

Regulating Internet gambling: the net tightens on online casinos and bookmakers

Lucy Dewar

Information Research Unit, Logica plc, London
lucy@dewaronline.co.uk

Terrestrial gambling is subject to strict regulations in the modern world, which have been established according to social and economic considerations. Policies are enforced within jurisdictional boundaries, however gambling on the Internet renders these policies meaningless, as there are no borders in cyberspace. As gambling is thought to be an activity that needs regulatory control, the governments in each of the three case study countries USA, Australia and Britain are moving towards establishing a policy for gambling on the Internet. This paper examines the social and economic factors involved in establishing such policies, and then discusses how and why each country has arrived at its current situation in regulating Internet gambling. The factors in enforcing regulation are also discussed, as is the regulation of Internet gambling at the wider European and global levels.

Introduction

Gambling is a human activity that can be traced back through prehistory and a multitude of different forms of gambling are apparent in many different cultures. Social factors have influenced how governments approach the issue, resulting in policies that either prohibit or regulate the activity. Prohibition usually occurs when it is against the religious mores of a culture. Regulation is frequently adopted due to the pragmatic viewpoint that it cannot be stamped out, and should therefore be controlled to prevent problem or underage gambling, also to prevent criminal elements from becoming involved.

Since the mid 1990s, gambling has become a major growth industry on the Internet, where anyone can bet at any time they like choosing from a plethora of sites. Estimates vary on the number of gambling sites, but the estimate of 1,400 supplied by the Wall Street investment firm, Bear Stearns, appears the most realistic (Gorman, 2001). Most are located off shore to the countries under consideration (USA, Australia and Britain) in places such as the Caribbean, Gibraltar, Liechtenstein and the Dutch Antilles. In these locations, governments take

• a neutral stance to the issue of regulating Internet gambling and licences are issued to Internet gambling operations for flat fees or a percentage of the takings. Datamonitor estimates that the most successful Internet gambling operations turn over more than \$1 million per week (Gaming Tech Industry News, 1998). Projections for the growth of Internet gambling vary widely, anywhere from \$2.3 billion to \$10 billion by the end of 2001 (National Gambling Impact Study Commission Report, 1999). Frost and Sullivan noted that in 1999 the gross revenues for the global online betting market were about \$1.5 billion and are estimated to grow at around 45% per annum for the next six years (Warburg, 2000). As a new market opportunity for a well established activity presents itself in an entirely different medium to the one under which it has always operated, legislation has to play catch up with technology setting an astonishing pace and this study aims to examine the issues involved.

Each of the three countries under discussion all face the same fundamental social and economic issues whilst grappling with what to do about run-away Internet gambling. These are not so different to those in the real world, but are made more complicated by the

medium through which gambling can now be conducted. The concerns about age, problem gambling, integrity, money laundering and taxation are still as pertinent but are much more difficult for a government to control.

Each of the three governments under discussion are all subject to different cultural, political and economic influences that affect their individual policy formulation and each has a different process in deciding and implementing legislation. This study takes as its main aim an examination of all the issues involved and illustrates why each country has arrived at its current situation with regard to the regulation of Internet gambling.

Definitions, scope and coverage

Gambling can be defined as:

...any activity in which a person risks something of value on the outcome of an uncertain event, in which the bettor does not exercise any control or is determined predominantly by chance (Cabot, 1999).

The aim is to win a prize, which can be anything of value. Two main types of gambling occur on the Internet: gaming (casino style games) and betting or wagering (racing and sporting events). The generic term 'gambling' refers to both types. Not covered in this study are stock market speculation, fantasy betting, spread betting, lotteries or bingo as they are very different forms of gambling and deserve examination in their individual forms due to unique considerations in their legislation.

Some casino sites provide live video feeds with players participating via the Internet. Most gaming requires the player to download plug ins, however some games can be played directly with the operator. Transmission speeds of data over the Internet are becoming faster, creating a more realistic gaming situation. Sport and track betting sites offer betting on most types of sporting event and horse/greyhound racing. There are two main types: the punter places a bet with an operator similar to the way in which s/he would place a bet with a terrestrial operator – it is simply conducted over a different medium; and the second, less common form, in which an operator acts as a broker between home users who

are betting against each other on an event, and receives commission on the bet.

Typically, people use their credit cards to bet over the Internet by first transferring 'front money' from their accounts to an account set up by the operator. Verification checks take a few moments, and the punter is then e-mailed back with confirmation and a password. Money is then debited from the punter's account by aggregating transactions by the use of electronic chips for gaming and coupons for betting. This method of setting up accounts into which punters deposit monies saves the cost of financial transactions between the financial service providers and the gambling operators as it is possible for a punter to gamble any number of times during a session. It is possible that digital cash will become the norm for Internet gambling as it lends itself well to the needs of the medium.

As previously mentioned the focus of this discussion is the USA, Australia and Britain as they have all been working towards establishing some form of regulation in which various forms of prohibition and regulation have been explored. Business and media interest is already picking up on the use of mobile telephones and digital TV as mediums through which to gamble. However, as legislation passed will most likely cover all forms of gambling through a remote device, focus will be on the Internet as it already has a good track record and has received the most attention from governments and lobbyists.

Methodology

The information used to support the study comes from two sources: the Internet and from face to face interviews with key industry players. A significant amount of gambling information on the Internet comes in the form of news articles, lobby statements, government inquiries and industry press releases and statements. The majority of this information emanates from America and Australia. In contrast, there is a paucity of information from British sources. Key industry figures in Britain were therefore identified for the value of information they could provide. Peter Dean, Chairman of the Gaming Board for Great Britain, David Beeton, Director General of the

Casino Association, Barry Faulkner, Secretary of the Betting Office Licensees Association (BOLA) and Nick Rust, Operations Manager for E-gaming at Ladbrokes International, were all interviewed. These interviews were tape-recorded, transcribed and used for analysis in discussion of the common factors facing all three countries in regulating Internet gambling, and for the specific issues that face regulation of the gambling industry in Britain.

