

# Raising the **Stakes**



**Labour Proposals to Tax Remote  
Betting and Reform the Funding  
of the Horse and Greyhound Fund**

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## Contents

Headline Targets .....	2
Horse and Greyhound Reforms .....	3
The Origins of the Horse and Greyhound Fund .....	3
Prize Money .....	6
High Street and Remote Gambling .....	6
Gambling Operators and Employment .....	7
The European Legislative Background .....	8
The Solution .....	9
How the System would work .....	11
A “Carrot and Stick” Approach .....	13
Interim Measures .....	13
On-Course Bookmakers .....	14
Online Exchanges .....	14
Digital Rights Issues .....	14
Gambling and Addiction .....	15
Minors Access of Remote Gambling .....	16
References .....	17



# ***Raising The Stakes***

## **Labour Proposals to Tax Remote Betting and Reform the Funding of the Horse and Greyhound Fund**

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## **Headline Targets**

- Direct Exchequer funding of the Horse and Greyhound Fund should cease by Budget 2011. The financial support of this fund must be based on revenue from the gambling sector, as was the initial intention of the legislation.
- High street bookmaking operations are under severe pressure due to the unprecedented growth in remote gambling. The issue of remote operators not paying the betting levy must be addressed.
- The Labour Party supports the introduction of a system similar to that currently being debated in France. This requires all operators to register and pay tax on the national portion of their revenue, i.e. a tax on gambling placed in Ireland, whether in the high street, online, phone, mobile or on TV.
- The system to develop, register and collect the betting tax from remote operators should be developed by a specialised sector of Revenue, working with the Departments of Arts, Sport and Tourism, Finance and Justice, Equality and Law Reform.
- The betting levy should be raised to 1.5% in the Finance Bill on all bets placed in the state whether on-course, in shops, by phone, TV, online or on betting exchanges.
- The potential reward to the taxpayer is currently estimated at €90 million, based on a levy of 1.5% and a total betting market of €6 billion.
- This could easily provide for the Horse and Greyhound Fund while leaving significant funding left over to support the development of sport and expand the Local Sports Partnerships (LSP's), as well as funding organisations that work with people with problem or addictive gambling. A contribution would also be made to the Money Advice and Budgeting Service (MABS).
- Other Sports should be supported by virtue of the fact that gambling is not confined to horse and greyhound racing alone
- This would comply with the broad ethos of exchequer policy, as enunciated by the Commission on Taxation report, which is to broaden the tax base.
- Any online operator who does not sign up to this will be filtered (blocked) by Irish Internet Service Providers to prevent provision of service to Irish customers.
- Online poker and casino websites should also be brought within the betting tax net.
- Telephone, Mobile and TV Gambling operations will be also be required to register and pay a tax on turnover or face a ban from accessing Irish customers.
- On-course bookmakers will be liable for this levy.
- The issue of the use of exchanges and online gambling as a platform for laundering money should be investigated by the Criminal Assets Bureau.
- Labour recommends an investigation into the benchmarking of horse racing prize money to a level slightly above that of our European and British counterparts to ensure state funding is put to best use.
- The establishment of a mandatory code of practice for all operators in the gambling industry with regards to problem or addictive gambling.
- The development of this mandatory code is to be chaired by the Department of Justice, Equality and Law Reform in conjunction with all the relevant stakeholders, including the organisations dealing with problem or addictive gamblers.
- It is not within the scope of this report but greater cooperation between all stakeholders in the horse and greyhound racing industries is required to ensure the industries are placed on the firmest footing during these economically challenging times. The Minister for Arts, Sport and Tourism should take a lead role in driving this cooperation.

## **Horse and Greyhound Fund Reforms**

The Labour Party is acutely aware of the importance, both socially and economically, of the Horse and Greyhound industries. Horse and Greyhound racing are long established in Irish society, reaching back centuries. In particular areas, such as Kildare and Tipperary, racing and breeding are not so much an industry or a sport but a way of life. Labour appreciates the scale of employment, revenue and enjoyment which the industry brings to the country and the importance of the Horse and Greyhound Fund to horse and greyhound racing.

