionate and less burdensome for licensees.”<sup>6</sup> Echoing this, the Government states that a combination of regulation by Ofcom and industry self-regulation “works well”, while acknowledging that gambling advertising, like other addictive products such as tobacco, requires particular protections.<sup>7</sup>

We argue that far from working well, this status quo is no longer tenable in a climate where gambling advertising is on the increase and loopholes in regulatory practice are routinely exploited by an industry tasked with its own regulatory compliance.

Instead, the existing regulatory codes are not being upheld to the extent that they should, meaning that many operators in the industry are able to exploit loopholes in legislation without fear of meaningful sanction. Threatening an operator with bad publicity or financial penalties is a step in the right direction, but risks being insignificant in the face of an industry that in 2017 enjoyed a £13.8bn gross gambling yield in the UK,<sup>8</sup> and which operates through complex systems of affiliates – most of which are based overseas.

In other words, the LCCPs have become a game of cat and mouse that the Government is losing.

In this report, we argue that only one penalty is truly capable of stopping this game of cat and mouse, and it is already enshrined in the 2005 Gambling Act: the ability of the Gambling Commission to revoke a license. We call this penalty the “ultimate sanction”.

The rules to impose this ultimate sanction are already in place. And yet, to date, it has rarely been employed.<sup>9</sup> In this report, we make the case that unless the Gambling Commission is prepared to revoke a license for breaches of advertising standards, the wider calls from politicians for reform and industry compliance risk falling on deaf ears.



## 2. The Target Audience

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Since the 2014 Gambling (Licensing and Advertising) Act, only licensed gambling operators are permitted to advertise in the UK. While the Gambling Commission grants licenses to gambling operators, the Advertising Standards Authority determines the rules of advertising through the Committees of Advertising Practice (CAP) codes. Breaches of these rules can result in a referral to Ofcom (for broadcast advertising), or the ASA (for non-broadcast advertising). When operators are thought to be in breach, the Gambling Commission makes a decision on possible sanctions, including financial penalties and the withdrawal of trading privileges.<sup>10</sup>

The Gambling Commission states that the advertising of gambling products and services should be “undertaken in a socially responsible manner and ... should comply with the UK Advertising Codes issued by the Committees of Advertising Practice and administered by the Advertising Standards Authority.”<sup>11</sup> These codes stipulate that, among other things, gambling advertising should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young people or other vulnerable people; it should not be a way to gain control, superiority, recognition or admiration, improve self-image or self-esteem, or suggest peer pressure to gamble; it should not portray gambling in a context of toughness or link it to resilience

Table 1: At-Risk and Problem Gambling by Gender and Age (Year to December 2016)

	Low or Moderate Risk Gambling (%)	Problem Gambling (%)
All Respondents	5.5	0.7
Male respondents	7.7	1.2
Female respondents	3.5	0.1
16-24	7.9	1.4
25-34	9.5	0.8
35-44	5.3	1.1
45-54	5.4	0.3
55-64	3.2	0.2
65+	2.7	0.4

Source: Gambling Commission (2017)

or recklessness; and it should not be of particular appeal to youth culture.<sup>12</sup>

Despite these rules, it is clear that adverts are targeted to reach a specific part of the population. The Gambling Commission has published research that indicates the majority of at-risk gamblers are young men in the 16-34 age bracket. This age group also represents higher rates of online gambling and receptiveness to advertising.<sup>13</sup> In a disproportionate number of cases, problem gambling is concentrated in communities of socio-economic deprivation, including majority Black and Minority Ethnic (BME) neighbourhoods. A 2014 NatCen report for the Responsible Gambling Trust showed that the odds of being an at-risk gambler were

higher among non-white ethnic groups<sup>14</sup> – evidence that mirrors findings from other developed countries including the USA and New Zealand.<sup>15</sup>

In other words, at-risk problem gamblers do not just represent a demographic; they also represent a target consumer base that is open to communication from advertising and marketing and, according to academic research on the psychology of addictive behaviours, is particularly susceptible to advertising strategies.<sup>16</sup>

With such a target consumer base identified, it is no surprise that the rate of betting and gambling advertising towards this group has increased substantially over

the past decade. The Government has recently stated that “the increase in both broadcast and online gambling advertising in the years following the 2005 Act has clearly been a noticeable social change and caused concern, especially regarding the exemptions to the voluntary industry code which allow daytime advertising around sports events on television”, while adding that “scheduling restrictions in the advertising codes ensure that no adverts are included in or around programmes targeted at children.”<sup>17</sup>

Two main reasons are given for this increase in gambling advertising. First, prior to the 2005 Gambling Act, only bingo and lotteries could advertise on television. The lifting of restrictions has led to a sharp rise in broadcast publicity for gambling – with evidence showing that advertising impacts on television have increased more than five times for adults and three times for children since 2005.<sup>18</sup>

Second, the increase in online gambling has inevitably led to a rise in internet-related advertising. Most gambling adverts on television are now for online gaming sites, with online gamblers more likely to be prompted to spend money on gambling by television advertising than social media posts.<sup>19</sup> At the same time, the explosion in the use of social media since 2005 has meant that promoted posts on sites like Facebook and Twitter have become a regular feature of our online lives, including for most young people.

What does this increase mean? A 2014 report written by Per Binde for the Responsible Gambling Trust argued that while gambling advertising has risen, rates of problem gambling have remained stable, and that “the impact of advertising on the prevalence of problem gambling is in general likely to be neither negligible nor considerable, but rather relatively small. Advertising is one of many environmental factors that contribute to the prevalence of problem gambling. The total environmental impact may be substantial.”<sup>20</sup> However, the article also acknowledges that gambling harm is difficult to measure – as we recently argued in our submission to the DCMS Consultation, this problem is compounded by a lack of available resources for problem gambling Research, Education and Treatment (RET),<sup>21</sup> as well as the fact that the research behind Binde’s article is already five years old.

Despite the difficulty in measuring harm, Binde states that there is evidence that advertising can have an impact on problem gambling in two instances: first, when advertising stimulates an individual to participate in gambling to such a degree that non-problem gambling becomes problematic; and second, when advertising maintains or exacerbates already existing gambling problems. In these cases, he writes, “impulses to gamble become more frequent; efforts to cut down on gambling are hampered. Advertising may trigger a relapse for former problem gamblers who have decided to quit gambling, which is

a manifestation of impaired control." He adds that this is particularly the case for "an immature market with few if any player protection features (such as stake limits and possibilities for self-exclusion)".<sup>22</sup>

In other words, the target consumer base that we have described above – that "immature market" of young, susceptible, online people – is precisely the same group of users most vulnerable to

potential harm from the increased effects of gambling advertising. This is despite the fact that the CAP codes stipulate that advertising "should not be of particular appeal to youth culture... young people or other vulnerable people".<sup>23</sup>



### 3. Loopholes, Reform and the Ultimate Sanction

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Since the 2005 Gambling Act, the increased targeting of consumers on the part of the industry has been coupled with a systematic exploitation of loopholes in legislation. These loopholes fall into three main categories: in the permitted volume of gambling advertising; in the warnings given on gambling advertising; and in the affiliates used by gambling advertising. The next three chapters of this paper cover each of these loopholes in detail.

