

Harm built in: why the gambling industry needs a *Silent Spring* moment

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There are times when we begin to see things in a completely different way. In 1962, Rachel Carson's *Silent spring* led to a paradigm shift in how people viewed DDT by portraying the silence of a world without birds.<sup>1</sup> This publication, with its powerful imagery and arguments meticulously referenced, was a watershed moment.<sup>2</sup> Until then, DDT had been seen as a vital input to US food production. Henceforth it would be regarded widely as poison that hung around for ever.<sup>3</sup> In the few months before she died from cancer, Carson would be feted by many scientists but vilified by the chemical industry. Policy change proceeded slowly but within a decade DDT would be banned and the Environmental Protection Agency (EPA) established. But the consequences went beyond one chemical. *Silent Spring* destroyed the trust that many Americans placed in its manufacturers. But there have always been other industries that expect us to take on trust that they are doing good, even when the evidence suggests otherwise.

One is the gambling industry. As we struggle with a cost of living crisis, we need to ask why we seem unable to act against a powerful industry that, in effect, acts as a mechanism for transferring money from the poor and vulnerable to the wealthy and privileged. When will the gambling industry have its *Silent Spring* moment?

Could publication of the long-awaited UK White Paper be this moment? It should be, but we doubt it will. Explicitly framed as an exercise in balancing “consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and wider communities on the other”,<sup>4</sup> it is likely to propose incremental changes,<sup>5</sup> leaving intact the statutory aim “to permit” gambling.<sup>6</sup>

At first glance one might see grounds for optimism. Recent guidance by the UK's Gambling Commission served to fill the void created by the White Paper's delayed publication.<sup>7</sup> With some elements already in force and the rest planned for early 2023,<sup>8</sup> it emphasises the obligations of online operators. First, to “enable a customer to gamble safely”, operators must use player tracking technologies to “Identify” indicators of harm, and “Act”, and “Evaluate” to ensure their actions are effective.<sup>7</sup> Interventions must be timely and “reflect the seriousness of the indicators of harm, including refusing service and ending the business relationship where necessary”. Second, they must identify and protect those who may be more vulnerable to harm.<sup>7</sup>

Vulnerability is seen as fluid and a vulnerable person is defined as “somebody who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care”.<sup>7</sup> Those personal circumstances include recent experience of job loss or bereavement. However, the Commission cites evidence that 46% of the adult population display some form of vulnerability, hardly a small minority. Unsurprisingly, the industry has resisted some of these measures, including the “requirement to take timely action where indicators of vulnerability are identified” and “to prevent marketing and the take-up of new bonus offers where there are strong indicators of harm”.<sup>7</sup> The guidance expects everyone's online gambling activity to be “monitored” by computer algorithms and staff members 365 days a year, 24 hours a day to ensure that some of these products are being used ‘safely’, although quite how effective this would be is unclear. Nonetheless, the Government portrays the guidance as evidence that action is being taken, along with other measures, to prevent harm and make gambling “safer”.<sup>9</sup>

At this point, someone coming fresh to gambling regulation might reasonably ask, ‘Why are we devising regulations that enable consumers to use dangerous products rather than preventing their release onto the market?’ We don't usually allow people to use hazardous or dangerous

products as long as the manufacturers monitor how they are used. Rather, we replace them with safer alternatives.

From a public health, and indeed a practical perspective, the guidance is illogical. Designed to prevent harm, it involves *post hoc* interventions triggered when certain ‘indicators of harm’ are identified. Similar guidance has been issued for land-based venues.<sup>10</sup> The commercial operators face an obvious problem. Their owners expect them to maximise income but now they are being asked to deter their best customers. In other sectors, consumer products are required to be safe by design, undergo mandatory safety testing, and harmful defective products are recalled. Where there is no alternative, dangerous products are tightly regulated and explicit warnings and other safeguards are applied to protect those at risk, not just to safeguard the user but also those around them to counter the ‘profit-at-any-cost’ incentive. So why is gambling different?

We need to ask whether gambling products and services are inevitably and unnecessarily harmful? Could they be made safer by design prior to release onto the market? And if so, *who* should decide *what* level of risk is acceptable and *on what grounds*?

We are concerned that the White Paper will continue the flawed policies on gambling of the past two decades, when it has been viewed as a leisure product bringing enjoyment to many. The official narrative emphasises ‘balance’ between the right to profit from dangerous products and the harm that they inflict on so many people. The guidelines appear radical but in reality, they reflect an exceptionalism that the gambling industry currently benefits from. This leads us to ask of gambling policy, “why do we assume that society should permit an industry that is intrinsically harmful, assuming that the NHS, social services, and other sectors will be there to pick up the pieces?”

Gambling still awaits a *Silent Spring* moment when people gasp with incredulity at the system that we have created and perpetuated, that acts against the interests of most people. It makes no sense for regulation to struggle to manage the damage caused by dangerous products. From a public health perspective, regulation should prioritise the prevention of harm to those who choose to gamble and those around them.<sup>11</sup> As the minister for gambling recently stated, “if gambling is to be a pastime that people can enjoy, it must not be dangerous or exploitative”.<sup>9</sup> The purpose of the gambling industry is to make profit, but it does not have the right to do this at any cost using any product under the veneer of providing fun.

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