The importance of the Horse and Greyhound industries to the economy, particularly the rural economy, should not be underestimated. Recent research carried out on behalf of the Irish Thoroughbred Breeders Association shows that 22,084 full time employees were employed in the thoroughbred equine industry in 2008.<sup>1</sup> A large number of these jobs are in rural areas with little or no other indigenous industries besides agriculture, such as the Curragh in Kildare. The gross value of the thoroughbred industry, including bookmaking, to the economy is €1.1 billion.<sup>2</sup> The Punchestown and Galway Festivals alone are worth an estimated €105 million to their local economies.<sup>3</sup> In 2008 6,222 Irish thoroughbreds were exported to 42 countries, with a total value of €216 million.<sup>4</sup>

A Government commissioned report, costing almost €20,000, was carried out by Indecon consultants. This report entitled "Review of the Horse and Greyhound Racing Fund" is currently before the Government, but they have given no indication of when they plan to publish this report. The Department of Arts, Sport and Tourism does not have a track record in publishing reports promptly. The report on the potential economic benefits to Ireland of the London 2012 Olympics was completed in March 2008 at a cost of €114,000 but only published in February 2009.<sup>5</sup>

## **The Origins of the Horse and Greyhound Fund**

The Horse and Greyhound Fund was established following the enactment of the Horse and Greyhound Racing Act, 2001. The primary purpose of the Horse and Greyhound Fund is to support these industries with state financial support, financed principally by a levy on all gambling. The case for state financial support for horse (and indeed greyhound) racing has been described by Tony Fahey and Liam Delaney as follows:

*The case for state financial support for horse racing has most often been made in connection with the distinctive free rider problem facing the industry; it has difficulty extracting a return from its most important commercial product, namely the opportunities it provides from gambling.<sup>6</sup>*

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<sup>1</sup> Dukes, Alan *et al*; Analysis of the economic impact of the Irish Thoroughbred Horse Industry 2009

<sup>2</sup> *ibid*

<sup>3</sup> 2008; Horse Racing Ireland Fact book 2009

<sup>4</sup> Dukes, Alan *et al*; Analysis of the economic impact of the Irish Thoroughbred Horse Industry 2009

<sup>5</sup> See statement by Mary Upton No Gain on London 2012 Olympics Likely- Upton February 10 2009

<sup>6</sup> Tony Fahey and Liam Delaney; State Financial Support for Horse Racing in Ireland 2007



In summary, since the horse and greyhound industries are unable to secure revenue from their chief financial product, gambling, the state chooses to subsidise the industries.

Between 2001 and 2009 some €613.9m was paid out of the fund to support horse and greyhound racing.<sup>7</sup> Of this, Horse Racing Ireland received 80% of the funding, some €491.12million. Bord na gCon, which oversees the greyhound industry, has received 20% of the funding, totalling €122.78 million. This funding has provided for transformational change in these areas. Today Ireland has arguably the best horses, such as Sea the Stars, the best jockeys, like Ruby Walsh, the best trainers, such as Aidan O'Brien, and a large number of our racing stadia, such as at Ballybrit in Galway, have undergone significant upgrades using state support through Horse Racing Ireland (HRI). Research undertaken by Fáilte Ireland and Horse Racing Ireland shows that 16,400 overseas visitors came to Ireland specifically for horse racing and spent almost €35 million during their stay in the year to May 2009. A total of 68,400 overseas visitors also attended at least one race meeting during their trip.<sup>8</sup>

The Greyhound Industry has also undergone a successful transformation with significant upgrading of facilities such as Curaheen Park in Cork. This industry has also been successful in attracting foreign tourists to these shores. A joint undertaking between Bord na gCon and Fáilte Ireland in 2008 enabled 13,000 French holidaymakers to enjoy a "night at the dogs".<sup>9</sup>

The intention of the Horse and Greyhound Racing Act was to fund the horse and greyhound industries through the betting levy. The method of supporting the fund was set out in the legislation as follows

*(3) The Minister shall pay into the Fund out of moneys provided by the Oireachtas, in the year 2001, an amount, determined by the Revenue Commissioners, equivalent to the revenue paid into the Exchequer in the year 2000 from excise duty on off-course betting.*

*(4) The Minister shall pay into the Fund out of moneys provided by the Oireachtas, in the year 2002 and in each subsequent year, an amount, determined by the Revenue Commissioners, equivalent to the revenue from excise duty on off-course betting paid into the Exchequer in the preceding year or the year 2000 increased by reference to the Consumer Price Index, whichever is the greater.*<sup>10</sup>

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<sup>7</sup> Speech by Minister Martin Cullen to the Joint Committee on Arts, Sport, Tourism, Community, Rural and Gaeltacht Affairs 2<sup>nd</sup> April 2009; Parliamentary Question to the Minister for Arts, Sport and Tourism 47400/09

