Glücksspielforschung
Michael Adams · Ingo Fiedler *Hrsg.*

RESEARCH

Janne Nikkinen · Virve Marionneau
Michael Egerer *Editors*

# The Global Gambling Industry

## Structures, Tactics, and Networks of Impact

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# Glücksspielforschung

**Reihe herausgegeben von**

Michael Adams, Inst. für Recht der Wirtschaft, Universität Hamburg, Hamburg, Germany

Ingo Fiedler, Research Chair on Gambling, Concordia University, Montreal, Canada

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Editors

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*Editors*
Janne Nikkinen
Faculty of Social Sciences/CEACG
University of Helsinki
Helsinki, Finland

Virve Marionneau
Faculty of Social Sciences/CEACG
University of Helsinki
Helsinki, Finland

Michael Egerer
Faculty of Social Sciences/CEACG
University of Helsinki
Helsinki, Finland

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# Foreword

Gambling has always been regulated by states and governments, but the growth of the industry in the past few decades has reframed policy concerns. Commercial gambling expanded since the 1980s in Europe, North America, and Asia, where many countries set up national lotteries to fund good causes, and then liberalised market restrictions to allow private supply of gambling. Consumer protection and prevention of fraud and crime remain pertinent concerns, but a new emphasis on problem behaviour and its consequences has emerged. Isolation of casinos to tourist destinations and selective restrictions of access to betting are overshadowed by interest in identifying personality factors that may be drivers of gambling addiction. Public health oriented policy-makers and scholars have then pursued the total consumption model, familiar from alcohol studies, to find ways to contain a wide range of harms among the population rather than targeting selected individuals. Limiting availability, marketing, and access, have gained priority in prevention, while the industry and the beneficiaries of the gambling surplus have fortified their interests in the proceeds.

The evolution of gambling policy and research has followed very much the same path as alcohol policy and research a few decades earlier. Normalisation of gambling, like drinking earlier, has required a liberal reframing of the issue. Moral restrictions needed to be substituted, first by quasi-medical attention to individual proclivities to dependency, then by the population approach. The result is also similar: antagonism between particular vested interests and a common interest in health and welfare of the population, to a point where research approaches advocacy of industry control, and industry recedes behind its responsible consumption and responsible business rhetoric. Governments show concern but tail the lure of money rather than stop the misfortune of those who ruin their—and others'—lives with the scourge.

"Es gibt Systeme", said the late Niklas Luhmann, German sociologist and system theorist, meaning that modern societies may not function following a logic of total systems. Instead, they develop autonomous sub-systems that follow their own separate logic but fail to communicate with other sub-systems, often hostile to each other. Public health and environment are typical areas where this happens. Alcohol and gambling are good examples.

This book attempts to trespass the boundary between the three subsystems of gambling communication, the public interest concern, the government, and the industry. It does this from the public interest perspective but offers the reader a selection of views to the commercial sub-system in different countries and contexts. Not only is it focused on the vested interests of governments and the beneficiaries that receive part of the proceeds from gambling to serve good causes. It also covers the invested interests of other industries that profit from the gambling business, including agents, financing, marketing, game development, and ancillary customer services. It is all too easy to understand, and support the view, that gambling causes a lot of harm in society, but to understand why it is so difficult to follow the public interest to minimise the harm, we need to know how and why the other systems—governments and the industries—operate.

Gambling research has other parallels with the history of alcohol policy in the twentieth century. The research boomed in high-income countries at a moment where the post-war growth in consumption was beginning to subside. Gambling markets in high-consuming countries no doubt are now in a similar situation, in two ways. First, supply is no longer able to generate lucrative surpluses, simply because all the hands are already in extreme positions. Games can hardly become more intensive and returns to players higher, because they already are very high; and operation costs have been lowered to a point where only online delivery is able to cut them down—for a while. This is what I call supply saturation. Second, problem awareness has reached a point where a number of countries have started to reinstate supply restrictions. People do not want to increase their own gambling participation or to see others do it. This is demand saturation, similar to the saturation of the alcohol markets forty years ago in North America and Europe.

The industry reacts the same way, too, by looking for markets elsewhere, first in East Central Europe, Africa, and Latin America, then further growth in Asia. This book offers the readers a few glimpses of this development, too. It is important here to avoid an optical illusion. The expansion of the industry to new unexploited areas and population is no doubt a way to bypass stricter controls in the established markets. Yet, regulation policy alone is not to blame. It is a companion of the natural saturation. Beneficiaries, governments, and invested interests are its victims, and pristine markets in new world regions their co-victims.

Another parallel is the so-called ratchet effect. Once legal gates to commercialisation are opened, the investments made, and the interests created, it will be very difficult to pull the break. But it can be done, as happened in the alcohol restrictions in France from 1990, and in tobacco policy widely in the world. These are political processes where values, interests, and ideologies are translated into practical objectives about licensing, taxes, zoning, age limits, pre-commitment rules, and other issues where the regulatory system tries to communicate with the commercial one. Research can contribute by providing evidence about causalities, but even more important is to translate policy furore back to its systemic sources. In war, there are no impartial judges, but as demonstrated in this book, scholars can and should offer a look from afar to expose the intellectual and loyalty commitments of rival pursuits in the battle.

The editors are to be thanked for helping us authors to contribute to this exposure by diligently putting together this volume. It covers a wide range of contexts where the commercial sub-system confronts and is confronted by the public interest from other directions.

Pekka Sulkunen
Professor emeritus of sociology
Principal investigator of the Political Economy of Gambling project
Centre for Research on Addictions, Control, and Governance,
University of Helsinki

# Preface

The commercial gambling industry creates financial dependencies amongst its beneficiaries but also amongst other industry sectors that participate in or benefit from the production of gambling. These widespread interests in societies marginalise social concerns and hinder effective regulation. It is from these observations that *The Political Economy of Gambling* project (funded by the Academy of Finland, 2018–2022, PI Pekka Sulkunen) set to investigate the structures and networks of impact of European gambling industries. This edited collection builds on partnerships in the project, as well as including gambling scholars with expertise from outside the European context.

The global gambling industry is comprised of different actors that employ varying tactics to expand or maintain markets. Operations are also subject to local regulations and pressures. Owing to this diversity in the field of gambling, the current collection is dedicated to case studies on different global contexts and with differing perspectives. The common thread across the chapters is to describe, analyse, and understand how the increasingly global gambling industry operates, what kind of interests it attracts, and what kind of regulatory issues it gives rise to.

This book could not have been possible without the help of many colleagues. We would particularly like to thank Professor Emeritus Pekka Sulkunen for his leadership and inspiration in the *Political Economy of Gambling* project. We also thank Sébastien Berret and Aino Lahtinen for their valuable assistance in the formatting of the manuscripts. We thank Professor Michael Adams and Dr. Ingo

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Helsinki, Finland
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Janne Nikkinen
Virve Marionneau
Michael Egerer

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# Editors & Contributors

## About the Editors

**Michael Egerer** Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland

**Virve Marionneau** Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland

**Janne Nikkinen** Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland

## Contributors

**Peter J. Adams** Professor in Population Health, University of Auckland, Auckland, New Zealand

**Sébastien Berret** Centre for Research on Addictions, Control, and Governance (CEACG), University of Helsinki, Helsinki, Finland

**Tamara Besednjak Valič** School of Advanced Social Studies, Faculty of Information Studies, Nova Gorica and Novo mesto, Slovenia

**Anita Borch** Research Professor at Consumption Research Norway (SIFO), Oslo Metropolitan University, Oslo, Norway

**Christopher Bunn** School of Social and Political Sciences and Malawi Epidemiology and Intervention Research Unit (MEIRU), Malawi Epidemiology and Intervention Research Unit, Lilongwe, Malawi

**Donal Casey** Uppsala University, Uppsala, Sweden

**Michael Egerer** Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland

**Sanju George** Rajagiri College of Social Sciences, Kalamassery, Kochi, Kerala, India

**Johanna Järvinen-Tassopoulos** Public Health and Welfare, Finnish Institute for Health and Welfare, Helsinki, Finland

**Maria Luiza Kurban Jobim** Faculty of Law, UNISINOS, Rio Grande do Sul, Brazil

**John Lwanda** School of Social and Political Sciences, University of Glasgow, Glasgow, Scotland

**Mirna Macur** Angela Boškin Faculty of Health Care, Jesenice, Slovenia

**Gabriele Mandolesi** Lumsa University, Rome, Italy

**Virve Marionneau** Centre for Research on Addictions, Control, and Governance (CEACG), University of Helsinki, Helsinki, Finland

**Samuli Miettinen** Associate Professor of Transnational Law, Tallinn University, Tallinn, Estonia

**Otiyela Mtema** Zaluso Arts Lilongwe, Lilongwe, Malawi

**Fiona Nicoll** Political Science Department, University of Alberta, Edmonton, Canada

**Janne Nikkinen** Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland

**Lawrence Nkhwazi** School of Social and Political Sciences and Malawi Epidemiology and Intervention Research Unit (MEIRU), Malawi Epidemiology and Intervention Research Unit, Lilongwe, Malawi

**Przemysław Nosal** Faculty of Sociology, Adam Mickiewicz University, Poznań, Poland

**Benyne Jos Palayoor** Department of Psychology, Rajagiri College of Social Sciences, Kalamasseryń, Kerala, India

**Vittorio Pelligra** Department of Economics and Business, University of Cagliari, Cagliari, Italy

**Gerda Reith** School of Social and Political Sciences, University of Glasgow, Glasgow, Scotland

**Sara Rolando** Eclectica–Institute for Research and Training, Turin, Italy

**Matthew Stevens** Menzies School of Health Research, Charles Darwin University, Darwin, Australia

**Pekka Sulkunen** Professor Emeritus of Sociology, University of Helsinki, Helsinki, Finland

**Heather Wardle** School of Social and Political Sciences, University of Glasgow, Glasgow, UK

# Introduction

Virve Marionneau, Janne Nikkinen, and Michael Egerer

Before the COVID-19 pandemic, global gambling was worth over 400 billion Euros a year. Despite a decline in the overall value of the industry in 2020/2021 following the economic standstill and closures of gambling venues, the gambling industry is expected to recover quickly (The Business Research Company, 2021).

The gambling industry is comprised of a host of very different actors, ranging from multinational corporations to local operators. Public monopolies and charitable organisations are also adopting increasingly commercial and expansive business models (e.g., Casey, 2018). Operators push their products to an ever-increasing number of customers globally. While gambling was mainly a local, mostly charitable activity a few decades ago, what is now known as *commercial gambling* has become a major global industry (Wardle et al., 2021; Sulkunen et al., 2019; Reith, 2013). This industry is being concentrated into the hands of supra-national corporations that are no longer bound by national borders (e.g., Wardle et al., 2021). This has been attributed to political, economic, and technological shifts, including the development of online and mobile gambling, but also increasingly lax regulations to boost local economies (Sulkunen et al., 2019; Reith, 2002). As Adams (this volume) observes, there are no grassroots movements demanding more availability of gambling. Expansion has been government driven.

V. Marionneau (✉) · J. Nikkinen · M. Egerer
Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland
e-mail: virve.marionneau@helsinki.fi

J. Nikkinen
e-mail: janne.nikkinen@helsinki.fi

M. Egerer
e-mail: michael.egerer@helsinki.fi

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Government-industry partnerships have led to ‘light touch’ regulation and the propagation of ‘responsible gambling’ discourses (Adams, 2008; Cassidy, 2020; Orford, 2011). Sallaz (2006) has described this process as a process of capital conversion, by which regulators attempt to turn their symbolic capital into economic resources, while industry actors seek to turn their economic capital into political influence.

Gambling provides revenue to operators, but also to a larger group of beneficiaries and other industry sectors further down the production chain. In jurisdictions across Europe, Australia or North America, the surplus (the value transferred from gambling to beneficiaries) corresponds to about two per cent of national budgets. For jurisdictions that depend even more on the gambling industry for tax revenue, such as Macau, this share can be up to 40 % (Sulkunen et al., 2019). The beneficiaries of this surplus consist of state budgets and earmarked causes such as sport, education, or culture (see Egerer et al., 2018 (eds.)). The practice of earmarking gambling revenues, while widespread, is characterised as primarily a political tool to gain support for gambling, to silence criticism, and to move the focus away from the social costs of gambling to its tax benefits (Clotfelter & Cook, 1989; Rubner, 1966; Smith, 1998). In both public finance and gambling literature, the practice of earmarking has also been criticised on grounds for inefficiency (e.g., McCleary, 1991; Roukka & Salonen, 2019).

In addition to gambling operators, other industry sectors also participate in the production of gambling. Game development, distribution, marketing, financial institutions, and providers of material contribute to the gambling industry and benefit from it financially (see e.g., Marionneau & Nikkinen, 2020a; Casey; Mandolesi et al., this volume). Gambling also creates jobs and investments in the entertainment and tourist industries, creating additional vested interests, despite many of these jobs or economic benefits being transfers from other sectors rather than a sign of economic development (Marionneau & Nikkinen, 2020b; Grinols, 2004; Morse & Goss, 2010). The term ‘vested interests’ is defined as people or groups who have a financial advantage in supporting a certain situation (James, 2014). As far as such interests are involved in the success of the business, they could also be termed *invested* interests. The approach adheres to the new political economy view that looks at what kind of stakeholders benefit from economic processes.

Global gambling is reaching a point of saturation in much of the global north, but it is still in expansion elsewhere. Industry actors are looking for new markets particularly in the global south (see also Bunn et al.; Berret & Marionneau; Jos & George; Kurban Jobam, this volume), but they are also seeking to maintain and expand consumption in the more established markets of the global north. These processes are accomplished via aggressive marketing efforts, product development aimed at producing increasingly addictive games, but also via political framing of gambling as an ordinary commodity or 'business-as-usual' (e.g., Livingstone & Rintoul, 2020; Livingstone & Woolley, 2007; Orford, 2019; Schüll, 2014; also Reith & Wardle, this volume). While the harms of gambling are reduced to individual vulnerability or responsibility (cf. Besednjak Valič & Macur, this volume), legalised gambling provision is even expanded under the guise of 'channelling consumption to legal markets', 'responding to competition from offshore provision' or 'responding to consumer demand' (cf. Borch; Järvinen-Tassopoulos; Stevens, this volume).

These structures, tactics, and networks of impact of the gambling industry make it particularly difficult to regulate.

Legislators have a financial incentive to legalise and support the growth of gambling markets to protect their own interests (Adams, this volume; Cassidy et al., 2014). Furthermore, the dependence on gambling revenue across the production and beneficiary side of gambling turn large segments of societies into stakeholders or even advocates of gambling (Adams, 2016). Deregulation is then justified as a fair and voluntary method to satisfy the needs of state treasuries and beneficiaries (Jensen, 2017), frequently with reference to competition from abroad (cf. Borch; Järvinen-Tassopoulos, this volume). In Europe, this competition often comes from within the European Union following the legal unclarities under which exceptions to the free movement of goods and services are permitted (see Miettinen, this volume). Globally, actors from mostly unregulated and low tax jurisdictions put further pressure on national regulations.

The increasingly global nature of gambling also creates problems at a global scale. The income effects of gambling are regressive even at national levels, but the expansion of particularly western operators into the global south expands this phenomenon. Gambling consumption transfers vast amounts of money to the benefit of wealthier strata in both host societies and globally (Henricks & Embrick, 2016; Young & Markham, 2017). At the same time, those who pay the costs of gambling lack the power of influence (Nikkinen, 2017; Orford, 2013; Schüll, 2012).

Reducing the harms created by a global gambling industry requires global solutions. As has been the case previously for other exploitative industries such as Big Tobacco or Big Food (cf. Freudenberg, 2014), the harms of gambling are increasingly being exported to jurisdictions with a laxer regulatory approach (Reith et al., 2019). At the same time, the economic and financial interests tend to marginalise social and equality concerns (Nikkinen & Marionneau, 2014; Marionneau & Nikkinen, 2020a). Gambling harms are even at best considered at the individual level, while issues such as (in)vested interests, distributional effects, or the public health impacts of gambling are less systematically considered (e.g., Wardle et al., 2021; Sulkunen et al., 2019; Orford, 2019).

The current volume presents a collection of case studies that connects to the workings of the global gambling industries and to the political economy of gambling. The case studies have been divided into four sections, although there is overlap between many of the topics.

The first part focuses on the structures of the global gambling industry. Gabriele Mandolesi, Sara Rolando, and Vittorio Pelligra give an account on the corporate structure of the Italian gambling industry. Their contribution sheds light on the complicated corporate structures under which gambling is operated, as well as the tight connections of partially liberalised gambling markets with the financial sector. In her contribution, Johanna Järvinen-Tassopoulos describes the competition that a monopolistic state-operator faces in the online markets. This puts both the company and its regulators in a position in which harm prevention may have to take a backseat to competitivity and revenue needs. The analysis of Sébastien Berret and Virve Marionneau focuses on the expansion of the French gambling operator Pari Mutuel Urbain (PMU) into the French-speaking African markets. This expansion has been accomplished by creating affiliations and contracts with local operators which partly removes the responsibility of the French operator while guaranteeing it a steady revenue stream. Finally, Pekka Sulkunen takes a theoretical approach to the gambling market in his discussion on the origins of the gambling surplus. He notes that instead of equivalent exchange, gambling needs to be considered a transfer of wealth between unequal partners as asymmetries of information, transaction, and position between buyers and sellers are insuperable.

The second part of this book focuses on framings and tactics used to normalise gambling in societies. Gerda Reith and Heather Wardle show how gambling has been framed in the United Kingdom as a question of individual responsibility and consumer choice. This framing has slowed down efforts to improve regulation of the industry both within the UK and in the framework of the global expansion of UK-based gambling operators. In their contribution, Tamara Besendjak Valič and Mirna Macur conduct a systematic review into how self-regulation discourses are presented in the research literature. They use social field theory to show how the framing of gambling as a question of individual-level self-regulation prevails while the responsibility of regulators and operators remains more marginal. Christopher Bunn and colleagues tackle similar issues using the example of sports betting in Malawi where commercial gambling is an emerging field. The strategies used by gambling companies to expand to this market include framing sports betting as an economic opportunity but also as a social and community activity. In her contribution, Fiona Nicoll discusses the American experience of neoliberalism and the failing of core institutions which are embodied in the entanglements of gambling with transnational organised crime, as portrayed in the television show Ozark.

The third part of the book focuses on other industry sectors and interests that gambling not only attracts but also maintains. Przemyslaw Nosal gives an account of the 'wealthy marriage' between sport and gambling in Poland. Sport and gambling appear to exist in a symbiotic relationship in which both benefit from one another at least financially. Donal Casey describes the little-known world of gambling test houses. He shows that test houses inhabit a crucial position between regulators and operators, as they possess the expertise the former are lacking. This gives them considerable power in the regulatory process, while also having their own interest in the business. Matthew Stevens presents a statistical overview of electronic gambling machine (EGM) policy changes in the Northern Territory, Australia to argue that EGM numbers are associated with losses as well as problems and harms. A need for better consumer protection appears inevitable but is delayed by revenue-interest of states. Finally, Peter Adams gives an account on the ways in which the gambling industry influences policymakers. He shows how this influence is exerted at the levels of structural processes, framing processes, professional processes, and even interpersonal processes, compounding in a situation in which the industry has significant influence over policy decisions.

The fourth and final part focuses on topical regulatory issues in the global gambling market. Samuli Miettinen gives an overview of the regulatory landscape of gambling within the European Union by focusing on how national restrictions can be justified within the European internal market and what this means to Member States. Anita Borch shows how channelling consumption to national ('regulated') markets is accomplished and what underlying assumptions, meanings, and measures are required to justify this policy. The main argument in favour of channelling is that national provision needs to remain competitive with offshore provision, challenging the use of restricted markets to protect consumers. Palayoor Benyne Jos and Sanju George present an overview of gambling in India, including the structure of the mainly lottery-based gambling industry, social issues, and future directions for the Indian gambling regulation. Gambling is largely prohibited in India, but the market is growing and causing increasing social harm that requires the adoption of a public health approach and overcoming the inertia of policymakers. Finally, Maria Luiza Kurban Jobam gives an account on the current issues regarding gambling regulation in Brazil. Brazil is an interesting market, one in which almost all forms of commercial gambling are banned, following a short-lived liberalisation resulting in negative outcomes. Operators are nevertheless looking for legal loopholes to access the Brazilian market. Alongside India, Brazil provides an intriguing example on how gambling in principle is mostly prohibited but is nevertheless widespread.

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**Virve Marionneau,** PhD, is a postdoctoral researcher at the University of Helsinki Centre for Research on Addictions, Control, and Governance (CEACG). Her research focuses mainly on gambling policies, comparative gambling studies, application of sociological theory, and the political economy of gambling.

**Janne Nikkinen,** Title of Docent in Social Ethics, is university researcher at the University of Helsinki Centre for Research on Addictions, Control and Governance. His research interest related to gambling spans a range of issues, from regulatory and policy affairs to the prevention of gambling harm. He has published extensively on gambling, including several jointly authored and edited books.

**Michael Egerer,** PhD, is a university researcher at the University of Helsinki Centre for Research on Addictions, Control, and Governance (CEACG). His research interests address gambling, gambling regulations and the concept of addiction. He is currently working on the implications of neuroscientific addiction research, the opening of the new casino in Tampere, the future of the Finnish gambling regulation, and an application of sociological systems theory in addiction and gambling research. He is the vice-chair of the Finnish Association for Alcohol, Drug and Gambling Research.

# Part I

# Structures of the Global Gambling Industry

# The Gambling industry's Corporate Structure in a Partially Liberalised Market

Gabriele Mandolesi, Vittorio Pelligra, and Sara Rolando

## 1 Introduction

With the arms, tobacco and alcohol industries, the gambling sector represents an archetypical 'sin industry'. The rationale for the need for public intervention and regulation stems from the existence of associated negative externalities that affect consumers' and, more generally, citizens' welfare. In particular, in the gambling industry, the negative externalities go beyond individual problems related to addiction and include social harms in health, poverty, social relationships and crime (Sulkunen et al., 2019, p. 51).

Each country has its own specific regulation on gambling activities, which may vary even within the same jurisdiction (see Egerer et al., 2018), consequently also the gambling industry structure is highly differentiated. However, such different regulations can broadly be identified as falling into two main paths: the establishment of a monopoly regime, where the national governments conduct the activities directly through companies that are fully controlled by the State (e.g., Finland, Norway), and the promotion of a licence-based system, where private companies are allowed to operate in the market under public

G. Mandolesi (✉)
Lumsa University, Rome, Italy

V. Pelligra
Department of Economics and Business, University of Cagliari, Cagliari, Italy

S. Rolando
Eclectica–Institute for Research and Training, Turin, Italy
e-mail: rolando@eclectica.it

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concessions or licences. The latter path is the one followed by the Italian government. In Italy, the Customs and Monopolies Agency (Agenzia delle dogane e dei monopoli, ADM) is the public authority under the Ministry of Economic and Finance's control, regulating and supervising the functioning of the gambling market. The gambling operations are transferred to private companies selected by public tender. Concessionaires act as intermediaries in the gambling chain and are responsible for the tax collection on behalf of the State.

In Italy, 'liberalisation' of the gambling market policy started in the early nineties (Rolando & Scavarda, 2018), which led to a huge increase in the offer and demand for gambling products (Markham & Young, 2015): in 2019, the total gambling expenditure peaked at the record high of 110 billion EUR for all betting (ADM, 2019). Notably this increase continued during the 2008–2010 economic recession (Capacci et al., 2014), when the consumption of essential goods (e.g., food and health) experienced a sharp decrease (Mandolesi & Pelligra, 2018). In parallel, a heated public debate on gambling broke out. Since the early 2000s, the negative social impact of gambling became evident, and several local administrations, urged by civil society and activists, started to set limits on the gambling offer, particularly on the number of electronic gambling machines or EGMs (Rolando et al., 2020).

Despite the substantial growth in the scientific literature on gambling in recent times, there is still a lack of knowledge about the organisation of the gambling industry, its structure, and implications. We have witnessed a significant change over time of the market's structure globally, which is characterised by two main trends: the internationalisation of the gambling companies and the concentration of ownership into a small number of large transnational corporations (Sulkunen et al., 2019). However, investigations into the gambling companies' specific features and how they can affect the relationship between the public and private interests are almost absent in both lay and scientific debates.

By focusing on the Italian market, this chapter aims to shed light and elaborate on some characteristics of the gambling companies operating in a liberalised context. In particular, we will analyse the companies' corporate structure with a focus on ownership. We will elaborate on the relevance of financial actors both as stakeholders and shareholders, showing that banks, private equity, and trusts exercise a significant influence when private companies manage the gambling market.

These critical implications of a liberalised market will be highlighted, showing a diffused lack of transparency and the great lobbying power used to influence regulations (Panichi, 2013; Markham & Young, 2015; Knight, 2017; Matthews, 2018).

## 2 Methodology

Table 2.1 lists the five companies operating in the Italian gambling market under analysis and their market share.

These companies were selected as they are among the main actors in the Italian market whose financial data are available (see also Marionneau et al., 2020).

The Snaitech Group is the leading operator in the Italian retail betting market and one of the EGM market's main players. It has been listed on the Italian Stock Exchange (Borsa Italiana) until 2018. In 2017, it owned 12% of the total gambling market.

The group offering, at a national level, primarily includes the following types of games: (i) EGMs; (ii) sports bets, horse racing bets and virtual event bets on both retail and online channels; (iii) bingo, skill and casino games; (iv) payment services (utility bill payment, mobile top-up, phone or gift cards); (v) management of horse racing tracks in Milan (Trot and Gallop) and Montecatini. Additionally, the group offering also includes (i) bet services provided to independent concessionaires. Snaitech, in 2017, owned more than 60,000 EGM individual licences (11% of the total licences).

The Sisal Group operates in Italy in the gambling and betting market with a full spectrum of products in the retail channel and the online channel, offering a wide product range that includes (i) EGM; (ii) betting; (iii) lotteries; (iv) online games (such as poker and casino games) and (v) bingo. Sisal operates as a monopolist in managing the lottery 'Superenalotto', which offers the highest money prize of the whole gambling market. Its strength is represented by an extensive network of point of sale and retailers (branded or affiliated), totalling more than 48,000 in 2017.

**Table 2.1** Selected gambling companies operating in the Italian market

| Group | Game portfolio | 2017 Italian market share |
|---|---|---|
| IGT | Lottery, EGMs, betting, online casino, bingo, Scratch &Win | 28% |
| Snaitech | EGMs, betting, bingo | 12% |
| Sisal | Lottery, EGMs, betting, online casino, bingo | 8% |
| Gamenet | EGMs, betting | 7% |
| HBG Gaming | EGMs, betting, bingo | 4.5% |

Source: Marionneau et al., 2020

The Gamenet Group operates in the Italian gambling market with a selection of products ranging from EGM to betting, online gambling and retail and street operations. The group was established in 2016 with the acquisition by Gamenet SpA of Intralot Holding SpA, one of the market leaders in the sports betting sector. As of December 2017, the group owned almost 50,000 individual EGM licences and operated in the betting sector through 750 Intralot branded sales points. As of December 2017, its market share was seven per cent and it was listed on the Italian Stock Exchange.

The HBG Gaming Group offers products ranging from EGM to bingo, online gambling and horse and sports betting. As of December 2017, the group owned more than 33,000 EGM individual concessions, 18 bingo halls and 52 gambling shops with 761 employees; it owned 4.5% of the Italian total market share.

International Gaming Technology is the world's leading gambling company, operating in more than 100 countries. It has about 13,000 employees (2017 data) and a product and service portfolio, including lottery management services, EGMs, instant and online lotteries, instant ticket printing, sports betting, and interactive games, all of which produce revenues of five billion EUR. The company is headquartered in London. Its two main operating facilities are in North America and Italy, and it has 182 companies belonging to the group. IGT is listed on the New York Stock Exchange (NYSE:IGT).

For each of these companies, the following variables were investigated:

- *Number of companies belonging to the group:* Indicates the number of legal entities that were part of the group on 31 December 2017 and provides an idea of each group's size and structures. Usually, one holding company owns all the other companies in the group, either directly or indirectly, through one or more sub holdings. A typical feature of this corporate structure is the 'specialisation': each legal entity provides specific goods or services for the market (EGMs, lottery, online betting) or other group companies (e.g., IT services, payroll and administration, financial services).
- *Financial institution as shareholders:* Indicates whether these multinational groups were directly or indirectly owned (totally or partially) by banks, private hedge funds, venture capital, pension funds or trust funds.
- *Financial liabilities and financial interests:* These data reported in the consolidated financial statements represent the group's overall financial debts and interest worldwide. By financial debt, we mean debt from a bank for loans, financial debt for bond issues and any other financial debt. These amounts give us an idea of both the group's size and the 'weight' of banks and financial institutions as stakeholders.

- *Debt Covenants:* Agreements between the company and lenders (investors, creditors, or debt holders) set limits on the action of the borrower to reduce the risk of insolvency (Comiskey & Mulford, 2002). Covenants can be 'affirmatives', when they require a borrower to perform specific actions (e.g., respecting the minimum financial ratios and furnishing audited financial statements to the lender). They can also be 'negatives', when they are put into place to make borrowers refrain from specific actions (e.g., paying dividends to shareholders above a certain amount, merger and acquisition operations). In the case of debt covenant violations, companies may face various financial consequences, such as possible demand penalty payments, increases in the amount of collateral, acceleration of debt maturity, increases in the interest rate and, in the worst scenario, the immediate full repayment of the debt (Beneish & Press, 1995). Through such agreements, therefore, financial institutions can influence management's choice and companies' operations.
- *Managers' and executives' incentive plans:* Especially in large multinational companies pay levels are usually composed of various forms of compensation: salary, bonuses, insurance, short- and medium-term incentives and stock options. The result is that the fixed amount is often just the minor part of the payment, lower than the variable part based on the company's performance. As a result, the executives are highly motivated to achieve those companies' economic and financial goals that maximise their pay. We investigate these elements as the executive's incentive plans are a potential element that, in a liberalised gambling market, may generate a conflict of interest between the social call for a reduction in gambling offers to lower the negative externalities and the executive's private interests in maximising the companies' profit to achieve their variable payment's part.

## 3 Variables' Analysis

The results of the variables' analysis of this paragraph are summarised in tab. 2.2. Given the lack of scientific literature on corporate gambling industry analysis, we could not rely on any specific method or practice to select such variables. Instead, we considered them the best indicators for this study.

**Tab. 2.2** Summary of results

| Group | N° of companies belonging to the group | Financial institution as shareholders | Financial liabilities EUR/000 | Financial interests EUR/000 | Debt covenant | Managers and executive's incentive plans |
|---|---|---|---|---|---|---|
| Snaitech | 10 | Yes | 581,514 | 41,450 | Yes | Yes |
| Sisal | 6 | Yes | 750,539 | 57,185 | Yes | No |
| Gamenet | 17 | Yes | 215,730 | 16,790 | Yes | Yes |
| HBG Gaming | 12 | Yes | 3,918 | 1,960 | No | No |
| IGT | 182 | Yes | 8,376,559 | 458,899 | Yes | Yes |

## 3.1 Number of companies belonging to the group

As seen in tab. 2.2, the number of companies belonging to the selected groups as of 31 December 2017 varies between the six of the Sisal Group and 182 of IGT.

If we look at the data on the Italian companies' size in 2017, it is undeniable that the selected groups are much bigger than average. According to the Italian National Institute of Statistics' report (ISTAT, 2018), only five per cent of the Italian companies are structured as a group. Only 6.4% of them are *large*[1] or *very large groups.*[2] As all six groups fit into these definitions, we can conclude that they are among the biggest in the overall Italian market. It is not difficult to realise that the dimension of these groups along with the fact that they operate as oligopolists in an only partially liberalised market give them a huge market power as well as the possibility to influence the regulators' approach to the whole industry.

[1] Under the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013, the large groups consist of parent and subsidiary undertakings to be included in a consolidation and, which on a consolidated basis, exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking: a) balance sheet total: EUR 20,000,000; b) net turnover: EUR 40,000,000; c) average number of employees during the financial year: 250.

[2] The definition of very large group was provided by Eurostat as a group, which, on a consolidated basis, exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking: a) balance sheet total: EUR 500,000,000; b) net turnover: EUR 1,000,000,000; c) average number of employees during the financial year: 5,000.

## 3.2 Financial institution as shareholders

Given that one of the aims of this work is to investigate the financial sector's influence on the companies operating in a partially liberalised gambling market, we inquired whether financial institutions directly or indirectly own the six groups. As we will show in this paragraph, the result is that all of them have at least one financial institution (as defined in the methodology paragraph) among their shareholders. This can be easily seen as a symptom of the expectations about the high profitability of the gambling sector in Italy.

The Snaitech Group, as of 31 December 2017, was composed of ten companies, the controlling holding, Global Games SpA, equally owned by Global Entertainment and Global Win. Global Entertainment is a Luxembourg-established company owned by Investindustrial IV Build-Up L.P. (L.P. private equity fund established in London). Global Win is an Italian-established company with 99.9% ownership by Venice European Investment Capital SpA, which is owned by Palladio Holding SpA. Furthermore, OI Games SA, owned by the Orlando Italy fund, owns 15% of the group.

The ownership structure of the Snaitech Group is complex. It comprises a chain of private investment funds. One of these was established in a low-tax jurisdiction (Luxemburg), with no information about who the group's real owners are (and so who the actual final economic beneficiaries are).

The Sisal Group was composed of the holding company, Sisal Group SpA, which was 100% owned by Schumann Investment SA (a Luxembourg-based company), which was in turn controlled by the British private equity CVC Capital Partners. As for the Snaitech Group, we find the same features: a complex chain of companies based in a low-tax rate country, a private equity fund as the final owner and hardly any information about who the final beneficiaries are.

The Gamenet Group SpA (the holding company) is 20% owned by the Netherlands Intralot Investment BV (which is, in turn, 100% owned by the Greek-based company Intralot SA). It is also 45% owned by TCP Lux Euroinvest Sàrl, a global private equity company. As reported on the TCP official website, almost 40% of its investors are represented by insurance companies and banks and 20% by pension funds.

The Gamenet Group is a typical gambling multinational firm operating worldwide and controlled by a special purpose entity and private equity funds that, in turn, are mainly owned by other financial institutions.

Regarding the HBG group, the holding company, HBG Gaming Srl, is 99% owned by Yhank Capital Srl, which in turn, as of December 2017, was 100% owned by a trust company: Cordusio Società Fiduciaria SpA. Under Italian law, a trust company is a legal entity that acts as a fiduciary, agent, or trustee on behalf of a person or business for administration, management, and the eventual transfer of assets to a beneficial party, hence safeguarding the anonymity of the actual owners. Therefore, once again, the HBG Gaming Group's owners are unknown. The only thing we know is that as of December 2017, Cordusio Società Fiduciaria SpA was a company 100% owned by a bank: Unicredit SpA.

Surprisingly, despite its vast size and complex structure, the IGT group was one of the few companies with a transparent shareholding structure. It was 50.49% owned by the De Agostini Group, which, in turn, was 1.46% owned by Assicurazioni Generali SpA, with the remaining part by B&D Holding, a company 100% controlled by the Drago and Boroli families.

## 3.3 Financial liabilities, financial interests and debt covenant

In the previous section, we focused on the importance of financial institutions as shareholders. Now, with the analysis of these three variables (analysed jointly as they strictly connect with each other), we will investigate the role of such institutions as stakeholders. For each group, we looked at the financial liabilities and the related interest expenses, calculating which percentage they represent, respectively, of the group's total liabilities and expenses. We also looked at the presence of a debt covenant to understand the power of the financial institutions to influence the groups' operability.

Regarding the Snaitech Group, in 2017, the total amount of financial liabilities was 581 million EUR, of which 559 million EUR were represented by bond issues. The financial liabilities represented 72% of the group's total debt. Of this amount of financial debt, in 2017, the Snaitech Group reported financial costs of 41 million EUR (five per cent of the total cost) mainly referred to interest on bonds.

On these bond issues and bank loans, the group has signed debt covenants that set 'restrictions on dividend distribution until the expiration of bonds, restrictions on the early repayment of bonds, restrictions on new financial indebtedness, new specific investments and disposal of corporate assets and properties. Some default events are also specified, which lenders may request early repayment in whole or in part of the loans' (Snaitech Consolidated Financial Statement, 2017, p. 141). Also, the group must respect certain economic and financial ratios.

Furthermore, the Snaitech Group entered into bank guarantees with 11 financial institutions for a total amount of 203 million EUR.

The total amount of the Sisal Group's financial debts in 2017 was 751 million EUR, representing 49% of the total group's total liabilities. Almost 95% of these financial liabilities are represented by bonds issued at the end of 2017, and the remaining amount is a loan obtained from a pool of banks. As reported in the consolidated financial statement,

> The loan agreements in place do not envisage maintenance covenants, but in any event require compliance with a series of financial covenants on the ssRCF (loan from a pool of banks) facility such as the guarantor coverage test and quarterly calculation of the leverage ratio, which also determines the applicable margin on the facility. Regarding the loan agreements, the group is in any event required to satisfy a series of restrictions which, among others, place limits on:
>
> i) entering into merger, spin-off, corporate restructuring and joint venture transactions,
>
> ii) carrying out acquisitions or investments, iii) carrying out acts disposing of all or part of its assets and iv) increasing financial debt. Exceptions to these restrictions are permitted, on authorisation from the lending banks and by the noteholders' (Sisal, 2017, pp. 65–66).

The financial expenses on such financial debts were 57 million EUR, representing 7.7% of the total operating costs.

As of December 2017, the Gamenet Group's financial liabilities were 216 million (Gamenet, 2017) EUR and were mainly composed of bond issuances, which represented 59% of the group's total debts. The financial agreements contained provisions related to covenants, forcing the group to achieve some economic and financial target (e.g., as maintaining 'consolidated Earnings Before Interest, Taxes, Depreciation and Amortisation (EBITDA)' levels above the minimum level defined in the agreement). They also imposed restrictions on the distribution of dividends to the shareholders that can be paid solely within certain limits and under certain specific conditions. The amount of financial interest in 2017 was 17 million EUR, i.e., three per cent of the total costs.

Unlike the groups analysed so far, the HBG Gaming had a low level of financial liabilities: 3.9 million EUR of bank debts, representing 2.5% of the total liabilities, with 1.9 million EUR interest, but only a small part of these was referred to as bank debts. Consequently, the group had no significant covenant to respect. Financial institutions played an important role as stakeholders as the group took out 75 million EUR in bank and insurance guarantees (HBG, 2017).

Looking at the IGT's Group financial position as of December 2017, it had 8.3 billion EUR of financial debt (almost 67% of total liabilities) (IGT, 2017), which was mainly composed of obligation issues and long-term loans with banks.

These loan agreements contained customary covenants (maintaining a minimum ratio of EBITDA to net interest costs and a maximum ratio of total net debt to EBITDA) and events of default. The financial interests were 458 million EUR, representing 7.7% of the total cost.

### 3.4 Managers and executives' incentive plans

Finally, as explained in the methodology section, we looked for approved incentive plans for managers and executive as a potential conflict of interest between the public (harm reduction) and private (maximising profit) goals. As shown in Tab. 2.1, three of the five groups have such incentive plans: Snaitech, Gamenet and IGT.

Regarding the Snaitech Group, we have not found any details about such plans. Regarding the Gamenet Group, in 2017 it approved incentive plans for executives by assigning stock options for the three-year period of 2018–2021. There are no data on the value of executive variable compensation in 2017. However, looking at the 2018 consolidated financial statement, the value of the stock options was about one million EUR (Gamenet, 2018).

The IGT group, in 2017, had a structured executive's compensation plan, where the fixed salary was just a small amount of the total compensation: in 2017, the CEO Marco Sala had a total remuneration of 12 million EUR, with a fixed salary of one million EUR (less than ten per cent of the total remuneration) and the remaining amount composed of variable elements such as benefits, annual bonuses, stock options and pension benefits. The value of the share options granted in 2017 was more than six million EUR.

Unsurprisingly, all these incentive plans are based on the economics and financials companies' results and not on any harm reduction or consumer protection indexes.

## 4 Discussion

We analysed five of the biggest companies operating in the Italian gambling market (and worldwide), focusing on the types of corporate structure put into place by the groups operating in a partially liberalised market. Furthermore, we investigated the role of financial institutions as shareholders and stakeholders and the presence of covenant and incentive plans for executives as a possible source of conflict between public and private interests.

The main findings show that the groups operating in a partially liberalised market first set up a corporate structure with a holding company that owns the operating subsidiaries. In turn, that holding company tends to be owned by a chain of other legal entities that, in many cases, are private equity companies or trusts operating globally and that are based in low-corporate tax rate countries. In some cases, the groups are listed on the stock exchange. Even if we exclude the ethical problem of these low-tax jurisdiction-based entities, there is the serious matter of the absolute lack of ownership transparency despite the law (DL 218/2012). This legal provision explicitly provides for the identification of all shareholders directly or indirectly owning at least two per cent of a gambling company. Surprisingly, Italian institutions allow groups with such opaque structures to operate under public concessions, especially in the Italian gambling market, where, as stated by the Anti-Mafia Investigative Agency (DIA, Direzione Investigativa Antimafia), the level of criminal infiltration is high (DIA, 2019).

Furthermore, such a lack of transparency does not help prevent potential conflicts of interest between the regulator and concessionaires or deter revolving door practices. In 2013, some Italian senators presented an investigative act (Investigative Act, 2013) claiming that some political parties received funds from the gambling industry and that several former politicians had started to work for the industries, such as Augusto Fantozzi (1940–2019), former Minister of Finance and Minister of Foreign Trade. He was nominated in 2010 for the president of Sisal position.

Second, the findings show that the financial sector is—if not the most important—one of the main stakeholders of the gambling companies operating in a liberalised market. All the companies considered are directly or indirectly owned by financial institutions. Moreover, unlike the monopolist model where the national government controls 100% of the gambling companies (e.g., in Finland and Norway), these groups must find their financial resources on the market; therefore, they issue bonds and sign loan agreements with financial institutions. As shown in our analysis, in many cases, the amount of financial liabilities and interests is relevant compared to the total amount of liabilities and costs. Furthermore, in some cases, the groups entered into guarantees with several banks and insurance companies to finance their businesses.

Third, we showed how lender banks require the respect of certain covenants (e.g., limitation of dividend distributions and targeting some economic and financial ratios) by these groups, making their influence on business operations even more powerful. The data also showed that some groups had approved executive incentive plans, binding executive compensation to the groups' economic results. Combining these two elements (covenants and incentives) creates a serious and dangerous conflict of interest between financial institutions and executives' private interests and the public interest. Furthermore, it should be noted that the latter could be better framed as 'public good', an activity whose benefits are shared by a whole community, not only by some parts of it (Nikkinen & Marionneau, 2014). Differently, a conflict of interest is present also within the public sphere, as is evident in Italy by the long-standing dispute between the State and Regions (Rolando et al., 2020). This conflict of interest started in the early 2000s when local administrations tried to reduce gambling activities' harm by imposing limits on expanding the offer. However, the State disputed these impositions as these policies reduce multinational groups' revenues and profits and public revenues, on which the State is increasingly dependent, leaving the local administration to face the social and health consequences of gambling (Rolando & Scavarda, 2016; Bassoli et al., 2020). The global industry-state gambling complex's growth has been driven by political processes and economic imperatives, rather than by changes in the market demand (Markham & Young, 2015; Livingstone & Adams, 2011). The long Italian debate between the state and the local administrations makes evident the lobbying power of the gambling companies and the fact that, despite the growing negative attitude towards gambling among civil society, the government is clearly reluctant to set limits (Rolando et al., 2020).

Finally, the groups operating in a liberalised market simply behave as any for-profit companies operating in other sectors. However, we argue that this view is dangerous because the gambling sector is very complex, with specific features given by its negative externalities. A serious public debate on the consequences of a liberalised market will be required if we want to reach a balance between public and private interests, considering the need to broaden the notion of public interest to include not only the revenues provided by gambling to governments but also the detrimental effects that it produces on communities and individuals, especially disadvantaged people (Sulkunen, 2018).

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**Gabriele Mandolesi,** PhD at Lumsa University of Rome, is an economist and tax consultant. His main research field is the history of economic thought, with a focus on the Italian Civil Economy tradition, and gambling from a socio-economic perspective.

**Vittorio Pelligra,** (PhD, UEA) is associate professor of economics at the University of Cagliari. He is a behavioural economist who works at the intersection between economics, psychology and neurosciences and is interested in the theoretical, behavioural and institutional implications of social preferences and pro-sociality. He has published extensively on trust, reciprocity, empathy, intentionality and human hyper-sociality.

**Sara Rolando,** PhD, sociologist, has been working as a social researcher at Eclectica (Turin) since 2007 and is adjunct professor at the University of Torino. An expert in qualitative, web-based, and comparative methods, her main research interests are alcohol, gambling, drugs, and other addictive behaviours, which she has been investigating from different perspectives including cultures, careers, prevention, policies.

# State-Owned Gambling Operation in a Global Competitive Environment

Johanna Järvinen-Tassopoulos

## 1 Introduction

Online gambling is a very lucrative form of business (Banks, 2014, 2017). The dramatic expansion of the online gambling industry has not occurred only due to the growth of unregulated and illegal online gambling, but also because of the liberalisation of gambling regulation and the commodification of online gambling products and services (Sulkunen et al., 2019; Kingma, 2008; Young, 2010). Multinational gambling operators are not the only ones who want to profit from economic globalisation, as governments are equally eager to profit from it (Myllymaa, 2017).

Finland's Veikkaus is a state-owned gambling company, which has a nationwide monopoly on casino games, lotteries, electronic gambling machines (EGMs), sports and horse betting and online gambling. Since 2017, it has also been a special assignment company steered by the Prime Minister's Office's Ownership Steering Department. The Finnish Lotteries Act (1047/2001) defines the gambling company's purposes, which are gamblers' legal protection, preventing malpractices and crimes, and preventing and limiting economic, social, and health-related harms (Lotteries Act 1286/2016, Sect. 12).

State-owned gambling operators may have difficulties channelling demand for their gambling products and services online, as their offer may not be attractive enough for the savvy customers (Papineau & Leblond, 2011; Nadeau et al., 2014, also Borch, this volume). To help Veikkaus succeed, the Finnish government has

J. Järvinen-Tassopoulos (✉)
Public Health and Welfare, Finnish Institute for Health and Welfare, Helsinki, Finland
e-mail: johanna.jarvinen-tassopoulos@thl.fi

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also outlined that it must be legally ensured that Veikkaus can evolve and renovate its operation in a changing environment (Rydman & Tukia, 2019).

The purpose of this qualitative study is to examine the factors and the measures that are seen to help a state-owned gambling company to be competitive online. Representatives of Veikkaus and public servants engaged in regulation, in ownership steering, in the prevention of gambling harms and in the allocation of gambling proceeds, were interviewed for this study. My research questions are the following: How does a state-owned gambling company respond to competition online? What are the measures used to deal with gambling demand and the loss of proceeds abroad? How do the interviewees position themselves in the discussions on online gambling operation, gambling legislation and prevention of gambling harms?

**Theoretical background**

Competition is continuous in the online gambling industry. Regulatory systems in various jurisdictions restrict gambling offer and demand in different ways, and gambling companies operating on the global market are both public and private, licensed and unlicensed (e.g., Hojnik, 2018; Littler & Järvinen-Tassopoulos, 2018). Finland's case is particular in the European Union: as other Member States have opened partly their gambling markets to international gambling providers, Finland has been maintaining and strengthening its monopolistic gambling regime for the past ten years (Nikkinen, 2014; Marionneau, 2015; Cisneros Örnberg & Hettne, 2018; Selin, 2019; see also Miettinen, this volume).

To understand the nature of the competition online that opposes and unites different parties, and the pressure this competition has on these parties, I apply Belgian political theorist Chantal Mouffe's (2005) thoughts on 'antagonism' and 'agonism' in my analysis. The themes analysed in this study are 'political questions' that, according to Mouffe (2005, p. 10), 'always involve decisions which require us to make a choice between conflicting alternatives'.

What is interesting in Mouffe's (2005, p. 15) way of thinking is the analysis of social and political 'collective identities' from a dichotomous point of view. There is often a sense of 'we' in public discussions and political debates, but it exists only by the demarcation of a 'they': 'we' and 'they' may be an antagonistic pair, but not necessarily (Mouffe, 2005, p. 15). But if these positions are antagonistic and 'each negate the symbolic universe of the other', they cannot be reconciled (Venman, 2013, p. 174). Also, antagonism can be perceived as an 'uncompromising conflict between those who share no symbolic unity' or a 'battle between enemies' (Venman, 2013, p. 167; Minkkinen, 2020). An 'antagonistic struggle' is 'the very configuration of power relations around which a given society is structured' and in this struggle, the opposing 'hegemonic projects' can never be reconciled 'rationally' (Mouffe, 2005, p. 21).

On the other hand, agonism can be understood as a 'conflict played out within a shared symbolic universe' or a 'conflict between adversaries' (Venman, 2013, p. 167; Minkkinen, 2020). According to Mouffe (2000, p. 13), agonism can be defined as a 'different mode of manifestation of antagonism', because it involves a relationship between 'adversaries', which can be seen as 'friendly enemies' as they share a 'common symbolic space', but they may also want to organise this space in their own way. Mouffe (2000, pp. 15–16) believes that in an 'agonistic democracy', conflict and division are 'inherent to politics'.

The theoretical dichotomy between antagonism and agonism can help us understand the power relations and political positions that may emerge from the qualitative interview data. As a state-owned special assignment company, Veikkaus must negotiate its operative position both with the ownership steering department, which belongs to the Prime Minister's Office, and with the Ministry of the Interior (and the National Police Board) which regulates and controls gambling operations, and provides gambling-related laws and decrees. In addition, Veikkaus has a duty to prevent and limit gambling harms in dialogue with the Ministry of Social Affairs and Health.

## 2 Data and methods

This qualitative study is based on thematic interviews (N = 17) conducted among Veikkaus' representatives employed in the executive team, in the board or in the administrative board, and among public servants engaged in gambling regulation, in ownership steering, in the prevention of gambling harm, and in the distribution and reception of gambling proceeds. The potential interviewees were contacted by e-mail or by phone. Those who agreed to be interviewed could opt to receive the thematic questions in advance and had the right to decline to participate in the study at any time. Additionally, the interviewees were guaranteed anonymity in order to protect their identity. Interviewing experts was quite challenging as the interview became a game of power where in some cases I was treated as a novice and part of 'them' (Obelené, 2009). I also felt pressured to criticise the current ownership steering situation while preparing this study. The interviews were conducted face-to-face (except one by phone) between winter 2018 and spring 2019 and they lasted from 40 min to two hours. The interviews were transcribed verbatim.

The method used to analyse the data is qualitative content analysis (Graneheim & Lundman, 2004). First, the qualitative data was read several times and then coded with the help of the Atlas.ti software into 'meaning units'. These meaning units, which included sentences from the interviews, were then transformed into 'condensed meaning units' including plain words. Finally, these condensed meaning units were abstracted into 'codes'. These codes were then grouped into categories, such as 'competition and competitiveness', 'channelling and blocking measures', 'gambling abroad', 'regulation of Veikkaus and other online gambling companies', 'illegal and unlicensed gambling operation and 'gambling limits and harms'. These categories were then regrouped into themes, which are presented in the results (on the process, see Graneheim & Lundman, 2004, pp. 107–109). The quotations are marked with VE (as the representatives of Veikkaus) and PS (as public servants), and they were numbered according to the order in which the interviews were saved as primary documents in the Atlas.ti software.

**Results**

The interviews were conducted roughly two years after the merger of the three Finnish gambling companies (Veikkaus, RAY and Fintoto) that occurred in 2017 (Littler & Järvinen-Tassopoulos, 2018; Selin, 2019). The new state-owned gambling company, also named Veikkaus, launched an online gambling site and created a new business strategy aimed at strengthening the company's competitiveness online (Veikkaus Oy, 2018). The results highlight four parties that seem to be in an antagonistic or agonistic relationship with one another: 1) the representatives of Veikkaus, 2) the public servants employed in ownership steering, 3) the regulators and the public servants working in prevention of gambling harms, and 4) the foreign-based gambling operators and PAF. The first three parties have been interviewed for this study, because they have participated in the establishment and regulation of online gambling operation and they are interested in the possible harms competitiveness online may cause. The fourth party is merely virtual as its representatives have not been interviewed, but they are present in the discussions on online gambling markets. The foreign-based operators refer to any gambling company established in a jurisdiction other than Finland, whereas PAF (Penningautomatföregning) is based on the autonomous but Finnish Åland islands outside mainland Finland (Lerkkanen & Hellman, 2021). The discussions among the first three parties reveal different positions, roles and arguments, which creates dissenting views of Finnish gambling policy, ownership steering, and gambling regulation.

