

Revisiting “The Menace of Competition and Gambling Deregulation”

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Abstract

This paper continues the analysis and discussion of gambling deregulation from an institutional economics perspective done in the article “The Menace of Competition and Gambling Deregulation” by Atkinson, Nichols, and Oleson (2000). John R. Commons’ concept of the “menace of competition” is used to analyze how gambling industry regulations and laws are gradually changed in the last decades of the 20th Century, and this in turn helps the industry to grow and prosper throughout the US. Since the publication of this paper, much has changed in the gambling industry in the US. Sports gambling has grown dramatically since it has been allowed beyond the state of Nevada beginning in 2018, casino gambling and lotteries have somewhat peaked and are not growing as rapidly in the past, and horse racing gambling and number of races have shrunk dramatically. Charitable gaming has also suffered a decline, and dog racing has almost completely disappeared. Additionally, online gambling has made it easier than ever before to make wagers and play lotteries and slots. As gambling has proliferated across the US since the late 1970s, some of the newly legal forms of gambling have cannibalized much of the revenues of other legal ones that have been around longer, such as horse racing and charitable gambling. With such intense competition and with disposable personal income, a key to gambling expenditures, not growing as much this century as the second half of the last century, an industry shakeout and merger wave are occurring with various calls for less regulation and lower taxation as the gambling industry slowly becomes more concentrated. With the preceding in mind, not only can Commons’ writings still be used to analyze developments in the gambling industry but so too can those of Paul A. Baran and Paul M. Sweezy and Thorstein Veblen.

Keywords: casinos, competition, deregulation, gambling, horse racing, institutional economics, monopoly capital, sports gambling

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Introduction

Although in the first half of the 20th Century most states and local governments try to discourage, limit, and/or prohibit gambling within their jurisdictions, this begins to change in the late 1970s and especially in the 1980s and 1990s as lotteries and casinos proliferate across the United States for various reasons (Atkinson, Nichols, Oleson 2000, Lambert 2022, 2023a, and 2023b).¹ This is due to several reasons such as changing social mores which see gambling as less onerous; federal cuts in aid to state and local governments which increase the need for local tax revenues; the stagflation of the 1970s and the high unemployment rate of the 1981-82 recession and its lingering effects; and the effects of deindustrialization of the 1970s and 1980s. Therefore, many jurisdictions begin to change their policies about gambling in the hope that legalized gambling will increase tax revenues and create much needed jobs, and so gambling becomes an economic development strategy in the new neo-liberal economic era (Atkinson, Nichols, Oleson 2000, Lambert 2023b). Previously most legalized gambling was restricted to sports and casino gambling in Las Vegas, Nevada, to parimutuel wagering for horse racing or dog racing, lotteries in a small number of states, or to charitable gambling (e.g., bingo parlors, raffles, etc.) The number of states which permit the last two forms of gambling usually have hovered somewhere around 32 and 45, respectively (Lambert 2023a). For decades and until the growth of casinos and lotteries throughout the US, Las Vegas and horse and dog racing hold near monopoly positions with respect to legal gambling with the exception of charitable gaming, an industry of many, small non-profits. Gamblers only other usual choices outside of casual, low stakes gambling among friends and families basically are dealing with an underworld bookie, backdoor/hidden casinos, tribal casinos, or a numbers game (something akin to a lottery), which

¹ As with their paper, this paper does not discuss tribal casinos or gaming. These entities are almost like casinos that operate in foreign countries even though a great deal of their revenues come from US patrons.

is also part of an underground economy with probable ties to organized crime. Greater legalization of gambling is also advocated by many jurisdictions as a way of “bringing gambling out into the open” which in turn would weaken organized crime to the benefit of society.