It is clear that a television watershed holds little value when 43% of gamblers use tablets or smartphones online.<sup>24</sup> The exemptions to the voluntary industry

code which allow daytime advertising around live sports events on television are diminished by the fact that exposure has become ubiquitous in all areas of these events, from billboards at the side of pitches and logos on football shirts to TV breaks dominated by ads to “bet-in-play”. As an illustration of this, 9 out of the 20 Premier League football clubs and 12 out of the 24 EFL Championship clubs in the 2017-2018 football season are sponsored by betting sites – making a total of almost 50% of clubs in the top two tiers.

Similarly, the frequently-used slogan that is designed to act as a warning on these

Table 2: List of Premier League club shirt sponsors for the 2017-2018 season, in order of sponsorship value (gambling companies in bold)

Club	Sponsor
Manchester United	Chevrolet
Chelsea FC	Yokohama
Manchester City	Emirates
Tottenham Hotspur	AIA
Arsenal FC	Fly Emirates
Liverpool FC	Standard Chartered
<b>West Ham United</b>	<b>Betway</b>
<b>Everton FC</b>	<b>SportPesa</b>
<b>Crystal Palace</b>	<b>ManBetX</b>
<b>Newcastle United</b>	<b>Fun88</b>
Southampton FC	Virgin Media
<b>Swansea City</b>	<b>LeTou</b>
Leicester City	King Power
<b>AFC Bournemouth</b>	<b>M88</b>
<b>Stoke City</b>	<b>Bet365</b>
Watford FC	FXPro
West Bromwich Albion	Palm
<b>Burnley FC</b>	<b>Dafabet</b>
Brighton and Hove Albion FC	American Express
<b>Huddersfield Town AFC</b>	<b>Ope Sports</b>

Source: Statista (2018)

Image 1: Example of “When the Fun Stops, Stop” Design and Colour Sheme

**CORAL**  
#JOINUS4CHELTENHAM

SUNDAY 12TH MARCH 6-8PM  
**LIVE CHELTENHAM  
PREVIEW GIVEAWAY**

**INCREDIBLE GIVEAWAYS AVAILABLE  
BEFORE & DURING #CORALPREVIEW**

- £2000 IN FREE BETS
- 4X LADIES DAY BOX TICKETS WORTH £600 EACH
- 1 PAIR OF GOLD CUP TICKETS

@CORAL  
#CORALPREVIEW

WHEN THE **FUN** STOPS **STOP** gambleaware.co.uk 18+

Source: Cheltenham Chat (2017)

advertises – “When the Fun Stops, Stop” – is typically designed in such a way that the letters of the warning are obscured: the script is often too small, or is presented in the same colour scheme and general activity as the company logo.

In fact, the use of the word “Fun” itself is problematic when considered in terms of a public health warning. “Fun” normalises the idea of gambling. The need for a stronger warning is demonstrated by the fact that over half of industry profits are derived from at-risk and problem gamblers.<sup>25</sup> When these people experience difficulty, they are either encouraged to gamble further or are replaced by new gamblers – meaning that the industry becomes sustained by

advertising to more and more people at risk. This is in stark contrast to the warnings given on other addictive products such as cigarette packets, which are presented in a neutral black and white script that covers the majority of the packet and is clearly understood in terms of information about harm rather than “fun”.

Finally, as recent reports from the Guardian have shown, the gambling industry uses “affiliates” – third-party agencies – as an alternative means to collect data on target consumers, by harvesting information on age, income, debt, credit status and insurance details. These affiliates enable operators to communicate indirectly with people on low incomes and those who have

stopped gambling. One method is called “dynamic retargeting”, designed “to single out people who may not have gambled for a while and try to entice them to pick up the habit again – potentially luring back recovering addicts who have self-banned from these sites, thus undermining industry schemes.”<sup>26</sup> The ASA has upheld complaints against a number of companies over adverts placed by their “affiliates”.<sup>27</sup>

In this paper, we examine each of these loopholes and put forward recommendations for reform. Central to this is the issue of normalisation. We argue that when an industry self-regulates the exposure of a harmful product to people at risk while failing to communicate that product in terms of harm, the power of self-regulation becomes null and void. The “When the Fun Stops, Stop” campaign is a prime example of this failure.

This view is echoed by other organisations, including the Local Government Association. In its response to the 2017 DCMS Consultation, the Association stated its disappointment “that the Consultation does not propose measures that are likely to reduce the volume of gambling advertising, particularly where it is seen by children, for example the advertising of sports betting during live sport,” and urged “Government to commit to reviewing the issue of gambling advertising and online gambling again ... The long term impacts of the normalisation of gambling through advertising and through the wider availability of online

gambling and smartphones are not yet clear, and we do not believe that this is an issue that can be left for consideration at a future triennial review held by convention rather than requirement.”<sup>28</sup>

In fact, achieving a paradigm shift away from a narrative of “fun” to one of public health should not require radical legislative change. The mechanisms already exist within the LCCPs to close the loopholes currently being exploited by the industry. Similarly, the 2005 Gambling Act already contains a range of measures designed to regulate the gambling industry according to a culture of social responsibility.

As we have outlined, these measures are reflected in the Advertising Standards codes and rulings rubric, which states that “one of our most persuasive sanctions is bad publicity – an advertiser’s reputation can be badly damaged if it is seen to be ignoring the rules designed to protect consumers”. They are also reflected in the Gambling Commission’s statement that “the Commission’s role is to uphold the licensing objectives set out in the Act. There are a variety of ways that the Commission can deal with non-compliance by licensees, ranging from enhanced compliance procedures and regulatory settlements to licence reviews and formal enforcement action. The Commission also has powers to launch criminal investigations and bring criminal proceedings against companies and individuals.”<sup>29</sup>

At the heart of these measures in the 2005 Gambling Act is the ultimate sanction: the ability to revoke a company's license to operate. Section 118 of the Act states that the Commission may suspend an operating licence if following a review under other sections it thinks that certain conditions apply. This includes, according to Section 120, instances when "a licensed activity is being or has been carried on in a manner which is inconsistent with the licensing objectives"; or when "a condition of the licence has been breached". The Act also considers "the integrity of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities", and "the competence of the licensee, or of any person who exercises a function in connection with the licensed activities, to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives".<sup>30</sup>

We argue that threatening an operator with bad publicity is not enough when it comes to safeguarding a target audience of vulnerable people from the marketing of a potentially-addictive and harmful product.