The key issues

On May 11, 1995, Interactive Gaming Communications accepted the first wager over the Internet (Brindley, 1999). Since then, its legality has been hotly debated. Those who push for prohibition adopt the viewpoint that gambling on the Internet is dangerous because:

- children could easily access it;
- it will lead to increases in problem and pathological gambling;
- criminal elements would find it all too easy to become involved;
- the integrity of operators cannot be currently guaranteed;
- it takes money from regulated terrestrial gambling and associated businesses; and
- leaches money from people but does not pay anything back to society as companies are located offshore and are therefore not subject to taxation.

A key supporter of this view is Senator Jon Kyl who is the main sponsor of the Internet Gambling Prohibition Act (IGPA) presented to US Congress in 1998 and 1999. He is supported by several lobby groups such as The Family Research Council, the National Coalition Against Legalized Gambling, the National Association of Attorneys General and several American collegiate sports associations. The banning of Internet gambling is not a clear-cut political issue in that it is supported by the right or left wing in any government. Tom Bell comments that, 'since neither Democrats nor Republicans will defend Internet gambling as a matter of principal, lobbyists have rushed into the vacuum' (Bell, 1999).

The opposing camp adopts a pragmatic viewpoint supporting regulation. One of the key assertions is that the porous nature of the

Web facilitates and does not interpret information, rendering prohibition impossible (Bell, 1999). Another, as presented by the Gaming Board for Great Britain, is based on the stance that because there is a substantial domestic and worldwide market, it would 'allow British operations the chance to share in the opportunities available' (The Gaming Board, 2000a). The Australian Federal government stated in 1997 that 'regulation [is] the best way to ensure fairness, credibility and accountability through licensing, regulation and enforcement' (GamingTech Industry News, 2000). The Internet gambling industry is keen for regulation as it appreciates that it is a means of keeping undesirable elements away from the arena, and is therefore a method of preventing trustworthy operators from being tarnished by a bad image. The Interactive Gaming Council (a trade association for the international Internet gaming community) comments that 'regulation, not prohibition provides the best form of consumer protection' (Schnieder, 1999).

Integrity

Integrity is of central importance to gambling. It is essential for a gambler to believe that the games are not rigged, the odds have not been tampered with or that the outcomes of sporting events have not been predetermined. However, as fixing games is much easier in an electronic format, Senator Jon Kyl once quoted, 'Anyone who gambles over the Internet is making a sucker bet' (Kyl, 1999). The gambling industry argues that regulation is one way to ensure probity, protecting both players and operators who want to play fair and not be tarnished by a bad image. David Beeton commented that:

For a big company like William Hill or Ladbrokes – for whom goodwill and reputation is everything – they don't want to be associated with unscrupulous operators. The difficulty with the Internet is that in the minds of players, it's very difficult to distinguish (Beeton, 2000).

The issue is not simply the protection of individual players, but also the image of established and respected companies.

Where regulation has been achieved, as is the case in Australia, it is unlikely that if someone were to gamble with one of the 14 licensed and regulated sites, they would not receive their winnings or that the machines would be unfairly rigged. *Netbets: a review of online gambling in Australia*, an influential Australian report by the Senate Select Committee on Information Technologies (hereafter referred to as 'Netbets'), commented that:

Regulation of online gambling is a valuable marketing tool... Given that hundreds of online gambling sites are in operation, the competitive advantage that an Australian licence offers is highly sought after (Australian Senate Select Committee on Information Technologies, 2000, p. 21).

The value of this is shown by attempts made by non-regulated operators to pretend that they are regulated. For example, in the early days of regulated online gambling in Australia, the ultimate owners of a site calling itself 'Casino Australia' used the Internet address of www.casinoaustralia.com. The site was actually operating though a server in Canada, owned by Kenny Rogers Casino (American), and licensed in the Netherlands Antilles (Australian Senate Select Committee on Information Technologies, 2000, p. 24).

Gambling on the Internet brings a set of integrity issues that are not just about the games or events themselves. For example, credit card numbers and details may be vulnerable: they could either be hijacked by hackers or through the use of ghost program; the operators could take customer details and use them for purposes other than gambling. It could be argued that giving credit card details over the phone (as is common in bookmaking) is just as risky, but attracts less suspicion as there is a physical location that players could access should such a problem occur. Also, if players download games, it is of obvious importance that the programs do not contain any viruses.

Problem gambling

One of the main drivers behind a push for prohibition of Internet gambling has been the fear that it could contribute towards problem gambling. Problem gambling occurs when a person's gambling activity gives rise to harm the

individual player, and/or to his or her family, and may extend into the community' (Haswell, 1999). This allows for many degrees of difficulty that a person may experience in controlling their gambling, from mild to severe. The personal and social costs of problem gambling can be very high, ranging from financial, health, psychiatric, family, employment and illegal activities.

Specific to online gambling is the role of technology contributing towards alterations in gambling habits. There are no closing times as exercised by terrestrial operations, and it is possible to continue gambling for as long as wanted. There is also a departure from reality in the sense that gambling on the Internet does not involve real cash, and it has been suggested that a gambler may lose control as he or she cannot see a pile of money or chips disappearing. Gambling on the Internet departs from the practice of gambling with others in a social setting, creating the disadvantage that there are no friends or associates around to discourage a gambler from going too far. Dr Mark Griffiths has commented that, 'Retrospectively, most problem gamblers report that at the height of their problem gambling, it is a solitary affair' (Griffiths, 1999). It is also not possible for an operator of an Internet gambling site to discern whether someone is under the influence of drink or drugs and might therefore gamble in a way that they would not do if they were sober.

Dr Griffiths has also commented that 'to a gambling addict, the Internet could potentially be a very dangerous medium' (Griffiths, 1999). This is because if a person has a tendency to problem gambling the vast resources available provide a platform from which to feed their addiction. The concept of acute Internet gambling addiction has been picked up in America. Senator Jon Kyl has expressed his support for the assertion that electronic gambling is the 'crack-cocaine of gambling' (Kyl, 1999).

It is possible that as more people become exposed to gambling, problem gambler numbers will increase. However, David Beeton points out that although there may be a higher number of people gambling, evidence suggests that the proportion of problem gamblers

would remain the same – at 1% of the population or less (Beeton, 2000). This is supported by the IGC who cite a report by the University of Chicago's National Opinion Research Center (NORC) which found:

...that while problem and pathological gambling is a significant issue, it is not at the epidemic proportions that Senator Kyl and others have claimed (Schnieder, 1999).