<sup>8</sup> Fáilte Ireland- Tourism Matters Update October 2009

<sup>9</sup> Irish Greyhound Board Press Release 16/2/2009

<sup>10</sup> Horse and Greyhound Racing Act 2001, Part 3 sections 3 & 4

This section of the legislation was to assume great importance in the years following 2001. Successful lobbying of Fianna Fail by the bookmakers resulted in the betting levy reducing from 5% to 2% in April 2002 and down to 1% in June 2006. The state gave in to both sides of the debate and the net result was that a large funding shortfall opened up, which had to be met by direct exchequer funding. The need for direct exchequer funding can be tracked to the reduction in the betting levy. In 2003 the total receipts from the betting levy fell from €68.06million to €47.95 million as a direct result of the reduction in the betting levy from 5% to 2%.<sup>11</sup> In 2009 the direct exchequer funding proportion was €31.5 million, some 46% of the total fund.<sup>12</sup> (see Table 1) By comparison, the Irish Sports Council received only €52 million in 2009 to support the majority of sporting organisations in the country. Indeed when you remove the National Lottery Funding from the Sports Council's budget it is clear that just two sports, horse and greyhound racing, receive more direct exchequer funding than all of the other sports combined. The total direct exchequer contribution to the horse and greyhound racing fund has been estimated as more than €240 million since 2001.<sup>13</sup> Fahey and Delaney detail the metamorphosis of the fund accurately in their 2007 paper:

*The original function of the Horse and Greyhound Fund as a means to capture some of the return from off-course gambling has declined in significance and had(sic) been supplemented with a new and largely unheralded function as a channel of direct state aid to the industry.<sup>14</sup>*

The Labour Party supports the Horse and Greyhound Industries as important indigenous industries which bring significant benefit to the economy, particularly the rural economy, in terms of investment, employment, tourism and continuity for rural life. In light, however, of the current exchequer deficit and the savage cuts in funding across all areas of Government spending, notably sport, the Labour Party believes that these industries should be funded by the proceeds of the betting levy only. This does not mean that these industries are under threat. Indeed we see several ways in which these industries can continue to grow and compete with the very best internationally.

Table 1- The Funding of the Horse and Greyhound Racing Fund

Year	Total Fund €; millions	Raised by Betting Levy €; millions	Direct Exchequer Funding €; millions	Percentage of Total Fund supplied by Direct Exchequer funding. %
2006	70	45.8	24.2	35
2007	73.1	54.3	18.8	26
2008	76.3	36.4	39.9	52
2009	68.1	36.6	31.5	46

<sup>15</sup>

<sup>11</sup> Tony Fahey and Liam Delaney; State Financial Support for Horse Racing in Ireland 2007

<sup>12</sup> Parliamentary Question to Minister for Arts, Sport and Tourism 47400/09

<sup>13</sup> This information was first provided in an Oireachtas Research Unit Document entitled "Taxing Remote Betting"

<sup>14</sup> Tony Fahey and Liam Delaney; State Financial Support for Horse Racing in Ireland 2007

<sup>15</sup> Parliamentary Questions to the Minister for Arts, Sport and Tourism 10638/09, 47400/09

## **Prize Money**

One of the most contentious issues, principally related to horse racing, is the issue of prize money. Prize money in Ireland is well above that of any of our direct competitors. For example the 2009 Irish Derby's total prize money was €1.65 million. The UK Derby in Epsom had a prize pool of £1.25 million sterling (€1.4 million as of 13<sup>th</sup> January).<sup>16</sup> Horse Racing Ireland, which is funded by the state, provided 56.3% of the total prize money in 2008.<sup>17</sup> This means that exchequer supported funding provided over half of the prize money.<sup>18</sup>

An issue that is of great concern to the Labour Party and indeed the wider public is that several of the most successful horse owners tend to be non-resident for tax purposes in Ireland. This issue can never be fully addressed from a horse racing perspective, as it is an international sport with many Irish winners in the UK and France, for example. Nonetheless, it is galling to the general public to see funding that should be provided to support small trainers and small stables being presented to Irish people who are non-resident in the state for tax purposes.

The Labour Party is aware that prize money is vital to spur interest in horse racing, to keep the industry vibrant by providing an incentive for trainers, jockeys and owners. Where we take issue is the level of prize money and the fact that it is significantly above that of our nearest competitor markets. We see a moderation in prize money, particularly in the current global economic climate as an extremely reasonable suggestion. Since Budget 2010 announced a further cut in funding for the Horse and Greyhound Racing Fund, the HRI have announced a substantial cut in prize money for 2010. This move is to be welcomed as prize money should continue to be monitored to ensure that it is only slightly above that of our competitor markets.

We would continue to benchmark this above that of our competitor markets, but not to the extent that it currently is at. This would help to significantly reduce the cost of the Horse racing element of the Horse and Greyhound Fund, moderate prize money and allow the HRI to reallocate funding to support stadia, owners and trainers in financial hardship.

