



Tackling
Gambling
Stigma

VITA

Response to the consultation on proposals for a maximum stake limit for online slot games

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Commissioned by



✉ contact@tacklinggamblingstigma.com

🌐 tacklinggamblingstigma.com

Registered address: 601 London Road, Westcliff-On-Sea, England, SS0 9PE, UK
Company Reg. No: 13339976

About

Vita

Vita is a social research agency that specialise in untangling intricate issues with solutions designed to fit the contours of human experience. Our core purpose is to assist organisations in comprehending and resolving complex challenges, thereby making a tangible difference in the lives of the people they serve.

Our approach revolves around collaboration, where we bring together those seeking insights and those directly affected by the issue. However, we don't simply stop at analysis. Our ultimate goal is to translate these insights into actionable steps that drive meaningful and lasting change.

At Vita, we don't just offer advice – we're your dedicated partners in navigating challenges, communicating complex issues, and guiding you every step of the way. Our commitment extends beyond data; it's about enabling genuine, human-focused transformation. We produced human-shaped solutions to human problems.

Tackling Gambling Stigma

Tackling Gambling Stigma is a not-for-profit organisation set up by the people at Vita, to focus specifically on the issues of tackling the stigma and discrimination around gambling harm. We do this by sharing the real-life stories of those affected – because evidence shows that social contact is core to tackling any stigma or discrimination. We use best practices in research to gather and analyse lived experiences. This material is used to create a multi-media website where those affected, the public and professionals can learn about gambling harm by reading, listening, or watching people share their experiences. Our team has lived experience of addictions and being affected by the addictions of others.

Author profiles

Clare Wyllie

Clare is the director of research at TGS and Vita. She specialises in ethnographic and participatory action research. She has also worked in strategy and policy, intervention design and evaluation and communications. She uses this experience to make sure research is useful for action and to help an organisation develop solutions. She has worked in the public and charity sector in South Africa and the UK. This includes Agenda for Gender Equality, Institute for Democracy in South Africa, the Commission on Gender Equality, Human Rights Commission and Government Communication and Information System, within the South African Presidency. In the UK she was Head of Policy and Research at Samaritans, before moving to strategy development for the Care Quality Commission, the regulator for health and social care. She was Director of Research and Evaluation at GambleAware. Since then, she has worked alongside people harmed by gambling to develop evidence and policy for regulatory reform. She is undertaking research on

the global digital gambling ecosystem. Clare has a BA in Psychology, Masters in Genders Studies and Masters in Research Methods, from the LSE.

Alexander Kallman

Alexander is the Managing Director at TGS and Vita. With over a decade of experience in policy and strategy and leading complex research projects he uses his experience to answer the “so what” questions and creating mutually beneficial partnerships with key stakeholders. He takes pride in enabling the team and organisations to create the change it wants to see. He has an MA from King’s College London focusing on the intersection of politics and law.

Elizabeth Killick

Elizabeth Killick is a qualitative researcher at TGS. She holds a PhD in Psychology from Nottingham Trent University and an MSc in Health Psychology from the University of Leeds. Her quantitative and qualitative PhD research focused on the impact of in-play betting and sports betting advertising. Since graduating she has worked actively with those who have lived experience of gambling harm and working actively to ensure their accurate representation in healthcare, policy and for the general public.

Declaration of interests

This report was funded by Clean up Gambling, on the understanding that content is not subject to control by them. Control sits solely with Tackling Gambling Stigma.

Clare Wyllie and Alexander Kallman have previously worked for GambleAware. They have also provided evidence and expertise for the Clean Up Gambling Campaign for regulatory reform and the Coalition Against Gambling Advertising.

Summary

Why there should be a £2 or less stake limit for online slots

The consultation asks what the maximum stake should be on online slots. Currently, there is no limit set by the government. Through a stake limit, this policy aims to put in place a theoretical cap on the amount a consumer can lose in a given time playing online slots, to prevent harm to consumers and those around them from runaway losses.

We are concerned that DCMS appears to be gearing towards a stake limit of £5, the highest limit on machines, allowed only in casinos, rather than a £2 stake or lower. This would not achieve the government's stated aims, is not based on evidence and is contrary to the precedent of the Fixed Odds Betting Terminal (FOBT) stake limit.

DCMS states the core issue is achieving 'an appropriate balance between preventing harm and preserving consumer freedoms.' The department is setting out the decision as a trade-off between competing consumer interests, protection from harm for vulnerable people and consumer freedom, rather than as it is, between the interest of consumers for fair, safe play and profit to gambling companies. In this way, the department can put weight on purported consumer freedom in determining the stake option rather than being seen to act in the interests of industry profit.

The options for stake limits appear to be structured to present £5 stakes as a reasonable mid-point between the higher stakes favoured by industry and lower stakes of £2 or less supported by reformers. The ill-defined framework DCMS provides to assess the policy options and the lack of modelling or quantification of anything except for the direct loss to gambling companies means the department provides only a qualitative assessment of the policy options. Consequently, the department can make the £5 stake appear to be an 'appropriate balance between preventing harm and preserving customer freedom'. It does this by marking down the £2 option through the well-worn gambling industry tropes of the danger of displacement to the black market and loss of consumer freedom in abstract and generic terms.

DCMS defines the disbenefit to consumers as the lost ability of consumers who currently place a stake higher than £2 on any occasion to do so – which happens only in the tiny minority of 3% of all stakes. However, the value of consumer freedom or utility would have to be calculated by excluding people experiencing addiction and subtracting harm experienced by any consumer. This should be looked at in relation to the decreasing utility of consuming more gambling, greater harm from gambling at higher stakes and the utility of consuming other leisure activities. Further, higher stakes are incentivised by gambling operators and can occur in the context of 'irrational beliefs' regarding lucky streaks, as opposed to for pure enjoyment. Hence, the number of consumers who would not be able to stake exactly as they had before, is not a measure of the value of consumer freedom or utility.

No evidence is provided for a significant risk of displacement to the black market. Additionally, DCMS acknowledges that the size of the black market is small in the UK. Further, those most likely to seek the black market are those already inculcated into addiction; hence, better protections will prevent displacement in the future. More importantly, the fact that the risk of harm from another area of gambling exists is not a justification for not putting the right level of protection for online slots in place.

DCMS and the regulator have failed to develop the means of quantifying or modelling the socio-economic benefits of reduction in a harm or economic benefits when consumer spending is diverted from gambling, in the short and long term, and considering health and social inequalities. This is despite well-established methodologies in health economics that could be used. The government has committed to addressing gambling as a public health problem, and DCMS acknowledges it as a demerit good with negative externalities. By definition this means people overestimate the benefits and fail to identify the harm to themselves and others. Hence, they consume too much of it. However, DCMS continues to apply a narrow consumer choice economic approach in which consumers make rational choices in their best interests to maximise utility. Consequently, robust regulation presents as cost to the economy and revenue rather than a benefit through reduced socio-economic harm and diversion of consumer spending to activities that make a greater economic contribution.

DCSM is steering the outcome to a £5 limit by making online slots equivalent to slot machines confined to land-based casinos. It argues there should not be a 'divergence' between the maximum land-based and online stake. However, this is contrary to its own principle of equity in regulation. It fails to consider the advantages of remote gambling for the profits of gambling companies and, conversely, the greater dangers to consumers. Online factors include availability and accessibility, data-driven behavioural nudges in marketing and advertising, gambling websites and apps and online platforms and entirely cashless play. Nor does it address the extreme speed and addictiveness of online slots. By the department's own admission, account-based interventions by remote operators are currently ineffective. Additionally, because these interventions are based on monitoring players over time, they do not address the policy aim of limiting heavy losses within a session. This points to the need for a slot limit at the lower level and equivalent to that in bingo halls and arcades.

DCMS includes considerable evidence indicating harm associated with online slots, suggesting the need for the strongest structural intervention, which it acknowledges would be £2. However, it fails to provide evidence that would be the most relevant to determining the stake level to achieve the aim of preventing harm through runaway losses. It does not provide calculations of theoretical loss per hour at different staking levels. Crucially, DCMS has not obtained consumer data on the occurrence of different levels of losses at different stakes – which is present in gambling company data. Instead of providing this data, the Gambling Commission provided industry data for staking levels against the untransparent and unstandardised methods companies use for flagging accounts as 'at risk'. Throughout the consultation, DCMS attempts to make the issue one of intense losses only for those experiencing so-called harmful gambling behaviour rather than

high losses in a short period, causing harm to anyone who plays. The reality is that the majority of stakes, even for those flagged at 'at risk', are below £2.

Most egregious of all, DCMS omits the evidence that profits to industry and losses to consumers from slots come disproportionately from people in deprived areas, and hence the individuals, families and communities who can least afford or recover from intense losses even at a relatively low level. This is more so than for other gaming products and gambling in general. This fact is material to the decision on stake slot levels as it goes to what amounts are unaffordable as well as the need to give greater weight to consumer protection to safeguard the most vulnerable. This means that the limit needs to be considered in terms of low levels of discretionary income and the potential harm to the most vulnerable in society, their families and more deprived communities and set at a £2 limit.

Apart from 'young age', DCMS does not consider any other dimension of consumer vulnerability, nor does it accord with best practice in addressing consumer vulnerability in other sectors. DCMS does not fulfil its public sector equalities duty in failing to consider the negative impacts on people experiencing mental ill-health and who are more likely to experience harm from gambling. The many dimensions of vulnerability and the fact that this changes over time means that online slots should be made reasonably safe for all consumers whenever they choose to play, by preventing the possibility of runaway losses at unaffordable levels for the British public. This requires a £2 stake limit.

DCMS does not reference its decision to set the FOBT stake limit at £2. However, this decision sets an important precedent: FOBTs and online slots are comparable products and have the same indicators of harm – at a higher level for slots, and more so given their location online and higher speed. In its decision on FOBTs, DCMS placed greater weight on the vulnerability of players disproportionately located in deprived communities and no weight on the purported loss of freedom to stake at higher levels. In addition, it wanted socially responsible growth, defined as not at the expense of the vulnerable, for a stronger and fairer society. Based on the evidence of actual staking behaviour and loss outcomes, DCMS determines a £2 stake is the level at which losses likely to cause financial harm to consumers and their families are very unlikely to occur, and captures an appropriate proportion of 'problem gamblers'. In the absence of the provision of equivalent evidence for online slots, and because the FOBT decision sets an important precedent for the level of harm at a particular staking level that the government tolerates, the online slot stake should be set at £2.

If equivalent data is obtained for online slots, in the unlikely event that this points to a higher stake level, this would at least constitute evidence-based policymaking. As it stands, DCMS claims to be making evidence-based policy but rather appears to ignore, exclude or dismiss evidence to favour the policy it wants and cater to gambling companies' interests. Indeed, the only concrete evidence DCMS can provide for a higher stake is that it would have less of an impact on the GGY of the gambling industry.

Indeed, it can be considered a public scandal that a gambling form with this much risk to consumers has been allowed to persist in the market without any regulatory limits while, in the process, making so much money for gambling companies. The

real choice is between gambling that is enjoyable and reasonably safe for anyone who chooses to participate and those close to them, with fair, socially responsible economic growth, versus exploitative extortion of money from those who can least afford it to profit the executives and shareholders of gambling companies, causing harm to individuals, families, communities and society.

To achieve the government's aims, align with the evidence and do justice to consumers, the online slot stake limit should be set at £2 or less. Fundamentally, it is a £2 stake limit that will achieve the policy aim of preventing unaffordable runaway losses, that would harm most consumers, but especially people, families and communities already experiencing deprivation. A higher stake would allow significant harm to continue. A £2 stake is a measure that puts people before profit in the context of a cost-of living crisis.

Summary of key findings

Government aims

The government's aims for the Gambling Act review were to respond to technological advances; an appropriate balance between consumer freedoms and choice and prevention of harm to vulnerable groups and wider communities; and to make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land-based industries. However, in the ways DCMS applies these to the policy, it sets up a framework that places weight on supposed 'consumer freedom' over preventing harm and justifies a higher stake limit of £5.

- When DCMS turns these aims into 'critical success factors' for the online slots stake limit, equity in regulation is redefined as 'consistency', rather than suitable consumer protection based on risk. Consequently, DCMS can recommend a £5 stake by arguing that there will not be a 'divergence' between land-based and remote gambling.
- Additionally, 'appropriate balance', 'suitably protected', 'vulnerable consumer' and 'equitable approach' remain undefined. This creates a framework in which DCMS can favour any stake limit it wishes to, where the only real benefit appears to be to remote gambling companies.
- By posing the core question in terms of a balance between 'preventing harm and preserving consumer freedoms' rather than gambling industry profits, DCMS frames a higher stake as a consumer benefit rather than a benefit to the industry and avoids having to discuss to what extent industry growth is socially responsible or contributing to a fairer or stronger economy.

Stake limit options

The stake options and the consultation design strongly suggest that DCMS favours a £5 limit - and the possibility of undue influence from gambling companies.

- The consultation states the proposed online limit range is based on machine slot limits, which are £1-£5. But the option of an online limit of £1 or below is not included, with no explanation. Meanwhile, options for £10 and £15 are provided,

with the only evidence for a £10 stake coming from unpublished data from a gambling company.

- It appears as if the £10 and £15 stake options are introduced by DCMS so that when the decision is made at a £5 limit, it looks as if this is a middle ground between an ideal for the industry of higher stakes and what is proposed by reformers.
- DCMS is consulting on a range of £2 to £15 maximum stake, but at the same time, proposes a lower stake maximum for under-25s, of £2 or £4. There is no justification for not considering £1 as a lower under-25 maximum unless DCMS has already rejected the over-25 maximum of £2. Similarly, there is no justification for considering £4 as a lower limit unless DCMS already favours a higher limit of around £5 for those over-25s.

Evidence on harm and stakes

The evidence shows that online slots outstrip the profit to gambling companies and the harm to consumers of other forms of gambling. This provides compelling evidence of the level of consumer risk and the necessity for significant structural intervention of £2 stake limit or lower. Evidence on staking on online slots shows that the limit should be £2 or less.

- Online slots are linked to high losses per consumer, the concentration of losses in a small number of accounts, long sessions, high losses per session, 'problem' and 'at risk' gambling prevalence and people seeking treatment.
- Staking at higher levels is associated with greater risk to consumers. Operators themselves flagged more than half (52%) of those staking above £2 as at risk.
- It is £2 that generates a theoretical cap on losses appropriate to levels of discretionary income in Great Britain to prevent runaway losses causing financial harm. A £2 stake limit gives a theoretical maximum loss per hour of £144. By contrast, a £5 stake limit produces a loss of £360, £10 produces £720 and £15 a loss of £1080. (Calculated using 95% Return to Player and 2.5 spin speed)
- Ninety-seven per cent of stakes placed by players are £2 or below, with the mean stake size being 60p, meaning almost all consumer play would be unaffected by a £2 limit.
- In a recent poll, 66% of the public favoured a £2 stake limit or less, with 46% wanting £1 or under.

Costs and benefits

The DCMS consultation considers only the immediate costs to gambling companies when assessing stake limit options. This approach portrays regulatory measures as causing a loss of economic activity. However, if we were to incorporate the broader socio-economic costs of gambling-related harm and the potential economic benefits when consumers divert their spending away from gambling, it would reveal the positive impact of robust regulatory reforms, including the implementation of a £2 stake limit, on both the economy and government revenue.

- For the £10 and £15 limit, the modelling produces an annual reduction in the range of £32.8m to £48.7m (1.1 to 1.6 % of total online slots GGY). This is in the region of what the gambling industry has already paid in settlements this year for violations of regulatory codes.