## 2.1 The role of competitiveness in a monopolistic gambling system

In 2018, the aim of Veikkaus' strategy (2019–2021) was to strengthen its capacity 'especially in the competitive digital channel', which required renovation of its operational skills and measures (Veikkaus, 2018, p. 5). Despite the fact that online gambling is considered a 'recent phenomenon', it is a fast-growing business, which has 'generally increased the overall exposure of people to games of chance' (Planzer, 2014, pp. 192–193). This means that state-owned gambling operators may have to compete with other licensed and unlicensed gambling operators for customers, and states may lose proceeds and tax revenues in the process.

Many representatives of Veikkaus discussed the importance of competitiveness on the Internet, which they depicted as a vastly changed gambling environment in recent years. They discussed competitiveness in relation to Veikkaus' monopolistic status as a gambling operator:

> In order to be functional, the monopoly [of Veikkaus] must be competitive enough in relation to the [international] offer, which targets Finnish gamblers, especially online. Competitiveness would allow us to make sure that Finns would gamble within the monopolistic context. Our point of view is that [our gambling company] offers a more responsible alternative to the external offer. (VE9).

Some representatives of Veikkaus expressed that the Finnish gambling company would not be sufficiently competitive online for different reasons. In their opinion, in order to improve Veikkaus' competitiveness, it would need more investments in technological development and in the development of new products and services. Other representatives pointed out the different offers (e.g., welcoming bonuses, free games) and bigger pay-out ratios (e.g., in sports betting) that were allowed for foreign-based gambling operators, but not to Veikkaus due to Finnish legislation.

> We really should open our operation to new areas of business and this opening eventually needs a political blessing. By 'new areas of business', I mean [enhancing our] competence in gaming design, in development of new games and so on. (VE19)

On the other hand, some of the public servants working in prevention disputed the fact that Veikkaus would not be sufficiently competitive. Firstly, they referred to the Finnish Lotteries Act, which prescribes the monopolistic gambling company's primary purposes, which do not include the gathering of gambling proceeds. Second, the development of new products and services was seen as problematic especially if Veikkaus would sell them to other gambling companies as a state-owned special assignment company. Third, the issue of competitiveness was seen differently by these public servants as Veikkaus is the sole gambling company in Finland.

> In gambling matters, the interest lies in the fact that gambling proceeds are distributed to associations, culture and sports. In my opinion, that is why Veikkaus was placed under the steering of the Prime Minister's Office: it will be coached into competitive condition in order to respond to international competition on the global gambling market. I think that prevention of gambling harms is thought to be a nuisance that must be managed in some way or the other. Then again, the opening of the Finnish gambling market is not an issue due to beneficiaries' interests. (PS6).

In this excerpt, the public servant seems to criticise not only the idea that a monopolistic gambling company should be competitive, but also the reasons why the Finnish gambling monopoly is maintained. In the Finnish case, the gambling proceeds are collected for public purposes, which are named in the Lotteries Act, and are distributed through the Ministries of Education and Culture and Agriculture and Forestry, and the Funding Centre for Social Welfare and Health Organisations (STEA) (under the Ministry of Social Affairs and Health). Thus, the gambling proceeds are 'earmarked' for 'good causes': they keep the civil society organisations funded but also dependent on this earmarked money (cf. Adams, 2016; Nikkinen et al., 2018). But if gambling 'is seen as just like any other business activity in the entertainment domain' (Orford, 2011, p. 174; 2020), the government may have a vested interest in expanding gambling operation, even though it is state-owned and steered by the state.

> What we know about neighbouring states [Sweden and Denmark] and elsewhere is that when their ability to channel gambling has weakened, it is eventually not a happy result for anyone. The [domestic] gambling companies have withered, and they have not been able to remain internationally competitive. This has led to the contraction of domestic companies and to transferring the license proceeds to the state budget. (PS18).

Here, the examples of other Nordic states are used to explain what could happen to the Finnish gambling system if the state-owned gambling company is not sufficiently competitive. As Denmark in 2012, Sweden opened its online gambling market to licensed international operators in 2019 (Forsström & Cisneros Örnberg, 2019). Before that, online gambling had increased on unlicensed sites and the state had limited possibilities for regulation and for taxation (Cisneros Örnberg & Hettne, 2018).

Even though Veikkaus' operational features and limits are prescribed in the Lotteries Act, it is steered by the Prime Minister's Office. This means that the state has a voting right in the company's general meetings and it can contribute to the company's administration and operational principles according to the State Shareholdings and Ownership Steering Act (1368/2007).

> If I genuinely think about it, at that moment when [Veikkaus] no longer produces economic growth, which leaks abroad, well, then the company does not exist anymore. The state will no longer be interested in it. Veikkaus will be sold and then we will have a license market [in Finland]. This is a cold, calculated game. (VE2).

In 2013, the European Commission (EC) closed an infringement procedure against Finland on the compliance of its national provisions with EU law (EC, 2013). Nevertheless, there can be new issues that may put the monopolistic gambling regime as risk, such as establishing an expansive gambling policy (or encouraging consumers to participate in gambling), international cooperation with other gambling companies and international game design cooperation (which do not comply with the initial aims of the monopolistic regime) (Rydman & Tukia, 2019).

The discussion on competitiveness reveals two opposite positions in the data. On one hand, Veikkaus' representatives depict the online gambling market as a vast digital environment with antagonistic forces. The Finnish gambling company does not share any 'symbolic unity' (Venman, 2013, p. 167) with its international (licensed or unlicensed) competitors, as it is bound by the Finnish Lotteries Act and decrees. On the other hand, Veikkaus shares legislative unity with its owner (the state), the regulators and the public servants preventing gambling harms, even though its relationship with the two latter parties is more or less agonistic as they have conflicting points of view on the operational development of the state-owned special assignment company.

## 2.2 Preventing online gambling and the loss of proceeds abroad

To prevent competition from outside the domestic gambling market, the Finnish state prohibited foreign-based gambling companies' and PAF's advertising in the country in 2010 (Hörnle, 2010b; Selin, 2019). The ban may have excluded advertising from traditional media, but it continues in electronic forms (e.g., banners, pop-up ads, e-mails) and on pay channels. Also, the competition for Finnish customers has not relented, as many online gambling companies offer their products and services in Finnish (Rydman & Tukia, 2019).

Online gambling has become more common among Finns since 2007, and between 2015 and 2019, the proportion of online gamblers increased by almost 13 percentage points. Nearly all Finns who had gambled on a foreign-based site had also gambled on Veikkaus' site. Nevertheless online gambling outside the monopolistic gambling regime increased between 2015 and 2019, even though online gambling on PAF's site decreased by one percentage point (Salonen et al., 2020). Many of Veikkaus' representatives wanted to explain why this increase happened:

> Veikkaus has a legal monopoly to operate games, but it does not have a practical monopoly online. Finnish citizens are not prohibited from using the services of licensed gambling operators situated abroad, even though it is forbidden for these companies to advertise their products to Finnish consumers. It is quite natural for the younger generations, who have reached adulthood, to gamble on foreign-based sites, as they do not see the essential difference [between those sites and Veikkaus' site]. (VE14).

In addition to young adults, gamblers and sports bettors looking for better pay-out ratios or simply marketing-related characteristics (e.g., welcoming bonuses, free games and tournaments), were seen as population groups gambling abroad by Veikkaus' representatives. Many interviewees, when talking about foreign-based gambling operations, defined them as 'illegal'. Various states try to 'outlaw' the operation of cross-border online gambling (Sulkunen et al., 2019, p. 27). In this study, 'illegal gambling operation' means mostly 'unregulated' or 'unlicensed' gambling operation from the Finnish legal point of view (cf. Hörnle, 2010a, p. 15; Littler & Järvinen-Tassopoulos, 2018, p. 110).

Unlicensed and illegal gambling sites are a problem for many states as they misappropriate income from licensed operators and deprive states of tax revenues (Banks, 2017; Myllymaa, 2017). The interviewees discussed the efficacy of certain measures, such as channelling and blocking, which would limit the offer of unlicensed gambling operators to Finnish citizens:

> As gambling takes place online, participation is still allowed, but [foreign-based offer] is not. This is probably based on the fact that supervision of online gambling is very difficult and no one has wanted to issue decrees that are impossible to follow. Nowadays, there are some efficient blocking measures available, but it is our legal way of thinking that prevents us from limiting people's freedom. (PS7).

The idea of channelling is not a new one in Finnish gambling policy. It appeared as a potential measure as early as 2008 when the government proposals indicated that marketing efforts should focus on the channelling of the demand from illegal (or harmful) to legal (and less harmful) gambling (Selin, 2016). In May 2018, the Finnish Ministry of the Interior launched a legislative and preliminary assessment project, the aim of which was, among others, to assess the technical requirements and the possible legislative amendments necessary to prevent online gambling on sites other than Veikkaus' site in mainland Finland (Rydman & Tukia, 2019). According to the project, channelling means 'in a monopolistic gambling system' that the operator can be allowed to offer a vast range of games, to have a certain type of advertising range, and to resort to new distribution techniques to form a trustworthy and seductive alternative to unlicensed or prohibited gambling offers (Rydman & Tukia, 2019, p. 21; see also Borch, this volume).

However, the issue of channelling was not appreciated in the exact same manner by all the parties involved in this study. The channelling process was mostly accepted and understood by the interviewees, however a few public servants called for a better and clearer definition of the process and its relation to gambling proceeds. They were not convinced that channelling would prevent and limit gambling harms:

> [The prevention of] gambling harms and the channelling of online gambling form a balanced pair. There are a lot of features in the [public]discussion claiming, e.g., that [Veikkaus'] channelling capacity should not be mentioned, because it refers too much to gambling proceeds. But if people would gamble more on the Finnish gambling site, supervision [of gambling] and prevention of gambling harms would be easier. (PS18).

In this excerpt, a public servant employed in steering depicts channelling as a beneficial measure to prevent Finns from gambling abroad. Many of Veikkaus' representatives shared the idea especially from a supervisory perspective. Since now the National Police Board has supervised the 'implementation of the consumers' legal protection', but it does not have the authority to prevent foreign-based gambling operations (Järvinen-Tassopoulos, 2018, p. 38). Prevention of an unlicensed gambling operation would require different blocking measures with filtering techniques intervening at different levels, such as the browser, the server, the Internet access provider, and the national level (Hörnle, 2010b).

The topic of preventing gambling abroad seems to generate less discord among the representatives of Veikkaus and public servants than the topic of online gambling operation. As Mouffe (2005, p. 18) puts it, 'the frontier between the social and the political is essentially unstable and requires constant displacements and renegotiations between social agents'. It can be said that most of the interviewees would agree that gambling abroad is a serious issue, whether they refer to gambling harms or to gambling proceeds. Nevertheless, public servants seem to be more concerned about the real reasons why channelling online gambling is pursued in Finland. As, e.g., website and payment blockings, regulation of advertising, and sanctions are tools to enforce national online gambling regulation (Hörnle et al., 2018), they are not yet applied in Finland and there is no research on their effectiveness.

## 3 Discussion and conclusions

This qualitative study has shown that challenges of the Finnish state-owned gambling operator have been related to competition (e.g., losing customers and proceeds to international competitors) and to regulation (e.g., channelling gambling and preventing gambling harms). The results have indicated that Veikkaus' representatives seem to have an agonistic relationship with the regulators and the public servants interested in prevention of gambling harms. These three parties share a legislative background and a gambling-related 'common symbolic space', but they pursue different goals, which are developing the monopolistic regime more competitive and putting prevention before gambling proceeds. The representatives of the Ownership Steering Department are much closer to Veikkaus on the discourse level than the other parties mentioned. Hence, 'politics' (such as practices and institutions) bind the three parties together 'in the context of conflictuality provided by the political' (Mouffe, 2005, p. 9). The only 'political' dimension or antagonism found in this study is based on the conflicting power relations of Veikkaus and the international online gambling companies. Yet the latter are in fact symbolic enemies, because they do not have a voice in this study.

The state of Finland is at crossroads. It is not ready to follow in the political footsteps of Sweden, which established a new regulatory system in 2019 (Cisneros Örnberg & Hettne, 2018). Yet, it has to solve the issue of channelling gambling demand towards the state-owned operator. Both Veikkaus and the Finnish government have acknowledged the difficulties that a state-owned gambling company may encounter online, where no commonly accepted operative rules are established and no cross-national regulations are enforced. As Veikkaus has become a special assignment company, it means that the Ownership Steering Department in the Prime Minister's Office is interested in the company's operational skills and economic growth. What makes the gambling company's steering challenging is the fact that the Finnish Lotteries Act prescribes the company's role from the perspective of prevention. This is a political 'order' which excludes gambling proceeds (or 'dangerous consumption') as the main goal of Finland's monopolistic regime (cf. Mouffe, 2005, p. 18; Adams, 2016, p. 8). Thus, Veikkaus must operate in the best possible manner as a limited company.

The limitations of this qualitative study are twofold. First, the representatives of Veikkaus and the public servants had two sets of questions. The first set of questions used in the interviews with the representatives of Veikkaus focused on operational matters, such as the new strategy, the strengths and challenges of the company, and the steering of its ownership. The second set of questions used while interviewing the public servants focused on the ownership steering, the monopolistic regime, the gambling proceeds, gambling legislation and the special assignment of Veikkaus. Nevertheless, it was possible to gather information on the themes analysed in this study, even though the emphasis was different thematically. Second, it could have been interesting to interview representatives of international gambling companies, but it was not the purpose of this study.

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**Johanna Järvinen-Tassopoulos** works as senior researcher at the Finnish Institute for Health and Welfare. She holds a PhD in social policy and is an Adjunct Professor at the University of Helsinki, Finland. She has studied gambling regulation and the mechanisms of gambling harms for many years. Her current research focuses on ownership steering of monopolistic gambling operation, on legal and illegal online gambling, and on the social consequences of decentralisation of offline gambling.

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# The Establishment and Strategies of Gambling Providers in French-Speaking Africa: The Case of Pari Mutuel Urbain (PMU)

Sébastien Berret and Virve Marionneau

## 1 Introduction

Africa is characterised as the world's next new gambling market, and international gambling companies are showing increasing interest in African players (Reith et al., 2019). Gambling is also one of the fastest growing economic sectors in sub-Saharan Africa (Schmidt, 2019), boosted by a wide availability of mobile phones, reliable mobile network coverage and mobile payment solutions, but also the popularity of sport and lacking regulations (Reith et al., 2019; Gambling compliance, 2019a; Ssewanyana & Bitanihirwe, 2018).

Most Sub-Saharan countries have legalised some forms of gambling, including casinos, lotteries, horse racing and sports betting. Linguistic, geographical, and religious distinctions within the African continent are nevertheless reflected in the regulation of gambling. Overall, English-speaking African countries are laxer regarding gambling than French, Portuguese, or Arabic speaking jurisdictions (Gambling Compliance, 2019a). This is also reflected in the largest gambling markets of the continent which mainly include English-speaking jurisdictions such as Ghana and South Africa (Gambling Compliance, 2019a). In the Northern parts of Africa, the presence of Islam limits the consumption of products that are not considered 'halal', such as alcohol or gambling (Diop, 2012).

S. Berret (✉)
Centre for Research on Addictions, Control, and Governance (CEACG), University of Helsinki, Helsinki, Finland
e-mail: sebastien.berret@helsinki.fi

V. Marionneau
Faculty of Social Sciences/CEACG, University of Helsinki, Helsinki, Finland
e-mail: virve.marionneau@helsinki.fi

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The most popular form of gambling in Africa today is sports betting, including football-related products and horse race betting. Africa has become the only continent globally where sports games account for the majority of all lottery group sales: In 2017, sport made up 52.2 % of the turnover of all African lottery operators put together (Gambling compliance, 2019c). Geographical divisions are also visible in the most popular betting products. In English-speaking African countries, football products are flourishing under both local betting operators and European-based companies (Gambling compliance, 2019c; Reith et al., 2019; also Bunn et al., this volume). Fixed-odds betting is growing rapidly in many African countries (Gambling Compliance, 2020). In French-speaking Africa, horse racing is particularly popular. Notably the French horse racing operator, Pari Mutuel Urbain (PMU), has partners in many French-speaking African countries. These partnerships function under the guise of National Lottery operations and make up a bulk of their operating revenue.

Despite its extent, little is known about this African network of PMU. This chapter focuses on how the PMU operates in French-speaking Africa by analysing its historical origins, contemporary operating logics, and connections to the French PMU using media material collected from both African and French newspapers.

## 2 Methods and data

The study analyses the operation of PMU in Africa using public discussion in French and French-speaking African newspaper media. The data consist of a corpus of 62 articles published in two newspapers (Jeune Afrique and Le Monde, abbreviated as JA and LM in the analysis) between 1982 and 2019. The period coincides with the search results obtained in the online archives of the papers. Jeune Afrique is the leading weekly paper in Africa, and the largest French-speaking pan-African periodical (Jeune Afrique, 2020). It was founded in Tunisia, and its editorial office is now located in France (JA, 2020). JA also offers international news coverage which was not included since it is outside the scope of this study. Le Monde is the leading French news publication and the largest French daily in 2019 (Le Monde, 2019). Le Monde also publishes a section on Africa. The articles included in the current analysis were also originally published in this section. Other media sources are not included because initial searches in local African newspapers did not yield results.

The data were collected using the online archives of Jeune Afrique and Le Monde. The search terms for Jeune Afrique were '*jeux d'argent*', '*jeux de hasard*' (both meaning gambling) and '*Pari Mutuel Urbain'*. We used the same keywords for Le Monde but adding '*Afrique*' (Africa) after each. Our focus on PMU betting is due to its important role in the French-speaking African market. Most articles concerned the French speaking contexts in Africa, but three articles also addressed gambling in English-speaking African countries. Most articles focused on French-speaking West and Central African countries. In this chapter the term of 'French-speaking Africa' therefore refers to this geographical area.

The analysis was conducted using thematic content analysis methods as well as a comparative approach to study differences in the reporting of African media (Jeune Afrique) and French media (Le Monde). We used the qualitative analysis software ATLAS.ti to structure the data. The results are presented in the following by first quantifying the different themes that emerged from the analysis and second, by means of qualitative analysis of the identified themes. Quotations from the data are used as examples in the analysis. All translations from French to English are by the authors.

## 3 Results

The data were thematically categorised under four themes after an initial reading: corruption and mafia; gambling business and industry strategies; gambling-related problems and regulation; other. Often, a text encompassed several different themes. The frequencies of the five themes are displayed in Fig. 4.1.

The first theme (N = 107, of which 57 in JA and 50 in LM) concerns the main problems of the gambling industry in French-speaking Africa identified in the material: corruption, lack of transparency, and close ties with mafia-like networks. A Corsican syndicate connected to organised crime operates in French-speaking Africa since the independence of these countries. Most articles under this category (N = 27) focused specifically on these Corsican networks (26 on 27 in total, one article dealing with Congolese-Belgian corruption), particularly in the case of Le Monde. In the LM material, 20 out of 27 articles focused on this topic, compared to only six articles out of 35 in the JA material. The difference is likely to result from the divergent perspectives of the publications. Le Monde focuses on topics involving French activities in Africa, including legal issues related to Corsican operations, whereas Jeune Afrique looks at gambling from a more diverse African perspective, covering also societal issues more broadly.

The second theme focused on industry strategies and gambling business (N = 70, of which 62 occurrences in JA and eight in LM), and consisted of articles describing Africa as a lucrative market for gambling providers looking to


**Fig. 4.1** Frequencies of different themes in Jeune Afrique and Le Monde reporting

expand, but also of reports on the strategies employed by gambling companies such as the PMU to expand and attract customers. Historical depictions of the strategies employed by Corsican networks to implement local PMU offices in French-speaking African countries in the 1990s were also included in this theme.

The third theme regarding gambling-related problems and gambling regulation (N = 40) only occurred in the Jeune Afrique material, probably owing to its more diverse societal perspective. The topic centred around gambling harms (addiction, religion and family conflict, indebtedness) and how African countries address these issues via regulation, or how regulation is lacking particularly regarding profit redistribution and non-compliance with responsible gambling policy.

The fourth theme consisted of other topics related to gambling (N = 16, of which 13 occurrences in JA and three in LM), and dealt with issues such as the preservation of African equestrian heritage or the attempt to create a French humanitarian lottery directed at African causes.

The overall frequencies of topics such as corruption, the workings of the Corsican networks, ill reputation, shortcomings in responsible gambling policies, and the murky regulation of profit redistribution paint a bleak picture of how French-speaking African gambling is described in both the French and African media, but also show differences in editorial policy between the two contexts (on how Western media write about Africa, see Nothias, 2018). In the following, we will look at the main topics in more detail, with a specific focus on PMU. While local PMU networks belong to African PMU operators, typically integrated into national lotteries, the French PMU has a financial stake in these operations as a supplier broadcasting races. The African market appears important for the French operator, but the French PMU also attempts to distinguish itself from its African namesakes.

## 3.1 The origins and tactics of the African PMU network

Poverty and poor economic or employment prospects have been important incentives for gambling amongst Africans (Diop, 2012). Gondola (1997) has described how the Republic of Zaire (1971–1997), currently known as the Democratic Republic of the Congo, became one of the poorest countries in Africa in the 1990s, followed by hyperinflation and social unrest. According to the author, gambling spread like 'wildfire' in a situation where the population had no other means of enrichment. Gambling also served a means for the government to distract its citizens from the political and economic situation (Gondola, 1997). The PMU was part one of the gambling enterprises that spread into the capital city Kinshasa in the early 1990s to attract bettors. Betting kiosks were opened across the city and local journals offered betting tips on races that were ran in the famous French racecourses of St Cloud or Longchamp (Gondola, 1997).

Similar stories of the rise of the African PMU network are found in the media material. Betting on French races was first introduced in Senegal in mid-1980s by Senegalese 'hackers' who illegally broadcast images of horse races from the PMU (JA, 2015d). Soon after, Corsican entrepreneurs located in Central Africa, also connected to the mafia in subsequent reporting, adopted the idea. These Corsican individuals created local PMUs in the Republic of Congo, Cameroon, and Gabon, before expanding to other French-speaking African countries (JA, 2015d).

These entrepreneurs and connections to Corsica played a crucial role in the creation of the French-speaking African gambling industry, and particularly horse betting. The observation is in line with a long legacy of French African relationships, referred to in French as '*Françafrique*'. The term is used synonymously with corruption of African officials for the benefit of French (economic) interests (Verschave, 1998).

Upon the independence of African countries, many Corsicans located in Africa chose to stay. A number of these individuals were described to be involved in the framework of *Françafrique* (JA, 2015a). Some, such as the Feliciaggi brothers in the Republic of Congo, took over entire economic sectors (JA, 2015a). One of the brothers, Robert Feliciaggi, partnered with Michel Tomi, who has been described in media reporting as the 'last Godfather' of the Corsican mafia (JA, 2015b). Together they developed a lucrative gambling business in Africa (LM, 2014). Gambling provision in Africa has traditionally been in the hands of actors who have possessed economic advantages, including representatives of colonial powers (Gondola, 1997; Schmidt, 2019).

In the early 1990s, Feliciaggi and Tomi set up gambling arcades but also PMUs in Africa. The duo is described as the '*pioneers*' of African gambling business: '*before them, there was nothing, or almost nothing*' (JA, 2015a). Only state-owned lottery companies existed before them, such as the National Lottery in Congo-Kinshasa (SONAL) created in 1962, but their product range consisted only of scratch tickets (LM, 2015). Feliciaggi and Tomi succeeded in owning the entire gambling operation of particularly Cameroon and Gabon (JA, 2015b; Guillaume, 2019), and expanded notably to Senegal, Chad, and Mali (Ploquin, 2018).

The reasons behind their thriving gambling empire in the 1990s was the political support received both from France and Africa. Feliciaggi and Tomi's proximity to African leaders and the protection provided by French political circles gave them access to operate in the gambling industry and to maintain a monopoly (JA, 2006; JA, 2015a; JA, 2015b). Feliciaggi and Tomi were also at the heart of what was then known as the '*Corsafrique'* (refers to the connections between the *Françafrique* and the Corsican organised crime), from which several scandals of money laundering collected in Africa emerged (JA, 2015a). The situation only started to change in the early 2000s following international competition and declining political protection. Feliciaggi was murdered in 2006 and Charles Pasqua [a former French Minister of Interior who gave support to both entrepreneurs] died in 2015. Political changes in Gabon and Mali further lessened Tomi's influence and negatively affected business and he was indicted by the French justice in 2014:

> The slow withdrawal of France from the [African] continent has been accompanied by declining influence which has not turned into Anglo-Saxon-style lobbies on time. Robert Feliciaggi could not have thrived without this political and business network at the heart of the state, which allowed [Feliciaggi] to impose his business on African leaders, who were willing and often paid, but also intimidated by the power and the capacity of nuisance of the support he enjoyed. He [Feliciaggi], and his brother, could only succeed in the captive markets of the neo-colonies, where Corsicans sold dream on credit. The era is now over. […] Robert Feliciaggi took this 'vision' of Franco-African relationships, both paternalistic and business-like, to his grave (JA, 2006).

The declining influence can also be seen in local reactions to Corsican gambling operations. During a 2008 uprise against the President of Cameroon, the PMU Cameroon (PMU-C) outlets were damaged, as these were associated with the economic domination of the former coloniser:

> [PMU-C], run by the French, is also widely associated with the economic presence of the former coloniser. During the riots of February 2008, 800 of its kiosks were damaged across the country, according to the press. 'Young people wanted to attack the symbol of exploitation of Cameroonians by France', says Patrick, a biology student in Yaoundé. The protests had followed the announcement by President Paul Biya, in power since 1982, on the constitutional reform authorising him to run for a new mandate (LM, 2009).

## 3.2 PMU operations and tactics in contemporary Africa

The 2000s constituted a transition to newcomers in French-speaking African gambling business, but French presence remains significant. Particularly Francis Perez, another Frenchman, has established electronic gambling machines (EGMs) and gambling arcades across West Africa. His group, the Spanish Pefaco, owns over 300 gambling arcades and 530 bars offering EGMs in eight French-speaking African countries via its affiliate Lydia Ludic and partnerships with national lottery companies (JA, 2015c; Pefaco, n.d.). Despite being a 'newcomer' compared to Michel Tomi, Perez appears to use similar networks with local leaders to implement his business in Africa:

> Perez, who says he is 'Togolese at heart', does not hide his closeness to Faure [Faure Gnassingbé, the President of Togo]. 'To do business in French-speaking Africa, you need political connections' he explains. This is also the case in Congo […]. As was also the case in the past in Senegal: At the end of the 1990s, Perez had met Abdou Diouf [president of Senegal] through his socialist networks (JA, 2015c).

Perez also has close ties with the Corsicans. He partnered with Feliciaggi, and Alain Orsoni who similarly had links with the Corsican milieu. Orsoni also sent his son, then wanted for murder, to hide in Gabon under the protection of Michel Tomi (JA, 2015c). Little has changed: networks and connections appear to remain the main strategy of gambling operators in Africa to establish themselves. PMU Cameroon is still owned by Michel Tomi, and in Gabon, Corsican newcomers hold positions of responsibility, such as the current directors of the PMU-G (PMU Gabon) and the Casino Croisette (JA, 2015a).

Today, local PMU structures continue to flourish among the largest national companies (e.g. in Mali, Gabon or Cameroon), and therefore have a significant impact on the national social and economic sectors. For instance, in Cameroon, newspapers depend heavily on the PMU-C's advertising revenues (LM, 2009). African gambling operators also appear excessively important at the national level via their direct contacts but also their societal position in frail economies. As elsewhere in the world, gambling has a long tradition as a means of collecting public revenue in African countries, particularly when taxation systems are ineffective (Brenner et al., 1992; Diop, 2012; Glozah et al., 2019; Schmidt, 2019). At the same time, the gambling industry is positioning itself as an important employer in many African countries, with a promise of generating both economic and social benefits to communities (also Ssewanyana & Bitanihirwe, 2018). These ties have direct consequences on gambling-related policies and public discussion.

> The National Lottery has distributed three billion CFA francs [4,6 million euros, currency rate of January 1st, 2021] in donations in ten years, including 123 million [187 513 euros] for fifteen ambulances. It is also responsible for the construction of a dispensary in Bobo-Dioulasso […] and many other donations. In other words, almost no one thinks of criticising gambling in the 'country of honest men' [Burkina Faso]. Only a few intellectuals take the risk, with moderation. The manna provided by the LONAB [Burkina Faso's national lottery], instead of the often-failing state, gives food for thought (LM, 1992).

The lack of critical voices is alarming in the context of the 'gambling craze' (Schmidt, 2019) that is currently observed in Africa, and particularly in sub-Saharan countries that have suffered from the economic crises and the effects of neoliberal economic reforms (also Geopoll surveys, 2017; Glozah et al., 2019; Schmidt, 2019; Ssewanyana & Bitanihirwe, 2018). In an ethnographic study of Kenyan gamblers, Schmidt (2019) shows that gambling has been viewed as a form of future-making in conditions where wage labour was no longer a feasible option. At the same time, African youth are also targeted specifically with marketing messaging from betting companies (Geopoll surveys, 2017; see also Bunn et al. this volume).

## 3.3 African PMUs and the French PMU: Unity or distinction?

African PMU networks are typically owned by local lottery companies, mostly state-owned, but the French PMU benefits from these operations financially as a supplier of TV broadcasts. The status of African PMUs varies. The majority operate as part of national lottery provider product range, but some local PMUs are also independent private horse betting providers that use French PMU races (e.g. Cameroon). These operators rely heavily on French races, as the bulk of their sales revenue comes from horse betting, which accounts for up to 95 (e.g. Senegalese LONASE) to 97 % of the games offered by African suppliers, 'far ahead of scratch cards or other raffles' (LM, 2015). The situation has been characterised as 'more like a form of dependency of Sub-Saharan African [Note: In French media, Sub-Saharan countries usually refer to French-speaking West and Central Africa] gambling companies on the PMU' (LM, 2015). In Mali for example, the 'PMC company provides the betting processing hardware and software and trains the counter staff', and the French PMU 'sells its programs and race images for two or three % of the stakes' (JA, 2007).

However, the dependence is also reciprocal. While African providers need French PMU races, the French operator similarly needs French-speaking African countries, as a market for growth and expansion:

> If the PMU has reviewed its African agreements, it is because the French group sees the continent, which is increasingly populated, urbanised and connected, as a natural growth relay, while the amount of French turnover is falling as the customer base of turf players in France is aging (JA, 2019).

The French PMU appears to have a paradoxical attitude towards its African namesakes: On the one hand, the French PMU distinguishes and distances itself from the African partners in its corporate communication but, on the other hand, it also expands investments in the African continent. The French PMU appears to increasingly devote itself to African markets to cover losses related to the decrease of French punters, but at the same time, keeps a corporate as well as a moral distance from the same African operations. Despite the significant income produced by operations in Africa, 'French PMU officials want to downplay the resources generated by this de facto monopoly' (LM, 2015).

> For several years now, an African Grand Prix has been held in Vincennes (Parisian region) to 'celebrate friendship' with African PMUs. But in Paris, where one seems embarrassed by the reputation of some of these African 'cousins', tarnished by several

> scandals of corruption and money laundering, one takes care to mark its difference (JA, 2015d).

The paradoxical attitude is likely due to the ill reputation of the African PMU partners. Corruption is a major problem in African gambling markets (Glozah et al., 2019), accompanied by lagging regulation and control (Brenner et al., 1992; Ssewanyana & Bitanihirwe, 2018). In the case of PMUs, the African operations have for instance been found to offer lower odds to punters:

> A report on the PMU in France gives the following breakdown: 70% [of stakes] for the gamblers 18% for the state and 12% for operating costs. In Africa, the share for the punters is at best 50% - the COGELO [Republic of Congo National Lottery] in Brazzaville is even suspected of redistributing only a third of the stakes. It is certain that the African gamblers are the big losers, as well as the public finance, while the bulk of the jackpot follows obscure paths (Tobner & De Beniro, 2009).

Against this backdrop, the recent strategy of French PMU to integrate its African partners to a common mass may be an effort to raise profit while improving transparency of transactions and the reputation of African PMU operations. The common mass concerns bets collected by foreign partners that are aggregated with bets in France (JA, 2015d). The common mass is offered by *PMU partners*, a company partly owned by the PMU (34 %) (Copier, 2019). Some countries have accepted to join the common mass (PMU annual report, 2017), but others have not, notably due to the lower margins for local PMUs and the fear of an abandonment of sovereignty in favour of a non-state structure (JA, 2019). For instance, the COGELO from Republic of Congo retracted its decision after a six months trial (JA, 2019).

## 4 Discussion

Gambling industries are increasingly made up of vast multinational networks that operate worldwide, and actively seek new markets (also Reith et al., 2019). The founding of the African PMUs has been an important precedent to this development. This chapter has shown that the rise and success of horse betting in French-speaking Africa is a result of two processes: the dominant position of French PMU races in the African gambling product range, and the domination of African gambling operators in their national economic and political landscape which also prevents criticisms and public health-oriented gambling policies. PMU was amongst the first gambling products that arrived in African markets, and it has been able to maintain an important position since. The origins of the African PMUs are connected to Corsican networks. Since, the African PMUs have become dependent on the French PMU as a supplier or racing. Despite the institutionalisation of the market since the 2000s, the operating logics of *Françafrique* to benefit the interests of French entrepreneurs still prevails. The institutionalisation of the originally shady PMU operations has also made them increasingly profitable for the French and African financial interests behind them, but at the cost of African gamblers.

While the levels of problem gambling are largely unknown in Africa, gambling harms are likely to have increased alongside offer (the so-called total consumption model, see Rossow, 2019; Sulkunen et al., 2019). In South Africa where population surveys have been conducted, the incidence of problem gambling has been similar to that in Europe (Calado & Griffiths, 2016) but there is also some evidence of high levels of participation as well as very high problem and pathological gambling (up to 50 % of those surveyed) in smaller samples of particularly youth gamblers in other African contexts (Berrada et al., 2009; Geopoll surveys, 2017).

Reith and colleagues (2019) have described the invasion of African gambling markets by multinational betting companies as a form of exporting harms in the same vein as the so-called Big Tobacco and Big Food have previously spread harms to the Global South. The harms created by these international gambling corporations are no longer local, and nation-based prevention strategies are likely to no longer be sufficient. The WHO has also acknowledged that gambling is an issue that is likely to contribute to poor global health (Reith et al., 2019). The results of this study confirm the need for a global approach to regulating the gambling industry as not only an exploiter but also a source of global inequalities and harm.

More research is nevertheless needed on the national differences in gambling across African countries, but also on the public discussion on gambling in African-based media. Due to a lack of results in local African newspapers, the sources of news coverage in the current article are Jeune Afrique and Le Monde. As the editorial offices of both are located in France, they may have a more Western perspective than media located in Africa.

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**Sébastien Berret** is a PhD student in sociology at the University of Helsinki Centre for Research on Addictions, Control, and Governance (CEACG). His work focuses on how the gambling surplus is produced and how it might affect gambling-related harms. He specialises in comparing European lotteries.

**Virve Marionneau,** PhD, is a postdoctoral researcher at the University of Helsinki Centre for Research on Addictions, Control, and Governance (CEACG). Her research focuses mainly on gambling policies, comparative gambling studies, application of sociological theory, and the political economy of gambling.

# Where Does the Gambling Surplus Come from? Outline of a Theory of an Asymmetric Market

Pekka Sulkunen

## 1 Introduction

Gambling has become a significant source of funding public services, charged from the operators in the form of taxes, license fees, other forms of public revenue, and/or as direct contributions. This funding, here called the gambling surplus, has grown together with the gambling volume since the 1980s, when many states introduced state-operated national lotteries to collect money for sports, culture, youth work, and other 'good causes'. The surplus has not disappeared as commercial gambling has developed into a global industry that offers not only lotteries, charity raffles, and bingos, but mostly fast games with high event frequencies and high return rates (Markham & Young, 2015). Governments and gambling companies advertise the surplus as 'free income' for the public good, as it does not depend on taxes, which are mostly paid from wages and salaries, or from entrepreneurial activity. Thorstein Veblen (1919/2002, pp. 45–60), the critical American economist, used the term free income in the early twentieth century to stress the distinction between producers and predators, those who create value, and those who only exploit the fruits of their labour as unearned value.

The labour theory of value in classical political economy since Adam Smith and David Ricardo made a distinction between income from productive and unproductive labour. The source of the 'wealth of nations' was defined as work

P. Sulkunen (✉)
Professor Emeritus of Sociology, University of Helsinki, Helsinki, Finland
e-mail: pekka.sulkunen@helsinki.fi

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that produces commodities, whereas collecting what they called ‘rent’ was unproductive and wasteful. Gambling was the prime example of such demoralising use of economic resources (Mazzucato, 2019, p 80).

The marginal utility theory of value in orthodox economic science today does not make such distinctions. It counts as value everything that fetches a price, be it a payment for material goods and services by consumers, or remuneration for inputs of labour, land and natural resources, or capital. Price is the objective utility value of goods traded on free markets (Barba & de Vivo, 2012).

The labour theory of value as well as the marginal utility theory pose problems for understanding where the gambling surplus comes from. For both, prices of commodities, and revenues from which they are paid, allocate resources through competitive markets. The labour theory of value has difficulty in showing how these develop from value produced by labour; the marginal utility theory faces challenges in explaining how qualitatively different utilities become comparable to be exchanged for money. For both theories, extra profits result from ‘market imperfections’ that competition alone is unable to eliminate. This article argues that the gambling surplus results only in part from market imperfections of restricted supply. The gambling transaction is a transfer rather than exchange of equivalents, and essentially depends on the asymmetries of information, of transaction, and of positions between gamblers and operators.

## 2 Doubling of the commodity: use value and value

Karl Marx developed his theory of capitalist exploitation from the labour theory of value. It was part of a political agenda: to show that the surplus value is produced within equivalent exchange between free workers, in possession only of their labour power, and owners of capital; not taken by force, stolen, or otherwise sapped by fraudulent means. Value produced in the labour process circulates on the market as commodities, prices, revenues, costs, and profits. In these forms its substance, labour, disappears from sight. In this framework, human labour is also the hidden source of the money that circulates in gambling, as wagers, winnings, losses, gross gambling revenue – and the gambling surplus (Sulkunen, 1978).

The ingenuous element in Marx’s theory is that the value circulating in the economy represents exertion of human labour but detached from its particular origin. A very small part of the gambling surplus is produced in the gambling business itself, the major part coming from somewhere else in the (global) capitalist production process. As Peter Adams has written (2008), gambling is an extractive industry. To understand how it works we need to know what value is. Here a comparison between the labour theory and the utility theory is necessary. Like in orthodox economic theory, the 'coercive force of competition' (Marx, 1862/1990, p. 381) allocates resources through prices and revenues. The difference is that in the utility theory the market abstracts value from consumers' heterogeneous preferences to *choice*, while in the labour theory it abstracts from qualitatively different use-values to human *labour in general*, as a necessary effort expended in the metabolism between humans and nature. Money is the abstract negativity of the results – use values – of human labour that produced them (Sulkunen, 1978).

For both approaches, gambling operators' capacity to collect excess value depends on two factors. The first are market restrictions and barriers to entry that allow them to charge prices that are higher than costs plus normal profits. This is a matter of supply. The second is the ability of gambling products to represent value that is not related to production costs regardless of supply conditions. This is a matter of demand, the utilities or use-value of gambling activity for consumers.

## 3 Supply

Monopoly pricing occurs when demand sets the price higher than current cost of production, and when additional supply is blocked. European gambling markets are highly regulated, and this no doubt constitutes an entry restriction that allows monopoly pricing above the cost and normal profit. In our study (Sulkunen et al., forthcoming) of 30 European gambling companies, four Italian operators (Snaitec, Sisal, Gamenet, and HBG) were classified as market-based (see also Mandolesi et al., this volume), whereas the rest were monopolies or holders of restricted licenses. The gambling surplus per volume produced by the market-based companies (and taxed away by the state) was not substantially different from the monopoly-based ones. A detailed study found that the Italian companies did produce a slightly lower amount of surplus than the monopolies, but the difference was due to high costs of commissions to Italian EGM agents (bars, cafés, arcades), not due to their competitive market position (Marionneau et al., forthcoming). Besides institutional limitations, barriers to entry include high investment requirements, efficient branding, patents, and other non-competitive cost factors. Monopoly rent may also result from limited availability of a factor of production such as advantageous location, skilled labour force, and financing. These are often temporary, and technical improvements or alternatives to the current supply will eliminate the rent.

A body of evidence shows that demand seldom exists in gambling markets independently of supply, waiting for gambling companies to provide games to satisfy it. On the contrary, additional supply creates additional demand (Sulkunen et al., 2019, pp. 104–107). A review of studies shows that adding new games to the existing selection increases overall spending substituting only a small part of existing demand (Marionneau & Nikkinen, 2018).

The industry has grown by adding fast games to their offer, and correspondingly the return to players (RTP) rates paid out to players as winnings have grown (to keep gamblers playing). Competition in fast games is more intensive than in lotteries and other games organised by nation states to support designated national causes. The latter are highly restricted because their profit (surplus) margins are high, usually above 50 % of the total wager placed by participants. Nevertheless, a review of international companies shows that automated fast games produce most revenue to gambling companies (Williams et al., 2012). Our own study shows that high RTP percentages do not reduce the gambling surplus per volume, although they are a cost to the industry. This is partly explained by low operating costs of fast games. At some point, game portfolios cannot become much faster because the RTP comes too close to 100 %, leaving nothing to the companies, and operating costs cannot be reduced too close to zero per cent either. This can be called 'surplus saturation'. Still, the surplus remains high today, and this requires that we analyse the utilities, or use values of gambling, or demand, to use the term of the theoretical orthodoxy.

## 4 Demand

Economic systems that take for granted the commensurability and comparability of goods, presuming that the quality of the goods is transparent, and the same class of goods are homogeneous and substitutable for each other, are called 'standard markets' (Gronow, 2020, p. 9). Supply follows costs, demand depends on individual preferences, and market competition results in equilibria between them. The supply restrictions listed above are considered to be market imperfections. From the utility perspective, monopoly pricing is an obstacle to utility optimisation and thus value generation in the economy. Also in Marx's surplus value theory the 'compulsive force of competition' plays an important role as a factor of capital accumulation and growth.

Empirically, the standard market appears to be the exception rather than the rule, however, not only on the supply side but also as regards the assumptions about demand: rational consumers pursuing their individual preferences that the market brings to equilibrium with the supply. Market imperfections of demand depend on the use-value of the goods traded. From the labour theory of value perspective, their use-value bodies represent the value of other commodities, which appears as their price; from the utility perspective, the market price that consumers are willing to pay for them, *is* their value relative to other commodities and may deviate from the cost of their production. Regardless of the value theory perspective from which they are seen, market imperfections of demand usually generate a surplus between the actual market price and the cost of supply.

A well-studied area of market imperfections of demand is information asymmetry, where the seller knows more about the commodity than the buyer. The market of second-hand cars is the standard example (Akerlof, 1970). Another is the market of singularities, for example objects of art or classy restaurants, where the price is not related to the cost of supply, because these objects are not substitutable (Karpik, 2010). A third case is what Gronow calls 'social worlds'. Some consumption styles gain status value as part of such worlds, with the consequence that individual preferences and supply meet in a more complicated way than assumed by the standard market model.

If the imperfections of demand are technical, they can be regulated by procedural market devices, like in asymmetries of information about used cars or insurances. Tests, checklists, servicing history, guarantees, and other mechanisms can be used to turn quality uncertainty into a cost that can be distributed between the seller and the buyer as a risk that carries a price (Rothschild & Stiglitz, 1976). If the imperfections are judgemental, expert reviews, competitions, awards and other connoisseurial market devices can help to bring commensurability and comparability to the exchange and support the price formation.

## 5 Unequal exchange

Although the standard market is a rare exception, if not altogether a fiction, the model is not a plain untruth: it serves as an analytical tool for understanding in what ways different markets deviate from the standard, why, and with what consequences. Let us follow this line of reasoning from both the labour theory and from the utility theory perspective, to see how the gambling market differs from the standard model. Two conditions are particularly relevant.

First, the value (money) transmitted from the buyer to the seller, and the commodity transmitted from the seller to the buyer must be objective and independent of subjective evaluations. Second, the participants must be equally equipped to enact the transaction. Both conditions lead us back to the question of the utility or use value.

## 5.1 Asymmetries of information and of transaction

Milton Friedman, the Nobel laureate in economics 1976, and a consistent follower of the utility theory, has defined the conditions as follows:

> [As long as] the people engaging in the gambling do so deliberately, and are reasonably well informed … suppos[ing] that the gambling services are provided under competitive conditions … [t]he proprietors of the gambling house are … producing services to satisfy the wants of consumers, and this generates an 'economic gain (Friedman, 1960, pp. 288–289, quoted in Barba and de Vivo).

For the utility theory, the value that circulates in gambling is created in the consumptive experience itself. For the labour theory of value, the money circulating in gambling represents value that is mostly created elsewhere in the economy.

Either way, by both theories, the act of consuming the goods purchased takes place outside of the market. It does not matter what consumers do with them, or what the utility is that they derive from using what they have bought. Cars can be used mainly to impress neighbours, for transportation, or as a hobby, and a mixture of these. A domestic aid can be paid formally for cleaning the home and washing laundry, but some clients might prefer to spend time with them talking and chatting. And so on. When the purchased good is gone, it has satisfied a want, need, or desire, but it also has been depleted and destroyed, and must be replaced by expending more resources. The end consumer must acquire more money somewhere (its origin does not concern us here) to buy new goods and services; the merchant must use some of the revenue from the sale to buy new things to sell; and the producer must spend some of the returns from selling the products to make new ones. And there will be demand for replacements unless the end consumers either change preferences or run out of money. For the utility theory, value is thus created, for the labour theory the value represented by the objects consumed has been depleted.

Commercial gambling differs in two ways from any other commodity market (except some parts of the financial services market) even if the standard model applies in all other respects. One is the inevitable *asymmetry of information*. Gamblers rarely have access to data on the odds and return rates of games

(Australian Productivity Commission, 1999; Dixon et al., 2013). Financial incentives in advertising offer bonuses, refunds, and risk-free bets but rarely include competitive price information (Newall et al., 2019). Procedural market devices to resolve market uncertainty are difficult but not impossible to apply in gambling where the merchandise itself is uncertainty.

The other deviation is that only a small part of the gamblers' purchase is a consumable that disappears when it is used. Participation is seen as a gift in games like national lotteries, or in altruistic bingos and raffles organised by community clubs and associations. Like other gifts, giving money to a cause conveys commitment, belonging, and solidarity – the core of being social. Money spent is a message sent, diffuse and with many meanings but commitment to a social world more than a cost. The actual sociability is sharing the excitement offered by Lady Luck. A survey study showed that heavy gamblers had high social motivation scores even in solitary online games (Blinka & Mikuška, 2014). Glamour and greatness are often essential images associated with gambling (Egerer & Rantala, 2015; Nicoll, 2019, pp. 76–114). Other studies have found that VIP customers also value social activities that operators arrange for them. These include social dinners and gatherings and sometimes tours to remote gambling destinations (Cassidy, 2020, pp. 145–152). These are consumptive experiences, similar to restaurant visits or any other entertainment, provided by gambling operators with a cost.

However, a substantial body of research shows that gamblers are motivated by the possibility of winning (Lesieur, 1984; Griffiths, 1995, pp. 149–168; 172–176; Rockloff et al., 2007). The consumptive experience as part of the exchange is undeniably real, too, but only as an appendix to the transfer of money and could not arise without it. A Canadian study found that EGM players' most frequent motivational image was 'to win money', whereas few mentioned images referring to the entertainment value of the games (Smith & Wynne, 2004, pp. 133–138). Gamblers' reasons for playing for money, and the excitement experienced, are largely imaginary. Typically, they revolve around individual competence or magical skills. This has been observed in several studies (Griffiths, 1995, pp. 129–148; Joukhador et al., 2003; Rockloff et al., 2007), and also in studies of gamblers represented in films (Turner et al., 2007, pp. 123–125; Egerer & Rantala, 2015).

This is *asymmetry of transaction*: the object of the purchase is not a commodity nor a service but a promise of an unknown chance to win – money! – at an unknown price. Trading money for money is an exchange only if the mental currency of payment is different from the mental currency of the money received as winnings. This is often the case: experimental studies show that gamblers are more likely to replay winnings than to wager money earned in another way. The value transferred is nevertheless objective. When the players' money is gone, the value is lost but the want, need, or desire is not satisfied, nor will the operator need to expend more money to make available a new experience. The operator has almost no cost from making available the next purchase.

The gambling experience is concocted in the imagination of the players, usually as a solitary indeterminacy of 'being in the zone' (Schüll, 2012). The flow of the game opens up an infinite imaginary space for the player's interior agency imputed to the random events of chance. Money is a vehicle in the flow of give and take between the player and the game, conveying a fetish relationship between the capacities of the player and their fiduciary contract with an uncanny source of luck, as Charles Livingstone (2005) has described the experience. Monetary expectations are swathed in beliefs of magical superiority of the player (Rantala & Sulkunen, 2011), or in misconceived regularities of chance to redeliver what it has taken away so far. This, economically speaking, is the source of the gambling surplus. While the gambler pays for each run, the game operator does not give away anything it owns except calculated probabilities allowing the players to win, but less than they put in.

## 5.2 Asymmetry of positions

Another asymmetry concerns equality between the buyer and the seller. Economic theory makes a distinction between transfer transactions and exchange transactions.

> The latter … involves two trading partners both of whom give up something of value in search of mutual gain. The former involves a donor and a recipient, with the donor giving up something of value without receiving anything in return … Transfers …can be voluntary or involuntary and may be motivated either by altruism of the donor or malevolence of the recipient (Lampman, 1987, p. 681).

The gambler and the commercial operator are not equal, one offering money for the play, the other supplying it for a competitive price. Formal equality before the law does not assure that a transaction is an exchange of equivalent for equivalent. On the contrary, it is a state guarantee for turning an exchange transaction into a transfer, for example in dispossession through credit when collateral values of homes fall (Harvey, 2018, p. 337). In the same way, dispossession of gamblers' property is not an exchange but a transfer, although it may result from a voluntary contract.

Equality of partners is a wider concept, not only in terms of justice but also in an economic sense. It depends on what the transactions are about. The motivational images of donation, consumer experience, and the imaginary space of the gambler's interior (Livingstone, 2005) are indistinct, versatile, and erratic. Several studies (Dickerson, 1996; Griffiths & Delfabbro, 2001; Young, 2010) have demonstrated that games involving competition (*agôn* in the distinction of Roger Caillois, 1961) are often confused with games of chance (*alea*). Gamblers may enter the game under one type of images, but they change in an erratic way that does not allow a weighing of the utility with the price paid. The seller, on the other hand, is a faceless supplier with a single interest in collecting money. This asymmetry of positions is obvious from the way gambling companies present their products to consumers. Gambling is portrayed as fun, exciting, and social. The use of celebrities often associate gambling with success, skill, and a luxurious lifestyle (Binde, 2014). An important theme is – paradoxically – equality. Martin Young (2010) has pointed out that chance (*alea*) is couched as a democratic alternative to competitive success (*agôn*), which is not accessible to everyone. The risk, however, is not equal between the buyer and the seller. The gamblers' risk is very serious like the possibility of losing one's home, family, and job. The supplier's risk is limited to almost nil: a very high jackpot lost to a lucky winner is counted in as a calculable cost to be covered by other gamblers' losses.

Inequalities, however, are not equally distributed. We know from studies of gambling behaviour that a very small minority of players, about two to five per cent, contribute about one half of all the money spent on gambling (Sulkunen et al., 2019). A range of studies show that about one half of the heaviest spenders already have financial problems, and a substantial proportion of them suffer from addictions, mental and physical health issues, and are otherwise vulnerable. The major part of the gambling transfer goes from the poor but the major part of the surplus (and commercial profits) ends with the rich (Young & Markham, 2017). Another distributional issue is that gambling causes economic losses to persons who do not themselves participate in it at all (Sulkunen et al., 2019, Chapter 4). These factors aggravate the asymmetry between those who produce most of the gambling surplus and the operators who collect it.

## 6 Killing the game

The asymmetries of information, of transaction, and of position, do not depend on manipulation, addiction, dependency, folly, or imprudence. They are characteristics of a market that does not fit into the standard model. Unlimited competition could eliminate supply restrictions and barriers to entry, and nothing prevents the gambling market to wipe out the asymmetries, too. Procedural and connoisseurial market devices could commodify them and turn quality uncertainty into a cost. True information on the transfer could be provided, instead of promises of jackpots, illusionary chances to win, and false beliefs of the outcome such as losses disguised as wins (LDW). The actual price of time on device could be lowered down to the cost of supplying the service, as Milton Friedman suggests.

