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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

11 November 1988

Dear Philip

**INCREASES IN MONETARY LIMITS ON LOTTERIES
UNDER THE LOTTERIES AND AMUSEMENTS ACT 1976**

The Prime Minister has seen a copy of the Home Secretary's letter of 7 November to the Lord President. She is content with the proposals summarised in the Home Secretary's letter.

I am copying this letter to the Private Secretaries the members of H Committee, the Attorney General, the Minister for Arts and Libraries and the Chief Whips in both Houses and to Sir Robin Butler.

Yours ever
Dominic

(D. C. B. MORRIS)

Philip Mawer, Esq.,
Home Office.

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Prime Minister
Policy Unit - see below -
support this modest package.
Contact for Mr. Hurd,
to go ahead.

QUEEN ANNE'S GATE LONDON SW1H 9AT

7 November 1988

Dear John, ^{Bees} 9/11

INCREASES IN MONETARY LIMITS ON LOTTERIES UNDER
THE LOTTERIES AND AMUSEMENTS ACT 1976

I was grateful to colleagues ^{at Prop} for their swift agreement to the proposals in my letter of 28 September to you, that I should quickly announce an intention by regulation under the Lotteries and Amusements Act 1976 to prohibit "multiple" lotteries and, at the same time, by Order to increase monetary limits on individual lotteries under the Act. As you know, I made that announcement on 5 October. The statutory consultations about the regulation are under way.

In my letter I said that, as colleagues had asked, I would put any detailed proposals for modest increases in the monetary limits on single lotteries to them before proceeding to outside consultation. My proposals are contained in the enclosed paper, Monetary limits on lotteries under the Lotteries and Amusements Act 1976. You and colleagues may not necessarily wish to digest this lengthy paper in full. It provides a comprehensive account of the factors which determine the scope for increases, which may be of interest to some.

The specific proposals, recorded in paragraphs 35-42 of the paper, are that:

- (i) the limits on maximum prizes for societies' and local lotteries promoted under schemes registered with the Gaming Board for Great Britain should be increased by 150%;
- (ii) the limits on the proceeds of such lotteries should not be increased;
- (iii) the maximum price of a ticket or chance should be increased by 100%;
- (iv) there should be no increase in the limits on the maximum prize or proceeds in a society's lottery not promoted under a scheme registered with the Gaming Board.

/As the paper

The Rt Hon John Wakeham, MP
Lord President of the Council

MONETARY LIMITS ON LOTTERIES UNDER THE LOTTERIES AND
AMUSEMENTS ACT 1976

INTRODUCTION

The purpose of this paper is to explain proposals for increases in certain monetary limits on lotteries promoted under the Lotteries and Amusements Act 1976. The paper is in six sections:

- A: Relevant provisions of the 1976 Act and history of limits
(paragraphs 2-12)
- B: Decline in lotteries activity/aims of encouragement
(paragraphs 13-16)
- C: Wishes of the lotteries 'industry' (paragraphs 17-23)
- D: Constraints on increases in monetary limits (paragraphs 25-29)
- E: Treasury/Customs and Excise considerations (paragraphs 30-32)
- F: Proposals (paragraphs 33-42)

A: RELEVANT PROVISIONS OF THE 1976 ACT AND HISTORY OF LIMITS

Societies' lotteries and local lotteries

2. Under section 18 of the 1976 Act the Secretary of State may by Order vary certain monetary limits on societies' lotteries and local lotteries. A society's lottery is a lottery promoted on behalf of a society which is established and conducted wholly or mainly for one or more of the purposes of: (a) charity; (b) participation in or support of athletic sports or games or cultural activities; or (c) neither (a) nor (b) but neither private gain nor any commercial undertaking. A 'society' is defined as including any club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a club, institution, organisation or association. Examples of societies include football supporters' clubs, and Friends of hospitals.

3. Local lotteries are those promoted by local authorities. A local authority may promote a local lottery for any purpose for which it has power to incur expenditure under any enactment.