- The difference between the £2 and £5 is between an 8 – 14% decrease in total slot GGY versus a 3 – 6% decrease or a loss of an additional around £190m annually at a £2 limit rather than a £5 limit (using the central estimates). This should be contemplated in the context of the dramatic amount of money online slots make for gambling companies – the £3bn billion of the total £9.9bn GGY across the online and land-based sector in 2021/22.
- When a policy increases gambling company profits – as in the increase in machine allowances and cashless machines in land-based gambling, DCMS has chosen not to show the monetary gain to the gambling industry.
- The consultation maintains that there are no direct or indirect benefits to gambling businesses. However, a low stake limit indirectly benefits gambling companies by enabling a more sustainable business model, as gambling companies do not have to compete based on risk to consumers, which generates more profit by the nature of gambling.
- The impact assessment acknowledges that gambling harm has direct costs to the state (e.g., mental health, services, welfare allowance and incarceration), and that there are a range of indirect costs (e.g., lost productivity) and intangible costs (e.g., wellbeing and relationships) through the damage to players and ‘affected others.’
- However, DCMS declines to quantify any reduction in the costs of harm from its policies, despite this being standard for health, public health and many other areas of government policy.
- For perspective, the between 117 and 496 suicides associated with gambling results in a cost of £241.1 million to £961.7 million. This indicates the scale of just one socio-economic cost of gambling in relation to the £190m loss of gambling company profit at a £2 versus £5 stake.
- In addition, money not spent by consumers on gambling is not lost to the economy but rather creates a greater economic contribution when spent on other activities, as gambling has such low economic and tax multipliers.

Equitable approach

DCMS appears to be steering the outcome to a £5 limit by making online slots equivalent to slot machines allowed only in land-based casinos. This contradicts DCMS’s assertion that equity should be determined considering the structural differences between land-based and online gambling. The differences in the markets, profitability and economic contribution of the sectors mean a £2 limit online is ‘equitable’.

- Following the changes proposed for land-based gambling, there will be around 5,000 machines with £5 stakes (in casinos), 80,000 with £2 stakes and 60,000 with stakes of £1 or less, limited to one player at a time. In contrast, online, over 1,000 sites offer over 6,000 games without limit on the number of people who can play them simultaneously.
- Online slots are marketed and available to anyone, anytime, anywhere. Machine slots are only marketed to those able to visit and are only available during opening hours.
- In casinos, there are rules about the proportions of machines to casino games, and in bingo halls and arcades, there are rules about the number and proportions of machines at £2 and lower stakes. Online, any company with a remote casino

license can provide any number of slot games at the maximum stake, including those marketing themselves as bingo or 'family friendly' entertainment rather than casinos.

- Remote slots compete against all land-based slots, not just the less than 3% of land-based slots located in casinos. The average maximum stake per machine will be in the proximity of £1.70. Considering all machines, including 150,000 in pubs and members clubs, it will be in the proximity of £1.20. This means the most equitable approach between land-based and online slots is a maximum £2 stake.
- The land-based sector has more operating costs and pays all its taxes in the UK, making a greater economic contribution relative to size than the remote sector. Remote gambling companies extract money from communities, take money out of the country and pay less tax in the UK, while leaving behind the costs of harm.

Suitable consumer protection

The structural differences between remote and land-based gambling mean that a £2 stake is necessary for online slots if customers are to be suitably protected whenever and wherever they are gambling.

- The categories of consumer protection are those focused on a player and play, the features of gambling products or the way the gambling product is made available and accessed.
- In the White Paper, DCMS declined to significantly address the structural features of online gambling, which make slots in this context more dangerous. Namely, an endless array of habit-forming gambling products, within habit-forming gambling websites and apps, linked to habit-forming online platforms and social media, with personalised marketing, available all the time and everywhere. All these use data-driven behavioural nudges – dark patterns – to drive consumer behaviour for the benefit of gambling companies, not in the interests of consumers. This is despite a primary goal of the review to respond to technological advances.
- The DCMS justification for considering higher online stake limits is 'due to account-based play online and the associated protections which are not required or easily replicable in land-based products.' However, account-based protections have proved to have limited efficacy, at least in how gambling companies use them. Further, as DCMS acknowledges, a lack of standardisation across operators limits these, and they do not cover a consumer's multiple accounts with different companies. In addition, where the policy under consideration aims to limit runaway losses, the session-based protections of land-based gambling may provide more protection than account-based measures.
- Consequently, achieving equity in consumer protection requires strong control of product characteristics and a lower online slots stake limit of £2 or less.

Consumer freedom and choice

The DCMS assessment of the options places a £5 limit ahead by stating that it benefits consumer freedom or choice. It then states that a £2 stake risks driving players to the black market without providing any evidence backing this up. These are both arguments gambling companies use to ward off regulation that benefits consumers but not profits.

- DCMS states that online slots and slots at a higher stake are a demerit good; by definition, people consume more than is beneficial to them or others without recognising the harm at the time. Enjoyment is temporary and minimally incremental, while loss and harm are incremental, long term and even permanent, as well as intergenerational.
- The Gambling Commission's research with consumers shows higher staking frequently takes place in response to a win or an offer, so it is generated by and of benefit to gambling companies in that it recoups what a customer has been given in winnings or free spins and more.
- Even if placing a higher stake is for 'pure enjoyment', no one is born loving online slots and wanting to stake higher amounts. This is learnt behaviour facilitated by gambling companies. Slots gambling is not a commodity for which there is an inherent need or demand.
- DCMS provides evidence that the size of the black market is minimal, at around 2%. The threat of the black market should not be an argument against regulation but rather for dealing better with the black market, and the government is providing the regulator additional powers to disrupt the activities of unlicensed operators.
- Displacement to the black market is most likely with those who have already been encouraged into addiction and inculcated in high-stakes play. Consequently, if demand for higher-stakes play is not fostered in the licensed market, any supposed drive to the black market will likely decrease in the future.

Prevention of harm to vulnerable groups and wider communities

DCMS is not adhering to good practice for vulnerable consumers, as defined by the government and used in other markets, nor the intentions of the public sector equality duty nor ameliorating health and social inequities. If the stake limit is assessed in these terms, a £2 stake limit or less is required.

- The consultation considers only one dimension of vulnerability: those aged 18-24 years. Given the evidence of the vulnerability in this group and that their staking behaviour is, on average, lower than older adults, it is perplexing that DCMS has not provided the option of a £1 stake or lower for this group.
- The Equalities Impact Assessment considers only the possible impact of stake limits in terms of the freedom of people with protected characteristics to participate in gambling. This is remarkable, given the evidence of the increased vulnerability of people with mental health conditions and learning disabilities to gambling harm.
- The most glaring issue in the White Paper is the lack of definition of 'vulnerable groups' that need to be protected from gambling harm. Given that gambling is a demerit good, we continue asking that the government apply at least the same standards in protecting vulnerable consumers as in other sectors: All consumers are at risk of harm. This risk is increased if they are in vulnerable circumstances, e.g., if they display one or more characteristics of vulnerability related to the four key drivers set out in our Vulnerability Guidance – health, life events, resilience and capability. A vulnerable customer is someone who, due to their personal circumstances, is especially

susceptible to harm, particularly when a firm is not acting with appropriate levels of care.

- DCMS cites other findings from analysis of gambling industry data, but not that online gaming spend is 73% higher from the most deprived decile than the least deprived decile, especially on slots. Failure to provide strong structural controls on online slots will continue gambling's role in exacerbating health and social inequities. Claiming to protect consumer freedom to stake at higher limits is only protecting the freedom of remote operators to extract money from those who can least afford it.

Online slots compared to FOBTs

Online slots are comparable to FOBTs because the products are similar, and they share the same indicators of harm. However, DCMS fails to use FOBTs as the precedent for the level of harm it is prepared to tolerate against stake level.

- For FOBTs, DCMS prioritised preventing harm over purported consumer freedom to stake at higher levels. It set the core concern as a balance between socially responsible growth (defined as growth that is not at the cost of the most vulnerable) and protecting the most vulnerable, including children, from gambling-related harm.
- DCMS gave no weight to the 'disbenefit' to consumers of not being able stake at higher levels and instead gave weight to the fact that FOBTs were concentrated in deprived areas. The department concludes the FOBT stake limit should be reduced to £2 because those most likely to suffer harm are those who can least afford to lose large sums of money. Meanwhile, DCMS ignores the markedly disproportionate spend on online slots from the most deprived areas.
- To determine the stake limit for FOBTs DCMS provides evidence that directly address the policy aim of setting a stake limit that will prevent financial harm through intense losses. This is estimates of theoretical losses per hour at the different stake limits (speed and RTP). However, it most relies on actual data obtained from gambling companies on actual stakes and outcomes, to determine that it is hard for players to lose more than £500 in a session using stakes up to £2 pounds. Above £2 there continued to be the potential for excessive loses, especially given the need to protect vulnerable players, the unemployed and those in more deprived areas. DCMS could provide equivalent data for online slots, but neglects to do so.

Conclusion

We strongly advocate for a £2 stake limit because it aligns with the government's overall goal of protecting consumers from harm, reflects the evidence of significant risks associated with online slots, and safeguards society from the broader costs of gambling-related harm. It is a measure that puts people before profit.

Approach

The question of this consultation is the maximum amount of money a player should be able to stake on each spin of a slot game online.

DCMS is consulting on how it should deliver one of the commitments it made in the White Paper *High stakes: gambling reform for the digital age* – to put in place a rule for online slots stake limits, as there is for slots on machines in bookmakers, casinos, arcades, bingo halls or pubs. Until now, gambling companies have been able to decide for themselves what the stake limits should be on slots games they provide online.

The approach we have taken to respond to the consultation is to focus on what the government said it would do in the Gambling Act Review, how DCMS defines the problem of online slots and what a stake limit is supposed to achieve, in relation to the range of measures set forth in the White Paper. We have looked at the evidence the government has used and wider evidence from research and people with lived experience.

In addition, we have compared the online slots stake consultation with the DCMS decision to reduce FOBT/B2 machine stakes to £2 in 2018. FOBTs have a high degree of similarity with online slots, in type of product, harms and policy concerns. Consequently, the decision on FOBTs sets a precedent for online slots and is important to achieving equity between online and land-based gambling.

We have taken this approach because when we read the consultation it seemed that the most likely outcome would be that DCMS will recommend a £5 maximum stake for online slots, the same as the highest land-based stake, allowed only on machines in casinos. We concluded this due to the way the way the consultation is set out and the options DCMS has provided and how this £5 stake option is framed in the consultation document relative to the other options.

We are concerned this is contrary to the government's stated aims and the evidence, and that DCMS continues to make gambling policy not based on the interests of consumers but what benefits gambling companies.

Our response starts by discussing what the government says its aims are and the options for online slots stake limits it provides. It then looks at the evidence on harm from slots and on staking. We discuss the stake limit options in relation to the assessment of costs and benefits and the government's aims for an equitable approach to the regulation of land-based and remote gambling; suitable customer protection whenever and wherever people gamble; an appropriate level of consumer freedom and choice; and prevention of harm to vulnerable groups and wider communities. We conclude by comparing the consultation on online slots with DCMS decision-making for the FOBT stake limit.

This shows that, to achieve the government's aims, respond to the evidence and do justice to consumers, the online slot stake limit should be set at £2 or less.

Government aims

This section looks at what government states it wants to achieve with an online slot stake limit, within the context of the overarching aims for the Gambling Act 2005 review. When DCMS translates the review aims into 'critical success factors', by which to evaluate the online slots stake policy options, equity in regulation is redefined as 'consistency', rather than suitable consumer protection based on risk. In addition, 'appropriate balance', 'suitably protected', 'vulnerable consumer' and 'equitable approach' remain vague. This creates a framework in which DCMS can favour any stake limit it wishes to, and potentially one that primarily benefits remote operators. Further, DCMS poses the primary challenge as achieving a balance between preventing harms and consumer freedom, in this way framing a higher stake as consumer benefit, rather than a benefit to industry.

Review aims

The Terms of Reference for the Gambling Act 2005 review said that the government's aims were to:

- *examine whether changes are needed to the system of gambling regulation in Great Britain to reflect changes to the gambling landscape since 2005, particularly due to **technological advances***
- *ensure there is an **appropriate balance** between **consumer freedoms and choice** on the one hand, and **prevention of harm** to vulnerable groups and wider communities on the other*
- ***make sure customers are suitably protected whenever and wherever they are gambling**, and that there is an **equitable approach** to the regulation of the online and the land-based industries [emphasis added]*¹

The aims did not include the protection of gambling company profits. In relation to an 'equitable approach' to regulation of online and land-based industries, what comes first in the statement of this aim is 'to make sure customers are suitably protected whenever and wherever they are gambling'.

Policy objectives

The DCMS impact assessment accompanying the online slots limit consultation defines the specific problem under consideration and policy objective as follows.

*Evidence suggests that online slots have a strong association with harmful gambling behaviour, however they are currently subject to relatively few controls. Land-based gaming machines, which offer similar products, have statutory limits on structural characteristics (including stake size). The ability of operators to offer and for customers **to play at theoretically limitless slots stakes likely contributes to the associative indicators of gambling harm (notably***

¹ White Paper, High stakes: gambling reform for the digital age, 2023, Department of Digital, Culture, Media and Sport, <https://www.gov.uk/government/publications/high-stakes-gambling-reform-for-the-digital-age/high-stakes-gambling-reform-for-the-digital-age> 17.

unaffordable spend and binge gambling). Without intervention these harms may grow in the future as **the gross gambling yield (GGY) for online slots continues to increase.**

An objective of an online slot stake limit is to decrease the **intensity of losses, through the creation of a theoretical cap on losses per given time period.** [emphasis added]

Due to the associative harm within the current environment, the intended outcome is to make it harder for those suffering gambling harm to incur runaway losses.

The success of this measure would crystallise in a decrease in the average session loss for those at risk of gambling harm.

A further indicator of success would be a reduction in the association between online slots play and reporting harm in problem gambling screens, and a fall in the prevalence of those citing online slots as their primary issue when seeking treatment for gambling related harm.²

The definition of the problem, policy objectives and measures of success are entirely in terms of the reduction of harm from online slots. This is despite the effort of DCMS to make a distinction between consumers incurring runaway losses and those 'suffering gambling harm' incurring runaway losses, a new way of saying it is a group of players that is the problem, rather than something that could happen to any player of a harmful product.

The impact assessment proceeds to set out a rationale for government intervention in the market to set a stake limit, by discussing 'the various market failures within harmful gambling behaviour generally'³:

*A demerit good is a good which has a negative impact on the consumer. Harmful gambling is a demerit good, in that it incurs associated individual costs... Within the context of online slots, **current access to high stakes play clearly exacerbates the risk of consumers engaging in harmful gambling behaviour and suffering associative gambling harm. Gambling harm has a negative impact on the consumer and is a demerit good.***⁴ [emphasis in original]

*Another market failure associated with gambling harm is the presence of negative externalities. These exist when the cost of an action to society is higher than the cost faced by the individual, meaning individual decisions lead to socially undesirable outcomes... Within the context of online slots, **current access to high stakes play clearly exacerbates the risk of behaviour that incurs wider social costs.***⁵ [emphasis in original]

By definition, a demerit good has a negative impact on consumers, but these damaging effects are unknown or ignored by the consumer, resulting in overconsumption. In addition, a demerit good is one that, if consumed, generates costs beyond those borne by the consumer, causing a harmful effect on other parties. In a free market economy, it is assumed that individuals will make decisions regarding consumption based on their expected marginal benefit. Demerit goods deliver a lower benefit to the consumer than they realise at the time of consumption and generate less benefit to the community than the consumer perceives.

² Impact assessment, online slots stake limit consultation, July 2023, Department for Culture, Media and Sport, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173441/Online_Slots_Stake_Limit_Impact_Assessment.pdf 1.

² Ibid 13.

⁴ Ibid 13-14.

⁵ Ibid 14-15.

Consequently, they tend to be over-consumed if left to market forces, leading to a misallocation of resources and market failure. This justifies state intervention in the market.⁶

There is some linguistic contortion here as DCMS states that gambling *harm* is a demerit good, which is peculiar in that consumers are not being sold or buying gambling harm and seems to be the result of the department not wanting to overtly state that gambling is a demerit good. It is part of what is evident throughout the consultation of an effort to continue to attribute the cause of harm to consumers for their 'gambling behaviour', rather than the gambling companies for the design and supply of products. Likewise, the term 'binge gambling', newly introduced by the Gambling Commission, is a stigmatising way of blaming consumers for unaffordable losses in a short period on inadequately regulated activities, which, by their very design, facilitates this.

Nonetheless, despite the effort to avoid the implications of acknowledging gambling as a demerit good, importantly and once again, DCMS is explaining the reason for the stake limit policy is harm to individuals, those close to them and wider socio-economic costs.