The past ten years have shown that the cat and mouse game of ASA and Gambling Commission sanctions has not resulted in meaningful reform of the industry's self-regulation of watersheds, health warnings or affiliates. It is clear that a culture of "minimum regulatory prescription" can only work if the actors involved understand that the ultimate sanction can, and will, be used in the case of flagrant breaches of the rules.

This is not to advocate a nanny state. Nor is it to demand radical or unrealistic change. Rather, it is to uphold the integrity of the regulatory powers already enshrined in the 2005 Gambling Act. What is needed – and, we would suggest, what is too often missing in practice – is the political will to sustain these powers and act on them.

To date, the ultimate sanction has rarely been employed. In the following sections, we expand on the three ways that the Gambling Commission, working with the ASA, could explore areas in which standards are breached and loopholes exploited: through health warnings, through live sports events and through affiliates.



## 4. Making the Case for Public Health Warnings

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At present, the gambling industry decides the standard and scope of warnings on adverts, based on the Industry Code for Socially Responsible Advertising. These warnings typically fall into three categories. First, "BeGambleAware" banners direct clients to the GambleAware website. Second, the Senet Group supports the "When the Fun Stops, Stop" logo on adverts and, third, has also initiated its own "#BadBetty" responsible gambling campaign. In response to recent breaches of advertising codes and practices, the Industry Group for Responsible Gambling has acted to strengthen its code on advertising practice. From June 2018, all

gambling television advertisements will be required to make visual reference to either GambleAware and its accompanying website or a responsible gambling message for their full duration.

We acknowledge the changes made by the industry to include enhanced warnings on their advertising. However, because the Gambling Commission does not prescribe to licensees what responsible gambling messages should contain or how they should look, but rather leaves this to the discretion of the licensees, we argue that the power of these warnings is diminished.

Image 2: Example of “When the Fun Stops, Stop” Design and Colour Scheme



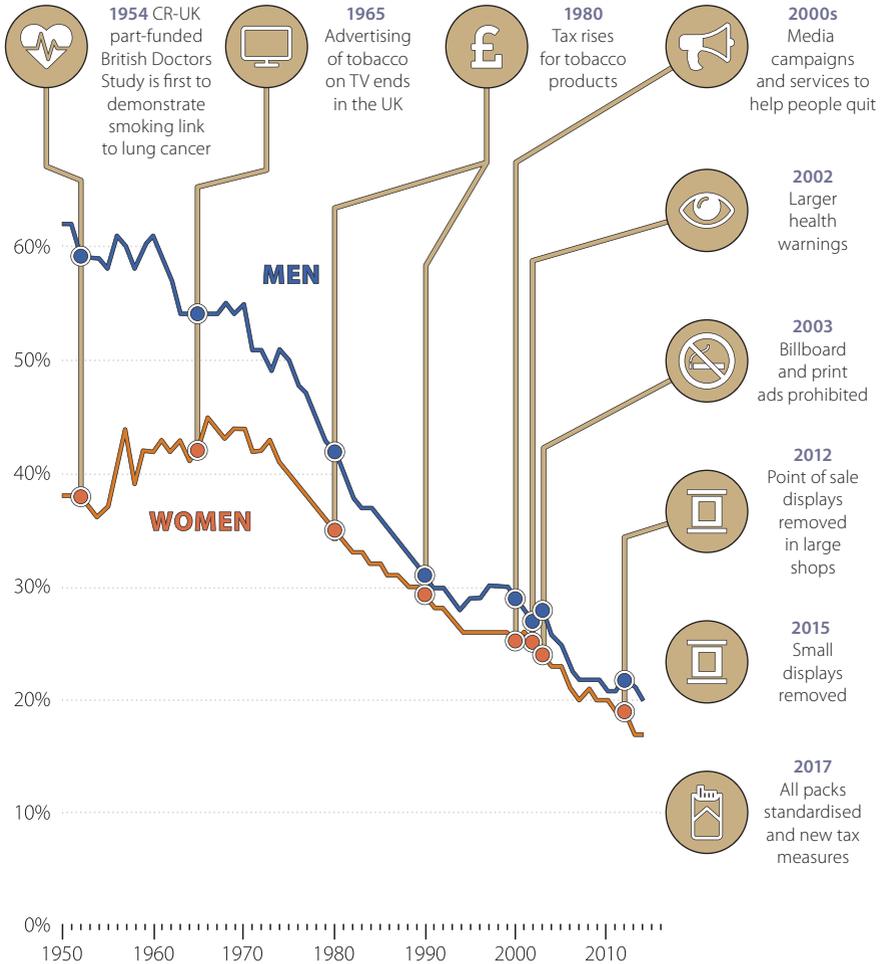
Source: Paddy Power on Twitter (2018)

As we have outlined, the warnings are usually designed in such a way that they are obscured or absorbed within the wider colour schemes and designs of highly-attractive advertising campaigns. A common practice is for the lettering of the advert to be in yellow, the same colour as the “When the Fun Stops, Stop” logo. In addition, the use of the word “Fun” is problematic when considered in terms of a health warning as it normalises the idea of gambling,<sup>31</sup> even though evidence shows that over half of industry profits are derived from at-risk and problem gamblers.<sup>32</sup>

We argue that this is not consistent with other types of addictive or harmful product.<sup>33</sup> Lessons from tobacco and alcohol warnings show that information alone does not affect decision making: the font, size and images used all interact to determine the effectiveness of the message. According to Action on Smoking and Health (ASH), “written warnings must be in large, clear text that stands out from the rest of the pack design”.<sup>34</sup>

Compulsory pictorial health warnings illustrating the physical impact of smoking were introduced in the UK in 2008, leading

Figure 1: Smoking Rates in Decline with Advertising Policy Change, 1950s-2010s



Source: Cancer Research UK (2017)

Image 3: Proposed Australian Public Health Warnings



Source: Parliament of Australia (2012)

to a reduction of smoking among young people.<sup>35</sup> This is echoed in results abroad: for example, 90% of Canadian youths state that warnings were effective in informing them of the health effects of smoking,<sup>36</sup> 44% of Canadian smokers reported that pictorial warnings had increased their motivation to quit, and two thirds of Australian and Canadian young people felt the images helped them to not take up smoking in the first place.<sup>37</sup>

