Gambling

The Policy of the Church of England National Investing Bodies and
The Advice of the Church of England Ethical Investment Advisory Group
The Church of England Ethical Advisory Group provides independent ethical investment advice to the Church of England’s three National Investing Bodies detailed below:

The Church Commissioners for England, who support the work and mission of the Church of England across the country.

The CBF Church of England Funds, collective investment schemes managed by CCLA Investment Management Ltd in which Church of England parishes, dioceses, schools and church charitable trusts invest. CCLA is predominantly owned by its church and not-for-profit clients.

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The National Investing Bodies have decided to adopt the following policy on gambling, based on the advice of the Ethical Investment Advisory Group (“EIAG”).

**INVESTMENT AND DIVESTMENT**

The National Investing Bodies will not invest in any company where more than 10% of its revenues are derived from gambling activities, including the following:

- Companies that own or operate gambling facilities such as (but not restricted to) casinos, racetracks, bingo halls or other betting establishments, including horse, dog, or other racing events that permit wagering; lottery operations; online gambling; and sporting events that permit wagering.
- Companies that provide key products or services fundamental to gambling operations, including (but not restricted to) products manufactured exclusively for gambling, such as slot machines, roulette wheels, or lottery terminals; gambling technology and support designed for gambling applications, such as IT maintenance or software design; and gambling-related services such as credit lines and casino management and consultation.
- Companies that license their company name or brand name to gambling products.
- Companies that conduct spread betting activities.

**ENGAGEMENT: CORPORATE**

The National Investing Bodies are aware that there is a blurring of the distinction between gambling and gaming, and that some mechanisms—particularly loot boxes—are considered controversial features, and that there are growing calls for these items to be included in gambling legislation.

As part of its review into the UK Immersive and Addictive Technologies, the Digital, Culture, Media and Sport Select Committee has begun to collate the evidence relating to the effects of gambling-like mechanics in games.1 The National Investing Bodies support the evidence-based review on the effects of gambling-like game mechanics, including loot boxes and other emerging trends, prior to changes to legislation. Nevertheless, the potential impact on the vulnerable needs to be addressed irrespective of changes to legislation. The National Investing Bodies will engage with companies within their portfolios that operate controversial mechanisms to ensure that appropriate controls are in place to protect the vulnerable.

**REPORTING**

The National Investing Bodies will monitor and report publicly on an annual basis on their implementation of this policy via the National Investing Bodies’ Individual Responsible Investment Reports.

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OVERVIEW OF THE INDUSTRY

The EIAG reaffirms its advice to the NIBs to restrict investment in gambling activities

1. The Ethical Investment Advisory Group (“EIAG”) has long advised that gambling, as a form of normalised exploitation, is an unsuitable activity for the Church to derive any income from. The EIAG reaffirms its Advice to the Church’s National Investing Bodies (“NIBs”) to restrict investment in gambling activities based on the following core concerns:

• a business model predicated on exploiting and profiting from addiction or human vulnerabilities
• a reliance on addictive and manipulative; techniques which may fuel gambling-related harms amongst the vulnerable and the young;
• a distortion of the “sanctity of play” for financial gain;
• an opacity of relationship between company and individual.

2. The EIAG notes that the concerns outlined above have a disproportionate impact on the most vulnerable in our midst — particularly children and those vulnerable to gambling-related harm. It provides general advice to the NIBs in this paper and encourages the NIBs to engage with relevant portfolio companies with particular regard to the core policy options detailed in part 4 of this Advice.

The rapid transformation of the global gambling industry

3. The worldwide gambling industry has grown rapidly over recent decades as a result of industry deregulation, innovative product development, technological advances in mobile and online markets and the sustained and deliberate use of advertising to make gambling behaviour a socially acceptable part of our society. The boundaries and complexities of the gambling industry have evolved so swiftly, increasingly online and offshore, that regulators are struggling to keep pace to protect children and vulnerable persons people from gambling-related harms. As the

House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry concluded in July 2020, “The choice of games is bewildering, and the house edge generally higher. There is no limit on when or where individuals can gamble, age is harder to verify and supervision is difficult.”

4. Gambling has become increasingly embedded in almost every aspect of our lives over recent years: our high streets, television screens, online games, social media, football teams and favourite sports stars. In 2019, around half of adults in Britain participated in some form of gambling where a person pays money or money’s worth
for a game of chance, where prize means money or money’s worth.⁴

New gambling opportunities and products are being presented to an ever-widening spectrum of society—from children to vulnerable adults—and increasingly in forms marketed as acceptable to society. Advertisements portray gambling as a game of skill—such as Blackjack; a way to donate to good causes—such as the National Lottery⁵; a way to share your passion for horseracing with your friends in the pub or your family at home⁶ or a way to show your dedication to your football team⁷. New innovations are frequent—customers can now create their own wagers and make “in play” bets during live sports events, where the action is sliced into bite-sized betting opportunities from who will score next in a football match to who will not win a set in a tennis match—in some ways this allows gamblers to act more like hedge funds in financial markets.⁸

Whilst gambling may at one time have been episodic and related to a single match or race, it is now a highly innovative and complex industry accessible from anywhere 24 hours a day.