This paper shows that not only have attempts at deregulation and lower taxation been used to keep the industry profitable as pointed out in the Atkinson, Oleson, and Nichols paper, but in the 21st century an industry shakeout and mergers have occurred in order to keep gambling profitable as gambling revenues and taxes collected on gambling have stagnated or flatlined since 2004 when adjusted for inflation and/or put on a per capita basis (Srivnivasan and Lambert 2017, Lambert 2023a, 2023b). In some cases, such as racing with horses or dogs and charitable gaming, gambling revenues have declined dramatically (Lambert 2021, 2023a, 2023b). In the time of the Atkinson, Oleson, and Nichols paper, gambling revenues even when adjusted for inflation are growing dramatically in the 80s and 90s, although much of this is due to different jurisdictions adopting lotteries and casinos after prohibiting them for decades. The “product life cycle” curve of gambling now shows the industry to be at a plateau or peak (Lambert 2023a, 2023b). Therefore, this paper suggests that in addition to the Commons’ view, the concept of monopoly capital and increasing concentration of industry as developed by Baran and Sweezy (1966) is also an appropriate way of looking at gambling in the 21st century. Finally, Veblen’s concepts (2009) of “conspicuous waste”, “belief in luck”, and the “vested interests” may also be useful in explaining why gaming continues to be popular despite its peaking in recent years.

More on the Menace of Competition

In an article that is now around 26 years old at the time of the writing of this paper, Atkinson, Nichols, and Oleson (2000) use John R. Commons’ (1909) concept of the “menace of competition” to discuss and describe how gambling industry regulations and laws are gradually

changed over time, and this in turn helps the industry to grow and prosper throughout the US. Local and state governments also, in their opinion, show a greater dependency on the industry for tax revenues and economic development, and these governments try to help the industry to prosper. The authors argue convincingly that Commons' notion of competitive "menace", or, in short, too much competition in an industry and hence lower profits for each firm, will often cause industries to lobby for less regulation, lower taxes, or access to markets that have been previously prohibited or restricted in order to revive profitability (Atkinson, Nichols, and Oleson 2000). Trade or industry groups are often formed to protect industry interests, and for gambling in the US one prominent example would be the American Gaming Association. The authors point out that as each state legalizes casinos or lotteries, adjoining states that have had casinos and lotteries prior to neighboring states adopting new gambling forms usually argue for lower tax rates in order to stay competitive and keep patron numbers and gambling revenues steady. States often engage in placing casinos near the border of other states so as to "export" gambling and earn tax revenues from residents of other states, and often the payout rate on winnings to patrons is boosted if a competing casino or other gambling venue arises nearby across state lines in order to keep customers (Nichols 1998, Nichols and Tolluson 2007, Navin and Sullivan 2007, Landers 2008 and 2009). Some states also limit the number of casinos in order to prevent too much gambling by customers, but this also limits competition such as with Indiana (Landers 2009). Additionally, the vast amount of research over the years shows that as more gambling venues and opportunities arise in an area, the newer forms of gambling cut into the revenues of existing gaming forms (Gulley and Scott 1989, Thalheimer and Ali 2003 and 2008, Lambert 2021 and 2023b), and so the original gambling firms in the region must offer gamblers more in terms of winnings in order to retain them. Cross-price elasticities among the different forms of gambling

have been usually estimated as elastic, and gambling in general is considered to be a luxury good with high income elasticity scores across various studies (Thalheimer and Ali 1995, 2003, and 2008, Lambert 2023a). More competition leads to requests by these firms for less regulation (e.g., greater number of operating hours) or lower taxes (Navin and Sullivan 2007).

