

THE BOOKMAKERS' COMMITTEE

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R V Hughes CBE
Chairman
Horserace Betting Levy Board
52 Grosvenor Gardens
London SW1W 0AU

Dear Robert

Betting Exchanges

In formulating its Recommendations for the 48th Levy Scheme, the question of whether those who lay bets on the betting exchange market should be liable to pay Levy was again discussed at some length.

You are well aware of the history of this issue and in particular of the examination of this market which was conducted by the Treasury in 2006, the results of which did not persuade ministers that it would be appropriate to change either the basis or the rate at which betting exchanges were taxed. The position in respect of the Levy was re-stated by the Secretary of State in his recent determination of the 47th Scheme in response to the BHA's argument that the exchanges' liability should be considerably increased.

The Committee has to date followed the Government's lead and made no recommendation to change the way in or rate at which the exchanges pay Levy. However, the debate has restarted following a presentation by your Finance Director in which he defined those liable to pay Levy as follows:

“Anyone who is a bookmaker and who carries on a business which includes the effecting of betting transactions on horseracing in England, Wales and Scotland (including the use of a betting exchange in the course of their business). This will include all such entities that hold an Operating Licence but not exclusively”.

The last three words, although I understand aimed at ensuring that the spread betting operators remain liable for Levy despite not requiring Gambling Commission licences, also imply that those who may be conducting a betting business on the exchange market should also be liable for Levy.

The issue, of course, is identifying who they are because there is no definition of what constitutes “conducting a business”. Those exchange players who hold a Betting Operators Licence are identifiable and, by definition, are deemed to be using that platform by way of business and become subject to Levy (and general betting duty) accordingly. But there is no way of identifying those who do not hold Licences but who, it seems likely, are nevertheless operating as bookmakers on the exchange market by way of business.

You will recall that, during the scrutiny phase of the passage of the Gambling Act through Parliament, a number of proposals were made towards defining what did and what did not constitute the conduct of a business in this context, although no definition emerged.

However, since that process and the Treasury investigation were completed, the Gambling Act has come into force. The Act is not, of course, concerned with Levy issues nor with the funding of horseracing. However, we consider that its objectives may be relevant in emphasising the need for the Gambling Commission to have a clear understanding of the nature of the exchange market and to review whether the current parameters for deciding who does and who does not require a Licence are correct.

The objectives of the Act are:

preventing gambling from being a source of crime and disorder or being used to support crime;

ensuring that gambling is conducted in a fair and open way;

protecting children and other vulnerable persons from being harmed or exploited by gambling.

It is not obvious how gambling can be conducted in a fair and open way if there are those conducting betting businesses on the exchange market who are unknown and unlicensed. It is equally difficult to see how anyone can be protected from exploitation by such people, should they be less than scrupulously honest in the conduct of their business.

We acknowledge the considerable efforts made by Betfair, the leading betting exchange, to provide detailed audit trails to the regulatory and legal authorities in situations which they believe betting patterns may be suspicious. However, we consider that a powerful and further disincentive to dishonesty would be provided if those laying horses to win or lose substantial sums by way of business were known and required to hold an appropriate licence.

To achieve this, it would be necessary to establish a proper definition of “business” in this context. It is my view that the Gambling Commission can

claim locus in this area and that it should initiate an investigation into the exchange market with the objective of making that definition. If that could be achieved, a concomitant requirement could be established for those who fell within the definition to be licensed by the Commission. They would then become known entities.

There is a long held view amongst members of the Bookmakers' Committee who represent the "traditional" betting industry, that those who act as bookmakers on the betting exchanges at a level which, because they are in effect conducting businesses, present significant competition to Licensed bookmakers, should be required to pay betting duty and Levy in the same way as they do.

Whether this is right or not, a requirement for major exchange layers to be licensed would at least provide a more informed context in which to hold the debate and also provide a significant disincentive to those who seek to prosper dishonestly from the exchange market.

It is therefore the view of a majority on the Bookmakers' Committee that the Board should approach the Gambling Commission and the DCMS with a view to initiating a review by the Commission into the issues raised above.

I should make clear in closing that the Committee member representing the betting exchange community shares none of the views or concerns described in this letter and will doubtless wish to be in touch with you directly to deliver a different perspective.

Yours sincerely

Christopher Bell
Chairman