In other words, large, graphic and comprehensive tobacco warnings have proved the most effective tool in communicating to a target audience the health risks associated with smoking.<sup>38</sup>

For example, the total number of monthly calls received by the NHS smoking helpline doubled after the introduction of larger-text warnings.<sup>39</sup> Similar evidence has shown that equivalent messages are effective in reducing alcohol consumption, including the perception that drink driving is a "victimless crime".<sup>40</sup> The recent Global Drugs Survey has shown that warning drinkers of the risk of cancer could reduce consumption in a way that other campaigns have not.<sup>41</sup> And a similar debate is being had over the advertising of junk food on public transport in London.<sup>42</sup>

Unlike tobacco, which puts all consumers at risk to harm, we recognise that gambling can be an enjoyable leisure activity for many people and that not all people are problem gamblers. But this does not mean that the risks of gambling should not be advertised in a clear fashion for the benefit of all gamblers. The freedom of personal choice depends on the quality of information. At the moment, health warnings on gambling adverts use design and colour schemes to diminish that information, even though preliminary studies suggest that stronger warnings can promote responsible behaviour among gamblers.<sup>43</sup>

Gambling is an addictive activity and its risks should be highlighted, not minimised. For this reason, we argue that gambling advertising should be consistent with other types of addictive or harmful product, by featuring clearly identifiable health warnings that cannot be absorbed into an advert's overall design.

The appearance and format of these warnings should reflect the regulatory requirement that gambling adverts do not exploit the aspirations of young people,

do not relate to self-image or admiration, and do not portray gambling in a context of toughness, recklessness or of particular appeal to youth culture. In other words, we argue that the warnings placed on gambling advertising should be the same as those for other potentially-harmful products: clear, neutral, informative and bold. Under no circumstances should these warnings contain words like "Win" or "Fun".

Beyond its benefit to public health, the advantage of such a warning is that it can be universally applied, and not left to the discretion of the industry. We argue that this is the only way to ensure compliance and close the discretionary loophole. It should be noted that our call for a bold universal public health warning on all gambling adverts does not diminish the freedom of the licensee to advertise. Unlike tobacco, such warnings do not extend to a ban on gambling adverts themselves.



## 5. Live Sports Events: A Watershed that Does Not Work

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In addition to diminished health warnings in gambling advertising, there is another loophole that has become routinely exploited for industry benefit: the undermining of a watershed that does not work.

According to Ofcom, the 9pm watershed is designed to prevent children and young people from viewing material that “might seriously impair [their] physical, mental or moral development”. In 2007, gambling was added to the list of potentially-offensive material, with the introduction of the same watershed for the advertisement of all gambling products except for bingo and betting during live sports events.

The Gambling Industry Code for Socially Responsible Advertising was then revised in 2015, banning reference to all other gambling products that would not normally qualify for pre-9pm exemption.

The watershed was designed to protect young people from being exposed to gambling products, but has patently failed in doing so. According to recent research conducted by the BBC, viewers are more likely to watch sports events live than other types of programme, and up to 95% (in the case of football) of these events feature at least one gambling commercial.<sup>44</sup> With Premier League matches running both at

the weekend and on weekdays, combined with cup matches and European football, it is clear that the live sports exception has become a regulatory loophole.

This is despite the fact that, according to Ofcom figures, the vast majority of people are in favour of maintaining the 9pm watershed.<sup>45</sup>

The gambling industry has invested £1.4bn on advertising since 2012. Of that, £430m has been spent on sports gambling advertising, almost doubling from £64m in 2012 to £127m in 2016.<sup>46</sup> Money is also being directed into sponsorship – more teams are sponsored by gambling companies than ever before, with 9 out of the 20 Premier League football clubs and 12 out of the 24 EFL Championship clubs in the 2017-2018 football season sponsored by betting sites – making a total of almost 50% of clubs in the top two tiers. This is over double the number of betting sponsorships in the 2014-2015 season.

Advertising during live sporting events is therefore a highly effective way for operators to access their target consumer base. Both adverts and sponsorship deals frame gambling as an integral aspect of the spectator experience, exploiting the excitement of having a financial stake in the game and linking it to “laddish” culture.<sup>47</sup> Evidence shows that this encourages gambling intentions, triggering gambling amongst both problem and recovering problem gamblers.<sup>48</sup>

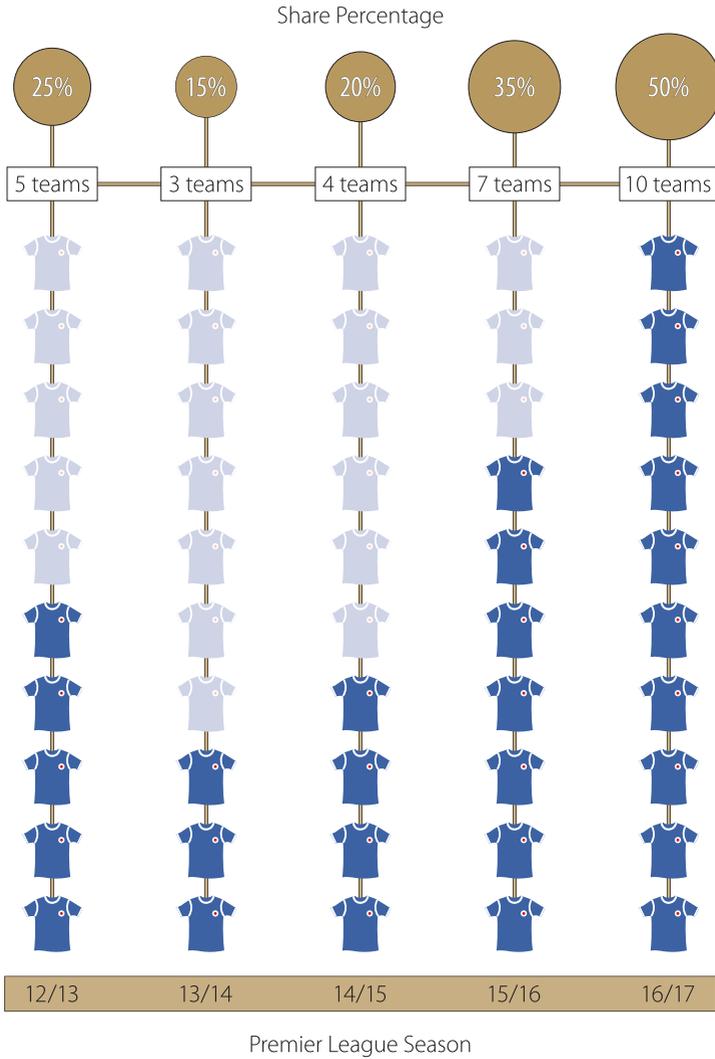
Young people – specifically, young men – are particularly susceptible to this kind of exposure. Figures show that while the Premier League is equally popular across age groups, 16-24 year olds represent the majority of online viewing, with men twice as likely as women to be viewers.<sup>49</sup> With 68% of online gamblers between 18 to 24 years old having been prompted to gamble by advertising,<sup>50</sup> this poses a particular problem when it comes to the use and the prevalence of advertising during live sports events.