## **High Street and Remote Gambling**

Gambling has long established roots in Irish culture. Despite its negative effects on some gamblers, we believe that it is neither possible nor desirable to outlaw gambling in Ireland. Gambling can be a problem issue for some citizens, but it is also enjoyed by a large number of Irish people in a moderate way. Gambling also has an important role in raising funding for charities, sports clubs etc. Any attempts to reform the Irish gambling system need to balance these two competing ideals of protecting the vulnerable whilst offering others the opportunity to partake if and when they so choose to do. Completely banning gambling would have the

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<sup>16</sup> Figures provided by the Irish Bookmakers Association November 2009

<sup>17</sup> Horse Racing Ireland Fact Book 2008

<sup>18</sup> In the UK the Horse Race Betting Levy Board contribution to prize money was 52.8% in 2008. This levy is funded by a levy on bookmakers with no direct state support. From "Working for Racing" British Horse Racing Authority 2008 Annual Review

immediate effect of closing down all the bookmakers in the state and would put significant pressure on the horse and greyhound industries. It would also inevitably lead to an increase in black market or online gambling, thus not resolving any of the problem issues in the industry.

According to the pre budget submission from the Irish Bookmakers association some 6,000 people are employed in the betting industry.<sup>19</sup> The submission states that the betting industry contributes €104 million in local and national taxation. Despite the continued increase in total gambling in Ireland, the total Irish market being valued at over €5.5 billion in 2008, high street bookmakers, and their 6000 employees, are under huge pressures as their revenues and margins are falling.<sup>20</sup>

One of the principal reasons for the fall in volume of betting in High Street shops is remote gambling, that is betting over the phone and the internet. The size of the remote market in Ireland, principally online, has been valued at €1.7 billion by Brian Kavanagh, Chief Executive of the HRI.<sup>21</sup> For a variety of reasons, principally ease of access and information, remote gambling is the fastest growing sector of the betting industry. In terms of supporting horse and greyhound racing and ensuring a level playing field for businesses, this creates a number of problems. Principally, no betting levy is paid on the overwhelming majority of remote gambling. Even well established high street betting operations have based their internet and phone operations in other jurisdictions such as Gibraltar or the Isle of Man and are therefore not liable for the betting tax. This is the principal reason for the shortfall in the horse and greyhound fund, despite the betting industry being valued at €5.5 billion in 2008. The government reduced the betting levy in response to lobbying by the bookmakers who were seeing their market share reduced by the remote operators. But since these operators have never been brought into the levy the gap in funding continues to widen, which has to be met by direct exchequer funds. Betting exchanges do not contribute to the betting levy and casino and poker websites do not pay anything at all.<sup>22</sup>

This situation is not sustainable. Other countries, including a number of our EU partners have taken, or are in the process of taking, action to ensure remote gambling is regulated and brought within the tax take. The Labour Party believes that it is fair that remote gambling operations pay their fair share the same as high street bookmakers. **Every bet placed in the Irish state should contribute to the betting levy, regardless of the method of placement.**

### **Gambling Operators and Employment**

In devising any system of bringing remote operators within the tax system the Labour Party must be conscious of the large employment provided by remote operators who have based their European or international headquarters here (see Table 2). These include Full Tilt Poker and Sporting Bet, as well as home grown operators who operate globally such as Paddy Power and BoyleSports. **The Labour**

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<sup>19</sup> Protecting Jobs, Creating Opportunities-A pre budget submission from Ireland's betting industry, Irish Bookmakers Association 2009

<sup>20</sup> Dukes, Alan et al; Analysis of the economic impact of the Irish Thoroughbred Horse Industry 2009

<sup>21</sup> The Racing Post "HRI and ITBA dismiss report from bookies" November 14<sup>th</sup> 2009

<sup>22</sup> Another major issue caused by remote gambling is addiction. This will be discussed later in the document

**Party does not believe that these operators should be taxed on bets which were not placed within Ireland.** This would be unfair on these companies, would damage their global business and would encourage movement to another jurisdiction. Additionally this would not address the problems of bets placed within the state as “punters” could simply switch to another non-Irish based company. A quick internet search will reveal dozens of these sites.

Table 2

<b>Current Jobs provided by Online Gambling Firms located in Ireland</b>	
<b>Situated in Ireland</b>	<b>Currently Employs</b>
Sporting Bet	170
Full Tilt	400
Cryptologic	16
BetDaq	110
Paddy Power	632
Boylesports	250
Bruce Betting	50
<b>Total</b>	<b>1628</b>

23

### **The European Legislative Background**

In devising a system appropriate for Ireland we must be cognisant that Ireland already has a remote betting market which is well established, with both indigenous and non indigenous companies providing services to an ever expanding base of Irish customers. Recent EU rulings and directives concerning the right of free movement of goods and services means that it would be exceptionally difficult to ban these websites from providing a service to Irish customers, unless we were to vest all gambling in a single state run authority such as in Holland or Norway. The issue of financial transaction blocking, where financial transactions to all online gambling providers are blocked by banks and payment service providers, does not seem practical from an Irish perspective.<sup>24</sup> This is because it would not help raise funds from a gambling levy or level the playing field for every industry provider. Additionally this issue is also the subject of litigation where Holland is attempting to block financial transactions to non- Dutch based remote operators.<sup>25</sup>

