



Local Government and Regeneration Committee

Fixed odds betting terminals

Summary of written submissions

Introduction

On 8 July 2015 the Committee launched a call for written evidence on the proposed devolution of powers over B2 Gaming Machines, generally referred to as “Fixed-odds Betting Terminals” (FOBTs). The Committee received 36 submissions, broken down as follows:

- 6 submissions from bookmakers and representative bodies;
- 9 submissions from other gambling businesses (casinos, arcades etc);
- 14 submissions from local government bodies; and
- 7 submissions from individuals and other bodies.

This paper provides a summary of the main points raised in the submissions, and is structured around the questions asked in the call for evidence.

The Committee is also seeking evidence through an online questionnaire. A summary of the results of the questionnaire will be prepared and circulated to the Committee in due course.

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The Scottish Parliament, Edinburgh, EH99 1SP www.scottish.parliament.uk

Question 1: What would be the benefits and disadvantages for you as a consequence of the UK Government's proposed provision in the Scotland Bill 2015?

Submissions from local government bodies were consistent in generally welcoming the devolution of powers, but noting that the UK Government's proposals did not go far enough. **Glasgow City Council** produced a detailed response to all questions, and included a range of extra information, covering work the council has already undertaken on FOBTs. In terms of the UK Government's proposals, Glasgow's view was that they were "limited", and that "In order to be effective, powers would need to be devolved to a local level, along with the required licensing and planning authority to limit the number of betting shops in their communities and ensure that vulnerable groups are protected." It went on to note that for planning, the Scottish Government already held that power and that for licensing, the powers "should be sought". Glasgow was also critical that the UK Government proposal would not have an effect on existing FOBTs, nor would it address concerns related to public health.

COSLA made similar points on the need to devolve powers to local level, and criticised the UK Government proposals as only applying to new licences. **Argyll and Bute Council** welcomed the devolution of powers, but in its view the UK Government proposals "did not give proper effect to paragraph 74 of the Smith Commission Agreement." The **Aberdeenshire Licensing Boards** again welcomed the powers but noted that it would only apply to new licenses. **Midlothian Council, Dundee City Council, Highland Licensing Board, Edinburgh City Council** and **Orkney Islands Council** made similar points.

West Dunbartonshire Council made the point that the proposals should apply to all gaming machines, including those in licensed premises. **West Lothian Council** were unable to comment due to uncertainties around delivery of the policy. **North Lanarkshire Council Licensing Board** welcomed devolution of powers but did not provide substantive comment on the proposed changes. **South Lanarkshire Council Licensing Board** discussed the negative impact of addiction more generally, and called for the proposals to be extended to all forms of gambling.

Submissions from bookmakers and the **Association of British Bookmakers (ABB)** were detailed, and covered a wide range of issues under each question. The **ABB** started from the point that "the purpose of inclusion of measures relating to gambling in the Smith Commission and subsequently in the Scotland Bill 2015 relate to an ambition to minimise gambling related harm in Scotland." The submissions then set out in detail the range of actions that they currently take on problem gambling, including the Code for Responsible Gambling. They note that "current evidence show[s] that problem gambling is not linked to any one product" and that "Since the introduction of gaming machines into shops over ten years ago levels of problem gambling have remained relatively stable and declined year on year." Current levels of

problem gambling are stated at 0.4% of the population, based on the Scottish Health Survey.

In terms of the UK Government proposals, the ABB made clear that the Responsible Gambling Trust has stated that “focussing on one element of gambling alone [...] will not provide a better prediction of problem gambling or decrease the rates of gambling harm.” Therefore to focus on FOBTs alone, in their view, is “misguided and to the potential detriment of customers.

Ladbrokes made similar points on the focus on FOBTs, and covered in detail the potential impact of new regulatory changes on betting shop closures and associated job losses.

William Hill, although not addressing the questions asked directly, made similar points. Its submission provided a large amount of detail on the context that bookmakers operate within and the work done on responsible gambling. Although most of its conclusions are directed towards the Scottish Government proposals, on the UK Government proposals it noted that future prohibition on gaming machines “does not address the issue of harm reduction.” However, it stated that the UK Government’s proposal does give effect to the Smith Commission recommendation.

Gala Coral agreed that the Scotland Bill, as drafted, fulfilled the Smith Commission’s recommendation, and made similar points to other bookmakers, highlighting the research from the Responsible Gambling Trust. Like William Hill, Gala Coral also detailed the range of actions it currently takes on responsible gambling. It also noted that the UK Government proposal offered stability in the number of FOBTs, which would allow the company to plan for the future in Scotland.