The rising importance of mobile and online gambling

The global gambling market is growing at an annual rate of nearly 6% and, according to The Business Research Company, its global total value is expected to reach $565.4 billion by 2022.⁹ This growth rate is overwhelmingly driven by online and mobile markets. In Britain, gambling companies’ yield from online activities increased from £1 billion to £5.3 billion in the ten-year period from 2009 to 2019.¹⁰ Unsurprisingly, the online and mobile markets are where most of the industry’s advertising budget is being spent. It is estimated that approximately £200m was spent on TV advertising in 2019, whereas roughly £1bn was spent advertising online.¹¹ The online and especially mobile markets are also largely occupied by the younger age groups: 76% of 18–24 year-olds, 72% of 25–34 year-olds and 66% of 35–44 year-olds who gamble online use a mobile to gamble, as opposed to 14% of those aged 65 and over.¹²

The rise of this market is expected to continue to accelerate as technology advances inspire ever more product innovations. During the COVID-19 lockdown restrictions, when large sports events were cancelled, virtual sports events or e-sports (the competitive playing of video games such as CS:GO, FIFA Football and Fortnite) increased, together with a surge in e-sports gambling activity. Monthly Gross Gambling Yield (GGY) for UK e-sports operators increased from £50,223 in March 2019 to £1,517,548 in March 2020—an increase of 2922%—and by June 2020 it had more than doubled again to £3,472,951. Whilst the monthly GGY from real-event betting and slots dwarf that from e-sports, and the March to May 2020 surge in GGY was related to the COVID “stay at home“ restrictions, it is nevertheless a growing market for gambling operators.¹³
As noted by the Gambling Related Harm All Party Parliamentary Group, with the growth of online and mobile gambling there has also been a significant growth in online gambling-related harms. This is especially concerning given the anticipated growth of these markets and the predominance of the younger generation of gamblers in them. It also notes that the regulation of online gambling in the UK lags behind that of many other countries and particularly lacks restrictions on online products, restrictions on stakes or deposit limits and restrictions on advertising that other countries have introduced in order to protect customers from gambling-related harms.\(^\text{14}\)

**Gambling-related harms**

As the industry has reaped the increasing financial benefits, society—especially for the most vulnerable amongst us—has faced a growing spectrum of social and human harms. The Gambling Commission’s “Behaviour, Awareness and Attitudes” report, released in February 2020, found increasingly negative attitudes to gambling prevalent in Great Britain, with 73% of respondents suggesting gambling is dangerous for family life.\(^\text{15}\) In 2018, the NHS released data that estimated that 395,000 people in England (including 25,000 children under the age of 16) have a form of addiction to gambling, with 1.8m people at risk of harm.\(^\text{16}\)

Whilst many people participate in gambling without harm, some people become addicted to their gambling habits. This can lead to serious and harmful consequences. The EIAG does not use the term “problem-gambler” or “problem gambling” for reasons explained in detail herein, but rather it looks at the harms or risks that manifest from the industry and applies a theological lens to them in order to inform the EIAG’s advice to the NIBs. These gambling-related harms are experienced not just at an individual level but also at a societal and an inter-personal level. These include the effect of gambling-related harm on the friends, family and connections of someone who gambles. As the Gordon Moody Association has written: “The cost to society should not only be counted in terms of the financial cost to an individual. Impact on their loved ones and family members should also be measured in terms of the devastating impact it can have on their own mental health, physical health, family relationships, employment and quality of life—thus demonstrating the wider social impact of problem gambling.”\(^\text{17}\)

The list of gambling-related harms is vast. Evidence provided to the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry includes:

- relationship difficulties up to, and often including, relationship breakdown;
- intimate partner violence and domestic violence;
- disengagement from family life;
- personality changes (short-tempered, aggressive, withdrawn);
- shame and social exclusion of family members when they discover levels of debt or crime caused by their loved one;
- social exclusion through poverty;
- damage to communities from clusters of betting shops/arcades;
- children changing school as a result of eviction and having education disrupted;
- mental and physical health problems for both the gambler and family members;
- low self-esteem;
- staff at betting shops/arcades experiencing abuse or violence from disgruntled gamblers.\(^\text{18}\)

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\(^{15}\) Select Committee on the Social and Economic Impact of the Gambling Industry, “Gambling Harm — Time for Action.”


Whilst the Government does not record official figures or estimates of the number of gambling-related suicides each year in the UK, the charity Gambling with Lives collated academic research which suggests that the number of gambling-related suicides per year is in the range 250–650.\(^9\)

**The evolving regulatory context**

As noted earlier, the regulation of gambling and particularly online gambling in the UK has been struggling to keep pace with the rapid development of the industry. The lines between regulated gambling activities and other unregulated but gambling-like activities such as loot boxes (as discussed below) have become increasingly blurred, and consumers, legislators, campaigners and industry leaders have found themselves in positions of regulatory ambiguity.

It is anticipated that a review of the current legislation on gambling will take place in the short term. The Government included a review of the Gambling Act in the Queen’s Speech in 2019, and The Parliamentary All-Party Betting & Gaming Group (APBGG)\(^20\) has started to prepare the ground for a new Gambling Act by taking evidence on four topics: A public health approach to gambling; gambling’s relationship with football; gambling marketing; and whether the 2005 Act is fit for purpose.

The Gambling Related Harm All Party Parliamentary Group (with which the Church has engaged) has also called for new legislation to include, inter alia:

- a complete overhaul of gambling regulation in the UK;
- a total ban on gambling advertising;
- stake limits for online gambling of no higher than £2;
- a ban on all VIP schemes and inducements.\(^21\)

In addition, the House of Lords Select Committee on the Social & Economic Impact of Gambling Industry published its report in July 2020, making over fifty recommendations, which it believes “will begin to address the misery that a gambling addiction can visit on individuals and their families and friends”.\(^22\) This Advice is therefore offered in anticipation of, but ahead of, any new legislative or regulatory position to succeed the Gambling Act (2005).

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\(^21\) See the Gambling Related Harm APPG website at: http://www.grh-appg.com/.

\(^22\) Select Committee on the Social and Economic Impact of the Gambling Industry, “Gambling Harm — Time for Action”. 
THE IMPORTANCE OF LANGUAGE: PROBLEM GAMBLERS AND GAMBLING-RELATED HARMs

1 As indicated in the executive summary above, this paper does not use the term “problem gamblers”. There are various terms of reference in discussions surrounding gambling, including “problem gambling” and “gambling addict”. Gambling-related harm was not previously thought of as a condition, mental or otherwise, until the late 20th century. Prior to this, “compulsive gambling” was thought of as either harmless or tragically inexplicable (for example, the former can be seen throughout music which references gambling losses absent of context, and the latter can be seen in Dostoyevsky’s The Gambler).