The Internet gambling industry has been quick to point out ways that the issue of problem gambling can be addressed. Many sites have links to GamCare and Gamblers Anonymous, also placing visible reminders for people to gamble responsibly. Australian sites include facilities such as cooling off periods and self-exclusion. Both the IGC and Dr Griffiths point out that computer technologies can track patterns of behaviour that point to problem gambling and can be used either in the identification of problem gamblers or help contribute to a greater understanding of the problem. This is important as more research is needed into this area to ascertain whether or not Internet gambling will lead to increases in problem gambling, or if numbers will stay at the same proportional level as some believe.

Underage gambling

The legal age for gambling is 18 in Britain and Australia and varies state by state in America between 18 and 21. By the nature of gambling over the Internet, it is not possible for an operator to see the customers and to get a visible check to see if they are who they say they are and that they are of a legal age to gamble. The *National Gambling Impact Study Commission Report* (NGISC) states that:

Most sites rely on the registrant to disclose his or her correct age and make little or no attempt to verify the accuracy of the information. Underage gamblers can use their parents' credit cards or even their own credit and debit cards to register and set up accounts for use at Internet gambling sites (National Gambling Impact Study Commission Report, 1999).

Senator Kyl has echoed this concern stating that it would be all too easy for a child to 'Click the mouse and lose the house' (Brunker, 2000). Given that children are often

more Net savvy than their parents, the worry that children could gamble is understandable.

The IGC comments that, 'Clearly it is inappropriate for children to be allowed to gamble', but does not agree that what is described as the 'Kyl scenario' will take place because:

The credit card owner is not responsible for such charges. Moreover, children are not liable for gambling debts. The only loser when a minor gambles online is the casino operator, who must refund any proceeds to the bank, and often pays a penalty for accepting the transaction in the first place (Schnieder, 1999).

Nick Rust comments that at Ladbrokes customers are checked against the electoral role and against the credit card company information, which he claims gives around 98% proof of someone's age. He also commented that:

... it would only be malicious if a child used an adult's credit card, as the winnings are paid back directly to the card – not the person. We've not had one case of that (Rust, 2000).

Similar to Ladbrokes, in 'Netbets', the Chairman of Canbet Pty Ltd 'indicates his organisation has never had a case of gambling by a minor' (Australian Senate Select Committee on Information Technologies, 2000, p. 92)

The danger perhaps lies more in 'practice' gambling. This is common on many sites on the Web that allow dummy gambles, in which money is not staked. The Inter Church Gambling Taskforce in Australia points out that these kinds of sites may provide an environment in which children get a taste for gambling:

... and condition minors into patterns of gambling which can result in significant problems once they become old enough to gamble 'for real' and with money (Australian Senate Select Committee on Information Technologies, 2000, p. 91).

However, as gambling in general has become much more open in recent years, to say that Internet gambling alone will incite children into gambling is to ignore the broader gambling picture.

Taxation

Governments that regulate land gambling make significant amounts of money from taxation. During 1998/99, the general betting duty yield from bookmakers in Britain amounted to £480 million (HM Customs & Excise, 2000) and that of casinos for 1999/2000 amounted to £90.8 million (The Gaming Board, 2000b). Figures overseas are much higher: in Australia estimates of total terrestrial gambling taxes for the year 1997/98 are around A\$3.8 billion (Australian Productivity Commission, 2000), while in America, bookmaking earned the government \$6 billion and casinos just under \$2.2 billion (Sinclair, 1999). It is therefore often argued that it is in the interests of a government to regulate Internet gambling as it will receive significant funds from taxation. The converse of this is that unregulated gambling will lose governments potentially large sums of money by missing out on tax raising opportunities on the Internet.

One of the difficulties that a government may face in changing taxation for Internet betting may come from public perception. If it is perceived as being too low it could be regarded as encouraging people to gamble. Although attitudes to gambling are becoming more relaxed, this could spark a negative reaction. If it is too high then the government could be seen to be trying to make too much money from it. An example of this was the introduction of 50% tax on revenue from Internet operators in Victoria, Australia, in May 1999. Crown Casinos Chairman, Mr Lloyd Williams said, 'A 50 per cent tax rate on revenues? So they [the Government] are a joint venture partner!' (Wood, 1999). There is clearly a fine balance to be found in taxing a regulated Internet gambling environment that encourages industry growth, satisfies government fiscal requirements and is socially acceptable.

The impact on bricks and mortar (BAM) operations

It is possible that the threat to BAM depends on the gambling cultures specific to different countries. Casinos in Britain are very different to those in America or Australia. In Britain, a casino is only allowed to have 10 gaming machines at the most; the vast majority of

gaming takes place at tables. The emphasis is on socialising and admittance to a casino is not immediate; a player has to make an application to gamble. In America, especially in Las Vegas casinos, 90% of gaming takes place on slot machines or video poker games (Beeton, 2000), these can easily be replicated on the Internet, and online gaming in America is hence seen as a greater threat to the establishment.

Findings from Australia however refute the idea that the Internet will definitely take away business from land operations. When 'pokies', i.e. poker/fruit machines, were introduced into the state of South Australia, the first two years saw a 53% increase in gambling expenditure in the state. Although the Northern Territory Legislative Assembly Select Committee on Interactive Gaming said that gambling via the Internet or interactive TV would substitute other gambling expenditure, this has been shown to be unlikely as pokies illustrated the 'tendency for new forms of gambling in Australia to increase market size rather than merely eroding revenues from existing sources of gambling' (James, 1999).

Bookmakers present a different story again. As telephone bookmaking has been around for some time, the Internet has made little impact on their figures for people who gamble in BAM operations as it is simply another medium through which to place bets. Barry Faulkner has commented that with time some bookies will close down as a continuation of general trend, but did not think that bookmakers will close down altogether as the atmosphere of a bookies is hard to beat. Part of the issue is also that a lot of people want to be paid cash for their winnings. He said that:

One of our members has an operation off shore, but some people have recently stopped betting with him on line, and are actually now returning to his shop... to get back into betting, and being paid out, in cash (Faulkner, 2000).