Critical success factors

The impact assessment then provides a list of critical success factors against which policy options are to be evaluated:

- *deliverability - how quick and/or achievable is the intervention to deliver*
- *effectiveness - how effective is the intervention in reducing associated harmful gambling behaviour and preventing harm to vulnerable consumers*
- *proportionate - does the intervention deliver an appropriate level of consumer freedom/choice*
- *consistency - does the intervention deliver on achieving an equitable approach to the regulation of the online and land-based industries⁷*

In general, these reflect the government's aims for the Gambling Act review. As with the government aims, there is no inclusion of profit for gambling companies. However, equity of regulation is here described in terms of consistency between online and land-based industries rather than consumer protection relative to risk.

These 'critical success factors' are an operationalisation of the government aims for 'appropriate balance', 'suitably protected' and 'equitable approach', but remain as vague as the White Paper's high-level statement of aims. For instance, what qualifies as enough reduction of harmful gambling behaviour to make the intervention a success? Who counts as a vulnerable consumer? What is the 'appropriate' level of consumer freedom and choice? Proportionality is not defined in terms of commercial freedom, which is right given that DCMS has set out that high-stakes play is a demerit good. But given this, the conception of consumer choice/freedom should be tempered, as, by definition, a demerit good with negative externalities is one that causes an individual to consume more than is good for

⁶ Johansson, P. (1991). *An Introduction to Modern Welfare Economics*. Cambridge: Cambridge University Press. doi:10.1017/CBO9780511582417

⁷ Impact assessment online slots 2023 (n2) 18.

them, generating harm and socio-economic detriment to them, families, employers, communities and society. As the government acknowledges, equitable does not mean identical, but fair and treating all parties in an equal way. But what factors are to be considered to determine what is fair and equal in relation to online and land-based industries?

Using these imprecise critical success factors, DCMS rates each policy option against each success factor using a traffic light system (red, amber, green). What produces each ranking is undefined but must be inferred from the narrative rationale provided for the assessment of each one.

Policy options long list

The impact assessment outlines a long list of policy options: 0) do nothing, 1) voluntary adoption from industry, 2) flat stake limit, 3) risk tiered stake limits and 4) ban provision of online slots. In general, we concur with the rationale for dismissing options 0, 1, 3 and 4.

But option 2, flat stake limits, is categorised as amber for 'proportionality', while option 3, tiered stake limits, achieves a green rating. The reason given for this is 'from a theoretical perspective, robust and uniform customer segmentation would make smart stake limits proportionate in protecting customer freedoms in minimising the disruption to those not being harmed by their gambling'.⁸ However, given the extensive evidence DCMS provides on the risk of online slots in general, including at high stakes, to the player, those around them and society, it is not clear why a flat stake limit does not deliver an 'appropriate' level of 'consumer freedom/choice'. This shows the problems with the vague success criteria and undefined ranking system used by DCMS – the department is able produce evaluations of the options to justify the option it wants.

DCMS is left with one preferred option of flat stake limits, to be attached as a condition to remote casino operating licenses, specifying the maximum stake limit per spin permitted within online slots. It is consulting on:

- What the flat limits should be (maximum of £2, £5, £10 or £15 per spin)
- Bespoke flat limit for 18–24-year-olds (maximum of £2 or £4 per spin or instead requiring operators to consider age as a risk factor, which could justify a range of mitigations, including limiting access to higher staking opportunities on a case-by-case basis).

Central question

DCMS sets out the central question as 'which of the maximum stake limits would most effectively achieve an appropriate balance between preventing harm and consumer freedoms?' By posing the core question in terms of consumer freedoms rather than gambling industry profits or growth, DCMS frames a higher stake as a consumer benefit rather than a benefit to the industry. In this way, the trade-off is depicted as being between competing consumer interests, protection from harm for vulnerable people and consumer freedom. However, in reality, the trade-off is between the interests of all consumers for enjoyable, fair and reasonably low-risk

⁸ Ibid 20.

play, without detriment to others or society, for anyone who chooses to participate, and excessive, exploitative profits to gambling companies.

Consumer freedom or utility is very difficult to define and measure in relation to gambling,⁹ so DCMS can use this nebulously to downgrade a lower stake limit. In the same way, a nebulous appeal to consumer freedom characterises the gambling industry's resistance to regulation. DCMS avoids having to include a concrete discussion of the extent to which the growth of the gambling industry is socially responsible or contributing to a fairer or stronger economy.

Stake limit options

This section discusses the possible stake limits proposed by DCMS, where they appear to originate from and the claim that 'there is no preferred option'. To the contrary, the very selection of the stake limit options strongly suggests that DCMS favours a £5, and the possibility of undue influence from gambling companies.

DCMS explains the origins of the stake limit options in the following way:

In line with formal advice from the Gambling Commission, we have used the current limits on electronic gaming machines (£2 and £5) as a starting point for determining the options for maximum online slots stake levels. However, it is important to note that there are significant structural differences between land-based play and online play and that any maximum stake limits for online slots must be based on an equitable approach rather than a necessarily identical approach.

The range of maximums in land-based premises is from under £1 to a maximum of £5. A maximum stake of £10 or £15 for online slots appears completely outside equitable regulation.

DCMS claimed it was going to engage in an evidence-based gambling review. There is no evidence provided to support considering an online slot maximum of over £5 in the Gambling Commission advice to DCMS for the Gambling Act review or the advice to the Gambling Commission by its:

- Digital Advisory Panel
- Advisory Board on Safer Gambling
- Lived Experience Advisory Panel

As DCMS already knows, reform advocates, who are not financially motivated, will propose £2 or less, whereas operators and those acting in relationships with them, who are financially motivated, will propose £10 or £15. The only evidence provided by DCMS for a maximum above £5 comes from unpublished data from Flutter.

Flutter introduced a maximum stake for slots games of £10 across all brands in 2021, reflecting its data that £10 was an inflection point where customer risk levels started to increase sharply. According to data provided by Flutter, this measure

⁹ Gaming machines and social responsibility measures: RPC Opinion, May 2018, Regulatory Policy Committee opinion on DCMS' impact assessment of the Gaming machines and social responsibility measures <https://www.gov.uk/government/publications/gaming-machines-and-social-responsibility-measures-rpc-opinion>

*impacted the small percentage (4%) of customers who staked at £10 or more on online slots in the year prior to the implementation of measures... In Flutter's experience there was no evidence of displacement to other products, but they estimate approximately a quarter of the revenue derived from stakes over £10 was lost, with customers going either to other licensed operators or the black market.*¹⁰

It is unclear how Flutter knew that their customers were going either to other operators (but in any event, the change in regulation would mean that all licensed operators have the same limits on offer) or the black market. While Flutter maintains £10 is a level at which customer risk increased sharply, we do not know on what basis this risk assessment was made. It is hard not to conclude, looking at the DMCS figures on GGY relative to stake size and volume for the sector as a whole,¹¹ that the reason Flutter set the limit at £10 is that, while the profit from stakes rises incrementally with the size of the stake, over £10 the small volume of staking at this level means loss of profit to gambling companies is negligible.

The regulator's advice to DCMS for the Gambling Act review stated that 'in the absence of existing staking limits, it would make sense for Government to use existing staking levels on gaming machines as a starting position',¹² which would be £1 to £5. DCMS does not discuss why it has discounted £1.

Clean Up Gambling commissioned Vita CA to provide an evidence-based document for submission to the review, dated March 2021.¹³ It included content on pages 113 /114 whereby a £1 maximum for remote slots would provide greater equity, considering all the advantages for gambling companies and all the risks to consumers of remote provision. DCMS ignored evidence from Clean Up Gambling.

Further, the evidence DCMS cites on the effectiveness of stake limits was based on reducing EGM stakes from £10 to £1. This found 'stake reduction appeared to be effective in reducing session length and money spent by people experiencing problem gambling, while only slightly impairing the satisfaction of play for gamblers unaffected by problem gambling'.¹⁴

DCMS is consulting on a range of £2 to £15 maximum stake, but at the same time proposes consideration of a lower stake maximum for under-25s, of £2 or £4. There is no justification for not considering £1 as a lower under-25 maximum unless DCMS has already rejected the over-25 maximum of £2. Similarly, there is no justification for considering £4 as a lower limit unless DCMS already favours a higher limit of £5 for those over-25s.

¹⁰ Ibid 13.

¹¹ Consultation on proposals for a maximum stake limit for online slots games, July 2023, Department for Culture, Media and Sport, <https://www.gov.uk/government/consultations/a-maximum-stake-limit-for-online-slots-games-in-great-britain/consultation-on-proposals-for-a-maximum-stake-limit-for-online-slots-games> Figure 2: Staking behaviour on online slots in 2022/23 financial year and estimated importance for GGY of different staking bands (no page numbers in the document).

¹² Advice to government - review of the Gambling Act 2005, April 2003, Gambling Commission, <https://www.gamblingcommission.gov.uk/about-us/guide/advice-to-government-review-of-the-gambling-act-2005#6ZYFtWrK3D7Xhxbtck9KFB> 29.

¹³ <https://vitaca.co.uk/projects/submission-to-the-gambling-act-2005-review/>

¹⁴ Blaszczynski, A., Sharpe, L. & Walker, M. (2001). The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling; Sharpe, L., Walker, M., Coughlan, M. J., Enersen, K. & Blaszczynski, A. (2005). Structural changes to electronic gaming machines as effective harm minimization strategies for non-problem and problem gamblers. *Journal of gambling studies*, 21(4), 503–520, Impact assessment online slots 2023 (n2) 12.

The £10 and £15 stake options are included in the discussion that follows below. However, it appears these are a red herring, introduced by DCMS for the benefit of the industry so that when the decision is made at a £5 limit, it looks as if this is a middle ground between an ideal for the industry of higher stakes and what reformers have proposed.

Evidence on harm and stakes

This section discusses the evidence DCMS provides on harm linked to online slots and then data on staking patterns, what evidence the department includes and what it leaves out; DCMS has excluded the evidence that would be most relevant to determining what the stake limit should be. Nonetheless, even using only the evidence the department does present, this shows that a significant structural intervention is needed to address online slots' high degree of risk and harm – a lower stake limit of £2.

The evidence on harm shows that online slots very notably outstrip the profit to gambling companies and the harm to consumers of other forms of gambling. Online slots are linked to high losses per consumer, the concentration of losses in a small number of accounts, long sessions, high losses per session, 'problem' and 'at risk' gambling prevalence and people seeking treatment. Online slots are riskier to consumers than online and offline casino games, and land-based machine slots. The greater risk of table games relative to slots in land-based casinos is reversed online. This provides compelling evidence of the level of consumer risk and the necessity for significant structural intervention for online slots of a £2 stake limit or lower.

Further, evidence on staking on online slots shows that the limit should be £2 or less. Staking at higher levels is associated with greater risk to consumers. Operators themselves flagged more than half (52%) of those staking above £2 as at risk. It is £2 that generates a theoretical cap on losses appropriate to levels of discretionary income in Great Britain, to achieve the policy aim of preventing runaway losses causing financial harm. The overwhelming majority of stakes are below £2, so this limit will have no impact on almost all consumer play, while public opinion favours a £2 stake or lower.

Harm and risk

The stake consultation documents provide considerable evidence that online slots are associated with harm to consumers compared to other forms of gambling. Much of the evidence DCMS includes compares slots to other forms of online gambling, rather than land-based gambling and land-based machine gambling, which is needed to make decisions about an equitable approach. Presumably, this is to support the government's decision to introduce stake limits for online slots but not for other casino games. It is especially surprising that DCMS does not make comparisons with FOBTs. Nonetheless, it is worth repeating some of this evidence here. In addition, we have included evidence from other official documents providing online versus land-based comparisons.

To start with, it is important to remember just how profitable online slots are for gambling companies, as measured by GGY. This is the total amount of stakes minus the amount paid out in prizes, representing profit to gambling companies and losses to consumers. As set out by DCMS, online slots have grown from £1.56bn GGY in the year to March 2016 to £3.00bn GGY in the year to March 2022, now nearly a third of the total GGY of £9.9bn across the whole online and land-based sector in Great Britain, excluding lotteries. As of 2021/22, online slots GGY made up 47% of all GGY from remote betting and gaming and over three-quarters of all remote casino GGY.¹⁵

Play data

The impact assessment cites multiple indicators in consumer data of online slots risk and harm.

- Online slots have relatively low (but growing) participation but high GGY, meaning they are associated with one of the highest average losses per customer of any gambling product.¹⁶
- Beyond this high average loss per consumer, losses are relatively concentrated, with 1% of accounts providing 40% of slots GGY.¹⁷
- Online gambling data shows slots are associated with long play sessions, significant unaffordable losses in a very short period, as well as significant unaffordable losses over time, compared to other online gaming activities.¹⁸

Additionally, the Gambling Commission's research into why consumers gamble found that of the 14% of past month gamblers who reported so-called 'binge gambling', 24% had done so on online slots - more than any other gambling activity, including online casino games. Further, it found that of the 35% who had played online slots, 24% had 'binged' online slots. By comparison, of the 62% who had played land-based slot machines, 22% reported 'binge gambling' on these products.¹⁹

'Problem and at-risk gambling' prevalence

The impact assessment states, 'Problem and at-risk gambling prevalence among those who play online slots are notably, and consistently higher than for most other product types.' It cites Public Health England's (PHE) amalgamation of health survey data. This found 'problem gambling' prevalence within participation in online slots, casino, and bingo games is 8.7%, and 44.2% prevalence of 'at-risk gamblers'.²⁰ Further, the impact assessment states that when the British Gambling Prevalence

¹⁵ <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/industry-statistics-november-2022>, cited in Impact assessment online slots 2023 (n2) 4.

¹⁶ Consultation online slots stake limit 2003 (n10) (no page numbers in the document).

¹⁷ Forrest, D. & McHale, I. (2002). Patterns of Play Technical Report 2: Account Data Stage, NatCen and University of Liverpool, prepared for GambleAware https://natcen.ac.uk/sites/default/files/2023-03/Patterns%20of%20Play_Technical%20Report%202_Account%20Data%20Stage%20Report.pdf, cited in ibid (no page numbers in the document).

¹⁸ Impact assessment online slots 2023 (n2) 8.

¹⁹ Understanding why people gamble and typologies, Gambling Commission, <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/understanding-why-people-gamble-and-typologies>, cited in ibid 16.

²⁰ Public Health England (undated), Gambling-related harms evidence review: Quantitative analysis of gambling involvement and gambling-related harms among the general population in England https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1020883/Gambling_evidence_review_quantitative_report.pdf, cited in ibid 7.

Survey in 2010 disaggregated online slots from casino games, it showed 17.0% of regular (at least monthly) gamblers playing slots and online instant wins were experiencing 'problem gambling', compared to 13.9% of regular gamblers playing casino games (online and offline) – although this is now over a decade old.²¹

Meanwhile, the DCMS land-based measures consultation, in discussion of additional machine allowance in casinos, cites the PHE analysis of health survey data finding that 25.7% of those who played on slot (electronic gaming) machines were classified as 'at-risk gamblers' and 4.9% were classified as 'problem gamblers' – around half the rates for online slots, casino and bingo. DCMS remarks:

This covers all venues, not just casinos, but it indicates that increasing the number of gaming machines available to play may come with an associated increase in the risk of gambling harm. However, these rates are lower than the majority of other gambling products, although remain above the at-risk and problem gambling rates for 'any gambling activity'. Notably, these rates are below the at-risk and problem gambling rates for casino table games (31.5% and 6.4% respectively).²²

The Health Survey for England 2021 shows that gambling online generally comes with higher 'problem and at-risk' gambling prevalence.

Using PGSI scores, 0.3% of adults in England were identified as experiencing problem gambling. A further 2.5% were identified as gambling at elevated levels of risk. Among adults who gambled at all in the last 12 months, PGSI scores identified 5.8% as engaging in at-risk or problem gambling (score 1+).

The prevalence of at-risk and problem gambling was higher amongst gamblers when those gambling on the National Lottery only were excluded: 7.9% of individuals who gambled on any gambling activity apart from the National Lottery were identified as engaging in at-risk or problem gambling (PGSI score 1+).

The prevalence of at-risk and problem gambling was higher still amongst gamblers who gambled online. 18.2% of individuals who participated in online gambling activities were identified as engaging in at-risk or problem gambling.²³

National Gambling Treatment Service data

The impact assessment gives an analysis of National Gambling Treatment Service (NGTS) data comparing online slots to other online gambling. Again, with wording that suggests it is because people are 'problem gamblers' they are drawn to playing slots, rather than that slots are a harmful product.