Monetary limits and their history

4. A society or local lottery promoted under a scheme registered with the Gaming Board for Great Britain is subject to limits on its maximum prize and proceeds. The limits were increased in 1981 and 1985. The current limits and their predecessors are as follow:

	<u>Maximum Prize</u>	<u>Maximum Proceeds</u>
(a) Short-term lottery (eg one held weekly)	£3,000 (set in 1985; increased in 1981 to £2,000 from original £1,000)	£30,000 (set in 1985; increased in 1981 to £20,000 from original £10,000)
(b) Medium term lottery (eg one held monthly)	£4,500 (set in 1985; increased in 1981 to £3,000 from original £1,500)	£60,000 (set in 1985; increased in 1981 to £40,000 from original £20,000)
(c) Any other lottery (eg quarterly or annually)	£6,000 (set in 1985; increased in 1981 to £4,000 from original £2,000)	£120,000 (set in 1985; increased in 1981 to £80,000 from original £40,000)

5. The 1976 Act also provides for societies to run smaller lotteries, the schemes for which do not have to be registered with the Gaming Board. Only registration of the society with a local authority is required. The limits are:

	<u>Maximum Prize</u>	<u>Maximum Proceeds</u>
Lottery by society registered with a local authority	£2,000 (as increased in 1981 from original £1,000; no increase in 1985)	£10,000 (as increased in 1981 from original £5,000; no increase in 1985)

No more than half of the proceeds of any society's or local lotteries may be devoted to prizes, and this proportion is not variable by Order. As to expenses, where the proceeds do not exceed an amount set by Order, up to 25% may be appropriated for expenses. The current amount is £10,000, ie the same as the maximum proceeds of a lottery not under a scheme registered with the Gaming Board, and similarly set in 1981. Where the proceeds exceed £10,000, the percentage of them which may be appropriated for expenses is 15%, or such larger percentage as the Board may authorise within a ceiling of 25%.

7. No society or local authority may hold more than 52 lotteries in any period of 12 months, but when the date of two or more lotteries promoted on behalf of one society or local authority is the same, the lotteries may be treated as one provided that the total proceeds of the lotteries does not exceed a figure capable of variation by Order. The current figure is £30,000 (a figure set in 1985; in 1981 it had been increased to £20,000 from £10,000).

8. There is also a limit on the maximum price of a ticket or chance to be sold in either a society's or local lottery. That limit is currently 50p (increased to that amount in 1981 from the original 25p).

9. Thus all the limits described above were increased in 1981 by 100%. This was mostly to take account of inflation, which had been 90% since 1976.

10. In 1985, the limits on maximum prizes and proceeds in lotteries promoted under schemes registered with the Gaming Board (and also the proceeds limits on two or more 'small' lotteries, cf paragraph 7 above) were increased by 50%, in part because of inflation since 1981 (which had been 25%) but principally following representations from the commercial interests in the lotteries industry, whose ambitions were for greater increases, generally of 100%.

11. It will be noted that the limits on the maximum prize and proceeds in a society's lottery not required to be registered with the Gaming Board were not increased in 1985. This was to avoid a repetition of what had happened when these limits had been increased in 1981. Following the 1981 increases there had been a noticeable decline in the number of schemes registered with the Gaming Board (who have greater supervisory powers), apparently as a result of a shift to the promotion of lotteries requiring only registration of societies with local authorities (who have minimal supervising powers).

12. The maximum price of a ticket or chance was not increased in 1981 in the absence of representations from the industry.

B: DECLINE IN LOTTERIES ACTIVITY/AIMS OF ENCOURAGEMENT

13. The 1976 Act provides only for modest lotteries. But at the time of the legislation societies, firms of promoters and local authorities had high hopes of the capacity of lotteries to generate reliable, continuous income, and considerable efforts were made to sell tickets and chances. For example, the booth in the high street selling 'instant' tickets (where the punter discovers if he has won by rubbing off an opaque film covering numbers of symbols) became a common feature. The impetus has not been maintained. Information about societies' lotteries not registered with the Gaming Board is not collected centrally. But attached at A is a graph of the annual sales of tickets in lotteries promoted under schemes registered with the Board between 1977 and early 1988. From a peak of some £92 million in sales in 1979/80 (totalled from some £61 million in societies' lotteries and some £32 million in local lotteries) there has been a decline to a 1987/88 total of some £21.5 million in sales (some £18.5 million for societies' lotteries and some £3 million for local lotteries). The decline would be expressed more sharply if inflation were taken into account.

14. The reduced popularity and success of lotteries have not only diminished lotteries' income. They are reported also to have exacerbated difficulties in complying with the requirements, unalterable by Order, that at the most no more than 25% of the proceeds may be appropriated for expenses. The bulk of expenditure on expenses is likely to be incurred at the start of a lottery, on printing and promotion. To comply with the law, the proceeds from sales of tickets or chances need to be at least four times the cost of expenses. If sales are worse than expected, either the legal limit on the proportion allowable for expenses is breached, or the expenses have to be subsidised from other income.

