

CHARITY MIGHT LOSE OUT FROM A COMPULSORY LEVY

A compulsory levy would be bundled with operators' licence fees and as a result many firms might well be much less likely to continue overpaying their 0.1%, says **Melanie Ellis** of Harris Hagan



Since the first Licence Conditions and Codes of Practice (LCCP) were published by the Gambling Commission (GC) in 2007, it has been a requirement (in the form of a “social responsibility code provision”, with which non-compliance is a licence breach) for all licensees to “make an annual contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling”. The provision does not specify to which organisation(s) a contribution must be made, nor the value of that contribution.

Early on, it became the default approach for licensees to make an annual contribution to GambleAware (formerly the Responsible Gambling Trust) and that organisation publishes donation guidelines, asking all British-facing operators to contribute at least 0.1% of their annual gross gambling yield (GGY). This figure reflects a commitment made by gambling operators at the time the Gambling Act 2005 was drafted.

With total GGY from GC-licensed gambling operators of £13.8bn in 2016, funds received by GambleAware should have been £13.8m, if all operators had made the recommended donation to that charity. However, actual donations received by GambleAware in that year were around £8m. Of course, these figures do not necessarily indicate that licensees are failing to make the promised contributions to preventing and treating gambling-related harm – other organisations, such as GamCare and Gamblers Anonymous, will also have received

donations from operators. Given that some larger operators are known to be making more than the minimum required contribution, however, it does seem to be the case that not all operators are contributing as expected.

The social responsibility code provision can technically be met by donating £1 to GambleAware, and some operators do exactly that. For a start-up or company struggling to turn a profit, the inclination to do the minimum necessary to be compliant is understandable, particularly if the operator was not party to the original promise to donate 0.1%. It is for this reason that there have been calls to raise the ‘minimum necessary’ bar, by introducing a mandatory responsible gambling levy.

In its ongoing consultation exercise on gaming machines and social responsibility measures, DCMS threatens that “if this voluntary system fails to deliver on these issues, the Government will consider alternative options, including the introduction of a mandatory levy”. DCMS asks if respondents “agree that the Government should consider alternative options, including a mandatory levy, if industry does not provide adequate funding for [research, education and treatment]?”

If a responsible gambling levy is to be introduced, the secretary of state must first consult with the GC and then pass secondary legislation, in the form of regulations.

Of course, UK-facing gambling operators already pay a gambling-specific tax. Industries subject to an excise duty (in addition to the usual corporation and other taxes) tend to be those where the activity carried out poses some particular risk of harm and consequentially creates an additional burden on the taxpayer to fund reduction and

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treatment of that harm. By way of comparison, the tobacco industry is estimated to cost the NHS somewhere between £3bn and £6bn per year in terms of treating smoking-related illnesses. This cost is well covered by the circa £9bn in taxation raised from the industry. Notably, there is no suggestion that tobacco companies should pay an additional levy to treat smoking-related harm.

Tax receipts from betting and gaming totalled £2.7bn in 2016/17. To put this into perspective, that's higher than receipts from the climate change levy and only slightly lower than total customs duties.

A report commissioned by GambleAware estimated that problem gambling costs the UK somewhere between £260m and £1.2bn per year. This figure encompasses a wide range of costs related to problem gambling, including healthcare, welfare payments, lost labour tax receipts, housing and criminal justice costs. As is the case with the tobacco industry, the cost of harm specifically caused by the gambling industry appears to be well covered by tax receipts. So why is the industry being called on to make additional contributions for the research and treatment of gambling-related harm? GambleAware currently receives none of the £1.5bn+ net positive generated by the gambling industry.

The simple fact appears to be that the Government is not directing sufficient gambling tax receipts towards research into and treatment of problem gambling, so additional funding is required. DCMS states in its consultation that it “supports GambleAware’s ambition to open more clinics regionally” but apparently that support is not financial. Why that might be is beyond the scope of this article, but it seems that the Government’s views have yet to align with those of the GC, which sees problem gambling as “a subject of public health and policy interest”.

GambleAware estimates it needs at least £10m per year to deliver the National Responsible Gambling Strategy. If that money is not coming from the Treasury, it appears to be the industry which has to pay.

Operators who are making the recommended voluntary contribution and plan to continue doing so would presumably welcome this becoming a mandatory requirement, so that all operators are on a level playing field. Marc Etches, chief executive of GambleAware, stated in

October 2017 that the charity would like to see a statutory levy. The Remote Gambling Association has recently announced that, in its response to the DCMS consultation, it will encourage the Government to introduce it.

Given that gambling operators and industry bodies generally appear to support the levy, it seems strange that the Government is holding it over the industry as a threat. The fact that the levy has so far remained a voluntary contribution might be thought to reflect reluctance on the part of the Government to take on the administrative burden of collection and of enforcement against non-payers. However, the provisions of the Gambling Act 2005 that allow for a statutory levy to be introduced provide that the levy will be paid to the GC along with the operator’s annual licence fee.

The GC must spend the money it collects on purposes or projects related to gambling addiction, other forms of harm or exploitation associated with gambling or anything else related to the licensing objectives. If a statutory levy were introduced, whether all of those funds would go to GambleAware would remain at the discretion of the GC, but there should not be any risk of the funds being spent other than in support of responsible gambling.

Some of the largest players in the industry currently donate more than the minimum 0.1% figure to GambleAware and in addition make donations to other problem-gambling charities. If voluntary donations are replaced by a statutory levy, there is a risk that the overall level of donations to the various charities will decline, with operators replacing discretionary donations to a number of charities with a simple payment of their invoice for the levy that is due. If that turns out to be the case, the Government may be called on to revisit the rate of the levy, perhaps increasing it to 0.2% of GGY. If problem gambling rates increase, the Government may again decide it is preferable to increase the levy, rather than increase the amount of gambling tax receipts it puts towards treating the issue.

A positive outcome may be for the Government to conclude that gambling operators are now doing more to tackle harm caused by problem gambling and therefore the introduction of a statutory levy is unnecessary. Although unlikely to be heralded on the front page of the Guardian, this is a good news story that could begin the rehabilitation of the gambling industry’s image.

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