Online sports betting increased from 20.8% in 2015/16 to 26.9% in 2020/21, however has subsequently fallen to 20.1% in 2021/22. Only two other activities saw increases in participation rates among NGTS users from 2015/16 to 2021/22: online bingo and 'other' online activities. These rates increased by around 25%, compared to 230% for online slots. This suggests the increased engagement in online slots among Treatment Service users, many of whom are experiencing

²¹ Wardle, H., Moody, A., Spence, S., Orford, J., Volberg, R., Jotangia, D., Griffiths, M., Hussey, D. & Fiona Dobbie, F. (2011). British Gambling Prevalence Survey 2010, NatCen, prepared for The Gambling Commission, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243515/9780108509636.pdf#page=96, cited in ibid 7.

²² Analysis of gambling involvement and gambling-related harms, PHE (n18) cited in Consultation on measures relating to the land-based gambling sector, July 2023, Department for Digital, Culture, Media and Sport, <https://www.gov.uk/government/consultations/measures-relating-to-the-land-based-gambling-sector> (no page numbers in the document)

²³ <https://digital.nhs.uk/data-and-information/publications/statistical/health-survey-for-england/2021-part-2/gambling>

problem gambling, is exceeding that which might be explained by the wider channel shift from land-based gambling to online.²⁴

These NGTS annual statistics also provide client reporting of gambling activity by location, allowing analysis of slots gambling by location. The 2021/22 statistics include the following slot reporting. Online slot reporting of 38.1% substantially exceeds land-based slot reporting of 22.3%.

Table 1: National Gambling Treatment Service client slots reporting 2021/22	
Bookmaker	9.5%
Bingo	1.3 %
Casino	3.2%
AGC	4.1%
FEC	1.3%
Pub	2.4%
Service Station	0.3%
Members Clubs	0.2%
Land-based slots total	22.3%
Online slots	38.1%

Note: As more than one main activity can be reported the total percentage is in this NGTS column of all activities is around 170%, indicating an average of 1.7 activities per client. The bookmaker reporting identifies two types of machines but does so imperfectly. One machine is a B3 and the other is not a gaming machine but a self-service betting terminal (SSBT) enabling non-over-the-counter non-account (anonymous) remote wagering on race and sports events. The 9.5% refers to the B3.

This is compelling evidence of the level of consumer risk from online slots and the necessity for significant structural intervention, hence a lower stake limit of £2 or less. Indeed, it should be considered a public scandal that a gambling form with this much risk to consumers has been allowed to persist in the market without any regulatory limits, while, in the process, making so much money for gambling companies.

Staking

The data on risk and harm from online slots shows the degree of intervention needed, but there is additional evidence specifically on staking, which shows there should be a stake limit of £2 or lower. However, DCMS has failed to provide the evidence most relevant to determining what the stake limit should be.

Higher staking and risk

Players staking at higher levels are at higher risk. The impact assessment cites data the Gambling Commission requested from gambling companies in April 2021 to understand the association between online staking behaviour and harm (measured through operator-assigned risk score as the best available proxy). This shows the proportion of staking events at each staking level where the consumer was flagged

²⁴ Gamble Aware, Annual Statistics from the National Gambling Treatment Service Great Britain 2021/22 47 https://www.begambleaware.org/sites/default/files/202211/202216_GA_Annual%20stats_report_English_v4.pdf#page=47, cited in Impact assessment online slots 2023 (n2) 7.

by a 'safer gambling' algorithm as low, medium or high risk.²⁵ The table below shows the percentage of gamblers flagged as at-risk and those not flagged as at-risk by staking amount.

Table 2: % of spins by stake size flagged by operator harm detection as at risk

£ stake	Not flagged	Flagged as at-risk
1 or less	63%	37%
Above 1 up to 2	53%	48%
Above 2 up to 5	48%	52%

At-risk comprises low, medium and high-risk categories. The additional proportion of at-risk in each band is driven by an increase in the medium and high rather than low-risk category. The algorithms used are those originated by operators and apply to play with that operator only. If all play were combined across the operators, the at-risk flags would likely be greater, as most players have more than one online account – in fact, the average is around three, while a fifth of 18–34-year-old online players hold five or more accounts²⁶ and those being harmed by gambling tend to have many more. It is inconceivable that it is acceptable from a prevention of harm objective to allow an online slot maximum stake in excess of a point where 50% of gamblers are flagged as at-risk. The conclusion is that the consultation should have restricted the options to £1 or £2.

The impact assessment cites research that those 'individuals with gambling issues on average bet with higher stake sizes, indicating a relationship between stake size and problem gambling'.²⁷ It adds:

*Further analysis of the staking event data itself demonstrated that across all risk groups, the majority of staking takes place at low values: of all stakes by high and medium risk accounts, 87% and 93% respectively were below £2. For example, high and medium risk accounts placed 37.4% of stakes over £10, which given only 2.4% of players were flagged as medium or high risk highlights their overrepresentation among high stakers. However, there is a clear overrepresentation of high and medium risk accounts at higher stake brackets.'*²⁸

Staking data DCMS leaves out

The fact that staking above £2 is associated with higher risk to players is important. But it is also important to remember that the 'objective of an online slot stake limit is to decrease the intensity of losses, through the creation of a theoretical cap on losses per given time period', not to determine a stake limit based on how many 'problem gamblers' stake at a given level. This is also because, as the consultation

²⁵ Figure 2: % of spins by stake size and operator assessed harm detection score Source: Gambling Commission Data request April 2021, cited in ibid 8.

²⁶ Taking a more in-depth look at online gambling: Publication of online survey looking at online gambling behaviour in 2020, June 2021, Gambling Commission. <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/taking-a-more-in-depth-look-at-online-gambling#:~:>

²⁷ Auer, M., & Griffiths, M. (2013). Limit setting and player choice in most intense online gamblers: an empirical study of online gambling behaviour, cited in Impact assessment online slots 2023 (n2) 9.

²⁸ Ibid 9.

acknowledges, most staking by those flagged as at risk or 'problem gamblers' is at low levels below £2.

Given this policy aim, it is surprising that DCMS has not provided two important types of obtainable evidence which go directly to the question of what stake limit would prevent runaway and unaffordable losses. Firstly, it has not modelled maximum theoretical loss to a consumer based on the different proposed stake levels, given the speed and RTP of online slots – or Expected Average Theoretical Cost per hour (EATC/h). Secondly, it has not obtained from gambling companies the consumer data which shows actual outcomes in terms of losses at different staking levels. This real-world data would provide the most compelling evidence as to what stake limit would prevent unaffordable losses.

Majority of stakes

DCMS provides data that the overwhelming majority (97.1%) of stakes are £2 or below, with the mean stake size 60p, meaning almost all consumer play would be unaffected by a £2 limit.²⁹

Public opinion

Public opinion is in favour of a £2 stake limit. A recent poll by Survation for Clean Up Gambling, with a sample size of 2,005, found that 66% favoured a £2 stake limit or less, and indeed, 46% £1 or under.³⁰

Evidence on staking demonstrates the necessity for a £2 stake limit and brings home again the lack of basis for the inclusion of a £10 or £15 stake limit as options.

Costs and benefits

In this section we discuss the assessment of the costs and benefits of the policy options.

The DCMS impact assessment undertakes modelling only of the direct costs to gambling companies of the regulatory change. It only attaches economic value to losses to gambling companies and does not show this in relation to the reduced socio-economic costs of harm or greater economic contribution when consumers spend their money on activities other than gambling. As a result, its policies are presented only in terms of lost economic activity, rather than showing the economic benefit of strong regulatory reform, including a £2 stake limit for online slots.

When a policy will increase gambling company profits – as in the increase in machine allowances and cashless machines in land-based gambling – DCMS has chosen not to show the monetary gain to the gambling industry.

²⁹ Impact assessment online slots 2023 (n2) 25.

³⁰ Survation on behalf of Clean Up Gambling. Methodology: Online interviews of adults aged 18+ living in the UK. Fieldwork: 26th – 31st May 2023. Sample size: 2,005

Further, a low stake limit has an indirect benefit to gambling companies by enabling a more sustainable business model. By creating a level playing field of low stakes for slots, gambling companies do not have to compete based on risk to consumers, which, by the nature of gambling, generates more profit.

Costs to gambling companies

The impact assessment quantifies the impact of the different options in terms of direct costs to gambling companies, made up of transition and familiarisation costs and lost GGY:

The sub-options assessed under the preferred option have an estimated annual net direct cost to business of £26.9m - £266.0m, depending on the maximum stake limit and approach to 18–24-year-olds applied. The total cost to business over the ten-year appraisal period is estimated to be £231.3m - £2,289.6m'.³¹

The transition and familiarisation costs to business are based on estimates from the gambling industry. This comes to between £450 and £1500 per business and between £5m and £10m for the whole industry, affected not by what stake limit is chosen but if there is a different limit for 18-to-24-year-olds.

The other direct cost to business is lost GGY, an ongoing cost. The estimated annual reduction in GGY is modelled for each option. The modelling includes recycling of stakes above the limit of 50% and spend displacement of 15 - 30%. In other words, spending that would no longer be on slots above the limit but still be retained by gambling companies through increased staking at lower levels or play on other products. Further, the department states:

We do not expect that this measure will limit the range or number of suppliers. Most suppliers in the online gambling market offer a variety of products, of which online slot games are just one. Therefore, any reduction in GGY for online slots will likely be absorbed by growth in other products and will not cause suppliers to exit the market (either by choice or due to financial health issues).³²

For the £10 and £15 limit, the modelling produces an annual reduction in the range of £32.8m to £48.7m (1.1 to 1.6 % of total online slots GGY). This is in the region of what the gambling industry has already paid in settlements this year for violations of regulatory codes.³³

The difference between the £2 and £5 is between an 8 – 14% decrease in total slot GGY versus a 3 – 6% decrease or a loss of an additional around £190m annually at a £2 limit rather than a £5 limit (using the central estimates). It is avoiding this loss of profit to the gambling industry that appears to be the only 'evidence-based' justification for a higher £5 stake limit, although DCMS does not wish to state this openly. Above £5 the loss of GGY is negligible because, although each increase in staking level contributes a greater proportion of GGY, there are small numbers of stakes at the higher levels, so the total contribution to GGY is small. However, between £2 and £5 pounds, the staking level produces more profit for companies, so

³¹ Impact assessment online slots 2023 (n2) 27.

³² Ibid 37.

³³ <https://www.gamblingcommission.gov.uk/news/enforcement-action>

operators make more money from fewer stakes, while the volume of stakes remains at a level that means the total contribution to GGY is important.³⁴

So, this is a policy where the commercial implications of £2 or £5 can be summed up as a difference of a loss of £190m a year in GGY. This should be contemplated in the context of the dramatic amount of money online slots make for gambling companies – the £3bn billion of the total £9.9bn GGY across the online and land-based sector in 2021/22. In addition, DCMS does not predict any overall impact on industry: ‘any reduction in GGY for online slots will likely be absorbed by growth in other products.’³⁵

The DCMS consultation on measures relating to the land-based sector does not model the potential profits to the gambling industry of increased gaming machine entitlements (total number and higher stake machines) in casinos, bingo halls and arcades. It states this is because business and consumer behaviour are unknown, a peculiar assertion given modelling is based on assumptions, as is the department’s modelling of losses to gambling companies from online stake limits.³⁶ The result is that there is no estimation of the commercial benefit to the gambling industry of changing land-based slots regulation and any offsetting this provides of the loss of profits from a remote slots stake limit.

Indirect benefits to the gambling industry

The consultation maintains there are no direct or indirect benefits to gambling businesses. However, executives of gambling companies have repeatedly asserted they would prefer a business model based on long-term sustainable relationships with consumers. As the consultation notes, in the context where stake limits are voluntary, companies are competing against others with higher stakes, which necessarily makes them less profitable for shareholders, at least in the short term. This levelling of the playing field with a mandatory maximum slot stake supports executives to achieve their own stated preferred business model.

Socio-economic benefits

DCMS has not provided any modelling of the socio-economic benefits of this policy intervention or the stake limits at the different levels.

Reduced socio-economic cost of harm

The impact assessment acknowledges gambling harm has direct costs to the state (e.g., mental health, services, welfare allowance and incarceration), and that there are a range of indirect costs (e.g., lost productivity) and intangible costs (e.g., wellbeing and relationships) through the damage to players and ‘affected others.’ However, it declines any quantification of a reduction in the costs of harm from its policies. The inability of the lead department to model the socio-economic costs of

³⁴ Figure 2: Staking behaviour on online slots in 2022/23 financial year and estimated importance for GGY of different staking bands, Consultation online slots 2023 (n11) (no page numbers in the document).

³⁵ Impact assessment online slots 2023 (n2) 37.

³⁶ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

harm from a sector it has been regulating under an act nearly twenty years old is remarkable. A cost-benefit analysis is one form economic evaluation which is standard for health, public health and many other areas of government policy.

A report commissioned by the Gambling Commission in 2019 from leading health economists set out methodology, research and reporting recommendations for measuring the socio-economic costs of harm. It asserted it was possible and important to develop the measurement of the socio-economic costs of gambling, including using approaches and estimates well established in areas such as alcohol, mental health or dementia. It stated that, as in these other areas, this should include:

- assessing the costs of the full range of harms, to individuals, society and the state, and at all levels of harm, low to severe
- attributing costs to different areas of the state and society, including in relation to patterns of inequalities
- assessing the cost-effectiveness of actions to minimise harm
- considering the long-term costs of harm and benefits of actions over the long term

The report highlighted that gambling is anomalous as it is a public health issue to which health economics has not been applied, and that this was often justified on the basis that causality could not be proved and estimates were not exact. Standard practice in other areas of public health and addiction is plausible attribution and development of estimates and simulation models which are refined over time.³⁷ The impact assessment states:

*We cannot accurately estimate the overall cost of gambling harm, which would form the basis of switching analysis. Moreover, even if it was possible to estimate the benefits from reduced costs, it would not be proportionate, nor analytically rigorous, to estimate the size of the causal effect of various stake limits on reducing gambling harm and achieve these benefits.*³⁸

It is hard not to see this as another excuse in this line, which justifies continued policymaking in the interest of industry profits.

DCMS writes:

*The ability to access high stakes contributes to a significant risk for gamblers to lose large amounts of money rapidly and a clear association to harmful gambling behaviour. Therefore, a stake limit is likely to reduce session losses and the potential for harm and associated costs to occur, even if they cannot be quantified.*³⁹

Taking just one of the outcomes of unaffordable session losses, gambling-related suicide⁴⁰; PHE estimated that:

³⁷ McDaid, D. & Patel, A. (2019) Measuring Gambling-Related Harms: Methodologies & Data Scoping Study Final Report, Care Policy and Evaluation Centre, London School of Economics and Political Science, prepared for the Gambling Commission
https://assets.ctfassets.net/j16ev64qyf6l/2ekwzjSuvpGRC0vlyXrfls/c27e65ab43bc179a0c3c06c24df164f9/Measuring_gambling_harms_methodologies_data_scoping_study.pdf

³⁸ Impact assessment online slots 2023 (n2) 30.

³⁹ Ibid 30.

⁴⁰ Marionneau, V., & Nikkinen, J. (2022). Gambling-related suicides and suicidality: A systematic review of qualitative evidence. *Frontiers in psychiatry*, 13, 980303. <https://doi.org/10.3389/fpsy.2022.980303>

The between 117 and 496 suicides associated with 'problem gambling' or 'gambling disorder' results in a cost of £241.1 million to £961.7 million in 2021 to 2022 prices. This cost represents the societal value of the life years lost as a result of excess suicides associated with gambling.⁴¹

We are not claiming that this policy will stop this loss of life. But in the absence of any quantification by the DCMS of socio-economic benefits, it does indicate the scale of just one socio-economic cost of gambling harm, in relation to the £190m loss of gambling company profit at a £2 versus £5 stake.