Paddy Power took a different approach, and stated that the UK Government proposal “would represent an unlawful barrier to entry and expansion in the UK retail betting market [...] the proposed provision would breach Articles 49 and 56 of the Treaty on the Functioning of the European Union.”

Other gambling businesses, including casinos, bingo and arcades, also responded to the call for evidence. However, their comments focussed on the Scottish Government proposals, as the UK Government proposals do not appear to directly affect their business.

The Committee also received a number of submissions from other organisations and individuals with an interest in gambling. The **Campaign for Fairer Gambling** stated that (due to the current number of FOBTs it estimates are currently in use) the UK Government’s proposal “does not does not adequately empower the Scottish Executive to ‘prevent the proliferation of Fixed Odds Betting Terminals’ as the Smith Commission recommends.”

The **Law Society of Scotland** noted that the term “Fixed-odds Betting Terminals” does not “reflect the legislative definition” and that “no account has been taken of the current regulations. It also noted that the £10 figure “does not match any of the current maximum charges.”

Question 2: What would be the benefits and disadvantages for you as a consequence of the proposed alternative provision suggested by the Scottish Government?

Local Government organisations were generally supportive of the Scottish Government’s proposal. **COSLA** agreed that powers should be applied to existing premises but called for an additional amendment “to ensure local authorities are able to enforce this power,” as they currently have no powers of entry into betting premises to check or enforce variation in the number of gaming machines.

Glasgow City Council made very similar points on the Scottish Government proposal as they did on the UK Government proposal, although it did recognise that these proposals had a “wider scope”. It again noted the lack of impact on public health concerns and that powers needed to be devolved to local level. **West Lothian Council** also made the same points as for Question 1 about uncertainties in the powers implementation. Others who noted general support for the Scottish Government proposal included: **North Lanarkshire Council Licensing Board, Aberdeenshire Licensing Board, Dundee City Council, Highland Licensing Board and Orkney Islands Council.**

Argyll and Bute Council and **Midlothian Council** were supportive of the Scottish Government’s proposal to look at existing premises but was of the view that the powers should be extended further to cover all gaming machines, regardless of stake. **West Dunbartonshire Council** also welcomed the Scottish Government’s proposals, although felt they still did not go far enough.

Quaker Action on Alcohol and Drugs also noted its preference for the Scottish Government’s approach, especially on the need for retrospective powers.

Bookmakers were strongly opposed to the Scottish Government’s proposals. The **ABB** focussed its response on the phrasing of the Smith Commission’s report: “the wording of the Smith Commission committed to giving the Scottish Parliament the ability to prevent the proliferation of FOBTs. The industry believes that gaming machine proliferation is not an issue as betting shops can only sustainably open where there is demand for their services and 84% of shops are located in commercial centres. The specific use of the term ‘prevent’ also suggests that there is not yet what could be considered a proliferation of gaming machines at B2 category. Therefore there is no requirement for any powers to be implemented retrospectively or the alternation of existing licenses.”

William Hill stated that the Scottish Government proposals, particularly the power to conduct retrospective review, “are not justified by the evidence.” William Hill went on to state that: “There is no major social problem created by betting shops and no evidence of any significant local authority activity in this area driven either by public complaints or own initiative visits.” Similarly, **Ladbrokes** stated that the retrospective proposal “is a disproportionate and

unfair mechanism, targeted at responsible businesses who have already satisfied both the local authority's and Gambling Commission's procedures to operate in a chosen area."

Gala Coral focussed on the potential impact of the proposal on the economic viability of betting shops and its employees. The larger bookmakers, and **Odds and Evens** noted opposition to the Scottish Government proposals to extend the powers to all gaming machines.

Paddy Power again raised possible legal issues. In terms of the Scottish Government's retrospective proposals, Paddy Power indicated that these were potentially a breach of their rights under the ECHR and Human Rights Act, as previous cases had confirmed that existing licenses "are property rights attracting the protection of Article 1 of Protocol 1."

The Law Society of Scotland referred to the same case as Paddy Power and noted that: "We believe that the test here for the lawfulness of interference with a premises licence granted under the Gambling act 2005 would be one of proportionality. In order to establish a fair basis for a limitation of a licence there would have to be evidence that a policy of restriction or deprivation of licences is proportionate and that there is no "less restrictive" alternative available."

