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Conference Paper

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25th European Regional Conference of the International Telecommunications Society (ITS): "Disruptive Innovation in the ICT Industries: Challenges for European Policy and Business" , Brussels, Belgium, 22nd-25th June, 2014

Provided in Cooperation with:
International Telecommunications Society (ITS)

Internet governance – Gambling on the periphery

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Abstract

Use of the Internet by entrepreneurs has transformed gambling. Many have notionally located their businesses away from jurisdictions with heavy taxes and intrusive regulation, to offshore centres with very low taxes and regulations intended to prove their statistics and the avoidance of money laundering. Alderney and Gibraltar have been able to generate substantial revenues by offering such terms. Antigua and Barbuda had to engage in a WTO trade dispute with the USA, which it won, but has yet to be compensated. Larger countries responded slowly, by lightening their regulations and taxes. The flows of money have attracted criminals, some of whom bribe players for spot bets or even to fix matches. Despite the centrality of the Internet to these changes, the issue of gambling has remained peripheral to Internet governance, when it could learn and when it could contribute to finding solutions.

Keywords: Internet, governance, gambling, gaming, law, enforcement.

Introduction

A primary characteristic of the Internet is its openness, facilitating the free flow of information, acting as a platform or general purpose technology (GPT) for innovation, thus aiding social development and generating economic growth (Harris, 1998). Yet, there are activities on the Internet that are subject to moral condemnation, its dark side, of which gambling is a conspicuous example, historically condemned and thus regulated as socially and morally damaging. The term gambling is used here, rather than "gaming", which is preferred by some providers, who seek to make their activities seem mere entertainment and, perhaps, to confuse, by linking them with games of skill.[1]

Gambling has long been condemned as being practised by morally weak individuals, and consequently been outlawed or severely restricted in order to protect society (Chagetz, 1960) (Munting, 1996). It is linked in song, in literature, in the popular imagination and in reality to the practice of other vices and to comorbid behaviours, including the consumption of alcohol, drugs and transactional sex (Walker, Clark, & Folk, 2010).[2] In the twentieth century the historical prohibitions were somewhat lightened by the adoption of

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[1] There is a complex argument concerning whether poker, originating in the Southern USA in the early 19th century, is a game of chance or of skill. Despite the long passage of time, this remains a matter of dispute and litigation. (Kelly, Dhar, & Verbiest, 2007) (Meyer, von Meduna, Brosowski, & Hayer, 2012)

[2] Perhaps the most famous song is "The House of the Rising Sun".
https://www.youtube.com/watch?v=MgTSfJEf_jM

less moralistic, more scientific, if not formally evidence-based, policies, which identified groups of problem or pathological gamblers, those addicted to games of chance, for whom there were detrimental consequences, as there were for their families (Rose, 1988) (Bernhard, Futrell, & Harper, 2010) (Binde, 2005). Rather than prohibition, some countries opted for a monopoly, either operated by the state or licensed by it, to provide a limited outlet for gambling, containing the adverse effects and offsetting them with revenues from a tax on sin. Many of these were lotteries with the profits being used for good, generally charitable, purposes.

Gambling acquired a very specific geography, since its association with immorality and vice resulted in many prohibitions, forcing it to the periphery: Monaco, Deauville, Atlantic City, Mississippi riverboats, the North American Indian reservations and, especially, the great global centres of Las Vegas and, more recently, Macao SAR (Gu, 2004) (Loi & Kim, 2010) (Suh & Lucas, 2011). Individuals had to make a conscious effort to go to these places, which provided a glamorous image. That was until entrepreneurs used Internet technologies to eliminate the need to visit exotic locations, bringing gambling to the computer screen, the smartphone app and to the connected television.

While there is no longer a need adopt the stylish dress of the riverboat or Monagasque gambler and to travel to the periphery:

> … far from being divorced from place, online gambling is a product of the unique institutional conditions created by governments through policy and the legal system, and as such is very much the product of specific locations. (Wilson, 2003)

Laws and regulations link electronic bookmakers and casinos to exotic locations, notably Alderney, Antigua, Gibraltar and the Isle of Man. Yet what is provided there is often with little physical substance, not much more than industry self-regulation, certifying that the odds offered are accurate, that the services are not corrupt and that the companies are not engaged in money laundering. The very lightness of that regulation attracts, but cannot bind.

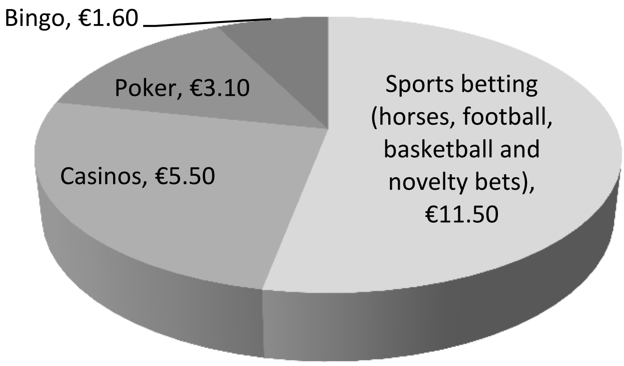
The long debates on Internet governance are almost entirely silent on gambling, as they have been on other vices, notably bribery (Sutherland, 2013). Yet, the legendary generative potential of the Internet has permitted a massive expansion by:

- Making gambling available in jurisdictions where it is ineffectually prohibited;
- Creating new forms of gambling; and
- Enabling corruption of sportsmen and officials in previously "clean" games.

Almost anyone can now enter the bookmaking and casino businesses, with relatively little capital and few checks on their background. Online gambling offers a way to reach a global market, challenging the economic foundations of the existing industry and the taxes they pay to governments. It is very difficult for the gambler to tell if a particular site is legitimate, since they have no connection with and possibly no knowledge of the distant regulatory authority, if indeed that authority exists.