2 However, recently, terms such as “problem gambling” and, consequently, “problem gambler” have taken hold. This is most often the term used by industry, those in gaming sectors, the popular press and Parliament. However, this term was coined by American researchers funded by the industry and therefore brings with it a degree of “industry baggage”.

3 The issue is that the term “problem gambler” achieves two things. First, this term shifts moral and economic responsibility entirely onto the individual. When the industry devotes significant time and resources to products that are designed to be addictive, or create so-called “choice architecture” on websites to lead gamblers to websites, and regularly encourage VIP and repeat customer deals, even to customers who have flagged that they are struggling with gambling addiction, it is quite apparent that there is more to the issue than an innate desire to gamble. The term “problem gambler”, by putting all the responsibility on the shoulders of individuals, serves to relieve the industry itself of any responsibility.

4 Secondly, it achieves the normalisation of gambling. If gambling-related harm is limited to the individual, who is inexplicably drawn to gamble compulsively, then gambling is a normal product that should be kept away from these ostensibly degenerate individuals. This is of course intellectually false. For example, harm is measured on the Problem Gambling Severity Index and, to be dubbed a “problem gambler”, you must score highly on this scale. This excludes from the equation others who experience gambling-related harm. For example, if you have no money in your family bank account because your spouse is gambling, you are self-evidently experiencing harm, while not being a problem gambler.

5 For Christians, the Church teaches that all people are created in the image of God, with an innate value. There are no “problem people”. Therefore, we would strongly discourage the use of the terms “problem gambler” and “problem gambling”, while recognising that it is commonly used terminology in academic research and official publications from, inter alia, the Gambling Commission, the Department for Culture, Media and Sport, and the National Audit Office.

6 Gambling-related harm is probably the best term (terms like “gambling addiction” can be contentious, and tricky to prove compared with a substance abuse issue); however, so-called problem gambling is acceptable as long as users are aware of the history of the term.

IS THE ACT OF GAMBLING SINFUL?

7 In debates over the correct relationship, if any, between Christianity, investment and gambling, one of the key fault lines is between whether gambling is itself by its very nature sinful, in which case clearly Christian investment ought to be avoided, or whether what is sinful is to profit from the exploitation inherent in the gambling industry. The distinction matters in so far as the first is a point of principle with an activity, the latter a concern with the moral conduct of a business sector. It also matters in so far as the Church of England does make use of, and benefit from, the act of gambling (e.g. through the National Lottery and at a more trivial level through, for example, fundraising tombolas and bingo clubs) and could easily be accused of hypocrisy.

8 Christian churches have historically been at the forefront of anti-gambling (or anti-gaming) campaigns throughout British history, but
particularly from the nineteenth century onwards. It is perhaps an oddity, therefore, that there is relatively little academic theological reflection on gambling since the early twentieth century. Further, the Bible itself is largely ambivalent on the issue. This is certainly not because gambling was unknown in biblical times.

9 There is a wealth of evidence that gambling on everything from betting on races and contests to games of dice and lots was widespread throughout the biblical world. Indeed, the Bible itself refers to gambling in a number of places, without any explicit condemnation. Probably the most famous of these include the Roman soldiers casting lots to determine who should get Jesus’ clothes, in Matthew 27:35.

10 In a number of cases in the Old Testament, casting lots is used to determine the will of God e.g. Joshua 18:6–10; 1 Chronicles 24:5, 31 and Jonah 1:7, or to select the holders of particular religious roles e.g. Acts 1:26, where the disciples cast lots to pick Judas’s replacement as one of the twelve. In all, there are seventy uses of casting lots in the Old Testament and three in the New Testament.

11 This is where the definition of gambling becomes critical. We would consider the casting of lots in those cases to be an exercise in determining providence, revealing the will of God rather than relying on human decision making. It ought to be noted that if gambling is thought of simply as relying on chance to secure an outcome, as in some definitions, then this would seem at least to be skirting closely to that definition. The EIAG believes that gambling can be defined as “an activity that constitutes any behaviour involving betting or wagering one’s property or money, no matter how slight or significant, where the outcome is uncertain or depends upon chance”.

12 This suggests that the focus of criticism is the act of betting with something (money or property) for an outcome based on chance, rather than it being the use of chance itself that is problematic. This helpfully does not require us to condemn the apostles as sinful gamblers when they selected Matthias to join their number. It is worth noting, however, that there have been Christian theological expositions that would suggest that any reliance on chance at all is problematic.

13 As noted above, there has been comparatively little academic theological reflection on gambling, which is perhaps overdue. One of the more prominent examples historically was William Temple, who wrote several theological condemnations of gambling. These are noted here as context, as one of the more recent efforts in Anglican theology to engage seriously with this issue, rather than as a guide to how we ought to consider it today.

14 The first of Temple’s four arguments was precisely that chance was itself problematic, since it subverts God-given order and logic. God is a God of order, and we ought to rely on his providence, not subvert it. This would lend itself, if taken to its logical conclusion, to a far more highly prohibitionist attitude towards any use of chance than most Christians would be comfortable with today.

15 Temple had three further arguments that address gambling as sin. The first is that gambling contradicts the biblical notion of stewardship.

Leviticus 16:8 – “and Aaron shall cast lots on the two goats, one lot for the Lord and the other lot for Azazel.” Photo credit: “Detail of East Window, Lincoln Cathedral” by J. Hannan-Briggs is licensed under CC BY 2.0.

23. EIAG, “Gambling or Gaming: Entertainment or Exploitation?” (previous EIAG Advisory, published in February 2003, which the current document replaces).
All that we possess is ultimately not our own but God’s, and as such we have a responsibility to use it wisely. Gambling is to risk what is God’s irresponsibly.

16 Second, Temple, with others including John Wesley, William Wilberforce and several other prominent Christians of the age, argued that gambling is incompatible with the demand to love one’s neighbour, since it inherently relies on one person profiting at another’s misfortune. As such, to engage in gambling at all is to engage in a process which is at some level inherently exploitative. Of course, this argument resonates more in cases of inter-personal gambling (i.e. two or more people betting or playing directly against one another—where at least one must lose for the other to win). It can be less apparent in cases of dealing between an individual and a bookmaker, casino or, increasingly, large gambling corporations. It is not so obvious that to win at the expense of a company that exists to profit from gambling resonates in the same way as an example of a failure to love your neighbour.