It should be noted that gambling was entirely excluded from the scope of the final Services Directive agreed by MEPs and Member States’ Ministers in 2006. This

<sup>23</sup> Protecting Jobs, Creating Opportunities-A pre budget submission from Ireland’s betting industry, Irish Bookmakers Association 2009

<sup>24</sup> World Online Gambling Report Volume 8 Issue 7; Opinion: Financial Transactions Blocking

<sup>25</sup> ibid

directive is currently being enacted into Irish law by the Government. Furthermore, in 2009 MEP's voted against creating a EU wide single market for online gambling by 544 votes to 36.<sup>26</sup> The March 2009 resolution stated:

*In accordance with the principles of subsidiarity and the case law of the European Court of Justice, Member States have an interest and right to regulate and control their gambling markets in accordance with their traditions and culture... as well as to protect the culturally- built funding structures which finance sports activities and other social causes in the Member States.*<sup>27</sup>

The recent Santa Casa da Misericórdia Ruling by the European Court of Justice (C-42/07) between Portugal and Bwin stated when ruling in favour of the Portuguese State:

*In the absence of Community harmonisation in the field, it is for each Member State to determine in those areas, in accordance with its own scale of values, what is required in order to ensure that the interests in question are protected... Member States are therefore free to set the objectives of their policy on betting and gambling and, where appropriate, to define in detail the level of protection sought.*<sup>28</sup>

The recent Swedish presidency of the EU reaffirmed the importance of respecting subsidiarity in this area and leaving legislation on this area up to the Member States.<sup>29</sup>

All of this is clearly a blow to the aspirations of the gambling companies and their lobbyists. In our view the body of opinion at a European level emerging from the European Parliament, the Courts of Justice and the Council is that online gambling is a special case, as provided for by the European Treaties and the ECJ, which cannot be treated as if it were just any other service and which remains the primary responsibility of the Member States.

## **The Solution**

The solution as the Labour Party sees it is to follow the broad outline of the model which the French parliament is currently working upon. (see Fig 1) This model, "controlled liberalisation", requires operators to register and pay tax on revenue from their domestic subscribers. Any company which fails to sign up is then filtered by the Internet Service Providers (ISP's) in the state. Italy has a similar system in operation requiring all remote operators who wish to provide a service to apply to register with AAMS (Autonomous Administration for State Monopolies).<sup>30 31</sup> To date

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<sup>26</sup> [www.euobserver.com](http://www.euobserver.com) "EU parliament opposes creation of online gambling market"

<sup>27</sup> *European Parliament Resolution P6\_TA(2009)0097 March 10<sup>th</sup> 2009 available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0097+0+DOC+PDF+VO//EN&language=EN>*

<sup>28</sup> European Court of Justice Ruling C-42/07, "Departamento de Jogos da Santa Casa da Misericórdia de Lisboa,". This full ruling can be downloaded at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0042:EN:HTML>

<sup>29</sup> Agence Europe 17/11/2009

<sup>30 31</sup> World Online Gambling Report Volume 8 Issue 5 "Italy: Remote Gambling Regulations: Progress Report"

some 1,800 websites that offer unlicensed gaming have been blocked by the state.<sup>32</sup> While we realise this places a significant regulatory burden on the State, the ISP's and the companies involved, it is fair to the state, the companies involved and to the high street bookmakers who employ over 6,000 people.

The potential exchequer return, particularly by including betting exchanges, poker and casino betting could enable the state to raise significant revenue. If one was to estimate the total betting market in Ireland as worth €6 billion (€5.5 billion for betting, €500 for million poker and casino) **a levy of 1.5% on turnover could raise €90 million.** The revenue potential exceeds the requirement of the horse and greyhound industries and so could be ring fenced into funding the development of sport such as the Local Sports Partnerships (LSPs). Support for other sports from the gambling levy is the correct course of action as gambling is not limited to Horse and Greyhound racing alone. This was explicitly recognised by the European Parliament Resolution of March 10<sup>th</sup> 2009 when it passed a resolution stating:

*Sports bets are a form of commercial exploitation of sporting competitions and recommends that Member States...put in place arrangements to ensure fair financial returns for the benefit of all levels of professional and amateur sport.*<sup>33</sup>

Additionally, bearing in mind that these exchequer returns are on the proceeds of gambling, there is a compelling case for funding organisations who address problem or gambling addiction. A contribution to the work of the Money Advice and Budgeting service, which deals with people in financial difficulties, should also be made. The Government could also choose to use this surplus funding to contribute to the exchequer in view of the current budgetary crisis, but we would suggest ring fencing this funding to support sport and people in financial difficulties.