But, as a consequence, the game would be killed. The consumptive experience as well as the imaginary interaction with chance would have gone, too. Imagine a Milton Friedman playing EGMs in his classy favourite casino, spending money only for the cost of using the machine. He would be well informed about the average return rate and the price he has paid for each win, looking at the reels stop and go, and reminded fairly of the improbability of winning more than he has spent so far, before he decides to place a bet on the next run. The operator could assist him in his deliberations by offering an insurance against loss. He could, of course, move away to another casino to see more exciting spins of the wheels, or try other games, paying perhaps a little more for a more exciting game design, but the asymmetries would be eliminated there, too.

Friedman's conditions for a free market would be met, but the utility itself would be watery at best. The 'economic gain' created by his gambling consumption would be meagre. Such a dull game would probably send him back to the stock exchange, where he could opt for high-risk purchases or more stable placements, depending on his willingness to take chances and his investment skills. His deliberations on hedge funds, property and share-holder values, interest rates, and government spending trends, and his conversations in the stock exchange bar with other investors, would be far more gratifying than his pretty lonely gambling experiences and his eventual conversations with fellow gamblers about near wins, LDWs and fake stop buttons. Many economists, including J. M. Keynes, P. Samuelson, J. Tobin (Barba & de Vivo, 2012) and others would think also his Wall Street activities as unproductive and extractive. Orthodox utility theorists, in turn, would find much more economic gain in them than in his gambling, measured by the amount of value he creates by satisfying his preferences for risk-taking. Most labour theorists would deem both as waste of human labour, squandering the value of human life.

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**Pekka Sulkunen,** Professor Emeritus of sociology, University of Helsinki. President of the European Sociological Association 2011-2013, Finnish Academy of Science and Letters. His research interests are public-sector governance, power and democracy, social theory, and addictions. First author of an international collaborative book *Setting Limits. Gambling, Science and Public Policy* (Oxford UP, 2019). Other publications include *The Saturated Society* (Second Edition, 2016).

# Part II

# Framings and Tactics

# The Framing of Gambling and the Commercial Determinants of Harm: Challenges for Regulation in the UK

Gerda Reith and Heather Wardle

We take the example of Britain as a case study in which, despite recent repeated calls for gambling to be regarded as a public health issue, it continues to be framed primarily in terms of economic activity and consumerism. We argue that this framing is the product of a particular political-economic model and that it is embedded in legislation and regulatory practice. We go on to describe the commercial landscape of gambling that has been produced by this framework as one which produces harm. As such, we make the point that framing is a key component of the commercial determinants of harm in gambling. The final section of our paper considers the various forms of political and commercial influence that infiltrate and shape the framing of gambling in Britain.

## 1 Introduction: framing

The framing of gambling is crucial for how it is dealt with at every level; from legislative, regulatory and commercial practice to the terms of media and civic debate. 'Framing' refers to the choice of language and the setting of parameters within which gambling can be discussed. This generates a wider climate of understanding, and it is always associated with power. Whoever frames the debate has power over the ways that we can and cannot think about gambling, as well as what we can do about it.

G. Reith (✉) · H. Wardle
School of Social and Political Sciences, University of Glasgow, Glasgow, UK
e-mail: gerda.reith@glasgow.ac.uk

H. Wardle
e-mail: heather.wardle@glasgow.ac.uk

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In Britain, despite recent repeated calls for gambling to be re-framed as a public health issue and regulated accordingly (Wardle et al., 2019; Wardle et al., 2021a; Chief Medical Officer, 2017), it continues to be framed primarily in terms of economic activity and consumerism.

This framing has important implications for how gambling is dealt with. Our argument here is that the dominant framing of gambling in Britain as a normal form of economic activity is a product of a particular political-economic model. It is embedded in legislation and regulatory practice, and it underlies a commercial landscape which produces harm. As such, framing is a key component of the commercial determinants of harm in gambling.

We begin by briefly contextualising our argument within the literature on the social and commercial determinants of health. We then move on to outline the legislation that has shaped the current climate of gambling in Britain and situate this within the political-economic model that produced it. We go on to look at the commercial landscape of gambling that has been produced by this framework, before turning to explore how the regulator deals with this. The final section considers the various forms of political and commercial influence that infiltrate and shape the framing of gambling in Britain.

## 2 The social and commercial determinants of health

The social determinants of health - understood as the social and environmental contexts that determine life chances, health and wellbeing - have been well documented (Marmot, 2005). These refer to the ways that socio-economic factors, such as diet, housing, education and wealth, impact on life chances. Policy and regulatory actions also shape these contexts. More recently, attention has focused on the 'commercial determinants of health': the actions of commercial corporations that negatively impact health (Kickbusch, 2012). These range from the production of unhealthy commodities themselves, to the political practices and economic systems they are embedded in (Mialon, 2020).

In gambling, the associations between harm and wider social determinants, such as low levels of income, education, poor housing and economic marginalisation, have also been documented (Korn, 2001; Sulkunen et al., 2019). A number of researchers have also begun to note the role of the commercial practices of the gambling industry in producing harm. Attention has focused on areas such as marketing (Newall et al., 2019a) and product design (Schüll, 2012; Newall et al., 2019b), as well as the ways that industry can influence the fields of research and policy, and resist attempts at reform (Cassidy et al., 2013; de Lacy-Vawdon & Livingstone, 2020).

What has been less well defined is understandings of the relation between the commercial determinants of health with wider social determinants of health in gambling. This lacuna perhaps reflects a broader under-theorisation of power in research on the commercial determinates of health more generally (Lacy-Nichols & Martens, 2021; Maani et al., 2020). To examine these issues fully here is outwith the scope of this short chapter. However, as a precursor to this kind of project, we explore the ways that the gambling landscape in Britain has been framed and shaped by a specific political-economic model. This model has in turn produced a particular kind of regulatory structure and a commercial environment that is characterised by the production of harms.

## 3 The British Landscape: the 2005 Gambling Act and the neoliberal economic model

The gambling landscape in Great Britain changed dramatically with the introduction of the 2005 Gambling Act. The framing used to enshrine this legislation has been enduring and, as we shall see, looks set to continue. This Act created the current commercial gambling landscape in Britain, shifting it from a tightly regulated and restricted market to one of the world's largest over the course of two decades (Orford, 2018). The regulatory framework that oversees it is one that is exported globally. The practices and framing of commercial gambling in Britain thus have implications for what happens in the global market.

The Gambling Act reflected the neoliberal, free market model of economic action. It formalised a number of key principles - such as competition in 'free', deregulated markets, minimal state intervention and consumer choice - as a template for how gambling would be organised in Britain. This market ideology entrenched of the idea of competition as the driver of economic growth and the globalization and increasing power of commercial corporations.

The terms of reference that framed this piece of legislation are crucial. From an activity that could be tolerated but not encouraged, the Act reframed the idea of gambling as a mainstream leisure activity and the industry a key driver of economic growth in terms of job creation and revenue. Moving away from the principle of 'unstimulated demand', the new regime was based on the fundamental principle of 'aiming to permit' gambling. This involved 'modernizing' outdated restrictions so that the industry would be able to operate and market itself 'like any other legitimate leisure industry' (Tessa Jowell, Secretary of State for Department for Culture Media and Sport, 2002). Allowing commercial competition and 'releasing [the] industry from regulation', would, it was hoped, ultimately, make Britain a world leader in online commercial gambling (DCMS, 2003).[1]

A powerful argument used for re-framing was the idea of 'modernising' legislation in the light of new technology; as though technology were an unknown, unforeseeable force, divorced from commercial and political concerns, that was somehow able to catch legislators sleeping. This was despite prescient remarks about the ways technology (e.g., interactive TV) may generate new forms of gambling being made by foresighted politicians as early as the 1980s (Wardle, 2021). Similar arguments about technology are repeated today, in statements that claim the 2005 Act is an 'analogue piece of legislation in a digital age' (Labour Party, 2018).

The Act itself has always been based on a contradiction. Alongside its explicitly free market aims, it also aims to protect (some) vulnerable groups. However, exactly who these groups are or how they are to be protected is not clearly defined. The legislation also created an industry regulator — the Gambling Commission. This organization is a product of the legislative framing that created it, and so embedded in the same libertarian principles of 'aiming to permit' so-called 'responsible gambling'. We discuss this in more detail later.

Embedded in the legislation, and the political economic ideas that drive it, are neoliberal ideas about individual responsibility and 'the freedom to choose'. The Gambling Act repositioned gambling as a form of consumerism with a limited risk of harm for the so-called 'responsible majority'. In such a framing, only a 'minority' would develop problems, and even then, it was argued, there were underlying issues that predisposed them to harm. Such ideas about individual responsibility (rather than, e.g., collective welfare or state regulation) is a powerful discursive tool. It is used as a rhetorical framing device across a number of the harmful commodities industries as a means of aligning harm with consumption rather than production and so diverting attention from the corporate practices, economic systems and political decisions that produce harm in the first place (Reith, 2018).

Symbolic of its framing in terms of leisure and consumerism, responsibility for gambling was placed with the (then) Department for Culture, Media, and Sport,[2] rather than the Department of Health and Social Care: the latter being a location which would have foregrounded its relation with harm and health. To date, successive governments in Britain have taken the approach of working alongside

[1] A sentiment that was echoed in the run up to the Act by the then Chairman of Camelot, the National Lottery operator, Michael Grade who declared 'regulation is the enemy of innovation' ("Upgrading the Lottery", 2002).

[2] Now renamed the Department for Digital, Culture, Media, and Sport.

industry, encouraging them to adopt 'responsible' corporate practice, rather than introducing any more legislation to regulate them. Where legislative change has occurred, it has been the result of sustained campaigning by increasingly organized lived experience and advocacy groups, who have challenged the dominant framing of individual choice and gambling as leisure, and have succeeded in leveraging the attention of media and other stakeholders.[3]

The 2005 Gambling Act is currently subject to review. It is notable, and disappointing, that the Terms of Reference through which the Government has set out its public Call for Evidence for the Review uncritically repeat the underlying assumptions of the 2005 Act itself. For instance, they specifically state that the ambition is to develop an industry which contributes to the economy, and are predicated on the idea of 'informed consumer choice' throughout. Notably, the Call for Evidence does not appear to question how the current economic model for gambling may affect harms, nor whether alternative models might exist. Without even acknowledging the underlying ideological assumptions of its framing, it is unlikely that the Review will be able to conceive of gambling in terms of public health. As a consequence of this, it is likely that the new legislation will reproduce the current framing of gambling in terms of consumerism and leisure.

## 4 The commercial landscape

The framing of British gambling legislation, and the political-economic system that underlies it, has created a highly competitive industry, whose business model is predicated on harm. In Britain, the majority of the population do not gamble. In fact, gambling on products other than the National Lottery is, and remains, a minority pursuit (in 2016, 42 % of British adults gambled on things other than the lottery, with just nine per cent gambling online, Conolly et al., 2018). This means gambling companies, especially online companies, compete with each other for a relatively small number of potential customers, yet rely on them for a high volume of turnover.

The economic sustainability of companies thus relies on them maintaining and supplementing their customer base and extracting as much profit as possible from these players. They do this through what are increasingly described as predatory practices, including aggressive forms of advertising, targeted marketing, special VIP schemes, and special offers on odds and prices. Exceptional amounts are

[3] For example, the organisations Campaign for Fairer Gambling, Gambling with Lives, The Big Step, among others.

currently being spent by gambling companies on advertising, marketing, sponsorships, and promotions as they compete to recruit and retain their player base. In 2018, gambling companies spent over 384.9 million EUR (328 million UKP) per year on paid-for advertising, an increase of 24 % since 2015. In 2019, estimated spend on TV, radio, cinema, internet, and print press advertising was on average 7.8 million EUR (6.7 million UKP) per week (over 408.4 million EUR (348 million UKP) in 2019; Ipsos, 2020).

There is growing evidence that the gambling industries in Britain, as elsewhere, have an unhealthy reliance on those harmed for substantial portions of their profits (Fiedler et al., 2019; Harrison et al., 2020). Recent research by Wardle et al. (2021b) showed that 40 % of spend on online sports betting within a three-month period was generated by just 15 % of those classified as moderate risk or problem gamblers. Recent analysis by the University of Liverpool and NatCen Social Research of online gambling accounts showed that 70 % of Gross Gambling Revenue (GGR) was generated by just five per cent of players, with a disproportionate amount of spend being generated from those living in the most deprived areas. These figures were even more marked for certain sectors, for example five per cent of the highest staking accounts contributed 83 % of GGR for online casino products (NatCen, 2021). Furthermore, a large-scale study of bank transactions found that one per cent of gamblers spend 58 % of their income on betting and suffer a range of financial, health and personal harms (Muggleton et al., 2021). These more recent studies replicate findings from Orford et al. in 2013 who showed that a greater proportion of spend was generated from moderate risk or problem gamblers in Britain.

Ethical issues aside, an industry which derives substantial profits from those harmed does not embody the values of longevity and sustainability that a healthy economic model is based on, and which the Terms of Reference of the Gambling Act Review claim to value. Furthermore, it can be regarded as resting on the exploitation of those consumers who governments and regulators should be seeking to protect.

The current framing of gambling in Britain has resulted in a fiercely competitive climate. Alongside advertising, they compete on game and product design, as well as price, odds, special offers, and promotions. To do this, they draw on a global infrastructure of technology and communications systems - including operators, game designers, programmers, marketers, and other (in)vested interests - to produce more ‘competitive’ (and so more harmful) products. Immersive and geolocation technologies, machine learning and predictive personalisation as well as the use of cashless and digital currencies are used to keep one step ahead of the competition, drive up customer numbers and increase retention. Lucrative deals with sports clubs have been struck and whilst sponsorship may be the visible face of this relationship, these partnerships are crucial to facilitate a more modern type of gambling: in-play betting. This is a form of live betting that goes on while the event is actually taking place, with odds changing as it unfolds. It is regulated by the Gambling Commission in Britain but banned in many other jurisdictions. Without direct feeds and data sales from stadium operators to betting companies, the in-play betting market could not exist (on the relationship between gambling and sport, see also Nosal in this volume).

The complex odds and arcane algorithms that drive these kinds of products make the concept of 'choice' that underlies the economic model problematic. Research from Britain has found that many of the new types of complicated bets and in-game forms of wagering, which have high profit margins, are based on highly complex odds and price returns that many players do not understand (Newall et al., 2019b). The result is that the kind of 'free' and 'informed' choice over basic actions - such as, for example, how much and when to bet, and what the likely return might be — is simply not possible in many situations.

A recent example of this is the failing of Football Index. Football Index, with its strapline of 'Fantasy Sports + Betting = Football Index', was a British licensed and regulated gambling product that offered customers the opportunity to buy shares of players and receive dividends on their payments. Some invested thousands in their 'player' portfolio — making its subsequent collapse all the more notable — with the ensuing backlash demonstrating that consumers really weren't at all clear about how the product worked, what the risks involved were or even how much they could lose. When Football Index marketed itself as a product for punters who wanted to 'take back control', it was not consumer control that was being offered, but corporate. The fight for market share, the framing of gambling as 'consumer choice' and the neoliberal principles underpinning gambling provision created the conditions in which Football Index could both rise and fail.

This commercial environment leads to specific regulatory challenges, which themselves are constrained by the political-economic model in which they are embedded. It is to this we now turn.

## 5 The regulatory system

### 5.1 The Gambling Commission

The 2005 Act did not anticipate the kinds of technologies and products that would develop to feed the market model. And, because of its framing in terms of economic competition, choice, and responsibility, neither the legislation, nor the regulator that it established, are equipped to deal with them.

The Gambling Commission, at least in its initial set-up, was a product of the libertarian framing that created it. Although it is tasked with protecting children and other vulnerable persons from being harmed or exploited by gambling, its remit is also to '*ensur[e] that gambling is conducted* in a fair and open way' (emphasis added). This is a similar unresolved tension that underscores the Act itself.

This raises various problems in terms of regulating new technologies and products. Based on the underlying assumption that gambling should be permitted, the Commission has tended to be reactive in the face of industry innovation. Rather than being based on the precautionary principle, the Commission tends to lean towards permitting the introduction of new products (so long as they meet certain standards) and appears to only reluctantly use its regulatory powers to gather evidence of harm when pressed. As a result, the British system has been characterised by a lack of regulatory foresight and roundly criticised in a review by the National Audit Office (NAO, 2020). Marion Nestle (2002) talks of 'regulatory capture' in the case of vested interests within the food industry influencing, or 'capturing', regulators. We can add to this the idea of 'regulatory escape' to describe how fast-moving technologies and products, as well as migration to new platforms, can be deployed by industry in ways that enable them to out-pace the regulator and so avoid regulation or scrutiny.

In addition, and arguably as a consequence of its framing of gambling in terms of consumption, the Commission's initial approach to regulation encompassed a mix of industry self-regulation and outcomes-based approaches. This tendency is problematic in terms of regulating in the public interest and has arguably produced a state of 'regulatory capture'. For example, in 2019 the Commission established three Working Groups to review problematic areas of industry practice, including VIP schemes (high value customer incentives), advertising online and responsible product design. Each of the groups was led by a senior industry figure. The situation led the tabloid newspaper, *the Daily Mail*, to quote: 'It's like putting the mafia in charge of looking into organised crime' ("Betting Watchdog", 2020).

## 5.2 Industry self-regulation and political influence

Against this backdrop, the industry in Britain have volunteered to regulate themselves. They have taken ownership of the 'responsible gambling' discourse and used it to promote an image of the efficacy of voluntary industry codes of practice. For example, in 2014 four of the biggest operators in Britain (William Hill, Ladbrokes, Coral and Paddy Power) established their own industry watchdog, The Senet Group, to ‘promote responsible gambling practice’, including funding an educational advertising campaign on problem gambling: ‘when the fun stops, stop’. Such measures — all of which went beyond what was currently required by the government or the regulator — were, however, intended to see off further attempts at regulation, and establish the industry as its own watchdog.

The responsibilities of the Senet Group were, in early 2020, transferred to the newly formed Betting and Gaming Council (BGC) — itself a merger of various gambling industry trade bodies. However, there should be no doubt who is the master of the Betting and Gaming Council — it is first and foremost a trade association, charged with protecting the interests of its members and equipping itself with a board comprising of those with extensive expertise in public (and political) relations.

Most recently, in response to the Gambling Act Review, the Betting and Gaming Council has gone on the offensive, attempting to instil fear into government around the idea of regulatory change. One of its key strategies has been to mobilise the perceived ‘threat’ of the Black Market. Claims about the importance of the economic contribution of the gambling industry, as well as the rhetoric of ‘responsible practice’ coalesce around this issue which, again, is a result of a particular framing of gambling. In 2021 the BGC issued a report claiming that 200,000 people and 1.6 billion EUR (1.4 billion UKP) is waged on the Black Market in Britain, with their Chief Executive commenting: ‘These figures…demonstrate the danger of unintentionally driving punters into the arms of the illegal, online black market — which offers none of the protections of the regulated sector’ (PWC, 2021).

Yet content analysis of industry responses to the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry shows that the gambling industry itself has confidence that there is *not* currently a significant black market for gambling in Britain and that the current regulator is effective at suppressing this when it arises. The Betting and Gaming Council agreed, stating ‘Great Britain has been highly effective in suppressing the development of a Black Market in Britain’ citing effective enforcement action by the Gambling Commission and other authorities as one reason for this. Other submissions echo this statement, though William Hill’s submission suggested that greater regulation may have the unintended consequence of encouraging some to gamble on unregulated websites. However, it is unclear why regulatory enforcement action which the industry itself has stated has been effective previously would be considered inadequate in the face of greater regulatory restriction.[4]

[4] We are currently preparing this analysis for publication, please contact the authors for further details.

The regulatory structure that the Gambling Commission operates within is part of the wider political climate, and it is beholden to government for what powers it does have. And herein lies the bigger problem — the network of vested interests and influence at the political level.

## 6 Political- commercial influence and (in)vested interests

The global gambling industry have built a network of influence that extends well beyond the commercial sphere. This is similar to the influence of other harmful commodity industries who use a variety of strategies to foster relationships between corporations, policymakers, regulators and academics in ways that reinforce their power (Jahiel & Babor, 2007, see also Adams, this volume). Knai et al. (2018) have shown how the unhealthy commodity industries intervene at different levels of the policy system to gain agency over policy formation and politics. This kind of political influence is interwoven throughout the British system. From politicians at the highest level, to government committees and the advisory boards who serve them, there are deep, long running interconnections between gambling industry actors and political circles in Britain.

At its most straightforward perhaps is the issue of party-political connections and financial donations. Sports and betting companies are among the largest donors to the ruling Conservative party (Peck, 2017) with, for example, the owners of the bookmaking chain Betfred, Fred and Peter Done, making substantial donations as well as profiting from government contracts to supply treatment to those harmed by gambling (Davies, 2020). At the same time, many individual Members of Parliament (MPs) declare receiving financial interests from gambling companies. In the 2019–2021 Register of Members Interests, at least three MPs received gifts or money from gambling companies. Notably, Philip Davies, MP, received 58,451 EUR (49,800 UKP) over a three-month period between August and October 2020 from GVC Holdings (the parent company of Ladbrokes-Coral among others) for 'advice on responsible gambling and customer service'. This was reportedly for 124 h worked, a fee of 469 EUR (400 UKP) per hour. Laurence Robertson, MP, in addition to declaring numerous gifts, was appointed Parliamentary Advisor on sports and safer gambling to the Betting and Gaming Council, being paid 2,347 EUR (2,000 UKP) per month for ten hours of work. Caroline Noakes, MP, accepted hospitality from GVC to attend the Cheltenham Festival, Britain's premier horse-racing festival with an increasing reputation for corporate hospitality.

And of course, former parliamentarians who know the system and have strong connections are feted by industry. After resigning from government, former gambling reform advocate and Deputy Leader of the Labour Party, Tom Watson, announced he had taken a role at Paddy Power to 'advise them on safer gambling'. Michael Dugher, a former Shadow Secretary of State for Culture, Media and Sport (i.e., the government department which has responsibility for gambling), is now the current Chief Executive of the Betting and Gaming Council, charged with advocating on behalf of the industry.

These examples extend also to the House of Lords. Lord Anthony St John is an advisor to Betway, where he advises on its international expansion, and is listed as part of the company's leadership team on its website. He also sits on a government committee tasked with scrutinising legislation that would force the company to register in the UK. Betway is owned through a shell company in the British Virgin Islands which obscures the ownership of the bookmaker.

Even some recent Committees and organisations who are currently raising the profile of gambling harm also possess links to industry. For example, the membership of the recent House of Lords Committee on the Social and Economic Impacts of the Gambling Industry included a number of Lords with ongoing or historical interests in various sectors of the gambling industry. It was chaired by Lord Michael Grade who in the past has acted as Chairman of Camelot (the company that, at the time of writing, runs the British National Lottery); and is an ex-CEO of First Leisure Corporation (a company that includes bingo in its portfolio). At the time of serving on the Committee, Lord Grade was also a founder of the Northern Lights Arena Company, a business with links to e-sports.

This is an example of a form of influence whereby industry-friendly framings and connections may potentially be brought, unexamined, to a powerful body involved in the re-framing of gambling legislation. The House of Lords Select Committee's final report made a number of recommendations for reducing the harms of gambling. However, what it did not do is question — or even acknowledge — the framing of gambling in terms of economic growth and market expansion. As we have hopefully shown, without a fundamental re-framing of the issue of gambling in terms of public health, serious reform of the regulatory and commercial landscape is unlikely to be possible.

## 7 Concluding remarks

Britain is a key player in the global gambling industry and its political-economic and regulatory practices, as well as its framing of those practices, are exported around the world. The current trend for increasing centralisation of gambling firms by large supra-national parent organisations (Entain (formerly GVC); Flutter Entertainment, etc.) provide channels through which practices, experiences and narratives can be shared and re-framed by gambling businesses worldwide.

In Britain, although gambling companies are currently resisting the potential threat of stricter regulation, the fundamental model that underpins their business model does not appear to be under similar threat. Narratives of responsible gambling, economic growth and consumer choice continue to dominate the language of both government and corporate circles, and both intersect with and influence the other.

Crucially, this framing is one that is exported beyond Britain to other jurisdictions. The global nature of gambling corporations means that as regulations in one jurisdiction become stricter, and markets increasingly saturated, companies practice ‘regulatory escape’: shifting to new, less regulated markets and so displacing harms to poorer countries. There is no requirement for companies who operate in Britain and adhere to British regulatory standards to apply these same standards elsewhere. In this scenario, the only way to regulate without simply shifting harms to another jurisdiction is to regulate globally.

But we must also question the fundamental ways in which our approach to gambling is framed, and who it is framed by. Despite its embedding in terms of consumption and economic growth, gambling is not, to paraphrase Thomas Babor (2010) on alcohol, an ordinary commodity. It is, rather, one with an inherent risk of harm to the health and wellbeing not only of those who participate in it, but to the wider population and society as a whole. Accepting this point involves a paradigm shift in terms of the way that gambling is framed, and — by extension — in terms of the way is it is governed and regulated. Britain has experimented with its current framing for too long. Only the outcome of the Gambling Act review will indicate whether or not government has adopted a new framework for discussing and, crucially, addressing gambling and its related harms.

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**Gerda Reith** is Professor of Social Science at the University of Glasgow. Her research focuses on the relations of gambling with social, commercial and political-economic processes. She has published extensively on these topics, and her work has been translated into Korean, Chinese, French, Spanish and Hungarian. Her book, *The Age of Chance: Gambling in Western Culture* (Routledge, 2002), won the Philip Abrams Prize. Her latest book is *Addictive Consumption: Capitalism, Modernity and Excess* (Routledge, 2018).

**Heather Wardle** is a Lord Kelvin/Adam Smith Reader in Social Science at the University of Glasgow. She is also the co-Chair of the Lancet Public Health Commission on gambling. She specialises in researching gambling policy, behaviours and practice. She has published widely on these issues and is the author of the forthcoming book, *Games without Frontiers? Socio-historical perspectives at the gaming/gambling intersection*, which explores the intersection between games and gambling.

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# Meta-Analysis of Self-Regulation Discourses in Gambling Through the Sociological Theory of Social Fields

Tamara Besednjak Valič and Mirna Macur

## 1 Introduction

Gambling as a leisure activity is no stranger to contemporary societies. Its proliferation and liberalisation have made it available to wide audiences and the middle class (Reith, 2007). Along with its proliferation, gambling research started to develop, putting the concepts of problem gambling and consequently self-regulation to the forefront. Cosgrave (2010) noted that gambling discourses were nested in economic, consumerism, and medical terms, and Reith (2007) described how the discourse on a pathological subject was constructed.

Interesting research was conducted by Cassidy et al. (2013), unveiling a set of distortions in gambling studies as a product of gambling proliferation. The present contribution attempts to join the debate by exploring the dynamics of discourses on self-regulation from the perspectives arising from the individual gambler and the other deriving from the state and the providers as two other actors of the social field of gambling. For the purpose of this review, we consider the period of 2010–2020 along with the addressed stakeholders and the theoretical approach elaborated by Beckert (2010) and Fligstein and McAdam (2012). Gambling as a social field was first used to interpret dynamics between actors

T. Besednjak Valič (✉)
School of Advanced Social Studies, Faculty of Information Studies, Nova Gorica and Novo mesto, Slovenia
e-mail: tamara.besednjak@fuds.si

M. Macur
Angela Boškin Faculty of Health Care, Jesenice, Slovenia
e-mail: mmacur@fzab.si

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by Sallaz (2006) and Besednjak Valič (2011, 2014). The gambling field is also mentioned by Cassidy et al. (2013).

For the purposes of the present study, we adopted the definition of problem gambling as put forward by Cassidy et al. (2013, p. 16): 'Problem gambling is a socially and politically constructed behaviour which attributes the blame for excessive gambling consumption to the "faulty" individual'. Following this definition, the 'faulty' individuals are researched and offered strategies to reduce or eliminate their behaviour.

Cassidy (2014, p. 346) further elaborates that in gambling studies, research shows that there is a consensus among gambling field stakeholders that the standard of gambling research is poor. Ladouceur et al. (2019) came to a similar conclusion, comparing the evidence supporting the effectiveness of responsible gambling strategies (see also Ladouceur et al., 2017). Additionally, the field is said to suffer from unproductive repetitions of research. However, the topic of self-regulation in the context of problem gambling remains one of the most written about and researched. This seems to be a result of the dominance of the topic of problem gambling in gambling research (Cassidy et al., 2013). To further support the claim, Cassidy et al. (2013) list distortions by outlining the numerous scientific journals that are predominantly focusing on publishing research from within the problem gambling paradigm. Similar results were reported by Nicoll and Akcayir (2020).

The above-mentioned distortion is notable also when it comes to the main scientific journals in the field. These are dominated by psychology and psychiatry predominantly dealing with topics of problem gambling, responsible gambling, and oftentimes self-regulation. There are two with Impact Factors as listed in Journal Citation Reports by Clarivate Analytics for 2019—*Journal of Gambling Studies* (Social Science Edition in Substance abuse, and Psychology, IF 2.836 for 2019); *International Gambling Studies* (SSE in Substance abuse, IF 2.410 for 2019). The third is listed in SCOPUS database—*Journal of Gambling Issues* (SSE in Psychiatry and Mental Health, IF 0.429 for 2019). All three are operating within either Psychology or Psychiatry (including Mental health). Other journals without Impact Factor, such as *Journal of Gambling Business and Economics* and *Critical Gambling Studies,* offer diverse perspectives, also covering topics not related to problem gambling but within gambling studies. The *Asian Journal of Gambling Issues and Public Health* was supporting the main paradigm in gambling research until its cessation in 2018.

Being aware of this situation, the main research problem we are addressing is how self-regulation of gambling is explained in scientific publications between 2010–2020. The contribution is in presenting the time and content dynamics of scientific discourses on self-regulation also through the prism of the stakeholders who ought to be involved in the self-regulation.

## 2 The stakeholders and their role in implementing self-regulation measures

The word stakeholder originated in gambling in sixteenth-century England, where wagers were posted on wooden stakes. Later the term was broadened to refer to a neutral or trustworthy person who held a wager until the winner was decided. The term was brought into management and given visibility by R. Edward Freeman (1984/2010), in his influential text *Strategic Management: A Stakeholder Approach*. He defined a stakeholder as any group or individual who can affect or is affected by the achievement of the organisation's objective' (Quinn Patton, 2008, p. 62).

Following this definition, stakeholders are individuals, groups or organisations that can affect or be affected by objectives and policies or projects. Therefore, stakeholders are defined for each project, analysis, or policy separately according to its aim and focus. For example, Cassidy et al. (2013) define three major groups of stakeholders in producing gambling research: Researcher, Industry, and Research User. These are further divided into subgroups (for further elaboration see Cassidy et al., 2013). However, in the area of problem gambling research, the key stakeholders are consumers, gambling industry operators, health service and other welfare providers, interested community groups (i.e., including those in favour and opposed to legalised gambling), as well as governments and their related agencies. All of these are outlined to have a responsibility to protect the public (with emphasis on its most vulnerable segments) (Livingstone and Rintoul, 2020; Besednjak Valič & Makarovič, 2017; Blaszczynski et al., 2014). These groups often pursue differing and often competing interests (see also Besednjak Valič, 2011a). Health services provide treatment to problem gamblers, whereas other welfare providers offer various preventive programmes and counselling. Governments have two conflicting interests: they need to protect vulnerable groups of the population from the harms of gambling, and they have a regulatory function (i.e., they impose legislation in the field of gambling and supervise its implementation). At the same time, governments are financed through tax revenue benefits derived from gambling (see also Besednjak Valič & Macur, 2018). Gambling providers are profit-driven, so they offer a variety of products and services to consumers (see also Besednjak Valič, 2011a).

Stakeholders have different interests and influences in decision-making processes (Stakeholder and Mapping, 2020): regulators (government, ministries, agencies, committees) impose rules and regulations on gambling; they also collect taxes. Gamblers have virtually no say in the decision-making processes.

These bring us to the three most important (groups of) stakeholders in the area of self-regulation:

1. Game providers (operators of live games such as casinos and slot machine owners or online games' providers)
2. Individual gamblers
3. Regulators (government, ministers, agencies, committees).

## 3 Gambling discourses on self-regulation: a conceptual framework

As seen above, there are inherent restrictions and limitations to studies conducted on the topic of problem gambling as an issue of the individual with gambling problems. The same limitations apply to the research on self-regulation as a measure to overcome individual gambling problems. Firstly, numerous studies were conducted outlining restrictive measures and policy recommendations focusing on individual groups of self-regulation holders. Secondly, some discussions were published following the social constructionist view on how the discourses on pathological gamblers as an entity were constructed through science (Miller et al., 2016; Reith, 2007). Different sociological ideas and concepts are being employed to understand how discourses around the construction of difficulties surrounding problematic and addictive gambling have been established.

For the purposes of this chapter, we are adopting the theory of social fields to conceptualise the framework model. When speaking of the gambling field, we lean on the sociological theory of social fields as constructed arenas of actors that function when they interact with each other. The theory of social fields aims to address the interplay between the micro and macro levels in society. In recent years, the approach was used to successfully address many topics, from organisational studies (DiMaggio & Powell, 1983), economic sociology (Bourdieu, 2010), sociology (Beckert, 2010; Savage, 2010; Savage & Gayo, 2011), sociology of culture (Savage & Silva, 2013), to gambling (Besednjak Valič, 2014), and even the diffusion of High-Performance Computing technology (Kolar, 2020) or technology transfer (Besednjak Valič et. al, 2020). The main corpus of work was done in the fields of regional innovation, explaining the dynamics and interplay of different stakeholders contributing to innovation and regional development (Cepoi & Golob, 2017; Modic & Rončević, 2018; Rončević, 2012; Rončević & Besednjak Valič, 2019; Rončević & Modic, 2011). To understand contemporary developments in gambling regulation, Sallaz employed the 'theory of Pierre Bourdieu to account for both the material and symbolic dimensions of policy formation' (Sallaz, 2006, p. 266).

In its conceptual framework, this contribution makes two theoretical arguments. The first is the theory of Jens Beckert (2010) on the interplay of the three main social forces constituting the social field: *institutions, cognitive frames,* and *networks.* These three social forces act as three pillars of the social field, always interacting and exercising pressure on each other to ensure the stability and change of the social field (Beckert, 2010).

The second argument is that even though Beckert's framework captures the general pillars of the social field, it does not adequately capture the dynamics of prevailing discourses. For example, his theory does not offer the possibility of positioning the stakeholders of the field in adequate relationships with one another. To be able to provide for that, we follow the elaboration of Neil Fligstein and Doug McAdam (2012) who determine a social field as a field of interaction between actors who, depending on their position, can be either *incumbents* or *challengers* (Fligstein & McAdam, 2011). For the actors to be able to act properly, they must possess a *social skill* (Fligstein & McAdam, 2012, p. 46). At the same time, to be successfully organised, the institutional framework should be clearly set out, and *internal governance units* (77) should be put in place and effectively manage a social field. The basic tasks of internal governance units (IGUs) are to ensure the social field's order and stability. The manifestation of the networks as social force in Fligstein and McAdam is noted through their elaboration of relationships between incumbents and challengers and their contributions towards stability and change in the field they occupy (Fligstein & McAdam, 2011).

Having set the gambling field, we have to position the three selected main stakeholders. The gambler is occupying the micro-level and is presented through the social force of cognitive frames, engaging in the gambling field through social skill. The providers are sharing the position with the gambler, needing to obtain the social skill to be able to operate within the gambling field. It must be noted that the social skill differs for the gambler and the provider: both have to always be in line with the behaviours and rules set forward by the regulator who is presented through the IGUs.

Following the above elaborated conceptual model based on the theories of social fields, in Fig. 7.1, we argue that there are measures suggested to be imple-

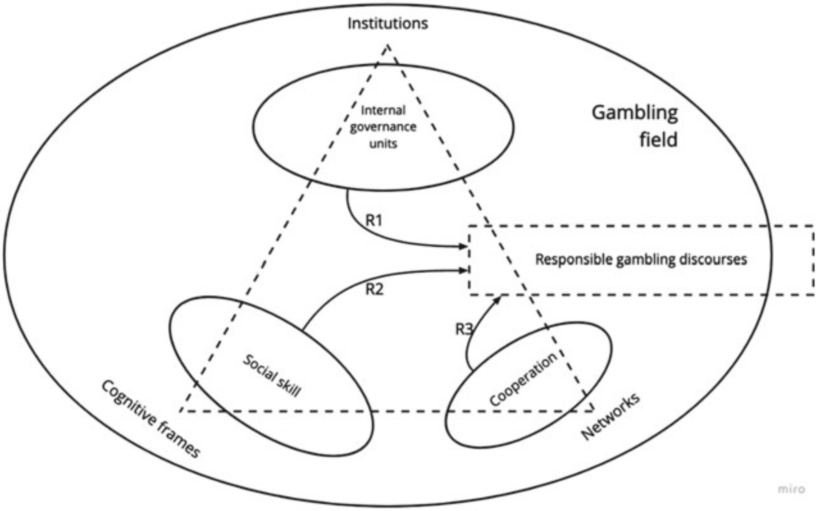


**Fig. 7.1.** Conceptual framework model. (Source: Authors' own conceptualisation)

mented either by the institutions, in the form of IGUs, or by self-regulation measures imposed by users supporting what we determine to be a social skill of gamblers. Additionally, we suggest that measures exist, outlined in the literature on how the stakeholders can jointly implement actions to contribute towards self-regulation.

The three main research questions are, therefore, the following:

*R1: How are the self-regulation measures proposed at the level of internal governance units of the social field of gambling?*

*R2: How are the self-regulation measures proposed at the level of social skill of the social field of gambling?*

*R3: How are the self-regulation measures proposed at the level of cooperation between stakeholders, as in the form of networks, according to the social field of gambling?*

# 4 Methods

## 4.1 Protocol

The protocol for this systematic literature review was based on the Preferred Reporting Items for Systematic Reviews and Meta-Analyses: The PRISMA Statement (for more see Liberati et al., 2009). Following the protocol, we created a PRISMA diagram of final articles included in the research.

## 4.2 Information sources

We were interested in articles and book chapters on self-regulation measures in gambling from different perspectives: gamblers, industry, science, public health. We outlined measures that were proposed or discussed to be most effective when making an effort to decrease problematic or pathological gambling, in the context of which the stakeholder has the responsibility to provide them.

Being aware that the question of responsible gambling and self-regulation in its essence is a relatively constant topic throughout gambling research, the authors determined the period of 2010–2020 to be observed and analysed. A literature search was conducted between October and December 2020. Electronic databases included in the research were Google Scholar, CINHAL, Wiley Online Library, and SpringerLink.

## 4.3 Keyword search

Two keywords were chosen as those most associated with gambling and self-regulation. The search combination included the expression: 'gambling' AND 'self-regulation'.

## 4.4 Study selection

The inclusion criteria were determined by a) the English language, and b) open access. The analysed time frame of all publications ranges from 2010 to 2020. Articles were selected if they addressed any form of self-regulation in the context of gambling. Following the conceptual framework, articles were included if they addressed individual aspects of self-regulation, institutional aspects of self-regulation, and questions of networking as related to self-regulation.

Excluded articles were all those that discussed biological factors of self-regulation (for more see Blaszczynski & Nower, 2002) and those that mentioned gambling only briefly.

### 4.5 Screening

The screening was conducted in three steps: in the first step, articles or chapters or books were selected in which either 'gambling' or 'self-regulation' appeared in the title, abstract or keywords. In the second step, the contents of those articles or chapters were studied, and 30 articles were found to be appropriate in the Google Scholar search, eight articles from the CINHAL database, five volumes in the Wiley Online Library, and 15 articles in the SpringerLink search. In the third step, duplicates were removed, so 43 articles remained (see Tab. 7.1). The PRISMA flow chart visualises the process of article selection (Fig. 7.2).

## 5 Results

The analysis method is based on a deductive coding process (Vogrinc, 2008) by which the authors listed pre-selected codes. The codes were selected based on previous knowledge of the topic (see also Vogrinc, 2008, p. 63 for more information); more importantly, they are based on the conceptual framework elaborated specifically for this study. The pre-selected codes are the following: analysed method of self-regulation; alternative measures of gambling regulation; and main carrier of regulation measures. The results are presented in Tab. 7.1.

Following the results presented in Fig. 7.3, we can notice the interesting dynamics of the distribution of the actors presented as the main carrier of the self-regulation policies in gambling. In the time span of 11 years[1] the gambler is addressed as the main carrier of measures in a total of 24 articles. The regulator is mentioned in four articles as the main carrier of measures of self-regulation. The providers are mentioned as main carriers of self-regulation policies in total of nine articles. Several stakeholders jointly responsible for shaping the self-regulation policies are discussed in seven articles.

[1] The year 2020 was not finished in the time of preparing this chapter; therefore, the authors are aware the data for 2020 might change due to more published articles in that same year.

**Tab. 7.1.** Literature review

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Hansen & Rossow, 2010 | Empirical, Quantititive study | Prohibition of Note Acceptors | Not mentioned | Regulator |
| Thomas et al., 2010 | Empirical, Qualitative study | Self regulation strategies (setting limits, maintainin awareness, social gambling) and more restrictive strategies: maintaining an abstinence; help-seeking | Not mentioned | Gambler |
| Lalande & Ladouceur, 2011 | Empirical, Quantitative and Qualitative study | Self-control strategy | Not mentioned | Gambler |
| Williams, et al., 2012 | Empirical, Qualitative study | Emotion regulation | Not mentioned | Gambler |
| Bergen et al., 2014 | Empirical, Quantitative study Quantitative study | Problem gamblers on short term result more self-control | Not mentioned | Gambler |
| Moore et al., 2012 | Empirical, Quantitative study | 5 Individual self-management techniques | Not mentioned | Gambler |
| Poysti & Majamaki, 2013 | Empirical, Qualitative study | Role of self-regulation in cultural context | Not mentioned | Gambler |
| Bouju et. al., 2013 | Empirical, Qualitative study | Self-regulation as psychological skill | Not mentioned | Gambler |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Brevers et. al., 2013 | Review study | Emotional self-regulation and psychological aspects of addiction | Not mentioned | Gambler |
| Prentice & Woodside, 2013 | Empirical, Qualitative study | Gamblers to managing their gambling behavior | Supported by marketing service | Gambler |
| Shonin et. al., 2013 | Review study | Religious practise as tool for self-regulation | Not mentioned | Gambler |
| Gainsbury, 2014 | Review study | Self-exclusion | Not mentioned | Gambler |
| Livingstone et. al., 2014 | Review study | Self control mechanisms introduced as codes of practices | Self-exclusion, signange, messages, interaction with gamblers, the removal of ATMs from the venue | Gambler |
| Molinaro et. al., 2014 | Empirical, Quantitative study | Prevention | Family characteristics and expenditure on public health | Gambler |
| Parke et. al., 2014 | Review study | Self-awareness based on self-control arising from informed choice | Not mentioned | Gambler |
| Spurrier, 2015 | Empirical, Qualitative study | Risk perception in decision-making, gambling behaviour, and disordered gambling aetiology | Not mentioned | Gambler |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Barbaranelli et. al., 2017 | Empirical, Quantitative study | Self efficacy as protective factor | Self efficacy in combination with self regulation | Gambler |
| Hing, et al., 2017 | Empirical, Quantitative study | Different strategies are assessed as used by different target groups, responsible gambling strategies | Not mentioned | Gambler |
| Subramaniam, 2017 | Empirical, Qualitative study | Self –developed strategies to limit gambling related harm; family interventions to reduce gambling harm | Not mentioned | Gambler |
| Rodda, 2018 | Empirical, Qualitative study | GIST (35 intervention characteristics) including: change techniques; participant and study characteristics; delivery and conduct of interventions; evaluation | Not mentioned | Gambler |
| Strohäker, 2019 | Empirical, Quantitative study | Pre-commitment tools (harm minimisation tools) | Not mentioned | Gambler |
| Yi, et. al., 2019 | Empirical, Quantitative study | Self-regulation strategies | Not mentioned | Gambler |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Bergen, et al., 2014 | Empirical, Quantitative study | Self-control | Professional help to support self-control strategies | Gambler |
| Drawson et. al., 2017 | Review study | Protective behaviour strategies. The strategies reviewed encompass four broad categories: self-exclusion, time limit setting, monetary limit setting, and cashless, cardbased gambling programs | Not mentioned | Gambler |
| Matheson et. al., 2019 | Review study | PG self-management strategies. Self-management as the capacity to manage symptoms, the intervention, health consequences and lifestyle that accompanies a chronic health concern | Personal self-management of gambling as an alternative to formalized treatment | Gambler |
| Breen, 2012 | Empirical, Qualitative study | Risk factors, Protective factors | Not mentioned | Regulator |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Yani-de-Soriano, et. al., 2012 | Empirical, Quantitative study | Corporate social responsibility (CSR) fully implemented and monitored | Advertising should be reduced substantially; misleading promotional techniques should be banned | Provider |
| Abarbanel et. al., 2016 | Empirical, Qualitative study | Responsible or problem gambling language in advertisments | Adjusting advertisements not to encourage excessive gambling | Provider |
| Derevensky & Gainsbury, 2016 | Review study | Self-regulation of industry and regulator | Not mentioned | Several stakeholders |
| Selin, 2016 | Review study | Self-regulation as implemented by operators | Not mentioned | Provider |
| Tanner et. al., 2017 | Review study | Industry implemented self-regulation measures | Not mentioned | Provider |
| Alexius, 2017 | Empirical, Qualitative study | Contemporary responsible gambling measures | Not mentioned | Provider |
| Rintoul et. al., 2017 | Empirical, Qualitative study | Respnsible gambling Codes of Conduct (CoC); their content and implementation | Not mentioned | Provider |
| Engebø et. al., 2019 | Empirical, Quantitative study | Responsible gambling measures on all levels | Not mentioned | Several stakeholders |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Gainsbury et al., 2020 | Empirical, Quantitative study | Consumer protection tools; the extent to which consumer protection tools are used, characteristics of those using these tools, and the perceptions and attitudes towards tool use, including barriers to use | Not mentioned | Provider |
| Harris & Griffiths, 2017 | Review study | Harm-minimisation strategies of gambling products afforded by electronic technologies | Not mentioned | Provider |
| Leung & Snell, 2017 | Empirical, Qualitative study | Corporate social responsibility (CSR) | Not mentioned | Provider |
| Hancock & Hao, 2016 | Review study | Self-regulation as presented by industry | Public health oriented approaches | Regulator |
| Nikkinen, 2019 | Review study | Individual and industry regulation | Personal licenses for players | Regulator |
| Gainsbury, 2014 | Review study | Self-exclusion programmes offered by providers, evaluation of effectiveness, benefits and limitations | Holistic self regulation programmes | Several stakeholders |

(continued)

**Tab. 7.1.** (continued)

| Author, year of publication | Study type | Analysed method of self-regulation | Alternative measures of gambling regulation | Main carrier of regulation measures |
|---|---|---|---|---|
| Blaszczynski et. al., 2014 | Review study | Self imposed limitations in gamblers (time and money limits)—the pre-commitment as self-regulation | Discussion on setting such limits as mandatory; limits as cool off time | Several stakeholders |
| Hancock & Smith, 2017 | Review study | Strategic framework to guide all stakeholders in the adoption of RG policies | Not mentioned | Several stakeholders |
| Hing, et al., 2018 | Empirical, Quantitative study | Too much emphasis is placed on gamblers to regulate their behavior; too little emphasis is placed on gambling operator to provide safe gambling environments; and government need to implement safe gambling policies | Responsible consumption of gambling as new paradigm | Several stakeholders |
| Sancho et al., 2019 | Empirical, Quantitative study | Emotional regulation | Education for emotional regulation | Several stakeholders |

In terms of articles published discussing the regulators' measures, the 11-year time span yielded four articles. In some cases, the authors discuss the public health perspective (Breen, 2012; Hancock & Hao, 2016) and possibilities of individual licenses for gamblers (Nikkinen, 2019). In one case the impacts of removing the slots for inserting banknotes in gambling machines (Hansen & Rossow, 2010) are discussed.

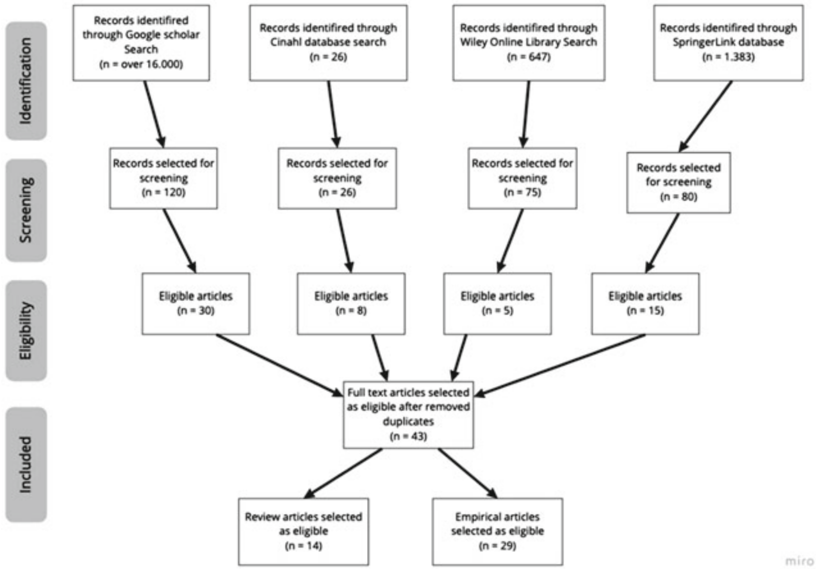


**Fig. 7.2.** PRISMA flow chart diagram

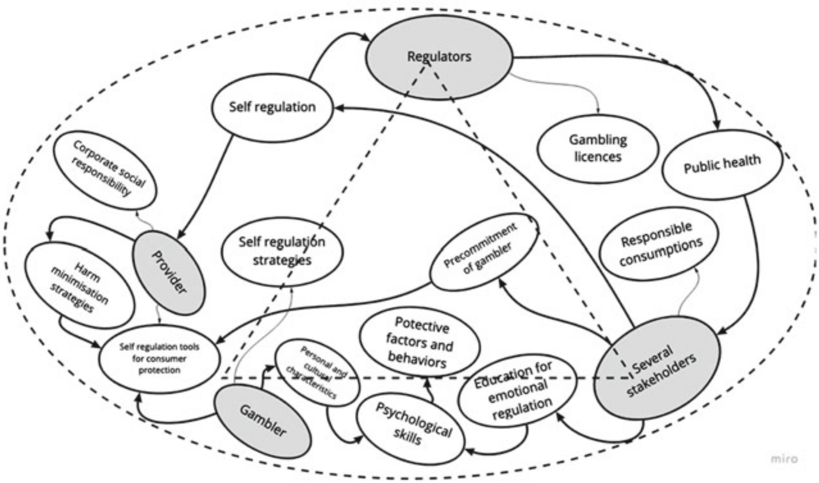


**Fig. 7.3.** Model representation of results. (Source: Own work)

The role of providers in self-regulation is mentioned in nine articles throughout the years. The majority of these articles discuss the development and implementation of corporate social responsibility (Abarbanel et al., 2016; Leung & Snell, 2017; Rintoul et al., 2017; Yani-de-Soriano et al., 2012). Similarly, some form of harm minimisation strategies for providers are suggested (Harris & Griffiths, 2017) and self-regulation tools elaborated for consumers (Gainsbury et al., 2020); ideas on self-regulation of operators to enhance the consumer protection are also discussed (Alexius, 2017; Selin, 2016; Tanner et al., 2017).

The notions that several stakeholders should be collaborating in implementing measures are observed in the articles discussing the potential of pre-commitment of gamblers (Blaszczynski et al., 2014) together with education for emotional regulation (Sancho et al., 2019) and ideas on responsible consumptions as a new paradigm (Hing, et al., 2018). Additionally, references to the public health approach (Hancock & Smith, 2017) and the importance of both industry and regulators to self-regulate (Derevensky & Gainsbury, 2016; Engebø et al., 2019; Gainsbury, 2014) are notable.

By far the most common focus is on the gambler as the main carrier of self-regulation measures, with a total of 24 articles. More precisely, forms of self-regulation strategies are discussed (Thomas et al., 2010; Lalande & Ladouceur, 2011; Williams et al., 2012; Bergen et al., 2014; Moore et al., 2012; Hing, et al., 2017; Yi et al., 2019; Matheson et al., 2019), with the cultural context of individual gamblers emphasised by Pöysti and Majamäki (2013) and the role of families by Subramaniam (2017) and Molinaro, et al. (2014) or even religious practice (Shonin et al., 2013). Self-efficacy can also be understood as a protective measure (Barbaranelli et al., 2017; Spurrier, 2015; Bergen, et al., 2014). Protective behaviours (Drawson et al., 2017) and self-limitation tools (Livingstone et al., 2014; Parke et al., 2014; Prentice & Woodside, 2013; Rodda et al., 2018; Strohäker, 2019) are discussed along with the psychological skills required to be able to exercise self-regulation (Bouju et al., 2013; Brevers et al., 2013).