Interviewees all cited the atmosphere in betting shops as being an important part of the gambling experience. There is a strong sense of camaraderie in betting shops; people can compare their luck, pass on tips, boast about their successes and generally socialise.

Many feel that as this is lacking online, it is unlikely that the popularity of betting shops will diminish to the extent that they close down altogether. It has also been suggested that people who frequent betting shops on a regular basis are unlikely to invest in a computer: they cannot afford to buy one; simply prefer to bet as they always have; are uninterested in the Internet as a new betting medium.

It is possible that the betting market will be far more affected when betting through a mobile phone or via interactive TV reaches a wider customer base. For example, through the TV keyboard it will be possible to bet in real time as a football match or sporting event progresses. Nick Rust explained that the bets would follow patterns such as:

Who's going to score the next goal, which player's going to get the next yellow card? So it's easy, simple, quick, instant bets, appealing to the masses really. We see that being twice as big as the Internet is at this time (Rust, 2000).

It remains to be seen if bookmakers or the Internet will lose customers to Digital TV, or whether it will expand the gambling market as seen with the pokies in South Australia. There has been no suggestion of casino gambling being available on interactive TV, and it is unlikely to happen in the near future given the nature of the games. However, if interactive TV betting proves to be hugely popular, it could well be that as new forms of gambling on the digital platform become available, the gambling market could again grow in new directions.

National case studies

The progress of regulation in Australia

Australia is in the unusual position of having travelled full circle around the issues of regulation and prohibition. Initially, in the mid 1990s, it was a pioneer in the field of regulating Internet gambling. In 1995, the Chief Executive Forum of Australasian Gaming Regulators formed a working group that focused on Internet gaming. Internet wagering is covered by the actions of the Officers' Working Party on Interactive Wagering and is an adaptation of rules applied to telephone betting – all States and Territories are in agreement with

• policies enacted (Australian Senate Select
• Committee on Information Technologies, 2000,
• p. 37). Taking the pragmatic route, the Forum
• decided to opt for regulation and recom-
• mended the development of a co-operative
• approach involving all Australian jurisdictions,
• with the aim of establishing common regula-
• tory guidelines (James, 1999). In the following
• year, Ministers from all States and Territories
• agreed that principles for a national regulatory
• model should be drawn up and then presented
• to their respective governments. Key elements
• of this Draft National Regulatory Model were
• focused on player protection measures
• designed to prevent minors from taking part,
• discouraging the development of problem
• gambling and enforcing strict auditing to
• ensure fairness (Gaming Tech Industry News,
• 2000). The first Bill to be introduced to state par-
• liament bringing into fruition the concepts out-
• lined in the Draft National Regulatory Model
• was the Queensland Interactive Gambling
• (Player Protection) Act, which was passed
• and enacted in 1998. And the second, the
• Gaming Control (Internet Gaming) Regulation
• 1998, passed in the Northern Territory. By
• March 2000, 14 licenced Internet gambling
• operations were in existence.

• As the Draft National Regulatory Model
• was only a set of policy principles, problems
• started to emerge as there were state variances
• in individual policies. For example, the
• Queensland Act not only allows for self-exclu-
• sion, but also third party and is applicable
• once in force throughout the whole state. In
• the Northern Territory, only self-exclusion is
• possible and can only be established with indi-
• vidual operators. Taxation was paid according
• to agreements between participating jurisdic-
• tions only. These differences in legislation are
• important as they undermined the principles
• of the Draft Regulatory Control Model, which
• aimed at national cohesion in Internet gam-
• bling regulation.

• Initially, the Australian Internet gambling
• industry was a huge success, describing itself
• as the 'market leader' and attracting a global
• customer base (Australian Senate Select
• Committee on Information Technologies, 2000,
• pp. 2-3) However, problems began to emerge
• with the publication of *Australia's Gambling*

Industries by the Productivity Commission, which estimated that the numbers of problem gamblers in the country stood at around 2.1% of Australian adults (290,000 people) (Australia's Productivity Commission, 2000). The Prime Minister, John Howard, immediately set up a Ministerial Council for problem gambling, and then announced that the issue of Internet gambling would be more closely investigated by the commonwealth government. The subdued news was reinforced by the consequent March 2000 publication of *Netbets: a review of online gambling in Australia* by the Senate Select Committee on Information Technologies. The most far reaching amongst several recommendations made was that a moratorium should be established on the Internet gambling industry (Australian Senate Select Committee on Information Technologies, 2000, p. 10). The proposals meant that the 14 operators already issued with licences could continue to operate, but no new ones could be given out.

Despite the support of the commonwealth government for the moratorium, voluntary support only emanated from New South Wales. Legislation was eventually passed in December 2000 imposing a 12-month moratorium, retrospective to 19th May. The examination of a complete ban of Internet gambling was announced by Senator Richard Alston and the subsequent report, *Report of the investigation into the feasibility and consequences of banning interactive gambling*, by the National Office for the Information Economy (NOIE), was published in March 2001.

Following recommendations made in the NOIE report, the government then proposed to ban Australians from online gambling in any medium – Internet, interactive television or mobile phone. The ban would apply to sports books as well as casinos, though telephone betting would remain unaffected. Perhaps the strangest twist of these proposals was that operators would be allowed to continue business, but only if they offered gambling to foreigners and not Australians!

The government filed the 'Interactive Gambling Bill 2001' in April 2001, and following the Senate committee's report on 23rd May the Senate was due to vote in early June. This

means that the Australian Internet gambling industry is still in a state of suspension until the final outcome is known. Since the enactment of the moratorium, three online casinos have shut down due to losses incurred (Faust, 2000a). How exactly the government will enact the ban remains to be seen.

The NOIE report examined four methods of filtering Internet content, but states that none would be 100% effective in blocking Australians' access to online gambling sites. These four methods are (National Office for the Information Economy, 2001, pp: 39-44):

1. Packet filtering

This works by examining the numerical IP address of a website and comparing it to a list of prohibited sites (which would have to be constantly maintained and updated). A main advantage of this is that it is faster than other filtering technologies, but can be indiscriminate in its application.

