

Culture, Media and Sport Committee: inquiry into gambling

1. The Advertising Association

The Advertising Association is the only organisation that represents all sides of the advertising and promotion industry in the UK - advertisers, agencies and the media. In the UK, the advertising industry employs nearly 300,000 people. In 2010, advertising expenditure was £15.6bn.

We promote and protect advertising. We communicate its commercial and consumer benefits and we seek the optimal regulatory environment for our industry. Our goal is that advertising should enjoy responsibility from its practitioners, moderation from its regulators, and trust from its consumers.

2. Overview: Gambling advertising in the UK

The Gambling Act provides a comprehensive regulatory framework for the advertising of gambling (betting, gaming and lotteries) which has enabled the lifting of gambling advertising restrictions in Great Britain. Gambling advertising has been widely permitted on British television and in other British media since 2007, when the new rules in the Advertising (CAP and BCAP) Codes came into force. The Gambling Act also included the re-definition of lottery to exclude promotional games of chance linked to product purchase which has been of great benefit to the promotions industry.

Of note, and of significant concern to industry, the Gambling Act is not in place in Northern Ireland - industry concern about this discrepancy will be focused on later in this document.

The advertising sector has benefited considerably from the liberalisation of this market with annual advertising spend currently around £150 million. These financial benefits have been achieved alongside the three core objectives of the Act being met: crime has been kept out; the young and vulnerable have been protected; and consumers have been treated fairly. We believe that the self-regulatory work that industry put in place for gambling advertising has not only worked to protect children and other vulnerable persons, but has also addressed concerns that were raised about the impact of liberalisation on adult, "non-vulnerable" consumers. This has been achieved through a combination of the introduction of a strict self-regulatory code administered by the ASA and a range of other gambling industry led initiatives.

a. The CAP and BCAP gambling codes

As outlined above, industry has developed codes around the advertising of gambling products through the Committee of Advertising Practice (CAP) - for non-broadcast - and Broadcast Committee of Advertising Practice (BCAP) - for broadcast advertising. The Gambling Act was drafted in such a way so as to allow the ASA's independent self-regulatory model to develop these codes, which are designed to ensure that all gambling advertisements are socially responsible. The Advertising Codes lay down rules for advertisers and media owners to follow. They include general rules that state advertising must be responsible, must not mislead, or offend, and - in addition to the codes on gambling - specific rules that cover advertising to children and advertisements for alcohol, motoring, health and financial products.

The Codes make it clear that gambling advertisements should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm, nor should they exploit the susceptibilities, aspirations, credulity or lack of knowledge of children, young persons and other vulnerable persons. The provisions apply to advertisements for “play for money” gambling products and advertisements for “play for free” gambling products that offer the chance to win a prize or explicitly or implicitly direct the consumer to a “play for money” gambling product.

b. *Gambling industry social responsibility initiatives*

The gambling industry has also developed its own code for socially responsible advertising. This code and the CAP/BCAP codes are backed up by the fact that the Gambling Commission licence conditions require that “licensees should comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services”. The key provisions in the Gambling Industry Code for Socially Responsible Advertising are:

- The GambleAware website address should be carried on all non-broadcast advertising where it is feasible, practical and necessary to do so. It should be presented in such a way that it is clearly legible. The same principles should apply to broadcast advertising. It is worth noting that the GamCare telephone number appears on the homepage of the GambleAware website.
- New gambling products (i.e. not those such as bingo that it was permissible to advertise prior to 1 September 2007) should not be advertised on television before 9pm. (The exception to this rule is the advertising of sports betting around televised sporting events.)

3. How effective the Act has been in its core objectives to:

The three core aims of the 2005 Gambling Act were to: keep crime out; protect the young and vulnerable; and treat consumers fairly. The 2005 Act has been successful in achieving those objectives because it recognised the ability that self-regulation can play in protecting consumers.

a. *Protect children and vulnerable people from the adverse effects of gambling:*

The Gambling Prevalence Survey 2010¹, conducted by the National Centre for Social Research on behalf of the Gambling Commission, contained detailed population-level data about gambling behaviour and attitudes. The survey identified no clear evidence of an increase in problem gambling in 2010 as compared to the previous Survey in 2007.

The Prevalence Survey measured the rate of problem gambling using two different methodologies, and both methodologies found that the levels of problem gambling were minimal – consistently less than 1%. In the report, advertising is not referenced as a cause of problem gambling.

The national prevalence studies that have been conducted since 1999 show very steady levels of problem gambling over time. The latest Gambling Prevalence Survey shows that a

¹ British Gambling Prevalence Survey 2010:

www.gamblingcommission.gov.uk/PDF/British%20Gambling%20Prevalence%20Survey%202010.pdf

liberalization of the advertising rules for gambling products has not led to an increase in levels of problem gambling in Great Britain, which remain relatively low by international standards

b. Ensure that gambling is maintained crime-free and conducted in an open and fair manner:

The responsible behaviour exhibited by gambling operators in advertising practices is evidenced by a compliance survey the ASA conducted over a two month period in the immediate aftermath of the 2005 Act coming into force, which it published in February 2008. The ASA found that 99% of the advertisements it reviewed complied with the advertising codes that governed them. This high level of compliance has been maintained since 2008 with the latest ASA compliance study showing similarly high levels of compliance.