17 This is perhaps even truer in the context of online gambling, since there is no human interaction at all in the process to ground the gambler in an understanding of a potential relationship between their winnings and someone else’s losses.

18 It is less obvious still in the context of skins or loot boxes (see “Loot Boxes” in part 3). These are not strictly gambling by the current law, though they do involve paying money for a chance outcome. In that transaction, however, the player is paying a company for a chance to win an item, but in such a way that is not obviously playing either against the company (players cannot “beat” games companies in the way they might beat a casino) or another player. This point is returned to below in considering whether the issue lies in the profiting from the proceeds of gambling rather gambling as an act in and of itself.

19 Finally, Temple argued that gambling was, by nature, covetous. Where Christians are called to be reasonable, responsible and work with skill and justice, gambling instead provides a quick fix, more focused on the love of money that is the root of evil (1 Timothy 6:9–10) than on the need to work for God’s kingdom. Issue could be taken with any of these points, and it is fair to see that these theological critiques of gambling have long been rather overlooked within the Church.

20 A more interesting consideration on whether gambling itself is a sinful concept might be found in the extent to which it abuses the notion of play. Gambling (or gambling-like activities) is often found within the context of games, be that a sports meeting, a card game, a slot machine or in our modern context within the confines of online video games in which players are encouraged to purchase mystery items (loot boxes), without knowing the contents, as part of game play. The Jesuit theologians Karl and Hugo Rahner (and also the protestant theologians Paul Tillich and Jürgen Moltmann), drawing on the cultural theorist Johan Huizinga, each explore the nature of God and humanity as being found in play. Creation is a supreme act of play, in so far as it is meaningful and yet wholly unnecessary. Indeed, for Hugo Rahner, in this sense play is a profoundly spiritual activity: “it arises from a longing for the divine… There is a sacral secret at the root and in the flowering of all play”.

21 As such, gambling raises a concern because it represents a corruption of the purity of play for a financial purpose (taking a sacral secret and monetising it), and one that, if abused, can wreck other players. Little work has been done to date on linking this specifically to the issue of gambling.

22 The overall evidence, then, is not quite clear cut. There is little recent theological work analysing gambling, which is strange given its prominence in Christian social campaigns of the past two centuries. Unlike the Quran which quite explicitly in two separate surahs (2.219 and 5.90–92) condemns gambling, the Bible is rather more circumspect. Nevertheless, there is sufficient material to develop a theological response that is concerned by the prospect of activity that in several different respects appears to disrupt or undermine Christian teaching on how society ought to work, notably the concern for how work and responsibility interact, the call to love one’s neighbour and the danger of the
love of money. If the Bible does not explicitly condemn gambling and associated gambling-like behaviours (e.g. loot boxes), it certainly provides plenty of guidance that gambling ought to be of serious concern.

**IS PROFITING FROM GAMBLING SINFUL?**

23 From the perspective of investment, it is essential to be clear not only on the desirability of gambling as an activity but also as an industry. Where, as we have seen, the former is concerning but not entirely clear cut, a lot of Christian responses to gambling in recent years have focused particularly on the consequences of gambling and the faults of the industry.

24 There are several points that could be examined here, but the first reiterates Temple's point above about this being an activity that fails the test of loving your neighbour by virtue of relying on a winner and loser. It was noted above that this criticism of the gambler seems hollower when their opposition is not another person but a company or casino (perhaps particularly online). The same is not true, however, of gambling companies.

25 At root, gambling is an industry which is based on people losing. This was the particular concern of John Wesley, the leading light of early Methodism, who wrote of an industry of gamblers “who made a trade of seizing on young and inexperienced men, and tricking them out of all their money…not a few of these (were constrained) honestly to earn their bread by the sweat of their brow, and the labour of their hands”.24 More than simply being based on people losing, the profitability of gambling is based on the same people losing repeatedly. As such, even were the industry both well regulated and keen to ensure the consent and health of its participants, nevertheless it would be almost impossible to avoid playing on vulnerabilities. At an ethical level, this makes gambling an industry of particular concern, since it is so naturally geared to exploiting vulnerabilities. This can be readily seen in practice, where gambling companies have been consistently accused of the “normalisation of exploitation”, holding out a fantasy vision of riches to a customer base that exhibits multiple vulnerabilities.

26 More specifically, the types of vulnerable people targeted by gambling raise ethical concerns. Christian theology has, for example, long held a concern for supporting children as a particular category of vulnerable person. For example, theology draws on Matthew 18:10 and 19:13–14. It is particularly concerning, then, that the reality of 21st-century gambling is that children are constantly exposed to and targeted by gambling.

27 Research from 2018 has identified that children are exposed to 3.8 gambling adverts a day, despite laws on targeting the under-18s. Rates of gambling among children are increasing, according to the Gambling Commission. That data does not include the prevalence of gambling-like activities in video games designed specifically for children and young people, which normalise attitudes to gambling at a young age. From a theoretical perspective there is no necessary reason to believe that gambling necessarily targets children. However, within the context of a wider theology of the Fall and human nature, there are reasons for concern that an industry reliant on people losing will always be particularly susceptible to exploiting the vulnerable, including children.

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Beyond children, the same point applies to the role companies play in fuelling and preying on addiction among their customers. In July 2020, the House of Lords Select Committee reported that 25% of the profits of the gambling industry came from those showing signs of harmful betting and also noted “the gambling industry continually offers a variety of products to consumers, including some which can be highly addictive”.  

A theological argument can also be made that gambling falls short of Christian teaching on the treatment of the poor. Betting shops cluster in areas of higher deprivation, a trend that is internationally recognised, as described here in an Australian context: “Gambling has enabled the dramatic redistribution of resources, transferring, with industrial efficiency, billions of dollars from the pay packets of the working classes to the bank accounts of the richest 0.01 per cent”.  