As seen in Fig. 7.1 and as elaborated above, three main stakeholders are the basis of our analysis, and the measures proposed for them to employ to enhance the self-regulation of gambling are outlined. Fig. 7.3 takes the analysis a step forward by presenting the interplay of measures and main carriers as detected through our systematic literature review. As seen, a whole array of measures is proposed and, on several occasions, those measures seem to be interlinked to different stakeholders, defined as main carriers. The main connecting lines can be drawn between the measures of the public health approach: it cannot be implemented without the cooperation of several stakeholders. Similarly, with self-regulation, the notion of self-regulation of providers and regulators is emphasised. However, most interlinked discussions regard the individual gambler whose individual skills, such as self-regulation strategies and tools, are discussed along with psychological skills and personal self-regulation traits.

## 6 Discussion and implications

Following the conceptualisation of gambling as a social field or gambling field (Sallaz, 2006), we are confronted with functioning market entities in which actors operate and exchange services. With the knowledge of the historical roles and social views of gambling, the gambling field has developed the specific *internal governance units (IGU)* that are setting the legislative rules for the regulator and the operation of the providers. In this context, the IGUs also set what are known to be responsible gambling mechanisms. For this purpose, several stakeholders in the gambling field were created to be able to enforce the discourse on responsible gambling. Following R1 *(How are the self-regulation measures proposed at the level of internal governance units of the social field of gambling?),* we can observe the measures proposed at the level of IGUs aiming towards the regulators. Published research mentions regulators very scarcely, but when it does so, the emphasis on self-regulation, public health and new approaches is noted. Following Fligstein and McAdam (2012), the IGUs are implemented by the state as the superior creator of the field, who established the field by establishing the IGU. The gambling field, as seen from the meta-analysis, is established and, in scientific literature, the researcher analyses the impacts of IGUs on the policy of responsible gambling. However, the analysed frame reveals the dynamics of discourses where regulators as one of the three main stakeholders are not receiving a similar scope of attention as other stakeholders do. In the most recent years, regulators have been receiving more attention as the stakeholders, part of IGU, for their responsibility to elaborate and consider policies of self-regulation. Considering the need for stability in the gambling field, as established by Fligstein and McAdam (2012), such an approach is necessary.

Following R2 *(How are the self-regulation measures proposed at the level of social skill of the social field of gambling?),* the results show a strong focus on individual responsibility in self-regulation, in terms of research conducted and scope of the topics involved.

Interpreting this result from the perspective of the conceptual model established for the present research, we can acknowledge that in terms of *social skill* a certain level is necessary to be active and involved in the field. In this context, an observation must be made that the majority of literature arises from Anglophone countries (see also Nicoll & Akcayir, 2020). This imbalance in the amount of research focusing on individual perspectives can be interpreted with the ideas of individualisation (Genov, 2018) as one of the global trends. The results show an interest in understanding the self-regulation processes of individual gamblers as one of the main stakeholders in the gambling field. Examining and analysing the topics even further, we see that they deal with individual actions (strategies and tools for self-regulation), psychological skills and feelings of self-efficacy, cultural context, the role of families, and practice of religion. In terms of social skill to act within a field, the providers are also mentioned as one of the main carriers of specific self-regulation measures. The measures researched and proposed are in line with and are sometimes complementary to those proposed for the individuals (i.e., self-regulation, harm minimisation measures and tools), and some are indirectly connected with consumer protection (i.e., corporate responsibility and consumer protection measures).

Considering R3 *(How are the self-regulation measures proposed at the level of cooperation between stakeholders, as in the form of networks, according to the social field of gambling?),* some articles discussing the shared roles of different stakeholders when addressing self-regulation. Collaborative measures proposed include those in which individual gamblers participate by developing pre-commitment. The regulators or operators participate by offering self-regulation education. Such collaborative approaches could be further explained by Beckert's (2010) *networks* as one of the three elaborated social forces operating at the level of each social field. In such a context, the *social skill* of the actor is further elaborated and upgraded in the interaction with other stakeholders operating at the level of *IGUs.* The shifts that we can observe contribute much towards a tentative conclusion that research on self-regulation is exploring the more holistic approaches. However, the vast majority of publications and research remain focused on individualistic actors and approaches.

To summarise, the dynamics of forces operating within a social field are always dependent on the relations between the individual and the structure: between cognitive structure and behaviours of the individuals on the micro-level, but also between the institutions of the macro-level that determine the shape and the rules of behaviour on a designated social field. As for the gambling field, literature shows that discourses acknowledging the proper balance of forces to have responsible approaches to self-regulation must come from both sides: the micro-level of the individual player, and the state level of regulator and operator to share their part in shaping responsible gambling (on 'responsible gambling' see also Adams in this volume).

Finally, the question remains for further analysis of the exact role of the main three stakeholders. If we were to elaborate the theory of Fligstein and McAdam (2012), we could continue the discussion questioning the further stability and change in the gambling field (Fligstein, 2013). Within this perspective, each of the stakeholders could be examined based on who is the incumbent and who the challenger when discussing the topic of self-regulation. As the theoretical proposition is that the individual actor's cognitive frames can contribute to the changes in the social field (Beckert, 2010), elaborated dynamics could be interesting for each of the stakeholder group itself, but most specifically researchers who actively participate in the establishment and continuance of the discourses on self-regulation. Such a clear analysis could contribute to resolving the issues of gambling research Cassidy et.al (2013) exposed in their study.

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**Tamara Besednjak Valič** is a sociologist predominantly dealing with questions of regional development and innovation but also dealing with social impacts of gambling to regional development. In her research she employs qualitative research paradigm and experiments with post positivist approaches like fuzzy set analysis. She works as Vice-dean for research at the School of Advanced Social Studies in Nova Gorica and as Assistant Professor at the Faculty of Information Studies in Novo Mesto.

**Mirna Macur** is a sociologist, working at Angela Boškin Faculty of Health Care. She teaches methodology and research methods; she is also involved in research on health, quality of health care and nursing. She is particularly drawn to research in the field of behavioural addictions like gambling, internet gaming disorder and internet addiction.

# 'They Say "easy Money", Telling You to Predict the Games': An Interview Study with Sports Bettors in Lilongwe, Malawi

Christopher Bunn, Otiyela Mtema, Lawrence Nkhwazi, Gerda Reith, and John Lwanda

## 1 Introduction

*"Soccer betting is for the poor. When the rich want to gamble they.*

*use casinos like James Bond".*

*Zimbabwean sport bettor (Chiweshe, 2020)*

Over the course of the twenty-first century, commercialised forms of sports betting have spread rapidly across Sub-Saharan Africa (SSA). Early forms involved local entrepreneurs using a combination of satellite broadcasts of European football, an internet enabled computer and a series of accounts with global online sports bookmakers to act as proxies for those wishing to place bets (Akanle & Fageyinbo, 2016; Vokes, 2010). Since then, a staggering array of mobile internet-mediated sports bookmakers (Reith et al., 2019), that tap into the aspirations of the poor and, have a close association with popular European football leagues,

C. Bunn (✉) · L. Nkhwazi
School of Social and Political Sciences and Malawi Epidemiology and Intervention Research Unit (MEIRU), Malawi Epidemiology and Intervention Research Unit, Lilongwe, Malawi
e-mail: Christopher.bunn@glasgow.ac.uk

G. Reith · J. Lwanda
School of Social and Political Sciences, University of Glasgow, Glasgow, Scotland
e-mail: gerda.reith@glasgow.ac.uk

O. Mtema
Zaluso Arts Lilongwe, Lilongwe, Malawi

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have established themselves across the African continent, bringing sophisticated marketing models, widespread coverage and promises of enrichment (Bunn et al., 2020). African scholars, as well as those in the Global North, have expressed concern at these developments and called for public health approaches that seek to prevent gambling related harms (Bitanihirwe & Ssewanyana, 2021; Wardle et al., 2019).

Across SSA, as in the Global North, participation in new forms of commodified sports betting tends to be gendered, with men substantially more likely to participate than women (Chiweshe, 2020; Connolly et al., 2017). In SSA, a burgeoning literature is documenting the connection between the large communities of fans of European football and the growth in sports betting (Adebisi et al., 2021; Akanle & Fageyinbo, 2015; Akanle & Fageyinbo, 2016; Bunn et al., 2020; Chiweshe, 2020; Glozah, Tolchard, & Pevalin, 2019; Nabifo et al., 2021; Olaore et al., 2020; Owonikoko, 2020; Schmidt, 2019). This body of scholarship also emphasises the interconnections of sports betting with youth unemployment (Olaore et al., 2020), alcohol consumption (Nabifo et al., 2021) and social interaction and belonging (Adebisi et al., 2021).

The focus of this chapter is on Malawi, which first issued a licence to a commercial sports betting firm in 2015 (MGB, 2017). This firm was Premier Bet, which was launched by Editec, a European company with offices currently in the UK, France, Romania, Malta, and Sweden. As seen in Fig. 8.1, the Malawi Gaming Board (MGB, 2017, 2019), Gross Gambling Revenue (GGR) from commercialised sports betting grew rapidly after its introduction.[1] In previous work, using newspaper articles and photographic evidence, we described a range of strategies through which Premier Bet, whose revenues account for ~ 99 % of the GGR reported in Fig. 8.1, sought to build a market for their products in Malawi (Bunn et al., 2020). Our paper identified seven strategies through which this company established their market: adopting a mobile network franchise model; using media coverage; purchasing high-visibility advertising; sponsoring locally; building association with (European) football; appealing to aspects of hegemonic masculinity; and constructing narratives of individual and collective benefit.

In this chapter, we build on our previous work, which focussed on structural features of the emerging sports betting field in Malawi by exploring it from the point of view of a sample of young men (18–35) living in Lilongwe who bet at least weekly. Our aim in doing so is to better understand the sports betting practices of these men, as well as their effects in their lives and on the lives of

[1] Sadly, no annual reports have been published beyond the financial year of 2017–18.

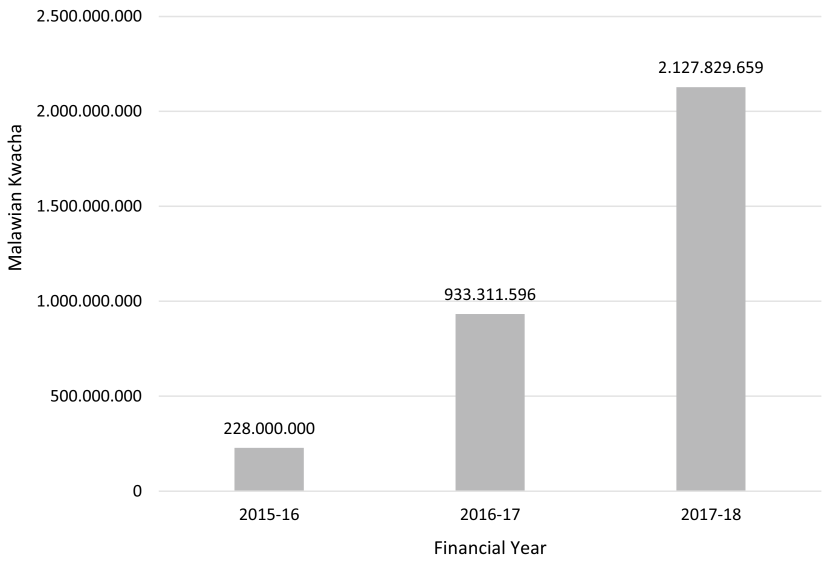


**Fig. 8.1.** Gross Gambling Revenue from Sports Betting in Malawi 2015–2019. Data source: Malawi Gaming Board

their families and communities. Our approach is informed by Reith and Dobbie’s (2013) concept of ‘gambling careers’. This concept positions participation in gambling as fluid and malleable, with bettors’ gambling practices changing in response to myriad social and psychological factors.

## 2 Methods

Our study recruited 10 men between the ages of 18 and 35 who self-reported betting on sports at least once a week and agreed to participate in a semi-structured interview. Recruitment took place in a peri-urban community in which the researchers routinely work and in which strong established relationships exist with local authorities. Researchers approached participants through these community channels, by asking block leaders and village heads to identify young men that fitted the inclusion criteria and then seeking their consent for to be contacted about the research. Upon receiving consent to contact these potential participants, researchers arranged to discuss the study, using a structured information sheet written in Chichewa. Where potential participants remained interested, the researcher conducted an informed consent procedure.

Interviews were conducted in Chichewa, following a topic guide designed to explore how the participant became interested in gambling, their gambling practices, their motivations for gambling, and how family and friends react to their gambling. The interviews were audio recorded, translated, and transcribed into English. Analysis followed an inductive thematic approach and was conducted using Nvivo 12 (Braun & Clarke, 2006). Cross tabs and matrices were generated in NVivo to enable systematic comparisons across the sample, aiding interpretation. The study was reviewed and approved by two ethics committees: National Committee on Research in the Social Sciences and Humanities in Malawi (ref: P.05/19/381); and College of Social Sciences Ethics Committee, University of Glasgow (ref: 400180266).

## 3 Initiations and 'Gambling Careers'

While commercialised sports betting might be a relatively new phenomenon in Malawi, placing wagers on sports or gambling in games of chance is not. Indeed, these are established practices in Malawian communities and some of our participants gave accounts of these. For example:

I: Did you ever bet when you were a child?
P: Aaah, it wasn't like sports betting as such, but these local betting which are done in the community as a way of socialising as youths. […]
I: Do you remember the kind of betting that you used to do?
P: The betting that we used to do in the past when I was still young was that of playing cards. This is what we used to do sometimes back. [IDI 6]

As well as gambling through card games as this interviewee describes, several others described another form of 'community' betting focused on the outcome of local football matches. In some instances, interviewees participated in these games, clubbing together with team mates to provide a prize for the winner of the game.

While these 'community' forms of betting persist, the arrival of wide-spread commercialised sports betting in 2015 changed the nature of gambling and gambling careers in these communities. One driver of this change was the mass visibility that companies purchased via television:

P: I was motivated after watching Premier Bet show. One time they show us a certain person who won 16,000,000 kwacha [about 16,000 EUR] after betting 150, so I was inspired by that person for me to start betting frequently with hope that one day I will win… It was on TV.
I: It just came?
P: No, Premier Bet has a program which they show on Thursday and they do as an advert, advertising their business. [IDI 3]

Routine exposure to Premier Bet's products via their television programme, coupled with the 'inspiration' of learning that someone had turned a very modest amount of money into a life-changing sum, engendered frequent, hope-driven betting in this man. The influence that highly publicised 'big wins' had on their initial and continued engagements with sports betting was a common narrative across the sample.

The framing of routine betting in terms of 'hope', both explicitly and implicitly in relation to the pursuit of the 'big win', links to the broader socio-economic situations in which those we spoke to are situated: that of varying degrees of poverty. As one interviewee explained [IDI 10], his relationship with sports betting began as a reaction to the destruction of his parents' village home by a storm: 'I started in 2019 and it was poverty which introduced me to this, I just sat and thought maybe I should try this at least I can find something to help my family with'.

In this extract, this young man saw no other option through which to support his parents, and this drove his engagement with sports betting. This decision was taken in a context in which, as we have shown elsewhere, sports betting has been framed by employees of the leading sports betting provider in Malawi as an opportunity to earn (Bunn et al., 2020). This was a narrative which was repeated by our participants who described how vendors enticed customers, for example: 'They say "easy money", telling you to predict the games which you think they might win, and they produce list of games and you choose from the list' [IDI 2].

Yet this conceptualisation of sports betting as 'easy money' was subject to critical reflection by our interviewees. As one man put it, 'if you are lucky, you become so rich but if you are not lucky, you end up being poor and poorer' [IDI 4]. Another man described how he stopped gambling for a time:

> It's because I wasn't winning. When I bet like today, tomorrow, the next day after tomorrow, I wasn't winning. When someone invests in something, he expects to get the desired results or it should bear fruits, but if the intended results don't come out, you become frustrated or disappointed. So as time goes, you start contemplating that

> I don't win when I bet, so I shouldn't take betting seriously as I am doing. During that time, when I wake up in the morning and I don't have anything to do, I used to go for betting, but as of now it's once in a while. I even stay for one or two weeks without betting. [IDI 6]

In this nuanced account, we see this young man describing how his repeated failure to win led him to eventually limit his activity and engage in extended breaks. He also explicitly links his sports betting career to boredom, noting that he does not 'have anything to do', suggesting that a lack of economic or employment opportunities played a significant role in his former routine of daily betting.

In contrast to this, some of our participants positioned their routine gambling practices in the terms of 'addiction':

P: I think my life is misled in many things and at present I find it difficult to save money and at present I usually think of betting.
I: Okay. So what is pulling you back to quit from betting?
P: I think it's like I am addicted and wherever I am, I have to keep a ticket in my pocket and this moment I have it.
I: How many times do you bet in a day?
P: In a day, I get at least 15 tickets.
I: Everyday?
P: Yes, everyday […] What happened was; I just get used to betting and I couldn't miss having a ticket in a day. When I don't have a ticket on a particular day, I have sleepless nights and it's really impossible for me to sleep until I get a ticket, two or four tickets. [IDI 3]

For this young man, gambling has, arguably, taken over his life: causing preoccupation, compulsion, and sleeplessness. He estimated spending about five euros (MWK 5,000) per day, which is over half the weekly minimum wage in Malawi (Phiri, 2020). The frequency of his sports betting consumption is also significant: 15 tickets daily.

Experiences of frequent losses were often linked in participants' accounts to stopping betting or to the desire to stop.

I: Have you ever wanted to stop betting?
P: Yes, I stopped betting during a certain time.
I: You stopped betting?
P: Yes, I stopped betting, I stayed for some months. I was just losing money every time I bet, so I decided to stop. When my friend won, he started

> encouraging me to resume betting. So, I started betting energetically so that I can maybe win, but winning is just by chance. [IDI 9]

For this participant, repetitive loss led him to stop betting for 'some months' before a friend's success rejuvenated his sports betting, with the hope of winning. Such gambling career patterns were common across our data with one man describing his return to betting after a break as:

> […] the heart was just pressurizing and saying maybe something misfortunate just happened, but today let me go, maybe I will win. And if you win two or three times you think you are back to normal, so it's difficult to stop. [IDI 4]

Among our participants' gambling careers, withdrawals from sports betting activities are often followed by returns which are motivated by witnessing someone close to them winning or by thoughts that better fortune will befall them.

## 4 Cross-selling digital and virtual products

Across the interviews we conducted, participants offered a range of reflective accounts of the new commercialised form of sports betting. Many described how while betting on football matches had been an initial attraction, they had found other forms of gambling within commercial outlets:

> I enter Premier Bet shops and there are different types of betting systems… three or four types of betting; the spinning one, the other one we use, on a big screen where there are different colours as well, green, black and red; the other one there are dogs running around; and there are horses; while another one is purple, orange and blue in colour, so you choose which colour stands for a team that you are betting on and it spins by itself. [IDI 10]

In this account, the participant describes how Premier Bet outlets contain a range of virtual or digital products, offered alongside sports betting. These forms, as one man noted, offer instant outcomes, compared to 'a football game which you have to wait for ninety minutes to end' [IDI 2].

These digital and virtual offerings, with their instant outcomes, were seen as an attraction by multiple participants. For example, one described how while he continues to bet on football matches, his attention has shifted to these other products:

I: So, on this current betting, what kind of games do you bet?
P: I like betting on spin.
I: Spin? […]
P: But for me it's rare to win on football games but mostly I win when I bet on spinning. [IDI 1]

The participant here is referring to a form of digital roulette, and he sees this as his most likely source of winning. When asked to elaborate on how he came to form a preference for 'spin', the participant went onto to refer to advertising:

P: They talk about the benefits of betting or, I can say, how to bet wisely because there is betting which is done by guessing such as spin. There are sectors like A, B, C, D, E, F, so if you just select F, it may fall into B, and this means you didn't think wisely but if you look properly you win, so they explain all these things. They explain that you need to think wisely before betting. [IDI1]

In this account, the participant presents two views of 'spinning': one as a game of 'guessing'; another as a game of skill that requires wisdom and 'looking properly'. Such instant forms of digital gambling, housed in sports bookmakers, have attracted significant concern in the global north for their propensity to become habit-forming and to enable losses to accumulate rapidly (Woodhouse, 2019).

Not all sports bettors we spoke to were attracted by these digital offerings, however. Indeed, some offered explicit criticism of them:

> I like betting for live football games because what a person predicts remains the same without anybody tampering with it. While for spin games, it's a thing which is already programmed or set and we just choose numbers or colours[…] Betting or gambling is a game of chances and they are there to make profits. The people who predict those games stand chances of winning, but the company is generally there to make profits. Most of their profits are generated from games like spin, you see. So, games like spin don't make people advance. [IDI 5]

In this extract, this man presents an understanding of algorithm-based digital and virtual products as being designed to ensure the company makes money. He contrasts this to football betting, which he sees as remaining 'untampered' with and therefore more likely to help him 'advance'.

## 5 Socialites of Sports Betting

The growth of sports betting in Malawi and the range of effects it has had in communities can be explored through what could be described, from a sociological perspective, as its various socialities i.e., the connections and relationships it establishes and intersects with. Firstly, it is grounded in passion for football and, specifically, in the widespread following of European leagues (Akanle & Fageyinbo, 2015). As many studies of sports betting and football fandom in Africa have observed, communities of fans have been built around European clubs, mediated by satellite television in viewing houses or bars (Vokes, 2010), what Akindes calls 'trans-local stadiums' (Akindes, 2011). Our participants' accounts fit this scholarship and frequently included statements such as 'I bet for teams in Italy, Spain and England despite some of those teams disappointing, but I never leave them aside; I still bet for them because I love them' [IDI 10].

Here, the link between supporting a team and backing them with a bet is made explicit and framed as an expression of the participant's 'love' for these teams. Yet, not all participants' connections to European teams operated in this way, with others taking a more cautious approach: 'I bet for my team in England when it is doing well but if it's not doing well, I leave it and bet for other teams which I think can help me to win money' [IDI 2].

The powerful social connections that participants felt towards European football also formed part of interactions between friends and peers who engage in sports betting. Participants often described how:

> We sometimes help each other with ideas because many people watch international football. I sometimes ask my friends how they think a certain game can end, so they give their views. After those discussions we come up with a conclusion on how we should bet on those games. [IDI 6]

This form of collaboration sometimes involves pooling money to buy a group ticket or for groups to work to 'hedge' their wagers by collectively backing a range of outcomes. Some described how this process was mediated by WhatsApp, while others met at roadside betting kiosks. Through such processes, participants described the formation of sports betting communities within the area we studied.

From our participants' accounts, it is clear that the marketing and business practices of sports betting vendors operate with an awareness of these sports betting communities. One participant described how his local vendor spent time moving around his local community distributing lists of matches and odds available to bet on that day:

P: There are papers which they distribute to us.
I: Who distributes them to you?
P: Premier Bet people bring to us. […]
I: Where exactly do they deliver or where do you find them here in [Location]? […]
P: Yes, and even at my shop they come and deliver them to me.

In this account, the participant makes it clear that his local vendors know the membership of local sports betting communities and where to find them, using this information to encourage routine betting. The participant also frames this practice as targeting a group he belongs to, using the word 'us'. This man offers an insight into how vendors are effectively positioned by corporations to infiltrate communities on their behalf, in exchange for commission (Bunn et al., 2020); a social formation which resonates with indirect rule approaches to wealth extraction favoured by colonisers (Jua, 1995).

Socialites of sports betting are not limited to fans of European football, communities of sports betters and the relationships between sports betting vendors and these communities; they also have significant implications for family life. The participant who described his tendency to buy 15 tickets a day went on to reflect that his sports betting:

> Disturbs your behaviour even at home. Things don't go well at home because sometimes you don't succeed in life and even thinking capacity is affected, your diet is also affected and almost everything is affected… Sometimes I stop the plan of buying food and buy another ticket… Sometimes… someone tells me she needs money to buy soap, that moment I don't answer them politely. [IDI 3]

This account, while at the extreme end of the accounts elicited from participants, was not unique and exemplifies the material and emotional impacts that participants reported sports betting having on their families. Household food supplies are disrupted, soap is not bought, relations become strained and mental capacities are diminished.

While not all participants revealed such extreme situations, in the accounts we gathered, it was common for young men to hide sports betting from their families. For example:

I: Does your family know that you bet?
P: No, they don't know. Even when I win, I have never told them that this is money I have won from betting.

I: Why do you hide from your wife?
P: I feel like it's a gambling game, so I just decided not to tell her.
I: Why do you think it's not good to tell your family about gambling?
P: Because it's something you can get addicted to, so if my children learn about it, they might interpret it as a good thing and they can start gambling, so I don't want that to happen. [IDI 7]

This young man offers two reasons for hiding his sports betting. Firstly, because it has been positioned alongside more established, stigmatised forms of gambling. It is clear that, to some degree, he accepts these negative social appraisals, because his second reason for hiding his betting activity is that he does not want his children to become involved in it. Awareness of such stigma was shown by other respondents, who sought to hide their activities from family members, both living in Lilongwe and those living in their rural home villages.

While hiding, or attempting to hide sports betting, was common, some of our participants' families were aware of their activities. One young man described how his parents had discouraged him from gambling, but since he married and established an independent household, he had been open about his betting with his wife:

> When I am leaving home, I have already budgeted for the household expenses but the remaining money which I used to spend on beer before I stopped, now I take that money for betting. And when I am coming back, she wonders why I am coming with extra money instead of the little cash I took away, and I explain to her how I got the money that I have won. [IDI 1]

While this account is one in which the participant positions his sports betting as budgeted for and part of an open dialogue with his wife, he later went on to explain that 'so if I lose… I don't take it as a thing to tell my wife' [IDI 1].

A final social aspect of sports betting reflected on by our participants relates to the futures they imagine for it in Malawian society. Some expressed concern that more efforts to prevent minors from betting needed to be made:

> […] I personally feel that they [sports betting companies] aim at making profits, so sometimes they just allow children who are growing tall to bet because they want to make money. So there should be a way of verifying their ages. [IDI 8]

Others observed that, while in a few instances sports betting has led to significant wins for Malawians, it has a negative effect on life:

> I see more disadvantages than the advantages; the disadvantage is you spend more money than what you win. You don't feel pain because it goes little by little, but if you count the money according to the days you spent the money and add them together, it's bigger amount, so if things are in this way then you are making yourself poor. If I say betting is easy money but when we look at it from another angle, it's a disadvantage on its own because this element […] encourages laziness. Instead of focusing on things which can provide you money, which is fixed, you are diverted to focus on betting. [IDI 4]

Here this man expresses concern about both the gradual loss of money that sports betting can cause, as well as its tendency to 'encourage laziness' and 'divert' attention from the pursuit of sustainable business.

## 6 Discussion and Conclusion

The interviews which we have analysed and presented here give, to the best of our knowledge, the first research-based account of the practices and perceptions of regular male sports bettors in Malawi. While gambling is not a new phenomenon in Malawi and community-based forms of betting are long-established, the commercial form of sports betting that emerged from 2015 onwards has been a radical departure for the country. It has produced new communities of sports bettors, which gather around their passions for European football, and an industry which seeks them out and cross-sells digital and virtual forms of gambling. As we have argued elsewhere, the wealth extraction that ensues is likely to be causing significant gambling-related harm (Bunn et al., 2020) and as we show here, it closely resembles colonial techniques of indirect rule (Jua, 1995; see also Berret & Marionneau, this volume). This observation is further compounded by Premier Bet's European origins.

Our data suggests that attraction to sports betting was frequently generated via hearing stories of large wins, echoing findings in Zimbabwe (Chiweshe, 2020), either through friends or through content sponsored by sports betting companies (Bunn et al., 2020). Poverty was also a motivation and sports betting was often positioned as offering hope for a better future for those lacking economic opportunity, as well as providing 'something to do' as observed in Nigeria and Kenya (Olaore et al., 2020; Schmidt, 2019). The 'gambling careers' of those we spoke to varied, with some participants moving in and out of intense patterns of betting, while others became stuck in harmful patterns (Reith & Dobbie, 2013). The more harmful patterns had negative consequences for bettors' household diets, hygiene, relationships and cognitive resources, findings which support the suggestion that commercialised forms of gambling are a threat to development (Amutabi, 2018). Secrecy was often a feature of our participants' practices, with some taking care to hide their sports betting from their families and some concerned to hide losses, which are often considered signs of problematic gambling (Downs & Woolrych, 2010).

The communities of sports bettors that have formed in Malawi gather around European football leagues and often use mobile technologies like WhatsApp to discuss betting strategies. Having contributed to forming these sports betting communities, companies exploit them by cross-selling digital and virtual products which are not related to football; a pattern which has also been observed in Nigeria (Adebisi et al., 2021). While Malawi regulates gambling through the Malawi Gaming Board and Lotteries Authority, underpinned by specific legislation, there is no specific 'sports betting' licence category mentioned in this legislation (MGB, 2019). Accordingly, such cross-selling strategies exist in what appears to be a legally 'grey area'. Given the attraction to the 'instant' nature of these products, such as 'spinning', as reported by some participants, it is hard not to draw comparisons with the literature from the Global North which has identified the particularly harmful nature of 'fixed odds betting terminals', which possess similar 'instant' properties and have been described as 'the crack cocaine of gambling' (Woodhouse, 2019). Noting the radical evolution of its gambling landscape, Malawian authorities should consider updating its regulatory approach to take account of the dramatic rise of sports betting and the tendency for vendors to cross-sell products which are potentially the source of most harm.

A final observation that we wish to make is that, as with much literature in the Global North, there is an emerging tendency in SSA literature to pathologise harmful patterns of gambling, rendering them the problems of individuals and framing them as 'addictions' (Bitanihirwe & Ssewanyana, 2021). Participants in this study also spoke in these terms at times, both in relation to themselves and to others. We urge caution in taking this route, and instead encourage a more holistic view that sets gambling and the bettor within their social and economic contexts (Reith, 2018; Shaffer & Korn, 2002). Such an approach should also take into consideration the commercial determinants of health (Kickbusch et al., 2016) to appreciate that the contexts in which our participants are betting has been shaped by corporate interests that seek to subjugate them as consumers in ways that extract their wealth. Accordingly, while those Malawians that are stuck in harmful patterns of gambling need help, and some useful help may come in the form of medically grounded practices, what they most definitely need is a better regulatory approach from the designated authorities which protects them from the exploitative structures that have been constructed around them.

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**Christopher Bunn,** MA (Cantab), MPhil and PhD, is a lecturer in sociology at the University of Glasgow and a Senior Social Scientist at the Malawi Epidemiology and Intervention Research Unit. Chris' research addresses gambling, long term health conditions, commercial determinants of health, civil society and religion. He has a particular focus on using sociological theory and method in interdisciplinary teams to establish the contextual drivers of social problems, working dialogically with communities and experts to co-construct responses/interventions to these problems before systematically evaluating the impacts these responses/interventions produce.

**Otiyela Mtema** holds a degree in social sciences from University of Malawi, Chancellor College and is based at Zaluso Arts, Malawi. He is a social artist who specialises in co-designing and implementing social change initiatives.

**Lawrence Nkhwazi** is a researcher based at the Malawi and Epidemiology and Intervention Research Unit, Lilongwe. His work focuses on implementing large-scale health and demographic survey research and nested qualitative studies.

**Gerda Reith** is Professor of Social Science at the University of Glasgow. Her research focuses on the relations of gambling with social, commercial and political-economic processes. She has published extensively on these topics, and her work has been translated into Korean, Chinese, French, Spanish and Hungarian. Her book, *The Age of Chance: Gambling in Western Culture* (Routledge, 2002), won the Philip Abrams Prize. Her latest book is *Addictive Consumption: Capitalism, Modernity and Excess* (Routledge, 2018).

**John Lwanda,** MB ChB (Glasg) and PhD (Edin) is a medical doctor, social researcher and social historian. He is interested in the nexus between culture, politics, poverty and medicine and has contributed to the examination of Malawi popular music and culture from religious, medical, political and cultural perspectives. John's publications include *Politics, Culture and Medicine in Malawi (*Zomba: Kachere, 2005) and *Making Music in Malawi* (Lilongwe: Logos Open Culture, 2021).

# Gambling is How Finopower Feels: *Ozark* and the Art of American Neoliberalism

Fiona Nicoll

## 1 Introduction

The expansion of commercial gambling spaces and products that facilitate transnational money laundering and other crimes has occurred in tandem with government policies and academic research that focus on cultivating a greater sense of individual responsibility for problems related to gambling (Akçayır, et. al, 2021). While there are some parallels with other risky products and services (including tobacco, prostitution, and alcohol—as well as cannabis in some jurisdictions) gambling's capacity to clean dirty money creates especially valuable flows of illegal substances, weapons, and money at local, national, and transnational scales. These flows are often obscured by gambling businesses through elaborately choreographed performances of community engagement and philanthropy. This chapter offers a close reading of the television series *Ozark,* which explores the transformation of a white suburban American family which becomes ensnared in a money laundering operation for a Mexican drug cartel. I argue that *Ozark* highlights gambling's constitutive role in in American neoliberalism through processes that I call 'finopower'.

**Finopower: theorising gambling beyond 'casino capitalism'**

Gambling is an important site where the tensions between individual freedom and social responsibility that underpin liberal and neoliberal states are lived, expressed, and represented. In 1986 British economist, Susan Strange, published a landmark study of global financial markets, coining the concept of 'casino capitalism' to

F. Nicoll (✉)
Political Science Department, University of Alberta, Edmonton, Canada
e-mail: fnicoll@ualberta.ca

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connect the high-risk, adrenaline-fuelled domain of high finance trading with the negotiation of financial uncertainty by ordinary people in everyday life. While the term was part of larger argument about America's role in stabilising global financial markets, she was equally concerned with how 'the increase in uncertainty has made inveterate, and largely involuntary, gamblers of us all' (Strange, 1986/2015, p. 2), especially in a context of stark social inequalities between and within the nations that make up the global economy. The concept of 'casino capitalism' enjoyed renewed popularity in the wake of the global financial crisis of 2008–2009, a period which also saw an innovation boom in gambling products and aggressive industry lobbying from gambling providers in many countries. By the first decade of the twenty-first century, casinos had become an increasingly important source of revenue for governments around the world. However, the deployment of 'casino capitalism' as an adjective or metaphor to describe these developments can be misleading (see also, Cassidy, 2009, p. 13). For it might suggest not only that a version of capitalism exists that is untainted by the casino but also that casinos are spaces of entertainment or enjoyment that might exist apart from capitalism. It is, therefore, important to highlight the proliferation and complexity of state and non-state actors and agencies that directly depend on gambling (Adams, 2007, 2016), as well as gambling's role in the constitution and reproduction of liberal and neoliberal states.

I developed the concept of finopower to account for a biopolitical regime that Foucault associated with the Chicago School of economic theory and described as 'American neoliberalism'[1] (Foucault, 1994, p. 79; Nicoll, 2013, 2019). The balance between social responsibility and individual freedom in this regime is weighted heavily towards the latter and this has consequences for the way that gambling is governed, especially in comparison with Nordic regimes, for example, which have historically been more closely aligned with the social values of a welfare state (see Nikkinen & Marionneau, 2020). Foucault originally developed the concept of biopolitics to explore how states and citizens are co-constituted through the creation of dependent relationships between territories, populations, policing, and economies. Later scholars, including Georgio Agamben (1998), reintroduced the problem of sovereignty in law through elaborating the necessity of 'states of exception', while post-colonial theorist, Achille Mbembe (2019), highlighted the role of 'necropolitics' in statecraft. Most recently, Wendy Brown

[1] Finopower provides a lens to understand two different mutations of liberalism explicated by Foucault on the eve of political transitions that would see neoliberal policies dominate Anglo-American nations. He contrasted German Ordo-liberalism to the 'state-phobic' form of American neoliberalism, promoted by economists and political philosophers attached to the Chicago School of classical economic theory (Foucault, 1994, p. 78).

(2015) explores how the agonism between *homo-politicus* and *homo-economus* is corroding the solidarities on which democracy depends. The concept of finopower helps us to better understand how *gambling* is used to define and police populations, how it creates spaces of exception within state-based forms of sovereignty, and how government policies implicitly differentiate those in whom life is fostered from those who are left to die, whether as a consequence of dangerous products promoted by commercial providers or as collateral damage of organised criminal activities.

A historical perspective reveals that gambling has long been embedded in classical liberal theory and policies which, from the eighteenth century, connected freedom with individual actors' agency in the marketplace. While gambling did not figure prominently in Adam Smith's (1776/1999) account of the invisible hand, the authors of the classical liberal text, *On Liberty,* (1859) argued that states should benefit by taxing those who provided risky substances and services, including gambling, prostitution, and alcohol. In this way the freedom exercised by some individuals to consume immoderately would benefit the broader citizenry (Mill, 1859/1974, pp. 169–70). Lotteries (both legal and illegal)—together with the theft of Indigenous territories and the exploitation of African slave labour—contributed to supporting American colonial states as they elaborated political dreams of a post-revolutionary world of liberty, equality, and fraternity (Sweeney, 2009). American neoliberalism aims to enable the most frugal exercise of government by continually shrinking the sphere of state responsibility and action. However, the paradox of finopower is that, while gambling spaces, moments, and products appear as manifestations of individual liberty, they are often characterised by hyper-surveillance (French, 2014), addiction (Schüll, 2012), and coercive (and sometimes violent) security practices (McGuire, 2014). They are also sites where structural injustices that mark broader social relations including class, gender, race, and Indigeneity are reproduced (Nicoll, 2019). These structural injustices allow criminal identities and activities to flourish within and between states, driving a trade in illegal drugs, weapons, pornography, and human and sex-trafficking. This trade vertically integrates local, regional, national, and global economies in ways that exacerbate existing inequalities and support political corruption and organised crime (Napoleoni, 2008, pp. 3–5).

There is a stark gap between sanitised public representations of commercial gambling enterprises, which emphasise the important taxation revenue they generate and their contributions to philanthropic causes and revelations about their facilitation of illicit transactions and transnational criminal projects. Commercial gambling's role within what might be described as a transnational 'criminal industrial complex' is evident in two recent news probes. The first revealed the involvement of the head of Canada's federal intelligence agency in a money laundering operation that involved a Mexican drug cartel, Australian biking gangs, illegal phone distributors in Canada and a philanthropic blackjack player in Las Vegas (Anderson, 2020). The second exposed Melbourne's Crown Casino's involvement in a variety of offences, from tampering with slot machines and organising illegal junkets of Chinese gamblers to money laundering by organised crime (Livingstone, 2021). The regularity with which various forms of illegal activity are exposed undermines the argument often used by advocates of legal, deregulated gambling that state regulation and/or provision is needed to eliminate organised crime. The scope and audacity of illegal activities exposed by investigative reporting on commercial gambling often reads more like a Hollywood script than part of everyday life in neoliberal societies. Turning to Hollywood film and television to better understand gambling policy in these societies is not simply a matter of understanding how gambling is *represented* within popular culture. Rather, these cultural industries may offer more accurate insights about how gambling is organised and experienced than volumes of academic research on 'disordered gamblers', much of which supports and is supported by the interests of government and industry stakeholders.

## 2 Gambling, hollywood, and quality television

Hollywood and Las Vegas have been closely connected in popular culture since the mid twentieth century and their relationship continues to spawn original film and television shows, from the cult classic adaptation of Hunter S. Thompson's book, Fear and Loathing in Las Vegas (1998) to the popular *Hangover* films (2009, 2011) to remakes and renovations of classics such as the 'Oceans' series (1960, 2001, 2004, 2007). While casino resorts continue to provide spectacular settings and themes for numerous Hollywood and independent film projects, there has been an important shift, since the turn of this century, to exploring the role of gambling in the everyday lives of Americans outside the confines of iconic gambling settings. This can be observed in popular culture as a shift from gambling as *mis-en-scene,* gambling as pathology, gambling as part of celebrity and elite lifestyles, and gambling as a metaphor for risk in general, to investigations of gambling as a banal fact of life in America. We will see below how *Ozark* explores the multiple points at which transnational gambling, crime, and finance intersect, moving audiences towards a deeper understanding of gambling's political work at every level of the social body.

*Ozark* was created by Bill Dubuque and Jason Bateman. The first three seasons of the television show won Jason Bateman an Emmy award for outstanding directing and lead acting, as well as nominations for outstanding drama series and for co-stars Laura Linney and Julia Garner. The series tells a story about the experiences of a white suburban family after they become entangled in a money laundering operation for a Mexican drug cartel in a sleepy vacation town in the Ozarks. Its lead character, Marty Byrde, is introduced as a fastidious financial wizard, obsessed with a videorecording of his wife's infidelity. His wife, a former state campaign manager for Barak Obama, combines ruthless professional and social ambition with emotional fragility. To deliver on their promise to successfully launder money for the Navarra cartel, Marty and Wendy form alliances with state politicians, the mob, labour unions, the Langmores (a local gang of petty criminals) and the Snells (an established family which runs the heroin trade). Throughout the series we meet religious figures and local businesses owners, as well as FBI investigators with complicated backstories and competing agendas and inter-racial and homosexual romances.

I first encountered *Ozark* on Netflix in 2020, shortly after the COVID-19 pandemic took hold. By the end of that year, it had become clear that many neoliberal governments were incapable of meeting basic needs of their citizens for safety and security. The series seemed to represent and express 'finopower' in ways that my academic research and writing could not. I became curious about the aesthetic devices that *Ozark* deploys to capture the emotional tone of everyday life in societies where gambling often straddles boundaries between legality and illegality, economic development and political corruption and relatively safe and risky ways of belonging to and acting within families, communities, and states. Before proceeding to the analysis, a brief detour through recent debates about the role of form and affect in cinema and television studies is required. Of particular importance is an epistemological shift over the past two decades in response to important changes in how entertainment media are produced, circulated, and consumed.

The period from the 1950s to the 1990s was dominated by Marxist, feminist and psychoanalytic theories of media, and researchers often employed semiotic methods to expose the ideological function of media representations for mass broadcasting (Barthes, 1968; Althusser, 1969; Hall, 1973/1980; Kristeva, 1980). In more recent decades, affective and aesthetic dimensions of cinema and television have shaped the focus of researchers seeking to understand culture in an era of home streaming services and narrowcasting (Peacock & Jacobs, 2013; Martin, 2013; Mitell, 2015). Notwithstanding this shift, divisions between structuralists and proponents of 'aesthetic' and 'affective' turns in film and television studies are often overstated (see Brinkema, 2014, p. 37). The term 'quality television' broadly refers to innovative approaches to formal conventions of the medium, including narrative, dialogue, editing, *mis-en-scene,* generic conventions, and character development through which creative producers persuasively communicate about some of the most difficult and complicated issues of our time.

It is valuable to briefly compare *Ozark* with another example of American 'quality television': *Breaking Bad.* The latter follows the story of Walter White, a schoolteacher diagnosed with terminal cancer who turns to drug manufacturing to secure a future for his wife and disabled son. A chain of events is triggered from this fateful decision; he becomes a drug lord, competes with Mexican drug cartels, transforms his relationships with his family, a former student, and the police (which employ his brother-in-law). *Breaking Bad* is celebrated by scholars for its formal innovations, its award-winning character performances and its rendering of the emotional texture of the life of ordinary Americans in the early twenty first century (Blevins & Wood, 2015; Logan, 2016; Martin, 2013; Pierson, 2013; Restivo, 2019; Stache, 2017). Like *Breaking Bad, Ozark* explores the extreme measures that people under unprecedented pressures will take to survive and the deformations of character that ensue. While morality is the central problem that drives the narrative of *Breaking Bad,* and each unethical decision by characters cascades to unleash devastating consequences, it is conspicuously muted in *Ozark*.

When characters in Ozark evoke discourses of individual responsibility it is usually in a register of deep irony. The possibility of redemption that *Breaking Bad* dangles before the audience is replaced in *Ozark* by a desire for escape to a moment before an impossible choice was made. When it becomes clear that escape is not an option, *Ozark's* protagonists are required to overcome personal scruples and political naivety simply to survive another day. As they rise to meet various challenges, the characters become torn between an attraction to new and riskier ways of being in the world—on one hand—and the appeal of returning to a safer but less exciting white, suburban lifestyle—on the other. Despite refusing narratives of redemption or dignity, *Ozark* affords glimpses of the possibility of personal integrity, whether through hard work, the refusal of characters to accept pathologising narratives of mental illness or through unwavering commitment to religion or family traditions. Like *Breaking Bad, Ozark* is also an example of 'cartel media', perpetuating a 'bad hombre' stereotype of those from the global South (Albarrán-Torres, 2020, p. 9). While featuring racially and sexually diverse characters and casting, neither *Breaking Bad* nor *Ozark* engage with Indigenous histories or populations within the respective regional spaces of Albuquerque and Missouri which they otherwise explore in considerable detail (Grayson, 2017).

The invisibility of Indigenous claims and connections to the Ozarks is underscored by descriptions of *Ozark's* creator as a 'native' in reviews of the series (see e.g., Beggs, 2018).

## 3 One big unhappy family: the intimate politics of money laundering

The value of legal gambling for criminal enterprise emerges in the final episodes of series two, after Marty and the Snells' plan to launder cartel funds through the construction of a local church is thwarted due to the moral integrity of its founder. Together with the Narravo cartel, they agree to build a casino on the Snells' lands. To gain approval from the State's conservative government, Wendy must mobilise seduction techniques and political savvy to gain the support of Republican donor, Charles Wilkes. She ultimately blackmails a resistant State senator; his suicide coincides with the government's passage of the bill to approve the casino. Marty charges Ruth Langmore with the responsibility of purchasing a riverboat and managing the daily business. Once the business is operating smoothly, Marty plans to leave the operation in Ruth's control and escape with his family to the Gold Coast in Australia. But Wendy refuses to leave and the remaining episodes are focused on the challenges of laundering money through two casinos.

Season three explores how money laundering shapes the characters' experience of belonging to a family. A memorable scene features the couple standing together with cartel lawyer, Helen, on the deck of the riverboat that will house the casino. Helen says: 'I'm not sure if you appreciate the historical significance of what you're about to pull off'. After naming different Mexican cartels she explains 'Every one of them tried to create something like this. Every one of them failed. A legitimate, self, sustaining operation like a casino'. She takes a deep, self-satisfied breath before pronouncing: 'This is why crime organises.' When Marty and Helen are alone, Wendy says: 'Helen's right you know. This could be the start of a new chapter in our lives. We just have to work harder at being better parents.'

The image of a successful nuclear family provides a front that allows the Byrdes to socially integrate within the Ozarks. They initially appear as big city venture capitalists making welcome investments in several struggling local businesses—including a hotel, a Church, and a crematorium—prior to the casino. It is Wendy's appeal to Navarro's paternal instincts during a violent cartel war that provides a second casino development with the cartel's blessing. Keeping the family together is literally a life and death proposition. We see how ruthlessly loose ends are eliminated, when the breakdown of Helen's marriage and family makes her a liability and she is executed. The need for family unity is also underscored when, disgusted by the hypocrisy of her parents, their daughter Charlotte seeks legal emancipation from her family. She is smoking cannabis at the kitchen table on the evening after they return home from lobbying gambling commissioners at the lake house. When Marty tells her to put her joint out, she asks: 'Why should I even pretend not to break the law when no one else does?' However, as a holder of the family's secrets, disconnecting from them puts Charlotte's life at immediate risk; Wendy successfully threatens the lawyer to drop her daughter's case for emancipation.

Violence follows whenever family members fail to work together, decide to pursue different goals, or adopt conflicting strategies to realise them. Marty and Wendy are both presented as gamblers but in different modalities, which are alternately complementary and strained by unbearable tension. After his business partner is killed for double-crossing the cartel, Marty is forced to make an extreme gamble; as he is about to be executed, he glimpses a tourist brochure for the Ozarks and promises to establish a drug laundering operation in the region. From this point on, he exercises extreme caution, seeking to minimise activities that could draw attention to their criminal activities. In contrast, Wendy's taste for risk is closely linked to her ambition to have a different kind of life from the suburban one, which left her depressed and seeking solace in an extra-marital affair. Nostalgic for her success as a manager in Obama's state campaign, she sees the casino as an opportunity to build philanthropic ventures to improve the lives of Ozark residents. A conversation between Wendy and Marty illustrates conflict about the rationales and processes through which each understands the role of gambling in enabling their family to survive and even thrive. The following dialogue takes place when they are alone together, drinking strong liquor outside their lakefront home.

Wendy: [We build] hotels, casinos but we keep the daily operations legitimate. We sell the idea to Navarro as a safety net. We put his share in a trust for his kids. Untouchable. That way if the cartel were to go south then he has a whole new revenue stream. Completely legal. Well, what do you think? …

Marty: No.

Wendy: Just like that? …

Marty: I'm trying to keep us safe Wendy… I mean how much more fucking stress do you want to take on?

Wendy: This would all be legitimate… We are pre-approved by the gaming commission. No one would question the initial investment. We have Navarro's gratitude. This would only increase it…Expansion makes us a political player. It insulates us and that keeps us safe. I mean we could be the very legitimate, very public face of Missouri gaming. We'd be too big to fail.

Marty: Wendy, I did not agree to stay here to start raising red flag after red flag.

Wendy: It's the smart play.

Marty: Stop. I'm here. Take the fucking victory. And do not tell me what is smart and what is not smart…

Wendy: I have the time. We have the clout. I can do this. Just think about the things we could build. I mean why should the Charles Wilkes of the world have a stranglehold on this state? I mean we could have the money and the influence. We could control every political lever in Missouri. We could give millions to the causes that we care about. We could run this goddamn place.

Marty: Do you even hear yourself?

Wendy: I do. Do you hear me?

Marty: Good night.

Unbeknownst to Marty, Wendy has already been given Navarro's blessing to build the second casino and she proceeds to create a charity called the Byrd Family Foundation. These tensions between gambling as a route to financial and physical safety, political power and social status—on one hand—and as a risky and immoral burden—on the other—are reproduced in the finopolitical orientations of their children. In contrast to Charlotte's distaste for a life built on the proceeds of dirty money, her savvy younger brother explores different creative avenues to participate in the family's business as well as to build his own independent wealth. When the first riverboat casino opens, Marty explains the floor plan to his son:

Marty: 'So, slots are gonna be on the lower level there'.

Jonah: 'Because people will have to walk through them on the way to the other games, right?'.

After this exchange, Marty introduces his son to the head of the gaming commission whose responds with an emphatic statement: 'You should know that your parents are doing something great here for the community.'

Jonah's financial savvy is further reinforced in a later scene, set at the family dinner table where he is explaining his scheme to make money from videogames over summer through 'mining gold and selling it in bulk to a broker'.

Jonah: It's almost, like, a commodities exchange and then a third party sells it to the gas market.
Wendy: I don't understand. It's a videogame. It's not real gold.
Jonah: Yeah, but gamers are real people and real people are impatient. They'll always pay people to get ahead if they can in the game and gold gets you to the next level.
Wendy: Is that even legal?
Jonah: Not technically but you can login with a different user name. I've made 6K so far this week.
Wendy: I just want you to have a summer job. Something fun, something outdoors…

This dialogue points to a collapse of boundaries between play and work and legal and illegal forms of leisure and related distinctions between the responsibilities and freedoms afforded to children and adults. It also highlights the opening of digital domains to new forms of extraction by labouring forces that are less visible and regulated than those in the formal economic sphere.

## 4 *Ozark* and the art of mental illness

There is a growing body of research on the intersection between affective states, including mental illness—on one hand—and art—on the other (Bubenik, 2019; Ross, 2006). While some researchers consider art's relation to psychological disorders over the long sweep of Western culture, others focus on cognitive disturbances generated specifically by American neoliberalism's articulation of individual freedom to celebrate competition at the expense of compassion and to invite excessive consumption over sustainability. This latter work is useful as a lens to understand the pervasive themes of addiction, violence, and mental illness in *Ozark*. From the very first episode we see Marty's compulsive obsession with Wendy's infidelity, the latter's struggle with depression, their daughter's near suicide attempt and cannabis dependency, and their adolescent son's fascination with guns and dead animals. While the addictiveness of slots (electronic gambling machines, EGMs) is treated as an open secret, there are aspects of their gambling enterprise about which secrecy is a matter of life and death. Keeping these secrets creates an almost unbearable burden of stress for the family and their collaborators.

Several aesthetic devices combine in *Ozark* to convey the double binds which ensnare the Byrde family at every turn in a deeply affecting manner. These include a cool blueish palette which generates a sense of detachment, as well as a preponderance of interior scenes. A gloomy *mis-en-scene* is created within their beautiful but aging modernist home where many of the family's dilemmas are staged; this is only occasionally lightened by scenes shot on the Ozark lakes. The extradiegetic sound includes bass-heavy sound effects to simulate the beating of hearts under extreme stress and the musical score often recalls frightening Hollywood films including 'Jaws' and 'Psycho'. Dialogue between characters is often delivered tersely or whispered, reminding us of dire consequences that follow the revelation of secrets. Together, these devices create an uncomfortable viewing experience. Viewers are always on edge, constantly expecting things to end badly for the protagonists. And we are rarely disappointed. Bodies mount up, as gruesome reminders of the collateral damage of the transnational illegal drug trade that is lubricated by money laundering through casinos.