Additionally, while the central tenet of the “open and fair” objective is not something which we would focus on, it is worth considering how the opening up of the advertising market for gambling products has worked to ensure that the gambling market continues to operate fairly and competitively. Competitive and transparent marketplaces provide greater value for consumers.

c. Update the legislative framework with regards to online gambling:

There has been a significant growth in online gambling since the 2005 Act was implemented, and this has increasingly been undertaken by offshore operators. The Act makes it clear that all gambling operators licensed by the Gambling Commission are permitted to advertise in the UK. In addition, gambling operators based within Gibraltar, the European Economic Area and “white-listed” states/jurisdictions are permitted to advertise in the UK. Four jurisdictions have “white-list” status, they are Alderney, Antigua, the Isle of Man and Tasmania. This system ensures that the burgeoning online gambling market is able to flourish while at the same ensuring that the appropriate checks and balances are in place to ensure that the first two objectives discussed above are met. It is a robust regime that has the protection of consumers as its heart. There is no evidence of harm to UK consumers resulting from offshore online gambling or its advertising, a fact which was acknowledged in the 2010 DCMS consultation paper on the regulation of remote gambling, which referred to “potential” – as opposed to actual – risk. Finally, it is worth making clear the fact that gambling operators have opted to move offshore not because of reduced regulation offshore (which as explained above is not the situation in any case) but generally for fiscal reasons.

d. Conclusion

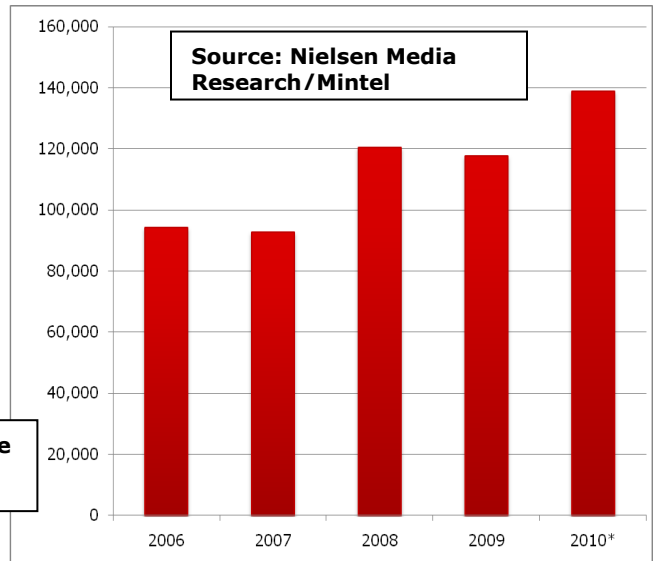
Gambling advertising, which has been handled sensitively, has not proven controversial in practice and appears to be accepted by the public; there are few complaints to the ASA about advertisements for these products and the socially responsible behaviour shown by advertisers has been acknowledged by regulators.

4. How has the advertising industry benefited from the Act

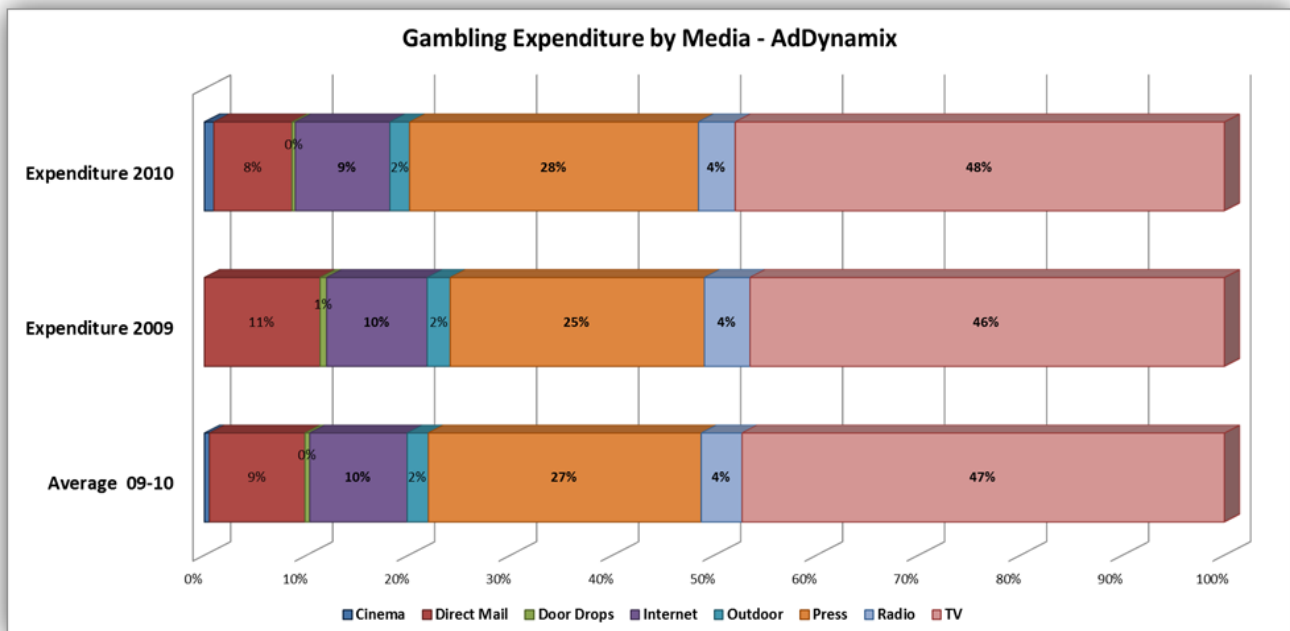
The 2005 Act had significant implications for the advertising industry: by legalising certain forms of gambling and by relaxing the advertising restrictions on these and previously permitted forms, the Act created new opportunities for agencies and media, as well as the advertisers – gambling operators – themselves. Key changes were allowing gambling products and premises to advertise more widely, including in broadcast media, and allowing