The **Campaign for Fairer Gambling** however stated that the Scottish Government position would enable the Smith Commission recommendations to be "properly implemented." It also notes that in its view "The Scottish Government is right to pre-empt any change in machine categorisation and provision in describing FOBTs as 'machines where the cost per play can exceed £10 or more', as this pre-empts future changes enacted by Westminster to stakes and prizes."

Casinos were also opposed to the Scottish Government proposals, given they would potentially cover FOBTs in casinos (and other gaming machines). The **National Casino Forum** noted that "To our knowledge there has never been an issue or media interest regarding B2s in casinos. The level of monitoring and control (including much more widespread use of casino loyalty cards and membership) is significantly higher than can be achieved in high street bookmakers." Others, including **NB Leisure, Mega Leisure, G1 Group** and **County Amusements**, made points around the potential adverse impact of the Scottish Government proposals on their business, especially around widening scope to include other types of machine and the retrospective nature of the proposals.

Question 3: Which of these approaches do you prefer, and why?

The detail of respondents' views on this question is set out in the summaries of the two questions above.

However, broadly, local government organisations and individuals/others were supportive of the Scottish Government's position (although some called for the powers to be extended further). But, bookmakers and other gambling organisations were in favour of the UK Government's position (although some would prefer no change to the current system).

Question 4: Are there any changes in this area of law you would like to see which are not covered by either proposal, and why?
and

Question 5: Please make any further comment you feel is relevant to Committee's inquiry into FOBTs.

Glasgow City Council produced a range of recommendations, drawn from its cross-party Sounding Board, including that regulation of gambling should be approached from a public health perspective; use of FOBTs should require a secure membership card and that the Scottish Government should strengthen planning laws, putting betting shops in a new planning class, to limit further "clustering". **Dundee City Council** suggested that Licensing Boards should be given powers on over-provisions similar to those on alcohol licensing. A number of local government submissions called for the Scottish Government to act to reduce the impact of gambling generally, and not just focus on FOBTs. Highland Licensing Board suggested additional powers for boards to refuse applications for new betting premises if it would exceed "the number which the board considers is appropriate for that locality," including if that number is zero.

The **Campaign for Fairer Gambling** addressed wider issues in detail. It called for a reduction in maximum stakes to £2, which would "significantly reduce the harm and crime that is caused by FOBTs." It highlighted a number of statistics on crime and antisocial behaviour that it linked to FOBTs, and included criticism of the ABB's Code of Conduct for responsible gambling, referred to elsewhere in this summary as being "of low to very low potential efficacy." **Hippodrome Casino** agreed that it is "essential to reduce the maximum stake on these machines in bookmakers to £2." **Quaker Action on Alcohol and Drugs** also called for stakes to be lowered to £2.

Submissions from the gambling industry were generally not in favour of additional reforms, with many citing recent regulatory changes. The **ABB** summed this view up, stating that: "We feel that existing licensing legislation, coupled with the responsible statutory and voluntary measures implemented by the industry, are addressing the issues that the Smith Commission outlined. We are keen to continue to work with policy makers to utilise technology and existing powers to develop these measures without unnecessarily putting additional pressures on operators that will result in job losses and the closure of premises on high streets across the country."

The Gambling Commission gave its overall view of the possible impact of removing of B2 machines: "Should the policy intention be one of providing greater protection to problem gamblers it is unlikely to be as effective as it may at first appear. [...] while we know stake size can be a factor in gambling related harm, reduced access to higher stake machines would have a significant impact on normal leisure gamblers (and the revenue from them) while leaving many problem gamblers who stake at lower levels relatively untouched. The possible benefits for problem and at-risk gamblers are uncertain because reducing access to B2 machines might not take full account of the likely response of gamblers. Problem gamblers typically

gamble in a number of different ways. Some might curb excessive expenditure. Others are likely to find other outlets for higher-stake gambling, simply displacing the problem. And for those moving to lower stakes there is likely to be a consequent increase in the amount of time spent gambling, with the associated risk of enhancing its potentially addictive effect.”

Responses to Question 5 were more limited, and tended to re-state points made earlier in submissions. A number of local authorities echoed comments made by Glasgow City Council elsewhere on the need to treat gambling as a public health issue, not as a leisure activity or entertainment.

Bookmakers provided more background and context to the issue, including detailed statistics on machine use etc, and further information on responsible gambling and betting shops role in local communities.