Tipping point: When public opinion triggers changes to policy

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Executive Summary:

GambleAware has requested a brief paper outlining evidence for gambling and gambling-related activity (such as various forms of advertising) being subject to a 'tipping point' when public opinion causes policy makers to introduce, modify, or ban gambling-related regulation and/or gambling-related activity (such as various forms of advertising). This paper will explore the processes that may be instrumental in fostering policy makers to introduce or modify gambling-related regulations in response to public pressure for reform. The intent is not to review the validity of claims made by the public, academics, lobbyists, or advocacy groups but rather to describe factors that trigger regulatory changes in response to demands for action.

- Policies regulating gambling are set in the background of socio-political cultures and determined by a multiplicity of competing and often conflicting interests, influences, and objectives.
- Policy decision makers are vested with the difficult task of achieving a balance between the availability and range of gambling products, perceived social and economic benefits of gambling, taxation revenue, and expressed community/advocacy group concerns about potential negative gambling-related harms and societal impacts.
- Recently, the introduction of technology and new platforms for gambling and advertisements have resulted in significant changes in how gambling is accessed and viewed across society. Research and evidence on the impact of these changes lags behind implementation.
- In the absence of empirical evidence, policies are often influenced by political interests, the strength of lobbyists, welfare issues, strong public opinions expressed through the media press, prominent community members, community response and public opinion, legal actions and outcomes, academic writings, government enquiries, and/or public health advocacy groups.
- Typically, a combination of factors leads to policy change, including political motivation, potential economic or social benefits, a strong publicly stated case by a prominent individual/group, general community support, and some evidence. The tipping point often occurs after a single or series of high profile events leading the community to demand a political/regulatory response.
- Factors that lead to a tipping point and policy change are not clearly defined and consistent across time and context. That is, the factors that can lead to a tipping point in one jurisdiction may not have the same outcome in another, or, even at two different time points within the same jurisdiction.

1.0 Background

1.1 Policy objectives and assumptions

There has been a resurgence in gambling since the mid-1960's with technological advances resulting in products being offered through new forms or platforms; augmented and virtual reality, eSports, skins, interactive and skilled gaming machines, blockchain, and social media. This has resulted in a large volume of expenditure and participation in gambling globally. Policies regulating gambling are necessary because the activity is associated with substantial turnover of funds and profitability and consequently, the capacity to attract criminal elements, exploitation, flow of revenue across national borders, loss of taxation revenue, and contribute to personal and social harms.

This brief report sets aside and does not refer to policies that are directed towards probity checks for applicants seeking licences to provide gambling products, eliminating money laundering, loss of taxation revenue, international law regulating online forms, and establishing technical standards to guarantee products are fair and non-exploitative.

The present brief report is limited to identifying factors that lead to policy makers introducing and/or modifying regulations designed to promote responsible gambling practices and minimize the potential for gambling-related harms experienced by participants and their significant others (marital and family members). A description of the process of political change along the continuum of formulating issues and setting national agendas, adopting and implementing legislative changes, and evaluating outcomes is also outside the scope of this report. These address the process but do not determine where, why and what factors combine to reach the 'tipping point' threshold.

Collins (2003)[1] noted the varied perspectives and competing demands of governments, industry, academics, lobby groups and public health and community advocacy. These range from interest in maintaining a flow of taxation revenue, cross sector market competition and profitability, and attempts to mitigate gambling-related harms. Policy makers are vested with the difficult task of balancing both social and economic costs and benefits.

As Collins (2003) highlighted, depending on adopted moral principles, debate centres along a spectrum from gambling as an inherently wrongful activity that governments need to regulate highly, to the civil liberty stance where it is considered that governments ought not to restrict what individuals do unless it causes harm to others. The community accepts that legal gambling can result in harm and therefore some degree of restrictive regulations is appropriate, or for some, a preference for total prohibition. The fundamental concerns relate to establishing the level of restrictiveness and degree of regulations that should be imposed on industry operators to protect consumers, and understanding the factors that serve to determine these regulatory restrictions. What remains uncertain is the extent to which variables combine in an incremental fashion to reach a 'tipping' point where governments and regulatory agencies are obligated to respond to pressures.