Increased economic contribution from other activities

Arguments against regulatory reform often take the form that a constraint on gambling companies making money causes economic detriment to Great Britain. However, money not spent by consumers on gambling creates a greater economic contribution when spent on other activities with better tax and economic multipliers and greater benefits within local economies. Analysis by the Social Marketing Foundation found that gambling has low economic 'multipliers' compared with most other parts of the economy – for each pound spent on gambling, the uplift to Gross Value Add (GVA) and jobs is lower compared with spending on most other goods and services. Broadly speaking, GVA measures the value of goods and services produced by an industry, minus the value of intermediate consumption - the goods and services purchased by the industry as part of its operations. The report found:

A key driver of the limited economic multipliers for gambling is the fact that the industry has one of the 'shortest' supply chains of the entire UK economy. Consumer spending on gambling does little to create activity elsewhere in the economy, with a relatively high amount of gambling spend absorbed by the industry itself. The economic multipliers for gambling are significantly lower than for other items that consumers might reasonably purchase in instead of gambling – such as retail goods and food services.⁴²

In addition, the report estimates that gambling has a lower tax multiplier than other consumer sectors such as retail and food services.

The economic contribution of the gambling industry is not additional to what would have taken place if gambling did not exist, as households would spend this money elsewhere, and with a net economic benefit of spend elsewhere in areas with greater economic multipliers. The report estimates that is if net gambling spend declined by 10% (about £1bn) and individuals spent money on retail instead,

- GVA would be £311m higher.
- The number of jobs in the economy would increase by 24,000.
- The Exchequer would receive an additional £171mn in tax revenues.⁴³

⁴¹ Public Health England, The economic and social cost of harms associated with gambling in England, Evidence update 2023, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128002/The-economic-cost-of-gambling-related-harm-in-England_evidence-update-2023.pdf 45.

⁴² Corfe, S., Bhattacharya, A. & Shepherd, J. (2021). Double or nothing? Assessing the economic impact of gambling, Social Market Foundation, <https://www.smf.co.uk/wp-content/uploads/2021/03/Double-or-nothing-March-2021.pdf> 6.

⁴³ Ibid 7.

This shows the economic benefit of strong regulatory reform. Consequently, a loss of £190m to gambling companies would result in overall economic gain for the economy and exchequer.

Equitable approach

In this section, we discuss an equitable approach to land-based and remote gambling in terms of the commercial advantage and lesser economic benefit the remote sector has relative to land-based gambling.

DCMS is steering the outcome to a £5 limit by making online slots equivalent with machines in land-based casinos, rather than the lower stake £2 or £1 machines in bookmakers, bingo halls, arcades and pubs. This is contrary to DCMS's own assertion that equity should be determined considering the structural differences between land-based and online gambling.

The impact assessment states that 'there are significant structural differences between land-based play and online play and that any maximum stake limits for online slots must be based on an equitable approach rather than a necessarily identical approach.'⁴⁴ However, the department then implies a £5 limit, available only in casinos, would give the most equitable approach, because 'consequently, there would not be a significant divergence between stake limits across online and land-based products.'⁴⁵

DCMS does not provide any criteria by which equity could be assessed and provides no significant discussion on the structural differences between land-based and online markets, allowing the department to steer the outcome to a £5 stake limit. At no point does government say equity should be defined in commercial terms or as profitability. And yet, it is hard not to conclude the reason DCMS is driving the outcome towards a £5 rather than £2 limit is the protection of remote operator profits.

In addition, the reasons DCMS provides for the reforms to gaming machine regulations in the land-based sector include the commercial viability of bingo halls and arcades and gaming in pubs (and other alcohol license premises) and 'enabling land-based casinos to be more competitive against remote casinos.'⁴⁶

Based on this policy objective and the differences in the markets, profitability and economic contribution between land-based and remote gambling, the more equitable approach in these terms would be a £2 online stake limit.

Market size and supply

To start with, supply and market size. Following DCMS proposed changes to land-based gaming machine regulations, we project that, across the entire land-based

⁴⁴ Impact assessment online slots 2023 (n2) 22.

⁴⁵ Ibid 31-32.

⁴⁶ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

premises, there will be 5,000 machines with £5 stakes (in casinos), 80,000 with £2 stakes and 60,000 with stakes of £1 or less. In land-based gambling, play is limited to one seat or player per game at any one time. By contrast, online, a vast number of sites (many consisting of white labels or brands owned by the same multi-national company) offer many thousands of games without limit on the number of people who can play them simultaneously. While only 5,000 people at most might be playing on a £5 casino machine at any time, in theory, 50m people could be playing online.

Table 3: Availability of land-based slots in GC licensed premises						
Type	B1	B2	B3	B4	C	D
£ max stake	5	2	2	2	1	
Quantity	3,142	7	48,816	106	72,394	26,793
Projected	5,000		80,000		35,000	25,000

Note: Some D machines are at lower than £1 maximum. Projections are based on DCMS proposed changes to land-based gaming machine allowances. Projections for casinos include assumptions that there will be some limit to the machine allowance take-up due to physical space. For other premises, it is assumed there will be the maximum take-up of higher stake machines at the new ratio.

Further, online slots are available to anybody, anytime and anywhere. Land-based slots are only available to gamblers accessing those premises during opening hours. An online operator is marketing to every current and potential account holder. The land-based operator, even one with a national presence, is only marketing to those within proximity to the premises and who have a propensity to enter the premises.

Cost of doing business

The land-based sector requires expenditures of machine purchase or leasing and of staffing, maintenance, and utilities, among other operating costs, meaning that online slot game operation is not as costly as land-based operation. Additionally, the land-based sector is paying all taxes in the UK, whereas the online sector is mostly based offshore, enjoying the benefits of less taxation and lower corporation taxes.

Economic contribution

Consequently, the land-based sector makes a greater economic contribution relative to size, compared to the remote sector. DCMS allows online gambling to operate from offshore and it has even shorter supply chains and is more profitable than land-based gambling, meaning that the tax and economic multipliers and macroeconomic benefits – already low for gambling – are even lower for remote gambling. Indeed, online slot games provided by offshore companies are particularly likely to have an overall economic detriment because of their strong association with harm and the resultant socio-economic costs incurred in Great Britain, along with the negative impact of removing funds from the country.

By contrast, DCMS argues for changes to gaming machines for the land-based sector because of the indirect economic benefits: 'A healthier land-based gambling sector, able to compete on a more even basis with similar online gambling opportunities, is likely to support local employment opportunities, regeneration effects and contribute

to business rates.’ It cites Gambling Commission industry statistics published in May 2020, that the land-based sector is estimated to employ approximately 80,500 people.⁴⁷ It remarks on the importance of arcades to seaside town economies, referring research commissioned by the trade association bacta in 2018, which found that seaside arcades contributed £451m to UK GVA and were responsible for employing around 19,000 people.⁴⁸ The consultation also states:

*We anticipate there may be some wellbeing benefits resulting from the continued existence of bingo halls, supported by revision of the 80:20 rule. Anecdotal evidence suggests that for some individuals the option of attending physical bingo premises delivers substantial social benefits which would be lost if the sector is not supported.*⁴⁹

One may not agree with a national government economic strategy based on improving the profitability of local commercial activities through increasing the likelihood they cause harm – as DCMS acknowledges, increasing gaming machines in venues and making them cashless is likely to increase the harm to consumers.⁵⁰ DCMS does not provide any independent quantification of the economic benefits of land-based gambling, relative to the socio-economic costs of harm, and other possible economic activity, including for local authorities and local communities. But nonetheless, plausibly this is greater than remote gambling.

Prize limits

Unlike land-based slots where there are prize limits, there are no limits on prizes in online slot games, and DCMS is not considering this option. Games are often promoted on the size of their jackpots, and this can influence staking behaviour, as people will stake at a higher level to have the chance to win the maximum prize. This can include when trying to recoup heavy losses (loss chasing).⁵¹ No thought was given by the DCMS in their consultation as to how prizes influence or attract consumers, in the context of seeking an ‘equitable approach’ between land-based and remote sectors and greater commercial viability for land-based gambling.

Comparison with land-based casinos

In favouring a £5 stake (or more), DCMS tries to make online slots equivalent to gaming machines in casinos rather than bingo halls or arcades. However, online slots should be compared with land-based bingo and arcades, not with casinos.

To offer online slots, gambling companies need what is called a ‘remote casino operating license, allowing them to provide poker, roulette, blackjack and other casino games, as well as online slot games through websites, mobile phones, TV or other online service.’⁵² However, remote providers are not governed by any

⁴⁷ <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/industry-2020>, cited in Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

⁴⁸ <https://bacta.org.uk/2020/01/20/economy-seaside-arcades-uk/>, cited in ibid (no page numbers in the document).

⁴⁹ Ibid (no page numbers in the document).

⁵⁰ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

⁵¹ Understanding consumer journeys, Gambling Commission, <https://www.gamblingcommission.gov.uk/about-us/guide/understanding-consumer-journeys-introducing-the-path-to-play>; www.tacklinggamblingstigma.com

⁵² <https://www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees/remote-casino-operating-licence>

restrictions as to the ratio of table games to slots as in land-based casinos. Online slots may be operated with no table games offered. Online brands market themselves as bingo and arcade providers of low-stakes and 'community-friendly' play. However, they are operating under remote casino licenses to provide slots, with none of the restrictions on the number of machines or £2 or less stakes present in land-based arcades or bingo venues.

Remote slots compete against all land-based slots, not just the less than 3% of land-based slots located in casinos. While land-based casino table game revenue is far higher than casino slot revenue, if the total land-based market for slots is compared with casino table games, then the revenue ratio of slots to other casino games in the land-based sector is closer to that for remote.

This less than 3% amount is an important data point. DCMS allows the Gambling Commission to continue licensing operators whose revenue from an illegal market (defined as unregulated, pre-regulated, black or grey) is below 3%. So less than 3% is not a substantial enough amount to question operator morals, ethics, integrity or compliance with civil legality. By contrast, DCMS appears set to use the less than 3% of land-based slots in casinos to justify a £5 online slot stake maximum.

Based on Gambling Commission data on gaming machines in licensed premises, and our projections of the proposed changes to gaming machine allowances, the average maximum stake per machine will be in the proximity of £1.70. When taking all machines into account, including 150,000 in pubs and members clubs, it will be in the proximity of £1.20. This means the most equitable approach between land-based and online slots is a maximum £2 stake.

Further, in the land-based measures consultation, DCMS places particular emphasis on enabling land-based casinos to be more competitive. Whether or not one agrees with this policy aim, it seems contrary to this aim to allow any company with a remote casino operating license to offer slots at or equivalent to land-based casinos. The consultation states:

Land-based casinos, which provide employment and contribute to the night-time leisure and tourism economy, were like other sectors of that economy severely impacted by the COVID-19 pandemic. Ensuring that regulation of land-based and online sectors is more equitable will assist recovery and enable the sector to remain viable.... Additional machines in casinos, may lead to increased popularity/GGY of casinos which could have knock-on benefits to surrounding businesses or other sectors which are closely interlinked with it, for example the food and beverage or advertising sectors. A further advantage would be allowing operators to create an experience which competes with international gaming jurisdictions and elevates the reputation of Britain as a gaming destination for international gaming tourists.⁵³

To achieve this aim, it makes more sense to provide a competitive advantage over remote online slots through allowing £5 stake slots gambling exclusively in land-based casinos.

⁵³ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

Suitable consumer protection

In the government's aims for the Gambling Act review, the emphasis for an equitable approach to land-based and remote gambling is to 'make sure customers are suitably protected whenever and wherever they are gambling'. Having considered structural differences between land-based and remote gambling in commercial terms, it is now important to think about these in terms of consumer protection and risk.

The DCMS justification for considering higher online stake limits is 'due to account-based play online and the associated protections which are not required or easily replicable in land-based products.'⁵⁴ However, account-based protections have proved to have limited efficacy, at least in the way gambling companies use them. Further, as DCMS acknowledges, these are limited by a lack of standardisation across operators and because they do not cover a consumer's multiple accounts with different companies. In addition, where the aim of the policy under consideration is to limit runaway losses, the session-based protections of land-based gambling may provide more protection than account-based measures.

DCMS has declined to address the structural features of gambling online which make slots in this context more dangerous – an endless array of habit-forming gambling products, within habit-forming gambling websites and apps, linked to habit-forming online platforms and social media, with personalised marketing, all using data driven behavioural nudges – dark patterns – to drive consumer behaviour, all the time and everywhere.

Consequently, achieving equity in consumer protection requires strong control on product characteristics and a lower online slots stake limit of £2 or less.

Structural characteristics of slots

In gambling, there is a relationship between company profitability and consumer harm. GGY equals losses to players. The longer duration, at higher speed and at higher stakes people can be induced to play, the greater the profit to the gambling company. More intensive play and greater losses generate greater financial (and other) harm to consumers. The features which make slots immensely lucrative to gambling companies make them dangerous for consumers.

Slots are well-established in the literature as a form of gambling with a high risk of harm and addiction.⁵⁵ As acknowledged by DCMS, this is because of the 'structural characteristics' of high speed and the creation of repetitive, continuous and ongoing play (although DCMS attributes so-called 'problem gambling' and related harm to

⁵⁴ Impact assessment online slots 2023 (n2) 31.

⁵⁵ Livingstone, C. (2017). How electronic gambling machines work. Australian Gambling Research Centre, <https://aifs.gov.au/resources/policy-and-practice-papers/how-electronic-gambling-machines-work>; Yücel, M., Carter, A., Harrigan, K., van Holst, R. J., & Livingstone, C. (2018). Hooked on gambling: A problem of human or machine design?. *The Lancet Psychiatry*, 5(1), 20-21.

the products such players choose to use rather than what gambling companies supply).⁵⁶

In slots, random number generators do not have a one-to-one relationship with reels, and multiple reel games allow many combinations of symbols. In this way, games can be engineered to deliver 'game events' after each spin, such as near misses and frequent prize payouts, including those less than the amount staked. Slots offer a master class in the use of behavioural conditioning through the generation of frequent but unpredictable 'rewards', which appear to be controlled by some action of a consumer but are produced by a set of algorithms and odds players cannot fathom and which are stacked against them.⁵⁷ These same techniques are used by designers of online platforms and social media to generate consumer 'absorption' and 'dependence'.⁵⁸

Like online platforms and social media, slots are designed to produce 'time on device' or 'time on website, app or platform'.⁵⁹ As acknowledged by DCMS, given the 'statistically adverse odds on online slots machines', playing over time leads to loss, and 'higher stakes by definition lead to larger losses when playing for longer periods'.⁶⁰

Structural characteristics of online gambling

While slots generally have structural characteristics associated with harm, this is compounded when they are located online within the structural features of the online gambling ecosystem.⁶¹ These features greatly contribute to consumers experiencing runaway and excessive losses, which this policy intervention aims to prevent.

Availability and accessibility

By being online, gambling in general attains the high-risk characteristics of being fast, continuous and intensive.

There are 1000s of gambling websites and apps online, with countless variations of slot games, facilitated by different 'skins' on games that are largely the same, as well as variants of reel-type games such as slingo (a hybrid of bingo and slots). In addition, online, all types of gambling are easily available to players at the same time. This means consumers have a seemingly endless array of slots to choose from and try out and it is possible to move rapidly between different slot games as well as and other types of gambling. Further, playing simultaneously on multiple slots or gambling activities is possible. This is a risk to consumers that the Gambling Commission has identified. It has banned operator-enabled simultaneous play on

⁵⁶ Impact assessment online slots 2023 (n2) 8.

⁵⁷ Livingstone (2017) (n55).

⁵⁸ Digital Advisory Panel Advice: Impact of online platforms, recommendations to the Gambling Commission, <https://www.gamblingcommission.gov.uk/licencees-and-businesses/guide/digital-advisory-panel-advice-on-the-impact-of-online-platforms-on-gambling>

⁵⁹ Schüll, N. D. (2012). *Addiction by design*. Princeton University Press.

⁶⁰ Impact assessment online slots 2023 (n2) 38.

⁶¹ Akçayır, M., Nicoll, F., & Baxter, D. G. (2023). Emerging Gambling Problems and Suggested Interventions: A Systematic Review of Empirical Research. *Journal of Gambling Studies*, 39(2), 857-882.

multiple slot games and is seeking to extend this regulation to ban operator-enabled simultaneous play on all casino games.⁶² However, this does nothing to prevent the risk from online gambling due to consumers being able to gamble simultaneously on multiple slots and gambling types across multiple websites and apps.