H2 and Odobo reported that in 2012, online gambling revenues were €21.7 billion, some 8 per cent of global gambling revenues (see Figure 1). This was a substantial increase from €6.6 billion in 2003 and is forecast to grow at 30 per cent per annum to €28.24 billion in 2015.

Figure 1 Online gambling market in 2012 (€ billions) (Davy, 2013)



Like many OECD Member countries, the United Kingdom (UK) sought to re-regulate gambling with the enactment of new legislation, its Gambling Act 2005, addressing conventional and online bookmakers and casinos. This has to be judged a partial failure, since although criminality remains largely excluded, the number of problem gamblers increased and offshore operators became established in the market (CMS Cttee, 2012). The regulatory regime was considered expensive, with fees payable to the Gambling Commission, a betting duty of 15 per cent and corporation tax of 30 per cent. Internet providers were able to avoid such costs by locating in those jurisdictions which the UK had included on its "white list" or were in other member states of the European Union (EU) and the European Economic Area (EEA), which were permitted to advertise in the United Kingdom.[3] Further legislation was prepared with extensive consultation and pre-legislative scrutiny (CMS Cttee, 2013). The Gambling (Licensing and Advertising) Act 2014 requires those advertising and providing Internet or telephone gambling services to have a remote operator licence (ROL) from the Gambling Commission.[4] From December 2014 there will be taxation at the place of consumption, based on where the gambler is usually based, with a possible loss of their ROL and criminal charges for those operators not paying taxes (HMT & HMRC, 2013).

The use of case studies is a central technique in telecommunications policy and MIS research, accounting for about one quarter of the empirical research in the latter (Lee, 1989) (Keutel, Michalik, & Richter, 2013). The cases used here are selected for their importance in Internet gambling, either in terms of the level of economic activity based in their jurisdiction or, in the case of Antigua, for the use of a dispute procedure against the USA. All the cases use English language and variations of English common law, with HM Queen Elizabeth as head of state, which provides a common base. With the possible exception of the Isle of Man, they are all on the geographic periphery.

The next section briefly reviews the issues in the regulation of gambling. It is followed by a series of geographic case studies on Internet gambling for the European Union, Alderney, Antigua & Barbuda and Gibraltar. There is then a short analysis of the effects of Internet gambling on corruption in sport. Finally, conclusions are drawn and suggestions made for further research.

The regulation of gambling

For the protection of public morality, when not simply prohibited, gambling has long been subject to national laws and regulations. The legislative aims include:

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[3] Section 331(4) of the UK Gambling Act 2005.
[4] The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013.

- Ensuring the integrity of the games;
- Avoiding links to organised crime, especially money laundering;
- Limiting the visible presence of gambling (e.g., advertising and sponsorship);
- Controlling the number, location and size of casinos;
- Protection by exclusion of minors;
- Determining the types of games offered;
- Providing support for those addicted to gambling; and
- Ensuring data protection and privacy.

The solution adopted in a number of countries was to create a monopoly, often in the form of a lottery, generating tax for the government or substituting for such revenues by paying for good works.

In some countries or provinces the economic significance of gambling is such as to encourage trade-offs, in order to sustain existing jobs or to boost the economy through the creation of new jobs. Such governments weigh the moral and social cases against gambling with the pursuit of revenues and the votes of those associated with the gambling industry. Often the solution has been to offer gambling services to visitors from other places, seeking revenues without having to for any of the problems.

The legal framework in any given jurisdiction is invariably the result of incremental changes made in response to social and economic pressures, including those from lobbyists, with each country having pursued its own path, resulting in quite divergent and inconsistent regulatory and tax systems. Gaps in the legal frameworks have provided ways for individuals, firms and governments to open up gambling businesses (e.g., in the US and Canadian Indian reservations and the British Crown Dependencies). The opportunistic dynamism of the gambling industry, which has been an enthusiastic adopter of the Internet and other technologies, has forced continuous adaptation on the part of legislators and regulators, some seeking to close off opportunities while others sought to open them up.

Cross-border gambling raises complex issues, not only in the possibility of bypassing national laws and authorised monopolies, but of avoiding tax and contributions to support those unable to control their gambling (Williams & Wood, 2007). It can also open the way to money laundering and other criminal activities.

The International Association of Gaming Regulators (IAGR, 2013) brings together fifty-four regulatory authorities to share experiences of:

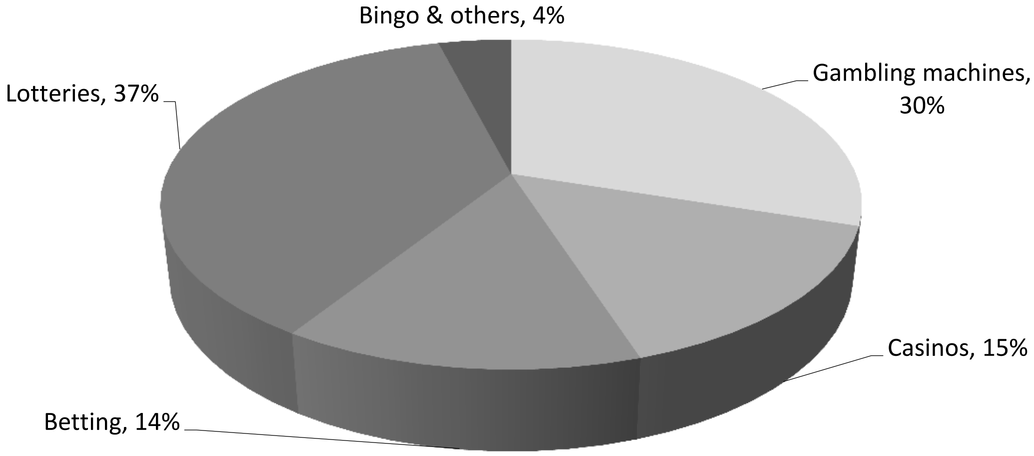
- Licensing;
- Licence breaches;
- Irregular betting patterns; and
- Training.