**The Labour Party realises that taxing remote gambling will not be quick, easy or popular with those who are currently making large profits from Irish citizen's enjoyment of gambling. Nevertheless in the interest of fairness, supporting our exchequer, broadening the tax base and providing stable funding for sport in Ireland we would advocate the extension of the betting tax.**

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<sup>31</sup> In Italy residents are not authorised to gamble on non registered sites. "both criminal and administrative sanctions are provided toward those organising, collecting and promoting illegal or non authorised remote gambling" *ibid*

<sup>32</sup> See <http://www.aams.it/site.php?page=20060213093339418> for the list (in Italian).

<sup>33</sup> European Parliament Resolution P6\_TA(2009)0097 available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0097+0+DOC+PDF+V0//EN&language=EN>

Figure 1

### **France “Controlled Liberalisation”**

The French Government is currently in the process of establishing a method to license and tax on-line gambling sites. The draft law, which was approved by the Lower House in the National Assembly on October 13<sup>th</sup>, would require companies to register with a new agency and pay a tax. The current draft discussion figures are 1.8% for poker and 5.7% for sports bets including horseracing. The companies are also required to negotiate with the individual sports they cover (ie provide betting markets on). They will also be required to pay significant application and annual fees. Any company which does not register can be fined and the Government can make internet regulators block these sites. It is believed that this legislation will become law in 2010. Companies wishing to apply must not have any French customers for the previous six months and must not have a sister or daughter company in an offshore tax haven. The French system has also banned betting exchanges such as Betfair. This legislation, which is the second draft of a bill has received “cautious approval” from the EU who in early 2009 expressed concerns at the initial legislation.

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### **How the System Would Work**

As the draft French system has received broad approval from the European Union, therefore we believe that there is legal precedent for establishing a similar system in Ireland. The Labour party is conscious of the cross departmental nature of introducing such a tax. Our proposal is as follows:

- Establish a dedicated section of Revenue to develop, register and maintain the registration of online operators. This would be similar to AAMS which oversees the licensing and regulation of remote operators in Italy.
- Acknowledging the cross departmental nature of this issue, Revenue must be given the lead role in the project and ensure that other Government departments and bodies work under their direction in this matter.

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<sup>34</sup> This information was first provided in an Oireachtas Research Unit Document entitled “Taxing Remote Betting”.

<sup>35</sup> World Online Gambling Report Volume 8 Issue 10 “Gambling Industry Sceptical of French Liberalisation Plan”

<sup>36</sup> World Online Gambling Report Volume 8 Issue 10 “Editorial France: Smoke and Mirrors”

<sup>37</sup> [www.guardian.co.uk](http://www.guardian.co.uk) French government’s new gambling law bans Betfair and all exchanges



- The system would require operators who wish to offer gambling to persons in the Irish state to register and pay a registration fee.
- It is envisaged that this annual registration fee would cover the cost of maintaining the system once it has been established.
- They would then be required to pay a 1.5% tax on all betting revenue placed within the Irish jurisdiction.
- Any Online company which fails to comply with this process will be filtered (blocked) by Irish Internet Service Provider (ISP's) upon the direction of the subsection of Revenue. There is EU precedent for such action.
- This levy would also include poker and casinos betting, perhaps at a reduced rate similar to that proposed in France.
- Phone, mobile and TV gambling operators who do not register will also face a similar block out on their current medium.
- Revenues from non-Irish sources would **not** be subject to the levy
- Funding from the betting revenue across every platform will be used to provide a stable horse and greyhound fund.
- Acknowledging the fact that gambling is not limited to horse and greyhound racing alone, a sizeable contribution should be made to funding sports and in particular to supporting and expanding the Local Sports Partnerships (LSP's)
- Funding will also be set aside to support the work of organisations that deal with people with problem or addictive gambling.
- A contribution will also be made to support the work of the Money Advice and Budgeting Service (MABS) The establishment of a system of regulation would be useful in combating issues regarding fraud, crime, addiction and potential access to services by minors (see below)

This is the best system in our opinion because we can ensure that the state captures the betting duty on all bets placed in Ireland. There would be no incentive for betting companies to leave Ireland because we would continue to tax their bets placed in Ireland if they were offshore. There would be no additional penalty on them staying because they would only pay the betting tax on the bets placed in Ireland. Extending the betting levy to poker and casino games would further boost revenue significantly.