The following premises are offered with regards to the context in which public policy is developed:

- Gambling is a legal recreational activity, except in circumstances where legislation prohibits the availability of certain forms.
- Gambling beyond personally affordable limits results in harm, the nature and extent of which range from transient, inconsequential discomfort through to persistent serious impairment and distress.
- Responsible gambling policies should be designed to optimally minimize gambling-related harms in the community while simultaneously allowing industry operators to conduct their

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[1] Collins, P. (2003). *Gambling and the public interest.* Westport, Connecticut: Praeger Publishing.

commercial business of providing legal gambling products. This view is contested by those advocating for prohibition.

- Policies should be based on empirical evidence that demonstrates their effectiveness in minimising harms.
- In the absence of empirical evidence, policies should be guided by informed estimates of their effectiveness taking into consideration possible unintended effects.
- Policies remain jurisdiction specific. This is taken to mean that the gambling environment and culture differs across both national state and international country boundaries, and that effective regulations in one domain may not be applicable or appropriate to another, for example, online sports betting. As a result, there is no accepted global standard set, nor are effective regulations applied consistently across jurisdictions.
- The degree to which an activity is regulated is dependent on the extent to which it is visible and considered capable of causing significant harms to individuals and/or community.
- Industry lobbyists and operators, government agencies, advocacy groups, welfare agencies, academics and members of the general population all play an instrumental role in influencing regulatory policies. Factors that are instrumental in 'tipping' policies vary within and across both jurisdictions and timeframes.

1.2 Implementation of regulatory policies

Policies are formulated and implemented in response to specific needs, concerns or agendas identified by individuals, agents or community as a whole that are perceived to require attention by governments and legislators. Policies are designed to enhance/benefit the 'public good', that is, consumer protection, and maximization of community benefits. Which policies are adopted are grounded in current socio-political-religious cultural environments; highly restricted or regulated in the Middle East, Indonesia, Singapore, and China, and more liberally available in Western countries and increasingly so in Asia and parts of Europe.

Where legislation permits gambling, policies regulating its activities are typically initiated in response to applications submitted by industry operators to introduce new products, expand the availability of products, or modify features of existing products. These apply to both terrestrial and online products. Examples include applications to legalise online sports betting and innovative interactive gaming machines, increasing the number and distribution of electronic gaming machines, and altering the configuration of gaming machine. In approving products, regulators need to ensure that the product complies with existing legislative requirements, meets technical standards, are fair, and are unlikely to cause harm through undue inducements, target vulnerable subpopulations (e.g., underage children) or features likely to lead to excessive gambling practices.

Policies are also directed towards regulating aspects of the gambling environment including but not limited to aspects that might contribute to excessive gambling, the provision of relevant information to allow informed choices to be made, restricting the nature or content of advertisements promoting consumption of products, and/or informing individuals about available treatment/rehabilitation options.

From a responsible gambling perspective, it is accepted that excessive gambling can result in significant societal harm and cost burden. Policies and legislative acts are therefore oriented toward consumer protection and the protection of vulnerable sub-populations within the community.

However, although face validity would suggest that public policies are made based on empirical evidence of their intended impact, taking the public and economic outcomes into consideration, this path is not commonly followed. Rather, public policy is often formed based on political will, lobbying on behalf of various stakeholder groups, and current community sentiment (Collins, 2003).

One recent example of tipping-point policy that has occurred in response to community demand in Australia is the implementation of "lock-out laws" in Sydney in response to alcohol-related violence.

Over a few months there were several cases of young men being killed following unprovoked one-punch violent interactions (previously referred to as 'King Hits', renamed as 'Coward punches') in the well-known area of night club area of Kings Cross and Coogee, a beach suburb). Several parties called for a Government response, including family members of the deceased, and prominent emergency room doctors. Government inquiries were held and drastic laws were introduced to dramatically limit entry into drinking establishments and alcohol-service policies in a specific area within Sydney. The policies were extrapolated from those used in a small Australian city, which represented a very different context. These policies have had a dramatic impact on the area and venues, and much community opposition followed. The merits and evidence for these laws are beyond the scope of this report. The example is provided to indicate how multiple instances, community outrage, and key individuals led to policy change, based on some evidence, despite the differences from the jurisdiction of implementation. Overtime, modifications and adjustments are introduced in response to the emergence of unintended consequences.