The Gaming Regulators European Forum (GREF, 2013) with twenty-two regulators, has performed similar networking functions within the EU since 1989. However, there has been very little interest from treaty-based organisations with formal powers, such as the United Nations, or the peer review mechanism of the OECD.

European Union

In 2010 the global gambling market generated receipts of €275 billion, of which the European Union represented 29 per cent (€80 billion), but some 45 per cent of the global online market of €23.28 billion (see Figure 2). Annual online revenues in the EU were expected to grow to €13 billion in 2015, up from €9.3 billion in 2011. Asia is the fastest growing market for gambling, having already overtaken Europe and expected soon to overtake the USA.

Figure 2 Gambling market in the Europe Union in 2010 (€80 billion)[5]



In the EU, responsibility for coordination of policy lies with the Internal Market Directorate-General (DG Markt, 2013), with the European Commission having adopted an action plan for online gambling (EC, 2012). While it noted "an almost unanimous call for policy action at EU level", this did not extend to legislation, with its proposals limited to:

- Creating an expert group from member states;
- Accelerating assessment of national measures which may infringe treaty obligations;
- Facilitating administrative cooperation and exchange of information and best practice;
- Developing regulatory dialogue with third countries;
- A common set of principles elaborated at EU level should aim at ensuring a high level of consumer protection
- Preparing a recommendation on common protection of consumers;
- Extending the Anti-Money Laundering Directive (EU, 2005)to cover all forms of gambling; and
- Promoting the training of the judiciary on issues surrounding fraud and money-laundering related to gambling.

Online gambling regulation in the Member States is characterised by a diversity of incompatible legal frameworks, with cross-border offers that are often unauthorised in the Member State where the services are consumed.

Questions on the interpretation of EU law, primarily on obligations concerning the internal market, have been repeatedly referred to the Court of Justice of the European Union (CJEU), often by the EC as infringement proceedings (see Table 1). The Court has provided guidance on the freedoms of the internal market in the area of cross-border or online gambling, taking into account the nature of gambling, this has enabled national courts to assess whether any restrictions in national laws were justified on grounds of the general interest. In practice, restrictions are more likely on advertising than on gambling.

[5] Source: H2 Gambling Capital quoted in EC (2012) *Staff working paper*, page 10.

Table 1 CJEU preliminary rulings on gambling and the internal market

Judgment	*Case*	*Citation*
24/03 1994	Schindler, C-275/92	ECR [1994] I-01039
21/09 1999	Läärä & Others, C-124/97	ECR [1999] I-06067
21/10 1999	Zenatti, C-67/98	ECR [1999] I-07289
11/09 2003	Anomar & Others, C-6/01	ECR [2003] I-8621
06/11 2003	Gambelli & Others, C-243/01	ECR [2003] I-13031
13/11 2003	Lindman, C-42/02	ECR [2003] I-13519
06/03 2007	Placanica & others, C-338/04, C-359/04 & C-360/04	ECR [2007] I-1891
08/09 2009	Liga Portuguesa de Futebol Profissional & Bwin International (Santa Casa), C-42/07	ECR [2009] I-7633
03/06 2010	Sporting Exchange & Others (Betfair), C-203/08	ECR [2010] I-4695
03/06 2010	Ladbrokes Betting & Gaming and Ladbrokes International, Case C-258/08	ECR [2010] I-4757
08/07 2010	Sjöberg & Gerdin, C-447 & C-448/08	ECR [2010] I-6921
08/09 2010	Winner Wetten, C-409/06	ECR [2010] I-8015
08/09 2010	Stoß & Others, C-316/07 etc.	ECR [2010] I-8069
08/09 2010	Carmen Media Group, C-46/08	ECR [2010] I-8149
09/09 2010	Engelmann, C-64/08	ECR [2010] I-8219
30/06 2011	Zeturf, C-212/08	ECR [2011] I-0000
15/09 2011	Dickinger and Ömer, C-347/09	ECR [2011] I-0000
16/02 2012	Costa and Cifone, C-72/10 & C-77/10	ECR [2012] I-0000
12/07 2012	HIT and HIT LARIX, C-176/11	ECR [2012] I-0000
19/07 2012	SIA Garkalns, C-470/11	ECR [2012] I-0000
24/01 2013	Stanleybet International & Sportingbet, Joined cases C-186/11 & C-209/11	-
Pending	Stanleybet Malta and Stanley International Betting v Commission, T-416/13	-
Pending	Biasci & Rainone, Joined cases C-660/11 & C-8/12	-
Pending	Pfleger and others, Case C-390/12	-

The jurisprudence of the CJEU has been developed mainly from references for preliminary rulings from national courts under Article 267 TFEU, providing general principles and criteria for the interpretation of Articles 49 and 56 TFEU in the area of games of chance. Article 56 prohibits restrictions on the freedom to provide services to customers in other Member States. Nonetheless, the 2010 judgement in Sjöberg & Gerdin showed continued support for member states legislating to restrict gambling, for cultural, social, and welfare reasons (Coles, Franssen, Hofmann, Nocton, & Zweig, 2010).

Additionally, Art 165 (2) TFEU includes:

- developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen.