The Irish Bookmakers Association have put forward an alternative proposal which advocated a license tax on all operators and the introduction of a gross profit tax of 1.5%. They state this would have the benefit of attracting other gambling companies from the smaller countries where they are predominantly based such as Gibraltar and Malta. While this proposal has some constructive suggestions, the Labour Party can not support this scheme. Essentially the proposal would "lock in" the contribution at a level similar to that currently recouped by the betting levy. The Labour Party sees significant further potential for revenue generation from gambling. The system that we are advocating would not disincentivise any company from relocating to Ireland as they would only pay the 1.5% turnover tax on the Irish portion of their operations. They would be required to pay this 1.5% on their Irish subscribers even if they are not located in Ireland. Additionally while the Labour Party supports any potential employment creation suggestions or strategy,

we must be careful of not creating a perception of Ireland as a tax haven *vis a vis* our EU partners for gambling companies.<sup>38</sup>

### **A “Carrot and Stick” Approach**

For the system to work there must be an effective sanction for companies which refuse to comply with the mandatory registration and payment of a betting tax. This “stick” is threat of instructing Irish Internet Service Providers to block the offending websites from providing a service to Irish Internet users. The “carrot” is that companies who register with the system are then permitted to operate in the Irish market. We can learn from our European neighbours in this respect. There is legal precedent across the EU regarding IP blocking of sites. In Italy over 1,800 sites have been blocked by AAMS. In France draft legislation on their system has gotten cautious approval. The recent Santa Casa da Misericórdia Ruling by the European Court of Justice (C-42/07) between Portugal and Bwin stated when ruling in favour of the Portuguese State:

*Criminal sanctions, bans of promotion or for example an IP – blocking will continue to work according to a members states own provision and legal priorities.*<sup>39</sup>

The appropriate method of blocking will be devised, subject to consultation with the Internet Service Providers and other interested parties, taking on board the systems that are in operation in our European Union counterparts.

We acknowledge that there may be ways around this issue using the internet. This should not take away from the project, which can be refined over time to take account of the latest technological and legal advancements.

### **Interim Measures**

Establishing such a system will be a complex undertaking. The Labour Party does not believe that there should be any further direct exchequer funding of the Horse and Greyhound Fund after Budget 2011. For this reason we believe that the betting levy should be increased to 1.5% for all high street bookmakers. According to figures provided by the Minister for Finance the increase to 1.5% would provide an additional €15 million.<sup>40</sup> Coupled with reductions in prize money and other efficiency reforms within the Horse and Greyhound Fund we foresee the direct exchequer funding drop significantly in 2010 and be turned into a large exchequer surplus in 2011, once remote gambling is taxed. This should be introduced by the Minister for Finance in the forthcoming Finance Bill.

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<sup>38</sup> See Ireland Inc A proposal to save and create thousands of Jobs in Betting Industry Irish Bookmakers Association 2009

<sup>39</sup> Agence Europe 17/11/2009

<sup>40</sup> Parliamentary Question 39830/09

## **On-Course Bookmakers**

In order to ensure a completely level playing field for everyone involved in the betting industry, On-course bookmakers should not be exempt from the new 1.5% levy. Figures provided by Minister for Finance in response to a parliamentary question estimate the income from including on course bookmakers in the betting levy would raise €2.3 million. This would equate to €3.45 million if it was raised to 1.5%.<sup>41</sup>

## **Online Exchanges**

Online exchanges, the best example being Betfair.com, work by offering customers the opportunity to both back and lay horses. In effect the customer can be both “the punter” and “the bookie”. The company charges a small fee for hosting and maintaining the exchanges. This certainly brings freedom into the market by allowing customers to control both ends of the market. The popularity of such exchanges, particularly in Ireland and the UK, has meant that bookmakers are required by market forces to track the markets. This has the benefit of allowing “the punter” more competitive prices across all betting spheres. Once again however, exchanges are not subject to the betting levy which is levied upon all betting shops. The exchanges do contribute to Horse Racing Ireland but it is only at 10% of the Gross Profit Turnover. Statistics provided by the Irish Bookmakers Association have shown that on a turnover of €500 million the contribution of an exchange totals €1.2 million. If this money was routed through the betting shops the total income to the Government, including the levy and the corporation tax of 12.5%, is €12.5 million. This shows the level of income available for the Government. Online exchanges should be brought within the system

Another reason for bringing exchanges within the remit of regulation is to curb money laundering. While there are no figures available on the extent of the problem, it is clear that they present a potential platform for money laundering. This issue should be counteracted by bringing these organisations within a regulatory system and requiring them to work to the highest standards to prevent or detect money laundering.

## **Digital Rights Issues**

If a system of compulsory registration and compliance with the betting levy is to be achieved within remote gambling organisations then there must be a rigorous system in place to deal with those who fail to abide by the rules. The solution, as we have suggested, is to require Internet Service Providers (ISP's) to block any site which does not register with the system. This is the system that is in operation in Italy with over 1,800 sites having been blocked. As described above, any company providing service to Irish customers which does not register with the system is to be blocked from access in Ireland, upon the direction of the subsection of Revenue. It is the responsibility of the company to register with Revenue. Legislation will be required to ensure that ISP's are confident that they have sufficient protection form

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<sup>41</sup> Parliamentary Question 36885/09 tabled by Deputy Arthur Morgan

litigation to carry out the blocking of certain websites, upon the direction of the relevant section of Revenue.