2. Content filtering

These examine the information contained in Internet traffic and look for keywords, either in the overall content or the URL. A problem with this is that it could prohibit access to sites offering help to problem gamblers – and the words 'gamble' or 'bet' are used so much in normal communication that it could block out many more sites than intended.

3. Router filtering

This relies on using the established routes that allows sites on the Internet to be located. The information used for this is stored in tabular form on devices called routers. A main disadvantage of this is that tampering with the router tables could result in a severe impact on the performance and stability of the Internet.

4. Detection-response filtering

This relies on technology that examines Internet traffic for predefined content known to be associated with gambling sites. If a positive match occurs with access to restricted content being attempted, the filter responds by 'resetting' the connection between the user and the restricted site. An advantage of this

method is that it does not interfere with the flow of Internet data; it operates alongside the data flow.

The NOIE report commented that:

[although] these filters may prove relatively effective at preventing access to restricted content, there are a variety of methods that motivated and/or skilled users can use to circumvent each technology... Relatively simple methods such as dialling an overseas service provider from Australia could circumvent most blocking mechanisms, and are almost impossible to prevent without significantly more invasive powers of detection (National Office for the Information Economy, 2001, pp. 44-45).

If Australia does ban Internet gambling to its citizens altogether, it will be an astoundingly fast dismantling of an industry which held high hopes for itself and its place in the global marketplace. It is possible that this is simply an election gimmick for the Howard administration – to be seen to be ‘doing something’ to prevent the growth of problem gambling – however, attempting to ban Internet gambling, because of the nature of the medium through which it is conducted, may prove futile.

The progress of regulation in Britain

Much of current British legislation that controls gambling is now more than thirty years old. Since the 1963 Betting, Gaming and Lotteries Act, the 1968 Gaming Act and the 1976 Lotteries and Amusements Act, a great deal has changed in British gambling, not least the fact that technologies and social attitudes are now very different.

Britain currently has no regulation in place with regard to the regulation of Internet gaming or betting. The large established companies like Victor Chandler, William Hill, Ladbrokes and Coral all have offshore operations now, which came about mainly to remain competitive in the new Internet marketplace and to avoid the betting levy on sports and racing gambling which currently stands at 9%. They are able to do this as it is not illegal for a British citizen to gamble with an offshore operator, nor is it prohibited for an operator located off the mainland to accept a bet from British citizens. It would be illegal, however,

for a British Internet operator that is located onshore to accept or offer bets from or to citizens. All offshore operations can of course accept bets from any non-British punter, though are wary of accepting wagers from American citizens.

The situation stands to change rapidly in the near future. In the March 2001 Budget, Gordon Brown announced that the government is to abolish the 9% duty on bets and replace it with a 15% tax on gross profits, beginning in 2002. Barry Faulkner pointed out a virtue of this in that:

Bookmakers can then go for the international markets where the bets tend to be lower margin bets... and then when someone from China comes and has a bet here, the taxation goes to the British government (Faulkner, 2000).

In return, the big bookmakers (apart from Victor Chandler) have pledged to close down their offshore operations, return to the UK and pay the 15% GPT (Waples, 2001).

The GPT model, however, still requires taxation at a higher rate than offshore bookmakers currently pay. Smaller operations and Victor Chandler do not aim to return as a means of avoiding any tax at all. To illustrate this, Barry Faulkner stated, ‘The highest [taxation] I’ve heard is one of the offshore sites charging 1% of turnover. In some places it’s £50,000 – flat rate’ (Faulkner, 2000). If migration of bookmakers back to UK shores is to become reality, it must be because there is a perceived commercial advantage. Peter Dean, Chairman of the Gaming Board for Great Britain, pointed out that regulation might provide this leverage by commenting that offshore gambling operations (both for gaming and betting) would weigh up the choice of returning by considering cost/benefit implications. He stated, ‘My guess is that there is a price that they’re prepared to pay to get the respectability and the commercial advantage of having a clearly regulated environment’ (Dean, 2000).

In a similar vein with regard to casino gambling, David Beeton commented:

... there’s no doubt at all if Internet gaming is subject to the same taxing paying regime as land gaming, then foreign operators

would clean up the market, because . . . [casino] tax can be up to forty percent and would affect the odds or the operability of the operation so much that somebody operating on a much lower tax base would have an overwhelming advantage (Beeton, 2000).

Since the victory of the big bookmakers over taxation, it is possible that the casino industry in the UK will now start to pressure for similar changes to taxation laws.

The first concrete signs of action by the British government began in November 1999. The Gaming Board of Great Britain made a study of Internet gambling based on growing concerns about the industry. The report recommended to Mike O'Brien, the Minister responsible for gambling policy, that new forms of legislation should come in to permit, regulate and tax Internet gaming, and says that this option is 'also supported by nearly all respondents to the Board's consultation paper' (The Gaming Board, 2000a). Responses to the consultation letters also indicated that industry wants to see British Internet gambling legalised and regulated as soon as possible to give Britain a good position in the global market, enhanced by Britain's high reputation for land gambling.

Following an acceptance that there is a need for all gambling laws to be reviewed, Jack Straw set up The Gambling Review Body in February 2000 by announcing its terms of reference and the chairman (Gambling Review, 2000). The ten members of the body were announced in March 2000 and the Review Body began work in May 2000. It is clear from the terms of reference that the social aspects of regulation are to have equal emphasis with the economic. The results and recommendations are due in the summer of 2001.

Britain is taking much longer to review the situation and gather information on the issue before making any decisions. Notably, unlike the USA or Australia, there is very little debate over the issue of whether to regulate or prohibit Internet gambling, either in the public or political arena. The general acceptance seems to be that regulation is the correct path forward. However, how exactly regulation will operate

and who will control it remains to be seen. Also, unlike the USA and Australia, there is no tension over state and national legislation. Despite the fact that Britain is a federation, it is probable that regulatory differences will not be an issue for England, Scotland or Wales. An advantage of the process that the Home Secretary is taking is that nothing is being rushed and it is unlikely that a U-turn as seen in Australia would happen here. The disadvantage is that British operators, especially the casino operators, are missing out on opportunities and are being left behind in the race for market share.