Thus the EC has a basis for legislative proposals to address cross-border match fixing and the bribes related to gambling.

Until the Belgian presidency in 2010 the EU had focused on the development of the online games industry (Verbiest & Keuleers, 2003). A series of measures has been put in place to address Internet gambling, but the EU is still reacting to market developments, in part because of the efforts by member states to defend vested interests in tax revenues and state-sponsored lotteries.

Alderney

The Channel Islands (*Les Îles Anglo-Normandes*), lying off the coast of France, comprise the Bailiwick of Jersey and the Bailiwick of Guernsey, the latter including the isles of Alderney, Herm and Sark. In AD 933, they passed from the Duchy of Brittany to the Duchy of Normandy and in AD 1066 to the English Crown, when William, Duke of Normandy, became King of England. Except for the Channel Islands, the Duchy of Normandy was lost to the English Crown in AD 1204. The islands have never been, nor do they wish to be, integrated into the UK, nor are they part of the EU.

In the early 1970s, a Royal Commission confirmed the legislative, executive and judicial autonomy of the Channel Islands (Kilbrandon, 1973). However, important issues continue to be determined in London:

- Her Majesty's Government is responsible for defence and international relations;
- Final appeals on points of law are decided by the Judicial Committee of the Privy Council;
- The UK Ministry of Justice is responsible for:
    - processing legislation to ensure "good governance" once it has been adopted by the "States" (i.e. legislatures), before the granting of the Royal Assent by the Privy Council; and
    - advising the Channel Islands governments on UK legislation and on any applicable treaties;
- Spectrum and numbering are managed by the UK Office of Communications (OFCOM); and
- The accuracy of advertisements is adjudicated by the Advertising Standards Authority (ASA).

Despite being only 8 km^2 and having only about 2,000 residents the island of Alderney is a partially autonomous territory (van Leuven, 2004). Its parliament of eleven members, known as the States of Alderney, has legislative powers in those areas neither transferred to Bailiwick of Guernsey nor retained by the Crown. For example, it operates under Guernsey laws for the regulation of financial services, telecommunications and competition law, but has its own law for company registration. The IMF (2011) inspected the anti-money laundering regime in the Bailiwick of Guernsey, including Alderney, finding a few shortcomings that were quickly remedied.

There is Guernsey legislation regulating bookmakers and lotteries,[6] with a Guernsey Gambling Control Commission created largely to block the opening of a casino. A Guernsey Lottery began in 1971, later merging with the Jersey Lottery to become the Channel Islands Lottery.

The States of Alderney has its own gambling laws, not to regulate its domestic market, but created in order to become an offshore or global centre for the regulation of online gambling.[7] There is neither a requirement nor, apparently, an expectation that the activities take place within the geographical jurisdiction, though some servers are located in the Guernsey Data Park (GDP, 2013), that island being served by undersea cables linking it to France, Jersey and the UK.

The Alderney regulations are described as being "world class" and are purportedly "internationally recognised" (States of Alderney, 2013). However, there is no inter-governmental treaty body for gambling to grant such recognition, nor an independent agency to conduct such an assessment. Rather, the operators of gambling services accept and welcome the regulations, with the primary advantage being the avoidance of taxation that would be payable in larger jurisdictions. Companies pay a "minimal" fixed annual fee, but do not pay income, corporation or value-added tax, nor any other duties. While licensees are required to register their company in Alderney, a registry that is not online, does not require filing of annual accounts and is effectively opaque. These arrangements look fragile, with companies able to switch to another offshore centre with relative ease, should they be offered more attractive terms.

[6] Gambling (Guernsey) Law, 1971 (as amended).
[7] Gambling (Alderney) Law, 1999 (as amended).

Legislation for Alderney gambling licences comes from different sources (see Table 2), with the 1999 Gambling Law providing the framework, supported by regulations. Licence classes were revised in 2010 (see Table 3), following consultations with service providers, though without input from the public on Alderney or from online gamblers. The sole interest of citizens is pecuniary, while online gamblers are almost universally unaware of Alderney.

Table 2 Legislation applicable to Internet gambling licensed in Alderney

Issuing body	*Legislation*	*Purposes*
United Kingdom Parliament	Al-Quaida and Taliban (United Nations Measures) (Channel Islands) Order (S.I. No. 258 of 2002)[8]	Compliance with UN Security Council resolutions to block funding for terrorist organisations.
States of Guernsey	Criminal Justice (Proceeds of Crime) Law, 1999	Allows for courts to confiscate ill-gotten gains.
	Prevention of Corruption Law, 2003	Offences of a paying of a bribe to a public official and its acceptance.
	Disclosure Regulations, 2007 Disclosure Law, 2007	Obligation to disclose knowledge or suspicion of money laundering.
States of Alderney	The Companies (Alderney) Law, 1994 (as variously amended)	Any number of persons may associate for any lawful purpose and, by subscribing their names to a memorandum of association may form a body corporate.
	Gambling Law, 1999 (as amended in 2001 and 2006)	Creation of the Alderney Gambling Control Commission, prohibitions of certain types of gambling, the offence of cheating and the power to make ordinances.
	Alderney eGambling Ordinance, 2009	Power for the Commission to licence Alderney companies to offer e-gambling.
Alderney Gambling Control Commission	Alderney eGambling (Anti Money Laundering Amendment) Regulations, 2008	Requirement for operators to have internal controls to forestall, prevent and detect money laundering and the financing of terrorists.
	Alderney eGambling Regulations, 2009 (as amended in 2013)	Arrangements for applications for, the granting of, the suspension and revocations of the various classes of licences.

Alderney and Guernsey laws, but not regulations, are subject to the Royal Assent and thus approval by the UK government.