In other words, the loophole that permits gambling advertising during live sporting events both undermines the principle of

the watershed and poses a risk of harm to young people. It is therefore no surprise that the Government has recently been urged to curtail gambling adverts during these events. Both the Church of England and politicians have called for greater restrictions, following a study by Populus that shows two in three teenagers feel “bombardeed” by betting adverts, with only a quarter feeling that these ads carry enough warnings about the dangers of betting.<sup>51</sup>

Echoing these calls, we argue that the only way of closing the current loophole is a comprehensive ban on gambling advertising during live sporting events, including TV ads, billboard ads and clothing sponsorship.

Figure 2: Premier League Shirt Sponsorship: Increase in Betting Companies, 2012 - 2017



Source: Statista (2018)

The Government has the capacity to achieve this. A similar reform has been achieved in tobacco advertising, which was once widespread in sport. In 1995, nine of the top ten World Championship F1 drivers had cigarette brands on their cars or overalls.<sup>52</sup> A ban on tobacco advertising in sport was confirmed by the International Automobile Federation in 2001, which was shortly followed by a ban on the tobacco sponsorship of any cross-border cultural and sporting events under the EU's Tobacco Advertising Directive in 2003. In 2005, this was accompanied by a UK ban on tobacco adverts using any branded goods, including clothes.

In this way, we argue that there is a clear, achievable precedent for a similar ban on gambling advertising during live sports events. In fact, a similar process has already begun in Ireland, where the Gaelic Athletic Association (GAA) voted "overwhelmingly" at their 2018 annual congress to ban sponsorship deals with gambling companies. This was in response to a motion forwarded by a GAA member who stated that Irish sport has become "besieged by gambling" and that implementing a sponsorship ban would protect the integrity of Gaelic games.<sup>53</sup>



## 6. Social Media and Affiliate Marketing

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Our final example of a regulatory loophole concerns the use of social media and affiliate marketing by the gambling industry.

The use of social media as a marketing tool has grown with the increase in social media use in general. According to Ofcom, 76% of internet users have a social media account, with internet users aged 16-24 (96%) and 25-34 (90%) more likely than average to have an account than older people.

95% of these users have a profile on Facebook, making it the most popular social media site compared to Instagram

(31%), YouTube (30%), Snapchat (23%) and Google+ (16%).<sup>54</sup> The number of social media users has risen year-on-year over the past decade.<sup>55</sup>

Research shows that many of these young people struggle to spot advertising online. While around half of 12-15 year olds who use search engines know that Google is paid by companies who advertise on the site, fewer than half correctly identify sponsored links on Google as advertising, despite these being in a box marked "Ad." A quarter of these users believe that if a website is listed by Google, it means that it can be trusted.<sup>56</sup>

Among 18-24 year olds, researchers have also found that interaction with business through social media creates a relationship that affects purchase intentions; according to Bitner and Albinsson, as "Millennials are becoming more difficult for companies and marketers to reach, due to the amount of advertising messages they are surrounded by daily, [they] are avoiding traditional forms of marketing and advertisements ... For this reason, social media is a great platform to reach young consumers with advertising messages."<sup>57</sup> Similarly, studies find that these consumers believe social media to be a more trustworthy source than traditional corporate-sponsored communications, including advertising, showing that the use of social media can help to create a more authentic image for a brand.<sup>58</sup>

These patterns are reinforced in the context of exposure to gambling on social media. The 2017 Gambling Commission survey of young people found that exposure to gambling advertising via online channels is higher than via billboards or newspapers. 70% of young people said that they have seen gambling adverts on social media (27% having seen them more than once a week) and 66% on other websites (21% more than once a week). The survey also found that 10% of these young people follow gambling companies on social media, with the most popular individual sites for this being Facebook, YouTube and Instagram. Crucially, among 11-16 year olds who follow gambling companies on social

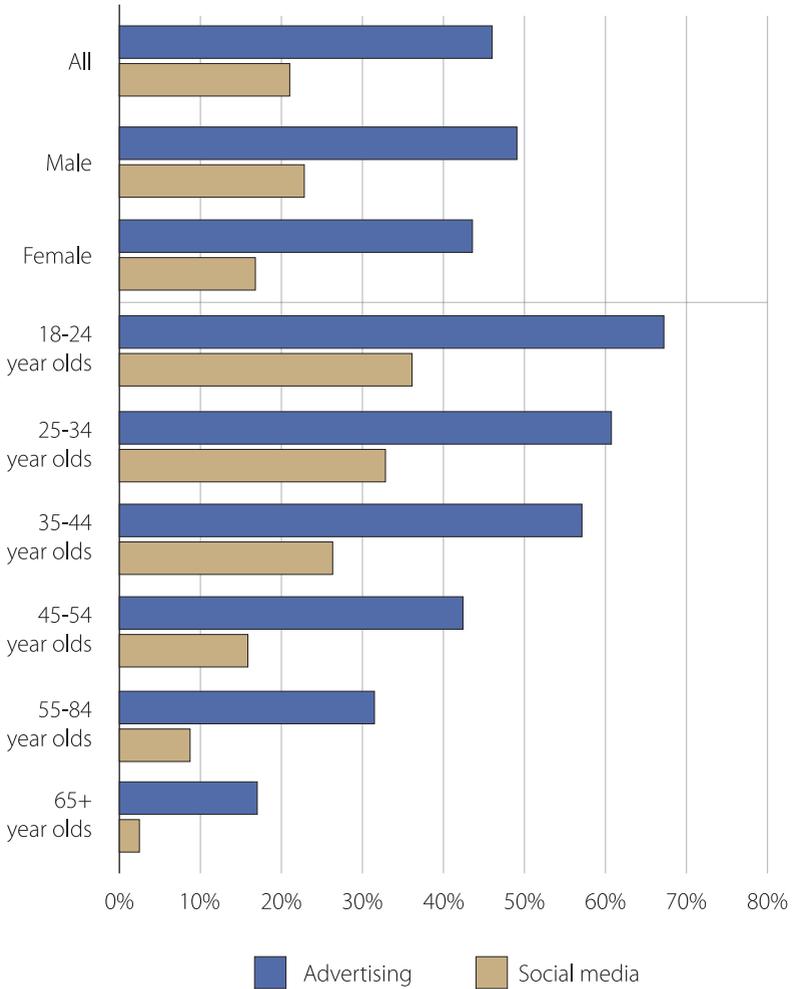
media, 30% had spent their own money on gambling in the last seven days, making them more than three times as likely to have done so than those who do not follow any gambling companies on social media.<sup>59</sup>