1.3 What influences policy decision-making in gambling?

The identification of a significant and/or controversial issue affecting a segment of the community represents the starting point for public debate. Interested parties draw attention to the issue through multiple channels; major events/incidents/catastrophes affecting the population as a whole, prominent and/or repeated media articles, academic research, technical reports, submissions to local and national politicians, and social media outlets among others[2]. Depending on the topic, public debate often become heated with proponents and opponents presenting conflicting facts to support their claims.

Gladwell (2000)[3] suggested three agents of change contribute to the swell of debate spreading and reaching a 'tipping point; 1) the law of the few: a small number of influential individuals championing a cause, 2) the stickiness factor where ideas are relevant, visible and of sufficient importance to move to action, and 3) the power of the context, that is, the social environment where the issues are grounded. Although these are often evident in hindsight, predicting when a tipping point is reached is difficult. Few anticipated the tipping point at which the Internet would gain traction, or eSports a popular gambling activity.

Government decision making is influenced not only by the strength of the evidence and arguments supporting a particular position, but by the impact of policies on voting and re-election, budgetary consideration relating to taxation revenue and expenditure, consensus for public benefit, and lobby groups. Policy that is likely to have a substantive impact on gambling problems will also likely have a large impact on gambling revenues, either through a reduction of expenditure by problem gamblers, and/or an associated impact on recreational gamblers. As such, these policies will have an impact on the gambling and related industries, as well as taxation. Timing in terms of the political cycle of elections is subsequently a factor often relevant to the appetite of governments for gambling policies.

A prime example of the multiple factors influencing gambling policy can be captured by reference to the proposed introduction of mandatory pre-commitment for electronic gaming machines by the Gillard Government in Australia. This proposal was initiated by independent member-elect Andrew Wilkie agreeing to support the election of the Gillard government if the Prime Minister agreed to implement mandatory pre-commitment on electronic gaming machines by 2014[4]. However, industry

[2] Tableman, B. (2005). *Best practice briefs: How governmental policy is made.* Report No 34, Michigan State University: University Community Partnerships.URL: http://outreach.msu.edu/bpbriefs/issues/brief34.pdf.
[3] Gladwell, M (2000). The tipping point: How little things can make a big difference. New York: Little, Brown and Company.
[4] The Agreement between the Hon. Julia Gillard, MP, Prime Minister and Andrew Wilkie, 2 September 2010, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F 176826%22

rallied against this strategy on the grounds of its impact on revenue, and lobbied local politicians garnering local community support through its members. Industry groups publicly stated that they had compiled a significant fund to resist the proposed measures and led a large campaign aimed at their members specifically targeting politicians in potentially swing seats. A fierce public media campaign emerged at the same time of official government inquiries to consider evidence. Academics were divided on the relative merits of mandatory pre-commitment but supported voluntary pre-commitment. In response to the strong reaction engendered by the industry and community members, the government failed to follow through with the mandatory scheme in favour of voluntary pre-commitment facilities. This occurred in the context of changes within government such that the key vote of Andrew Wilkie became less relevant to the Government. Modified gambling reforms were eventually passed, but quickly undone following a change in Government. Notably, all gambling reforms were revoked, despite evidence supporting some effects for some, such as the implementation of dynamic messages for electronic gaming machine. This appeared to represent a view by the new Government to distance themselves from the previous unpopular changes, despite a general acceptance of and lack of opposition to the reforms for signage. The debate continues with public health advocates continuing to draw attention to, and argue for mandatory pre-commitment.

An entirely different process emerged in Norway with the removal of existing slot machines 2007 and their replacement in 2009 with video lottery terminals and mandatory pre-commitment involving breaks in play, lower bets, lower prizes, maximum monthly losses, and player exclusion. In contrast to Australia, these policies were adopted with minimal public controversies or debate. The gambling reforms in Norway were frequently cited throughout the Australian debate on pre-commitment, highlighting that international policy changes can be a factor in local debates. Whether the Norway policies reduced gambling-related harm or not is yet to be conclusively established but what is important to highlight is the 'tipping point' for policy changes is highly dependent on the local context. Factors that are important in one jurisdiction may be irrelevant or counterproductive in another.