Wendy's strategy of using the casino to manufacture social respectability and control the political levers of the state becomes unstuck after her charismatic but troubled brother, Ben, comes to visit and then decides to stay in the Ozarks. The role of big pharmaceutical corporations in producing and controlling epidemics of mental illness in mid-Western America is highlighted in season two when Ben forms a romance with Ruth Langmore but is unable to sexually perform due to the side-effects of his bipolar medications. A close reading of episode nine in series three demonstrates how different aesthetic devices work together to convey the experience of mental illness in a particularly gruelling storyline. In this episode Ben arrives to the launch of Wendy's philanthropic foundation, determined to reveal the Byrde family secrets, having discovered that the reality of his sister's family business is more sinister than his worst paranoid delusions.

The scene begins with a celebratory mood created by jazz music on a festooned riverboat casino, punctuated by close-ups of Helen, Marty and Wendy amid tense conversations between representatives of different stakeholders brought together by the money laundering operation. Just as the applause for the formal speeches begins, we see a taxi pull up. Ben gets out and walks aggressively to the edge of the gathering, followed by sinister extradiegetic music which slowly fades out as Wendy proclaims the dream that her foundation will realise.

> Wendy: [It is] a charitable foundation with no policy, no politics, with a simple mandate: to make the world a better place. And I know, I know it sounds naïve. But I also know—I know we can do some good here, right in our own front yard. We can make our communities a better place to live. We can make it more equitable, a better place for our children, for our families, for ourselves…

A Missouri State Senator then takes the stage to announce the Foundation's new initiatives. After acknowledging the concerns of cynical members of the gathering about Wendy's proposition to use gambling money to 'make the world a better place', he proceeds: 'The first [initiative] will take on payday loan abuses. The second will target fraud in foreclosure relief'. The sinister extradiegetic music returns as the camera follows Wendy walking towards Ben at the entrance to the gathering and continues when he announces: 'We need to talk'. He then loudly poses a series of questions about the deaths that have followed the family since leaving Chicago.

The scene ends with an ominous shot of Helen looking at Ben being dragged away by security guards. The sinister extradiegetic music continues into the next scene showing Marty and Wendy pulling up in front of the police station and debating whether Ben should go to jail or hospital. When they arrive, Helen and the Sheriff have already decided to commit Ben to the state hospital, euphemistically named 'Central Ozarks Behavioural Health Centre', for an indefinite period. However, opium supplier, Darlene Snell makes a deal with the Sheriff to secure Ben's release. Ben immediately goes to Helen's holiday home to expose and condemn her criminal behaviour, shouting to her daughter, 'your mom has people killed and tortured for the [Navarro] cartel.' Because Ben has become a liability, threatening the entire operation, Wendy takes him on a road trip, ostensibly for him to begin a new life.

The siblings reminisce about their difficult childhood together and share their dreams for the future over dinner at a roadhouse. Then Wendy excuses herself and steps outside, getting into her car and driving away. Sinister extradiegetic music follows the arrival of the cartel hitman who has followed them to the roadhouse. Knowing what she has done, she pulls onto the shoulder of a highway and breaks down in hysterical tears on the phone to Marty. Paralysed by debilitating depression, Wendy drives to a shopping area and sits alone in her car where she attempts to fill her existential void with alcohol and junk food before returning home to resume the role of successful businesswoman, philanthropist, mother, and wife.

*Ozark's* exploration of the intersection of gambling, organised crime and mental illness can be understood with reference to Ann Cvetkovich's argument (2012) that depression—rather than being primarily an interior state symptomatic of a psycho-biological disorder or imbalance—is a *public* feeling related to:

> long-term histories of violence that have ongoing impacts at the level of everyday emotional experience…What gets called depression in the domestic sphere is one affective register of these social problems and one that often keeps people silent, weary, and too numb to really notice the sources of their unhappiness (or in a state of low-level chronic grief—or depression of another kind—if they do (pp. 11–12).

The implication of this argument is that depression and other mental states connected to gambling should not be understood as located primarily within individuals but, instead, as immanent to the *systems* that connect states and subjects within American neoliberalism's social order (see Egerer et al., 2020). Just as prevailing accounts of 'casino capitalism' fail to register gambling's *constitutive* role in liberal and neoliberal states, medical approaches to problem gambling as a failure of 'personal responsibility' rarely consider how the most profitable gambling products either cause or exacerbate mental illness for significant numbers of players (Dixon et al., 2018). In this context, the paralysing double binds built into the systems that *Ozark* explores might offer some valuable insights about why individually-based programs for problem gambling prevention and treatment may be doomed to fail.

Before closing, it is important to note some important limitations to the insights about gambling, mental illness, and American neoliberalism that *Ozark* affords us. As Albarrán-Torres (2017, 2020) argues, *Ozark,* and other Hollywood productions, including *Weeds* and *Breaking Bad,* fail to engage with the fact that human costs of the war on drugs are borne disproportionately by communities within Mexico and other South American nations through which cartels operate. In addition to indicting producers for a lack of empathy and complexity in their representation of the transnational drug trade, Albarrán-Torres (2017) points to the role of audiences as consumers of images of dead, mutilated and tortured bodies; this links Hollywood depictions to darker online videos depicting actual atrocities carried out by drug Cartels in North and South America. He points out (Albarrán-Torres, 2020, p. 6): '… processes of [Mexican] stigmatisation affect not only everyday interactions, but also wider policymaking, as the recent discussions around the wall along the U.S.—Mexico border have highlighted'. How might those of us viewing and writing in the global North to take this critique on board? Beyond expanding the lens through which we currently understand gambling and depression, we must reckon with the fact that those most harmed by the flows of dirty money that casinos are used to clean will likely remain invisible and unknown to us. This requires us to abandon mythical frameworks of ‘civilisation’ that distinguish between wealthy nations in which the rule of law is observed and celebrated and those in which disorder and barbarity are allowed free reign. The fact that casinos in relatively wealthy countries where gambling has been deregulated—including Australia, Canada, and the US—are often chosen to launder money by actors from countries where illegal drugs are produced does not make them clean. It makes them complicit with the physical and psychological violence of transnational organised crime.

## 5 Conclusion

This chapter was written to complement existing research on gambling policy and related national or sub-national political institutions. It offered finopower as a theoretical framework that is better suited than ‘casino capitalism’ to understand gambling’s connection to the failing institutions of American neoliberalism, including the nuclear family, organised labour, the church, formal politics, and philanthropic organisations. A close reading of the television series *Ozark* demonstrated how the transnational entanglement of gambling and organised crime with every level of government shapes the everyday lives and deaths of people in different parts of the world. It also explained some of the aesthetic devices used to represent and convey powerful affective responses to *Ozark’s* main themes of crime, family, and mental illness. I hope to have shown that film and television provide valuable resources for researchers engaged in debates about liberal and neoliberal political theory and practice. More specifically, I hope to have demonstrated that such debates are incomplete when gambling is overlooked and that attention to gambling should form part of wider political struggles that seek to address the human and environmental costs of the American neoliberal experiment.

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## Filmography

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*Jaws* (based on novel by Peter Benchley directed by Steven Spielberg, 1975).
*Oceans Eleven* (director Lewis Milestone, 1960, remake by director Steven Soderbergh, 2001).
*Oceans Twelve* (director Steven Soderbergh, 2004).
*Oceans Thirteen* (director Steven Soderbergh, 2007).
*Ozark* (created by Bill Dubuque and Mark Williams, with Jason Bateman and multiple directors 2017).
*Psycho* (cinema adaptation of Robert Bloch's book directed by Alfred Hitchcock, 1960).
*Weeds* (created by Jenji Kohan with multiple directors and writers, 2005–2012).

**Fiona Nicoll** is an Alberta Gambling Research Institute Chair in gambling policy in the Political Science department at the University of Alberta. She is the author of *Gambling in Everyday Life: Spaces, Moments and Products of Gambling* (Routledge, 2019) and co-editor of *Critical Gambling Studies,* she is also the author and co-editor of several other book chapters and articles on gambling, critical race and whiteness studies, queer theory and the politics of Indigenous art and sovereignty.

# Part III

# Related Industries and Interests

# A Wealthy Marriage? The Politics and Economy of Sports Betting in Poland

Przemysław Nosal

## 1 Introduction

The relationship between sport and betting is complex and multi-dimensional. It not only shapes these phenomena but also determines their social perception. At the same time, this connection increasingly appears as an inseparable relationship without which neither sport nor betting can exist anymore. On the one hand, sport provides events that can be bet on. It is thanks to sports emotions that sports betting is one of the most popular and profitable types of gambling. Betting without sports events hardly exists. On the other hand, betting influences sport and has started to define sport – its institutional framework, finances, internal agenda, and media setting. Betting companies have a great impact on sports – as sponsors, promoters, or media owners (see Munting, 1996, pp. 89–115, 127–143). As it is today, the world of sport is largely shaped by the bookmaker industry.

The relation between sport and gambling has a long history (see Forrest & Simmons, 2003), and sports betting is the most popular form of this relation. It manifests itself in different types of bets (classic bets, in-play bets, etc.), and works at different platforms (land-based and online). However, the relation is complex. It is dependent on various institutions, but it also affects many areas of social life. The aim of this paper is to explore the main dimensions of sports betting: legal, political, and economic. Although all these topics overlap or intersect with one another, they are described separately for the purposes of this article. The analysis is using the example of Poland.

Poland is a growing betting market. A survey conducted by the Public Opinion Research Centre in 2017 showed that 49% of the Polish adult population had

P. Nosal (✉)
Faculty of Sociology, Adam Mickiewicz University, Poznań, Poland

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gambled in the previous year (Gwiazda, 2017). Another study reports that 13% of Polish gamblers bet on sport (IQS, 2017). According to new regulations, sports betting can only be offered in Poland by operators licensed by the Ministry of Finance. The Gambling Act also specifies that betting companies can officially sponsor sports teams, which means that the gambling industry has gained a significant impact on sport in the country. These recent developments make the case of Poland a good example to investigate the political economy of sports betting. The actual shape of the new market environment is a result of the dynamic relationship between political, economic, and cultural factors. A closer scrutiny of these interactions reflects the complexity of the world of gambling. Betting companies are already significant actors in social life, and their role is likely to continue to grow. An analysis of the current situation of sports betting in Poland makes it possible to ask questions about possible paths of its development.

## 2 A specific form of gambling? Cultural background of sports betting

Sports betting is often described as an exceptional form of gambling with its own specifics (see Humphreys & Perez, 2012; Gassmann et al., 2017). Firstly, it combines luck and skills. The impact of each of these factors on the result has been a topic of study in social sciences (see Cantinotti et al., 2004; Chantal & Vallerand, 1996; Kucharski, 2016; cf. Browne et al., 2015). Many bettors emphasise that betting requires such skills as data analysis, or extensive knowledge about sport (Ladouceur et al., 1998). However, an element of luck is still required: even the best skills do not guarantee success in betting. Some gambling games, for example poker, also engage luck and skills but only sports betting is based on the conscious decision of a particular bettor. This situation provides a context for the study of decision-making processes (see D'Astous & Di Gaspero, 2015).

Secondly, sport provides the gambling industry with unique content. Football matches or horse races generate betting events which are unrepeatable and more complex than throwing the dice or pressing a button on an EGM (electronic gambling machine). Besides, the event lasts longer than a spin of the roulette wheel, stretching emotions in time. Moreover, betting in sport is often related to betting on one's favourite team or player, which provides this gambling activity with additional affective context (see Stanek, 2017).

Thirdly, technological changes have expanded the gambling experience in betting (see Gainsbury et. al., 2012). New products, services and technologies introduced in recent years, such as Internet betting or mobile betting apps, have changed both betting and the entire gambling landscape. Innovative solutions enable people to bet anywhere, anytime and on anything. Their popularity relates to their availability, functionality, and accessibility, making it possible to bet alone or with friends, at home or outdoors, to put classic or in-play bets, etc. It is suggested that the use of mobile betting apps and Internet betting made gambling more integrated into everyday living activities (see Reith & Dobbie, 2011).

Fourthly, the betting industry has changed the media sector (see Draper, 2018). On the one hand, bookmakers have begun to appear in the existing media: during match broadcasts, in TV commercials, on sports websites, etc. On the other hand, the industry created many new media channels: YouTube channels, Internet broadcasts, betting pundit podcasts, betting forums, betting browsers, etc. Sports betting not only appeared in the media but also developed it. Although many other gambling games also generate their own content, only sports betting does this in so many different media formats (see Lopez-Gonzalez et al., 2017).

Fifthly, sports betting raises certain ethical issues. Many of them are common with other types of gambling, e.g., problem gambling, loss of money, debt, fraud, etc. (cf. Wolfe & Owens, 2009). However, two groups of problems are specific. One group is related to the addictive potential of betting. Sports betting is often viewed as 'light' or 'soft' gambling, which can be distinguished from 'heavy' or 'hard' gambling represented by casinos (see Filby & Harvey, 1989). Betting is described as a leisure activity or hobby rather than as a social problem or risky behaviour. What is mostly emphasised is the role of sports emotions and the need of certain skills. This narrative is reinforced by bookmakers, who declare that they only keep people entertained (Binde, 2009; Hing, 2014). It has even been echoed by the Polish government: Deputy Prime Minister Jaroslaw Gowin claimed that sports betting is'a part of sport emotions' rather than 'hard gambling, like poker or casino' (after Tymiński, 2016). In effect, the new Polish Gambling Act 2017 treats sports betting more favourably than EGMs, roulette, or lotteries.

Additionally, sports betting is also presented as low-value gambling where players usually bet relatively small amounts of money. This results in a fairly widespread belief that it is not an addictive form of gambling but only a pleasant pastime. The negative potential of sports betting is thus discursively neutralised, which means that – in common belief – it can be practised without fear of addiction (Lopez-Gonzalez et al., 2020b).

The second group of specific problems related to sports betting relates to the impact of betting on sport. Many researchers claim that betting threatens the integrity of sport (see Forrest, 2012). They raise such issues as a growing dependency of sport on gambling money, betting-related match-fixing, betting among sports players, advertising betting by sports journalists, and the ‘grey zone’ of illegal bookmakers.

The cultural features described above are linked to the socio-demographic profile of sports bettors in Poland. According to a survey from IQS-Think Forward completed in 2017, sports betting is a domain of young (78% of bettors are 18–44) males (80%) who work or study (see IQS, 2017). This profile is not significantly different in Poland than in most other countries (cf. Lopez-Gonzalez et al., 2020a). This also means that it is associated with similar betting patterns, use of betting technology, risk factors, or possible betting-related harm.

The combined social effect of these factors is that betting enjoys considerable popularity in Poland and thus brings substantial profits. It is perceived as a leisure activity linked with sport, which means that it has never really become a prime target for Polish authorities. As a result, betting functions here more as part of sports rather than as part of the gambling industry.

## 3 Gambling in Poland: Legal context

Until 2017, gambling in Poland was regulated by the Gambling Act as enacted in 2009. Although this legislation was very restrictive – it imposed high taxes and banned gambling advertisements and unlicensed gambling – it was utterly inefficient. The Act did not introduce effective mechanisms of control (state agencies or legal sanctions). Moreover, it was incompatible with EU law. As a result, a vast ‘grey zone’ continued to flourish, especially in the betting market. Over 90% of revenues went to gambling operators registered in tax havens (Skwirowski, 2016). Such big companies like Bet-at-Home, Bwin, William Hill or Pinnacle did not have a Polish gambling licence and thus their operations in Poland were illegal. The actual tax revenues were extremely low.

The Gambling Act was substantially amended on 1 April 2017 with a view to achieving three main goals: to eliminate the ‘grey zone’ (in both land-based and online gambling), to make the gambling law effective (compatibility with EU regulations, efficient measures against illegal operators), and to increase tax revenues. What comes as an important instrument to reach these goals is a pro-monopoly solution. The monopoly operator is a state-owned company called Totalizator Sportowy. The state has a monopoly on some land-based activities (number games, cash lotteries, telebingo and EGMs outside casinos), and on the entire online gambling except betting and promotional lotteries.

The key point of the gambling act is to legalise gambling and to collect profits. The state itself operates in many areas of the gambling market, but it also provides conditions for the operation of licensed gambling companies. Gambling is viewed as a well-developed industry, and gambling tax revenues are intended to be an important part of the budget. According to the estimates of the Ministry of Finance, the amendment to the Act will bring a total income of about EUR 3.3 billion to the state budget in 2017–2027 (330 million per year) (Rzeczpospolita, 2017). In 2018, the total income of the Polish budget from gambling was EUR 419 million (176.4 million in 2014) (Najwyższa Izba Kontroli, 2019). A proportion of this income is allocated to three earmarked funds: The Problem Gambling Fund, the Physical Culture Development Fund, and the Fund for the Promotion of Culture.

## 4 Polish betting regulations: Political context

The recent amendments in gambling law have led to a revolution in sports betting in Poland. First, the Act lists conditions that must be met to obtain a six-year official betting licence in Poland. There are separate licences for land-based and online betting. Applicants are required to pay a high licence fee, to pay taxes in Poland, to have the status of a limited liability company or a joint-stock company, to operate using a Polish website (with a.pl domain), to draft clear regulations for bettors, to verify the age of bettors, to transfer money only via banks which have branches in Poland, to store their data in Poland, to guarantee the payout of winnings, and to have a registered land-based office in Poland.[1] Many big companies decided not to apply for a licence and left the Polish betting market (e.g., Bet365, Bet-at-home or William Hill) or they have not applied for it yet but think about it in the future (e.g., Bwin).

The Polish state has a monopoly on most types of gambling, especially online. Betting is the only type covered by the licensing system for both land-based and online activities. This possibly stems from the inability of the state to provide an attractive enough betting offer by itself. The vast number of sporting events to be included in the betting portfolio could be a challenge for a public operator. Another argument is that the state is unable to control the operations of international betting companies, which would result in a growing illegal market. Both these opinions are widely used by the gambling industry for all kinds of

[1] These are only the most important requirements. For a full list of requirements check: https://www.biznes.gov.pl/pl/firma/zezwolenia-koncesje-wpisy-do-rejestru/chce-uzyskac-zezwolenie-koncesje-wpis-do-rejestru-dzialalnosci-regulowanej54/proc_1096-zezwolenie-na-urzadzanie-zakladow-wzajemnych.

games. Overall, the introduced regulations can be viewed as ‘optimisation of control effort’: avoiding the need to create new institutions for the price of losing potential gains.

The second main change is related to the fact that those companies that remained on the market were assured that the state would protect their interests. Organising and participation in unlicensed betting is a criminal offence in Poland. The Ministry of Finance keeps a register of licensed bookmakers, currently including 19 entries, seen in Table 10.1.[2] Only companies which appear on the list can operate legally; they are also allowed to advertise in the media and in the stadiums.

The Ministry also keeps a register of gambling websites whose operators are not licensed in Poland.[3] Internet service providers are responsible for blocking access to these websites within 48 h of their registration. They are also required to reroute users who wish to visit them to a government site which provides information on sanctions for taking part in illegal gambling. Failure to comply with these regulations by Internet service or payment service providers may result in imposing an administrative fine. However, the ‘grey zone’ is still vast in Poland: only 40% of bets placed in the country are legal. The attendant loss of state revenue is estimated at EUR 132.3 million per year.

Thirdly, the Act introduced a 12% turnover tax on betting.[4] This means that the tax rate on betting is one of the lowest of all types of gambling in Poland,[5] although it is high compared with many other countries.[6] Despite a relatively low tax rate, betting is one of the key sources of tax revenue from gambling. According to the figures made available by the Ministry of Finance, the breakdown of gambling tax revenues was as follows: number games (state monopoly) – 37%; betting – 32% (3/4: online betting, 1/4: land-based betting); casinos – 20%; other – 10% (Najwyższa Izba Kontroli, 2019). Betting tax is viewed as an important source of revenue for the state budget.

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[2] See at: https://www.podatki.gov.pl/pozostale-podatki/gry-hazardowe/zaklady-wzajemne-i-gry-hazardowe-przez-internet/.

[3] See at: https://hazard.mf.gov.pl/.

[4] Apart from this tax, betting companies, like all other business entities, also pay a 19% corporate income tax.

[5] To compare: 50% tax rate – EGMs, cylindrical games (roulette and roulette-style games), dice games, card games (except poker events); 25% – cash bingo, telebingo, audiotele lotteries, poker events; 20% – number games; 15% – cash lotteries; 12% – betting; 10% – raffle lotteries and raffle bingo.

[6] For example, in France it is 9%, Ireland - 1%; Turkey - 5%. Thanks to Virve Marionneau for this enumeration.

**Table 10.1** Legal bookmakers in Poland

| Lp. | Company | Polish/International | Date of Polish licence |
|---|---|---|---|
| 1 | STS | Polish | 2012 |
| 2 | FORTUNA | International (Fortuna Entertainment Group) | 2012 |
| 3 | TOTOLOTEK S.A. | Polish | 2013 |
| 4 | E-TOTO | Polish | 2014 |
| 5 | LV BET | Polish | 2016 |
| 6 | forBET | Polish | 2016 |
| 7 | GO BET** | Polish | 2018 |
| 8 | Traf - Zakłady Wzajemne | Polish | 2018 |
| 9 | BetFan | Polish | 2018 |
| 10 | eWinner* | Polish | 2018 |
| 11 | TOTALBET* | Polish | 2018 |
| 12 | PZBuk* | International (Cherry AB) | 2018 |
| 13 | Betclic* | International (BEM Operations Limited) | 2018 |
| 14 | BestBet | Polish | 2019 |
| 15 | Polski Bukmacher - NobleBet | Polish | 2019 |
| 16 | BetX* | Polish | 2020 |
| 17 | Mr BET* | Polish | 2020 |
| 18 | Bukmacherska Sp. z o.o - Fuksiarz* | Polish | 2020 |
| 19 | SUPERBET | International (Superbet Holding Romania) | 2020 |
| | Milenium Zakłady Bukmacherskie | Polishs | 2012–2020 Bankruptcy during the COVID-19 pandemic |

* online only
** land-based only Source: The author's own work (table correct as of 15.01.2021)

The shape of legislation on sports betting has been a consequence of general gambling policy. Nevertheless, a specific political pattern of this kind of regulations is noticeable. It can be described by three gambling policy moves.

One, the solutions introduced in Poland show that the main goal of gambling policy is, unofficially, to derive financial profits from betting rather than reduce betting-related harm. Tax revenues become an important element of the budget for sport or culture. Consequently, the growth of income of the betting industry is in the interest of the state. This means that in fact an intended goal of Polish gambling policy is to care for the well-being of the betting sector. The discussion about the balance of interests between the state and the betting industry is mainly about the type (whether to tax the surplus or the turnover) and the amount of tax (whether it should be more than 12%), and about efficient tools for controlling the 'grey zone'. In other words, it is focused on profit sharing and not on minimising betting-related harm.

Two, the discussion about betting is not focused on its negative aspects. It does not concern addiction to betting. The Polish Problem Gambling Fund tends to focus on problem gambling prevention and treatment in general. Although it supports some activities involving social aspects of betting, most of them are only bottom-up initiatives. Furthermore, the Polish gambling policy has not proposed any programme for responsible betting and gambling policy documents hardly mention such specific issues as problem betting among young people, the impact of betting commercials or the game-changing role of new technologies. Betting remains almost unnoticed as a (potential) social problem.

Three, the analysis of Polish gambling policy also indicates that betting is not viewed as a serious threat to public health. As discussed above, betting is rather perceived as a form of 'soft' gambling or relatively harmless entertainment. This image is supported by bookmakers. Commercials present betting as an element of the world of sport – sports emotions and fan engagement. This image takes betting away from the interest of social policy: treatment and prevention, anti-addiction programmes, etc. As a result, the classification of betting as a leisure pursuit has serious consequences – from favourable social perception to lower taxes.

The presented changes in Polish legislation have had serious consequences for the general situation of sports betting in social life. Most importantly, they have made the betting industry more transparent: the new rules make a clear distinction between legal and illegal operators. They have also made betting practices more socially accepted. As a result, betting has become a beneficial venture for the state. Although a lot of money still leaks out, budget income from this source is higher than in previous years. In 2018, the value of the legal online betting market was estimated at EUR 855.3 million (119.8 million in 2015), and budget gains from online betting were EUR 102.6 million (19.4 million in 2016). However, the illegal online betting market amounted to EUR 1.04 billion (622.4 million in 2015) (Najwyższa Izba Kontroli, 2019). Finally, the new rules have increased the presence of sports betting in the social space. As mentioned above, betting advertisements have appeared in all types of media, and betting companies have become major sponsors in sport. Overall, sports betting in Poland has good prospects, and companies active on the market have favourable conditions for becoming more popular and prosperous.

## 5 A wealthy marriage? Economic context

The sports betting industry is a complex, multi-faceted and profit-oriented system, as well as a complicated network of different entities: betting companies, bettors, sports teams, sports federations, sport equipment industry, media, and the state (legal regulations). The key feature of this network is the interdependence of all actors involved. Each of them has specific duties within those relations, e.g., a betting company puts its logo on sports shirts but becomes the sponsor of the team; a betting company obtains a licence to operate legally but a certain part of the profits must be allocated to the development of children's and youth sports, etc. (see Lamont et al., 2011). The relations between sport and betting are based on the logic of mutual benefit – sport benefits and bookmakers benefit.

### 5.1 Benefits for sport

In recent years betting companies have become one of the most important actors in the world of sport (Davies, 2020). Money from gambling is a crucial source of funding – many teams, associations or even whole disciplines would face serious problems without those funds. Bookmakers are official sponsors and titular or advertising partners of national teams, club teams, leagues, or tournaments (e.g., cups) in the most popular disciplines (see examples of Spanish La Liga or English Premier League – Score & Change, 2020a, b). From April 2017 this has also been possible in Poland as new regulations lifted a ban on sponsorship by betting companies. Many sports teams/organisations/leagues have taken advantage of this opportunity. Selected examples of active involvement of betting companies as sponsors in different sports teams and organisations in Poland are Polish national football and volleyball teams (men & women); ski, athletic, tennis or hockey national associations; Polish Olympic Committee; and many football, volleyball, basketball, handball, or speedway teams.

Although these examples come from Poland, the situation in other countries is not very different. In many Polish cases the impact of sponsorship on sport is even greater than elsewhere. Betting industry money is viewed as necessary to improve the financial situation of Polish sports clubs and to enable them to compete with top European clubs (see Stec, 2019). In fact, betting companies are key actors investing in sports promotion. However, they do it for their own benefit: better promotion of sports increases the visibility of bookmakers and thus brings more bets and higher profits.

Another important issue is that a significant proportion of gambling tax revenues is allocated to sport. Although there are three different funds supported by gambling money, most of it goes to the Physical Culture Development Fund (75%). Sport is, therefore, the main beneficiary of redistribution of proceeds from gambling.

## 5.2 Benefits for bookmakers

A closer look at the sports betting industry reveals not only the structure of the system but also its market value (see Rodríguez et al., 2017). The amounts of money that circulate between actors are often known – for example, amounts of sponsorship or advertising contracts, media licence fees, tax revenues, etc. (see Clotfelter, 2002). This makes it possible to estimate the profitability of the industry. Sports betting is a profitable sector (see e.g., Porreca, 2018). The value of the legal betting market in Poland amounted to EUR 2.2 billion in 2019 (1.7 billion in 2018) (Najwyższa Izba Kontroli, 2019). The gross gambling revenue (GGR) of legal bookmakers in 2019 was around EUR 1.5 billion (1.3 billion in 2018). However, the GGR in 2020 is expected to be 10–30% lower than in 2019 because of the COVID-19 lockdown in sport (Zatoński, 2020). The market is dominated by two major players: the Polish company STS (50% market share) and international Fortuna (25%); the third largest one, Forbet, has only 7% market share (see Stowarzyszenie "Graj Legalnie", 2020).

The wide scope of activities and large financial transfers from the betting industry to sport have made bookmakers important stakeholders not only in the gambling market but also in the domains of legal regulations and sports media. They invest a lot in sport, so they have particular expectations about its functioning. These expectations are mainly expressed by two Polish bookmakers' associations: 'Bet legally' Association (Stowarzyszenie 'Graj Legalnie') and

Association of Employers and Employees of Betting Companies (Stowarzyszenie Pracodawców i Pracowników Firm Bukmacherskich).

The betting industry expects support in three areas: legal issues, tax regulations and commercial solutions. All of them are crucial not only for the social perception of betting but also for the profits of betting companies. Bookmakers fully agreed with 12% turnover tax and declared they were ready to become involved in sports sponsorship projects (see Stowarzyszenie 'Graj Legalnie', 2020; Stowarzyszenie Pracodawców i Pracowników Firm Bukmacherskich, 2018).

To conclude, sport benefits from the activity of betting companies as important sponsors and promotors. The betting industry, in turn, gains the protection of the state and gains access to sports events as unique content in its market offer.

## 6 Conclusions

Sport and the betting industry seem to resemble a 'wealthy marriage' where both spouses are satisfied. Their cooperation brings benefits to both parties involved. However, the relationship is more complicated. Sports organisations would prefer not to be so dependent on gambling money. They also feel uncomfortable about the accusations of promoting addictive behaviour and feel under great pressure to deliver the betting content (sports events). Besides, betting-related match-fixing is perceived as a significant threat to the integrity of sport (Hill, 2009). The gambling industry is worried that sport will eventually get offended and leave. As the COVID-19 pandemic has shown, the lack of sports events is a serious problem for the betting industry. Bookmakers are trying to prepare alternative offers. They are expanding the e-sports and fantasy sports betting sector, and they are working on a wider range of bets on political and social events. Nevertheless, all these types of bets are still marginal.

Tension within a relationship can lead to its transformation in the future. This could mean sport getting bored with the gambling industry and finding another wealthy sponsor. This may also mean that the betting industry will become independent of traditional sport and focus on different products (e.g., e-sport or virtual sports). The process will not happen very quickly, but it will progress steadily. Its final effect is not abandoning traditional sports by bookmakers. They rather will build their market offer on two almost equal pillars: 'old' and 'new' sports. The betting industry and traditional sports marriage will not end in divorce, but the industry will become a polygamist. The first (old) spouse remains the most important figure in the relationship. However, the second (new) partner provides new possibilities for development. This situation may also result in changes to gambling regulations. Betting companies will reduce spending on sports sponsorship, so the state will stop protecting them by preferential tax conditions. The future will show how this will affect the relationship between the betting industry and sports.

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**Przemysław Nosal** is an Assistant Professor at the Faculty of Sociology, Adam Mickiewicz University, Poland. His research interests are social policy, sociology of social problems, and the sociology of sport. He is the author/co-author of two books and several dozens of scientific articles. His recent publications on gambling include *How did regular sports bettors behave during covid-19 lockdown? Evidence from Poland* (with H. Lopez-Gonzalez). Currently, he conducts research on sports betting as a social practice.

# The Role and Influence of Test Houses in Gambling Regulation and Markets

Donal Casey

## 1 Introduction

Gambling scholars have paid close attention to state regulation and forms of self-regulation developed by gambling operators (Alexius, 2017; Alexius & Grossi, 2017; Kingma, 2008; Selin, 2016). Here, gambling research has largely focused on the role of regulators and regulated entities within the regulatory process (for exceptions, see Adams, 2008; Orford, 2011; Cassidy, 2020). More recently, scholars have investigated the flows and beneficiaries of gambling revenues (Egerer et al., 2018). While this research draws attention to those that benefit directly from the gambling surplus, it neglects the 'financial interests of other industry sectors in gambling, not as spenders of the surplus but as its producers (Marionneau & Nikkinen, 2020, p. 103).' These cost-dependents are industries that financially rely upon and receive the operating costs of the gambling industry (Marionneau & Nikkinen, 2020). By focusing on regulators, regulated entities and the beneficiaries of gambling, gambling scholars have overlooked the central role played by test houses in gambling regulation, and test houses central position in gambling markets as significant cost-dependents.

This chapter contributes to our understanding of the global gambling industry by shedding light on test houses, a central but largely hidden actor in gambling markets. Test houses are conformity assessment bodies that test, inspect, and certify online gambling operators' software and security management systems against technical standards and security requirements developed by regulators and international standard setting organisations. Situated between regulators and

D. Casey (✉)
Uppsala University, Uppsala, Sweden
e-mail: donal.casey@fek.uu.se

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gambling operators, test houses are the central regulatory intermediary in this politically contested policy area. Regulators and regulated entities enrol intermediaries in the regulatory process given their operational capacity, expertise, and independence (Abbott et al., 2017c). These intermediary actors undertake various regulatory roles, spanning monitoring, enforcement, implementation, and rule development (Abbott et al., 2017b).

I argue that we must be attentive to the crucial role and position of test houses in gambling regulation and markets if we are to understand not only the structure of gambling markets and regulation, but also how relationships of dependence create networks of influence within markets and regulation. I draw upon empirical research undertaken for 'The Bingo Project' (University of Kent, UK 2013–2017; see Bedford et al., 2016), and a subsequent pilot project 'The Glue that keeps Compliance Stuck Together: The Role of Test Houses in Online Gambling Regulation' (University of Kent, UK, 2019–2021). Empirical data was collected between June 2015 to March 2016 and January 2020 to March 2020. In addition to informal conversations and scoping chats, 50 semi-structured interviews were conducted. Interviewees included regulators, trade associations, test houses, gambling operators and software suppliers. This chapter begins by outlining how gambling regulators, operators, and software suppliers are reliant upon test houses in all aspects of the regulatory process. This reliance results from the technical expertise, knowledge, resources, and the perceived independence that test houses possess. In turn, test houses are both central to the functioning of gambling markets and commercially reliant upon gambling markets. These relationships of dependence are entrenched and intensified by the highly concentrated nature of the test house market. At the same time, the relationships of dependence between regulators, gambling providers and test houses raise questions about regulatory capture and independence, which can affect the extent to which regulation promotes public rather than private interests.

## 2 Enrolling intermediaries in the regulatory process

Scholars have become increasingly interested in the role played by intermediaries in the regulatory process (See for example Abbott, et al., 2017b; Brès et al., 2019; Levi-Faur & Starobin, 2014). Regulatory intermediaries are go-betweens, situated between regulators and regulated entities, 'that acts directly or indirectly in conjunction with a regulator to affect the behaviour of a target (Abbott et al., 2017c, p. 19).' While effective regulation is dependent upon regulators and regulated entities having specific capacities to achieve regulatory objectives, regulators and regulated entities may not always possess these capacities themselves. Consequently, regulators and regulated entities enrol intermediaries to ensure that the necessary capacities are present within the regulatory process (Abbott et al., 2017c, p. 20).

Regulatory intermediaries contribute key resources and qualities to the regulatory process, in particular operational capacity, expertise, independence, and legitimacy (Abbott et al., 2017c, p. 20). Regulatory intermediaries provide *operational capacity* and undertake tasks that regulators and regulated entities cannot undertake effectively or efficiently themselves. Regulators and regulated entities also bring intermediaries into the regulatory process given their *expertise* and 'specialised knowledge about regulatory norms and how to implement them (Abbott et al., 2017c, p. 20).' In addition, stakeholders perceive regulatory intermediaries as possessing *independence* from both regulators and regulated entities. Regulators and regulated entities harness this independence to enhance trust and credibility in the regulatory process. Finally, regulatory intermediaries provide *legitimacy* to the regulatory process. Intermediaries' legitimacy stems from their perceived independence and expertise, and their ability to efficiently and effectively carry out tasks and achieve regulatory objectives.

Intermediaries play a variety of regulatory roles. In many cases, regulatory intermediaries are central to the *implementation* of regulation. Here, regulatory intermediaries interpret, clarify, elaborate, adapt, or 'translate' rules to ensure effective implementation by regulated entities (Abbott et al., 2017c; Paiement, 2019). Regulatory intermediaries also facilitate implementation through capacity building, training, and advising regulators and regulated entities (Abbott et al., 2017c). Furthermore, regulatory intermediaries contribute to the *monitoring and enforcement* of regulation. Intermediaries monitor regulated entities compliance with regulatory rules and enforce those rules on behalf of regulators using positive incentives or negative sanctions (Abbott et al., 2017c). Finally, given their expertise and experience of implementation, monitoring, and enforcement, intermediaries play a crucial role in the creation and continuing *development of regulatory rules* (Fransen & LeBaron, 2019; Galland, 2017; Lytton, 2017; Paiement, 2019). Regulatory intermediaries are particularly important at the emergent stage of regulatory regimes where they can act as co-regulators in the development of rules. Later, intermediaries provide an important feedback loop to regulators in the development and reformulation of regulation (Abbott et al., 2017a; Auld & Renckens, 2017). In what follows, I examine how and why gambling regulators, operators and software suppliers are reliant upon test houses in the regulatory process.

## 3 Enrolling test houses in the regulatory process

There is a long history of regulators undertaking in-house testing of gambling machines and equipment, for example in jurisdictions such as Nevada and New Jersey in the United States. From the 1990's, regulators began to outsource this testing work to third party testing houses as gambling machines and equipment became more complex and online gambling emerged. In Australia, regulators engaged BMM Testlabs (BMM) to undertake the testing of machines. In the United States, the New Jersey Casino Control Commission licensed Gaming Laboratories International (GLI) to undertake testing in 1995. The outsourcing of certain monitoring and enforcement functions to test houses has continued and expanded with the development of online gambling and the opening up of gambling markets. In Europe, all major online gambling jurisdictions such as United Kingdom, Denmark, Sweden, Spain, Italy, and Gibraltar, enrol test houses to test, inspect, and certify online gambling operators' software, security and management systems against technical standards, and security requirements developed or mandated by regulators. Test houses, therefore, play a key role in the *monitoring and enforcement* of online gambling regulation.

As conformity assessment bodies, test houses are also central to the *implementation* of online gambling regulation. In order to test, inspect, or certify, test houses must not only read but also interpret, translate, adapt, and give meaning to technical requirements and standards in their work with online gambling operators and software providers (Brès, et al., 2019). As a test house employee noted, 'there is what is written and there is the interpretation of what is written' (Test House, Interview EU-13). The interviewee explained that:

> [C]ertifying a game … involves a degree of negotiation and interpretation and negotiation with the regulator and also with the customer, the operator. (Test House, Interview EU-13)

Tellingly, another interviewee spoke about how the 'deliberate opaqueness' of technical standards meant that these standards required interpretation in order to be implemented (Online Gambling Operators, Interview SLSA-1). The interviewee elaborated that, in most cases, test houses undertook this process of interpretation given the reluctance of regulators to provide interpretative advice and the lack of technical expertise retained by regulators. A test house employee with decades of experience working in testing described this process of interpretation as form of 'craftsmanship' (Test House, Interview SLSA-2).

In addition to their implementation, monitoring and enforcement work, test houses contribute to the *development and reformulation of regulatory rules.* Here, test houses are particularly important in the formative years of regulation, acting as co-regulator in the development of technical standards. In the early 1990s, the Victorian State Government in Australia engaged BMM to develop technical standards for gaming systems and machines. These standards became the framework for the Australian/New Zealand Gaming Machine National Standards first developed in 1994 (BMM, 2000, see also Stevens, this volume). In 1998, BMM developed the technical standards that the Queensland Office of Gaming Regulation based its Principles for Functionality of Interactive Gambling Systems standard upon following the Interactive Gambling (Player Protection Act) 1998 (BMM, 2007). The Tasmanian Gaming Commission also used this standard to development its Internet Gaming Technical Requirements Standard (BMM, 2007). BMM would go on to produce a complete set of technical standards related to internet and interactive gambling in 2002 (BMM, 2002). The history behind the development of these early interactive and internet gaming technical standards is important, as these standards became the blueprint for online gambling technical standards in key European jurisdictions. Jurisdictions such as Alderney, a British Crown Dependency, adopted these standards and they were the starting point for the United Kingdom's online gambling technical requirements. These standards were also the foundation for the influential International Association of Gaming Regulators (IAGR) eGaming Guidelines, which IAGR developed from 2004 and published in 2008.

In the United States, GLI assisted many jurisdictions in the development of land-based gambling technical standards. In Europe, GLI worked with the Norwegian, Swiss, and Swedish gambling regulators to develop land-based gambling technical standards during the late 1990s (GLI, 1999). Furthermore, GLI produced a wide range of GLI technical standards from 2000 and developed the GLI-19 Interactive Gaming Systems Standard in 2011 (GLI, 2011). GLI-19 is now widely seen as the benchmark technical standard for online gambling, and from which regulators around the world 'borrow'. When technical standards have been established, test houses also play a significant role in providing feedback to regulators for the reformulation of regulation given their in-the-field experience with regulatory requirements (Abbott, et al., 2017c, p. 30).

As noted above, regulators and regulated entities enrol intermediaries in the regulatory process where the necessary capacities and resources to achieve regulatory objectives are otherwise lacking. In 2000, a founder of BMM Testlabs wrote that the functions of test houses are:

> To maintain a level of expertise, integrity and credibility such that we are seen and perceived by all stakeholders in the Industry as independent, unbiased and competent in seeking to verify that a device or system works correctly and complies with the regulator's technical requirements (Monypenny, 2000).

Test houses bring specific expertise, capacities, resources, and competences related to testing, inspection, certification, and the development of technical standards that gambling regulators do not possess. In this context, the Chief Executive of the UK Gambling Commission stated that, given the complexity and variety of online gambling products and the amount of testing required, in-house testing 'would be a very significant challenge for any regulator' (House of Lords, 2020). Here, even jurisdictions such as Nevada, which traditionally kept testing in-house, have moved toward enrolling test houses in the regulatory process given the growing complexity of and demand for testing. An employee for an online gambling operator explained that the key benefits that test houses provided were greater expertise and efficiency in undertaking testing as compared to regulators (Online Gambling Operators, Interview EU-20).

Test houses' perceived independence from gambling regulators and operators is also a central rationale for their inclusion in the regulatory process. This is particularly so given that the perception of fairness of online gambling is an important driver for testing. An interviewee explained that:

> [T]here are also positives when it comes to, for example, independent testing. That can build confidence in customers that you are serving a good product to them that they can trust. (Online Gambling Operator, Interview EU-22)

Another interviewee, working with compliance for an online gambling operator, spoke about how test houses and third-party testing strengthened the integrity of the online gambling market (Online Gambling Operator, SLSA-1). With this, we can see how test houses' expertise, organisational capacities and independence also enhances to the perceived legitimacy of online gambling regulation and online gambling markets.

Whilst to date gambling scholars have overlooked test houses, they play a central role in the regulatory process undertaking implementation, monitoring, enforcement, and rulemaking functions. Gambling regulators and operators enrol test houses in the regulatory process given their organisational capacities, expertise, independence, and the perceived legitimacy they provide to gambling regulation. Both regulators and regulated entities are therefore reliant upon test houses in all aspects of the regulatory process. Given this, test houses are also central actors within online gambling markets and proper functioning online gambling markets are dependent upon test houses.

## 4 Dependence, independence, and capture

While regulatory intermediaries may be essential to ensuring effective regulation, they may also introduce problems and complexities into the regulatory process (Abbott, et al., 2017a, p 281). As van der Heijden explains:

> Both regulators and targets have become increasingly dependent on intermediaries. Although adding intermediaries to the regulatory landscape might increase the effectiveness, efficiency, and even accountability of regulation, dependence on intermediaries also presents challenges. There are darker sides to intermediation (van der Heijden, 2017, p. 212).

These 'darker sides of intermediation' reflect concerns about the increasing dependence of regulators and regulated entities on intermediaries, concerns of regulatory capture and 'that intermediaries have incentives to pursue their own interests over the public interest (van der Heijden, 2017, p. 221).'

One of the key resources that test houses bring to the regulatory process is independence from both regulators and regulated entities. Despite this, the organisational capacities and expertise that test houses possess, and the multiple regulatory roles that test houses play, mean that there is a relationship of dependence between test houses, regulators and regulated entities. Indeed, 'not only are regulatory intermediaries relied on by regulators to aid them in the development, implementation, and enforcement of regulation, but they are also relied on by targets in all of these processes (van der Heijden, 2017, p. 220).' Within online gambling regulation, the discussion above highlighted that regulators are dependent upon test houses along the entire regulatory process, from the development of technical standards through to ensuring compliance. As a test house employee explained, test houses sit between regulators and operators, but are 'somehow the glue that keeps compliance stuck together' (Test House, Interview EU-13). However, such a relationship of dependence between regulators and test houses can be problematic.

Indeed, scholars have noted that '[t]he main risk in this reliance on intermediaries in regulatory governance is that regulators may lose expertise in the regulated area and become too dependent on intermediaries (van der Heijden, 2017, p. 213).' This is particularly so when regulators rely upon test houses to not only ensure compliance, but also to help draft technical standards. When asked why online gambling operators and software suppliers would not go directly to a regulator when they were uncertain about how to interpret and implement a technical standard, an employee working for an online gambling operator explained that: '[regulators] don't have, we don't have access to the type of expertise within the regulator that would understand the detail of conversations like that (Online Gambling Operator, Interview SLSA-1)'. This response, in turn, also spotlights the relationship of dependence between online gambling providers and test houses in the provision of testing, inspection, and certification, and ultimately in effective on-the-ground implementation of online gambling regulation.

These relationships of dependence are entrenched by the highly concentrated nature of the test house market. As an online gambling trade association representative explained: 'In reality, there are only four or five big testing houses, and it is the same ones testing everything around Europe (Online Gambling Trade Association, Interview EU-6)'. For example, GLI and BMM are now the dominant test houses in both United States and European markets. While other test houses operate on the European market, such as eCOGRA, Trisigma, iTech Labs, Quinel and SIQ, the market is concentrated. This concentration has increased over the past decade through the acquisition of Technical Systems Testing (TST) and NMi Metrology & Gaming Ltd (NMI UK) by GLI (GLI, 2010, 2017). While the concentrated nature of the test house market intensifies the relationships of dependence, the nature of the test house market also raises other concerns.

Although a contested concept, regulatory capture is a central concern within the regulatory process and a key reason put forward as to why regulatory failure occurs (Abbott, et al., 2017c, p. 28; Baldwin et al., 2011, pp. 43–48; Croley, 2011). Here, we can understand regulatory capture as the process through which regulation is 'directed away from the public interest and towards the interest of the regulated industry, by the intent or action of the industry itself (Carpenter & Moss, 2013, p. 13).' Whilst regulatory capture is usually concerned with the ability of regulated entities or industries to influence regulation, the introduction of intermediaries within the regulatory process adds additional mechanisms or means that can direct regulation away from the public interest. Here, two concerns are central with regard to the role that test houses play within the regulatory process and gambling markets.

Firstly, given regulators' dependence on the operational capacity and expertise provided by test houses, there may be concerns as to the extent to which test houses themselves capture regulators. This is especially so in relation to the development or reformulation of regulation where test houses can exert influence given their expertise, experience and information related to on-the-ground implementation of regulation (see generally Abbott, et al., 2017c, p. 30). One interviewee pointed out that test houses were able to exert influence within the regulatory process given their proximity to, and the lack of internal expertise within regulators (Online Gambling Operator, Interview SLSA-1). The interviewee went on to explain that:

> Obviously, there is the commercial motivation on the test houses that the more they audit then the more they get paid. I understand that. But, I think that the [regulator] is happy to accept that, that trade-off, because [test houses] have got more confidence and more visibility, openness and transparency about what the operators are doing … in an area that they don't have expertise (Online Gambling Operators, Interview SLSA-1).

The interviewee's mention of a 'trade-off' draws attention to the potential for the private interests of test houses to influence the development and reformulation of regulation. We must remember that whilst test houses are central to the regulatory process and perceived as independent from both regulators and operators, they are dependent upon gambling markets and the regulatory frameworks within gambling markets for their survival. As cost-dependents, test houses have their own motives. Commercial survival drives these motives, which may not align regulation's public interest objectives.

Secondly, whilst stakeholders often portray test houses as independent from regulators and online gambling operators, in most European jurisdictions online gambling operators and software suppliers choose, contract, and pay test houses for the testing, inspection and certification work they undertake. This question of independence was raised during a hearing in February 2020 at the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry (House of Lords, 2020). During the hearing, the following exchange occurred between the Committee Chair and the former Chief Executive of the UK Gambling Commission, Neil McArthur (House of Lords, 2020):

> Chair: How independent are the testing houses?
>
> Neil McArthur: They are independent of operators.
>
> The Chair: No, but they are paid for by the operators.
>
> Neil McArthur: They are paid for by operators.

No doubt, the concern of the Chair of the Committee is whether online gambling operators can capture test houses. As online gambling operators can 'intermediary shop' by picking which test house they contract with, the test house market becomes a competitive market (Abbott, et al., 2017a, p. 284). As a test house employee explained:

> [Test houses] are somewhere in the middle between obviously the operators and the regulators providing, in effect a service to both and independent of both … On the one hand we have to be commercially minded because we compete with other testing organisations and labs for that work. On the other hand, obviously, our reputation is paramount to us and our brand and our good standing with regulators. So we are trying to keep everybody happy (Test House, Interview EU-13).

The competition between test houses has the potential to lead to a race to the bottom and create commercial incentives for test houses to be responsive to their customers' needs and demands, both of which may undermine the public interest objectives of regulation (Abbott, et al., 2017a, p. 284). Furthermore, given the ongoing commercial relationships between test houses and online gambling operators, there may be concern as to whether test houses' commercial reliance and close relationships with online gambling operators undermines their independence (Abbott, et al., 2017a, p. 284). Systems of regulatory approval and accreditation, allied with test houses' concern with their commercial reputation, mitigate such risks (Abbott, et al., 2017c, p. 30; Loconto, 2017). However, as gambling scholars we must be attentive to these concerns if we are to understand both gambling regulation and gambling markets.

## 5 Conclusion

Gambling scholarship has critically examined the relationships between the government officials, regulators, and operators (Adams, 2016; Orford, 2013, 2020; Schüll, 2012). Building upon and developing this body of scholarship, this chapter sought to bring attention to the important role, position, and influence of test houses in gambling regulation and gambling markets. I noted in the introduction of this chapter that gambling scholars must be attentive to the work undertaken by test houses if we are to understand not only the structure of gambling markets and regulation, but also how relationships of dependence create networks of influence within markets and regulation. This is important because, although the work undertaken by test houses is inherently technical in nature, regulation is 'an inherently normative enterprise' (Abbott, et al., 2017a, p. 281). The technical work undertaken by test houses underpins key public interest objectives. By enrolling test houses in the regulatory process, regulators seek to enhance the effectiveness and legitimacy of gambling regulation. The operational capacity, expertise and perceived independence of test houses are central to this effectiveness and legitimacy, and ultimately to ensuring that gambling regulation is able to achieve the public interest objectives that underpins it.

However, enrolling test houses in the regulatory process introduces complexities and problems (Abbott, et al., 2017c; van der Heijden, 2017). Enrolment creates relationships of dependence between regulators, gambling operators and test houses. As such, gambling markets are dependent upon test houses for their proper functioning. In turn, as cost-dependents, test houses are reliant upon gambling markets and gambling regulation for their survival. These relationships of dependence create networks of influence that raise important concerns about regulatory capture and the independence of test houses. When cost-dependents, such as test houses, are enrolled in and able to exert influence over the regulatory process, scholars must be attentive to their motives and the potential conflict between their private interests and the public interest of regulation.

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**Donal Casey** is an Assistant Professor/Associate Senior Lecturer at the Department of Business Studies, Uppsala University (Sweden). Donal is a regulatory governance and socio-legal scholar whose research examines the interaction between state and non-state rule making, regulatory compliance, the role of regulatory intermediaries, conformity assessment, risk and the regulatory challenges posed by new technologies.

# Are EGM Policy Changes for Consumer Protection or Generating Greater Tax Revenue for the Government in the Northern Territory, Australia?

Matthew Stevens

## 1 Background

Electronic gambling machines (EGMs) are ubiquitous in hotels (also known as pubs or bars) and clubs (like pubs or bars but usually affiliated with a sporting club or code and usually not for profit) in Australia, except one jurisdiction, Western Australia. EGMs are also available in thirteen casinos, located in every jurisdiction. Across Australia in 2017/18, less than seven per cent of approximately 194,000 EGMs were housed in casinos, however, this varies considerably across jurisdictions. In 2017/18, the majority of EGMs in Australia were in New South Wales (93,600; 48%), Queensland (46,220; 24%), Victoria (29,000; 15%), and South Australia (12,970; 7%). In 2017/18, 71% of all gambling losses were to EGMs, with over 60% of gambling losses coming from EGMs in hotels and clubs. Part of the reason for such a high contribution to gambling losses by EGMs is the ease of accessibility users have, as hotels and clubs in which they are housed are in suburban areas in all large cities, and in smaller towns, where a hotel or club is often the main meeting place. It is this accessibility that contributes to differential EGM losses across venues and jurisdictions in Australia (Marshall et al., 2004; Thomas et al., 2011).