With these sorts of figures in mind, there have been calls for greater awareness of how social media is used – and exploited – by the industry in the advertising of gambling products. The question over the balance between personal choice, coercion and control has become paramount, with DCMS recently announcing that "the Gambling Commission will encourage social media companies, with GambleAware support, to develop user-friendly guides on how a person wishing to limit their exposure to gambling advertising can do so by using settings and preferences within the platforms."<sup>60</sup>

While we welcome such calls for reform, we argue that they will not in themselves fill the loopholes of gambling regulation. As this report has outlined, Government might plug one gap, but the industry will find another.

An example of this problem is the use by the gambling industry of so-called "affiliate marketing". This is a performance-based tool, whereby affiliates are rewarded for each customer they bring to their clients (the gambling operators) through their marketing methods. These methods typically include types of direct e-marketing, such as mailings to email

Figure 3: Proportion of Online Gamblers Prompted to Spend Money on Gambling by Advertising and Social Media by Gender and Age



Source: Gambling Commission (2017)

lists and forums, and indirect e-marketing such as social media posts. Affiliates use Search Engine Optimisation (SEO) to engage potential gamblers by retaining a high position in search engine results. In the words of one operator, “affiliate marketing is an important part of the online gambling industry and gaming operators offer big incentives to attract and retain successful affiliates. By directing players to casino games and sports betting websites, affiliates are an important source of income for gaming operators,” adding that “the close relationship between operators and affiliates stands as one of the industry’s essential pillars and its inner dynamics tackle and preserve the sensitive equilibrium between failure and success.”<sup>61</sup>

Affiliates gather data from schemes like raffle sites that offer cash prizes, bonuses and gifts in weekly giveaways. To be eligible for these raffles, users must provide personal details, including their name, date of birth, and email and home addresses. Embedded within the small print of the terms and conditions is the right of affiliates to then sell this data on to operators, who use the harvested information to communicate with their target consumer base.

This use of third-party data has led to controversy over the marketing standards of the gambling industry. Recent reports published by the *Guardian* have shown that user data is often tailored to target vulnerable people, including those susceptible to problem gambling.

According to one digital marketer cited in these reports, “third-party data providers allowed us to target their email lists with precision”, with “lower-income users among the most successfully targeted segments”. In this way, industry operators can identify specific susceptible and vulnerable audiences – for example, ex-gamblers, or young men, or people who earn less than £25,000 a year, or who have a compromised credit history, and so on – via the data provided by affiliate marketing.<sup>62</sup>

Affiliates are also notoriously difficult to regulate. While their clients, the gambling operators, are registered in the UK, many affiliates are based abroad in countries and territories like Curaçao, Cyprus and Malta. In an effort to close potential loopholes that could be exploited by these foreign third parties, the ASA stipulates that operators based in the UK are judged according to the actions of their affiliates. It states, “marketing materials created by your affiliates need to stick to the ad rules, otherwise you may be held either wholly or jointly responsible. This includes observing the general rules on misleading advertising and promotional marketing as well ... the need to demonstrate that explicit consent has been provided by the recipient of affiliates’ email marketing.”<sup>63</sup> The 2018 Gambling Commission Consultation echoes this, noting that “in today’s interconnected world, consumers may see advertising in foreign media and receive direct marketing that originates from outside the UK.” The Consultation adds, “the ASA takes

action to tackle problems with advertising that originates from outside the UK ... but its ability to enforce standards directly is sometimes limited.”<sup>64</sup>

In other words, the rules are already meant to be in place to regulate affiliate marketing, albeit with a caveat that the efficacy of these rules is limited. The affiliates themselves are aware of these rules, and emphasise in their own terms and conditions the degree to which they conform with British regulation.<sup>65</sup>

We argue that this is a case of following the letter rather than the spirit of the law. Despite their stated adherence to the rules, many affiliates have regularly been found to be in breach of advertising and marketing standards. The ASA has ruled on various forms of affiliate marketing, including emails, banner and in-game ads, ads on Facebook, tweets, websites made to look like editorial content, and blog posts.<sup>66</sup>

An illustrative example of these rulings includes a 2016 tweet by a Malta-based affiliate called BetPromotions4U that stated “It’s your lucky day! #betting #europaleague #liverpool #klopp” and featured an image of a woman pulling her trousers down with a link to the bet-at-home.com website. On her underwear were the words, “If you can read this it’s your lucky day”. In their ruling, the ASA challenged whether this tweet breached the Code by linking gambling to sexual success. Bet-at-home responded by

claiming that the tweet had been posted by a Croatian associate, that their affiliate agreements in the UK abided by the CAP Code, that the tweet was not intended for a UK audience and that the Croatian associate had not acquired for them any customers from the UK. They also stated that it was difficult “to proactively avoid such scenarios from occurring... It was not possible to avoid UK consumers who clicked on the link going through to the UK website. [The Croatian associate] said that the tweet related to a Europa League match, which was a Europe-wide competition. He now understood that such images were unlikely to be allowed in UK marketing and said he would take greater care in future. The tweet had now been deleted.”<sup>67</sup>

This case highlights the action – or rather, lack of action – used to enforce regulatory compliance by affiliates. Following their upholding of the complaint, the ASA stipulated that “the ad must not appear again in the form complained of. We welcomed [the Croatian associate’s] assurance that the ad had been removed. We told bet-at-home.com Internet Ltd and Goran Pantic t/a BetPromotions4U to ensure that ads targeted at UK consumers were socially responsible and did not link gambling to sexual success.”<sup>68</sup>

We argue that such a ruling risks amounting to little more than a slap on the wrist.<sup>69</sup>

By falling back on the excuse that foreign associates are unaware of British regulations, the industry undermines the ASA's position that gambling operators are judged according to the actions of their affiliates, and that breaches of advertising standards are worthy of meaningful penalty. While we agree with the Gambling Commission's view that regulatory powers are often limited in an increasingly-complex global market, we believe that the Commission – and by extension, the Government – is losing,

and will continue to lose, its game of cat and mouse with an agile industry unless it is prepared to make use of the ultimate sanction enshrined in the 2005 Gambling Act: the revocation of an operator's license in cases where advertising standards have been flagrantly breached by affiliates.