The payout rate for the typical casino on slot machines is around 85 to 95%, and this is their most popular game with machine revenues accounting for 70% of overall revenues of a typical casino whereas state run lotteries typically payout around 70% on their “scratch-off” ticket games, and these are usually their greatest source of revenue as well (Lambert 2024, Malone, Coss, Goldmark, and Sneed 2025). Charitable gambling usually has payout rates of 70%, and those for horse racing and dog racing range from 80 to 85% (Lambert 2024). Sports gambling outside of Nevada, a development since the time of the Atkinson, Nichols, and Oleson paper, has variable hold rates (i.e., income rates to bookmakers after payout) from single digits to double digits depending upon how many times and to what degree bookmakers are incorrect. However, hold rates are usually around 5% or less (Harrelson 2025) with betting on college and professional football making up the bulk of revenues (Lambert 2023b). When football season ends, revenues typically fall substantially until the NCAA Basketball Tournament in March of every year, but then by mid-April revenues fall again (Buchanan and Cook 2025). Online poker and slots have similar hold rates (Klohn 2020, Wyman 2020). Therefore, the net income, or “hold”, for each gambling form usually is much lower than what most people think, which makes the gambling industry more competitive than what most think or assume. The largest hold rates are typically on card and wheel games at casinos and large jackpot lottery tickets, but these do not have the popularity of other forms of gaming (Kilday 2023, Lambert 2024). To make money, patron numbers must be retained and/or expanded, and so hold rates are often held as low

as possible. Casino hotel revenues do slightly better than lottery revenues, and in the aggregate, casino gambling outpaces lottery gambling in the US (Kilday 2023). Reports also usually lump sports gambling in with casino revenues since the major casino corporations have dominated sports gambling for decades. At the same time, when most Americans indicate in surveys that they gamble at least somewhat, their preferred choice is by far the lottery (Lambert 2022). Casino or casino type gambling and sports gambling usually come next in popularity. Around 30% of US citizens claim that they do not gamble at all (Lambert 2022).

With the preceding in mind, the concept of continuing to use Commons' notion of competitive menace is an appropriate one given small margins on operating revenues and the growing number of gambling outlets throughout the US. Several years ago, the author testified before a special legislative committee in the state of Kentucky that a proposed increase in the tax on historical horse racing (HHR) machines, a device similar to a regular slot machine but tied to past horse racing results, would result in more tax revenues for the state. However, because of elastic demand and gamblers probably switching to other forms of gambling because of possible lower payout rates, tax revenues generated would probably fall short of expectations with some gamblers spending money at gaming venues in other states. Thanks to tax revenue estimates not being as promising as imagined and lobbying pressure from the Kentucky horse racing industry which benefits from the machines, the proposal was not brought out of committee for further consideration (Finley 2021).

Monopoly Capital and Gambling

(Insert Figures 1 and 2 around here)

Figure 1 displays personal consumption expenditures on gambling in the US adjusted for inflation and on a per capita basis. There is still growth in the gambling industries, but with

more states legalizing more forms of gambling over the years, the growth rates are not as high as they were in the 1980s and 1990s. Since 2004, growth has generally flatlined, although it has shown slight growth again since the Covid-19 pandemic. There is the possibility of gambling reaching a saturation point as the number of states with various forms of gambling reach a peak and with newer forms of gambling “cannibalizing” the revenues of older forms. This in turn has caused gambling tax revenues to the states, when adjusted for inflation, to flatline as well (Dadayan 2016).

With possible/probable saturation of gambling in the US, and despite the competitive pressures of keeping payout rates high and hold rates low, the gambling industry is showing some type of stagnation when compared to its fast growth rates of the 1980s and 1990s as Figure 1 shows. The product life cycle is a model which describes how a new product/service goes through introduction, growth, peak and possible decline stages over time (Levitt 1965), and Figure 1 somewhat resembles the stages of the product life cycle, a useful concept in describing when a product or service reaches a saturation point. Baran and Sweezy (1966) use Schumpeter’s notion of economic long waves and the saturation of many markets over time to describe how a capitalist economy can stagnate. As markets become saturated, there is a tendency for many firms to drop out of the market and or be bought up by larger firms. As Lambert (2022) writes, horse racing popularity and gambling suffers as a result of the proliferation of casinos and lotteries as “newer” forms of gambling take revenues away from racing with several prominent and well-known racetracks closing this century. The result of some competitors going by the wayside is increasing concentration among the survivors of an industry “shakeout.” As Figure 2 illustrates, such is the case with gambling as the percentage of revenues earned by the largest 50 firms in the industry has grown this century, and the number of

firms in the industry has also plateaued while the number of jobs in the industries has fallen somewhat after the rapid growth of the 1980s and 1990s (Lambert 2023b). Additionally, as market sales peak in a monopoly capital industry, mature industries often look for new markets, and such has been the case with gambling as it has opened up new markets on the internet, cell phone apps, and getting more states to adopt casinos, sports gambling, etc.