casinos to advertise in a limited way for the first time. The industry has demonstrably benefited from these opportunities.

The gambling industry has benefited financially from the changed regulatory regime borne from the implementation of the Gambling Act. Yet there has been a knock-on benefit for other sectors, including both for advertising and marketing agencies, and the media. Annual advertising spend for gambling has risen gradually since 2007 and was £150 million in 2010.



While television and press advertising receive the most advertising spend, it is noteworthy that other sectors of the media have also benefitted from the liberalisation of advertising regulations in this market.



*** Internet does NOT include Search spend. Display only according to Nielsen**
Source: NNR adDynamix : Jan – December 2010

**Gambling Advertising Expenditure
2010 by Product Sub-Category**

The breakdown in 2010 gambling advertising spend by gambling sub-category shows all sub-category investing in advertising, including large spends from those sub-sectors such as online casinos and bingo which were first permitted under a bookmaker's licence by the 2005 Act.

Product Category	Product Sub-Category	Expenditure
Gambling	Total	150,868,147
	Bingo	32,168,046
	Entertainment - Sports General	9,620
	Football Pools	4,373,128
	Gambling - Other	327,295
	Gambling - Sports	48,678,627
	Lottery	36,598,827
	Off Line Casinos	2,340,066
	Online Casino	9,725,091
	Poker	6,155,649
	Scratch Cards	8,110,037
	Tipsters	2,381,761

The 2005 Act also provided a statutory definition of a lottery, for the first time, via Section 14 ("Lottery") of the legislation. As a result of this, the statutory definition of a lottery now allowed games of chance linked to product or service purchased at their normal market price. This has allowed marketers in Great Britain to run on-pack prize promotions, such as instant win mechanics, without the need also to provide a free entry route - a mechanism for participating that does not involve the purchase of the product. This change has been of great benefit to the promotions industry. No consumer detriment resulting from such activities was expected and indeed none has been identified since the Act came into force.

5. Concern about the gambling law in Northern Ireland

The Advertising Association supports any moves towards clearer, more flexible and more consistent regulation. Therefore, we are greatly concerned that the current gambling legislation in Northern Ireland fails to take account of the various developments in the gambling sector that have taken place over the last few years in the rest of the UK. We support the recent proposals by the Northern Irish Executive to make gambling rules in Northern Ireland consistent with those in the rest of the UK. This would benefit not only the advertisers, agencies and the media, but also consumers.

As outlined above, the Gambling Act 2005 has provided broadcasters and publishers with considerable freedom to advertise gambling products in Great Britain. In Northern Ireland, however, restrictive advertising rules for gambling products remain in place. This raises a number of problems, not least for broadcasters who cannot easily differentiate their feeds into Northern Ireland, as the rules effectively require all gambling advertising they carry to be in a form that will not breach Northern Ireland legislation. In order to stay the right side of the current legislation, broadcasters have taken an understandably conservative approach, for example, determining that the inclusion of a disclaimer in an advertisement to the effect that the advertisement does not apply to Northern Ireland, or Northern Irish residents, is not a sufficient measure to ensure compliance with the Northern Ireland

legislation. This deprives consumers in Great Britain of advertising they may be interested in because of the different legal situation in Northern Ireland.

We call on the Select Committee to support the proposals made by Department for Social Development, Northern Ireland, to update the gambling laws in Northern Ireland so that they are consistent with those in the rest of the UK.

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