This runs contrary to a well-established theological legacy of particular concern for the poor, as articulated by Pope Francis, himself quoting Pope Benedict XVI: “the Church has made an option for the poor which is understood as a ‘special form of primacy in the exercise of Christian charity, to which the whole tradition of the Church bears witness’”.  

In the first part of this section, it was argued that gambling as an activity was treated with some ambivalence in the Bible but did prompt several principled theological objections. The second part of this section, on the practice of gambling as an industry, has argued that over and above those objections there is also an in-built and inherent weakness of a business built on exploitation of the vulnerable which raises serious theological and ethical reservations.

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Advice Relating to “Gambling-like” Products

LOOT BOXES

1. The legal definition of gambling as defined by the Gambling Act 2005 does not include the fast-growing number of in-game products in online video games such as loot boxes or skins. A loot box is a virtual item (often appearing as a treasure chest or crate) which can be redeemed to receive further randomised virtual “prizes”, such as customisation options for a player’s character, known as skins, or additional weapons and armour. Skins are virtual graphic or audio downloads which change the weapons, avatar or equipment of characters in video games. They have no impact on performance or gameplay but are valued for their rarity, aesthetics, utility or popularity.28

2. The Gambling Commission has asserted that in-game items such as loot boxes are not considered as “a licensable gambling activity”, as the items are confined for use within the game and cannot be cashed out for money via an exchange, thereby not meeting the 2005 Gambling Act’s definition of “money or money’s worth.”29 In-game items such as loot boxes and skins are provided in a “closed loop” fashion, and are not intended to be exchanged for money, either with the games providers, with other players or with third parties. The networks via which these games are accessed are not designed to have open functionality to facilitate users trading in-game items with each other for money and this approach is underpinned by the terms and conditions governing the use of the game networks. As such, the Gambling Commission does not define the purchase of these in-game items as gambling activities. There are instances of users exploiting the open nature of the game networks to offer players opportunities to buy, sell and gamble in-game items via unaffiliated and unregulated third party websites. This is known as “skin gambling” and it is prohibited by the games’ publishers and they take steps, for example issuing cease and desist letters to unaffiliated websites exploiting their intellectual property, to prevent it.30

3. The “money or money’s worth” definition of gambling is, however, being questioned as to whether it is “fit for purpose” in this fast-evolving industry, and increasingly concerns are being raised regarding loot boxes. In September 2019, the Department for Digital, Culture, Media and Sport Select Committee (DCMS) recommended that the Government regulate loot boxes under the 2005 Gambling Act, and the Queen’s Speech outlined that they would be included in a forthcoming review of the Act. In January 2020, the NHS announced the launch of a gambling clinic in response to growing concerns about addiction to gaming. NHS mental health director Claire Murdoch noted that “no company should be setting kids up for addiction by teaching them to gamble on the content of these loot boxes”31 and in June 2020, the Government responded to

31. As quoted in Wesley Yin-Poole, “NHS chief says loot boxes are ‘setting kids up for addiction’ to gambling” (18 January 2020), available at: https://www.eurogamer.net/articles/2020-01-18-nhs-mental-health-boss-says-loot-boxes-are-setting-kids-up-for-addiction-to-gambling.
the DCMS report on immersive and addictive technologies by calling for written evidence and roundtable discussions on loot boxes to examine “the size and variation of the market, the design of mechanisms, the context in terms of other types of in-game spending, the impact on consumers and particularly young people including links to problem gambling, and the effectiveness of the current statutory and voluntary regulation”.34

4 Similar questions are being asked around the world. In the US, whilst there is also no legal consensus on whether loot boxes constitute gambling, a class action lawsuit has been brought against Apple Inc. claiming Apple engages in predatory practices enticing consumers, including children, to engage in gambling and similar addictive conduct through offering apps with loot box features.33

5 The Belgian Gaming Commission (BGC) has been unique among gambling regulators to consider “player-ascribed value” rather than “money’s worth” in its assessment of loot boxes and has found that: “Use of money is not necessary. Just because virtual currency is used in a game does not mean that there is no wager. It must be possible to attribute a value to this wager; however. Value can be defined as the degree of usability. Specifically, items that the player finds useful or nice and for which he pays money.”34 The concept of “player-ascribed” value has therefore persuaded the Belgian regulator to rule that loot boxes do fall within their legal definition of gambling.

6 The EIAG notes the legal ambiguity surrounding loot boxes but, in line with the theological reflection and the concerns the Bishop of St Albans has raised via the House of Lords’ Call for Evidence on Gambling regarding the increasing normalisation of gambling in the perception of children, it encourages the NIBs to consider the psychological definitions of gambling when engaging with portfolio companies. As the Church noted in its written submission: “loot-boxes…do not meet the definition of gambling in the Act, but ‘rarely fail to meet the psychological definition of gambling, even when they do not meet the legal definition’”.35

7 Nottingham Trent University psychologist Dr Mark Griffiths has defined five core criteria as a “psychological” definition of gambling:

- the exchange of money or items of value;
- an unknown future event determines the exchange;
- the outcome is at least partly determined by random chance;
- it’s possible to avoid loss through non-participation;
- and winners gain at the expense of the loser.36

8 A 2019 London School of Hygiene and Tropical Medicine study has argued that applying a legalistic definition of gambling to loot boxes may be insufficient as it is the “assimilation of gambling cues within gaming practices and ambiguity about where gaming ends and gambling begins” which is undeniable.37

9 In his written submission to the House of Lords, Dr David Zendle argued for the regulation of loot boxes, noting that similarities between loot boxes and gambling led researchers to theorise that loot boxes might cause problem gambling in gamers. He also noted research reveals that loot

box spending is linked to problem gambling in both adults and adolescents, which suggests that either loot boxes cause problem gambling or they exploit problem gambling amongst gamers to generate massive profits.\(^{38}\)