[8] 2008/982/EC Commission Decision of 8.12.2008 authorising the United Kingdom to conclude an agreement with the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man for transfers of funds between the United Kingdom and each of these territories to be treated as transfers of funds within the United Kingdom, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and the Council. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0982:EN:NOT

Table 3 Classes of gambling licences issued by Alderney since 2010[9]

Licence	*Issued*	*Description*
Category 1 licence	20	Allows the licence holder to contract with and prepare a customer for gambling before transferring them to effect the gambling transaction
Category 2 licence	14	Allows the holder of the licence to effect the gambling transaction for the holder of a Category 1 eGambling licence, based in Alderney through being an Alderney registered company and by basing their servers in Alderney or Guernsey
Core services associate certificate	11	Suppliers of gambling software, entities handling funds for e-gambling licensees and entities to which an e-gambling licensee has outsourced management functions
Foreign gambling associate certificate	10	A firm which effects a gambling transaction for the customer of a Category 1 eGambling licence (c.f. Category 2, but based elsewhere)
Hosting certificate	9	A provider of premises on Guernsey where the equipment of licensees and associate certificate holders are held
Temporary eGambling licence	-	Available to firms licensed in another jurisdiction, operational for 30 to 60 days, for either Category 1 or 2 activities, for example, while an Alderney company is being registered
Key individual certificate	-	A person holding a managerial function in a licensee or foreign gambling associate

The Alderney Gambling Control Commission (AGCC) was established in May 2000 as an independent body regulating e-gambling on behalf of the States of Alderney, reporting to its Policy and Finance Committee, its cabinet.[10] It has registered dozens of companies which operate in many Internet top level domains, with applications notified in the States of Alderney *Official Gazette*, allowing citizens to object (e.g., Bonza Gaming GP Ltd (2013)).

Even with very low fees, the regulation of gambling is a lucrative activity (see Table 4). While the only gambling related jobs have been at the AGCC, expenditure is significant for a small island. More surprisingly, the States of Alderney was able to draw down £12 million from the AGCC in the first ten years or about £6,000 per capita.

Table 4 The Alderney Gambling Control Commission (UK Pounds)

Year	*Income*	*Expenditure*	*Distributions to the States of Alderney*	*Commissioners*	*Staff*
2001	167,110	186,646	-	4	-
2002	415,120	352,955	-	4	-
2003	940,536	405,034	-	4	-
2004	1,291,566	523,772	-	4	-
2005	1,433,437	713,608	-	4	-
2006	2,166,938	841,115	223,493	4	-
2007	2,948,126	1,198,085	791,310	4	15
2008	3,895,652	1,716,992	3,637,963	4	16
2009	3,870,417	2,045,110	150,511	4	18
2010	4,347,447	2,092,048	4,489,967	4	18
2011	4,983,118	2,237,741	2,892,034	4	18
2012	5,250,877	2,436,996	2,800,879	4	19
2013	4,710,650	2,745,236	2,564,633	4	21

It is remarkable that a tiny island can, based on a gap in antique constitutional arrangements, claim global jurisdiction in order to make itself a centre for the regulation of online gambling through regulatory and tax arbitrage. Moreover, it does so outside any trans-national legal framework. Alderney offers just enough regulatory cover for the

[9] http://www.gamblingcontrol.org/news.php
[10] http://www.gamblingcontrol.org/

providers, imposing minimal obligations against money laundering and the funding of terrorism, in a competitive "market" for regulation, where the avoidance of intrusion and tax are the most important factors.

The limited nature of the engagement with operators was revealed on "Black Friday", 15th April 2011, when US prosecutors seized the domain of Full Tilt Poker (FTP) and its assets.[11] AGCC had accepted assurances about its "fit and proper" owners, without knowing their identity, had ignored concerns its activities in the USA were illegal and failed to determine that funds had been seized by US prosecutors, rather than being held for players. An independent review noted some failings and suggested minor reforms (Dean, 2012). Funds held for players have now to be held separately.

Since citizens of Alderney are a vanishingly small percentage of the customers of the services there is no reason to expect any pressure on the behaviour of providers or on the regulator. Given that the Alderney legislature and electorate are substantial financial beneficiaries of gambling regulation, they are more inclined to maximise revenues than to ensure the efficiency and effectiveness of the Alderney Gambling Control Commission (AGCC). Indeed, there is no evidence of the parliamentary and judicial oversight of the AGCC, it is an agency which is comparatively large and complex, creating an imbalance in resources, serious information asymmetries that pose remarkable and systemic dangers.[12] There is almost no reputational risk or moral hazard, since Alderney is effectively an unknown jurisdiction, with no other economic sectors that could be adversely affected. Indeed, the whole project could simply have been from the outset a case of regulatory capture.

Antigua

Antigua and Barbuda are islands in the West Indies, strictly the Leeward Islands, lying between the Caribbean Sea and the Atlantic Ocean. The two comprise a single small island developing state (SIDS), with a total area of 440 km^2 and a population of about 82,000.[13] Its history can be considered in three phases:

- Amerindian settlement;
- An English and later a British colony from 1632; and
- Independent state from 1981.

The largely agricultural colonial economy has been supplemented with substantial tourism from North America and Europe, offering holidays and a significant cruise trade, plus financial services.

Antigua is part of the Commonwealth of Nations, with HM Queen Elizabeth II as head of state represented by a Governor-General. There is a bicameral legislature comprising:[14]

- House of Representatives: 17 members elected for a five year term, plus the Attorney-General (ex-officio) and the Speaker; and
- Senate: 17 members appointed by the Governor-General.

The government comprises a cabinet of ministers led by the Prime Minister.