Conspicuous Waste, Belief in Luck, and Vested Interests

In *The Theory of the Leisure Class* (2009), Veblen has a chapter which discusses how gambling can be seen as conspicuous consumption by those who are seeking status through their showing that they can afford to gamble large amounts of money even though such consumption is wasteful, socially and economically inefficient, and is just one of many forms of “conspicuous waste (Watkins 2019). Gambling is not considered a productive or useful past time. Most games and sports, if not all sports including gambling, if one wants to call it a sport, are based upon the beliefs of a predatory culture where there are winners and losers and a primitive belief in luck and/or intelligence in winning or losing. The latter is used to justify unequal outcomes among society’s members when meritocracy arguments come up short (Petach and Raines 2024) and also reinforce beliefs in “Divine Providence” (Tilman 2004, pages 83-89). Because of predatory beliefs in culture and the belief in the need to compete as an innate human quality, sports and games are valued in society more than their actual worth. This is even to the point that they become part of a culture’s educational system (Lambert 1999). With these things in mind, one can argue that the proliferation of gambling in the 1980s, 1990s and through the 21st century corresponds well with the ascendancy of neoliberal policies which have emphasized the virtues of competition and a hands off approach to industry, even one like gambling that in previous decades is considered not good for the public along with illicit drugs, pornography, and

prostitution.² Finally, and if many middle class and lower income people try to emulate the upper classes according to Veblen, it can be hypothesized that gambling's proliferation and popularity can be partially attributed to its acceptance through "pecuniary emulation" by which those of lower classes perhaps seek to display a higher status for themselves.

The Veblen notion of the "vested interests" can also be used to describe the growth of gambling over the last 45 years or so (Veblen 2002). The gambling industry, as pointed out by Atkinson, Nichols, and Oleson (2002) and others, has lobbied and influenced many state and local governments over this time and has fought for expanded gaming in the courts, the most notable achievement by it being the 2018 US Supreme Court decision that legalized sports gambling outside of Nevada (*Murphy vs. National Collegiate Athletic Association* 2018). The case evolved from efforts from New Jersey and its gambling industry to expand gambling in the state as horse racing and casino revenues stagnated during the first decade of this century (Ford 2023). As time goes by and with perhaps more gambling revenue stagnation and industry shakeout and concentration, more lobbying and political pressure probably will grow.

Conclusion

The Atkinson, Nichols, and Oleson paper using Commons' "menace of competition" idea is just as relevant today as then. Their timely piece would have predicted the continued proliferation of US gambling in old and new forms because of the need of the industry to avoid too much direct competition among its firms and because of the high payout rates needed to keep patrons gambling. There is also a need for the industry to continue its lobbying against more regulation or even to deregulate because of these considerations and because of pressures to

² Petach and Raines (2024) argue that if a belief in luck helps to explain some of the inequities in a capitalistic system that meritocracy cannot address, then a belief in luck also helps to support neoliberal policies, an idea which they adopt from Wrenn (2019).

expand markets and get into new ones. At the same time, because of industry maturation and saturation, we are currently seeing an industry shakeout with resulting and increasing industry concentration. Additionally, the acceptance of gambling through a belief in luck and/or emulation of the upper class can help to explain its greater acceptance among the US public. As more news about greater levels of gambling addictions are reported, US federal, state, and local government policy makers need to consider whether more or less gambling regulation is needed. The industry claims that it only promotes responsible gambling, but if competitive pressures and industry shakeouts continue, it may be difficult for it to continue to do so.