More than this, fast, intensive and continuous slots, situated in a fast, intensive and continuous gambling experience in general, are available non-stop, from anywhere via personal devices and without the constraints of closing hours or travel to a gambling venue. The Gambling Commission's consumer journey research identifies access and availability as a trigger to so-called 'binge gambling'.⁶³

Even though an individual now has a thousand casinos in their pocket, an often-given example of why a review of gambling regulation was needed, the government has decided to do nothing regarding the availability or accessibility of online gambling.

Social norms

Gambling in a venue involves, to a significant extent, attending with others or being part of a social setting or group. It tends to make a player's gambling visible to others in their social group or community. This plays a role in inhibiting people's gambling as they can be concerned about their social standing and fitting in with what is socially acceptable and being judged if they do not. By contrast, private online gambling on personal devices, especially smartphones, allows gambling to be isolated and hidden from others. It is where people tend to start to gamble on their own and become more involved in gambling, outside the confines of their immediate social group. It enables both unobserved 'binge gambling' and escalating losses over time.⁶⁴

Additionally, there are no controls online as to the simultaneous consumption of other intoxicating and addictive products, such as alcohol, which can disinhibit and result in riskier play. There are some controls in alcohol-licensed premises.

Cashless

The DCMS consultation on land-based measures recognises the risk of cashless payments, in the context of lifting the prohibition on the use of debit cards for direct payments to gaming machines. It remarks, 'While it is important to future-proof gaming machine payment methods, there must be a balance between this and any elevated risk of harm that could emerge from allowing direct cashless payment methods to be used for gambling'.⁶⁵ The Gambling Commission's own consumer research found that 85% of land-based gamblers reported that paying via a cashless payment method (such as debit card or contactless play via mobile phone) made it easier to spend more than originally intended, and 66% said that using cashless

⁶² Summer 2023 consultation on proposed changes to Licence Conditions and Codes of Practice (LCCP), Remote Gambling and Software Technical Standards (RTS), arrangements for Regulatory Panels, Gambling Commission, https://consult.gamblingcommission.gov.uk/author/summer_2023_consultation_lccp_rts_regpanels/

⁶³ <https://www.gamblingcommission.gov.uk/about-us/guide/understanding-consumer-journeys-introducing-the-path-to-play>

⁶⁴ Ibid; www.tacklinggamblingstigma.com

⁶⁵ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

payment methods made it feel like they are spending less money than they actually are.⁶⁶ DCMS cites the evidence that 'cashless payment methods are associated with increased expenditure in comparison to the use of cash, which can lead to unintended consequences for consumers (including overspending and a higher willingness to pay).'⁶⁷

To mitigate such risks, DCMS is consulting on including a range of protective measures for the land-based sector as gaming machines become cashless. This includes limits on how much can be put into a machine with a debit card, limits on how much can be deposited in a single action, enforced breaks before a card can be used on a machine again, and specific safer gambling messages about cashless play alongside forced breaks in play.

There are multiple ways of making instant, limitless, cashless payments online, and no such protections exist. Further, online gambling is entirely cashless, including in the payment of winnings, such that people stop perceiving this as involving 'real' money, which contributes to the re-staking of any winnings and the cycling of amounts of money through gambling accounts, which in other contexts, consumers would regard as excessive.⁶⁸

Dark patterns

The Gambling Commission Digital Advisory Panel (DAP) has warned of the dangers of habit-forming web and mobile apps for online gamblers. Its advice for the Gambling Act review explains that 'dominant companies in this field have succeeded in creating a user base that voluntarily spends hours each day engaged with their apps. Indeed, these companies have been so successful that there are widespread concerns about the negative effects of digital dependency'.⁶⁹ It continues:

A whole playbook of techniques has been identified that can be used to get users engaged with mobile apps and web-based products for as long as possible. One of the easier techniques to quickly understand is the Hook Model. This model calls for app developers to create a looping cycle that consists of a trigger, an action, a variable reward and continued investment. The objective is to create habit-forming products: habits being an acquired mode of behaviour that has become nearly or completely involuntary. At the heart of the Hook Model is a powerful cognitive quirk described by B.F. Skinner in the 1950s called a variable schedule of rewards... Skinner identified that variability is the brain's cognitive nemesis and that our minds make a deduction of cause and effect a priority over other functions like self-control and moderation.

The DAP concludes:

The risk for online gamblers is clear in our view. If the operators adopt the techniques that have been successfully used by the technology companies and digital content creators to stimulate engagement and habit-forming gambling apps, there is a substantial risk that they will create a huge cohort of gamblers with a

⁶⁶ Consumer views on cashless payments in land-based gambling, June 2021, Gambling Commission, <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/consumer-views-on-cashless-payments-in-land-based-gambling>

⁶⁷ <https://responsiblegambling.vic.gov.au/resources/publications/what-is-the-impact-of-cashless-gaming-on-gambling-behaviour-and-harm-1021/>

⁶⁸ <https://tacklinggamblingstigma.com/gambling-experiences/money-loses-meaning/>

⁶⁹ Digital Advisory Panel Advice: Impact of online platforms, recommendations to the Gambling Commission, <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/digital-advisory-panel-advice-on-the-impact-of-online-platforms-on-gambling>

*stronger and potentially compulsive gambling habits, and some of those users will inevitably become problem gamblers. Since this likelihood will be amplified by the easy and anytime gambling opportunity presented by mobile technology, the result could be an epidemic.*⁷⁰

People describe checking gambling apps and sites as routine when they check their phones and social media – which in Britain is on average every 12 minutes of the waking day.⁷¹ The DAP recommends that the Gambling Commission should ‘regulate the use of software techniques for mobile apps and web-based gambling sites that promote addictive and compulsive usage’, based on ‘reversing the advice on habit-forming apps.’⁷²

Online platforms are based on getting consumers to engage to generate data that other companies can use to sell products and services to them. Companies make use of the social nature of social media to build close affinity between consumers and their products and services. This is the purpose of content marketing: companies produce material that will appeal to people’s interests and generate positive feelings, often mimicking user-generated content, without directly advertising a product or a service. This is shared by consumers through their social groups, thus increasing exposure to the brand and affinity, as the post appears to come from someone in one’s social network rather than a company. Further, algorithms on platforms shape what consumers see by promoting more content based on what they have shown interest in, meaning that the more of a type of content a consumer looks at, the more of it they will see. These are all features that gambling companies have harnessed very effectively.

Further, gambling companies have used tracking and profiling software that combines their data on consumer play with other data about the players to nudge their behaviour in targeted, personalised and responsive ways. This includes direct marketing through emails, text messages, app notifications, and social media direct messages, often with incentives to gamble like ‘free offers’; marketing that follows the consumers based on their online profile as they move through digitised spaces; and content marketing permeating social groups.

The use of behavioural nudges powered by data to drive consumer behaviour for profit and contrary to individual and societal interests – termed dark patterns – is a matter of international concern. There is irony in the DAP use of the example of the ‘hook mechanism’, given that all of gambling is based on the ‘hook mechanism’ of intermittent rewards, combined with features that give players an exaggerated sense of control over the outcome – which is why it is extremely habit-forming and ‘addictive’. While DAP can perhaps be excused for not knowing this is the basis of gambling, it should be well understood by the Gambling Commission and DCMS.

As with access and availability, the government and the regulator have determined to do little to nothing in the White Paper regarding these structural features of the online environment. This is despite the first aim of the Gambling Act review being to reflect changes ‘particularly due to technological advances’ and DCMS being responsible for ‘digital’ and online safety as well as gambling. DCMS has not

⁷⁰ Ibid.

⁷¹ Ofcom, cited in *ibid.*

⁷² Digital Advisory Panel Advice (n69).

engaged with what it means to use dark patterns in the context of gambling as a demerit good.

Online platforms and gambling companies are encouraged to target advertising away from 'vulnerable people' (undefined). The White Paper's response to the strong warning from the DAP is limited to barriers and friction in obvious parts of the 'customer journey' and setting the expectation that these 'should only be used to keep customers safe, rather than dissuade customers from acting in their own interest or to frustrate the fulfilment of operators' other obligations'.⁷³ This is 'tinkering' with isolated and basic nudges and is insufficient to address the many sophisticated techniques, such as the hook model, designed to drive people's continual engagement and gambling.

Gambling companies are exhorted to adhere to voluntary advertising standards that were developed for traditional media and do not work online or for content marketing. DCMS and the regulator acknowledges the considerable evidence of the risks posed by direct marketing and promotional offers in incentivising gambling that is not in a consumer's interest. The response is to make it a regulation that gambling companies adhere to a basic of good practice in data protection – consumers be able to opt-in to what marketing they receive via which channel. DCMS states, 'Operators do not generally compete on stake limits or other game design elements but on promotional offers such as free bets and bonuses.'⁷⁴ The regulator then puts the responsibility onto consumers to opt out of what has brought them to sign up for an account in the first place and what is presented to them as a customer benefit.

In online gambling, we have gambling products based on habit-forming techniques embedded within gambling web platforms that use habit-forming techniques, which are also embedded in online platforms and social media using habit-forming techniques. This generates data on consumers and their behaviour, which is aggregated and tracked for personalised marketing and behavioural nudges, tailored to the individual and adapted based on what they do. From this, limitless opportunities to gamble are available 24/7, anywhere, at a click, uninhibited by social judgement and in secret, powered by instant cashless payments and cashless play.

The fact that online slots are embedded in this digital ecosystem makes them so profitable to companies and so risky and harmful to consumers. The structural characteristics of online versus offline gambling mean that equity in consumer protection requires a lower slot stake limit online of £2 or less.

Quality of monitoring

DCMS suggests that its decision to do nothing regarding the relentless marketing, availability, and accessibility of online gambling is part of the evolution of gambling regulation. Its consultation on land-based measures states: 'Restrictions on supply were originally viewed as an important protection in the 2005 Act, but in the light of

⁷³ White Paper (n1) 122.

⁷⁴ Impact assessment online slots 2023 (n2) 38.

the availability of remote gambling, the characteristics of products and quality of monitoring have assumed greater importance.⁷⁵ This runs counter to the evidence that restricting the accessibility of electronic gaming machines, rather than different structural features, is more effective in lowering gambling harm.⁷⁶ Nonetheless, in the context of establishing what stake limit would constitute equity in consumer protection, we consider the 'quality of monitoring' for online and land-based gambling.

Account-based monitoring

The argument that online, gambling companies can protect players by intervening only with those 'at risk', based on monitoring accounts, has long been used by gambling companies, DCMS and the regulator to justify the lack of limits online as to what gambling companies can sell to consumers and what they can do to get them to buy. Repeated iterations of 'remote customer interaction' codes by the Gambling Commission have added more detail on the risks gambling companies are supposed to monitor accounts for. However, there is no standardisation on how companies assess risk or what they must do about it. This is the same for the new criteria around financial harm and financial vulnerability as contemplated in the White Paper and as currently set out by the regulator in its consultation.⁷⁷ Indeed, this limitation of account-based protections is noted by DCMS in the slots stake limit consultation:

Operators all have different approaches to ascribing risk scores. This is because the regulatory regime is outcomes based, and does not include prescriptive processes across all operators for the identification of and responses to risk... even following harmonisation, the detection of harm based solely on play data is not yet such a sufficiently established safeguard to control access to higher stakes within online slots. Therefore, in its current form it would only be partially effective in being able to reduce harmful gambling behaviour, as there is too high a risk that customers who are being harmed would not be prevented from accessing high stakes slot play.⁷⁸

Rather, the regulatory dependence on account-based monitoring enables gambling companies to gather and analyse more and more consumer data, increasing the imbalance between operators and players. The failure of this approach can be seen in the repeated regulatory action against gambling companies for not intervening to prevent harm through account monitoring. Instead of being a successful consumer protection, the available data suggests gambling companies have built the regulatory settlements into the costs of doing business, and regulatory action costs them less than would effective risk-based intervention.

Session-based monitoring

DCMS makes much of land-based casino use of 'technological developments' to 'introduce a greater range of customer protections.'

⁷⁵ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

⁷⁶ Russell, A. M. T., Browne, M., Hing, N., Rockloff, M., Newall, P., Dowling, N. A., Merkouris, S., King, D. L., Stevens, M., Salonen, A. H., Breen, H., Greer, N., Thorne, H. B., Visintin, T., Rawat, V., & Woo, L. (2023). Electronic gaming machine accessibility and gambling problems: A natural policy experiment. *Journal of behavioral addictions*, 10.1556/2006.2023.00044.

⁷⁷ Summer 2023 consultation (n62).

⁷⁸ Impact assessment online slots 2023 (n2) 20.

Since 2018, many casinos have adopted a range of measures that enhance machine protections including:

- *tracking and monitoring of customer expenditure across all gaming products in real time, with staff equipped with tablets showing live data*
- *enhanced due diligence measures, with trigger values for spend and loss applied to customers*
- *the ability for customers to set their own time and loss limits directly at electronic terminals and gaming machines.*⁷⁹

Some account-based monitoring is possible in casinos via loyalty programmes, but casino consumer monitoring is mainly session-based. This is different to online, where monitoring and interventions are largely account-based. Such session-based protections in casinos seem more appropriate to prevent runaway or 'binge' losses on slots, which is the purpose of this policy, than account-based protections online in relation to a consumer's play overall and over time. This further supports the argument for the high £5 stake only being available in casinos.

Controls on product characteristics

DCMS decided not to limit accessibility and availability or to significantly address the structural characteristics that make gambling online harmful and risky. Account-based monitoring lacks the efficacy to protect consumers and specifically prevent 'runaway losses'. This means that what is left is consumer protection through product controls, and that product controls on online slots should be significant if customers are to be 'suitably protected whenever and wherever they are gambling'.

Additionally, the stake limit should be set in relation to the other high-risk structural characteristics of online slots, the very high speed and addictiveness due to the way they use behavioural nudges.

In 2021, the Gambling Commission banned four key features of online slot games: features that speed up play or give the illusion of control over the outcome; slot spin speeds faster than 2.5 seconds; auto-play which can lead to players losing track of their play'; and sounds or imagery which gives the illusion of a win when the return is in fact equal to, or below, a stake. By the regulators own evaluation, this has had minimal impact on player behaviour.⁸⁰ This is not surprising given that this regulation, in effect, consists of limiting speed to a very rapid 2.5 and requiring that the noise a game makes when a player loses overall on a spin cannot be the same as the noise made when a player wins – but not banning the associated of any noise or stimulating event with an overall loss on a spin, or addressing the many behavioural conditioning techniques in slots.

Indeed, analysis of GGY and turnover for slots versus other remote casino gambling for the two years before the regulations were enacted and the most recent 12 months showed that these measures failed to reduce GGY for slots compared to other remoted casino games, during the period in which the economy opened up

⁷⁹ Consultation on measures relating to the land-based gambling sector 2023 (n22) (no page numbers in the document).

⁸⁰ Impact assessment online slots 2023 (n2).

post COVID, leading to a fall in GGY for remote gambling.⁸¹ The government acknowledges an association between losses to consumers and harm; the report concludes:

*If the player protection regulations had worked as intended, we would have expected GGY and turnover for slots to decline following the introduction of the regulations, by at least as much as for other types of remote casino gambling, if not more. Instead, the opposite has happened; slots play has not declined anywhere near as much as other gaming types, and the share of slots in total GGY and turnover for remote casino gambling has actually increased.*⁸²

Speed of play, in particular, relates to how much can be lost in a given time, as well as contributing to players 'losing control' and slots at 2.5 seconds a spin remains faster than other online casino games at 5 seconds and machines at 20 seconds.

As DCMS states, a £2 stake 'would be the strongest structural limit to mitigate the risk of players incurring runaway losses' and is required in the context of the high-risk online gambling environment and in relation to the fast speed and addictiveness of online slots.⁸³

Consumer freedom and choice

The DCMS assessment of the options places £5 stakes ahead because it provides the benefit of greater consumer freedom or choice and because DCMS believes a £2 stake risks driving players to the black market. This is despite DCMS stating that slots at higher stakes are a demerit good, and hence, loss of play at higher stakes cannot be considered purely as a loss of consumer benefit. Further, DCMS is making consumer utility equivalent to GGY when the value to gambling consumers does not equal what they lose to gambling companies. In doing so, DCMS is deploying well-worn scare tactics of the gambling industry to ward off regulation for consumer benefit by arguing this infringes on 'consumer freedom', stated in abstract, absolute and generic terms, and unevidenced displacement to unlicensed operators.