As one of several SIDS in the Caribbean, Antigua shares certain governmental, financial and judicial functions through treaty organisations. It is a member of the Organisation of

[11] US v. Pokerstars, et al., 1:11-cv-02564-LBS. US District Court, Southern District of New York. Customers may be able to reclaim outstanding balances from http://www.fulltiltpokerclaims.com/
[12] Aside from the AGCC there is the Guernsey Police, which in 2011 had 153 officers and 56 support staff, with a budget of £13 million (Police, 2013).
[13] There appears to be disagreement over the population of Antigua & Barbuda.
[14] Constitution of Antigua and Barbuda, UK Statutory Instrument 1981 No 1106. http://www.ab.gov.ag/pdf/ab_constitution.pdf

Eastern Caribbean States (OECS, 2013) and of the Eastern Caribbean Supreme Court (ECSC, 2013). It declined to join the shared regulatory system for telecommunications and is not a party to the Eastern Caribbean Telecommunications Authority (ECTEL, 2013). Instead Antigua uses a Division of its Ministry of Information, Broadcasting and Telecommunications (Telecom, 2013), applying the Telecommunications Act (2007).

Antigua is a member of the Caribbean Currency Union, using the Caribbean Dollar (XCD), worth about USD 0.37. The Eastern Caribbean Central Bank (ECCB) is the monetary authority, overseeing financial and banking integrity (ECCB, 2013). The International Business Corporations Act 1982 was aimed at making Antigua a destination of choice for offshore activities. Since 2002 the Financial Services Regulation Commission (FSRC, 2013) has overseen significant growth. The Gaming Department of FSRC was charged with regulation of the Internet gambling industry, later becoming the Directorate of Offshore Gaming (DOOG, 2013). The regulations for Internet gambling are made as statutory instruments under the International Business Corporation Act Cap. 222 (SI, 2007), together with anti-money laundering regulations, which impose know your customer (KYC) requirements on operators. The tax paid is 3 per cent of net takings (i.e. gross stakes, less winnings and certain costs), but capped at USD 50,000 per month, plus an annual gaming or wagering licence, USD 75,000 or 50,000 respectively. Antigua is on the UK "white list", permitting registered firms to advertise and provide gambling services there.

Table 5 Online gambling in Antigua 1999 to 2007[15]

Year	*Online gambling revenues (USD Millions)*	*Percentage of global online gambling*	*Employment*	*Number of Licensees*
1999	546	52	N/A	71
2000	1,716	61	~1,900	93
2001	2,392	59	1,014	59
2002	2,109	41	328	38
2003	1,416	21	431	39
2004	1,215	12	492	47
2005	1,138	9	628	44
2006	1,086	7	442	41
2007	~948	7	333	30

The licensing of Internet gambling sites by Antigua resulted in a trade dispute with the United States of America, which mistakenly believed it had not made commitments to open this trade and which had a series of legislative measures at federal and state levels to forbid and to block its citizens from using online gambling services (Alexander, 2008) (Chiang, 2007) (Rodenberg & Kaburakis, 2013). As Table 5 shows, online gambling declined sharply in Antigua, which it was alleged was the result of measures taken by the US authorities against firms based there.

The USA was held by the World Trade Organisation (WTO) to have violated its commitments (Ortino, 2006) (Cooper, 2011). Since the USA refused to withdraw the legal instruments blocking the trade in Internet gambling, in 2012 Antigua was authorized to retaliate, allowing it to take measures to recover the losses of USD 21 million per annum (WTO, 2013). It is to do this by waiving the copyright on audio-visual material from the USA, but continuing to seek a negotiated settlement (Lowrey, 2013).

Antigua & Barbuda appear to have treated gambling as just another financial service, admittedly one where the odds are stated in advance, rather than an immoral activity to be banned or to be taxed at a special vice rate. It saw that by offering a base outside the USA it could make some tax revenues and create jobs, just as it had in banking. Remarkably, it was

[15] http://www.antiguawto.com/WTO_Economic_gambling_data.html

willing to take on the USA at the WTO, winning its case and pursuing damages, though with limited benefits.

Gibraltar

The peninsula of Gibraltar lies between the Atlantic Ocean and the Mediterranean Sea, a British Overseas Territory with a 1.2 km border with the Kingdom of Spain, comprising only 6.8 km^2 with a population of about 30,000.[16] In 1704, during the War of the Spanish Succession, Gibraltar was captured from the then Kingdom of Castile and formally ceded to the British Crown in the 1713 Treaty of Utrecht. Despite which it has been a subject of repeated claims by the Kingdom and Republic of Spain, utterly rejected by the UK and by Gibraltarians (Lincoln, 1994) (Gold, 2009) (Azopardi, 2009).

The head of state is HM Queen Elizabeth II, who is represented by the Governor of Gibraltar. Much like for Alderney, the UK Government is responsible for defence, foreign policy, internal security and "good governance", filtering legislation before the Royal Assent. There is a unicameral parliament of seventeen members and a cabinet of nine ministers and a Chief Minister.

Gibraltar is part of the European Union (EU), having joined with the UK through its Treaty of Accession in 1973, though with exemptions from the customs union, Common Agricultural Policy (CAP) and the coal and steel treaties.[17] For example, it transposed the Electronic Commerce Directive 2000/31/EC.

Under the Gambling Act of 2005, a Commissioner can be appointed and can issue licences for "remote gambling", by means of:[18]

- Internet;
- Telephone;
- Television;
- Radio; and
- Any other kind of electronic or other technology.

Such licences have been issued for bookmakers (fixed-odds and spread betting) and for casinos, with the Commissioner noting that:[19]

> The Licensing Authority will only consider licensing blue chip companies with a proven track record in gambling, licensed in a reputable jurisdiction, of good financial standing and with a realistic business plan. Licences are generally difficult to obtain.