EGMs have long been known to be the riskiest form of gambling in Australia, first determined by the 1999 Productivity Commission Report into Gambling and again in the follow-up report ten years later (Productivity Commission, 1999; Productivity Commission, 2010). Empirical research has further confirmed

M. Stevens (✉)
Menzies School of Health Research, Charles Darwin University, Darwin, Australia
e-mail: matthew.stevens@menzies.edu.au

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that EGMs have the strongest association with problem gambling in Australia (Markham et al., 2017; Delfabbro et al., 2020). So, as EGMs losses continue to rise around Australia, and armed with the knowledge that EGM gambling is most associated with harm, the question needs to be asked, are state and territory governments doing enough to reduce harms and problem gambling risk associated with EGM gambling? Before answering this question, it is useful to briefly review the National Standards that EGMs must conform to in Australia and New Zealand.

## 2 EGM characteristics and the National standard

EGMs were originally a mechanical-based machine with spinning reels inside of them, each with several different symbols. The machines had a metal arm located on the side that could be pulled, causing the reels to turn and when symbols lined up, the gambler would win. However, since the 1980s, EGMs have become more sophisticated and now run from internal computers, with colourful video terminals which give the impression of reels turning. However, the actual mechanisms, going on behind the colourful display, operate independently to what users see on the display (Livingstone, 2017). EGMs also include a range of sounds that occur in general play, when a user loses, wins, or comes out even.

In Australia (and New Zealand), EGMs must conform to the Australia/New Zealand Gaming Machine National Standard, which determines what is allowable (Queensland Government, 2016, on standards, see also Casey, this volume). It covers various parameter settings including return to user (player) ratio (RTP), maximum bet per spin, near misses, losses disguised as wins (LDWs), jackpots, and how much money can be loaded into the EGM (the 'load-up limit') and in what denomination of notes or coins (Queensland Government, 2016; Livingstone, 2017). However, in addition to the National Standards, each state and territory apply their own guidelines, which creates a complicated patchwork of rules and regulations across Australia. A similar patchwork of regulation and legislation applies to all gambling products across Australia, as gambling taxes, under the Australian constitution, are a state and territory tax.

Section 1.7 of the national EGM Standard outlines the intent of the document, and states that the 'fundamental goal of the Standard is to ensure that gaming machines, games and related equipment are designed to: a) be fair, b) be secure, c) be auditable, and d) minimise any potential for harm to players' (Queensland Government, 2016, p. 5). As per Sect. 1.11 of the Standards, they are revised and maintained by a working party of ‘regulators and gaming machine manufacturers’, while Sect. 1.12 provides a mechanism for the working party to ‘consult with gaming machine testers and other relevant stakeholders’. When revisions of the Standards occur, who these other relevant stakeholders are and whether they are consulted is not clear. For example, does it include users of EGMs, particularly those experiencing harm from their gambling? Does it include academics who specialise in understanding the risks and harms associated with different forms of gambling? Over nearly two decades working in gambling research in the NT, I am unaware of any government consultations with community and relevant stakeholders regarding changes in EGM policy (or from other gambling researchers around Australia). For a gambling product with a Standard of having a goal of minimising harm to users, it is somewhat contradictory that EGMs are the riskiest form of gambling in terms of harms and problem gambling risk across all commercially available gambling types in Australia, and this has long been known and confirmed with recent research (Productivity Commission, 2010; Delfabbro et al., 2020).

The structural characteristics of EGMs for which the National Standard applies can influence how a user of EGMs gambles, and consequently how much they lose (or win). For example, LDWs have been shown to increase the chances that an EGM gambler will continue to gamble after a loss (Leino et al., 2016), as have near misses (Barton, Yazdani et al., 2017). Interesting that disguising EGM losses by playing a winning sound is considered ‘fair’ and will ‘minimise harm to players’, and similarly, rigging the reels to show that someone just missed out on lining up symbols (near misses), when in reality, the machine was designed to do this, precisely to mislead the user. It is by no accident that EGMs have a range of structural characteristics that manufacturers have developed over time which have been specifically developed to ‘maximise spending’ and ‘time on device’ per user (Livingstone, 2017; Schüll, 2012). The review by Livingstone (2017) on structural characteristics of EGMs in Australia provides an excellent summary for readers wishing to better understand how these factors affect a user’s experience gambling on EGMs.

## 3 Aims and objectives

In the following, I present a case study of EGM policy change in the NT, Australia, and present empirical data from the 2015 and 2018 NT Gambling Prevalence and Wellbeing Surveys and EGM user loss data obtained from the

NT Government (NTG). I wish to answer the question, is the NTG enacting policy to improve consumer protection, and reduce harms and problem gambling risk associated with EGM gambling, or is the policy change designed to increase losses and therefore increase government tax revenues and reliance on EGMs? First, I outline EGM policy changes over the last several years. Second, I present EGM user loss data to provide evidence to test whether policy changes were associated with reduced/increased harm and a decrease/increase in EGM user losses. Third, month on month (compared with previous year) EGM user losses are examined to determine the effect of venue shutdowns and subsequent reopening due to COVID-19 in 2020. Fourth, I use empirical data from two surveys asking EGM gamblers how the policy changes affected their gambling. Lastly, I use attitudes to gambling questions to support the idea that government could reduce EGM numbers and accessibility without public backlash.

## 4 A case study of EGM policy change: The Northern Territory, Australia

### 4.1 Study site

The Northern Territory (NT) is Australia's smallest federal jurisdiction by population, with a population of around 250,000 in 2021, but it has many demographic and socioeconomic differences compared with other jurisdictions (Australian Bureau of Statistics, 2017b). Australia's Aboriginal and Torres Strait Islander (respectfully Indigenous from hereon) population make up approximately three per cent of Australia's total population, but in the NT, make up around 30% of total population and 25% of all adults (Australian Bureau of Statistics, 2017a, b). Indigenous people in the NT speak over 30 different languages and experience significant socioeconomic and health disadvantage compared with other Australians (Australian Institute of Health & Welfare, 2015). About 70% of the 60,000 Indigenous population live in over 100 discrete Indigenous communities with populations ranging from 100 to 2000 spread all over the NT, though most of these communities' range in population from 200 to 500 people (Australian Bureau of Statistics, 2007). Previous research has found that Indigenous gamblers in the NT have a preference for EGM gambling, and that as a group, experience significantly higher levels of problem gambling and harm from gambling than other Australians (Young et al., 2007; Stevens & Bailie, 2012; Stevens et al., 2017; Stevens et al., 2020). The NT also has a large population of offsite mining workers that have large disposable incomes and time due to the fly-in fly-out nature of their work, and this group has also been found to be more susceptible to gambling problems (Doran & Young, 2010; Joyce et al., 2013; Lifeline WA, 2013). In summary, the NT has a younger population than other Australian jurisdictions, and specific socio-demographics that are risk factors for gambling harm.

## 4.2 Data collection and analysis

The 2015 and 2018 NT Gambling Prevalence and Wellbeing Surveys were carried out from October to November using random dialling from a dual frame (mobile and landline) samples with sample sizes of 4,945 and 5,000 respectively. Both surveys were weighted to the estimated resident population by age, sex, and region, for the midpoint of the year, as generated by the Australian Bureau of Statistics. Both surveys included a sub-sample, where respondents answered several other questions related to health risk factors. The 2018 sample had a larger mobile phone sample (71%) compared with the 2015 survey (24%). Full survey methodology can be found in the main survey reports (Stevens et al., 2017, 2020). EGM data on player losses in the NT is collated by a private company before being provided to the NTG, who supplied these data after a data request was made. See Stevens and Livingstone (2019) for more details on EGM data. All analyses of survey data were on population weighted data, with standard errors adjusted for the survey design.

## 4.3 EGM policy changes in the NT

Over the last decade there have been several EGM-related policy changes, though not all changes were directly aimed at gambling on EGMs. They can be summarised as follows:

- 1 January 2010: Smoking bans in hotels, clubs, and casinos (indoor venues).
- 28 May 2013: Legislation passed allowing for 'note acceptors' to be installed on EGMs, allowing gamblers to insert up to 640 EUR ($1000) in any denomination notes in a single 'load-up'. Previously users of EGMs had to insert $1 coins, with a maximum insertion of 160 EUR ($250).
- July 2015: Previous cap on the number of EGMs in hotels lifted from 10 to 20, and 45 to 55 in clubs.

- June 2018: Ticket-in Ticket-out (TITO) machines and reader on EGMs. The TITO system allows users to load up money through a terminal (separate to the EGM), which then provides a readable ticket (barcode) with the amount inscribed. This ticket can then be scanned at an individual EGM, with the inscribed amount available to gamble with. Winnings can also be obtained from an EGM the same way, with an inscribed ticket printed from the EGM, which can then be taken to another machine and scanned for more gambling or taken to a terminal and cashed out. Tickets expire after one month.
- 23 March 2020 to 5 June 2020: COVID-19 venue shutdown and reopening. There were several factors associated with the shutdown and reopening that may affect EGM user losses. EGM gamblers not spending money gambling during the shutdown, then insert that money into EGMs, leading to increased losses compared with previous year. Additional government benefits to offset economic effects of COVID-19 (for unemployed and to support workers in jobs) may have been spent gambling.

As with previous EGM policy changes in the NT, there was no consultation on TITO machines and information on when the policy change occurred and what exactly the TITO concept is, was only provided after repeated requests (and several months wait) to the government.

# 5 Results

## 5.1 EGM user losses

Figure 12.1. shows annual Consumer Price Index (CPI) adjusted (real) EGM user losses from 2003 to 2020, along with information on dates for policy changes. A more nuanced analysis of these data can be found in Stevens and Livingstone (2019), which presents EGM losses broken down by venue size (and also includes user losses from two casinos), though it only includes EGM data to 2017. The effect of the smoking ban is clearly visible on EGM user losses, with an immediate 21% drop in 2010, and continued decreases till 2013, at which time there had been a 30% drop in real user losses compared to 2009. The effect of smoking bans indoors in other jurisdictions also led to a decline in EGM user losses. In New South Wales, there was a 13% drop in the first year of the indoor smoking ban, in Victoria 11%, Queensland 8%, South Australia 7%, while in Tasmania it was 15% (Queensland Government Statistician's Office - Queensland Treasury, 2019). A possible reason for the differences across jurisdictions is that smoking

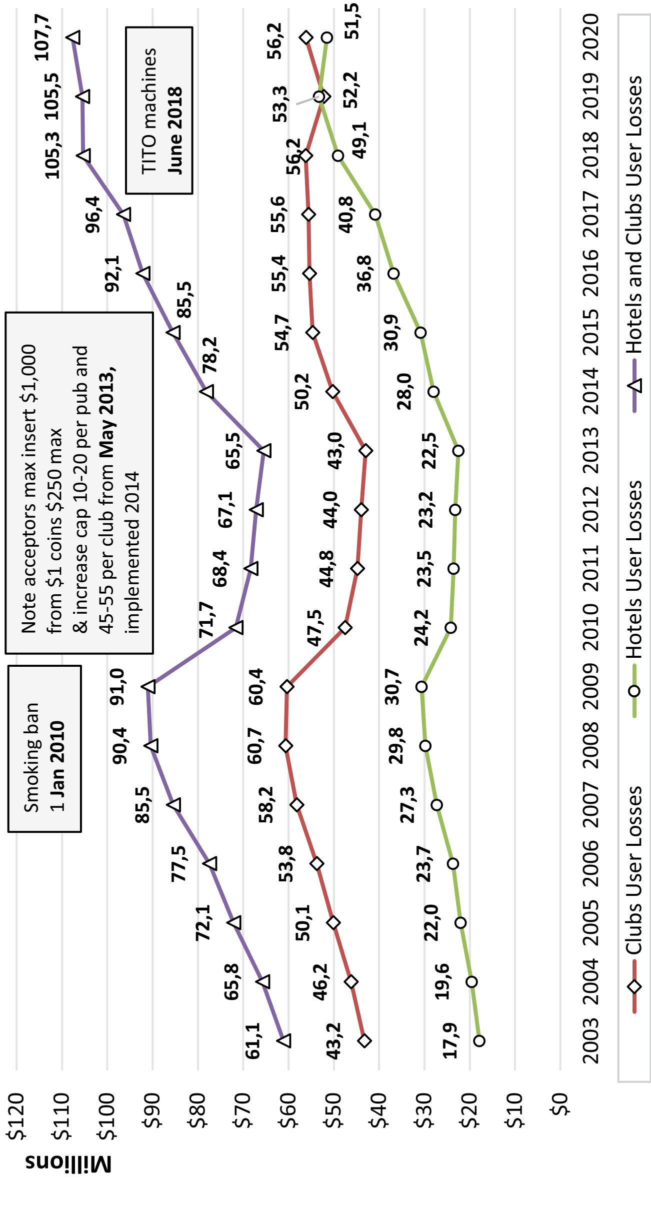


**Fig. 12.1** Northern Territory CPI adjusted EGM user losses in hotels and clubs, 2003–2020

rates in the NT and Tasmania were higher than in other jurisdictions (Australian Institute of Health & Welfare, 2011).

The effect of the installation of note acceptors is also clearly visible, with a 19% increase in user losses from 2013 to 2014 and continued increases at around eight per cent per annum up until 2018, before slowing in 2019 and 2020. While EGM numbers on not presented, throughout this period, the number of EGMs increased rapidly, particularly in 2016 and 2017 (see Fig. 2 in Stevens and Livingstone (2019)), where EGM numbers increased in hotels and clubs from 1,173 to 1,550). Being a small jurisdiction, the NT has a relatively low change in number of venues from year to year, so it is likely that the levelling out in EGM user losses in 2019 and 2020 is a result of either (i) EGM users becoming used to the note acceptors, and controlling their spending better after initially losing more when note acceptors were first installed, and/or (ii) reflect that most hotels and clubs in the NT had increased their EGM numbers to the maximum according to the new cap (10 to 20 for hotels and 45 to 55 for clubs) or close to it. Supporting this, Stevens and Livingstone (2019) found that by 2017, 85% of EGMs located in clubs had installed note acceptors, with this being greater than 90% in clubs with 45 or more EGMs, and 78% of EGMs in hotels.

Little comment can be made on the effect of TITO machines on EGMs in the NT, as at the time of writing there is no information on how many venues and machines had installed the capability. It is likely that larger venues were able to install these machines faster than smaller venues, similar to what was found with note acceptors, and that this likely occurred in the COVID-19 shut down on venues.

Figure 12.2. shows month-on-month real EGM user losses for 2019 and 2020 (up to October, as this was the most recent available data at the time of writing), which shows the effect of COVID-19 related shutdowns of EGM venues on EGM user losses. For the months of January and February in 2020, user losses were around five per cent higher than in 2019, while the effect of the 23 March shutdown is obvious, with EGM user losses falling from 5.5 million EUR ($8.5 million) in March 2019 to 3.6 million EUR ($5.7 million) in March 2020, a 32% decrease due to venue closures. On reopening, there was a 23% increase in user losses in June 2020 [7 million EUR ($11.0 million)], compared with June 2019 [5.7 million EUR ($8.9 million)], while for the months of July, August, September, and October EGM user losses were 69%, 42%, 53% and 51% higher than the previous year's equivalent months. These increases saw an extra 14 million EUR ($22 million) lost to EGMs in the months of June to October, compared with the previous year, equating to an additional 94 EUR ($146,650) extra per day lost. Several possible factors could be behind this large increase. First, the Australian

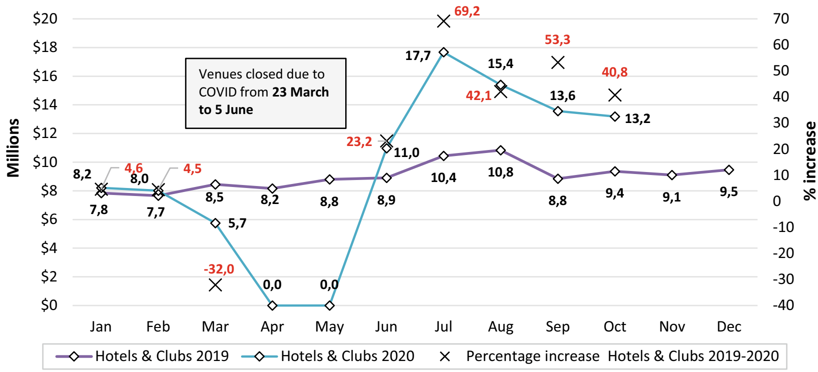


**Fig. 12.2** Northern Territory CPI adjusted EGM user losses in hotels and clubs, month on month 2019–2020

Government provided all unemployed people on government benefits an additional 480 EUR ($750) per fortnight, essentially doubling the usual amount this group receives, and some of this additional money may have been gambled. Second, EGM gamblers saved the money over the period of COVID-19 closedown and spent this upon venue reopening. Third, the combination of policy changes, including the change to cashless TITO options which began in June 2018 may have been fully implemented and installed throughout 2020, possibly while the venues were closed. More recent data is needed to assess this. If user losses levelled back out or declined after December 2020 (when extra government benefits stopped), then it is quite reasonable to assume that the extra unemployment benefits, or at least some, was being lost to EGMs. Future surveys in the NT will probe EGM gamblers on their spending once venues reopened after COVID-19.

## 5.2 Impact of policy changes on EGM gamblers

Stevens and Livingstone (2019) analysed EGM user loss data and gambling prevalence survey data from 2005 and 2015 to estimate the effect of the installation of note acceptors on EGMs and the increased cap had on user losses among EGM gamblers in the NT. They estimated that in real dollars, EGM gamblers experiencing problem gambling increased their annual losses from between 20,000 EUR ($30,915) and 25,000 EUR ($39,748) in 2005, to between 26,000 EUR ($41,054) and 34,000 EUR ($53,362) in 2015. This study concluded that the increased load-up was most likely the cause behind a spike in EGM user losses in the three years after the note acceptors were installed. Given continued increasing trend in EGM user losses seen in Fig. 12.1., it is likely that EGM at-risk gamblers are losing more since the introduction of note acceptors, increased EGM numbers, and possibly with the introduction of TITO, allowing cashless gambling, but with no money tracking system for gamblers.

The 2018 NT Gambling Prevalence and Wellbeing Survey provides further evidence that the installation of the note acceptors is linked to increases in EGM user losses, gambling-related harms, and problem gambling risk (Stevens et al., 2020). Monthly EGM gamblers were asked ‘did the installation of note acceptors change how much you spent on EGMs’ (increase, no change, decrease, new EGM user), followed by ‘what the largest amount of money you have ever loaded into an EGM in the last year’, and lastly, ‘whether you experienced negative consequences as a result of this load-up’. Of 9,340 monthly EGM gamblers, 31% increased their spending because of the increased load-up available associated with note acceptors. For EGM gamblers less than 30 years, and those 30 to 49 years, 49% and 41% respectively said note acceptors led to an increase their spending. Self-reported spending for EGM gamblers who indicated note acceptors led to an increase in spending was 6,000 EUR ($9,469) per annum, compared with 2,800 EUR ($4,447) for those who indicated note acceptors made no change to their spending. EGM gamblers who inserted 190 EUR ($301) or more in a load up had an average self-reported spend of 10,000 EUR ($15,622) per annum, compared to less than 2,500 EUR ($4,000) for those inserting 65 EUR ($100) or less. Of note, the 31% of monthly EGM gamblers that said note acceptors led to an increase in spending made up 49% of self-reported expenditure on EGMs (Stevens et al., 2020).

When monthly EGM gamblers in the 2018 NT survey were asked about their largest load-up, 77% indicated that it was less than 65 EUR ($100), with only 10% indicating that it was greater than 190 EUR ($301). However, this varied significantly by problem gambling risk as measured using the Problem Gambling Severity Index (PGSI), with 90% of no risk gamblers inserting less than 190 EUR ($100), compared with 55% of gamblers experiencing problem gambling, 73% moderate risk gambling and 77% low risk gambling. The distribution of problem gambling risk by the maximum EGM load-up limit is also instructive to ascertain what level of harm is acceptable. Approximately six per cent of all monthly or more EGM gamblers were classified as experiencing problem gambling, compared with four per cent of EGM gamblers who had a maximum load-up of less than 65 EUR ($100), 23% for those inserting 65 EUR ($101) to less than 190 EUR ($301), and 42% of those with a maximum load-up of 190

EUR ($301) or more. In addition to the classification of problem gambling, 53% of EGM gamblers inserting 190 EUR ($301) or more indicated that they had experienced a negative consequence as a result of this large load-up, dropping to 22% for those inserting 65 EUR to 190 EUR ($101 to $300) and reducing again to 13% for those inserting less than ~ 65 EUR ($100) (Stevens et al., 2020).

Of monthly EGM gamblers classified as experiencing problem gambling, 68% indicated that note acceptors led to an increase in their spending, compared with nine per cent of no risk monthly EGM gamblers. In 2015, 2.7%, 7.8% and 18.6% of EGM gamblers were classified as experiencing problem, moderate risk, and low risk of problem gambling, respectively, while in 2018 it increased in all categories to 6.2%, 11.3% and 23.1% respectively; a doubling of EGM gamblers experiencing problem gambling. For comparison, in 2018, 0.3%, 2.6% and 9.3% of non-EGM gamblers were classified as problem, moderate risk, and low risk of problem gambling respectively. Lastly, 40% of EGM gamblers in 2018 were classified as at-risk (PGSI one or more) of problem gambling, compared with just over 12% of non-EGM gamblers (Stevens, Gupta et al., 2020).

If the goal is to minimise harms associated with EGM gambling, then based on the above evidence, a maximum load up limit of less than 65 EUR ($100) would reduce the risk of gambling-related harms, particularly for EGM users classified as experiencing problem or moderate risk of problem gambling. So, what would be a suitable maximum amount to load into an EGM? An independent federal commission in Australia, the Productivity Commission, came up with a maximum load-up limit of 13 EUR ($20), which they say 'would make changes to note acceptors redundant' (Productivity Commission, 2010, 11.1). Currently in Australia, the maximum load up limit varies by jurisdiction, with New South Wales, the largest EGM market allowing up to 4,800 EUR ($7,500) load-up, while Queensland (third largest market) allows up to 65 EUR ($100) load-up, which is currently the lowest load-up limit across all Australian jurisdictions. The 640 EUR ($1,000) load-up in the NT is the same in South Australia and Victoria.

More evidence supporting the case that increased user losses were a result of policy changes can be seen in median annual spend for EGM gamblers who nominated EGMs as their highest spend activity. Table 12.1. shows median annual spend for gamblers with a highest spend on EGMs was 160 EUR ($250) in 2015, increasing to 420 EUR ($650) in 2018, and that the 25th, 75th and 90th percentiles more than doubled, indicating a much higher percentage of EGMs gamblers are spending more.

The final piece of empirical evidence supporting the notion that the change in EGM policy increasing load-up through note acceptors, increasing EGM numbers

**Table. 12.1** Median annual spend, 25th, 75th and 90th percentiles for gamblers nominating EGMs as their highest spend activity, 2018 highest spend EGM gamblers (subset)

| | Median | 25th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|
| 2018 | $600 | $150 | $2,600 | $7,200 |
| 2015 | $250 | $100 | $1,040 | $2,400 |

per venue, and TITO machines has led to greater EGM spending and consequent harm is seen when looking at the at-risk gamblers population (one or more on PGSI). All at-risk gamblers were asked from a list of 16 harms across the domains of financial, emotional/psychological, criminal, family/relationships, and work/study, how often their gambling caused the harm (note that in 2015 respondents were not asked how often the harm occurred, just whether they experienced the harm in the last year). Figure 12.3. shows estimates of the number of harms from own gambling by EGM gambler status for 2015 and 2018. First, there was a significant increase in harms from own gambling for EGM at-risk gamblers from 2015 to 2018 (30% up to 54%), but not among non-EGM at-risk gamblers (19% up to 31%). Second, EGM at-risk gamblers (54%) in 2018 were significantly more likely than non-EGM at-risk gamblers (31%) to be harmed from their own gambling, while in 2015 the difference did not reach significance, though a greater percentage of EGM at-risk gamblers (30%) were harmed from their own gambling compared with non-EGM at-risk gamblers (19%) (Stevens et al., 2020).

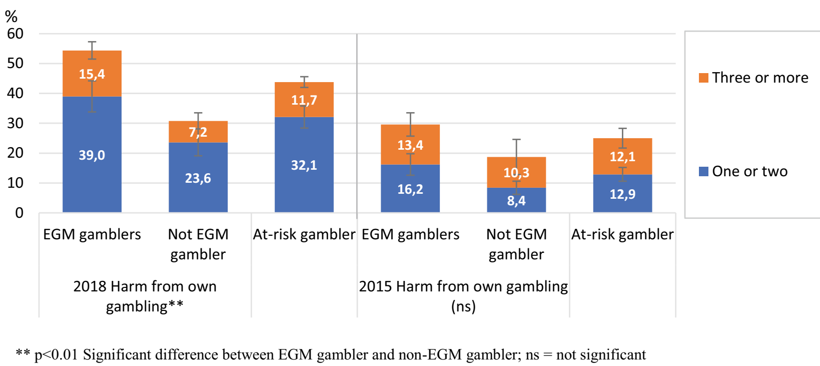


**Fig. 12.3** Estimate (standard error) of number of harms from own gambling by EGM status and survey year, 2015 and 2018 at-risk (PGSI 1 or more) gamblers

## 5.3 Community attitudes towards gambling

So, is it politically unpopular to reduce EGM numbers, make them safer, and reduce associated harms, or are policy changes associated with raising more revenue for the government from gambling taxes among an indifferent population? The NT gambling surveys asked (i) whether to change (increase, decrease, no change) the number of EGMs in hotels and clubs (separately), (ii) whether there is too much gambling in NT hotels and clubs (separately), and (iii) whether EGM gamblers should have to set mandatory limits on time and money.

Between 2015 and 2018 there was a significant increase in the percentage of adults stating that they would like to see a decrease in EGM numbers in hotels (50% to 56%). This change was also observed in men, with 51% indicating they would like to see a decrease in EGM numbers in hotels, significantly up from 45% (Stevens et al., 2020). There was an increase in the percentage of adults that indicated they would like to see a decrease in EGM numbers in clubs (53% to 55%), though this increase was not statistically significant. Among survey respondents that had experienced harm from someone else's gambling, 76% and 73% would like to see a decrease in EGM numbers in clubs and hotels respectively. This is not surprising and is consistent with the finding that of the eight per cent (14,500) of the NT adult population that had been harmed by someone else's gambling in the last year, 70% named EGMs as the type of gambling the person who harmed them was doing (Stevens et al., 2020).

Most people agreed or strongly agreed that 'there is too much gambling in hotels' (61%) and 'there is too much gambling clubs' (61%), and a further 16% were neutral (for clubs and hotels). Women were significantly more likely to agree or strongly agree with the statement than men for hotels (68% *cf*. 55%) and clubs (67% *cf*. 56%). It was again clear that those who had been harmed by someone else's gambling were significantly more likely to have a negative attitude towards gambling as between 70 and 75% of those harmed by someone else's gambling agreed or strongly agreed that there was too much gambling in NT hotels and clubs (Stevens et al., 2020).

Something that could be implemented to reduce EGM gambling harm and has been suggested numerous times in Australia and across multiple jurisdictions is having a card that allows EGM gamblers to set limits on time and money spent (on a daily, weekly and/or monthly basis). A recent inquiry into the suitability of Crown Resorts (a large multinational company specialising in casino gambling and entertainment) to obtain a new licence to operate a casino in Sydney, New South Wales recommended a 'gambling card' due to both harms from EGM gambling and because of the ease with which illegally obtained money could be laundered through EGMs (Bergin, 2021a, b). The 2018 NT gambling survey asked, 'whether people in the NT should have to set limits on time and money spent playing the pokies [EGMs]?'. Sixty-seven percent of adults agreed or strongly agreed that EGM gamblers should have to set limits on time and money to gamble on EGMs, and this was significantly higher among women, with 74% agreeing or strongly agreeing, compared with 62% of men (Stevens et al., 2020). So, in the total population there is strong support for limit setting when gambling on EGMs, but what do EGM gamblers think? Forty-two percent of weekly EGM gamblers agreed or strongly agreed about limit setting, 47% of monthly EGM gamblers, and 60% of less than monthly EGM gamblers, compared with 70% of non-EGM gamblers and 76% of non-gamblers. So, while not totally palatable to all EGM gamblers, it would be unlikely to bother the 73% of EGM gamblers who gamble less than monthly, and it would allow EGM gamblers to better monitor and control their time and money gambling (Stevens et al., 2020).

## 6 Conclusions

This chapter reported on EGM policy change in a small jurisdiction in Australia and how it affected user losses, problem gambling risk and gambling-related harms. Strong evidence suggests that increasing the amount of money gamblers can load into an EGM and increasing EGM numbers was associated with 1) large increases in users losses; 2) significant increases in problem, moderate and low risk problem gambling; 3) significant increase in harm from own gambling for EGM gamblers; and 4) significant increases in self-reported expenditure and harms associated with increased load-up. The effect of the TITO machines was not clear, though removing cash and an ability to track loss amounts is clearly not in the interests of the gamblers, but is serving the interests of industry and government, if their goal is to increase losses. A simple change that would have virtually no cost to implement would be to reduce the load-up amount to the 13 EUR ($20), as recommended by Australia's Productivity Commission (Productivity Commission, 2010). Other structural characteristics that could be changed to reduce gambling harms are slower bet speed, not allowing near misses or losses disguised as wins, reduced opening hours of EGM venues, reduced the maximum bet per spin to 0,60–1,30 EUR ($1 or $2) [currently between 3,20–6,40 EUR ($5 and $10)], and lastly, limiting linked jackpots. Research has recommended a range of structural reforms that would reduce harms associated with

EGM gambling, though clearly these would impact of losses and subsequent government revenues (Livingstone & Adams, 2011; Livingstone, Rintoul et al., 2019; Stevens & Livingstone, 2019).

Australia has the highest per capita gambling losses in the world at 830 EUR ($1,292) per person in 2017/18. Of that sum, 420 EUR ($650) is lost to EGMs in hotels and clubs and a further 170 EUR EUR ($265) lost to EGMs in casinos, combined to account for over 70% of gambling losses in Australia (Queensland Government Statistician's Office - Queensland Treasury, 2019). EGMs are in nearly all suburban hotels and clubs in every jurisdiction in Australia except Western Australia, making them a highly accessible gambling product. Current legislation and policy to regulate the EGM market is clearly not working, with losses continuing to increase, even though EGM participation is declining, thereby increasing the burden on an ever-diminishing group of EGM gamblers. Much research in Australia has lamented the current efforts by state and territory governments to adequately regulate the EGM market, with the prime emphasis of current approaches focussing on the individual to 'gamble responsibly'. The 'gamble responsible' mantra espoused by industry and agreed to by governments has been shown to contribute to stigma and norms which lead to personal blame and shame, and contribute to negative stereotypes of people with gambling problems (Hing, Russell et al., 2015; Thomas et al., 2016; Miller & Thomas, 2018, see also Besendjak-Valič & Macur, this volume). The focus on individual responsibility has shifted the gaze away from the structural characteristics of EGMs, accessibility, and the environment in which they are played - areas where significant policy change could be made that would reduce harms.

State and territory governments in Australia draw significant revenues from gambling taxes (between eight per cent and 15% of annual budget), but governments also have a duty of care to ensure that legal products are safe for consumers. Currently, we do not have any recent estimates of the social costs of gambling in the NT; however, the NTG has funded two projects which are currently being completed which will give an estimate of costs of gambling-related harms in the NT (due 2021). EGMs have consistently been found to be the riskiest form of gambling in terms of losses, harms, and problem gambling risk, yet no new regulation has focussed on limiting any of these risks. In fact, it appears that all EGM policy enacted over the last decade in the NT has been about increasing government tax revenues through increased EGM user losses. Other legal consumer products that have been found to be dangerous and negatively affect a large proportion of people using them (e.g., tobacco) have significant policy regulation around access, taxation, safety messaging and product visibility, but EGMs are largely excempt from these measures, and it is hard not to view this cynically that governments are dependent on the tax revenues, at the expense of those gambling on EGMs (and affected others).

While the popularity of EGMs is in decline, their place at the top as the riskiest form of gambling may be coming to an end, with the advent of online gambling and its 24-h, 365-days-a-week availability and continuous betting, whether on online EGMs (or slots) or on the myriad of sports, horse, and dog races. Into the future, gambler beware, as it would appear governments are addicted to gambling taxes.

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**Matthew Stevens** is a public health researcher and statistician. He has a strong interest in harm reduction associated with addictive behaviours, with a focus on gambling, the social determinants of health and Aboriginal health. He is the only full-time gambling researcher currently based in the Northern Territory (NT) and he managed the 2015 and 2018 NT gambling prevalence surveys, the largest population-based surveys in the NT. He is currently researching the measurement of gambling harms, social and economic costs of gambling, and online gambling in the NT.

# Ways Industry Pursues Influence with Policymakers

Peter J. Adams

## 1 Introduction

Several decades ago, a pioneering gambling researcher, Robert Goodman, in his examination of gambling expansion in the United States, made the following astute observation:

> One of the most surprising findings of our research is that we didn't come across a single popularly based organisation that lobbies for more gambling. Many other government prohibitions—such as laws against the smoking of marijuana—have inspired popular legalization movements. But not gambling. In fact, when given a chance to make its views known, the public usually rejects gambling […] So if it's not the public, who is behind the push for more gambling opportunities? Two parties are almost entirely responsible; legislators in search of easy answers to tough economic problems, and the gambling industry itself (Goodman, 1995; preface).

The point here is that, with gambling, the pressure to change the regulatory environment to favour gambling proliferation has not been driven by the needs and desires of the public, but more through a convergence of interests between gambling providers and governments. These alliances are neither spontaneous nor incidental. A range of strategies and processes are involved in enabling them to take form. Goodman, writing in the early 1990s, was able to make these observations but he was not in a position to provide detail on how such influence is

P. J. Adams (✉)
Professor in Population Health, University of Auckland, Auckland Private Bag 92019, Auckland 1142, New Zealand
e-mail: p.adams@auckland.ac.nz

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achieved. This chapter will draw on the general literature on unhealthy commodity industry influence tactics in providing an overview of strategies used by the gambling industry.

## 2 Matters of influence

While the sustained efforts of researchers in public health have enabled them to assemble a strong evidence base for a range of effective policy interventions for reducing the harm from unhealthy commodities—such as raising prices or reducing availability—governments around the world have repeatedly turned their backs on such interventions, and, if they do decide to act, opt for demonstrably less effective interventions such as consumption awareness campaigns and school education (Jahiel & Babor, 2007; Petticrew et al., 2018). The driver for this evasion tracks back to efforts at influencing government actors' decisions regarding policy and regulation, which, in turn, prompts the question, what are the specific mechanisms used by corporations to promote their interests with policy? This question beckons us to look further upstream, further beyond the focus of traditional public health; it calls us to look for the causes of the causes, to look beyond the social and economic determinants of health and to begin exploring some of the commercial determinants.

Gambling, as with most consumptions, generates profits, but, it does this in a different way than other non-addictive consumptions such as selling houses or petrol. The profits from addictive consumptions are significantly enlarged by what is spent by those experiencing troubled relationships with their consumption. In other words, a sizeable proportion of the profits from gambling come from those experiencing harm (Adams & Livingstone, 2015) and, accordingly, gambling corporations have a strong interest in delaying or blocking policies that might lead to reductions in spending by this group (Orford, 2011). The extra profits from vulnerable gamblers is easily acquired and the bounty of supplementary unattached profits create not only the motive but also the means by which to protect this source (Adams, 2011a). Moreover, by whatever mechanisms these extra profits are managed, it is exceedingly difficult to prevent vested interests of all shapes and sizes from accumulating around points of transfer.

## 3 Processes of influence

Now, what can we draw on to better understand the ways in which gambling industries develop and maintain their influence with policy makers? Unfortunately, because of the strong influence that gambling has on research agendas, very little research has focused on answering this question.[1] This was highlighted in a study by Rebecca Cassidy and colleagues (2013) where they conducted a series of 109 interviews with stakeholders, including researchers, which highlighted the influence gambling companies exert on both governments and universities. Accordingly, this summary will need to call on research on other consumptions, particularly alcohol and tobacco, and I will organise this into four loosely understood processes of connection.

### 3.1 Structural processes

Simply put, structural processes are operating when the activities and income of a corporation makes it too big to be ignored. When it comes to national interests, size really does matter, and the clout corporates can deliver within an economy, will have a lot to do with the leverage they can exert within policy contexts: their operations involve too much money, too many employees, too many international links and too many charitable donations for them to be overlooked. A politician, with an eye on a future career, would be foolhardy to get offside with the interests of such a corporation, and, perhaps with very minimal direct contact with corporate actors, is still likely to exercise considerable care to avoid ruffling any feathers and to pursue smooth and cordial relationships.

Structural influence often stems from a strong presence in the economic, social and cultural life of a particular society. For example, the Hong Kong Jockey Club has managed to maintain a dominant hold on gambling in the Special Administrative Region in China of Hong Kong. As claimed by Rob Deans (2003) in a pro-industry law article:

> They don't come much bigger than the Hong Kong Jockey Club. With an annual betting turnover of about HK$80 billion and attracting some 2 million punters a year, the Hong Kong Jockey Club boasts the highest betting turnover per race in the world. It

[1] A group of us have repeatedly raised concerns about industry funding and influence in gambling research. For works exploring these issues, see Nikkinen, 2019, Livingstone & Adams (2016), Nikkinen & Marionneau (2014), Young (2013) and Adams (2011a).

> also plays a central role in the Hong Kong economy, contributing about 10 percent of the Hong Kong SAR2 government's tax revenue (p. 323).

Added to this the Jockey Club contributes an impressive amount to education, health and other charities within the territory. In 2019–2020 it donated 550 million EUR (five billion HKD) to 210 charitable and community projects which has enabled a wide reach into strategic areas such as funding several building projects at Hong Kong University and the revitalisation of the Central Police Station (HKJC, 2021). The Jockey Club maintains a constant presence in the stock exchange, in community life and in its many betting shops that line the streets. This constant presence positions it as a highly influential force in Hong Kong daily life. Any political actor wanting to stick around would need to take heed. Similar examples of influential power generated by the sheer scale of gambling operations can be seen with casino gambling in the US state of Nevada, and with EGM gambling in the Australian state of New South Wales.[2]

Another way to think of structural processes is to locate them with the dynamics of power and privilege that underpin the governing relations within a society. As examined in more detail in a series of articles by Martin Young and Francis Markham (Young, 2013; Young & Markham, 2015, 2017), the economic clout of gambling corporations enables them to align with societal elites and with class leaders, and this then plugs them in with broader structural processes. Their research in Australia has identified how financial interests in gambling businesses such as Crown Resorts Limited and Woolworths Limited have funded the emergence of a group of super-rich individuals, such as James Packer, Bruce Mathieson and Arthur Laundy, who are then able to use their wealth to both reinforce their class position and to block gambling reform. Not only have gambling profits contributed to strong political influence, but it is further boosted by links with other multinational corporations thereby forming an international network of alliances that reinforce the capacity to influence policy in individual countries (Markham & Young, 2015).[3]

A further aspect to structural power is the potential for industry to deploy profits in corrupt practices with government actors. This is a tricky area to research but in an empirical study by two US economists, Walker and Calcagno (2013), they examined federal conviction rates of state public officials in all US states before and after casinos were legalised (from 1985 to 2000). They concluded:

[2] For descriptions of the scale of operations in Nevada see accounts by Schüll (2012) and Goss and Morse (2007). For these in New South Wales see Hing (2006).

[3] Jim Orford (2019), particularly chapters 2 & 3, explores the nature of the gambling establishment in more detail.

> Once casinos are in operation, casino-supported state-level agencies continue oversight and regulation of the industry, controlling almost every aspect of the business. Thus, there are enormous rent-seeking opportunities for public officials, and the potential for regulatory capture (p. 4793).

They also found that corruption convictions not only increased after casino legalisation, but that corruptive influence of casino interests was at work up to two years before casinos were legalised.

## 3.2 Framing processes

Framing involves picking out which of the many ways of thinking and speaking about gambling best suits commercial interests[4] (see also Reith & Wardle, this volume). Much of what we know about these processes are derived from other areas of public health. For example, with regard to alcohol industry framings, McCambridge et al. (2018) have identified how:

> Industry actors give a great deal of attention to how they themselves are regarded; they position themselves as vital stakeholders in policy debates and key partners to government in policy formulation and implementation. This positioning legitimates their interventions in policy debates […] (p. 1574).

Similarly, gambling corporations have put considerable effort into developing framings aimed at shaping how their activities are viewed both by the public and by governments (Miller et al., 2016). While the alcohol and tobacco literature on industry framings is rapidly expanding (Bero, 2003; Lesch & McCambridge, 2021; Savell et al., 2014), with gambling it is still at an early stage. For the purposes of this brief overview, the following touches on two commonly used framings, 'individual responsibility' and 'legitimate business'.

The *individual responsibility* framing reduces the origins of gambling harm to the psychology of impaired individuals. The gambler generating the harm is portrayed as guilty of not thinking correctly, not managing their emotions correctly or, perhaps, having some fundamental flaw in their personality that drives them to excess. In this way the gambling provider is positioned in a parental role with them enabling most gamblers to have fun while responding with guidance and

[4] For a general overview of framing theory see Borah (2011) and for its application in areas of public health see Hawkins and Holden (2013) and Koon et al. (2016).

support for those who are impaired. For example, consider this from the Online Betting UK (2021) website:

> Gambling is one of the most exciting things you can do and it is no surprise that even strong willed people sometimes fail to know when to stop. Sometimes we need someone to help us control our betting so that we can do it in a responsible way and still enjoy the process. This is exactly what the law is designed to do, not to stop us betting completely but to make sure we do it in a controlled and crucially fun manner.

Here the sources of gambling harm are located with individual gamblers; it is they who are responsible for the problems. This focus on the individual draws attention away from the broader determinants of harm, such as the design of the product and the contribution of the gambling environment. In their interaction with government actors, it serves two functions: it distracts and obscures their contribution to harm and it situates them as the good guys doing something about the harm.[5] Commentators on this framing have suggested abandoning individualistic and responsible gambling discourses in favour of more social and systemic options (Johnstone & Regan, 2020; Livingstone & Rintoul, 2020; Reith & Wardle, this volume).

Framing gambling corporations as *legitimate businesses* positions them not only as legalised activities, but also as activities that sit next to other legalised consumptions as an integral part of the commercial life of a nation's economy.[6] For example, in 2003 in Aotearoa New Zealand, in response to heavy criticism in the mainstream media of the Christchurch casino for allowing a man to lose 4,5 million EUR (7.4 million NZD), its chief executive, Arthur Pitcher (Christchurch Press, 2003), stated:

> *We run a business. He used the business and the responsibility must stop with him. We can't be everybody's nanny and minder. It's extremely unfortunate. It does not help the image of casinos and does not help the business and allows all sorts of people to attack us without knowing the conditions we operate under.*

In order to survive, a legitimate business should be treated fairly. Any business deserves a chance to operate without interference from prejudicial and unwarranted control. An unfair business environment generates distortions that interrupts the flow of 'business as usual'—as Livingstone and Woolley (2007) labelled

[5] For more on the effects of framing with gambling see Euchner et al. (2013) and Orazi et al. (2015).

[6] Business framings are discussed in Adams (2016), chapter 7.

it. In this way, industry practices of political influence become normalised and portrayed as a standard way of doing business.

## 3.3 Professional processes

As just discussed, a legitimate business framing positions gambling corporations as standing alongside other legitimate industries with an equal right to engage in standard government relations practices. Accordingly, gambling industries adopt what are understood as standard practices for engaging with government. In the wider field of corporate political activity, particularly for those larger corporates such as banks and supermarket chains, a range of professional systems and practices have evolved for connecting with government. These include setting up government relations teams, engaging public relations firms in facilitating contact opportunities, and hiring communications companies to help develop positive messaging (Garsten & Jacobsson, 2013). One well-recognised and well-developed practice in the business world is 'corporate social responsibility' programs (CSR, also known as 'corporate citizenship', 'corporate conscience' and 'ethical investing'). Such programs are often adopted to address the adverse impacts of industrial activity on society in areas such as exploitative labour practices, human rights violations and environmental degradation.

Unhealthy commodity industries were quick to spot how contributions to high anxiety causes, such as cancer, global poverty, and family violence, as well as harm from their own products, could swing public perceptions in their favour. Tobacco led the way in the late 1990s with, for example, Philip Morris USA developing their 'Corporate Responsibility Taskforce' to counter the negative press from court proceedings (Hirschhorn, 2004). Alcohol corporations, such as SABMiller and AB InBev, developed a wide range of programs globally and used websites and other media to proclaim their success (Yoon & Lam, 2013).[7] But their claims are highly dubious. For example, Babor et al. (2018) rated the quality of 3,551 alcohol industry CSR initiatives around the world, and found the majority (97%) lacked evidence of effectiveness and 11% had the potential of doing harm. They concluded that CSR worked more in terms of brand marketing and in managing risks from public health policies.

[7] Since this study, the acquisition of SABMiller by Anheuser-Busch InBev in 2016 ended the corporate use of the name SABMiller. It is now a business division of Anheuser-Busch InBev.

Gambling corporations have exploited traditional links between gambling and fund-raising for charities. For example, the Lion Foundation (2014), Aotearoa New Zealand's second largest EGM community benefit fund, proclaimed, 'we consistently return millions of dollars into the community'.

> Last year that equated to over $36 million through over 3,500 grants for community-based organizations across New Zealand. That is 10 good causes per day—causes as diverse as the people who live in those communities […] In fact, there are few Kiwis [New Zealanders] whose lives have not been touched by a Lion Foundation grant.

Besides misleadingly portraying their benevolence as a form of philanthropy—when in fact they are required to do so by law—such claims reverberate repeatedly through corporate websites, annual reports and glossy brochures and contribute to depictions of gambling corporations as a positive force in society.[8] Their contribution to generating gambling harm is obscured by the clamour of this positivity. This was highlighted by Geiger and Cuzzocrea (2017, p. 264) when they interviewed CSR professionals involved in the alcohol and gambling industries in several European countries and observed how they emphasised their responsible contributions to 'he happiness of […] customers' and to 'the value we offer to society' while at the same time de-emphasising their conflicts of interest regarding harm from their products.

## 3.4 Interpersonal processes

Overlapping with customary business practices is the power of interpersonal processes—the sheer potency of person-to-person contact—in building influential relationships with government actors. As in most professional networks, it is hard to underestimate the contribution regular cordial contacts make in forming these relationships. As stated by an alcohol trade association representative in an interview study (Hawkins & Holden, 2014):

> Just make yourself thoroughly personable as a knowledgeable, informed and interesting person so that when […] you meet them [ministers] next […] they'll take your call. And then you go and sell them your widgets […] You meet a minister socially or semi-socially, you want to say enough to make sure that they know what you're talking about. But don't be specific; don't band their ear […] (p. 65).

[8] While not much work has gone into gambling CSR, Linda Hancock has examined its role in Hancock et al., (2008; 2018).

Surprisingly, for unhealthy commodities this is the least researched area of corporate influence (Adams, 2021). Nonetheless, one aspect has attracted interest in a related field. For some time, pharmaceutical researchers have been concerned about pharmaceutical companies' use of gifts to influence medical practitioner prescribing practices (Brett et al., 2003; Davies et al., 2010; McFadden et al., 2007). The gifts range from small gifts, such as pads and pens, to more sizeable gifts, such as paid meals and conferences, and regular gifting to prescribing practitioners had become widely incorporated into standard marketing procedures. What is more, it works. In a literature review by Wazana (2000), he concluded that, whether they were aware of it or not, doctors' pattern of prescribing was definitely influenced by gifting, both big and small.

In our day-to-day engagement with people around us, the sharing of time and resources, the granting of favours and the occasional bestowing of gifts, all play an important part in developing enduring social relations. As explained by Katz et al. (2010):

> When a gift or gesture of any size is bestowed, it imposes on the recipient a sense of indebtedness. The obligation to directly reciprocate, whether or not the recipient is conscious of it, tends to influence behaviour. Many social scientists believe that the predilection to reciprocate is an adaptive mechanism that has helped bind and advance human societies by enabling exchanges of food, skills, and goods (p. 13).

While gambling industry gifting has attracted less attention, I have witnessed a number of such practices that include, on the smaller side, free tickets to cultural or sporting events and invitations to drinking or dinner events, and, on the bigger side, sizeable donations to political parties and company roles for retiring politicians. As with pharmaceutical gifting, both donors and recipients are unlikely to admit their independence has been compromised, but this ignores the weight of evidence which indicate how powerful gifting is in forming social bonds.

A further dimension to relationship building, and one that frequently involves gifting, concerns the creation of connecting spaces in which industry actors are repeatedly exposed to government actors. Some of these spaces occur in formalised events such as conferences, report launches or sports events.[9] Other spaces emerge in the slipstream of formal events such as informal conversations during meeting breaks and discussions over lunch or dinner. Still other spaces foster opportunistic encounters as happens in airport hospitality lounges and bars

[9] Charles Livingstone and I have written in several places on the function of these spaces, particularly gambling conferences, in providing connecting points for industry-government relations, see (Livingstone, 2018; Livingstone & Adams, 2016; Adams, 2011b).

adjacent to parliament buildings. Lobbyists and public relations professionals supplement these opportunities with specially choreographed connecting spaces such as appointments with ministers, corporate box events and cocktail parties. Through repeated contact, gambling industry representatives, such as chief executives and directors of industry associations, become, first, known, then familiar, then on friendly terms, then trusted by political actors. On this base, at critical moments in a policy cycle, it may only require a quick and friendly phone call for influence to be achieved.

## 4 Overlapping influence

While these four processes of influence – structural, framing, professional and interpersonal – differ in their focus and scope, much of their effectiveness relies on their support of each other. As an Australian politician explained to Kypri et al. (2019):

> [T]he CEO of the AHA [Australian Hotels Association] or the CEO of Crown Casino is capable of picking up the phone and ringing individual members of parliament […] I've got their mobile numbers as well. You bump into them at functions; not just political functions but corporate functions, charity functions of all kinds […] Everyone knows everyone […] But I don't know if that's a corruption of the system or it's just simply the reality of the corporate sector (p. 230).

All four processes of influence are reflected in this one quote. In terms of structural processes, leaders of large corporations can be assured that their phone calls will be answered. In terms of framing, legitimate business is signalled in the 'reality of the corporate sector'. In terms of professional practice, the organising of political/corporate/charity functions are portrayed as a normal business activity. And, above all, regular interpersonal connections repeated over time are seen as leading on naturally to corporate bosses being able to directly phone up politicians.

In this way, all four processes work together to help construct a platform of familiarity and friendliness that can, at critical moments, be activated for influence purposes. The processes themselves do not generate the influence, rather they act as precursors, they set the scene for the delivery of the real moment of impact. Indeed, PR professionals are likely to discourage industry representatives from pushing their policy perspectives during these processes. This should wait until the time is ripe; left to a time when a political actor is trying to work out their position on a policy option and is likely to be receptive to friendly advice. The conversation might occur briefly over the phone, during another opportunistic encounter or perhaps through an intermediary. All the hard work has already taken place, and now it requires very little for the trusted advice to work its magic.

## 5 Interrupting influence

A challenge for those of us working at reducing consumption-related harm, including the way it is applied to gambling, is the capacity of corporations to deploy their profits, augmented by addictive consumptions, to push pro-consumption agendas with policy makers (Adams & Livingstone, 2015). Public good actors simply lack the resources to compete. For this reason, rather than competing head-on with industry, it makes sense for our limited resources to focus more on finding ways of reducing or interrupting their processes of influence. I have written elsewhere regarding a wide range of different options,[10] but for the purpose of this brief review, the following touches on three possibilities: increasing transparency, challenging of framings, and finding points of independent accountability.

The first approach, *increasing transparency,* involves shining a light on activities which rely on secrecy to be effective. When what is hidden becomes known, the motive force for silence no longer applies. Database systems with internet access are ideally suited as platforms for facilitating disclosures of interpersonal and financial ties. For example, the Legacy Tobacco Documents Library now provides internet access to over 13 million internal documents—letters, memos, reports—which have been used as a base for research into industry tactics (Bero, 2003). Similarly, the 'Dollars for Docs' website developed by ProPublica in New York monitors pharmaceutical company gifting to medical practitioners (Ornstein, 2017). Current systems for recording gifts given to political actors—such as gift and political donation registers—where they do exist are often incomplete or inaccurate (Kypri et al., 2019; Tello et al., 2019). Furthermore, records of appointments between industry actors and their lobbyist with ministers or ministry officials tend to be incomplete and sometimes inaccurate (McKay & Wozniak, 2020). However, in the future these systems could be improved, made available online and, overtime, they will enable more transparency regarding some aspects of industry engagement with policy-makers.