Loot boxes may sometimes be compared to collectable card games, such as the FIFA football cards, to dismiss concerns that they constitute gambling. Entertainment Software Rating Board president Patricia Vance recently used this analogy in a letter to US state senator Maggie Hassan, stating: "We do not consider loot boxes to be gambling… We believe that loot boxes are more comparable to baseball cards, where there is an element of surprise and you always get something."\(^{39}\) Electronic Arts have adopted a similar argument, suggesting that loot boxes constitute "surprise mechanics".\(^{40}\)

However, as Zendle has argued, this analogy misses out the psychological connections and gambling cues which do not exist with card games. For example: players can buy loot boxes a lot more quickly than they can buy trading cards and they can easily buy them in much larger quantities. Another important difference is the use of many psychological graphics and mechanisms which are commonly seen in loot boxes and not in physical football cards. These include lights and sounds and ideas such as "losses disguised as wins" and "near misses" which play on people's cognitive biases,\(^{41}\) coupled with sensory feedback and entrapment mechanisms designed to maintain players' attention and encourage further spending.

The addictive techniques employed in the gambling industry are also prevalent in the gaming industry—for example, games can lull players into a trance-like state known as "continuous gaming productivity" and will know exactly when and why players are most likely to stop playing. Tim Sweeney, the co-founder of Epic Games has noted these connections and asserted "Loot boxes play on all the mechanics of gambling except for the ability to get more money out in the end."\(^{42}\)

The EIAG recognises that, unlike an innovation such as online slot machines, the issue of "money or money's worth" is not the key concern with loot boxes. The key concerns are the features, effects or realities of the in-game items themselves, which may create harm or exploit our human vulnerabilities, particularly in children. The Gambling Commission has highlighted a potential crossing of the boundaries between video games and gambling activities and noted the need for a legislative review: "In early 2016 we identified loot boxes as a potential risk to children and young people."\(^{43}\)

The EIAG recognises that children are disproportionately affected by these in-game gambling-like activities because, as highlighted by the Children's Commissioner, they are less able to make informed decisions about the risks and do not have effective strategies to manage their online spend.\(^{44}\)

The EIAG notes the lack of research establishing the long-term negative effects of in-game items such as loot boxes; however, it does note that loot boxes include many of the psychological features used in traditional forms of gambling designed to maintain players' attention and encourage further spending.

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43. Gambling Commission, “Loot boxes within video games”.

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and also recognises the nascent evidence that exposure to these products during childhood or adolescence can carry negative consequences for gambling behaviours in later life. Given the ambiguous regulatory environment at present, the EIAG advises the NIBs to engage with portfolio companies offering in-game items such as loot boxes on the core policy themes detailed below.

**FINANCIAL DERIVATIVES INCLUDING CONTRACT FOR DIFFERENCES (CFDS) AND BINARY OPTIONS**

16 The EIAG has previously advised, with reference to the financial markets, that investing for long-term gain in stocks, shares, bonds and gilts does not constitute gambling in any form, but rather is consistent with good stewardship of God’s gifts in the responsible ownership of assets. However, the EIAG advised that gaining from short-term speculative market movements, such as through spread betting (which is not regarded as a gambling activity by the 2005 Gambling Act and is therefore not regulated by the Gambling Commission), should be considered as a form of gambling and should therefore be avoided. In recognising this, the EIAG included spread betting under its gambling policy.

17 Given the proliferation of financial products such as contract for differences (CFDs) and binary options available to retail investors, the EIAG has sought to broaden its understanding of these instruments to look beyond whether they are bought for long-term or short-term use and to examine their wider characteristics, and particularly the impact they have on the buyer.

18 Both CFDs and binary options are authorised by the Financial Conduct Authority (FCA), but neither are considered as gambling under the definition of the Gambling Act (2005) and are therefore not regulated by the Gambling Commission. They are both, however, currently under review by the FCA, and a Policy Statement regarding plans to prohibit the sale, marketing and distribution of binary options, CFDs and CFD-like options to retail consumers is expected in the short term.45

19 CFDs are financial derivatives or contracts between an investment bank or a spread betting firm that allow investors to take a position on future movements in stocks, foreign exchange, commodities, exchange traded funds, or sports and political events. They may be purchased by companies with large-scale capital expenditure projects as a means to protect against volatile commodity prices, or they may be purchased by retail investors through online brokers. At the end of the contract, the two parties exchange the difference between the opening and closing prices of a specified financial instrument, such as shares or commodities. The use of CFDs is an important element of the UK’s transition to a low carbon economy. The Government CFD scheme is the primary mechanism to encourage investment in renewable energy, by providing developers of long-term and costly investment projects with protection from volatile movements in energy prices.

Binary options are “a form of bet where you try to predict the outcome of events in financial markets. For example, whether a company’s stock price, or a foreign exchange rate, will rise or fall over a defined period… The use of the word ‘binary’ refers to the fact that there can only be two outcomes to the bet. If your prediction is right you win the bet; if your prediction is wrong you lose.”

In evaluating these products, the EIAG has followed an approach to look at the characteristics of these financial products according to two behaviour metrics:

i) the average return (or financial outcome) for buying or not buying the product, and

ii) the range of financial outcome—i.e. is the financial outcome (to most people who buy the product) widened or narrowed by the buying of the product?

This approach suggests that those products that produce a negative financial return but limit or narrow the range of financial outcomes share characteristics with risk mitigation or insurance type products. The purchase of buildings insurance, for example, would incur a negative financial outcome (the cost of paying the premium) but would have the effect of limiting a potential loss (or narrowing the range of financial outcomes). Those products that demonstrate a positive average financial outcome and widen the range of financial outcomes share characteristics with investment products. An investment in the FTSE 100, for example, over a 20-year holding period produces an array of investment outcomes from 11% to 4% per year, on average. However, a product that produces a negative return on average and widens the distribution of financial outcomes, may share characteristics with a gambling activity. With a gambling activity, purchasers will widen their financial outcomes—that is, the majority of people, on average, who place a bet will be worse off (they lose their stake) but a very small number will make a profit.