Given they are already established and "blue chip" then the purposes of the licence appear to be evasion of restrictions in offering Internet-based gambling and reduction of tax liabilities (capped at £425,000 per annum). It claims to have 60 per cent of the global online market, with plans to expand in the USA.

An Anti-Money Laundering Code of Practice is provided as "interpretive guidance" to licensees, in respect of the requirements of the Gambling Act, the Gibraltar Crime (Money Laundering and Proceeds) Act and the EU Anti-Money Laundering Directive:

> Consistent with international practice, licence holders are required to report to the Gibraltar Financial Intelligence Unit (GFIU) and the Gambling Commissioner all circumstances where they know, suspect or have reasonable grounds to suspect that money laundering is being or has been committed or attempted.

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[16] Gibraltar has its own international telephone code, +350, and its own ccTLD,.gi.
[17] European Communities Act 1972. http://www.legislation.gov.uk/ukpga/1972/68/section/1
[18] Gibraltar Gambling Act 2005.
http://www.gibraltar.gov.gi/images/stories/PDF/gaming/gambling_ord_2005.pdf
[19] http://www.gibraltar.gov.gi/remotegambling

The implementation of Anti-Money Laundering law in Gibraltar is overseen by the IMF/FATF.

Gibraltar appears to have been relatively successful in attracting bookmakers and casinos to register, generating both revenues and a modest number of jobs. It appears to have a slightly more stable base than Alderney and not suffered the loss of business of Antigua.

Isle of Man

The Isle of Man is a Crown Dependency, having been under the feudal overlordship of the English and later British Crowns since 1399. HM Queen Elizabeth II is Lord of Mann, a title purchased from the Earl of Derby in 1765, represented there by a Lieutenant Governor. Like the Channel Islands the Isle of Man was never integrated into the United Kingdom. Its constitutional position was reviewed by the Royal Commission under Lord Kilbrandon (1973), with Her Majesty's Government in London remaining responsible for:

- Good government;
- Foreign affairs; and
- Defence.

Nonetheless, the Isle of Man government engages directly with the OECD on matters of taxation and transparency. It is not a member of the EU, except for being included in its Customs Union by Protocol 3 of the UK Treaty of Accession of 1972.

Its government is the Council of Ministers, led by a chief minister and nine departmental ministers, attended by a law officer and senior officials. The Council is accountable to a bicameral parliament, the Tynwald, the House of Keys being the elected chamber which appoints the Legislative Council, the second chamber.

The legal system is closely related to English common law, with courts and appeals heard in Douglas, its capital. However, final appeals on points of law are heard by the Judicial Committee of the Privy Council in London (UKPC, 2013).

It is claimed that:

> The Isle of Man is a well balanced and diversified economy with a modern infrastructure and thriving business environment. It has transformed from a rural and less developed economy during the 1970s, to a modern, balanced and diversified AAA economy with per capita income higher than the EU average. (Ernst & Young, 2012)

While it is an offshore financial centre, the term international business centre (IBC) is preferred. Online gambling is now the third largest contributor to its GDP (GSC, 2012).

The Manx economy grew from £1.1 to £3.2 billion between 2000/01 and 2009/10, of which financial services comprised £528 and £1,088 million respectively. The Financial Services Act 2008, created a regulatory body, the Financial Supervision Commission (FSC, 2013). Although not a member of the Financial Action Task Force (FATF), the Isle of Man complies with its recommendations on money laundering and on terrorist financing, applying know your customer (KYC).[20] The IMF (2009) reviewed the anti-money laundering procedures, including those for on-line gambling, giving a relatively clean bill of health.

The Online Gambling Regulation Act 2001 (OGRA) created the framework, with operators required to have offices and designated officers on the island, which accounts for the substantial contribution to the economy (Milne, 2010). Compared to Alderney, the surpluses generated by the regulator have been modest but are growing (see Table 6).

[20] Criminal Justice (Money Laundering - Online Gambling) (No.2) Code 2008.

Table 6 Revenues of the Isle of Man Gambling Supervision Commission

	2008/2009	*2009/2010*	*2010/2011*	*2011/2012*	*2012/2013*
Income	£954,660	£944,065	£1,431,106	£2,068,097	£2,217,051
Expenditure	£575,108	£632,069	£612,568	£630,000	£712,320
Surplus	£379,552	£311,996	£818,538	£1,438,097	£1,504,731

Telecommunications is regulated by the Communications Commission, chaired by the Minister for Home Affairs (Communications Commission, 2013) (Sutherland, 2010), applying to many of the firms supplying the financial and online gambling firms. There is also the Data Protection Act 2002, based on the UK Act of 1998, which transposed the Data Protection Directive 95/46/EC, again this has general applicability to data held concerning gamblers.

The move by UK to end the "white list" regime, threatens the Manx business model, since bookmakers and casinos will no longer be able to avoid taxes, greatly diminishing the incentives to be located there.

Corruption in sport

The business of fixing sports matches allegedly dates back to the ancient Greeks. What is interesting in the last few years has been how technology has increased opportunities for corrupt practices and the scale of the potential rewards. Broadcasters have found audiences for games at considerable distances, for example, the Olympic Games are made global by satellite and undersea cables. Some sports have been fast to capture a global audience and the associated revenues, notably football (or soccer) and in particular the English Premier League (EPL) which is followed across Africa, Asia and Europe due to live transmission of matches. (Borland & Macdonald, 2003)

With games available to ever larger audiences it was inevitable there would be a rise in sports betting. Not only can you watch the EPL in South-East Asia, you can also bet on the outcome of the game and do so through offshore services, despite local limits and prohibitions (McMullan & Miller, 2008).