Until this happens, the evidence shows that appeals for industry compliance will continue to fall on deaf ears, and more cases like bet-at-home will continue to be brought to the ASA in the future.



## 7. Conclusion and Recommendations

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In this report, we have explored the relationship between the advertising of gambling products and the License Conditions and Codes of Practice incumbent on the industry. Specifically, we have focussed on practical ways with which Government and the Gambling Commission can encourage greater compliance, fairness and social responsibility in the advertising and licensing of gambling.

We have argued that the present arrangement of self-regulation, whereby “licensees themselves are best placed to decide how to secure those outcomes

cost-effectively within their own particular circumstances” is not – contrary to the view of Government – “working well”. The existing codes are being neither honoured nor upheld to the extent that they should, meaning that many operators in the industry are able to exploit loopholes in legislation without fear of meaningful sanction. This has become a game of cat and mouse that the Government is losing.

We argue that only one penalty is truly capable of stopping this game of cat and mouse, and it is already enshrined in the 2005 Gambling Act: the ability of the Gambling Commission to revoke a

license. We have called this penalty the ultimate sanction – a sanction that, to date, has rarely been employed. In this paper, we have made the case that unless the Gambling Commission is prepared to revoke a license for breaches of advertising standards, its wider calls for industry compliance and social responsibility risk falling on deaf ears.

To this end, we have provided three examples of where loopholes are being exploited, and where the regulatory powers available to both the Gambling Commission and the ASA could be better employed.

The first of these involves the use of warnings on gambling advertisements. Because the industry is responsible for the placement and design of these warnings, we have argued that their power is diminished: the warnings are often obscured within the designs of the advert and the language of “win” and “fun”, thus normalising the idea of gambling as a leisure pursuit rather than an addiction – language which is, in fact, in breach of the CAP code on attractiveness and aspiration.

This is in contrast to the warnings given on other addictive products such as cigarette packets, which are presented in a neutral black and white script on the packet, with clear information about the risks, and which have resulted in a significant decline in the consumption of these products. We have therefore argued that gambling advertising

should be consistent with other types of addictive or harmful product, by featuring clearly identifiable health warnings that cannot be absorbed into an advert’s overall design.

Second, we have argued that the current exception to the watershed that permits gambling adverts during live sporting events needs to be closed. Echoing a range of voices from the Church of England to cross-bench peers, we have outlined how the loophole both undermines the principle of the watershed and poses a risk of harm to young people – particularly young men and at-risk gamblers. We have argued that the only way of closing the current loophole is a comprehensive ban on gambling advertising during live sporting events, including TV ads, billboard ads and clothing sponsorship.

Finally, we have argued that the industry use of affiliate marketing is in regular breach of advertising standards, and that recent rulings in response to these breaches have been inadequate. Non-UK based affiliates have pleaded ignorance of British regulations, thus undermining the ASA’s position that gambling operators are judged according to the actions of their associates. While we acknowledge that it is difficult to regulate a complex global market, it remains clear that Government will continue to lose its game of cat and mouse with an agile industry unless the Gambling Commission is prepared to make use of the ultimate sanction enshrined

in the 2005 Gambling Act: a revocation of a operator's license in cases where advertising standards have been flagrantly breached by an affiliate.

Through these measures, each of which are designed to uphold the regulatory powers already enshrined in the 2005 Gambling Act, we believe that gambling in Britain can become part of a culture of both personal choice and social responsibility: creating a market in which fair play is celebrated over vulnerability, exploitation and harm.

# Endnotes

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- 1 According to a 2017 National Centre for Social Research (NatCen) report prepared for the Gambling Commission, there were over 430,000 problem gamblers in the UK in 2015, an increase from 280,000 in 2012, with another 2 million at risk. See See NatCen (2014), *Gambling behaviour in England and Scotland: Findings from the Health Survey for England 2012 and Scottish Health Survey 2012* (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-England-and-Scotland- Findings-from-the-Health-Survey-for-England-2012-and-Scottish-Health-Survey-2012.pdf>; and NatCen (2017), *Gambling behaviour in Great Britain in 2015* (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>
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- 8 See Gambling Commission (2018), Industry Statistics (online). Available at: <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Industry-statistics.aspx>
- 9 For an example of this sanction, see the 2014 license revocation of Bodugi Limited by the Gambling Commission under sections 117(1)(f) and 119(1) of the Gambling Act 2005. Gambling Commission (2014), *Revocation of operating licence - Bodugi Limited* (online). Available at: <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2014/Revocation-of-operating-licence-Bodugi-Limited.aspx>
- 10 Gambling Commission (no date), "Regulatory Action" (Online). Available at: <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Regulatory-action/Regulatory-action.aspx>
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12 For the full list of these rules, see CAP, *Gambling Advertising and Guidance (Non-Broadcast and Broadcast)* (online). Available at: <https://www.asa.org.uk/asset/4D2D396B%2D2E06%2D43FF%2DB54904ABF3078AE4>

13 Gambling Commission (2017), *Gambling participation in 2016: behaviour, awareness and attitudes – Annual Report* (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-participation-in-2016-behaviour-awareness-and-attitudes.pdf>

14 This report showed that “among men, age, income, ethnicity, economic activity and gambler type were associated with problem gambling. The odds of being a male problem gambler were around 1.5-1.8 times higher among those aged 25-54 than those aged 18-24. The odds were significantly higher among those from non-White ethnic groups than White/White British ethnic groups. Odds were highest among men who were Asian/Asian British, who had odds of being a problem gambler that were five times higher than their White/White British counterparts. For both economic activity and income, the relationship showed that those who were more economically disadvantaged were more likely to be male problem gamblers. Odds were 1.8 times higher among those who were unemployed than those who were in paid employment and were 0.4 times lower among those with an income of £32,000 per year or more than those with an income of £10,200 per year or less.” See Heather Wardle et al (2014), *Gambling machines research programme. Report 2: Identifying problem gambling – findings from a survey of loyalty card customers* (online). Available at: <https://about.gambleaware.org/media/1225/report-2-identifying-problem-gambling-findings-from-a-survey-of-loyalty-card-customers.pdf>. This evidence reflects the findings of Forrest and Wardle (2014), who state while that participation rates in gambling among British Asians is low relative to that in the White majority, problem gambling prevalence is significantly higher. See David Forrest and Heather Wardle (2014), “Gambling in Asian Communities in Great Britain” in *Asian Journal of Gambling Issues and Public Health* 2.