We understand that some citizens may be unhappy at the potential disruption of the freedom of the Internet by forcing ISP to block non-compliant sites. While we accept that this is a serious issue, it is simply not sustainable for these sites to continue to take such a large portion of the Irish market while not being liable for a betting levy. Additionally these sites are doing serious damage to existing high street bookmakers, which have to pay the levy, which therefore affects their margins, *vis a vis* their online counterparts.<sup>42</sup> The tax on remote operators will even up the playing field. Any operator who is compliant will have no issue with accessing the Irish market.

We would also point out that this is not an issue of controlling freedom of speech or access, but one of acting against those who are not compliant with all aspects of Irish law. It is only sites which refuse to register with the Revenue Commissioners that will be subject to sanctions.

Due to the pace of technological advancement frequently outpacing the pace of regulatory supervision there will always be a certain number of customers and perhaps sites who would evade the levy using computer applications. This should not detract from implementing the levy however as the vast majority of customers would be liable. Additionally as expertise is accrued by regulators worldwide in this area it will lead to advances in regulatory screening and blocking by ISPs of non-compliant remote operators.

### **Gambling and Addiction**

While the vast majority of people who gamble do so in a sensible and restrained means, a small minority of people can lose large sums of money and/or become addicted to gambling. A recent study from Trent University in Nottingham has shown the gambling addiction in the EU is similar to levels found in the rest of the world, that is 0.5% to 2% of gamblers.<sup>43</sup> According to the MEP Christel Schaldemose "A study from Sweden and other countries shows that the risk of someone developing an addiction to gambling is 5 to 7 times higher if that person plays poker on the Internet than if he or she simply goes out and plays poker in the real world."<sup>44</sup> Gambling addiction is not a new phenomenon; it has been around as long as gambling has. What has changed is that the proliferation of new media platforms on which to gamble has made gambling accessible 24 hours a day and has reduced the social stigma surrounding gambling. In addition gambling in private can conceal the true extent of the problem. The other major issue which funded the explosion in gambling was the easy availability of credit, principally on credit cards. Anecdotal evidence suggests that access to credit has tightened, similar to credit availability in a number of areas. There are no available data on the

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<sup>42</sup> In some cases this extends to within companies. The High street branch system is based in Ireland but the online and casino elements may be in other tax jurisdictions such as the Isle of Man or Gibraltar.

<sup>43</sup> Agence Europe 17/11/2009

<sup>44</sup> A presentation on the Integrity of Online Gambling On Behalf Of The Committee On Internal Markets And Consumer Protection to the European Parliament by Christel Schaldemose MEP to the European Parliament (A6-00642009)

level of debt which relates to gambling, but as a percentage of credit card debt it may constitute a significant percentage.

It must be acknowledged that the Betting Industry in Ireland has taken steps to address the issue of problem gambling. Gamcare, a UK based charity, has been working with a large number of bookmakers and internet operators here. (see [www.gamcare.co.uk](http://www.gamcare.co.uk)) This service provides free telephone counselling and in some cases referral to free face to face counselling to address problem gambling behaviour. In addition many bookmakers and Internet operations apply a self exclusion policy whereby a customer can opt to be refused a bet in future. Business membership and support of Gamcare is voluntary, however, and there are no joined up polices in this area.

While recognising the substantive voluntary attempts at self regulation by a large majority of gambling organisations, the Labour Party believes that we need official guidelines to which each operator should be required to sign up. In the UK for example the gambling industry are to contribute £5 million a year for the next three years to tackle the issue surrounding problem gambling.<sup>45</sup> We are not advocating the creation of an additional quango; the Department of Justice, Equality and Law Reform can, in consultation with interested parties on all sides of the issue, devise a formal set of guidelines for addressing the issue of problem gambling to which every organisation which would like to trade in Ireland must sign up. This should also extend to casinos in operation in the state as well as online operations, particularly poker and online casinos. This also presents an opportunity for organisations such as the Rutland Centre and Gamblers Anonymous to have an input in designing the new code of practice for dealing with problem gambling.

### **Minors Access of Remote Gambling**

Another issue of concern is that remote gambling is much easier for minors to access. The very nature of "high street" bookmakers operations means that it is much more difficult for a minor to access the services. The anonymity provided by the Internet can have the consequence of doing away with this important protection. A system of mandatory registration and regulation of all remote operators would go a long way towards addressing this issue, which is one that is of concern to states the world over.

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<sup>45</sup> World Online Gambling Report Volume 8 Issue 6 "GB: statutory problem gambling levy averted

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