[10] These interventions are developed more fully in my books Adams (2016; 2007) and in a chapter on gambling and corruption, Adams (2020).

A second approach, *challenging framings,* could involve more vigorous and open questioning of industry framings. This could occur in the form of repeated and coordinated criticism of frames through published material, broadcast opportunities and social media. For example, gambling industry contributions to charitable and educational purposes have often been used to position the industry with the public in a positive light (Francis & Livingstone, 2020; Tesler & Malone, 2008). A coordinated response might openly question this claim whenever it occurs to a point that industry sources become reluctant to open up this repeating critique. A difficulty with this approach is the speed at which old frames are left behind and new ones crop up. For example, in the late 1990s a group of us adopted the term 'responsible gambling' in a bid to emphasise the responsibility of industry, government and communities regarding gambling harm. But, in less than five years, gambling corporations had co-opted the term for their own purposes, and, through repeated use, narrowed its meaning to the responsibility borne solely by consumers; since then the term has become a marker of industry public relations (Borrell, 2008). So, if framings are a target, then those coordinating the challenge would need to constantly monitor shifts in industry framings and to tailor responses accordingly.

A third and central response involves establishing *points of independent accountability* within government systems. Whether gambling provision is government owned—as occurs in Canada or Norway—or privately run—as occurs in most states of Australia and the United States—the scale of the profits from high intensity commercial gambling has a nasty way of penetrating most political systems (Smith & Rubenstein, 2011). The trails of those with vested interests weave through political circles, through government departments, through community groups and through the media. This network of interests makes it virtually impossible to locate a point of reckoning that might guard against initiatives degenerating into ineffectual public relations exercises: token host responsibility programs, weak harm minimisation measures, disempowered community initiatives, minimally relevant research projects and gambler-blaming media campaigns (Adams, 2020; Adams & Rossen, 2012). Some suggestions are emerging on ways to develop independent accountability but, with so many parts of government linked to gambling money, the most likely way to achieve some level of independence would be to set up a body that reports directly to the legislative house (a parliament or a senate) and not through government departments or ministers. This body would manage all aspects of an integrated public health framework for gambling including remedial responses, harm reduction legislation, product design and ongoing monitoring.

## 6 Conclusion

At times, over the three decades since I was first involved with gambling, I have despaired at the apparent ever-growing capacity of gambling corporations to advance their interests with governments: they have become more internationally connected, they are targeting more countries, their approaches have become more sophisticated, and governments continue to favour ineffective or tokenistic measures over effective interventions. Meanwhile this growth has in no way been matched with public health responses to gambling harm: progress has been disproportionally small and ineffective, research in the area is scant and much of it compromised by industry investment, and those few isolated public health workers that are deployed find themselves floundering and overwhelmed, and usually lacking any meaningful guidance or support. Compounding this, government actors often demand causal evidence for restrictions on gambling but place no equivalent demands on industry arguments for liberalisation. Despite this imbalance, what I hope might happen in the future is an increase in the recognition, by both government actors and the public, of the serious role industry tactics play in maintaining harmful gambling environments, and that governments themselves, alert to their own conflicts of interest, will engage seriously in public health measures aimed at reducing gambling harm.

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**Peter J. Adams** has a background in philosophy and clinical psychology. He has extensive experience in research and teaching on addictions in areas such as public health approaches to gambling. He has published seven sole-authored books, three with high relevance to gambling research and services: Gambling, Freedom and Democracy (NY: Routledge, 2007), Fragmented Intimacy: Addiction in a Social World (NY: Springer, 2007) and Moral Jeopardy: Risks of Accepting Money from the Tobacco, Alcohol and Gambling Industries (Cambridge UP, 2016).

# Part IV

# Regulatory Issues in a Global Market

# Which Ends Justify the Means? Justifying National Restrictions to the Free Movement of Gambling Services in the European Union

Samuli Miettinen

## 1 Gambling and Its Regulation in the Context of EU Law

European Union Member States' legal regimes in the field of gambling are strongly influenced by the fundamental freedoms outlined in the Treaty on the Functioning of the European Union. Global gambling industries seeking to operate in EU member states and the wider European Economic Area where many of these rules also apply are well served to study the case law of the Court of Justice of the European Union which interprets these treaty provisions. This body of rulings provides detailed guidance on the circumstances in which restrictive national gambling regulation may be challenged before national courts.

The EU has wide-ranging powers to approximate the laws of Member States. One of the most prominent examples is the power to 'adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market' (Treaty on the Functioning of the European Union, TFEU, Article 114). Internal market regulation can in principle extend to areas where a direct regulatory competence might otherwise be excluded. Well-known examples of this dynamic involve internal market rules governing tobacco products that are in practice decisively shaped by public health considerations (Weatherill, 2011). Without an internal market dimension, prohibitions in the public health-inspired regulation would only be possible in a sub-EU level national or regional context. However, when rules can be said to have as their object the

S. Miettinen (✉)
Associate Professor of Transnational Law, Tallinn University, Tallinn, Estonia
e-mail: samuli.miettinen@smmiettinen.com

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functioning of the internal market, EU-level regulation is permitted even if those internal market rules are outright bans which are decisively shaped by public health considerations (see especially CJEU, C-380/03). EU Internal market legislation extends in practice beyond the EU: Non-EU states can become bound to implement the same or similar rules as members of the EEA or as parties to international agreements that require their application in those states (Nordberg & Johansson, 2016).

Gambling is, in principle, subject to EU internal market legislative powers. Public health and public policy considerations could by analogy be significant drivers of EU-level gambling regulation just as they have decisively shaped EU internal market regulation linked to tobacco control (see for example Directive, 2014/40/EU). However, when the internal market is regulated by specific legislative instruments, gambling services are often excluded from their scope. Thus, when the EU required new national restrictions on services to be notified and approved by the Commission in Directive, 2006/123/EC, Article 2 of the Directive specifically excluded gambling services. While gambling services are increasingly provided as information society services, Article 1 of the information society service Directive, 2000/31/EC contains an exclusion specific to gambling services. When the geo-blocking of commercial services from other Member States became governed by Regulation 2018/302, it incorporated the exclusions the Services directive and therefore did not apply to gambling services. There are some notable exceptions: because the technical regulations Directive 2015/1535 and its predecessors did not exempt gambling services, draft restrictions that apply specifically to information society services are notifiable to the Commission (see Commission Staff Working Document, 2012, chapter 4.2; CJEU, C-275/19; CJEU, C-711/19). Equally, some rules are issued in the form of non-binding recommendations rather than binding internal market rules. In 2014 the Commission issued recommendations on the protection of consumers founded on Article 292 TFEU (administrative cooperation) rather than proposing binding internal market consumer legislation as envisaged in Articles 114 and 169(2) TFEU (Commission Recommendation, 2014). The choice of measure consistent with national divergences in the protection of consumers in the field of gambling and illustrates that the Union exercises its legislative powers in areas of shared competence in line with the principle of subsidiarity.

There are some examples of EU-level regulation that applies also to gambling. This will have an effect on the extent to which Member States can legitimately claim to be pursuing similar aims. In early case law Member States have pleaded among others the need to protect the public from criminal activity. When EU-level rules achieve these aims, national regulation becomes redundant and may no longer be applied. Thus, when gambling became subject to EU-level money laundering rules (for example in Directive 2015/849), Member States could no longer plead additional national rules on the basis that they sought to combat money laundering (CJEU, C-344/13, paras 41–43). Conversely, as gambling regulation is not approximated, EU law does not generally require the mutual recognition of national gambling (CJEU, C-316/07, paras 112–116; CJEU, C-660/11 & C-8/12, para 40; CJEU, C-347/09, para 98.).

In the absence of detailed secondary legislation that would harmonise gambling regulation at the EU level, EU law typically treats gambling as a service provided in a cross-border context or subject to the freedom of establishment (see for example CJEU, C-275/92, para 25). The overwhelming majority of EEA states at the time of writing employ some type of licencing system, whilst only Finland and Norway maintain monopolies (see also Borch; Järvinen-Tassopoulos, this volume). Article 49 of TFEU prohibits 'restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State', whereas Article 56 prohibits 'restrictions on freedom to provide services within the Union … in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.' It is also possible, albeit rare, for such rules to be subject to the Treaty freedom of movement for citizens (TFEU, Articles 20–21), workers (TFEU, Article 45), goods in Articles 28–30 (see CJEU, C-124/97) or capital (TFEU, Articles 63–65). These rules are collectively referred to as the 'fundamental freedoms' (see Barnard, 2019).

Many EU-level norms which govern gambling thus take their form as judgments of the Court of Justice of the European Union that interpret these two articles. The Court has explained its general approach paragraph 37 of its Gebhard judgment (CJEU, C-55/94):

National measures liable to hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty must fulfil four conditions: they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable for securing the attainment of the objective which they pursue; and they must not go beyond what is necessary in order to attain it. [para 37].

## 2 The Role of Courts and Administrative Authorities in Applying EU Gambling (De-)regulation

EU member states have widely accepted the Court's rulings on the primacy (e.g., CJEU, 6/64) and direct effect (e.g., CJEU, 2/74, and CJEU, 33/74) of the Treaty provisions governing the fundamental freedoms (Botman & Langer, 2020). In practice, national courts can be expected to disapply national rules that are found contrary to EU law. A significant amount of EU legal norms governing gambling are expressed in judgments of courts where this set of conditions is applied to national measures which restrict gambling services. This concrete evaluation of national measures typically takes place in national legal systems when national courts are presented with arguments that they should disapply national rules applicable to gambling services because they are contrary to the Treaty freedoms. If a restriction is found to be unjustified, national courts and administrative authorities are bound to give direct effect to many EU rules including the free movement of services and freedom of establishment.

As a point of departure, rules that are contrary to EU law must be disapplied (CJEU, C-409/06, para 69; CJEU, C-186/11 & C-209/11, para 38; CJEU, C-336/14, para 53). When gambling regulation restricts a fundamental freedom contrary to the Treaty, EU law also prohibits penalties imposed on actors breaching those rules (CJEU, C-3/17, para 67; CJEU, C-49/16, para 64). This does not automatically liberalise markets (CJEU, C-336/14 para 54), but EU law permits reorganising a monopoly in order to ensure that it complies with EU law (CJEU, C-186/11 & C-209/11, para 46; CJEU, C-336/14, para 54).

When national courts apply EU law, the courts can either interpret the Treaty rules themselves or ask for a binding interpretation from the Court of Justice of the European Union under the preliminary reference system in Article 267 TFEU. Courts from which there is no judicial redress are bound to do so unless the interpretation is clear or has been given in previous case law (CJEU, C-283/81; CJEU, C-26/62), and national courts must ask the CJEU questions when they suspect EU law to be invalid (CJEU, C-314/85). Because preliminary reference case law tends to be translated widely into the official languages of the Union by the Court itself, many of the pronouncements of the CJEU in particular are well-known. There is only limited horizontal evidence at EU level of how national courts apply those rulings in practice.

The EU also has a centralised enforcement system under Articles 258–260 TFEU, in which the Commission or Member States may bring infringement actions against Member States that fail to fulfil their obligations as Member States, for example by maintaining restrictions that the Commission considers contrary to the Treaties. The Commission historically pursued such cases on an ad hoc basis, but the speed and rate at which it pursues these actions vary depending on the resources and interest of the Commission. It is not bound to bring proceedings (see CJEU, C-247/87) nor do Member States often bring proceedings against other Member States. EU-level control of gambling regulation has at best been variable until online gambling became a regulatory priority for the Union. In 2011, the Commission issued a green paper assessing the EU market in online gambling (European Commission. Green Paper, 2011) and followed up with an embryonic gambling policy in its 2012 Communication 'Towards a comprehensive European framework for online gambling' (European Commission, 2012; and the accompanying Commission Staff Working Document, 2012). As part of its new policy in 2013 the Commission took stock of existing complaints and launched infringement proceedings against a wide range of Member States which it considered to have unlawfully restricted cross-border gambling services (European Commission. Press release, 2013). This led to a number of reforms and in 2017, the Commission closed remaining infringement proceedings en masse, stating that the internal market in online gambling was no longer one of its policy priorities (European Commission. Press release, 2017). At the time of writing, EU-level interest in regulating gambling remains muted, although the Commission has continued to publish studies which evaluate the legal or practical feasibility of some regulatory tools (Hörnle et al., 2019).

**General Principles of EU Free Movement Law Applied to Gambling**
The focus of EU-level gambling regulation thus remains the case law of the Court of Justice of the European Union which interprets the fundamental freedoms to provide cross-border services on a temporary basis and the freedom to establish a business in another Member State. The Court provides definitive interpretations of EU law which are then expected to be applied to divergent national contexts. CJEU judgments can in some circumstances offer national courts guidance on how that interpretation may be applied, but in principle the application of the law to specific circumstances should be left to national courts, as the CJEU powers under Article 267 TFEU are limited to statements on the interpretation and validity of EU law itself (see Broberg & Fenger, 2014; Borman & Langer, 2020; CJEU, C-375/17). The principles enunciated by the Court can be very general in nature. However, they are given in response to specific regulatory and factual circumstance prevailing in the Member State and judgments are not always easy to transpose to a different national regulatory context. Thus, the ultimate outcome depends a great deal on how national courts apply these in individual cases.

The overall principles are very general in nature. Where national gambling regulation restricts cross-border trade, those rules are open to challenge in national courts and national administrative authorities on the basis that they are contrary to directly effective Treaty freedoms. The case law of the Court of Justice has established that the EU legal concepts of ‘services’ and ‘restriction’ are wide in scope and thus tend to govern all national rules that could make the exercise of cross-border freedoms less attractive (CJEU, C-55/94, para 37). According to the CJEU, it is settled case law that all measures which prohibit, impede or render less attractive the exercise of the freedoms guaranteed by Articles 49 TFEU and 56 TFEU must be regarded as restrictions on the freedom of establishment and/or the freedom to provide services (C-222/15 CJEU, C-225/15, para 37; CJEU, C-463/13, para 45, CJEU, C-3/17, paras 23 & 38). The concept of ‘restriction’ covers rules governing how gambling machines can be made available to consumers (CJEU, C-124/97), the organisation of games of chance themselves (CJEU, C-3/17, para 38), how licences may be awarded (CJEU, C-375/17, para 56), rules that concern how bets may be transmitted to off-shore operators (CJEU, C-243/01; CJEU, C-336/14), rules governing the tax treatment of winnings (CJEU, C-344/13; CJEU, C-42/02; CJEU, C-153/08), prohibitions on advertising (CJEU, C-176/11; CJEU, C-447/08 & C-448/08), rules making games available via the internet (CJEU, C-156/13), rules governing gambling monopolies and their supervision (CJEU, C-124/97), and measures which affect how operators may act abroad (CJEU, C-186/11 & C-209/11). These measures all have in common the fact that they make offering a service less attractive and therefore constitute restrictions to the freedom to provide services and the freedom to establish.

National rules tend to fulfil this condition. Therefore, in EU free movement law, the legality of national rules turns on whether they are justifiable with a legitimate aim and whether the restriction of the freedom is proportionate to those aims (CJEU, C-338/04, C-359/04 & C-360/04 para 48; CJEU, C-42/07, para 59). Here, too, it can be difficult to separate interpretation from application. Typically, the CJEU provides guidance on which aims are possible but leaves the assessment of their proportionality to national courts. When national courts make references, the assessment of the facts and determining which objectives national measures pursue, is left to national courts (for example CJEU, C-156/13, para 24).

## 3 Which Reasons Can Justify National Restrictions on Gambling Services?

The case law of the Court of Justice examines numerous justifications put forward by national regulators when the compatibility of national rules with EU treaty freedoms is called into question. The case law has a unifying theme. The Court of Justice consistently observes, in line with its conventional jurisprudence on such justifications, that purely economic justifications such as protecting the public purse cannot be used to justify restrictions of the fundamental freedoms (Barnard, 2019, p. 477; but compare to Arrowsmith, 2015). This places gambling regulators in the difficult position of, on the one hand, needing to rely on other reasons to restrict cross-border gambling services and on the other, where a licence or monopoly system is in place in the Member State, avoiding references to the need to strengthen the financial position of the monopoly or licence providers. Measures which have that effect must be justified with reference to other aims and must be proportionate to those aims. The fiscal or economic effects of those measures must be incidental. In this respect it is difficult to measure to what extent national practice truly complies with that requirement. There is little case law where the suitability or proportionality of national measures is evaluated at EU level, and in line with its powers under Article 267 TFEU, the CJEU should, and typically does, leave the assessment of national measures to national courts, which refer questions to it. The circumstances of the preliminary reference case law nevertheless highlight measures, which are not dismissed out of hand, and types of justifications that can be relied on to justify those restrictions.

The Treaty text governing the fundamental freedoms have not been substantially amended since the 1957 EEC Treaty. As these provisions currently stand in the Treaty on the Functioning of the European Union, the free movement of services and the freedom of establishment, as well as the freedom of movement for workers, share three treaty justifications or derogations: public policy, public health, and public security (TFEU, Articles 52 and 45(3)). A separate, and somewhat more extensive, set of Treaty derogations applies to the free movement of goods (TFEU, Article 30), another to the free movement of capital (CJEU, C-64/08, paras 32–24). Even the most extensive of these lists is limited and fails to capture the full breadth of reasons why Member States might in today's economic and social climate wish to impose restrictions on gambling services. The Treaties also contain rules which exempt the exercise of official authority (TFEU, Article 51) and employment in the public service (TFEU, Article 45(4)).

The Court has generally stated that directly discriminatory restrictions may only be justified with reference to Treaty derogations (CJEU, C-344/13, para 43;

CJEU, C-375/14, paras 25–26). Examples of this type of rule include requirements to establish in the state where the service is provided (CJEU, C-64/08, paras 32–24; CJEU, C-3/17) and tax treatment which differentiates between domestic and inter-state winnings (CJEU, C-153/08, paras 36–68). Conversely, rules that provide for equal treatment irrespective of origin are not discriminatory (CJEU, C-124/97 para 28), nor is legislation which differentiates between services based on their objective characteristics. (CJEU, C-275/92 paras 49–51). In some cases, the Court allows monopoly regulators to impose restrictions that would not be allowed where those restrictions merely protect licence holders (CJEU, C-3/17, para 36; CJEU, C-42/07, para 72).

For those restrictions that are not overtly protectionist, the Court has accepted a wide range of justifications that are not expressed in the Treaty, which it labels ‘overriding reasons in the public interest’. In addition to these judicial exceptions, states may also rely on the Treaty derogations. This case law, originally developed in the context of goods (CJEU, C-120/78), has since been transposed to services and the other freedoms (CJEU, C-288/89) The list of potential justifications is extensive and open. However, the true limits of Member State justifications lie in the prohibition of primarily economic aims, and the requirement that restrictions are proportionate to the aims which they pursue.

## 4 Do Restrictions Pursue Primarily Economic Aims?

Both monopoly and licence regulators are placed in a somewhat awkward position by the dogmatic approach of the CJEU to economic justifications. According to the ‘established’ case law of the CJEU, the gains made by public, non-profit or public interest causes cannot legitimately be used to justify restrictions on gambling services. The economic aspects of restrictions can only be an incidental beneficial consequence and may not be the primary justification (CJEU, C-275/92; CJEU, C-179/14, para 167 with references). Contributions made to public interest aims may not be the true reason for restrictions (CJEU, C-67/98, para 36). For this reason, the CJEU has rejected contributing to rural development by financing horse breeding (CJEU, C-212/08 paras 45–46 & 51–52), increasing (CJEU, C-98/14, paras 60–61) or maintaining the tax income of the state (CJEU, C-243/01, para 61). Restrictions which benefit the public purse can, however, be justified if it primarily seeks to achieve other overriding reasons in the public interest (CJEU, C-98/14, para 61; CJEU, C-67/98 para 36; CJEU, C-243/01, para 62). Although the European Parliament has suggested recognising the economic dimensions of gambling services, (European Parliament, 2016, para 57), this is not yet a feature of EU regulation or the case law of the CJEU. Instead, the Court has accepted, or at least tolerated, aims that may have substantial economic impacts but which are overtly justified with reference to other aims.

In the gambling case law, the central issue concerns the tension between harm reduction, which underlies many gambling policies, and the possibility that this can also pursue economic aims. Restrictions may seek to channel gambling into lawful and supervised activity, and that for this reason it is legitimate also to pursue a policy of controlled expansion, even where the overarching purpose of regulation might be to reduce harm (cf. Borch, this volume). This can justify expanding the types of games offered, a certain level of regulated advertising, and establishing new channels for distributing those games (CJEU, C-338/04, C-359/04 & C-360/04 para 56). Even the most harmful games need not be prohibited where a Member State considers that exclusive rights channel gambling into the regulated system, that this enables the reduction of fraud and crime, and that this ensures profits channelled to public interest objectives (CJEU, C-124/97, para 37). There is, however, a fine line between controlled expansion and encouraging gambling in a way that endangers the objectives of gambling restrictions (for example CJEU, C-258/08; CJEU, C-243/01). If authorities of a Member State incite and encourage consumers to participate in lotteries, games of chance and betting to the financial benefit of the public purse, the authorities of that State cannot invoke public order concerns relating to the need to reduce opportunities for betting in order to justify restrictive measures (CJEU, C-243/01, para 69). There must also, in fact, be an unlawful or unregulated competing gambling market for channelling measures to be justified (for example CJEU, C-98/14, para 71 with references). Thus, where competing unregulated gambling services are effectively restricted, for example by electronic means, measures to channel demand will be more difficult to justify.

National courts and administrative authorities retain a substantial role in evaluating whether any particular measure should be deemed permissible channelling of demand or the kind of encouragement to gambling, which invalidate justifications to national restrictions (for example CJEU, C-338/04, C-359/04 & C-360/04, paras 54–58). There are, however, some cases where the Court gives strong guidance on this point. For example, in Engelmann (CJEU, C-64/08, paras 37–38), the CJEU considered that a requirement to establish in the Member State, in which the licence was held, was not proportionate. Although the Member State sought to justify this with reference to a need to supervise the activities of the undertaking, the CJEU considered that this can also be ensured using less intrusive means.

## 5 Only Evidence-Based Policy can be Justified

The EU (de)-regulatory framework requires Member States to pursue an evidence-based policy. This is because it is, in principle, for the Member State relying on a restriction to plead an overriding reason on the public interest, and to also show that its regulation is proportionate to the aims which it seeks to achieve.

It is striking, that even though national courts might intuitively be thought sympathetic to national regulatory aims, preliminary references regularly question whether national measures are in fact justified with reference to legitimate aims (for example CJEU, C-390/12; CJEU, C-186/11 & C-209/11, para 17; CJEU, C-347/09, para 59). For example, German courts have considered that the intensive advertisement campaigns of monopoly operators and regulatory policies that encouraged participation in highly addictive games left outside the scope of the monopoly meant that the monopoly could not be pursuing the public interest in a consistent and systematic way. (CJEU, C-336/14, para 27; CJEU, C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 & C-410/07, paras 22–25 & 35–38; CJEU, C-409/06, para 23). Similarly, in Pfleger (CJEU, C-390/12, para 16), an Austrian court found that the authorities had not demonstrated that the national monopoly genuinely sought to combat crime and protect gamblers, rather than merely maximise state income. The enormous advertising budget of the state monopoly suggested to the national court that the monopoly policy could not be limited, as case law required, solely to controlled expansion. Thus, national courts and administrative authorities could cast doubt on whether the measures in fact pursue the aims which are claimed as justifications.

An additional level of control exercised by courts in particular takes place when courts evaluate whether restrictions to fundamental freedoms are proportionate. Under the principle of proportionality, applied generally to restrictions of free movement, national measures must be both suitable for attaining the objectives and also the least restrictive measures that will achieve those objectives (CJEU, C-98/14, para 64). Proportionality may amount to an insurmountable evidentiary burden. It could be difficult to demonstrate, that the measures are the least restrictive measures to achieve those aims. The Court requires that Member States relying on an overriding interest demonstrate that the restriction is proportionate to this interest (CJEU, C-333/14 para 53–58 with references). This is especially problematic for monopolies, which must be justified with reference to particularly strict regulatory supervision (CJEU, C-212/08, para 58), which is consistent and systematic (CJEU, C-212/08, para 62). Proportionality control at national level is not explored well in transnational literature, not least because a horizontal EU-level evaluation requires identifying, obtaining, and translating national judgments, which apply preliminary reference rulings, but also that possibly substantial body of case law in which references are not made.

## 6 Conclusions

Whenever legislation pursues multiple objectives, it may be necessary to determine which of those objectives should prevail in any given conflict situation. In the absence of EU-level legislation, treaty freedoms are currently the main mode of EU-level gambling regulation. EU free movement rules require Member States to justify restrictions to gambling services and demonstrate why those restrictions are proportionate. The Court of Justice of the European Union has generally rejected overtly economic justifications. In its gambling case law, controlled expansion is permitted because it seeks to channel demand to regulated offerings. However, when restrictions to cross-border services seek primarily to achieve economic aims, such justifications cannot succeed before the Court of Justice. The proportionality of restrictions to cross-border services must be assessed on a case-by-case basis. It is for the Member State restricting such services to demonstrate that its regulations are suitable for achieving the stated aims and no more restrictive than required in order to achieve those aims.

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**Samuli Miettinen** holds a doctorate in law from the University of Helsinki, Finland. He is currently a civil servant working at the Competition Unit of the Finnish Ministry of Economic Affairs and Employment. He also holds the position of Associate Professor of Transnational Law at Tallinn University, Estonia.

# Channelling Gambling: The Case of Norway

Anita Borch

## 1 Introduction

Channelling is a strategic tool employed by governments to direct gamblers away from unlicensed (mainly offshore) games towards licensed (mainly national) games. Licensed offer is justified in terms of better combatting problem gambling, ensuring disbursement to good causes, and protecting consumers and businesses from illegal activities and fraud. Several policy measures are used to channel consumers in this direction: product innovation, marketing, self-regulation, monitoring, taxation, blocking, etc. (Boendermaker et al., 2015; Haucap, 2017; Hörnle et al., 2018). If channelling policy does not work and people gamble on unlicensed games, gambling revenues will be lost, and individual and social costs may increase.

Originally, the term 'channel' meant a 'bed of a stream' or a 'waterway' (Kelly, 2017). Like water, people are expected to follow the bed of a stream and gamble on games lying right in front of them. In Europe, 'channelling policy' is often perceived as the best tool available to protect national interests (e.g., Norwegian Gaming Authority, 2019a; Jansen, 2019; Boendermaker et al., 2015; Gulbrandsen, 2015; Haucap, 2017; Fjellner, 2017; Enderby, 2019; also Järvinen-Tassopoulos, this volume). Interestingly, this view is shared by adherents of both gambling monopolies and licensing systems and across academic disciplines. However, in a critical review of the proportionality in EU gambling law, Planzer writes (2014):

A. Borch (✉)
Research Professor at Consumption Research Norway (SIFO), Oslo Metropolitan University, Oslo, Norway
e-mail: anitab@oslomet.no

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J. Nikkinen et al. (eds.), *The Global Gambling Industry,* Glücksspielforschung,
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> The notion 'channelling', if not closely reviewed, represents an empty shell, which remains undefined. […]. In its [the Court of Justice] jurisprudence, the argument has mainly been used to justify the regulatory model of an exclusive right holder as well as the expansion and advertising of gambling offers of this exclusive right-holder. (p. 22)

Although Planzer's review provides an alternative view on channelling policy, it offers little insight into the policy's meanings, measures, and implications for individual gamblers, their families, or for society at large. To address these knowledge gaps, the research questions in this chapter are: How is channelling policy understood, what measures are used to achieve the policy's goals, and what are its underlying assumptions?

Special attention will be paid to the Norwegian case. Norwegian channelling policy does not differ significantly from that of other countries. In most countries, channelling policy is based on both positive and negative perceptions of gambling and its consequences. In Norway, these contrasting views have been called 'the market view' and 'the medical view' (Borch, 2012, see Fig. 15.1).

At the same time, Norway is the only country in Europe, apart from Finland, that has a fully monopoly-based gambling policy (see also Johanna Järvinen-Tassopoulos, this volume). Other European countries have shifted to licence-based systems (MDF partners, 2020). To put the monopolistic Norwegian channelling policy in context, it will be compared with the licence-based channelling policies of other European countries.

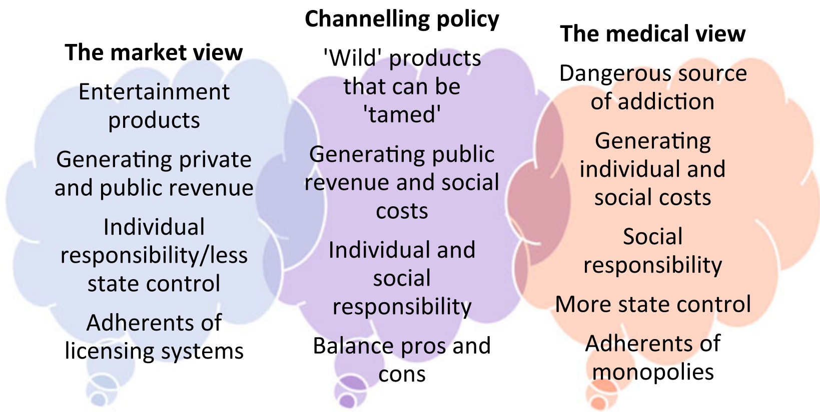


**Fig. 15.1** Channelling policies are connected to prevailing views on gambling

The chapter starts with a section describing the methodology, followed by three sections examining the policy's meanings, measures and underlying assumptions. Questions for further studies are suggested in the concluding section.

## 2 Methodology

The analysis is based on an 'overview', a review methodology usually applied to summarise literature and describe its characteristics (Grant & Booth, 2009). The data collection took place in July 2020 and was based on a set of selection criteria. Contributions should:

- Be written in Norwegian or English.
- Address channelling of gambling (playfulness, demand, gamblers, etc.) and not channelling of money (e.g., to good causes).
- Address channelling policy in Norway and other European countries.
- Address channelling policy as a main issue or sub-topic.
- Be accessible on Google Scholar, Google and selected websites, alternatively on Oria, OsloMet's online articles database, which covers most journal articles.
- Be accessible using the search phrases mainly combining the terms 'kanaliser*' and 'pengespill' in Norwegian and the corresponding terms 'channel*' and 'gambling' in English.
- Be published within the first 100 or 300 hits of the search.
- Be published on a website enabling searches on the term 'kanaliser*'/'channel*' to check the contributions' relevance. A few books appeared in hits but most were not included in the sample because their relevance was difficult to verify.

Table 15.1 and 15.2 describe the Norwegian and international samples of contributions addressing channelling policy as a main issue or sub-topic. The Norwegian sample also includes contributions only mentioning channelling policy. All titles in the Norwegian samples have been translated into English. All hits from Google Scholar are authored by academic scholars. Other contributions are authored by academic scholars or representatives from authorities, organisations, or industry.

Once collected, the samples were read, and sentences and paragraphs addressing the research questions were copied into a separate document. The data were then reorganised under three headings: 'meanings', dealing with how channelling

**Table 15.1** Sample of contributions addressing Norwegian channelling policy

| Source, title and number of relevant hits | Main topic | Sub-topic | Mentioned |
|---|---|---|---|
| **Google Scholar, 'kanaliser* and pengespill', eight of the first 100 hits** | | | |
| Hem (2018) Responsible and attractive. A case study of Norsk Tipping's complexity. (Master thesis) | x | | |
| Holmøy (2010) EEA juridical framework for Norwegian gambling policy. (Master thesis) | x | | |
| Fiksdal (2012) Not licensed online gambling and prohibited marketing. (Bachelor thesis.) | x | | |
| Owren (2018) Monopoly under attack. A sport historical study of Norwegian gambling policy challenges from 1995 to 2017. (Master thesis) | x | | |
| Gulbrandsen et al. (2018) Social economic analysis of licensing of gaming. (Report) | x | | |
| Dahlgren (2012) Problematic gambling behaviour in labour life. (Report) | | | x |
| Meldal and Hopeland (2014) Effects of liberalisation of the Norwegian gambling market. (Master thesis) | | x | |
| Nicolaysen (2017) What is the limits of the monopoly? An analysis of selected national laws facing the international, unlicensed gambling market. (Master thesis) | x | | |
| **Google, 'kanaliser* and pengespill', three of the first 100 hits** | | | |
| Norsk Tipping (2020) Responsible gambling enterprise | x | | |
| Norsk Tipping (2018) About us. Annual and society report 2018 | | x | |
| Nikolaisen (2017) Professional blog: Numbers of facts about gambling in Denmark | | | x |
| **Norwegian Gaming Authority** | | | |
| Guidelines for marketing under the aegis of Norsk Tipping AS og Norsk Rikstoto (2020) | | x | |
| Supervision report. Marketing and distribution of games through electronic channels (2019) | | x | |
| **Regjeringen.no, 'kanaliser*'** | | | |

(continued)

**Table 15.1** (continued)

| Source, title and number of relevant hits | Main topic | Sub-topic | Mentioned |
|---|---|---|---|
| Helleland (2016) Best against gambling addiction | | | x |
| Stortingsmelding no 12 (2016–2017) Everything to win. A responsible and active gambling policy | x | | |
| Prop. 13 L (2015–2016) Changes in the gambling law (share of Norsk Tipping's profit to health- and rehabilitation) | | | x |
| Prop. 98 L (2010–2011) Changes in the gambling law (new revision solution to Norsk Tipping AS and the distribution of profit to bingo terminals) | | | x |
| Prop. 1 S (2018–2019) For the budget year 2019. Expense chapters: 300–342. income chapters: 3300–3342 and 5568 | | | x |
| NOU 2003: 34 Between state and market—independent governmental organization models | | | x |
| NOU 1997: 14 Game about money—on the establishment of a gaming authority | | | x |

policies are understood; 'measures', addressing actions taken and tools used to channel gamblers; and 'underlying assumptions', referring to the ideas underpinning these understandings and measures regarding gamblers, gambling, games, markets and policy.

Finally, the data were analysed and reported under the same three topics ('meanings', 'measures' and 'underlying assumptions'). Two conditions are worth noting: 1) since most data on licenced-based channelling policy dealt with Dutch policy, this policy is paid more attention than that of other European countries. This bias is particularly evident in the analysis of meanings of channelling policy; and 2) since most contributions do not address channelling policy as the main subject and appear as 'empty shells' (cf. Planzer, 2014), the analysis has been supplemented with relevant references not listed in Table 15.1 and 15.2. This particularly applies to the analysis of underlying assumptions. All translations are by the author.

**Table 15.2** Sample of contributions addressing channelling policy of other European countries

| **Source, title and number of relevant hits** | Main topic | Sub-topic |
|---|---|---|
| **Google Scholar ‘channel* and gambling’ (five of the first 300 hits)** | | |
| Binde (2014) Gambling in Sweden: the cultural and socio-political context | | x |
| Selin et al. (2019) National Market Protectionist Gambling Policies in the European Union: The Finnish Gambling Monopoly Merger as a Case in Point | | x |
| Loer, K. (2018) Gambling and Doing Good? On the Relationship Between Gambling Regulations and Welfare Services in Germany | | x |
| Schmidt-Kessen et al. (2019) Preventing risks from illegal online gambling using effective legal design on landing pages | x | |
| Littler and Järvinen-Tassopoulos (2018) Online Gambling, Regulation, and Risks: A Comparison of Gambling Policies in Finland and the Netherlands* | | x |
| **Google scholar ‘gambling and channel* and policy’ (one of the first 300 hits)** | | |
| Kuburakis, A (2009) European Union Law, Gambling, and Sport Betting: European Court of Justice Jurisprudence, Member States Case Law, and Policy | | x |
| **Google ‘channel* and gambling and Europe’ (18 of the first 100 hits)** | | |
| Enderby, M. (2019) Nordic panel: The challenges of industry assembly (Magazine article) | x | |
| Boendermarker et al. (2015) Summary and conclusions. (Chapter of a report) | x | |
| Hörnle et al. (2018) Evaluation of regulatory tools for enforcing online gambling rules and channeling demand towards controlled offers. (Report) | x | |
| Haucap, J. (2017) A comparison of different European approaches to gambling regulation with respect to their channeling effect. (Magazine article) | x | |
| Fjellner, C. (2017) Channeling consumers to the regulated market: Will Sweden deliver? (Magazine article) | x | |

(continued)

**Table 15.2** (continued)

| Source, title and number of relevant hits | Main topic | Sub-topic |
|---|---|---|
| Norwegian Gaming Authority (2012) Internet Gambling Report 2012 (Report) | | x |
| Lotteriinspektionen (2016) The development of the gambling market in Sweden and internationally 2016 | | x |
| Binde, P. (2007) Report from Sweden: The First State-Owned Internet Poker Site (Scientific article) | | x |
| Lundvall et al. (2020) The degree of channelization on the Swedish online gambling market (Report) | x | |
| European Commission (2012) Online Gambling in the Internal Market (Report) | | x |
| Gaming in Holland (2016) Swedish Report: 15–20% Tax Rate is Optimal for High Channeling and Favorable Tax Returns (Magazine article) | x | |
| Ecorys (2016) Relationship between gambling taxation and channelling rate. Final report. (Report) | x | |
| Spillemyndigheten (2020) Report on illegal gambling. (Report) | x | |
| Kingma, S. (2008) The liberalization and (re)regulation of Dutch gambling markets: National consequences of the changing European context (Scientific article) | | x |
| H2 Gambling Capital (2013) Benchmark of gambling taxation and license fees in eight European Member States (Report) | x | |
| RG Magazine (2016) Sweden urged to set new online gambling tax rate between 15 and 20% (Magazine article) | x | |
| Planzer, S. (2013) Proportionality Review in EU Gambling Law. (Scientific article) | | x |
| Powel (2020) Sweden Operators Wants New Regulations to Online Casinos. (Magazine article) | | x |

## 3 Meanings

In Norwegian policy documents published online, the term ‘channelling’ is first mentioned in the Report to the Storting (the Norwegian Parliament) no. 2 (1990–1991, p. 180): ‘Channelling of playfulness through public companies is seen as the best way of organising gambling because it happens within safe environments under full public control within the law' (NOU 1997:14, p. 61).

As illustrated here, Norwegian channelling policy is closely connected to monopolies. The connection is still strong today due to experiences gained from the electronic gambling machines (EGMs) market since the 1990s. In 1998 and 2002, the government proposed to restrict the EGM market, but failed to win parliamentary support due to strong resistance from the licensees and the private operators running the EGMs for them. To overcome this obstacle, the government proposed to monopolise the EGM market in 2003. The proposal was approved by the Storting, but private operators brought the decision before the national and international courts, accusing the Norwegian state of preventing the entry of private operators and thereby abandoning the four freedoms laid down in the EU treaties: free movement of goods, services, capital, and people. The case pended in the court systems for years until the government monopolised the EGM market in 2007 (Borch, 2015, 2018). The monopoly was accepted when the government succeeded in convincing the courts that the main intention of the monopoly was to prevent problem gambling. Increased consumer protection and disbursement to good causes were also part of the motivation, but were, according to the government, only positive side effects of the monopoly.

Monopolies are also seen as a key element in other countries' gambling policies. In the Dutch Gambling Act from 1964, channelling policy has been described as follows:

> 'Channeling' […] means that in response to a market demand and illegal supply of gambling products, a restricted and legal alternative will be offered under strict external government control. The explicit intention of this approach is to maintain the supply of gambling products below the level of market demand, to restrict market competition between providers and to restrict the exploitation of gambling for private profit. This means that gambling monopolies and the allocation of revenues for public funds, charities, and good causes remain primary features of Dutch gambling policies, and that market extensions are only conceivable in direct reference to illegal parallel markets. (Kingma, 2008, p. 451)

As of April 2021, the Dutch online gambling market is opened for licensed operators. The decision is related to the observation that channelling policy, aimed at preventing problem gambling, is the only tool accepted by the EU to delimit the entrance of offshore gambling providers (Littler & Järvinen-Tassopoulos, 2018). The primary aims of the Dutch channelling policy are to prevent problem gambling, protect consumers and combat crime by ensuring an 80% channelling rate

(The Netherlands Gambling Authority, 2020). The emphasis on the high channelling rate must be seen in the context of the increased attention given to this measure in European countries' gambling policy in recent years.

Research indicates that high channelling rates are positively associated with licensing systems (Gulbrandsen, 2015), but the role of channelling rates is contested. Adherents of licensing systems claim that high channelling rates will help governments achieve their goals (Boendermaker et al., 2015; Gulbrandsen, 2015; Haucap, 2017). A French survey supports this view, indicating that licensed games are associated with less harm overall to gamblers than unlicensed games (Costes et al., 2016). The transferability of this study's result to other countries, is, however, uncertain. In Norway, the channelling rate online has been relatively stable (between 45–50%) over the past decade (Gulbrandsen, 2015). There are few signs indicating that the Norwegian government plans to put high channelling rates at the centre of its policy. This suggests that adherents of monopolies may be more sceptical about the role of channelling rates.

# 4 Measures

## 4.1 Product Development and Marketing

An important measure of channelling policy is a competitive product portfolio. If licensed games are not competitive with unlicensed games, channelling may fail. In market theory, competition is seen as a presupposition of market development and economic growth because it releases a self-energising process whereby new products are constantly developed and launched. This accumulation puts providers of games in a moral dilemma: to succeed, competitive games must be offered. However, if competitive games are offered, problem gambling may increase. So far, the Norwegian monopoly-holder, Norsk Tipping, has responded to this dilemma by developing and launching games such as Belago (bingo machine) in 2011, Euro Jackpot in 2012, 68 online games (mainly casino games) in 2014 and Nabolaget (postcode lottery) in 2015. Poker tournaments were allowed in 2015, although online poker remained prohibited. Some of the games are similar to those offered by unlicensed providers (Borch, 2015, 2018; Kulturdepartementet, 2016).

Marketing is seen as a precondition for the channelling policy's success. If licensed games are less appealing than the unlicensed, licensed games need to be marketed well. If not, the channelling policy may fail (Haucap, 2017). However, marketing of licensed games may not only influence people to move to licensed games; it may also contribute to recruiting new gamblers or trigger existing customers to increase their consumption.

Due to its potential impact on problem gambling, Norwegian legislation on the marketing of gambling is quite restrictive. The national marketing guidelines state that 'aggressive forms of marketing shall not be used, such as bonus, free play and VIP programmes and auto games' (Norwegian Gaming Authority, 2019a, b, p. 18). A recent study conducted in Norway indicates that four per cent of the adult population and ten per cent of problem gamblers have been exposed to advertising from public national providers daily. The corresponding percentages from offshore providers are 14 and 21% (Pallesen et al., 2021), indicating that marketing practices of the monopoly-holder may be less extensive.

Marketing and its inherent need to outdo competitors may release self-energising processes. Here too, the competition puts gambling providers in a moral dilemma in that they end up encouraging a behaviour they are expected to combat. Interestingly, the criticism of providers balancing these two concerns is primarily directed towards monopolies and raised by adherents of licensing systems (see, e.g., Fjellner, 2017, p. 1), indicating that state-owned providers are expected to act more responsibly than licensees in respect of the potentially harmful effects of their marketing.

## 4.2 Self-Regulation and Monitoring

Monopolies and licenced gambling providers use self-regulating tools making it possible for people to regulate their own gambling such as by setting spending limits on their stakes. These measures are considered as necessary in order to justify market restrictions inside the otherwise European free market, but also to attract gamblers to legal provision. To what extent problem gamblers stop gambling when they reach their upper limit, or shift to games without such limits, has, however, not been sufficiently examined (Sulkunen et al., 2019).

When limit-setting fails, monitoring measures aimed at identifying and preventing problem gambling can be used. Monitoring tools are frequently required in both monopolies and licensing systems. As before, this puts public providers as well as private license holders into a dilemma what to do with the information obtained from monitoring gamblers. Private licensers may find it hard to exclude big spenders with gambling problems because they profit from them directly (Boendermaker et al., 2015). Many public providers may find it hard to exclude customers, too, because they are run like private, profit-driven businesses and because pressure from beneficiaries can be hard to resist (Borch, 2006, 2015).

In licensing systems, monitoring is expected to release a self-cleaning effect, where providers of licensed games report illegal activities and unlicensed games to authorities to have competitors removed from the market (Boendermaker et al., 2015).

### 4.3 Other Measures

Other important measures for channelling gamblers to licensed games include various blocking tools. Respectively 60, 17 and 31% of the EU/EEA member states block gamblers from accessing unlicensed providers' websites, apps, and payment services. Blocking measures can be evaded, however, and international cooperation to hinder leakage to unlicensed games has been recommended (Hörnle et al., 2018).

Taxation is another measure. Lower taxation is expected to increase the channelling rate (Haucap, 2017). Incidentally, European countries with a tax on gross gambling revenues (Denmark and the UK) have significantly higher channelling rates than countries with a turnover tax (Germany, France and Poland). When Italy changed from a revenue-based to a gross turnover-based tax system in 2011, the channelling rate increased.

Other channelling measures include consumer-friendly registration on websites offering licensed games (Haucap, 2017). A landing page with several language versions to capture all language groups in a country can also increase channelling (Schmidt-Kessen et al., 2019). A link to the whitelist, applicable legislation, warnings regarding the economic and legal risks of playing on illegal sites, as well as contact information and a possibility to communicate and engage with regulators can have a similar effect (Schmidt-Kessen et al., 2019). Flexible business models that can adjust products and markets to changing technological environments and consumer preferences can also be an advantage. Overall, it is not a single factor that induces high channelling rates, but rather a set of measures (Haucap, 2017). The potentially high cost of establishing and running these measures favours well-capitalised public and private providers.

## 5 Underlying Assumptions

While the effectiveness of measures to increase channelling rates can be assessed, the whole notion of the channelling of gambling underlies several assumptions, which are in themselves debatable.

One of the assumptions underpinning channelling policy is that some people will gamble anyway, in which case the best thing the state can do is make sure that the games provide maximum possible benefit at minimum possible cost (Borch, 2006; Selin et al., 2019). The fact that gambling consumption and gambling problems vary between social groups and across cultures indicates that preferences for gambling are rooted not only in biology, but also in social conditions (Sulkunen et al., 2019). Since the need for gambling is a social construct, it is also possible to reconstruct it by means of policy measures.

The notion that some people will gamble anyway seem reasonable in contemporary societies where gambling is accessible easily. Under these circumstances, international laws making games less accessible (Gainsbury et al., 2014) would be an alternative to the channelling policy. Since such laws require agreements from nation states all over the world, the establishment of an international body should be considered, and tasked with figuring out how to create laws that all states can agree on.

Another basic assumption is that gamblers are both controlled and uncontrolled. In gambling studies, the 'problem gambler' is seen as a deviant figure, a 'sick' ('addicted') or uneducated individual who, unlike the vast majority, has problems controlling his or her gambling. The problem gambler as a social construct contributes to individualising gambling problems. Since it is the individual gamblers and not the accessibility of games and their effects that are the problem, providers can keep on offering their games while at the same time promoting the need for education and treatment institutions (Cassidy et al., 2013). This is also visible in how national offer is justified. A third assumption underpinning channelling policy is that some games are more problematic than others. Fast games involving high risk, such as EGMs and casino games, are generally regarded as more problematic than slow games such as lotteries and sports betting (Sulkunen et al., 2019). Although the distinction between problematic and unproblematic games primarily is based on science, political and financial interests may also be involved. This seems to have been the case in the monopolisation of the EGM market that took place in Norway in 2007. Before this event, the distinction between problematic and unproblematic games was between 'non-governmental games' (offered by national licence owners and their private operators) and 'governmental games' (offered by Norsk Tipping). The non-governmental games were the enemy. When the non-governmental EGMs were replaced by less problematic EGMs, a new distinction was drawn between 'unlicensed games' (offered by providers from countries outside the national regulative control) and 'licensed games' (primarily offered by Norsk Tipping). If Norsk Tipping's games had not been regarded as less problematic than other games, the development and launch of new games in the early 2010s would have been harder to legitimise.

A fourth assumption regards the role of the state in channelling policy. ln Norway, the state acts both as a redistributor of money and as a gambling provider. Channelling is seen as the state's responsibility. Only by having direct control of the market can the state ensure that the policy is sufficiently restricted (Borch, 2015, 2018; Helleland & Bekkevold, 2016). The responsibilities of producing and redistributing gambling are given to the same ministry, the Ministry of Culture, as this co-localisation makes the balancing of pros and cons easier. The solution has, however, been criticised, as it implies that the fox is left to watch the geese (Borch, 2006), and, hence, that gambling revenue will be given higher priority than preventing problem gambling (Sulkunen et al., 2019). In the licensing systems in the Netherlands, gambling is not organised as a governmental task (Boendermaker et al., 2015).

A fifth assumption underpinning the concept of channelling policy regards market change. In line with deterministic views on social change, the development of gambling markets is seen as a process wherever more national states will liberalise their gambling markets. Since this means that national gamblers will have access to a growing body of offshore providers offering less restricted and, presumably, more competitive games, national states will benefit from liberalising their markets. If not, customers may prefer other countries' games and their own national gambling markets may fail (see, e.g., Fjellner, 2017). There are, however, many examples of market change that do not follow this linear process. For example, it has been argued that the development of gambling markets has followed a pendular movement. Throughout history, national gambling markets have been liberalised when national states were short of money. When gambling problems increase and reach an unacceptable level, the markets are restricted. After some years, when the problems are reduced and the reasons behind the restrictions are forgotten, markets are, again, liberalised when national states are short on money (Fekjær, 2002). The Norwegian monopolisation of the EGM market is a telling example of how national states can swing in different directions (Borch, 2018).

A final assumption addressed in this section is that the objectives of channelling policy can be achieved through several measures, such as individually oriented measures aiming to change gamblers' behaviour directly (e.g., marketing and self-regulating tools) and structurally oriented measures aimed to changing gamblers' behaviour indirectly by altering the social, economic and technological environments that influence such behaviour (e.g., gambling organisation, taxation and blocking). In this outline of channelling policy, we have seen that channelling policies in monopolies and licensing systems tend to be based on similar measures, but that the content and priorities of these measures may differ. For example, in Norwegian channelling policy, restrictive marketing has been regarded as important. In the Netherlands, 'tempting players and providers will be the main mechanism achieving channelisation' (Boendermaker et al., 2015, p. 4). The emphasis on marketing must be seen in the context of several major challenges that have emerged since the 1980s. Due to processes of liberalisation, digitalisation, and globalisation, in which the freedom of choice is emphasised, competing games are easily available, and politicians' careers rely on voters' often short-sighted interests, the individually oriented measures have become more popular (see also Besednjak Valič and Macur in this volume). As such, current preferences for marketing and self-regulating tools can be seen as a sign of policy despair, revealing the powerlessness of democracies in contemporary societies (Sulkunen, 2009). Individually oriented measures are generally weaker than structurally oriented measures. Following streams of liberalisation, digitalisation and globalisation, encouragement might be enough. Resisting such streams, however, is much harder, and will most likely require stronger and structural means.

## 6 Conclusion

In this chapter, the meanings, measures, and underlying assumptions of monopolistic and licence-based channelling policies have been explored, as they are expressed in contributions published online. The analysis indicates that forms of product development, marketing, self-regulation, monitoring, taxation, and blocking tend to be used in both systems. A more detailed analysis of the individual measures may, however, reveal differences that have not come to light in this study.

Furthermore, the underlying assumptions regarding gamblers, gambling and games tend to be the same in monopolistic and license-based regulatory systems, but these assumptions are not sufficiently rooted in empirical evidence.

In both monopolistic and licence-based systems, channelling policy tends to be understood as a key measure of national gambling policies aimed at protecting national interests, economically and socially. More specifically, channelling policies are expected to prevent problem gambling and reduce unsafe games and criminal activity. Increased disbursement to good causes is presented as a welcomed side effect. Whereas meanings have remained relatively stable in Norway, they have changed considerably in the Netherlands. In both systems, channelling policy used to be seen as a key measure in gambling monopolies. In the Netherlands, it is now seen as a key measure in the country's licensing system. In Norway, the monopolistic channelling policy is primarily justified by the state's need for direct and immediate control, with reference to recent history showing that restrictions are hard to make in licensing systems, as licensees and their private operators will gain too much power (Borch, 2018). In the Dutch (licensing) system, gambling is seen as something that should not be offered by the state (Boendermaker et al., 2015).

The difference between monopolies and licensing systems should not be underestimated. In monopolies, the games are offered by public providers to promote a public good. In licensing systems, they are offered by businesses whose main objective is profit maximisation (cf. Mandolesi et al., this volume). This fundamental difference can explain why governmental providers are expected to act more responsibly than licensees (see Fjellner, 2017) and why Norway is one of the few countries not offering online poker and abandoning the most aggressive forms of marketing. This would put governmental providers into an even deeper dilemma between providing responsible games and gambling environments than licensed providers. It is, however, not the organisation of gambling per se that determines the degree of restriction, but rather the composition of aims and channelling measures. Licensing systems can also champion a restricted channelling policy (Egerer et al., 2018). More knowledge is needed about how channelling policy is implemented in practice in different regulatory systems.