The progress of regulation in the USA

Despite the fact that Americans constitute the highest number of Internet gamblers, there has been an intense struggle in Congress to see it prohibited. Key to the issue has been the Federal Interstate Wire Act of 1961. Under this Act it is illegal to conduct a betting or wagering business over interstate telephone lines between states where it is illegal in either or both. If wagering over telephone wires in both states is legal, then there it is acceptable. The FIWA in its original state does not cover gaming. The first few acts introduced to Congress attempting to ban Internet gambling were adaptations of the FIWA. Senator Jon Kyl (Republican – Arizona) has been one of the keenest advocates of banning Internet gambling, and has introduced two bills into congress: the Internet Gambling Prohibition Acts of 1998 and 1999. However, unlike the FIWA, the first IGPA sought to ban all forms of gambling, it was irrelevant if gambling interstate was legal in both locations, it would be illegal to gamble by any device, and bettors as well as operators would be liable for prosecution and conviction (Kyl, 2000).

The IGPA, known as S 474 in the Senate, was a resounding success. The Senate voted 90-10 in favour in July 1998. However, the companion bill – HR 2380 sponsored by Senator Goodlatte (Republican) – was held up in the House of Representatives, mainly due to attention by the House Judiciary Committee being switched to 'Monicagate'. This meant that the IGPA had to wait until the following year and repeat the process.

Kyl reintroduced the Bill in 1999 as S 692. It differed to the previous year as it was much longer, contained more exemptions and was tighter in meaning. This time, only the businesses were targeted and not individuals gambling on the Internet. However, objections were raised to the many exemptions in the bill, mainly for fantasy sports leagues, state lotteries and certain horse racing activities. Protection was also given to the ISPs in that ISPs had no liability for housing an illegal gambling site (Kyl, 2000). After minor amendments, S 692 passed the Senate vote in November.

The companion Bill of the IGPA of 1999, HR 3125, was again sponsored by Republican Bob Goodlatte. However, in this Bill the ISPs would have been prosecutable for facilitating access to illegal Internet gambling sites. There were also wide-exemptions for pari-mutuel wagering on horse and dog racing, Jai Alai and certain forms of Indian gaming. There were no exceptions for state lotteries, which was extremely unpopular as, out of all forms of gambling in America, lotteries are seen as the least damaging because money is given back to the community.

In the two years that the IGPA progressed through both the Senate and the House of Representatives, the aims and wording of the Act changed greatly each year and in each Bill, giving the impression of inconsistency. The *LawTech Journal* commented that:

The Bill has now so many exceptions, exemptions, immunities, loopholes, definitions and clarifying clauses, that it is now a misnomer to call it the IGPA. It would be more appropriately called the Federal Internet Gambling Regulatory Code (Tech LawJournal, 2000).

Another consequence of the changes and exemptions was that the IGPA changed from being perceived as an attempt by Senators Kyl and Goodlatte to protect the vulnerable and young from the dangers of easy gambling, to being an insidious attempt to save state revenues from land gambling and protecting the interests of established gambling operators to limit competition.

The House voted on HR 3125 on 17th July 2000. In this instance it needed a 2/3 majority

to pass, but failed by a vote of 245 to 159. Much of the opposition to the Bill came from lawmakers and advocates concerned about federal regulation of Internet content, as well as the potential for invasion of privacy. Critics also raised concerns that because of exemptions to pari-mutuel horse and dog racing, this might give rise to an expansion of Internet gambling of those industries. Some lawmakers in both parties expressed reservations about the extent of federal incursion into the prerogatives of the states. The failure of HR 3125 sounded the death knell for S 692 and, as a result, the Kyl Bill failed to go through. For the 107th Congress, Senator Kyl has been uncertain that he will introduce new anti-Internet gambling legislation.

Two other Bills have been presented to Congress aiming to put a halt to Internet gambling. The first, HR 4419, was introduced in June 2000 by Committee Chairman Jim Leach (Republican) and was known as the Internet Gambling Funding Prohibition Act. This Act aimed to prohibit the use of credit cards, cheques, and debit cards or wire transfers to pay for or collect winnings on Internet gambling. The Justice Department would be given sole authority in seeking injunctions against financial institutions that violate the Act. Penalties could be either a fine or imprisonment for up to five years, or both. After debate, the Bill was amended to allow closed-loop betting on pari-mutuel activities. This, however, made the Bill almost identical to HR 3125, which had been severely criticised for its exemptions and carve outs. The House Banking Committee passed the credit card prohibition by voice in June 2000, but did not reach the House floor for a final vote. The Bill is again approaching the house this year, but sponsored by Democrat LaFalce.

Similar to HR 4419 is the proposed HR 5020 by Conyers and supported by the Justice Department who are opposed to Internet gambling in any form. This Bill again proposes amendments to the FIWA as a blanket ban to prohibit Internet gambling over any communications service. There are no exceptions or exemptions, but the ISPs would again be immune from liability for the policing of the Bill (Rucker, 2000). This Bill emerges as a

threat to the reintroduction of HR 3125 due to the lack of exemptions. The progress of this Bill remains to be seen, however it is possible that the pendulum has swung in the other direction, and now the mood is more of acceptance of Internet gambling and a desire for regulation to ensure a slice of the global market share.

International regulation

Within Europe, the general consensus between countries in gambling regulation is an issue for the individual countries to decide and individual jurisdictional regulations are to be respected by other countries. To illustrate this, Holland became the first European country to regulate Internet gambling for its citizens only. Its online casino, www.hollandcasino.nl, began operations in November 2000 from a server in Amsterdam. It is claimed by the owners that strong security features prevent gaming by minors and non-Dutch nationals (Faust, 2000b). The Gaming Regulators European Forum (GREF), which is an organisation of representatives from gaming regulatory authorities throughout Europe, has moved some way to presenting a cohesive approach to the cross-border issue of regulating Internet gambling. Essentially a forum for discussion and a central point of contact for enquiries, the organisation adopted a preliminary position on Internet Gaming in 1998. It follows the concept that it is a matter for the sovereign state, but sets down a series of common aims and guidelines for European states who wish to regulate and license Internet gambling. GREF sees it as important that Internet gambling should be subject to the same rigours of legislation as land gambling. It is also clear that if licenses are offered, the operators must be established within the territory of the jurisdiction, 'so that the operation can be properly controlled and policed' (News and Articles, 2000). In addition good practice measures should be followed. These guidelines should be applied to existing forms of gambling, which have transferred onto the Internet, or new forms of Internet gambling that may evolve in the future.

