

CHALLENGES IN APPLYING COST/BENEFIT ANALYSIS TO GAMBLING POLICY: BALANCING FREE AND FAIR TRADE WITH CONSUMER PROTECTIONS IN THE EU AFTER GAMBELLI

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DISCLAIMER

Some of the results of this presentation were the output of a major study undertaken on behalf of the European Commission. However, the comments and findings are those of the researchers (Professors Richard Thalheimer and William Eadington.) They do not reflect the official position of the European Commission. Any errors of fact or analysis are solely the responsibility of the researchers

GUIDING PRINCIPLE FOR THESE COMMENTS, AND FOR THE BANFF SYMPOSIUM

- **What occurs in one jurisdiction often repeats itself, with minor variations, elsewhere in the world**
- **Important lessons are to be learned by looking at the experience of Australia, Canada, the UK, and the United States**
- **There is some advantage to coming late into the game, as you can learn from the experience of others, if the experience is properly analyzed and understood**
 - **This should be useful for Singapore, Japan, and possibly Mexico and China**

GENERAL CHALLENGES IN STUDIES INTENDED TO INFLUENCE POLICY: SEEKING THE TRUTH

- **Finding Scientific Results versus Advocacy Research or Rhetoric**
 - **Very strong economic interests whose status is influenced or determined by political decisions => Leads to a lot of exaggeration, depending on how those interests are served**
 - **People often hold very strong moral values and beliefs regarding gambling=> Justification for rhetoric disguised as science**
 - **Observer bias: We see what we expect to see and often ignore what we do not expect**
 - **Anecdotal experience: Our starting point is often influenced by what we have seen or experienced in the past i.e. knowing problem gamblers**

MORE GENERAL CHALLENGES: FRAMING ARGUMENTS AND MEASURING EFFECTS

- **Which economic and social measures best represent the effects of gaming on society?**
- **Coming up with the proper metrics**
 - **With the arguable exception of Lottery, there is no real value to using Handle to describe gambling activity**
 - **Emphasize the incremental, not the aggregates**
 - **Acknowledge that we are often trying to measure the immeasurable**

BEING REALISTIC REGARDING OPTIONS

- **Understand the reality of what we have and what are the possible options of policy makers, and of changing the problem gambling situation**
- **We will not go back to a world without gambling, or even one with considerably less gambling => An asymmetric world**
- **We will not easily alter behavior of people who choose not to change their behavior**

UNDERSTANDING THE ROLE OF TECHNOLOGY

- **Technology can be predatory or benign; the competitive market encourages it to be predatory**
- **Technology runs ahead of policy and regulation: The challenge is to have policy that can deal with evolving technology**
- **The internet and remote gambling are upon us; we need to understand what they imply**

POSSIBLE NATURE OF GAMBLING PRODUCTS AND THEIR ADVERSE SOCIAL IMPACTS

- **Some gambling products are arguably more benevolent and some are more dangerous than others => Use Benefit/Cost ratios as a guide**
 - Lottery, bingo, social gambling
 - Skill wagers (racing, poker, sports)
 - Casino games in a casino (tables, EGMs): Destination resort casinos v. Urban casinos v. Neighborhood casinos
 - Convenience gaming (EGMs in bars and taverns, arcades, other venues)
 - Internet and remote gaming technologies
- **We should be aware that not all gambling is the same**
- **We generally do not yet have the science to validate this hierarchy, but we might have our suspicions => Basis for future research**

BIG PICTURE STRATEGIC THINKING

- **Should we be looking for highly complex explanations of how communities are affected by alternative gaming offerings, or should we keep to simpler models?**
- **We should strive toward agreement on the efficacy of broad strategies, i.e.**
 - **Is the problem in the game or device, or is it in the individual?**
 - **Harm Minimization v. Isolation and Restrictions placed on the “at risk” gambler**