The most important observation in this study is that channelling policy seems to trigger self-energising processes where more aggressive forms of marketing and products are constantly developed to outperform competitors. How this finding relates to the increased emphasis on high channelling rates that has gained ground in recent years, especially in licensing systems, should be further explored. In licensing systems, high channelling rates are assumed to prevent problem gambling based on the assumption that safe games will outperform the unsafe. However, if they contribute to speeding up these processes, they may end up harming problem gamblers and their families. As long as the effects of these self-energising processes have not been sufficiently examined, channelling policy, as practiced today, cannot be used as an argument for preventing gambling problems (Binde, 2007).

Alternative policies that do not trigger competition in ways that may harm gamblers and their families should be considered. These considerations should not take the underlying assumptions for granted. The enhanced policy should not be based on individually oriented measures that encourage gamblers and providers to change their behaviour, but rather on stronger, structurally oriented means that sanction them positively or negatively to do so. As these measures can be evaded, agreements need to be made at international level (cf. Hörnle et al., 2018). Indeed, recent historical events such as the European migration crisis in 2015 and the Covid-19 pandemic in the early 2020s have indicated that national interests are prioritised when challenged by global threats. However, when it comes to gambling, international law may be the only measure with sufficient power to break the self-energising effects caused by channelling policy. To prevent problem gambling, channelling policy should put its main emphasis on channelling gamblers to less harmful games rather than to legal and licensed providers.

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**Anita Borch** studied sociology at the University of Oslo and took her Ph.D. degree at the University of Helsinki on gambling and gambling problems in households. Today, Borch holds a position as Research Professor for the research group Consumption Policy and Economy at Consumption Research Norway (SIFO). Borch has worked at SIFO since 1994 and has studied several subjects, such as obesity, food insecurity, environmental sustainability, responsible research and innovation (RRI), Christmas gift giving, consumer literacy among youth, digital media, and children and commercials.

# Gambling in India: Industry, Social Issues, and Future Directions

Benyne Jos Palayoor and Sanju George

## 1 Introduction

Gambling has a long history in India that has moulded today's gambling landscape in the country. Gambling was a popular pastime in ancient India before the Common Era and one of the earliest accounts of gambling in the world is in a hymn from the Rig Veda, an ancient Indian text written between 1700 and 1100 BCE. The Rig Veda described the phenomenology, psychopathology, and psychosocial impact of gambling as a hymn in the tenth book (Singh, 1990), where one finds the pathetic cry of a gambler to the dice—which ruined his life—begging to spare him from its clutches. There is also a description of gambling in the Indian epic The Mahabharatha, written in 1500 BCE. Here, the well-known character of Yudhishthira is addicted to gambling, and he could not stop it, despite realising its adverse effects (Ganguli, 1896/2021; Rajagopalachari, 1996). In the end, he gambled away all his virtues and possessions.

During the time of Kautilya, around third century BCE, there are accounts of viewing gambling as a means of generating revenue by collecting a five per cent tax on every winning (Jain, 2019). Gambling's popularity persisted during the medieval period (8th to eighteenth century CE) despite much of India being ruled by Islamic dynasties. The medieval period witnessed an increased popularity of gambling. However, considering its perils, gambling became proscribed by the Sharia law. Censors of public morals were appointed by Aurangzeb, to

B. J. Palayoor (✉)
Department of Psychology, Rajagiri College of Social Sciences, Kalamassery, Kerala, India
e-mail: benyne@rajagiri.edu

S. George
Rajagiri College of Social Sciences, Kalamassery, Kochi, Kerala, India

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stop people gambling (Mukhia, 1969). During Britain's rule of India (from the seventeenth century to 1947), a passion for gambling among the Indian public persisted. The British initially encouraged some forms of gambling to gain tax revenues, but later restricted it due to its negative impact on society such as bankruptcy, delinquency, and crime. The Public Gambling Act of India was brought in by the British Imperial Legislative Council in 1867. To this day, this Act regulates gambling in India, with its various amendments by India's separate States (George et al., 2017).

In present day India, gambling has again become a popular leisure activity. Although most gambling activities in India are illegal, anecdotal reports suggest that gambling is immensely popular with substantial amounts being spent on gambling-related activities. Lotteries are the most popular form of gambling in India, and these are run exclusively by the government. With increasing Westernisation and technological penetration in India, it is expected that problems related to gambling will increase. Against this background it is pertinent to also see gambling-related problems as an important public health issue in India.

This chapter gives an account of the state of the gambling industry in India today, the main problems that India is facing regarding gambling, and suggestions regarding the best way forward.

## 2 The Present Landscape of Gambling in India

In India, gambling and betting come under List II of the State list in the 7th Schedule of the Constitution of India, by which the concerned State/s have the sole power to enact laws. Hence, States that want to enact more stringent laws are free to do so. With respect to the Acts put forward by the Government of India, it may provide a freedom for the State Governments to organise the Acts based on certain strict conditions stated for each law. For example, in the Case of the Lottery Regulation Act (1998), in Sect. 12 (Indian Code: Digital Repository of All Central and State Acts) the Power of State Governments to make rules is mentioned. The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. It is also to be noted that some types of gambling are permitted in some States while they disallow certain other types of gambling; other States have banned all types of gambling. The State of Kerala, for example, has allowed State-run lotteries, while it bans casinos. Then again, the State of Goa permits casinos, while the State of Maharashtra permits horse racing.

As per the Public Gambling Act 1867, which consists of 18 sections, running gaming houses is illegal and punishable (The Public Gambling Act-1867, Indian Code: Digital Repository of All Central and State Acts, Retrived on 22/04/2021). As per this Act, ‘common gaming-house’ means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever.

The details of the Public Gambling Act 1867, (The Public Gambling Act-1867, Indian Code: Digital Repository of All Central and State Acts, retrieved on 22/04/2021) with its 18 sections, still in force today, are described in Table 16.1.

The various legal and illegal forms of gambling in India include State-run lotteries, horse racing, rummy card games, casinos, and festival gambling (Benegal, 2013). Based on amendments of the 1867 Act, lotteries are permitted in 13 out of the 28 Indian States and five of the eight Union territories. Horse racing is legal only in six States and casinos are legal only in two States (Goa and Sikkim). 13 states (indicated in Table 16.2) are reported of have legally run lotteries (India Today, 2017). Table 16.2. represents the various types of legal gaming/gambling activities prevailing in India (A General Introduction to Gambling Law in India, 2020).

In Economic Times (2013) it was reported that the Goan Government received a revenue of 15 million EUR (Rs. 135 crores) from its casinos. In the same year, the total receipts of the state were approximately 3 billion EUR (Rs. 27,000 crores) (Government of Goa, 2014), making the value of casino revenue approximately 0.5% of the budget. It was previously estimated that Goa has 10 casinos, of which four are land-based and six are offshore. The Goan legislation only permits five-star hotels to set up casinos, that too with prior approval from the Government (George et al., 2017). More recent figures are not available.

Further detailed information regarding gambling in two States of India (Nagaland and Sikkim) were published by the Global Legal Group (2020). According to them, the state of Nagaland has enacted a license regime for online games of skill under the Nagaland Act. Nagaland is the only State in India to consider online gaming as a game of skill. The Online Games of Skill Act (2016)/Nagaland Act categorises online poker as a game of skill. Next, the state of Sikkim permits online sports betting as licensed under Sikkim Act, even though the Supreme Court is yet to decide whether sports betting should be licensed.

As most forms of legal gambling (lotteries being the most popular) in India are exclusively operated by the State governments, there is no private gambling

**Table 16.1** 18 Sections of The Public Gambling Act of 1867

| Section | Name of the Section | Details Enclosed |
|---|---|---|
| Section 1 | Interpretation-clause | Indicates what is meant by a ‘Common gaming-house’ (quoted in this paper) |
| Section 2 | Power to extend Act | Indicates the extend of power of this Act which will prevail in India |
| Section 3 | Penalty for owning or keeping, or having charge of a gaming-house | Indicates the penalty or imprisonment, for the people owning such gaming house |
| Section 4 | Penalty for being found in gaming-house | Indicates the penalty or imprisonment for those who are associated for the purpose of gaming in such houses |
| Section 5 | Power to enter and authorise police to enter and search | Indicates who are the higher officials who can assign (based on the rules) other officials to take custody of the people engaged in illegal gaming and further the legal proceedings |
| Section 6 | Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming- houses | When and how should the articles-like cards, dice, gaming-tables, cloths, boards or other instruments of gaming found in any house, walled enclosure, room or place- be considered as evidence |
| Section 7 | Penalty on persons arrested for giving false names and addresses | Indicates the conditions under which a person must pay the penalty for giving false names and address |
| Section 8 | On conviction for keeping a gaming-house, instruments of gaming to be destroyed | Indicates what should be done with the instruments found from such a gaming house |
| Section 9 | Proof of playing for stakes unnecessary | Indicates how the proof of playing is treated important in various conditions |
| Section 10 | Magistrate may require any person, apprehended to be sworn and give evidence | Indicates how an individual may or may not be found associated with such an act may/may not be examined |
| Section 11 | Witnesses indemnified | Indicates when and how shall a person be treated indemnified with respect to this Act |

(continued)

**Table 16.1** (continued)

| Section | Name of the Section | Details Enclosed |
|---|---|---|
| Section 12 | Act not to apply to certain games | This section states "Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played." |
| Section 13 | Gaming and setting birds and animals to fight in public streets | Indicates when, what, and how shall a police-officer proceed with the instruments (like dice, cards, counters etc.) and such situations associated with playing for money or valuables. This section also indicates what, when and how a penalty will be charged (a) for setting birds and animals to fight (b) for aiding or abetting for such public fights |
| Section 14 | Offences, by whom triable | Indicates by whom, where and how offences punishable under this Act shall be triable |
| Section 15 | Penalty for subsequent offence | Indicates what shall be done unto such people who are repeatedly associated with offences mentioned in this Act |
| Section 16 | Portion of fine may be paid to informer | Indicates how an informer shall be treated with respect to this Act |
| Section 17 | Recovery and application of fines | Indicates how the recovery and application of fines are handled |
| Section 18 | Repealed | |

**Table 16.2** Various gambling activities in Indian States & cities

| Sl.No | Types of Activities | Names of Cities/States |
|---|---|---|
| 01 | Lottery | Kerala, Goa, Maharashtra, Madhya Pradesh, Punjab, West Bengal, Assam, Arunachal Pradesh, Meghalaya, Manipur, Sikkim, Nagaland & Mizoram |
| 02 | Horse-racing clubs | Tamilnadu, Karnataka, Delhi, Telengana, West Bengal, Maharashtra |
| 03 | Casinos | Goa & Sikkim |
| 04 | Sports betting | Sikkim, Meghalaya & Nagaland |

**Table 16.3** Names of known lotteries run by State governments in India

| Sl.No | State | Names of state-run lotteries |
|---|---|---|
| 1 | Goa | Golden Laxmi Weekly Lottery Scheme, Rajshree Series Weekly Ppaer Lottery Scheme, Dear Shublaxmi Weekly Paper Lottery, etc. |
| 2 | Maharashtra | Akshay, Padmini, Sagar Lakshmi, Vaibhav Lakshmi etc. |
| 3 | Punjab | Punjab State Dear New Year Lohri Bumper, Punjab state dear Kuber Tuesday weekly etc. |

industry in India. Exceptions are the limited number of racecourses in a few States in India and casinos in two States, which are all run by private companies. Table 16.3. lists some of the lotteries run by the respective states of Goa, Maharashtra, and Punjab.

As lotteries are the most prevalent form of legal gambling in India, we will next consider this market segment in more detail with the example of Kerala.

## 3 Gambling in Kerala

Kerala is one of the 28 States in India. As mentioned previously in this chapter, the government of India has given powers—as per Public Gambling Act 1867- to State Governments to amend regulations (India: Gambling Laws and Regulations, 2021) within State boundaries. The government of Kerala enacted the Kerala Gaming Act in 1960 and The Lotteries (Regulation) Act in 1998. An Amendment to the Kerala Gaming Act of 1960 (2018), which was enacted in 2005, favoured online lotteries and computer-operated and electronic online gambling while The Lotteries (Regulation) Act (2018) in 1998 favoured Lotteries. As per the official website of the Directorate of Kerala State Lotteries (2020a, b) since 2001 to 2020, there has been a steady increase in the revenue generated by the state lotteries. This increase was from 13 million EUR (Rs. 122 Crores) to 1.1 billion EUR (Rs. 9972 Crores); where the Kerala Budget Analysis (2021) showed total annual revenue (received from various sources) as 12 billion EUR (Rs. 1,14,970 crores). Table 16.4. shows the details of the Lotteries run by the Kerala State.

Gambling at festivals/fairs (such as Kozhikettu, ottanumber, pakida, mucheetu, kulukkikuthu, panchees, aanamayilottakam etc.) and betting on sports (such as cricket and football) are very popular in Kerala (George, 2017) but are illegal. Cockfighting or '*kozhikettu*' is a blood sport held in Temples in the Northern Districts of Kerala. It is an illegally held blood sport in which, a sharp blade or

**Table 16.4** Names of lotteries run by Kerala State Government

| Sl.No | Names of the Weekly Lotteries | Sl.No | Names of the Bumper Lotteries |
|---|---|---|---|
| 1 | Karunya | 1 | Onam Bumper |
| 2 | Karunya Plus | 2 | Vishu Bumper |
| 3 | Nirmal | 3 | Christmas-New Year |
| 4 | Pournami | 4 | Pooja Bumper |
| 5 | Sthreesakti | 5 | Monsoon Bumper |
| 6 | Win–Win | 6 | Summer Bumper |
| 7 | Akshaya | | |

knife is attached to one of the legs of the cock, with which it kicks the other. The blood is finally offered to the Theyyam Gods, which is believed to protect the family. In other words, gambling becomes a part of the religious ritual in this game. On the eve of Onam (a regional festival in Kerala), Pakida Kali is played in the villages. The game is played on a platform made of wood in which Kalams (squares/boxes) are drawn. The Pakida, a specially designed copper or brass playing instrument (something like dice), will be spread into the 12 Kalams similar to that of a chess board and movements will be made with the help of a tool made of a plantain piece named Choothu. Hence, this game is similar to chess and/or other dice games, and also similar to Choothu Kali mentioned in Mahabharata. Bets are placed on the outcome of the game. In certain areas of Kerala, The Pakida Kali begins few months before the Onam-season and culminates during Onam-festival-day. The game lasts for three to four hours. Two teams comprising each of two persons contesting face to face.

In addition to the more traditional gambling, the contribution of the current age is an increasingly easy access to the internet on mobile phones and computers/laptops. It is anticipated that more people will engage in illegal online gambling in the future.

At the same time, state-operated gambling is also proving harmful. Not only has the State government of Kerala not done its part in sensibly running the lottery, but it has even actively promoted and advertised (and even continue to do so) the State-run lotteries without any care for its risks and potential for harm including addiction. Since the Government finds its revenue coffer in its lotteries, they are advertised thoroughly and glorified at its best among the public. People are convinced with the message propagated that the revenue generated will be used for employing the poor, building roads, bridges, and airports. As a by-product of this development, gambling harms are increasing. While no statistical evidence is available on the extent of gambling problems in Kerala, anecdotal cases have been encountered by the authors. In his treatment work, the second author of the current chapter recalls a male patient (28-year-old) brought to the clinic by his wife, with complaints of lottery addiction comorbid to alcohol addiction. The man started gambling on lotteries after getting married and got addicted to a level where he is over-flown with debts. This example shows that it is high time that we should be cautious about the revenue sources of our state, and prevent creating modern Yudhishtiras.

## 4 Prominent Gambling-Related Issues in India and the Way Forward

The Indian gambling sector is facing several important issues that would need to be addressed moving forward. These relate to both the legal organisation of gambling, its regulation, research, and how harms are addressed.

First, there needs to be a wider debate about whether gambling should be legal or illegal in India. Rather than considering only two options (legalise vs. ban), other options that lie between these two ends of the spectrum might also be worth entertaining: banning certain types of gambling while permitting others, banning or legalising certain gambling venues such as casinos, deregulating gambling, opening more betting shops that are tightly regulated and taxed, etc. A tighter legislation is essential also to address the increasing problems of gambling and to curb the illegal gambling industry. For example, in the Public Gambling Act of 1867, the punishment for being found in a gaming house or owning a gaming house is a fine of 1.2 EUR (Rs. 100) and 2.2 EUR (Rs. 200) respectively; or imprisonment for not more than a month or jail sentence for a period not exceeding 3 months. This archaic legislation needs to be more relevant to the present day.

Ultimately, it is high time to develop evidence-based policies. These have been scarce due to the small number of population-based public health research in this area mostly due to very little funding.

Second, there is currently no organised/structured regulatory body that looks into the various aspects of gambling. The central government seems to have devolved its responsibilities in this regard to the individual States and Union Territories, and they too have not come up with any formal policy in this regard. There is a not-for-profit society, The All India Gaming Federation (AIGF), established in 2016. They describe themselves (All India Gaming Federation, December 17, 2020) ‘the apex industry body for online skill gaming in India’ and state that their ‘mission is to facilitate recognition for the online skill gaming industry in India.’ It is important to carefully note that they focus on gaming and prefer to consistently and solely utilise the words ‘skill gaming’ in their deliberations. They state that they are a registered society for formulation and implementation of a Skill Game Charter, and that they are actively engaged with the government, research, and also analysis on the trends of the global gaming industry. However, a dispassionate glance of their activities, members, and objectives (as per their website) will make it amply clear that their focus is more on promoting gambling and gambling industries under the guise of what they call as ‘responsible’ gambling (cf. Adams, this volume).

Developing a national gambling strategy and having an independent body to oversee it are key to minimising gambling-related harm. Such an independent body ought to include experts from the fields of gambling research, treatment, policy, and academia. It could advise the government on the research, education, and treatment aspects of gambling and determine what research, education, and treatment is required to reduce harm from gambling. It should also cover all forms of gambling and set the agenda for gambling operators, regulators, commissioning organisations, government, trade bodies, treatment providers, and several other public agencies.

Third, India needs to consider a public health approach to gambling and gambling-related harm (cf. Reith & Wardle, this volume). Problem gambling is a public health issue, due to increased prevalence, high vulnerability in groups, as well as physical, psychological, and social issues. Further gambling-related harm not only impacts the gambler but also their significant others and the society (Roaf, 2015). International research shows that the harms from gambling to the individual include financial harms, relationship problems (with significant disruption, conflict, breakdown, and estrangement in relationships) (Velleman et al., 2015), work-related issues (being less productive at work, getting involved in criminal activities) (Victorian Competition and Efficiency Commission, 2012), developing psychosomatic illnesses/symptoms (Morasco et al., 2006) and psychiatric illnesses including suicidality and personality disorders (Petry et al., 2005).

Fourth, gambling and related problems are not adequately studied in India. To the best of our knowledge, very little research has emerged in the field of gambling from India, but studies that are available show that gambling appears to be an emerging public health problem. One survey investigated psychiatrists’ ‘exposure’ to gamblers in their practice, their attitudes towards gamblers, and their awareness of problem gambling (N = 121). The study found that 79 % (96/121) of respondents saw gamblers in their routine clinical practice and 77 %

(93/121) of respondents said that they would like to receive more training in the management of gambling addiction (George et al., 2014).

Another study (George et al., 2016) charted college students' (N = 5580) gambling habits and found that the rate of gambling participation was low in comparison to Western jurisdictions, 19.5% reported having ever gambled. Yet, 7.4% of the sample reported problem gambling, with significantly higher number of males. Lotteries were the most popular form of gambling. The study also noted that problem gamblers were significantly more likely to have a part-time job, greater academic failures, higher substance use, and higher scores on psychological distress, suicidality, and ADHD symptoms. Similar findings were also reported in a study of 4989 high-school students from 73 schools in Kerala (Jaisoorya et al, 2017). The analysis of the student gambling behaviour also showed that sports betting (betting on cricket and football) was the most popular form of gambling followed by the lottery among these school students. New research is nevertheless necessary in this field, targeting also policy making at governmental level, and at clinical level.

Fifth, gambling-related issues need to be better incorporated into the agenda of treatment-professionals. There are very few treatment services for gamblers and their families in India, and this needs to change. Gambling treatment services ought to be offered at four tiers/levels, depending on whether the treatment is offered by a specialist or not and whether what is offered is generic or very specific/specialised (George & Copello, 2011). Given the resource limitations within Indian addictions services, it makes more sense to integrate gambling treatment services within the existing network of drug and alcohol treatment services. This would be the most cost-efficient and sustainable way to deliver services and to enhance existing service provision. Major advantages of using existing drug and alcohol treatment services as a vehicle to deliver gambling treatment are the infrastructure and personnel cost efficiencies in terms of not generating separate set-up and running costs. Mental health professionals should give gambling a place among the other addictions. Psychiatrists need to give gambling addiction its rightful place within mainstream psychiatry, very much like substance addictions. Psychiatrists are not adequately aware of gambling addiction. Hence there is a desperate need to offer packages addressing its signs and symptoms, screening, assessment, and treatment for psychiatrists, clinical psychologists, and other health-care professionals. (George et al., 2014.)

## 5 Conclusion

This chapter has described and addressed the state of gambling in India as well as current issues. The analysis has shown that gambling is a growing market in India, although differences remain at State-levels. The most prevalent form of gambling is offered by State lotteries, but the illegal market also remains important. The societal issues that India is facing regarding gambling relate to its legal status, regulation, population-level harms, research, and treatment.

To address all the above strands and issues, there needs to exist a body/organisation that could lead on, direct and co-ordinate, and in turn advice the government on all aspects of research into, education and treatment of gambling. It goes without saying that all interested parties need to take part in any such discussion, although participation of the gambling industry should come with some caveats to prevent self-interests.

Some possible obstacles we see in translating the above-mentioned plans into reality include the inertia of policy makers to accept gambling as an important public health issue, resource and funding limitations, lack of awareness of the general public, and the general feasibility of our proposed interventions in a resource-poor setting like India. These are not necessarily insurmountable, provided a group of concerned and committed experts come together and are driven by a shared objective of reducing gambling-related harm to individuals, families, and the society (see Langham et al., 2016).

In conclusion, several forms of legal and illegal gambling remain popular in India. The existing legal framework and policies nevertheless seem insufficient to address the public health harms of gambling. We hope that all key stakeholders take part in formulating an evidence-based way forward.

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**Benyne Jos Palayoor** is a clinical Psychologist licensed and practicing in India since 2008. Her research work in the field of clinical psychology spans India and abroad. She received a doctoral degree from a D.F.G. & University funded project at Johannes Gutenberg University, Mainz, Germany. She is currently working in India as an Assistant Professor in the Department of Psychology, at Rajagiri College of Social Sciences, Kalamassery.

**Sanju George** is a senior consultant in psychiatry. He has worked in the field of gambling addiction, in the UK and India for over twenty years.

# Aligning the Dice Between Past Trials and Future Goals: The Complexities and Idiosyncrasies Involving Current Commercial Gambling Regulation in Brazil

Maria Luiza Kurban Jobim

**Introduction**

Brazil's approach to commercial gambling has always been unique, and contrary to the traditional cycle of gambling regulation, that departs from illegality towards legalisation in adjusting the appropriate form of regulation until normalisation. Brazil is a federal state with 26 states and a federal district. After short-lived but remarkable periods of liberalisation, Brazil has gone backwards and now bans almost all forms of commercial gambling across the country. Part of the justifications of the current prohibition lies not as much in the formal reasoning from its criminal laws from the 1940s in terms of religiousness, social rejection, and culture, as it does in the post and far-reaching effects of the traumatic and chaotic regulation of bingo. Bingo was legalised for a brief period at the beginning of the 1990s and banned again at the beginning of the 2000s.

Since then, commercial operators have been creative in finding loopholes in the laws and tireless in advocating for proper and general legalisation for the sector. However, until now none of them has been sufficiently successful. In order to address what is commercial gambling in Brazil, this article departs from the very distinguished scenario under which the Brazilian gambling industry has flourished—and still does, behind the scenes—to critically analyse the main trends in terms of perspectives, based on 1) exceptional rules and piecemeal legislation that allow for practices such as poker and horseracing to be allowed, to flourish and expand; 2) reliance on general bills about gambling that have been up for discussion and deliberation for decades in the National Congress, with both great support of

M. L. K. Jobim (✉)
Faculty of Law, UNISINOS, Rio Grande do Sul, Brazil

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the informal lobbying industry and expressive resistance from religious groups; and 3) new forms of public–private interaction as quasi-public goods as outlined in a recent law surrounding sports betting and in ideas related to opening to the market one of the arms of the national lottery.

Far from having premonitory views about the future, but refusing to roll the dice to access what is about to come next, this study focuses on giving a proper understanding of what is commercial gambling in Brazil and why its background is a *sine qua non* condition to properly comprehend its present and evolving state.

## 1 The Uniqueness Surrounding Gambling Regulation in Brazil

The relation between Brazilian formal regulation and gambling practices has always been surrounded by lack of clarity and instability, a trend generally linked to a metaphor of *casino capitalism* (Strange, 1989)—and that we could name here as a *casino regulation roulette* (on casino capitalism, see also Nicoll, this volume). As Strange points out in the financial world of the late 1990s, here, in Brazilian gambling history, key decisions have been almost like *guessing games* and *betting in the dark*—while not enough has been done to rein in its respective juridical patchwork and cool down its regulation roulette. Brazil, a country known for its strong competitive traditions in sports and gaming (Larghi, 2021), is a notable exception to the liberalisation trend in gambling policies that have been shaping the Western world. Indeed, Brazil is one of only three G20 countries (the others are Saudi Arabia and Indonesia) that mostly bans non-state providers of gambling products.

Even though gambling may be as old as human interaction, it was not until the eighteenth century that regulation played a crucial role in gambling (Adams, 2008). By that time, gambling was subject both to applauses and mistrust worldwide (North America, Europe and Africa), especially national lotteries (Miers, 2018). But not in Brazil. National lotteries were quite popular during the enactment of the Brazilian Republic—the so-called República Velha (1889–1930), based on unclear rules in concessions (Godoy, 2014), while the role of private stakeholders has always been controversial, from *jogo do bicho* ('animal game') to, later, casinos. The apparent dichotomy that Brazil has dealt with in gambling regulation reverberates in the fast-changing environment within which laws, industries and societies have evolved. The notable paradoxes in the justifications of gambling prohibition and the real capacity of the country to manage such complex activities in the real-world help to explain the distinguished Brazilian path in the traditional gambling cycle (Adams, 2008). In his critical theory of regulation, Adams (2008) describes how regulation ranges from prohibition to liberalisation, in a linear, albeit conflicting, process. Brazil, however, went backwards in this cycle, from liberalisation to prohibition.

For example, *jogo do bicho*, a traditional game in Brazil since the end of the nineteenth century, resembles a modality of lottery owned by non-state providers and was allowed for very short periods at the beginning of Brazilian urban life. In a deep analysis of what this gambling modality meant from its very initial introduction into the Brazilian territory under the carioca's (Rio de Janeiro's citizens) culture, Chazkel (2011) denounced the reasons underlying its criminalisation. She shows that the move surpassed the formal concerns with morals, religiosity and legality to address the main anxieties manifested by the state's bureaucracy with regard to maintenance of public order and behaviour regulation.

Different from the *jogo do bicho*, however, casinos, like the lotteries, operated within the formal economy. During the 1930s they generated a reliable stream of public sector income through licenses and taxes as well as substantial private profits. The most famous casinos of the time were situated in Rio de Janeiro, São Paulo, and Minas Gerais. They were the stage of distinguished artistic performances; by far the most well-known was the large saloon of the Copacabana Palace Hotel that epitomised the *Brazilian golden age*. In 1941, however, the Federal government passed a new Criminal Contraventions Act (CCA—*Decreto-Lei nº 3.688/*1941) in which it consolidated the piecemeal bans on specific games that it had formerly created under the 1890 Penal Code (*Decreto nº 847/*1890) into a default rule, prohibiting all forms of gambling that were not specifically exempted (Mahon, 2011). Even though casinos fell squarely within the scope of the prohibition, rather than an exemption, some establishments remained open, relying on licenses and concessions secured before the 1941 legislation (Jobim & Williams, 2017). To remove uncertainties caused by the co-existence of the general prohibitions under the CCA with the pre-existing specific authorisations that casinos held, the Federal government in 1946 enacted a law (*Decreto-Lei nº 9.215/*1946) declaring that casinos were covered by the CCA, based on concerns over a universal conscience imperative, worldwide legislative patterns, religiousness and morals.

Apart from the influence of religion and from the adequacy of the reasons set above to justify the gambling prohibition (Henriques, 2008), the fact is: since then, the mixture of moral, legal, economic, and political arguments in favour of and against gambling liberalisation have resulted in an impossibly *tight and* *complex knot* (Chazkel, 2011). Extrajudicial policing practices and the lack of willingness of judges to prosecute gambling offenders bear witness to the formalisation of an embedded system of informal justice that would characterise Brazilian urban public life in not only the twentieth, but also the twenty-first century.

The complexities of relying on criminal law as an important regulatory instrument in this context are illustrated by recent conflicts within the Court of Appeals in Rio Grande do Sul (*Turmas Recursais do Tribunal de Justiça do Estado do Rio Grande do Sul* [TJRS]). One division of this court has been acquitting gambling establishment owners by stating that the CCA (art. 50) is outdated in the current societal context (2016). The notion that the legal prohibition of gambling is no longer binding thanks to a form of desuetude has enormous and unparalleled implications. For instance, vagrancy (art. 59 CCA) is still a misdemeanour (albeit with fewer cases being taken to courts over the years) while mendicancy was subject to decriminalisation through legal instruments (*Lei nº 11.983/*2009). Conversely, in 2017, another division of the same court ruled that the criminal prohibition of gambling does exist, is still in force, and that a criminal law cannot be revoked simply by practice; the prohibition could only be revoked formally, by the law, and not informally, by social acceptance. As a result of this conflict, an appeal was taken to the Brazilian Supreme Court (*Supremo Tribunal Federal* [STF]), which accepted the case (2007), recognising the relevance of the topic on social, economic, political, and juridical grounds and seeing a coherent question to be answered. However, at the time of writing, no decision has yet been issued.

Criminal laws and allowance of the practice under Brazilian Administrative Law are different aspects that should be considered when thinking about lawful commercial gambling (Bedford et al., 2016; Jobim, 2018). Meanwhile, in the public sector, the Brazilian Federal Bank (*Caixa Econômica Federal* [CEF]), in a system dated from the 1960s, figures today as one of the most influential state-owned public banks and is the entity that controls the national lottery in its multiple forms (*Decreto-Lei nº 304/*1967). Authorised lotteries have always been allowed in the Brazilian landscape. The general restriction dates back to the CCA and relates solely to unauthorised lottery modalities that are, consequently, specifically prohibited (art. 51, CCA).

Nevertheless, the STF decided in the second half of 2020 that the state-run lotteries' excessive centralisation of powers with the Union is not in accordance with the Brazilian Constitutional order of the late 1980s, especially under the lens of cooperative federalism and concurrent powers (STF, 2020). The 2020 decision presents far-reaching effects on future cases and in legislation modelling and implementation by 26 of Brazilian states and the Distrito Federal (not to mention

Municipalities), including prospective novel forms of channelling decentralised approaches and engagement with the private sector.

## 2 Present: Piecemeal Legislation, Loopholes and the Prominent Role of Judicial Regulation

Brazilian public authorities have historically responded selectively to gambling products and practices, simultaneously suppressing some and enabling others (Jobim & Williams, 2017). Ad hoc lotteries were authorised to fund charitable causes and public works such as prisons and other government buildings in the late eighteenth and early nineteenth centuries (Godoy, 2014). Thereafter, the federal government adopted a more decentralised approach, choosing instead to distribute lottery tickets through organisations selected by public tender (*concorrência pública*) (IPEA, 2010). The system lasted until the first half of the twentieth century. During the 1960s, the period that coincides with the Brazilian military regime (1964–1984), a monopolist-centralised legislation was enacted—a trend that seems to be, at present, under review.

Another exception to the general gambling prohibition that lies almost entirely with private operators is authorised horse racing. It presents a long tradition in the Brazilian betting and social landscape and, different from the other main gambling activities, it has not suffered from the habitual legislative uncertainty, since it has never been included under the scope of the CCA 1941 prohibition. In accordance with justifications that are a common ground to the acceptance of this gambling modality internationally (Miers, 2018), revenues are linked to the improvement of horse breeds. Currently, betting on horseraces is authorised by the Racecourse Betting Act (RBA) (*Lei nº 7.291/*1984) and regulated by the *Decreto nº 96.993/*1988. At the beginning of the 2000s, sectorial regulation (*Instrução Normativa nº 21/*2005*, Ministério da Agricultura*) opened the possibility of betting over international simulcast, a window that was closed a few years later and ordered turf establishments to cease international simulcasts (*Instrução Normativa nº 08/*2008*, Ministério da Agricultura*). After that, in 2015, another period of excitement began, aiming at modernising and expanding the market, both domestically and internationally. During this time, the French operator, Le Pari Mutuel Urbain (PMU) partnered with the most influential Brazilian Jockey Club (*Jockey Club Brasileiro* [JCB]), in Rio de Janeiro, and opened a subsidiary to manage horserace betting physically, over the phone and on the internet. Besides promoting simulcasting and betting operations locally and internationally, PMU acted strongly in different media channels to disseminate the culture of a Brazilian horseracing passion (see also Berret & Marionneau in this volume about the international operations of PMU). After a few years and due to a strategic decision in terms of business development, PMU, in 2019, announced that the forthcoming focus would be constrained to the betting operations, a market that seems to continue in the present—and not on the entire structure maintained up to that point. Many activities were then taken back by the JCB, that denies any changes in terms of simulcasting, marketing, and compromise with industry expansion, especially in terms of internationalisation (JCB, 2019). In parallel, Porto Alegre, hosting one of the most iconic and traditional Brazilian Jockey Clubs, Jockey Club of Rio Grande do Sul (JCRS), with most of the history of the *gaúchos* (Rio Grande do Sul's citizens) linked to the tradition of horses and cattle ranching, has been relying on its own infrastructure to run races and betting with exclusivity (JCRS, 2021). Alternatively, due to a loophole in the RBA, majestic halls and a well-funded market by local actors resembling real casinos, like KenoPlay, linked to the Jockey Club of Carazinho, a city in the countryside of RS, have been developing as extensions of horserace tracks inside the urban landscape in different cities (Ribeiro, 2017), proving the gap between formal gambling illegality and social practice (Kervalt, 2017).

Poker for its turn is subject to controversial interpretations. At the beginning of the last decade, one of Brazil's Highest Courts (STJ, 2003) ruled that poker was as illegal as bingo for being considered a game of chance. A few years later a shift in mentality was enabled thanks to massive engagement from the industry– not through an ordinary legislative process, though (Mahon, 2011) –, with a prominent role developed by the giant H2Club, the largest poker provider in Brazil (Soares, 2019). The leading case that has become influential was initiated by the company before a state's court (Santa Catarina), relying on a medical report and on a legal opinion of one of the most prestigious Brazilian lawyers and Professors of Criminal Law at University of São Paulo (Miguel Reale Júnior), stating that poker was in fact about psychology and the manipulation of one's feelings—and not about luck (TJSC, 2013). The prevailing judicial understanding was then that poker was in fact a *game of skill* instead of a *game of chance* and as such, it would fall outside the scope of the default prohibition rule of the CCA. As a result, many Brazilian and international tournaments based mainly on fixed-odd betting (charged as a subscription to avoid correlation with unregulated sports betting), with massive popularity, have spread throughout the country with considerable attention from the ad industry and media channels. Conversely, ring poker games are usually subject to greater public scrutiny. Still, when a case is taken before the Judiciary, many conflicting views can still be reached (TJRS, 2008, 2011, 2015; TJSP 2020).

Finally, special mention shall be given to bingo. Brazilian bingos were included in the scope of 'The Bingo Project' (Bedford et al., 2016), a three-year initiative—funded by the Economic and Social Research Council (ESRC)—led by the University of Kent that involved research into how bingo is regulated in different countries. The stance is peculiar because the game was exempted from Brazil's criminal prohibition, in 1993 (*Lei Zico, nº 8.672/*1993), almost 'by chance', since the enabling legislation was primarily concerned with financing of sport, not with gambling. Under art. 57 of Lei Zico, the federal government created the exemption to raise funds for the democratisation of sports, an obligation that the Brazilian state had assumed under the 1988 post-dictatorship constitution. The legalisation of bingo was intended to provide an income-generating opportunity for sports organisations. Lacking the required expertise and investment capacity, however, such organisations partnered with commercial operators. The abrupt form in which this legal window was enabled was already a proxy to reveal what was about to come next. A scant few months after the enactment of the enabling legislation for the commercial provision of bingo games, the law was extended to allow higher intensity play in bingo houses through electronic games and slot machines.

With the rapid introduction of electronic gambling machines (EGMs) under the name of electronic bingo, a number of international providers—Divermatic, Brasil Games (Champion), Shock Machine (Show Ball), Teckgold (Diamonds), Ms Games (Nine), Ms. Games (Pachinko), Abraplay (Game Ball) (*Senado* Federal, 2006)—partnered with the local industry and drastically transformed the image of social charitable bingo prevalent elsewhere. Large profitable bingo halls were established in many cities and generated revenues for municipal, state, and federal governments. At the same time, the frequent changes in the location of regulatory authority between different levels of government, and the game variations across the country (including games similar to bingo and video-bingo, for instance), made it difficult for people to know which games were lawful and which agency was responsible for the bingo market (Bedford et al., 2016).

Simultaneously, when challenged in court, the prevailing understanding was that EGMs fall within the scope of prohibition for being considered typical games of chance in which the results depend mainly on luck, as prescribed by art. 50 of the CCA—and not exempted by specific legislation. Under this apparent conflict between the blurred law in the books and law in action which allowed quasi-casinos to be run, the Brazilian bingo industry and its regulators were repeatedly ensnared in corruption, organised crime and money laundering scandals (Senado Federal, 2006). For instance, a special investigation, known as Operation Hurricane (*Operação Furacão*), was headed by the Federal Police and Prosecution

Services confirming corrupt practices in some courts that had been extending bingo licences through judicial order (JFRJ, 2012; STF, 2008).

Additionally, a Parliamentary Commission of Inquiry (*CPI dos Bingos*, 2006) reported that businesses representing the interests of organised crime—both domestic and international—had captured much of the Brazilian bingo market. The report found that criminals were using bingo halls to launder money and that proceeds were diverted to corrupt government officials, from federal to municipal levels, from the Police to Higher Court judges (STF, 2008), undermining public confidence in the integrity of judicial and enforcement bodies. The greatest audacity, according to the Federal Public Prosecution Office, was that Brazilian organised crime—sometimes coupled with international mafia organisations—went beyond the bribery of ordinary public servants to reach the very highest positions of government (STF, 2008). Accordingly, bingo's closure was resisted through political processes, legal actions, and defiance. However, in 2007 prohibition was, in effect, reinstated by the Brazilian Supreme Court (STF) in such a manner as to rule out juridical uncertainty and moralise institutionalised powers with a binding precedent (*Súmula Vinculante nº 02*). The judicial norm stated that the exclusive competence to legislate in this field lies with the Union and that states may not legislate to license bingo or otherwise regulate it unless there is a general federal law authorising them to do so. Up to now, no federal law has been enacted in this direction, driving commercial bingo practice underground.

As the practice remains unlawful, the domestic industry allegedly damaged by the episodes of the past committed by a few actors is now engaged working in the legalisation process. It claims to not comply with the clandestine bingo exploitation and through an association—the Brazilian Bingo and Casino Association (ABRABINCs)—has been very active in the law-making arena. The greatest challenge is to start the gambling (and bingo legalisation) debate from scratch, since a number of crimes perverted the integrity of the still incipient gambling system, involving key figures of the Public Administrative and tripartite powers. The containment of criminality risk remains a conventional justification for gambling regulation worldwide, as outlined by Williams (2018). However, the enormous emphasis given to the mitigation of criminal risk over equally important risks, such as player health and financial security, is quite unique.

## 3 The Hope: General and Extensive Laws on Gambling

This lack of linearity in the Brazilian gambling regulation process, as well as the constant need for judicial intervention to rationalise incoherencies, lighten obscurities and dismantle ambiguities in legislation demonstrates the notable inefficiencies in the models adopted so far (Martins, 2017). Additionally, challenges brought by the online environment are enormous—from gambling to gaming and from domestic to cross border transactions –, since they may lead to the complexities involved in regulating internet content itself. At the same time, they indicate that the path towards legalisation is inescapable. However, distinctly from piecemeal legislation, that tends to bring more instability instead of providing mature and sustainable steps towards linear regulation and normalisation, future legislation broader in scope is being modelled and presented.

Pragmatically, two comprehensive draft bills about gambling are being discussed in the Brazilian National Congress; one, in the Senate (PLS 186/2014) and the other in the Chamber of Deputies (PL 442/1991).

The draft bill in the Senate has been amended more than sixty times and still awaits a forthcoming and decisive plenary voting session. The draft now covers almost all gambling modalities, from casino to *jogo do bicho*, including bingo, fixed-odds betting, sweepstakes, and general electronic betting (that are run by the CEF)—and thereby does not restrict its scope to commercial gambling activities (art. 8º), as in its original format. The draft mentions as one of its foundations the conjoined pillar of corporate social responsibility of gambling providers and responsible gambling. However, it gives them merely a descriptive rather than a normative or prescriptive approach—without creating any obligations or clear duties of care to anyone involved. In the latest report presented by the Special Commission on National Development (SCND) (Coelho, 2016), the sufficiency of the topics covered until then was emphasised while the respective premises for approval were based on the need to 1) modernise the outdated Brazilian mentality in gambling regulation; 2) align Brazil with the more developed regulatory practices, considering as such the British, Australian, Spanish, and US (Nevada) regulations; 3) foster development through an increase in tourism; and 4) contribute to income and employment. The report shows clear concerns with growing the share of gambling revenues within the Brazilian Gross Domestic Product (GDP)—and not increasing GDP itself. These expectations lead to questions regarding how gambling liberalisation would create *additional* output and *additional* employment or merely dislocate existing ones (Miers, 2018) in a form of intra- and inter-cannibalisation between industries (Marionneau & Nikkinen, 2018). No specific numbers in terms of costs in building a proper regulatory framework is outlined. Rather, the estimate is to bring approximately 4 billion EUR (29 billion BRL) in public income from gambling over the following three-year period. However, no methodology, source or considerations to what factors were used to reach that projected number were given. From another perspective, the draft bill, by relying on liberalisation without the prior creation of an oversight agency (it actually says the opposite, since only after state revenue collection is implemented will the proper investments be made *ex post* in the Federal Police and in other institutional oversight bodies) may pose significant challenges in terms of approval. Indeed, the SCND's conclusions were not embraced by the Constitution, Citizenship and Justice Commission's (CCJC) report (Rodrigues, 2018), since a lack of control regarding this dangerous activity—gambling—would probably lead to corruption, money laundering and a gateway to further crimes, as already observed in the case of bingo. The CCJC report also noted that even in legalised jurisdictions, money laundering is still an emphasised concern. The document points out that Brazilians still ignore crucial aspects related to casino and online gambling regulation to develop, preliminarily, a robust regulatory framework and infrastructure according to the *Financial Action Task Force (FATF) International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*. Finally, there is the allegation that no proper attention was given to public health concerns in terms of problem and pathological gambling while substantial social costs would impact not merely players but society as a whole. Also, based on premises of the *Bliken Report* (Rockefeller, 2016) and questioning the doubtful success of the Australian gambling experience, the CCJC emphasises that economic gains are an illusion, since according to international experience, they are almost negligible compared to the overall social costs.

The other proposal under consideration by the National Congress stands with the Chamber of Deputies. As in the previous case, it has not been submitted to the plenary for approval but the long period of time—more than three decades—over which it has been subject to deliberation points to the difficulties involved. In this project, more details in terms of regulation and licensing requirements are clearly established a priori, except for online gambling. Basically, it structures different gambling modalities to be ruled and overseen by different government spheres while enabling forms of coordination and interaction among them. The Union would still centralise many aspects of considerable importance, from setting general licensing requirements to effectively issuing them (art. 7º). Additional and complementary roles could be developed by states and municipalities thereafter. While casinos would be subject solely to federal legislation (art. 7º, III), other modalities are to be subject to hybrid models, combining roles developed by the Union with states (*jogo do bicho* and state lotteries, art. 7º, § 1º) or municipalities (bingo halls, art. 7º, § 2º). The intricacies involved in regulating such a controversial topic in Brazil are reflected by the more than 23 drafts presented since its initial proposition, back in 1991. The latest substitutive amendment bill drastically changes the Portuguese designation of games of chance also known as *jogos de azar* used both in the 1940s legislation (CCA) and replicated in the previous bill (PLS 184/2014) that means, literally, 'bad luck games' to 'fortune games' (*jogos de fortuna*). The explicit goal is to surpass the direct association of gambling with criminality and instead emphasise its importance in terms of enabling the creation of 'fortune' by assisting in social and economic development (art. 2º). The draft covers the idea of responsible gambling very broadly (arts. 15, 16), relying i) on autoregulation in the elaboration of codes of practice by the industry and, ii) as already pointed out by The Bingo Project on the adoption of a restrictive scope to its meaning by merely reducing it to the blacklisting of excessive gamblers—and still, delegating the recognition of problem gambling to the Judiciary or to affected individuals themselves. Concerns with the rising impact of pathologic gambling on the Brazilian Universal System of Public Health (*Sistema Universal de Saúde—SUS*), having proven to be substantial during the short-lived bingo legalisation period (Bedford et al., 2016), are almost untouched.

The debate is still open and there seems to be an explicit competition between those bills that may end up harming instead of fostering a unified and harmonic debate about the topic, since the basic premises and concepts are constantly changing simultaneously in both houses. All those factors seem to hinder popular participation in this supposedly democratic legislative process. The lack of this basic definition of the 'game' that should be ruled on works in the direction of deepening instead of reducing polarisation, since the discussion is mostly focused on mainstream economic and religious arguments in favour and against liberalisation. The role of morals in shaping the current scenario seems unclear. Consequently, serious conversations are hindered surrounding the most suitable framework able to conciliate or reduce apparent conflicting interests and negative externalities related to oversight, control, accountability, crime prevention and public health towards a proper regulation—a *sine qua non* condition for it to occur successfully.

In terms of consistency, religious arguments seem to have been paradoxically invoked, including by the current Brazilian President (as of April 2021), Jair Bolsonaro (Klein, 2018), who at first acted against gambling proposals due to his religious views on it and now calls for discriminatory legalisation (UOL, 2020). Some politicians have been pointing out the potential for interference from international companies interested in narrowing the scope of the bill from multiple games of chance to casinos only (José, 2018). In following up this selective method of legalisation, it is possible that the pervasive effects already outlined in previous moments are replicated in the future. Equally, the allowance of merely a couple (three at most per state, according to PL 442/1991, for instance) of integrated casino resorts—both in deprived areas of the North and Northeast regions, but also in major cities of the wealthiest Southeast—in a giant country like Brazil, may present marginal benefits to Brazilian society, potentially merely dislocating expenditure, with negligible impact on the size of the economy.

## 4 The Way Forward: Mixing the Public and the Private

Considering the very specific way under which Brazilian commercial gambling activities have developed since the end of the nineteenth century and the far-reaching effects of the traumatic and chaotic regulation of bingo at the beginning of the 2000s, new forms of engagement between the public and private sectors are emerging on the horizon. The close relation between those spheres in liberalising gambling is not new (Adams, 2008), but the way that this interaction has been modelled seems to be quite peculiar.

The first trials conducted under these new forms of public–private partnerships are being led inside the federal lotteries. One of the initiatives lies in the allowance of fixed-odds sports betting by commercial operators thanks to a specific chapter (Chap. V) of *Lei nº 13.756/*2018, enacted two years ago and still subject to further regulation. Despite the Union remaining with considerable and exclusive powers (art. 39) yet to be delimitated (through administrative instruments of concessions or authorisations), it would still benefit from the growing revenues enabled by competition between commercial operators to which these public services will be delegated. An extensive study on the topic is already in process by the Brazilian National Social Development Bank (BNDES) alongside the Ministry of Economy, with potential revenue estimates yet to be provided (Simão & Ribeiro, 2020). Until then, to what extent this alternative will become viable and productive to Brazilians is an open question, since many aspects, from taxation to the overall scope of transferred powers and juridical security to commercial operators, are yet to be clarified.

The second trial is a path still under construction and aims at opening one of the arms of the federal lotteries to commercial operators, the instantaneous lottery (LOTEX, *Lei nº 13.155/*2015). There is an explicit intent of calling and welcoming foreign private investors to the field. After two unsuccessful public tender trials, the international consortium formed by the International Game Technology (IGT) and Scientific Games International (SGI), *Consórcio Estrela Instantânea,* was chosen to explore LOTEX services, at a cost of 133 million EUR (817.9 million BRL) referent to the first year of a 15-year concession period (PPI, 2020);

16.7% of the GGR should be given to the Union and earmarked for public policies related to public safety, sports, culture among others. However, after intense negotiations with CAIXA, there are rumours that the consortium decided to withdraw the process due to excessive delays in starting the operations ('Vencedoras do leilão da LOTEX', 2020). No official information has been released by the Brazilian government though, leaving speculations that talks between the consortium and CEF are ongoing (GMB, 2021). Again, the uncertainty related to gambling that permeates Brazilian history is a recurring theme and highlights that rules are needed, but are not about to be set solely by the government.

The fact that those initiatives are being led by the Union inside lottery modalities reduces public criticism, since they would not mean gambling liberalisation in general, but mostly a refinement of already well-established modalities. As such, the industry could intervene in this hybrid public and private space to 1) raise revenues associated with good causes and 2) assist in the development of more up-to-date technologies. There is still hope that, once these modalities are successfully introduced, more extensive approaches to gambling liberalisation would be easier to propose and implement. Whether those trials turn out to be useful milestones in the awkward cycle of Brazilian gambling regulation or just another stone in the middle of the path is yet to be seen. What is certain is that greater plural participation in political debates is needed to conciliate past failures with future goals in the Brazilian context.

## 5 Concluding Remarks

In summary, commercial gambling regulation has not been able to thrive, until now, within Brazil's complex scenario. The lack of plurality in political debate, linked to one-sided effects and interests that have enabled sporadic permissions and ambiguous authorisations to a few gambling modalities have damaged the image of the whole sector. In this scenario shrouded in uncertainty, piecemeal legislation is still an option viable to many sectors. This also coincides with many vested interests in the gambling industry that, considering self-guided benefits and premature concerns with *intra-cannibalisation*, aim to implement the idea of the *winner-takes-all*. Additionally, the instability on judicial and legal grounds has turned out to be a permanent condition of the Brazilian market with adverse effects on the economy and society.

Even though a *one-size-fits-all* approach to gambling is neither viable—nor desirable—in the legal framework about to be designed, basic premises in relation to gambling should be better addressed. Piecemeal legislation, lack of coherence, and religiousness, by bringing more instability and subjectivity than certainty, have played doubtful roles towards legalisation and have incentivised deep judicial intervention in not merely regulating the market through legal commands, but in creating the law itself. In opposition to the intent of gambling prohibition decades ago, the unpredictability of the gambling regulation scenario still welcomes public disorder. This price—constant judicial uncertainty—is too high to pay.

New interactions between public and private spheres are initiatives aimed at dismantling the complex knot that Brazilians have been facing in commercial gambling regulation. However, no results can be celebrated up to now. Once more, lessons from history show that the question is not about legalisation or lack thereof, but rather about effectively regulating gambling modalities. Far from benefiting from a cannibalisation of bills and ideas, there is in fact time for general engagement in building a proper understanding of a market that already exists, but that presents patterns, developments and concerns that need to be urgently discussed, free from passionate opinions.

Abandoning unrealistic expectations about what gambling can do, it remains vital to discuss what gambling is, since lawmakers cannot regulate something they cannot understand. Otherwise, there will only be new ways of rolling the dice through law. Between past trials and future goals, it is evident that today's success depends on openness and clarity. Only with greater engagement of society in general and more transparency in political processes will Brazilians have a real chance to win this time.

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**Maria Luiza Kurban Jobim** has a degree in law from Universidade Federal do Rio Grande do sul (UFRGS) and a master's degree in international commercial law from the University of Kent. She is currently an associate attorney at FYMSA Advogados Associados and a Professor of the post-degree program in law at UNISINOS. She was a co-investigator on the ESRC funded research *The Bingo Project* that aimed at addressing key legal and policy challenges involved in regulating bingo in different places, including Brazil.