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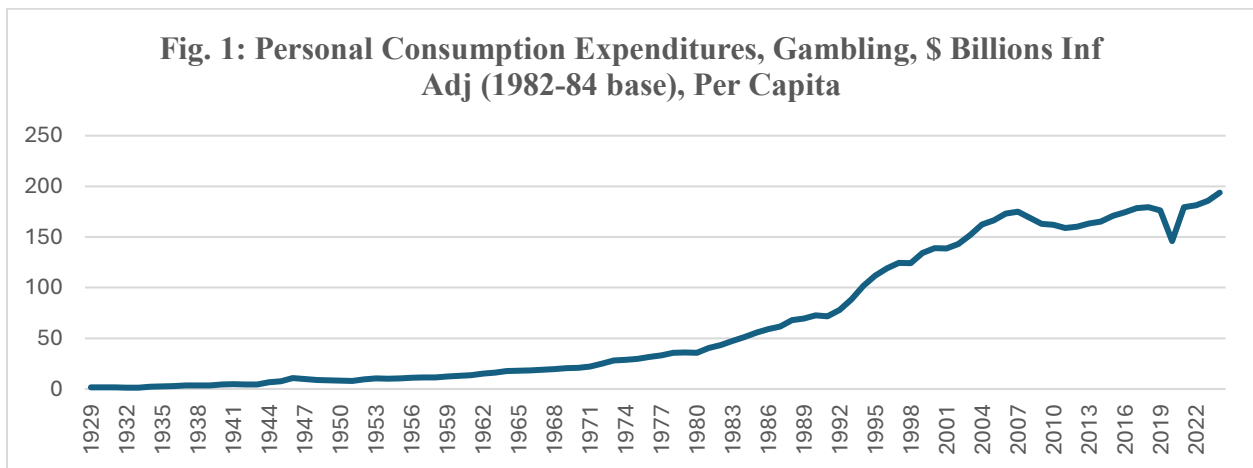
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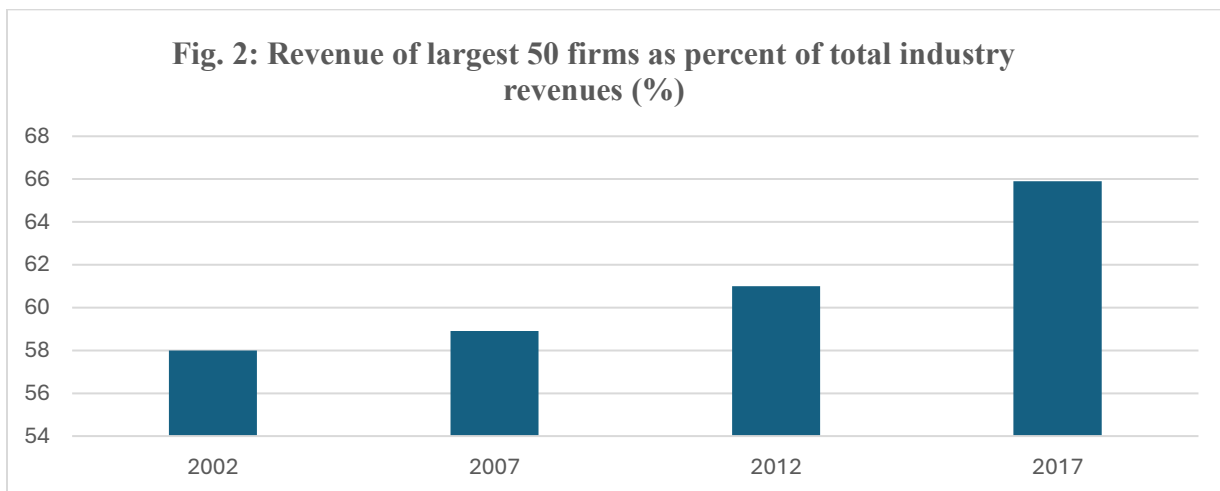
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