The question which arises is the extent to which gamblers seek to influence the outcome of the events on which they are betting by making or promising payments to players, coaches and teams (Borghesi, 2008) (Paul & Weinbach, 2011). Some sports have been reluctant to address gambling (and also "doping"), since it is seen as having a negative effect on its image (Reiche, 2012). In Italy match fixing in football has a long history (Foot, 2010). In a moment of overenthusiasm, the then Italian prime minister, Mario Monti, suggested suspending professional football for a couple of years to root out match fixing (BBC, 2012).

Cricket is a game that lasts several days and frequently has an inconclusive outcome, so that it should not be easily susceptible to corruption. However, the presence of countries such as Bangladesh, India and Pakistan, where corruption is endemic, ensures the inevitability of corruption. A range of scandals have concerned match fixing and betting on strange combinations of events in parts of the game, so-called "spot fixing", where players have been bribed to perform the required sequence of actions. The problem is compounded by gambling being illegal in India, with illicit bookmakers having little concern for the rules of the game (Mahyera, 2012).

The Council of Europe is developing a convention against the manipulation of sports results (COE, 2012). Successful implementation will require strict enforcement of the regulation of gambling, tightening of the sporting rules and prosecution of the criminals.

Conclusion

The Internet is characterised as open and generative, boosting social development and economic growth, yet unavoidably there are negative developments such as cybercrime and the distribution of prohibited goods and services. Gambling is one such service, with the Internet having been used by entrepreneurs and criminals to tear down or tunnel through long established restrictions and proscriptions, erected in order to protect societies and vulnerable individuals.

A few countries with minimal resources and late for the game of offshore finance, set out to capture the Internet-based gambling market by simple arbitrage of regulation and of taxation. Governments sold their ability to legislate in return for tax revenues and some jobs, licencing businesses with the barest minimum of regulation and taxation. These services are not offered in their own jurisdictions but elsewhere, through the medium of the Internet. Such jurisdictions have little (if any) concern for questions of morality or the risks of pathological gambling in distant countries, they want the money for lack of other resources. For the companies, it is simple tax avoidance, comparable to the low "offshore" rates of corporation tax, now being attacked by the G-7 and the OECD (2013).

Other governments have been accessories to such efforts. Inertia over high gambling taxes, because of its sinful nature has been a position from which it was not convenient to retreat. It has been awkward to forego those revenues in order to compete with offshore locations, which were enabled by the use of an unrestricted Internet and free trade agreements for services. Blocking services conflicted with rhetoric about an open Internet.

The failure to include gambling in the expansive and protracted debates over Internet governance is perplexing. It should be an archetypal example for the anarchists who see no future for the Westphalian nation state in the Internet age, with significant taxes evaded and archaic regulations sidestepped. For moralists, the debate would exemplify complaints about the damage caused to individuals and the loss of funds for good causes. Yet neither group has raised the issue of gambling in the innumerable events on Internet governance.

The most difficult question is whether there is an issue of immorality concerning gambling, something more than could be captured in an impact assessment of the "down side" of allowing untrammelled access to gambling by the allegedly dissolute and the morally weak. More governments have accepted lightly regulated gambling, abandoning positions based on morality, in favour of the pragmatic economics of a globalised market and the pursuit and retention of jobs. In effect they have written off the previous tax revenues along with any moral qualms or reservations, with gambling evidently having become electorally acceptable and socially manageable.

The offshore centres undertake to ensure that games are played with disclosed statistics and that the bookmakers and casinos conform to anti-money laundering practices, applying the rule of know your customer (KYC). They leave to consuming countries and to voluntary efforts, programmes to help those gamblers with problems of addiction.

The United Kingdom and a constitutionally complex array of its Crown Dependencies, Overseas Territories and Commonwealth states, have played political games of chance. The seemingly forgotten and irrelevant constitutional powers of the isle of Alderney were turned into an opportunity, one subsequently backed by Guernsey, generating significant revenues in the short term. The adoption of a "white list" of countries with very low tax rates and minimal regulation, meant the UK sanctioned an end to its own regime of sin taxes, a position it is now reversing.

It is not without its ironies that the USA, otherwise a fierce and sometimes bullying advocate of the removal of barriers to trade and guardian of an open Internet, found itself unable to defend its own draconian, if very uneven, prohibitions against Internet gambling.

With New Jersey having legalised online gambling in 2011 and having benefitted from significant commercial responses, it remains a matter of time before other states join in. Even the US Congress may climb onto the bandwagon by reversing its own ban (SAFE Port Act, 2006), given a recent hearing in the US Congress (2013).[21]

The growth of Internet access to and the proliferation of forms of sports betting have inevitably opened the way to corruption. Without necessarily affecting the result of a match, it has become possible to bribe players to ensure that a wager on some relatively improbable sequence of minor events leads to a substantial pay-out. Given that the betting may, by way of the Internet, be at some location remote from the game, it requires complex investigations to identify the perpetrators of such corruption.

There is considerable scope for further research. For now, gambling has retained its peripheral character, but the strength of the attachment of bookmakers and casinos to the various exotic locations seems entirely dependent on low taxes, which needs to be tested along with the willingness of major economies to match their rates. An analysis of the Internet gambling ecosystem and of the various groups lobbying for and against regulation and taxation would be very helpful. It would be useful to map out the shifting geographies of registration of gambling firms and why they move and the financial and fiscal consequences. The silence of the Internet governance institutions and lobby on gambling has been remarkable and needs further consideration.

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[21] See also the Internet Gambling Regulation, Enforcement, and Consumer Protect Act of 2013 (H.R. 2282).

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