As mentioned above, there is substantial empirical evidence from controlled and in-venue studies supporting the effectiveness of dynamic, self-appraisal messages in facilitating responsible gambling. Ginley et al. (2017) [5] have reviewed the evidence in the literature supporting regulatory policies directed towards warning messages on gaming machines. These authors make two salient observations relevant to the present discussion regarding responsible gambling policies; that legislation is introduced prior to empirical evidence supporting its effectiveness, and that, empirical evidence supporting responsible gambling strategies are not universally or consistently adopted. In their paper, reference is made to the use of warning messages applied to tobacco and alcohol products prior to any available evidence evaluating their impact. Subsequent research provided evidence leading policy makers to legislate modifications to their content and placement, and appearance characteristics. Similarly, in gambling, information and warning messages have been introduced and evaluated systematically from the early 2000's with research demonstrating their effectiveness to some extent. Yet, governments have not been consistent in adopting certain forms of warning messages and modes of delivery despite evidence suggesting these contribute in some small measure to minimizing harms (Ginley et al., 2017). This is an important example as it demonstrates that empirical evidence does not drive policy, despite numerous inquiries calling for evidence to be submitted and public funding for research to compile empirical evidence.

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[5] Ginley, M.K., Whelan, J.P., Pfund, R.A., Peter, S.C., & Meyers, A.W. (2017). Warning Messages for electronic gambling machines: Evidence for regulatory policies. *Addiction Research and Theory,* doi.org/10.1080/16066359.2017.1321740.

Where the community as a whole is affected and gambling becomes visible, reactions tend to be more vocal and influential in shaping policies. An exemplar of this in both the UK and Australia is the impact of gambling advertising, particularly with regard to sports betting in the case of the latter. In recent years in Australia, the trend has become prominent in book-makers and commercials appearing during the conduct of sporting events. Sports commentators and bookmakers openly discussed odds and integrated gambling as a component of sports. In addition, logos of sponsoring gambling companies appeared prominently on player uniforms and signs advertising online gambling sites appeared on venues and telecast to a wide audience of viewers. The intrusiveness, aggressive nature, and frequency of advertising has resulted in a significant public backlash by gambling and non-gambling community groups, and academics reporting the impact of advertising on problem gamblers has prompted action for or consideration of legislation restricting advertising. In the UK, mounting media campaigns force governments to attend and respond to community concerns[6,7]. The issue of passive advertising on underage gambling representing a fertile ground for the development of future problem gamblers has gained much traction as a key 'public good' variable[8]. Emphasising the effects of personal experience of policy makers where the effects of adverting affect their family members, politicians can respond by initiating reviews; in the UK, an "MP wanting to ban ads because her children know betting too well"[9]. In Australia, proposals to preclude bookmakers appearing during telecasts and limiting advertisements to one hour prior to a sporting event have been introduced with industry reacting on the basis of its impact on revenue and sponsorship. Thus, the debate between community concerns and industry interests will ultimately shape the government's final policies depending on which side the government considers has the strongest argument and public acceptance.

1.4 Conclusion

In summary, the factors that act in an incremental manner to precipitate a 'tipping point' that influences policies are difficult to estimate or predict in advance. Public policy changes often occur at time points relative to the political cycle (either as an election issue, or during a period of relatively political calm). Other time-related factors are the occurrence of a major, or series of high profile events that generate community interest and desire for policy change. Other indicative variables include the perceived negative impact on public good (nature and extent of gambling-related harm), protection of vulnerable sub-population, proportion of the gambling and non-gambling community that are affected, and the lobbying powers of industry, advocacy groups, and academic publications. Although inquiries often call for evidence to be presented and relevant research may be publicly funded, there is limited evidence that this has a large impact on policies. Although events, evidence, and policies in international jurisdictions are often used in debates, tipping points are generally context-dependent, meaning that what will lead to a tipping point is unique to the time and place.

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[6] https://www.theguardian.com/business/2016/oct/07/betting-firms-and-tv-channels-oppose-likely-plan-to-ban-daytime-adverts

[7] http://theconversation.com/plan-for-ban-on-daytime-gambling-ads-misses-the-point-66777

[8] http://www.dailymail.co.uk/news/article-3826584/Gambling-adverts-face-ban-daytime-TV-fears-influencing-children.html

[9] http://www.telegraph.co.uk/news/2016/10/24/gambling-adverts-could-be-banned-as-culture-secretary-reveals-my/