

27th August 2015

By email: lgr.committee@scottish.parliament.uk.

Dear Sir/Madam

Response to Scottish Machines Consultation

We write in response to the Scottish Government Call for Evidence in relation to "Fixed Odds Betting Terminals" and Betting Premises.

The call for evidence arises from a suggestion by the Scottish Government that the Scotland Bill does not go far enough to meet the proposals in the Smith Commission. We note that a series of amendments to the Scotland Bill were lodged on behalf of the Scottish Government at the House of Commons debate on 6 July 2015 in relation to the proposed Clause 45 of the Bill which in our view was designed to deal with FOBTs on betting premises. These amendments were:

- 31 - leave out "for which the maximum charge for use is more than £10". This would create the power for licensing boards to place limits on machine numbers irrespective of stake and therefore category.
- 32 - this amendment would make the power to introduce these limits retrospective
- 146 - this amendment would to make the power apply to all types of gambling licence not just betting premises
- 163 - this amendment would be to make the limit apply to machines for which "the maximum charge for use is more than £2".

Amendment 163 appears to be in the line with the separate English Private Members Bill on FOBTs which seeks a maximum £2 stake for FOBTs and is being considered separately. That Bill, sponsored by Lord Clement-Jones, does not appear to have gained sufficient support for debate. In addition, we note that a request by several English councils under the Sustainable Communities Act 2007 to have the stake capped at £2 was rejected by the UK Government on 16 July 2015.

We are greatly concerned that the scope of these amendments and the Call to Evidence suggest that Scotland should be given greater powers to limit gaming machine numbers of any type, not just FOBTs, for any premises, not just betting shops, and that this could apply

retrospectively. These changes could have a detrimental effect on the long term sustainability of many leisure businesses including bingo clubs, amusement arcades, adult gaming centres and family entertainment centres.

Existing gaming machine entitlements are protected on the face of the Gambling Act 2005 across the UK and the viability of many gambling businesses, which employ a significant number of people across Scotland is dependent on the fact that the licences held allow them to offer a certain number of machines. The gambling industry is one of the most regulated in the UK and operators have internal policies and procedures which are vetted and approved by the Gambling Commission. These proposals suggest that Scotland could be given powers which would mean machine entitlements could be reduced or removed at the instance of a local licensing board. This would be catastrophic for many gambling businesses in Scotland that are frequented and enjoyed by the general public.

It seems to us to be disproportionate and against the principle of natural justice that existing licences could be "called in" so that a licensing board could impose a limit on the number of gaming machines gambling businesses offer their customers.

We are at a loss to understand how a proposal which was supposed to be about FOBTs on betting premises, a very narrow scope, has somehow become a conduit for the Scottish Government to seek significant powers which would be drastic for the gambling industry in Scotland as whole. The only type of machine ever discussed by Smith was the FOBT. There was no suggestion, and has been no suggestion, that other types of machines should be limited. Yet now the Call to Evidence and Scottish Government amendments to the Scotland Bill suggest something completely different. The intent of the Scottish Government amendments, and their aim overall, appears to us to be about making the power to limit gaming machines of any category apply to all licensed gambling premises. This is especially concerning when there is no collective evidence presented which suggests that there is any alleged harms arising from machines generally which would merit such a power, and that the UK Government has indicated that the alleged issues arising from FOBTs are not sufficiently evidenced, preferring instead to be satisfied with the various additional social responsibility measures which were adopted by the industry.

The wording used in the House of Commons debate on 6 July 2015 was: *"This amendment replaces the reference to betting premises with a more general reference to gambling premises, giving full effect to Smith Commission recommendation 74."* In addition, the Call to Evidence document says: *"The Scottish Government's Response to the Interim Report from the Devolution (Further Powers) Committee on the Smith Commission and the UK Government Proposals states the Scotland Bill "does not fully deliver Smith Commission*

Recommendation 74. The reasoning given for this view is: The powers it provides to Scottish Ministers are limited to betting premises licences only".

This is confusing. Why does the Scottish Government think it appropriate to widen powers to deal with an alleged issue over FOBTs in betting premises to all gambling premises, when only betting and casino premises are allowed to have FOBTs? Our reading of the Smith Commission report is that it did not intend anything other than restricting FOBTs on betting premises.

If a combination of these proposed amendments were to come to pass, it would mean the gambling industry as a whole, and therefore those businesses and employees, would be subject to significant threat by cutting machine numbers. We are therefore opposed to any power which removes existing entitlements to use machines which is a right given by virtue of the licence. Parliament sought not to give licensing authorities powers over machine numbers which is why the Gambling Act specifically prevents them from imposing a condition about machine numbers.

The absence of evidence on these issues, and the need for further evidence, has been recognised by the UK Government and by the Gambling Commission. We note that this issue was raised directly by the Gambling Commission in a letter to Rt Hon Sajid Javid MP, which was copied to the First Minister dated 30 March 2015. We also note that the Scottish Government consulted on planning law with respect to betting premises and considered a proposal to alter the Use Classes so that such premises would become "sui generis". The result of that consultation was to determine, in the Analysis document published on 20 February 2015, that no changes would be brought forward and an acknowledgement of the absence of definitive evidence on the issue of harm over alleged issues such as "clustering" of betting premises.

The consequences of these amendments as they are written, whether intended or unintended, would be to put at risk the many Scottish leisure businesses that have machines as a fundamental part of the product offering, including bingo clubs, amusement arcades, adult gaming centres and family entertainment centres.

Yours faithfully



Peter Hannibal
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The Gambling Business Group