Extending this approach to a financial derivative such as a CFD highlights the importance of “insurable interest”. For example, it is understood that, if it was possible to insure a neighbour’s house against fire then that insurance product would resemble an unethical form of gambling. For this reason, there are clear regulatory and legal restrictions which prevent the use of insurance products in this way. This example illustrates that a crucial factor in determining whether an insurance product resembles a gambling activity depends not on the structure of the product itself, but on the characteristics or investments of the buyer. For example, if a person buying buildings insurance owns the house that is insured, they have an “insurable interest” and the purchase looks like a risk mitigation/insurance product. If a person purchases the insurance without owning the house and therefore without an “insurable interest”, the purchase demonstrates gambling characteristics.

A CFD may be used either to narrow risk or to widen risk, and therefore may demonstrate insurance type characteristics or gambling type characteristics. For example, a CFD may be used as a hedging instrument. A retail investor with

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47. For full details of this approach and methodology see Fod Barnes, “Investing, insurance or gambling?” (5 November 2019), available at: https://www.fca.org.uk/insight/investing-insurance-or-gambling.

an investment in a FTSE 100 tracker may seek to limit any losses with the purchase of a CFD. Similarly, the UK Government’s CFD scheme provides a risk mitigation mechanism to limit energy producers’ exposure to energy price volatility. In both these examples, the purchase of the CFD instrument demonstrates insurance type characteristics in that the distribution of financial outcomes is narrowed by the purchase of the instrument. However, investors may also purchase a CFD with no underlying investment position to hedge, and the same CFD may be considered to demonstrate gambling characteristics in that it produces, on average, a negative financial return and a wider spectrum of financial outcomes.

A recent FCA survey highlighted that 82% of clients lose money and that, on average, clients experienced a loss of £2,200 when trading these products. For professional investors, with access to a breadth of market data and expertise and as part of a longer-term hedging strategy, this approach would consider such a purchase to resemble the characteristics of an investing product in that, on average, the range of financial outcomes is narrowed.

Another innovation in these products is leverage trades, or trading on a “margin”, which provide the opportunity to make large profits on small initial stakes, from small moves in the price. CFDs bought in this way act in a very similar way to spread betting. Whilst the initial stake may be small, losses for a bet that goes against the buyer can be proportionately large. In January 2015, the Swiss National Bank’s unexpected decision to remove its ceiling on the Swiss franc’s value against the euro caused massive losses for many spread betters as they were faced with sudden calls for payments of margin (a form of insurance against trading losses), which many were not able to pay immediately.

Whilst there are FCA regulatory restrictions on leverage limits on the opening of a position to protect retail investors, the EIAG notes that if financial derivatives such as CFDs are bought by retail investors and they are not purchased for hedging or risk mitigation purposes, then, as described above, they share characteristics with gambling products in a similar way to spread betting.

As a nuanced understanding of the characteristics or investments of the buyer is crucial to understanding if an activity constitutes a gambling activity or not, the EIAG does not recommend an investment restriction on financial derivatives such as CFDs but advises the NIBs to pursue a policy of engagement.

The EIAG advises the NIBs to engage with companies offering such financial products around the core policy recommendations detailed below, with a particular regard to clients at risk of addiction.

The EIAG notes that, following the model described above, professional and regulated investors with access to a broad range of financial data and expertise as well as underlying investments acquire such products as risk mitigation products or as part of a broader investment strategy and are therefore not deemed to resemble a gambling activity.

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49. The Money Advice Service, “Spread bets and contracts for difference”.
THE THEME OF ADDICTION

1. The EIAG advises the NIBs to engage with relevant portfolio companies to seek protection for the harmful consequences of gambling-related addiction.

2. Addiction is highly complex and interconnected with many broader societal issues, including inequality, but whilst previously those with a gambling addiction may have been considered responsible for their own misfortunes, the EIAG recognises that addiction does not develop in a vacuum and advises that gambling companies must take responsibility for their own role in fueling addiction among its customers. The proliferation of gambling opportunities, to a widening spectrum of society, has been enabled by an environment where businesses voraciously compete for our attention 24 hours a day, 7 days a week, and prey on human vulnerabilities. People are increasingly overwhelmed with subtle but relentless demands on their attention and, in the case of gambling, these demands are marketed as adventurous money-making opportunities designed to maximise engagement and addiction. Anthropologist Natasha Dow Schüll has described how the mechanical rhythm of electronic gambling pulls players into a trance-like state she calls the “machine zone”, in which daily worries and even bodily awareness fade away.\textsuperscript{50}

3. Against an arsenal of psychological cues and incentives, human vulnerabilities are easy targets. Both the American DSM\textsuperscript{51} and the World Health Organization ICD\textsuperscript{52} schedules now recognise gambling disorder as a psychiatric illness. Some gambling addicts report that they experience neurological and physiological responses that are similar to those of drug or alcohol addicts;\textsuperscript{53}

4. Whilst the EIAG acknowledges that gambling companies do not have an incentive to drive customers to personal harm, it does note that they have an incentive to keep customers gambling and to fuel addiction, even when harms might be building.

5. As such, the EIAG affirms the view that businesses must act to prevent, mitigate and remedy gambling-related harms they have caused or contributed to, with a particular regard to those customers under 25 or at risk of gambling-related harms. This includes adopting a breadth of responsible measures with regard to their business activities, including, inter alia, affordability checks, appropriate restrictions on VIP loyalty schemes, effective procedures for self-exclusion and responsible algorithms, to ensure that such customers are not incentivised to gamble more than they can withstand. It also includes societal measures such as further industry-level investment in teaching on addiction and gambling disorders.

ADVERTISING

6. The EIAG advises the NIBs to encourage responsible advertising of gambling products, particularly with regard to children and those in at-risk groups.

7. Since the restrictions on advertising gambling products were relaxed with the 2005 Gambling Act, the gambling industry has significantly increased its expenditure on all forms of advertising from TV and online to team sponsorship opportunities.