For those jurisdictions that do not wish its citizens to gamble on the Internet, GREF sug-

gested that legislation should be passed placing responsibility onto the ISPs, however as opinion has moved away from such an approach it is likely to be abandoned as unrealistic.

It is possible that GREF will move towards establishing common European legislation (rather than a single European policy) with regard to Internet and land gambling and is a direction that Peter Dean supports. He commented that, 'it's not so inconceivable that you should get a pretty good consensus among the regulators, because regulators are all doing the same sort of job' (Dean, 2000).

Global regulation

Global regulation of Internet gambling poses major questions that face all concerns to regulate the Internet itself. Westphal and Towell follow the assertion by Nolan and Gibson that the 'adoption of new technologies typically follow four stages: Early Success, Proliferation, Control of Proliferation, and Mature Use' (Westphal and Towell, 1998). As the Internet has shown rapid growth, Westphal and Towell believe that it has entered the Proliferation phase and suggest that by the actions of several nations, indications are that Control of Proliferation is now in evidence. They cite (amongst others) the examples of China requiring users and ISPs to register with the police and Saudi Arabia confining Internet access to universities and hospitals. Another method of control is demonstrated in Vietnam in which the government is the only ISP, meaning that it can decide what sites are available for use (Cabot and Doty, 1999).

These are, however, methods of controlling access, not methods of controlling content. The countries cited in the above examples are not democracies, and it is unlikely that the three nations under examination in this study (and other democracies) would adopt such methods in an attempt to control the Internet or dictate to their populations what they can and cannot gain access to on the Internet.

One of the main problems that faces global Internet regulation is the issue of jurisdiction. It is unclear if a transaction (as in gambling) that takes place on the Internet should apply

the laws of the destination jurisdiction or of the origin jurisdiction. Because this is such a murky area of jurisprudence, which is far from being resolved, the concept of boundaries on the Internet and its implications for Internet gambling mean that terrestrial laws will continue to be side-stepped.

Another insurmountable problem for global regulation of the Internet is one of culture. What is acceptable in one culture may not be for another. This means that it is impossible for one nation to impose its jurisdiction on another as it undermines the principles of comity and sovereignty. In addition, even if all nations but one agreed to outlaw Internet gambling, the one that allows Internet gambling would become a haven for operators and gambling on the Internet would therefore continue.

The only way for a global restriction on an Internet activity to be effective is for all nations to believe that the particular activity must be stamped out at all costs. This seems to be the case for child pornography in which most nations hold in abhorrence. This is not the case for gambling on the Internet; many countries accept it, want to regulate it or do not believe that it is something with which they need to become involved. There is no global movement that has one direction for Internet gambling.

Even if global regulation of Internet gambling were to be enacted by some means, the question of enforcement remains. This would necessitate some form of policing and the appointment of a body or organisation responsible. Issues surrounding whom the members of this enforcement body should be, how it would operate and where prosecution should take place would be extremely difficult to resolve. The concept of regulating Internet gambling on a global scale therefore seems impossible given current technological, legal and cultural considerations.

Conclusion

The regulation of gambling does not lend itself easily to the Internet. While it is possible to control or prohibit terrestrial gambling at the state or national level because of the existence of physical boundaries, it becomes extremely complex on the Internet because of its nature.

This situation illustrates that the technology of the Internet confounds attempts to stamp out activities of which a democratic government disapproves.

The situation with Internet gambling also demonstrates the problems that a nation may have with the content of particular elements of the Internet. In the USA, the drive to prohibit Internet gambling could possibly fail as existing laws are inadequate to deal with the new medium and the resistance to create new prohibitory Internet laws are interpreted as attempts to censor content. Two statutes of the Communications Decency Act of 1966 were struck down by the Supreme Court, which ruled that indecent speech on the Internet is protected by the First Amendment. This implication is that regulatory attempts to control content on the Internet will be prevented. Unless the USA decides to control access in the same way as totalitarian governments, there seems to be little realistic hope of prohibiting Internet gambling as Americans will want to protect their right to gamble in the same way that they strive to protect their freedom of speech.

It is possible that regulation of the Internet would be the easiest policy model to adopt, as it is far easier to control an industry rather than the Internet itself. For an Internet activity such as gambling, there is a drive to create national cohesive models. This challenges established frameworks in which federal and state law are kept separate, and in itself is an issue that will be difficult to resolve. The likelihood remains though that each of the three countries will have a national Internet gambling policy of some description in place within a few years.

One of the main issues that the regulation of Internet gambling illustrates is that when an industry migrates to the Web, if it has been subject to terrestrial regulation, similar regulation is required in its new environment. This is because without it, an uneven playing field emerges and the survival of established companies or operators is threatened.

Conversely, competition in the new setting can be stimulated. This means that the push for new customers develops different areas of technology and business, which can have posi-

tive affects on national economy. Governments will continue to debate whether the social costs are worth these developments.

It is important that when and if regulatory controls are enacted they are not so expensive that costs are forced onto operators who then raise their prices. If they are too high, then it is possible that gamblers will simply move to unregulated sites that are cheaper, especially if they do not value the regulations in place. The effectiveness of regulating Internet gambling therefore ultimately lies with the consumer.