BIG PICTURE STRATEGIC THINKING

- **We should be interested in resolving “micro” issues as well as being concerned about “macro” issues**
 - **What works in mitigating problem gambling, i.e. education, self-banning, involuntary exclusion, treatment, etc.?**
- **We should look at scientific developments in related fields to see what insights they bring**
 - **Behavior modification strategies**
 - **Neurobiology and its implications for impulse control disorders**

SOME ADDITIONAL REALITIES

- **Problem gamblers are a troubled group, with complex contributing factors to their problems**
- **Demand for gambling is elastic and is affected by availability, attractiveness, and price.**

Demonstrated by:

- **Growth of GGRs in Nevada (grew from \$9 billion to \$11 billion between 2000 to 2005)**
- **Tribal casino gaming in California (grew from \$1.5 billion to \$6 billion from 2000 to 2005; limited impacts on Nevada)**



Tahlequah Casino, Oklahoma



ELASTICITY OF DEMAND: RATIO OF GGRs TO GDP (2003)

EUROPEAN UNION 0.52%

UNITED STATES 0.65%

CANADA 1.11%

NEW ZEALAND 1.45%

AUSTRALIA 1.93%

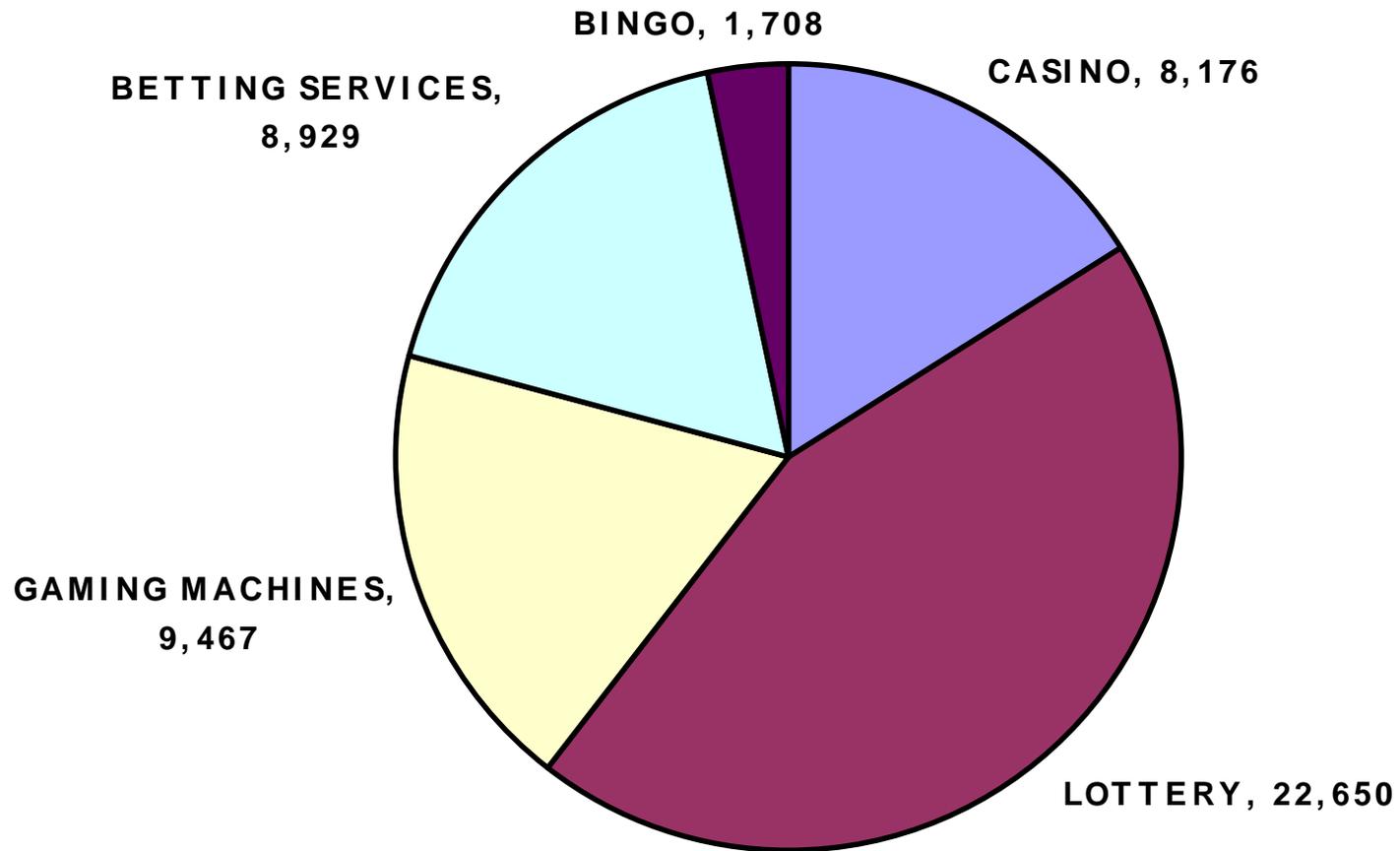
- **Variances are arguably due to the attractiveness and availability of various gaming products**