Consumer utility

It is only in relation to the £2 stake limit that DCMS emphasises the restriction on consumer freedom, thus prejudicing this option concerning the £5 option. DCMS explains that with regards to the £2 stake limit:

While 97% of individual online slots stakes are below £2, operators have reported to us that as many as 35% of online slots players stake over £2 on at least one spin in a given year. Therefore, this option would be the most restrictive option under consideration and have the greatest impact on consumers and businesses.

This is compared to the £5 limit:

⁸¹ Recent trends in remote gambling in Great Britain: Analysing the impact of new regulations for slots games on Gross Gambling Yield and turnover compared with other remote casino games, Howard Reed, Landman Economics, September 2023, commissioned by Clean Up Gambling.

⁸² Ibid 5.

⁸³ Impact assessment online slots 2023 (n2) 31.

While stakes over £5 make up just over 0.5% of all staking events in online slots, they contribute an estimated 7.4% of GGY. Operators have provided estimates of between 8% and 23% for the number of players currently staking over £5 on at least one spin per year.⁸⁴

DCMS does not provide any definition, discussion, measurement or valuation of consumer utility at different staking levels, meaning that even the marginal restriction to the minority who occasionally stake above £2 is deemed to curtail consumer freedom.

DCMS uses a consumer choice model of economics in which consumers maximise their utility through the optimal combination of goods, given their limited budget. In this model, consumers are prepared to pay less for each additional item of a good they purchase, and each additional item has less utility. Consumer utility does not increase equally by unit – as with the consumption of chocolate cake; the seventh slice has considerably less consumer utility than the first. The rate of this change is the marginal utility. By contrast, in the model, it is more costly for producers to produce each additional item. If supply and demand are known, it is possible to work out the price that should be paid for a good. What consumers are prepared to pay above this price rather than go without is the consumer surplus and a measure of consumer utility. The marginal utility and consumer surplus of a good will change based on the other goods a consumer can purchase. For example, if a consumer has no fruit, two oranges have much utility. If a consumer already has seven apples, two oranges have much less utility. If the price of oranges increases, a consumer may choose to buy more apples.

It is difficult to calculate consumer utility for gambling in this model because it uses the value of goods based on price. Price is very difficult for consumers to understand for gambling. At the individual level, it is best conceived of as RTP – the amount retained by gambling companies, which consumers struggle to understand. It will not represent the actual cost of play experienced in a session. Consequently, gambling is 'price inelastic' in general. Price elasticity of demand is a measure used in economics to show the responsiveness of the quantity demanded of a good or service to a change in its price (everything else remaining equal). Further, when people are experiencing 'problem gambling', the price of gambling is extremely inelastic due to the intrinsic nature of 'gambling addiction'. This is recognised by DCMS: 'Unfortunately due to the nature of gambling-related harm (inelastic demand) it is difficult to dis-incentivise consumption of this good and therefore the burden of reducing harm must be placed on the suppliers of a good'.⁸⁵

Further, DCMS has stated that online slots and slots at higher stakes are a demerit good with negative externalities; by definition, people consume more than is beneficial to them or others without recognising the harm at the time. Those experiencing addiction or 'harmful gambling behaviour' should be discounted from any calculation of consumer surplus as they are not experiencing utility, and any detriment or harm to consumers, even if not experiencing clinical addiction, should also be subtracted. Further, the more people gamble at higher stakes the more they

⁸⁴ Impact assessment online slots 2023 31.

⁸⁵ Impact assessment: Government response to the consultation on proposals for changes to gaming machines and social responsibility measures, May 2018, Department for Digital, Culture, Media and Sport, https://www.legislation.gov.uk/ukia/2018/185/pdfs/ukia_20180185_en.pdf 1.

'pay' and the greater the likelihood of harm, and this needs to be factored into assessments of utility. Stakes at £2 versus stakes at £5 or above are best conceived as two competing goods, and £2 stakes will cause less harm and hence have greater consumer utility than at £5 or above.

In the context of the impact assessment for the FOBT stake limit decision, the Regulatory Policy Committee critiqued the DCMS approach:

The impact assessment uses the loss in GGY due to the regulation to calculate the net present value of the policy. However, this loss in revenue is in principle a transfer to consumers and not a loss to society. The Department notes correctly that there will be a utility loss to consumer, particularly non-problem gamblers. However, the value of the loss will be the consumer surplus of the market rather than the total value of the market as represented by GGY. As it stands the impact assessment assumes that the consumer surplus loss is equal to the GGY, which may be an overestimate. Nevertheless, the RPC recognises that it is technically challenging to develop an accurate estimate of the consumer surplus and that the Department is using this approach as a second-best method to ensure it represents the utility loss to consumers.⁸⁶

Consumer freedom or utility is not absolute and would have to be calculated excluding people experiencing addiction and subtracting harm, and in relation to the decreasing utility and detriment of consuming more gambling, gambling at higher stakes and in relation to the utility of consuming other leisure activities. Hence, the number of consumers who could not stake exactly as they had been is not a measure of the value of consumer freedom or utility.

In addition, the DCMS consultation refers to the Gambling Commission's research with consumers on why they place higher stakes. Sometimes, it is in a belief that they are experiencing a 'lucky streak – a false consumer belief that should not be encouraged. Significantly, higher staking takes place in response to a win or an offer, so it is generated by and of benefit to gambling companies in that it recoups what a customer has been given in winnings or free spins and more. Higher staking behaviour is also characteristic of 'loss chasing'. Occasionally, a higher stake may be for 'pure enjoyment'. We do not know what proportion of higher stakes are for 'pure enjoyment' when they are placed or relative to harm to players and others when the game stops. The Gambling Commission's survey data showed that only 70% confirmed 'enjoying' online slots.⁸⁷ DCMS does not provide any evidence that the 35% of players who stake over £2 on at least one spin in a given year would consider it a violation of their freedom or detriment to their wellbeing no longer being able to do so.

Even if placing a higher stake is for 'pure enjoyment', no one is born loving online slots and wanting to stake higher amounts. This is learnt behaviour facilitated by gambling companies. Slots gambling is not a commodity for which there is an inherent need or demand. This enjoyment can only be temporary and minimally incremental. This should be contrasted with loss and harm being incremental, long term and even permanent, as well as intergenerational.

⁸⁶ RPC Opinion, May 2018 (no page numbers in document)

⁸⁷ <https://www.gamblingcommission.gov.uk/consultation-response/online-games-design-and-reverse-withdrawals>

This is a model in which consumers make rational decisions to maximise utility to them and in their best interests, which means that fundamentally, applying consumer choice models of economics to gambling is inappropriate.

Black market displacement

DCMS asserts that for the £2 limit: 'the benefits in reduced associative gambling harm could be counteracted by player migration to the unlicensed sector due to players being unable to gamble in their preferred way with licensed operators'.⁸⁸ This is a risk which somehow DCMS has determined, without explanation, does not apply at a £5 limit.

The threat of consumers turning to the black market is a longstanding trope of the gambling industry, deployed to ward off regulation. Here DCMS uses this gambling industry argument against a £2 stake. This is even though the Gambling Commission says this 'black market' risk is generally overstated. The DCMS impact assessment itself cites evidence that the size of the black market is minimal:

The British Gambling Market is comparatively mature. The European Commission⁵⁴ estimates that the UK Gambling black market is 2.2% (for sports betting specifically) and the Danish gambling authority⁵⁵ estimates the UK Gambling Market has a 98% channelisation rate (and thus a 2% black market). Aside from already having a small implied black market, the government plans to increase the Gambling Commission's powers to support disruption and enforcement against unlicensed operators.⁸⁹

The threat of the black market should not be an argument against regulation but rather for dealing better with the black market and the government is providing the regulator additional powers to disrupt the activities of unlicensed operators.

Additionally, displacement to the black market is most likely with those who have already been encouraged into addiction and inculcated in high stakes play. Consequently, if this demand for higher-stakes play is not fostered in the licensed market, any supposed drive to the black market will likely decrease in the future.

Prevention of harm to vulnerable groups and wider communities

DCMS is not adhering to good practice for vulnerable consumers, as defined by government and used in other markets, nor the intentions of the public sector equality duty nor ameliorating health and social inequities. Most significantly, the department has excluded the disproportionate contribution to online slots profits from those in deprived areas; this has a material impact on the level of losses that can be tolerated and hence requires a lower stake limit.

The consultation considers special provision for only one dimension of vulnerability, those aged 18-24 years. Given the evidence of the vulnerability in this group and

⁸⁸ Impact assessment online slots 2023 (n2) 30.

⁸⁹ Ibid 34.

that their staking behaviour is, on average, lower than older adults, it is perplexing that DCMS has not provided the option of a £1 stake or lower for this group. Beyond this group, DCMS gives no regard to other vulnerabilities.

Remarkably, the DCMS Equalities Impact Assessment, as required by the Equality Act 2010, considers only the possible impact of stake limits in terms of the freedom of people with protected characteristics to participate in gambling.⁹⁰ This is a truly bizarre interpretation of the public sector equality duty to advance equality of opportunity, usually understood as the government taking action to meet the needs of those with protected characteristics and reducing inequalities.

At least the Gambling Commission, in its statement on equalities impacts, writes:

Our key overarching equalities considerations are the demographics of gamblers, the demographics of where harm is most experienced and the possible unintended adverse equalities impacts...we know that some people are more likely to experience harm than others, including those who engage in multiple activities, men, those with probable mental health issues and players with the highest gambling expenditure. Whilst adults may be in a vulnerable situation at any age, young adults may in particular be additionally vulnerable to gambling related harms.⁹¹

As a starting point, failure to provide strong structural protection with a £2 stake is likely to have a detrimental equalities impact on people experiencing mental ill-health, with disability a protected characteristic.

However, multiple factors may make a person more vulnerable to being harmed by gambling. The most glaring issue in the White Paper is the lack of definition of 'vulnerable groups' that need to be protected from gambling harm. The White Paper cites the FCA's Financial Lives 2022 Survey, finding that 47% of adults display one or more characteristics of vulnerability. It is instructive to look at how the FCA defines vulnerability:

All consumers are at risk of harm. This risk is increased if they are in vulnerable circumstances, e.g., if they display one or more characteristics of vulnerability related to the four key drivers set out in our Vulnerability Guidance – health, life events, resilience and capability. A vulnerable customer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care.⁹²

Given that gambling is a demerit good, we continue asking that the government apply at least the same standards in protecting vulnerable consumers as in other sectors.

The Gambling Commission's formal guidance on customer interaction for remote operators' states:

Licensees should have regard for factors that might make an individual more vulnerable to experiencing gambling related harm. Factors include:

- *Personal and demographic: if the individual is experiencing poor physical or mental health, physical or cognitive impairment, suffering side effects from a*

⁹⁰ Impact assessment online slots 2023 (n2) 7.

⁹¹ Summer 2023 consultation (n62)

⁹² Financial Conduct Authority, Financial Lives 2022 Survey, July 2023, <https://www.fca.org.uk/financial-lives/financial-lives-2022-survey>

brain injury or medication or has an addiction. If a customer is a young adult, or an older adult.

- *Situational: if the individual is experiencing financial difficulties, is homeless, is suffering from domestic or financial abuse, has caring responsibilities, experiences a life change or sudden change in circumstances.*
- *Behavioural: if an individual has a higher than standard level of trust or high appetite for risk. In the case of gambling, this can be flagged if the customer takes a high-risk strategy, particularly if inexperienced; if the customer takes a disproportionate effort to earn a bonus offer.*
- *Market related: if an individual is engaged in an activity which is highly complex; that they have a lack of knowledge and/or experience of the market.*
- *Access: if an individual has difficulty accessing information because of poor literacy or numeracy skills, knowledge, dyslexia.⁹³*

This guidance was published in June 2023 but is not currently in effect – and arguably, it would be impossible for gambling companies to address all these vulnerabilities to gambling harm using the tool of account-based monitoring. The wide-ranging factors that make people vulnerable to harm and the fact that vulnerability changes over time require structural interventions to make gambling generally lower risk for all. This means a £2 or less stake limit.

Importantly, as a demerit good, gambling has negative externalities. The impact assessment recognises ‘affected others’ experience financial harm, damage to health and well-being and require services from the state. Gambling harm ripples from the player to partners, children, families, communities, and employers. Consequently, failure to prevent harm to consumers of gambling causes harm to others.

Most problematic is that DCMS fails to include the evidence on the association between online slots and deprivation. This is a failure from the department to address gambling’s role in exacerbating health and social inequities. Significantly, it is material to the assessment of what level of losses are unaffordable and hence the level at which the stake limit should be set – at a lower £2 stake. According to the Patterns of Play data, total online gambling spend is 43% higher from the most deprived decile than the least deprived decile, and it’s 73% higher specifically on gaming products. Additionally: ‘the most deprived areas contributed disproportionately to GGY from bingo and slots but in casino games and poker revenue was fairly evenly spread across the deprivation range’.⁹⁴ The impact of online slots on players, families and communities experiencing deprivation should be considered in the context of the White Paper’s concern with financial vulnerability and recognition of the cost-of-living crisis.

⁹³ Customer interaction guidance for remote gambling licensees (Formal guidance under SR Code 3.4.3), published in June 2023 (not in effect) 9.

⁹⁴ Forrest, D., McHale, I., Dinos, S., Ashford, R., Wilson, H., Toomse-Smith, M. & Martin, A. (2022) Patterns of Play Extended Executive Summary Report, NatCen and University of Liverpool, prepared for GambleAware, https://natcen.ac.uk/sites/default/files/2022-12/Patterns-of-Play_Summary-Report_final.pdf 18.

Online slots compared to FOBTs

The following section compares the DCMS online slots stake consultation with the department's approach to stake limits for FOBTs (B2 machines).⁹⁵ This is because the products are very similar (FOBTs had slots and roulette), have the same indicators of harm, and the stake reduction for FOBTs and online slots have the same purpose: to address 'the speed with which it is possible to lose large amounts of money'. However, there are significant inconsistencies in the approach taken and the evidence included.

Based on Gambling Commission advice, the government only consulted on the option for a reduction to £2 for slots on B2; the consultation on the level of stake limit was for roulette on B2 machines, with the four illustrative options of £50, £30 and £20 and the potential to set between these options – raising again the lack of justification for considering online slot stake limits above £2. Nonetheless, it is important to look at the evidence provided and the government's justification for setting the limit for all B2 games to £2, as this provides precedence for the decision on online slot limits.

Central question

For FOBTs, the department prioritised preventing harm and consumer protection over profit and 'consumer freedom' in determining an 'appropriate balance', which should apply to online slot states.

DCMS states the central concern for online slot stakes is an 'appropriate balance between preventing harm and consumer freedoms.' In contrast, for FOBT stakes, this is 'to strike a balance between socially responsible growth and protecting the most vulnerable, including children, from gambling-related harm.'⁹⁶ DCMS defines socially responsible growth as 'growth that is not at the cost to those most vulnerable'⁹⁷ and states that the policy on FOBT stakes is part of the government's 'action to build a fairer society and a stronger economy'.⁹⁸ The department acknowledges that for a FOBT stake reduction to any level, 'There is also a cost associated with the dis-benefit reducing stake size has on non-problematic gamblers. This dis-benefit is due to a reduction in the utility these gamblers get from gambling at the new stake if their preference for staking behaviour is higher than the new cap.'⁹⁹ However, no weight is given to this in its assessment of options. However, this is the rationale for favouring a £5 or higher over £2 stakes for slots.

The value of 'consumer freedoms' is difficult to quantify or monetise in the context of gambling, and DCMS does not attempt to do so. By using consumer freedom rather than industry profits, DCMS can favour a stake at any level it wishes to, based on a 'qualitative' assessment – all the while hiding the profits to gambling

⁹⁵ Government response to the consultation on proposals for changes to Gaming Machines and Social Responsibility Measures, May 2018, Department of Digital, Culture, Media and Sport, https://www.legislation.gov.uk/ukia/2018/185/pdfs/ukia_20180185_en.pdf

⁹⁶ Ibid 3.

⁹⁷ Impact assessment gaming machines 2018 (n85) 2.

⁹⁸ Government response to gaming machines 2018 (n95) 3.