15 For American data, see Kyle R. Caler et al (2017), “Problem gambling among ethnic minorities: results from an epidemiological study” in *Asian Journal of Gambling Issues and Public Health* 1:7 (online). Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5589834/>; for New Zealand data providing reasons for elevated rates of problem gambling among indigenous people and immigrants, see Samson Tse (2012), “Why People Gamble: A Qualitative Study of Four New Zealand Ethnic Groups” in *International Journal of Mental Health and Addiction* 10:6 (online). Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3519978>

16 See Daniel Hanss et al (2015), “The impact of gambling advertising: Problem gamblers report stronger impacts on involvement, knowledge, and awareness than recreational gamblers” in *Psychology of Addictive Behaviours* 29:2. This echoes research of other forms of addictive behaviour, including the consumption of alcohol among adolescents: evidence from the USA shows that not only does advertising influence drinking habits, but that adolescents may be targeted specifically through “shifting alcohol expectancies, norms regarding alcohol use, and attitudes.” See Benjamin Bercy et al (2017), “The Myriad Influences of Alcohol Advertising on Adolescent Drinking” in *Current Addiction Reports* 4:2 and Phyllis Ellickson et al (2005), “Does alcohol advertising promote adolescent drinking? Results from a longitudinal assessment” in *Addiction* 100:2

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19 See Gambling Commission (2017), *Gambling participation in 2016: behaviour, awareness and attitudes – Annual Report* (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-participation-in-2016-behaviour-awareness-and-attitudes.pdf>. See also Phillip Newall (2017), “Behavioral complexity of British gambling advertising” in *Addiction Research and Theory* 25:6.

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- 25 For combined data on the number of days and the amount of money spent on online gambling, see the PWC report for GambleAware (2017), Remote Gambling Research (online). Available at: [https://about.gambleaware.org/media/1549/gamble-aware\\_remote-gambling-research\\_phase-2\\_pwc-report\\_august-2017-final.pdf](https://about.gambleaware.org/media/1549/gamble-aware_remote-gambling-research_phase-2_pwc-report_august-2017-final.pdf) and NatCen (2017), Gambling behaviour in Great Britain in 2015 (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>
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- 30 HM Government (2005), Gambling Act 2005 (online). Available at: <https://www.legislation.gov.uk/ukpga/2005/19/contents>
- 31 The issue of readability, clarity and transparency is central to the fairness and social responsibility of gambling advertising. For example, there is evidence that winning bets have frequently led to accounts being closed by operators, and yet adverts continue to use the word “Win” in their material. See The Guardian (2015), “All bets are off: why bookmakers aren’t playing fair” (online). Available at: <https://www.theguardian.com/global/2015/aug/02/betting-horses-gambling-bookmakers-accounts-closed>
- 32 See the PWC report for GambleAware (2017), Remote Gambling Research (online). Available at: [https://about.gambleaware.org/media/1549/gamble-aware\\_remote-gambling-research\\_phase-2\\_pwc-report\\_august-2017-final.pdf](https://about.gambleaware.org/media/1549/gamble-aware_remote-gambling-research_phase-2_pwc-report_august-2017-final.pdf) and NatCen (2017), Gambling behaviour in Great Britain in 2015 (online). Available at: <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

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69 This is reflected in the outcome of other ASA rulings. On numerous occasions, the breaching of advertising standards and codes of social responsibility by affiliates has led to little more than a demand that the operator desists from future breaches. For example, a case involving a company called Club Website was referred to the ASA by a complainant who challenged the fact that an advert featuring an image of a football and a football stadium with the text "SIGN UP TODAY FOR YOUR FREE £25 RISK-FREE BET" was sent to his 10-year-old son. In response, the ASA "acknowledged that Club Website had an internal control to ensure that under-18s did not receive over-18 content", concluding that "we told Club Website to ensure that future gambling ads were not sent to under-18s". See ASA (2014), ASA Adjudication on Club Website Limited (online). Available at: <https://www.asa.org.uk/rulings/club-website-ltd-a13-244042.html>



**RESPUBLICA**  
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## Society

The UK has one of the most centralised states in the developed world and one of the most disaffected and politically passive populations in Europe. We hold our leaders in contempt, but despair of doing anything for ourselves or our community. The dysfunction at the highest level of society stems from the collapse of our social and personal foundation. There is little doubt that we are becoming an increasingly fragmented and individualist society and this has deep and damaging consequences for our families, our communities and our nation state.

Starting from the bottom up, the collapse of the extended family and the ongoing break-up of its nuclear foundation impacts on all, but disproportionately so on the poor and on their offspring. Too many children at the bottom of our society are effectively un-parented as too much is carried by lone parents who are trying to do more and more with less and less. We know that the poorer you are, the less connected with your wider society you tend to be. Lacking in both bridging and bonding capital and bereft of the institutions and structures that could help them, too many poorer families and communities are facing seemingly insurmountable problems alone, unadvised and without proper aid.

Based on the principle of subsidiarity, we believe that power should be devolved to the lowest appropriate level. Public services and neighbourhoods should be governed and shaped from the 'bottom up', by families and the communities. These neighbourhoods need to be served by a range of providers that incorporate and empower communities. Moving away from a top-down siloed approach to service delivery, such activity should be driven by a holistic vision, which integrates need in order to ascertain and address the most consequent factors that limit and prevent human flourishing. Local and social value must play a central role in meeting the growing, complex and unaddressed needs of communities across the UK.

The needs of the bottom should shape provision and decision at the top. To deliver on this, we need a renewal and reform of our major governing institutions. We need acknowledgement of the fact that the state is not an end in itself, but only one means by which to achieve a greater end: a flourishing society. Civil society and intermediary institutions, such as schools, faith groups and businesses, are also crucial means to achieving this outcome. We also need new purpose and new vision to create new institutions which restore the organic and shared society that has served Britain so well over the centuries.

The Gambling Act of 2005 has failed to maintain a balance between permission, choice and responsibility. The current regulatory framework has allowed the gambling industry to exploit legislative loopholes and breach advertising standards, without fear of meaningful sanction.

In *Watershed: Closing the loopholes in gambling advertising*, ResPublica outlines the practical ways in which greater compliance, fairness and social responsibility can be encouraged in the advertising and licensing of gambling. The recommendations we put forward are not focussed on creating new legislation, but on upholding the regulatory powers already enshrined in the 2005 Gambling Act, such as the Gambling Commission's power to revoke a license.

The current regulatory framework is not safeguarding individuals and communities as it should. There are an increasing number of problem gamblers in the UK, especially among young people and vulnerable groups. We therefore call on Government to take action to close legislative loopholes and encourage social responsibility in the industry, so that gambling activities can be enjoyed without fear of exploitation, addiction and harm.