CHALLENGES FOR THE EU: BACKGROUND

- **EU fundamental principles are based on “free and fair trade” for goods and services among Member States**
 - **Non-discrimination within the EU**
 - ***Harmonization***
- **Exception: “morality” industries**
 - ***Subsidiarity***: Individual Member States can protect citizens from adverse consequences associated with certain goods or services

EU GROSS GAMING REVENUES, 2003

(€ millions)



AGGREGATE GGRs: €51,633 m;

REMOTE GAMING: €2.5 b (+/-)

THE POLICY DILEMMA

- **Economic Rents (allocated to general fund revenues or to good causes) are the result of either State monopolies (i.e. lotteries, state-owned casinos), exclusive or limited franchises, or territorial exclusivities**
- **Economic Rents total about 2/3rds of GGRs**
- **Justifications for *Subsidiarity* can only be on morality grounds, not fiscal grounds**

ECJ: THE GAMBELLI CASE (2003)

- **Exclusive rights to offer gambling services is not a violation of the EC Treaty, as long as:**
 - **legislation is justified by objectives of social policy and consumer protection aimed at limiting the harmful effects of gambling activities; and**
 - **the restrictions are non-discriminatory and *proportionate* to these objectives.**
 - **the raising of money for good causes or for the State cannot be justification for a restrictive policy.**
- **National gambling restrictions are only acceptable if they reflect a concern to bring about a genuine diminishing of gambling opportunities**
- **Challenges from Remote Gaming, UK Bookmakers**
- **Remanded to Member State Courts**

ARE MEMBER STATES REALLY PROVIDING ADEQUATE PROTECTIONS?

- **What is the relationship of particular protections to results?**
- **Could these be done just as well (or better) under different ownership or protection regimes?**
- **Implications: Effective and verifiable mitigation programs need to be implemented or substantial Economic Rents could be at risk**

ANALYSIS: SCENARIOS PROJECT GROWTH TO 2010

- **Preservation of Status Quo (Benchmark):** Mature industries with some changes (i.e. UK, remote gaming) => GGRs grow to €63.2 b; ER grow to €43.7 b
- **1st Alternative:** Loss of Member State monopolies but preservation of protections: Greater access to markets by service providers => GGRs at €62.0 b; ER at €40.9 b
- **2nd Alternative:** Relaxation of constraints and movement toward open competitive markets => GGRs at €76.7; ER at €36.6 b

TO FIND THE DRAFT REPORT:

STUDY OF GAMBLING SERVICES
IN THE INTERNAL MARKET
OF THE EUROPEAN UNION

Swiss Institute of Comparative Law

<http://www.isdc.ch>

Available late April 2006

FURTHER EXPLORE THE FUTURE OF GAMBLING AND COMMERCIAL GAMING



**Attend the University of Nevada Reno's 13th
International Conference on Gambling and Risk
Taking, Lake Tahoe, Nevada, May 22-26**

More info at www.unr.edu/gaming