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\textsuperscript{53} Adi Renaldi and Jade Poa (tr.), “Inside the Indonesian Hospital Treating Gaming Addicts” (no date), available at: https://www.vice.com/en_in/article/v74p4b/indonesian-hospital-gaming-gadget-addiction-therapy-treatment-rehab.
The term “gamblification of sport” is often associated with football—clubs’ relationships with gambling companies can be prominently displayed around their stadiums and on the front of their players’ shirts. Whilst steps have been taken to limit advertising exposure, especially to children, for example the restriction of TV and radio advertising during the COVID-19 lockdown and the voluntary “whistle to whistle” ban on television adverts during live sports, the close relationship between sport and gambling, as noted by the House of Lords Select Committee, means that children and at-risk adults are increasingly exposed to indirect or subliminal gambling advertising.

Children and at-risk groups are also being increasingly exposed to a stream of direct advertising for gambling activities. An Ipsos MORI survey published in March 2020 found that 96% of people aged 11–24 had seen gambling marketing messages on TV or social media in the previous month and were more likely to bet as a result. Researchers also found clear evidence of children following and engaging with gambling-related accounts (including bookmakers and e-sports) on Twitter. The report concluded that the rise of new forms of gambling marketing through social media has increased the ways in which children and at-risk groups can engage with gambling, albeit often innocently. A more pervasive form of marketing, particularly for those vulnerable to gambling-related harm, is the direct marketing targeted at gamblers via texts, emails and social media, offering gratuitous inducements to re-activate an account or sign up to a new product.

The EIAG notes that further independent research examining the links between gambling advertising and gambling-related harm for both adults and children is required. However, whilst the EIAG recognises the importance of advertising for the industry, it advises the NIBs to engage with portfolio companies to ensure their advertising protects children and the vulnerable from gambling-related harms. This means advertisements should promote safe, responsible gambling, be unambiguous regarding the nature of risks involved and should not use features that especially appeal to children. In addition, any direct marketing, including social media, text or email inducements, should be conducted in a transparent way, allowing for total exclusion, and must not exploit the vulnerabilities of customers, particularly children or at-risk adults.

The minimum age for most commercial gambling in the UK is 18. In April 2021, the minimum age for the purchase of online National Lottery products, including scratch cards and instant-win games increased from 16 to 18 and the increase will come into effect for National Lottery tickets and scratch cards bought in stores from October 2021. The Gambling Act Review is currently considering increasing the minimum age for participation in society lotteries (currently available to 16 and 17 year olds) to 18 to ensure parity with the National Lottery and is also considering children’s access to Category D slot machines.

The Gambling Commission’s Young People and Gambling Survey 2019 has noted that whilst most young people think that gambling is dangerous and there has been a gradual downward trend in (illegal and legal) gambling by children since 2011, there remains a small percentage of children engaging in legal and illegal gambling. It notes a small but significant increase in online gambling since 2018 (from 1% of 11–16 year olds in 2018 to 3% in 2019), which the EIAG considers important.

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given the amount of time young people spend online and, as highlighted earlier, the proliferation of innovative online products and the increase in online advertising spend by gambling companies.

As noted in the theology reflection above, Christian theology has long held a concern for supporting children as a particular category of vulnerable person. The EIAG notes there are strict rules with regard to children and gambling; the Industry Code from the Industry Group for Responsible Gambling states “care must be taken not to exploit children and other vulnerable persons in relation to gambling activity.” It also notes that the Gambling Commission is taking a proactive approach to enforce this, but new areas of product innovation and advertising continue to pose threats to the protection of children from gambling-related harms. The EIAG recognises many in the industry are reviewing their practices and introducing protective measures, particularly regarding children and vulnerable adults. These companies should be encouraged in their endeavours and also encouraged to include broader measures such as investing in teaching on gambling risks and harms.

The use and misuse of predictive data

As previously highlighted by the Church and supported by the work of Tim Cowan and Philip Blond, an area of concern is the use of predictive data which could be used to manipulate future behaviour. The use of technology in online gambling and in some gaming applications can now provide significant amounts of data which will track how frequently users play, which games they prefer, how often they win and lose, what times of day they play and for how long.

The predictive ability of the data will know when a user is about to give up and may give them a quick win to boost their time online. Such data provides an asymmetry of power, which could allow gaming companies to target gamers and expose them to addiction. The amounts of data such companies can accumulate can put them in a good position to be able to tackle addiction. For example, by sending messages highlighting how long users have been online, or by turning off after a particular time period. The EIAG advises the NIBs to encourage the gaming industry not to use this data for fostering addictive behaviour and encourages them to use it for methods that help minimise addiction.


The EIAG encourages the NIBs to engage with all relevant portfolio companies regarding the concerns identified earlier in this paper, particularly where a company may encourage or amplify addictive behaviour among its customers, including the use or misuse of predictive data, or target advertising to children or those vulnerable to gambling-related harm.

The EIAG also encourages the NIBs to engage with portfolio companies offering in-game purchases akin to gambling, where psychological cues with addictive techniques may be employed, to seek protections for children or those vulnerable to gambling-related harm. Such protections may include but are not limited to:

- Clear labelling that a game includes in-game purchases or loot boxes;
- Restrictions on children’s ability to play games that feature loot boxes;
- An introduction of age verification when purchasing codes or gift cards;
- The introduction of initial “zero spend” account limits;
- Provisions over player data and payments, including a user spending limit and time restrictions on usage;
- More considered attention to the design of games, including gameplay experience such as sensory feedback or entrapment systems designed to encourage further spending;
- Clear indication of drop rates;
- Regulator transparency of the random number generators used for loot boxes;
- Board/CEO oversight on the risks to people from addiction.

The EIAG also encourages the NIBs to engage with companies offering financial derivative products that may, depending on how they are used, share features with a gambling activity, to seek protections, particularly for those vulnerable to gambling-related harm. Such protections may include:

- Clear indication of winning odds;
- Considered attention to the marketing and design of products designed to encourage further spending;
- Board/CEO oversight on the risks to people from addiction.
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