References

- Australian Productivity Commission. (2000). *Australia's Gambling Industries*. Public inquiry report, 13. <http://www.pc.gov.au/inquiry/gambling/> (visited 12 August 2000).
- Australian Senate Select Committee on Information Technologies. (2000). *Netbets: a review of online gambling in Australia*, March. <http://www.aph.gov.au/senate/committee/it.ctte/gambling/> (visited 17 July 2000).
- Beeton, D. (2000). Interview with Mr David Beeton, Director General of the British Casino Association, 11 September 2000.
- Bell, T.W. (1999). Internet gambling: popular, inexorable and (eventually) legal. *Policy Analysis*, 8 March. <http://www.cato.org/pubs/pas/pa-336es.html> (visited 15 August 2000).
- Brindley, C. (1999). The marketing of gambling on the Internet. *Internet Research: Electronic Networking Applications and Policy*, 9(4), 281-286.
- Brunker, M. (2000). *Australia, US at odds on Net betting*. 9 July. <http://www.msnbc.com/news/287419.asp> (visited 12 April 2000).
- Cabot, A. (1999). What is Gambling? In: Cabot A. (ed.) *Internet Gambling Report III*. Las Vegas: Trace Publications, 16.
- Cabot, A. and Doty, K. (1999). Enforcement responsibility and issues in the United States. In: Cabot, A. (ed.) *Internet Gambling Report III*. Las Vegas: Trace Publications, 184.
- Dean, P. (2000). Interview with Mr Peter Dean CBE, Chairman of the Gaming Board for Great Britain, 7 August.
- Faulkner, B. (2000). Interview with Mr Barry Faulkner, Secretary of the Betting Office Licences Association, 11 August.
- Faust, F. (2000a). *Australian government will try to ban interactive gambling*. RGTonline.com (visited 27 March 2001).
- Faust, F. (2000b). *Holland casino ready for Internet gaming – onshore*. RGTonline.com, 25 November. (visited 15 April 2001).
- The Gaming Board. (2000a). Internet gambling: report to the Home Secretary. *Report of the Gaming Board for Great Britain 1999/00*. London: The Stationary Office, 19 July, 113.
- The Gaming Board. (2000b). The Gaming Industry 1999/2000: some key statistics at a glance. *Report of the Gaming Board for Great Britain, 1999-00*. London: The Stationary Office, July, vii.
- Gambling Review. (2000). Home Secretary announces review of gambling legislation. *Gambling Review*. <http://www.gamblingreview.gov.uk/news.release.parl.htm> (visited 19 July 2000).
- Gaming Tech Industry News. (1998). Online gambling revenues will break the \$10 billion barrier by 2002. *Gaming Tech Industry News*, June 15. <http://www.gamingtech.com/news/gam.rev.htm> (visited 5 September 2000).
- GamingTech Industry News. (2000). Australia's national draft regulatory model for Internet gambling. *Gaming Tech Industry News*. <http://www.gamingtech.com/news/aus.html> (visited 19 July 2000).
- Gorman, T. (2001). Bill to permit gambling sites on the Internet pushed in Nevada. *Los Angeles Times*, 18 April, 3.
- Griffiths, M. (1999) Gambling technologies: prospects for problem gambling. *Journal of Gambling Studies*, 14, 265–283.
- Haswell, D. (1999). *Problem gambling: what role for social work?* MSW Dissertation, University of Edinburgh. <http://www.researchweb.org.uk/gambling/gamblingintro.html> (visited 5 September 2000).
- HM Customs & Excise. (2000). *HM Customs & Excise C&E 1, 21 March 2000, Reform of Betting Duty*. <http://www.hmce.gov.uk/general> (visited 15 September 2000).
- James, P. (1999). *Internet gaming: the anatomy of regulation*. Paper given at the Computer Law Association's World Computer Law Conference, April 1999. Allen, Allen &

- Hemsley Lawyers. <http://www.allens.com.au/knowl/pubspeak5.htm> (visited 2 August 2000).
- Kyl, J. (1999). Statement by US Senator Jon Kyl (R-Arizona) Chairman, Senate Judiciary Subcommittee on Technology, Terrorism and Government Information. *The Internet Gambling Prohibition Act*, 23 March 1999. <http://www.senate.gov/-judiciary/jk32399.htm> (visited 20 August 2000).
- Kyl, J. (2000). Senator Kyl releases revised Internet gambling prohibition bill. *Tech Law Journal*. <http://www.techlawjournal.com/Internet/10000330gam.htm> (visited 5 August 2000).
- National Gambling Impact Study Commission Report. (1999). *Internet Gambling*, 18 June, Chapter 5. <http://www.ngisc.gov/reports/fullrpt.html> (visited 2 March 2000).
- National Office for the Information Economy. (2001). *Report of the investigation into the feasibility and consequences of banning interactive gambling*. Canberra: National Office for the Information Economy, 27 March.
- News and Articles. (2000). Gaming Regulators European Forum. *News and Articles*. <http://www.iworldinteractive.com/article-gref.htm> (visited 19 July 2000).
- Rucker, T. (2000). Justice finds sponsors for its Bill banning Net gambling. *National Journal's Technology Daily*, 14 August.
- Rust, N. (2000). Interview with Mr Nick Rust, Operations Manager of E-Gaming, Ladbrokes International, 29 August.
- Schnieder, S. (1999). Statement of Sue Schnieder, Chairman of the Interactive Gaming Council provided to the Senate Judiciary Committee Subcommittee on Government Information, Technology and Terrorism, 23 March 1999. *Statement of Sue Schnieder, Chairman of the IGC*. <http://www.igcouncil.org/> (visited 14 August 2000).
- Sinclair, S. (1999). The birth of an industry: gambling and the Internet. In: Cabot A. (ed.) *Internet Gambling Report III*. Las Vegas: Trace Publications, 121.
- Tech Law Journal. (2000). Summary of Bills pertaining to Internet gambling in the 106th Congress. *Tech Law Journal*. <http://techlawjournal.com/Internet/> (visited 7 August 2000).
- Waples, J. (2001). Bookies race back to Britain. *The Sunday Times*, 11 March.
- Warburg, D.R. (2000). The Internet and the leisure sector. *Global Equity Research, Internet & Leisure Report*, 16 February.
- Westphal, H. and Towell, E. (1998). Investigating the future of Internet regulation. *Internet Research: Electronic Networking Applications and Policy*, 8(1), 26-31.
- Wood, L. (1999). Huge state tax on Internet gambling. *Daily News*, 6 May. <http://www.theage.com.au/daily/990506/news/news9.html> (visited 12 July 2000).

Received 20th June 2001

Accepted 14th July 2001