⁹⁹ Impact assessment gaming machines 2018 (n85)3, 5, 7.

companies behind 'consumer freedoms.' If consider in terms of socially responsible growth rather than a nebulous conception of 'consumer freedom', higher slot stakes are not justified. The growth in GGY from FOBTs was excessive and disproportionate to other machines, rising from £1,051m in 2008/09 to 1,836m, but this is dwarfed by the growth and contribution of online slots, and online slots are associated with the same indicators of harm as FOBTs.¹⁰⁰

Vulnerable groups and wider communities

DCMS placed weight on the concentration of FOBTs in deprived areas¹⁰¹, and consequently, a lower stake of £2 was necessary to protect those most vulnerable to harm. However, for online slots, DCMS has failed to include the evidence on the disproportionate contribution to slots from deprived areas and the implication of levels of loss possible at £5 and above for those on low income, their families and communities - and in the context of the cost-of-living crisis.

For FOBTs, DCMS was concerned that the factors associated with harm, especially the possibility for rapid high losses, were 'further amplified by the relationship between the location of B2 gaming machines and areas of high deprivation'.¹⁰² The department concluded:

*We know that players of B2 machines tend to live in areas with greater levels of income deprivation than the population average; and, alongside problem gamblers, those who are unemployed are more likely to use the maximum stake more often than any other socio-economic group. We think that a £2 maximum stake will also therefore mitigate the impact on those most vulnerable to harm, primarily players in more deprived locations as well as the corresponding harm to communities in which these machines are based. Based on the assumption that some of those who are most vulnerable to harm are likely to be those who can least afford to lose large sums of money, we think that these factors also point to reducing the maximum B2 stake to £2.*¹⁰³

The department considered not just 'problem gamblers' as vulnerable but also the unemployed, those in deprived areas, their families and communities, most likely to suffer harm from losses. Further, the department acknowledges the need for gambling to be a safe and enjoyable pastime for everyone who chooses it, without unintended impacts for society'¹⁰⁴, remarking that the losses at stakes above £2, 'although dependent on the circumstances of individual players, we think losses of this scale might be harmful to problem and non-problem gamblers alike.'¹⁰⁵ The same applies to online slots.

¹⁰⁰ Industry Statistics – November 2022, for the period between April 2021 to March 2022. Gambling Commission, <https://app.powerbi.com/view?r=eyJrIjoiZTAwNmQwMjQzMjdYy00NWJLWFJYtGtMTUzZTQ1ZTBjYzVhIiwidCI6IjJkZGRmZjkyLTFkZTYtNDgzNS05OTYzLTg0ZTdjYzQ0Y2VhMiJ9>

¹⁰¹ Contextualising machine gambling characteristics by location - final report - A spatial investigation of machines in bookmakers using industry data, Geofutures, 2015, cited in Impact assessment gaming machines 2018 (n85).

¹⁰² Government response to consultation on changes to Gaming Machines 2018 (n95) 5.

¹⁰³ Ibid 15.

¹⁰⁴ Ibid 4.

¹⁰⁵ Ibid 15.

Evidence

In determining that online slots are a particularly harmful product, DCMS uses the same indicators as it does for FOBTs, and these indicators show comparable or even higher levels of harm, warranting the same £2 stake limit for online slots. DCMS has failed to compare the harm associated with the two products using the same data source and measures, but the available evidence is in the table below.

Table 4: Comparison of indicators of harm for FOBTs and online slots

Fixed Odds Betting Terminals	Online slots
Consistently high rates of 'problem gamblers' among FOBT players, with Health Survey for England 2016 finding that 13.6% of players are 'problem gamblers', the highest rate for any gambling activity. ¹⁰⁶	Analysis of online slots disaggregated from online casino games in the BGPS 2010 showed that 17.0% were experiencing problem gambling.
Prior to the stake limit, the highest proportion of those using gambling treatment services identified machines in betting shops as their main form of gambling. ¹⁰⁷	Online slots are the activity most reported by users of treatment services (38%) in 2021/22. ¹⁰⁸
Compared to other gaming machines, B2 machines generated a greater proportion and volume of large-scale losses (for example, more than £500 in a session) and longer sessions. ¹⁰⁹	Online gambling data from January 2017 showed more than double the number of customers losing more than £1000 on slots than on non-slots casino play (22,080 customers versus 10,372 customers respectively). Online slots are also associated with longer sessions ¹¹⁰

There was an association between 'problem gambling' and higher staking on FOBTs, with DCMS deciding that that above £2 the proportion of 'problem gamblers' remained too high, at 42% at £30 or £20 or more compared to 19% at £2 or less.¹¹¹ For online slots, DCMS does not have Problem Gambling Severity Index scores for different staking levels and instead uses data from gambling companies on what proportion of players they have flagged as at risk – an unspecified, non-standard, untransparent measure, which does not take into account play across multiple accounts. DCMS does not state what it feels would be an acceptable level, but 47 % were flagged for risk by operators at £2 or under, 52% between £2 and up to £5,

¹⁰⁶ <http://www.gamblingcommission.gov.uk/PDF/survey-data/England-Health-Survey-Findings-2016.pdf>, cited in Ibid 5.

¹⁰⁷ Ibid 5.

¹⁰⁸ Gamble Aware, Annual Statistics from the National Gambling Treatment Service Great Britain 2021/22 47 https://www.begambleaware.org/sites/default/files/202211/202216_GA_Annual%20stats_report_English_v4.pdf#page=47

¹⁰⁹ Impact assessment gaming machines 2018 (n85) 12.

¹¹⁰ Impact assessment online slots 2023 (n2) 8.

¹¹¹ Advice in relation to the DCMS review of gaming machines and social responsibility measures, Responsible Gambling Strategy Board <http://www.rgsb.org.uk/PDF/Advice-in-relation-to-the-DCMS-review-of-gaming-machines-and-social-responsibility-measures.pdf> 43, cited in Impact assessment gaming machines 2018 (n85).

59% between 5 and 10 and 62% between 10 and £20¹¹², well above the levels DCMS found tolerable for FOBTs.

For FOBTs and online slots, DCMS notes that most staking, including those experiencing problem gambling, is at low values. For FOBTs, it notes that only at very low levels would a stake reduction impact the large proportion of problem gamblers who typically place stakes at relatively modest levels.¹¹³ Based on the operator data, most staking, including by those flagged as at risk is at low values – 87% of stakes for those flagged as high risk and 93% for those flagged as medium risk were below £2.¹¹⁴

The main concern of both policies is the potential for heavy losses. While for online slots, DCMS attempts to bracket off a group of people with harmful gambling behaviour and says the concern is only if they incur heavy losses. For FOBTs, the government acknowledged that 'the amount of money lost is a good proxy for gambling-related harm, and 'such losses might be harmful even to those who would not be defined by a survey screen as problem gamblers'¹¹⁵ This same approach should be taken for online slots as this is in keeping with the public health and consumer protection approach the government committed to in the review of the Gambling Act.

To determine the precise stake limit, the FOBT decision uses two sets of data which go directly to the question of losses at staking levels. Neither has been provided for online slots, although both could be made available.

The first is EATC/h for different categories of machines. For FOBTs, this was calculated for roulette, with a speed of 20 seconds and RTP of 97.3 – leading to an EATC/h of £9.72 for £2, £97.20 for £20 and £145.5 for £30. The speed of slots is 2.5 and RTP 9.5, leading to higher theoretical losses at the same staking levels. Our calculation of the theoretical loss to a consumer based on the different proposed stake levels for online slots is given below:

Table 5: Theoretical loss per hour at the stake limit options

Stake limit	Loss per hour
£1	£72
£2	£144
£5	£360
£10	£720
£15	£1080

Note: Theoretical loss in one hour. Spin at maximum speed of every 2.5 seconds. Return to Player (RTP) 95%, as provided by the gambling industry and used by DCMS in its modelling of GGY loss for online slots (this average will be subject to volatility over a small sample).

These potential losses should be placed in the context of data cited by DCMS and the Gambling Commission from YouGov that 25% of the population has a discretionary

¹¹² Impact assessment online slots 2023 (n2) 8-9.

¹¹³ Impact assessment gaming machines 2018 (n85) 15

¹¹⁴ Impact assessment online slots 2023 (n2) 9.

¹¹⁵ <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>, cited in Impact assessment gaming machines 2018 (n85)13

income of less than £125 per month.¹¹⁶ The White Paper also cites The Financial Conduct Authority's (FCA) Financial Lives 2022 Survey, finding that 24% of UK adults have low financial resilience, potentially making them unable to absorb financial shocks such as losing their main source of household income for a week.¹¹⁷ The White Paper further notes the cost-of-living crisis is increasing financial vulnerability, citing Office for National Statistics data that median disposable income for the poorest fifth of the population decreased by 3.8% to £14,500 in FYE 2022. This is disposable and not discretionary income and equates to an average of £1208 per month to cover all essential, fixed costs, including rent, utility bills, food and debt repayments.¹¹⁸ The stake limit should be set at £2 or less to contribute to the White Paper aim of:

*protecting those vulnerable cohorts for whom even relatively modest gambling losses could be in itself harmful, for example by limiting income available for necessities. This is particularly relevant in light of the rising cost of living which we recognise is likely to exacerbate issues around financial vulnerability.*¹¹⁹

In the context of the FOBT decision, DCMS points out the challenges with using EATC/h in that actual loss or gain experienced by a player may be very different from another player using an identical machine or from session to session. Further, changes in RTP, which are not currently controlled by regulation, can significantly impact EATC/h.¹²⁰

Consequently, the main dataset relied on was detailed data obtained by the gambling commission from gambling companies about how consumers used machines and the outcomes, with the number of sessions of losses at various levels against various staking levels.¹²¹ Instead of requesting such data on online slots, it seems the Gambling Commission asked for account-level risk flag data rather than the actual consumer play data relevant to the policy question.

For FOBTs, using this machine play data, the department determined: 'it is very hard for a player to lose more than £500 in a session using average stakes up to £2.¹²² Consequently, the stake limit was set at £2:

At a revised level of £2, we think that the volume of high level session losses would be significantly reduced - current industry data shows that there are no sessions with losses over £1000 with average stakes up to £2 and that there are less than 0.0% of sessions with losses over £500 with average stakes up to £2. Even at stakes as low as £10, players can lose in excess of £1000 (0.2% of sessions that

¹¹⁶ YouGov Profiles, January 2020, in Consultation and Call for Evidence Remote customer interaction requirements and Guidance, Gambling Commission, https://consult.gamblingcommission.gov.uk/author/remote-customer-interaction-consultation-and-call/supporting_documents/CI%20consultation%20call%20for%20evidence.pdf#page=19 9, cited in White Paper 2023 (n1) 39.

¹¹⁷ Financial Conduct Authority, Financial Lives 2022 Survey, July 2023, <https://www.fca.org.uk/financial-lives/financial-lives-2022-survey>, cited in ibid 38.

¹¹⁸ Office for National Statistics, Average household income, UK: financial year ending 2022 <https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2022>, cited in ibid 38.

¹¹⁹ Ibid 38-39.

¹²⁰ Government response to consultation on changes to Gaming Machines 2018 (n95) 71.

¹²¹ <https://www.gamblingcommission.gov.uk/news/article/new-data-to-inform-government-gambling-review> , cited in Ibid 72-74; Licensed Betting Operator Machine Data, 2017, <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/cross-venue-machines-data>

¹²² Government response to consultation on changes to Gaming Machines 2018 (n95) 72.

result in losses between £1000.01 and £5000 involve average stakes at £10 or below), and there are a greater proportion and overall volume of losses greater than £500 (5794 sessions - 0.9% - of sessions that result in losses between £500.01 and £1000 involve average stakes at £10 or below). And we think that a £2 level is more likely to target the greatest proportion of problem gamblers and to protect the most vulnerable players, such as those who are unemployed and those in more deprived areas.¹²³

While this relates to roulette, because it had already been determined that £2 should apply to slots, there is no reason DCMS could not obtain a comparable analysis for online slots. In the absence of DCMS and the regulator providing this evidence, the FOBT machine evidence should be drawn on, and the stake for online slots should be set to £2.

Cost to business

The FOBT £2 stake limit was estimated to have an annual cost to business of £540 million, primarily affecting the betting sector, with possible impacts on gaming machine manufacturers and the supply chain.¹²⁴ This is a greater loss of GGY to the industry than the best estimate of a £2 online stake limit total cost to business of £266 million per year.¹²⁵

Consumer choice and displacement

If considered in relation to consumer freedom and choice, the FOBT stake limit restriction did impede on freedom of choice as there are no casino table games in betting shops. The structure of land-based gambling impedes freedom of choice by limiting gambling products by type of location, whether a bingo hall, arcade, casino or bookmaker. Whereas for remote, this is completely circumvented and hence should be subject to greater restrictions

For online slots, DCMS uses unevidenced concerns about constraints on consumer choice to stake at higher levels, resulting in displacement to the black market to devalue the £2 stake option relative to higher stakes. However, for FOBTs, the department maintained:

We also acknowledged that there is significant uncertainty about what players will do in response to a stake reduction and consequences of displacement are unknown. However, we are clear that the potential for displacement should not prevent taking action in regards to specific gambling products if there is a body of evidence to suggest they are associated with more harm than others. We are clear that if other forms of gambling are harmful to an unacceptable extent, then action should be taken on them as well. Nor does it necessarily follow that displaced gamblers will be exposed to the same or higher levels of harm. And the reason we have focused on B2 gaming machines is because of the potential for more harm on this product over others.¹²⁶

The same should apply to setting a stake limit for online slots.

¹²³ Impact assessment gaming machines 2018 (n85) 21.

¹²⁴ Ibid 20-21.

¹²⁵ Impact assessment online slots (n2) 42.

¹²⁶ Machines impact assess 13

Further, taking DCMS own measure of consumer freedom as the ability to stake as before, well over 60% of sessions impacted on FOBTs were impacted by the £2. There has been no pushback on this supposed infringement in politics, by the media or the public.

Conclusion

We strongly advocate for a £2 stake limit because it aligns with the government's overall goal of protecting consumers, families and communities from harm, safeguards society from the broader costs of gambling harm and supports socially responsible economic growth. It delivers equity between online and land-based gambling when considered in terms of the considerable commercial advantages and greater risks to consumers when slots are within the online gambling ecosystem. Additionally, it delivers equity as it is on par with the stake limit on most land-based machines, which online slots compete with.

Fundamentally, it is a £2 stake limit that will achieve the policy aim of preventing unaffordable runaway losses, and a stake limit above this will not. The strongest structural intervention is justified based on the considerable evidence DCMS includes on the extent of risk and harm from online slots. Importantly, based on the evidence DCMS fails to provide, a stake limit above £2 will not achieve this policy aim. This includes our calculations of the theoretical loss per hour. But most importantly, it includes using the evidence and precedent of the DCMS decision to reduce the stake limit on B2 machines to £2. This was based on real-world consumer data, which showed that over £2 stakes, it was still possible for customers to experience unacceptably high losses quickly. DCMS could obtain such data for online slots but has not. DCMS considered this consumer data in the context of the the association of FOBTs with people, families and communities in deprived circumstances, and the need to protect those most vulnerable to harm from runaway loses. This association is also present for online slots. Disproportionate losses to online slots come from deprived areas, a fact ignored by DCMS. This is material to the decision on online slot stake levels as it impacts what amounts are unaffordable by most consumers, as well as the need to give greater weight to consumer protection to safeguard the most vulnerable.

In the absence of DCMS providing real-world staking data, the FOBT evidence and precedent should be used to establish the level of harm DCMS is prepared to tolerate. If equivalent data is obtained for online slots, in the unlikely event that this points to a higher stake level, this would at least constitute evidence-based policymaking. As it stands, DCMS claims to be making evidence-based policy but rather appears to ignore, exclude or dismiss evidence to favour the policy it wants and cater to gambling companies' interests. Indeed, the only concrete evidence DCMS can provide for a higher stake is that it would have less of an impact on the GGY of the gambling industry. Otherwise, it devalues the £2 stake option baselessly on unevidenced appeals to consumer freedom and displacement to the black market – the same tactics used by gambling companies to ward off regulation.

With all the evidence examined and outlined in this document, a £2 stake is the only option. A £2 stake puts people before profit and does not cause further harm to those most vulnerable in our society during a wider cost of living crisis.