15. It does not follow that the aim of increases in monetary limits should or can be an attempt to restore ticket sales to their peak. The 1976 Act has been criticised for weaknesses in its provision for financial and other controls over lotteries virtually since its inception (for example in the 1978 reports of the Rothschild Royal Commission on Gambling and of the Gaming Board). In past years there have been lotteries scandals, some resulting in convictions and sentences of imprisonment. The reduced popularity of lotteries has had the incidental benefit of making them less attractive to the fraudulently minded. As is noted in section D below, the Gaming Board nonetheless remain concerned about the potential for fraud and mismanagement. In any event, as also noted in section D, the power by Order to vary monetary limits cannot be used to alter the purpose or effects of the primary legislation (ie to make 'big' lotteries out of 'small').

5. But the promotion of lotteries remains a proper and potentially useful means of legitimate fund-raising. As is explained more fully in section C below, the depression in lotteries activity is principally attributed to the current limits on maximum prizes. If that is right, increases in prizes in particular (within the scope of the Order-making power and taking account of the cautionary history of the Act) could revive lotteries to a worthwhile if modest extent. This would be timely when the Government is encouraging citizens to pursue the charitable and other social causes which 1976 Act lotteries are intended to benefit. The rest of this paper considers the scope for increases which might most usefully be made.

C: WISHES OF THE LOTTERIES INDUSTRY

Lotteries Council

17. The Lotteries Council represents the commercial element of the lotteries industry (firms of promoters and ticket printers) and some societies. On their own initiative representatives of the Council have recently put their current views to Home Office officials. The Council's principal ambitions are for increases in maximum prizes in lotteries under schemes registered with the Gaming Board. They would like to go up to £25,000 as the maximum prize for long-term lotteries, with the other prize maxima increased pro-rata (ie increases of some 400%). But their minimum immediate ambition is to get into five figures, eg possibly a scale of £5,000, £7,500 and £10,000 to replace the current £3,000, £4,500 and £6,000.

18. The Council also want an increase in the maximum permitted stake, from 50p to £1 to enable punters more readily to chance more for the prospect of a higher prize.

19. The Council representatives did not seek an increase in the limits on proceeds, because of the current difficulties of achieving ticket/chance sales even up to those limits. Their belief is that higher maximum prizes, for the chance for which punters might be ready to pay more, would enable them to increase their profits, and the income of their clients, by attracting punters to subscribe fully and quickly within the current proceeds maxima.

20. The Council specifically advised that there should be no increase in the limits on maximum prizes and proceeds for societies' lotteries not promoted under schemes registered with the Gaming Board (ie those currently of £2,000 and £10,000 respectively).

Local Authorities

21. The principal lotteries organisation of the local authorities in England and Wales is the Lotteries Action Group (LAG), representing the Association of District Councils. There has been no recent Home Office or Gaming Board contact with the LAG on the question of monetary limits. Historically the LAG's concerns have been for changes in the 1976 Act which would require primary legislation (tighter controls on societies' lotteries not registered with the Gaming Board, and an increase in the proportion of lotteries proceeds which may be taken for expenses). The LAG's response to proposed increases in monetary limits on lotteries might be equivocal. As is shown in the attached graph, the decline in lottery ticket sales has hit local authorities harder than societies (on the most recent information available to the Gaming Board, in the 12 months ending 31 August 1988 average turnover per local lottery was some £8,500 compared to nearly £20,000 for each society's lottery promoted under Board registration). Some in the LAG might be fearful that substantial increases in limits could lead to larger societies swamping the market and effectively further squeezing out the small operator. Equally, others in the LAG might see advantage in some increase in the prize limits as a means of boosting turnover and thus easing pressure on expenses.

22. In a recent letter about lotteries to the Home Office, the Association of Metropolitan Authorities (AMA) did not refer directly to the monetary limits and focussed on changes requiring primary legislation. But interestingly the AMA appear to be under the misapprehension that donated prizes are to be counted within the 50% maximum proportion of proceeds allowable for prizes. In fact, the one limit on any donated prize is that it must not exceed in value the limit as to the maximum prize. A benefit of increasing the prize maxima is that greater giving of prizes could be encouraged and allowed. There is evidence from the latest report of the Gaming Board that some potential donors, for example of new motor cars, have been frustrated by the current limits.

Charity Fund-Raisers

23. The views of charities will be tested by consulting bodies such as the Institute of Charity Fundraising Managers. Individual charities may have different views, according to their size (ie the larger charities capable of taking readier advantage of increased limits might be more enthusiastic). Coincidentally, the Institute is issuing a Code of Practice on lotteries for their members, which should be useful to charities wishing to enter or expand in the lotteries field following increases in monetary limits.

D: CONSTRAINTS ON INCREASES IN MONETARY LIMITS

Scope of the Order-making power

24. Section 18 of the 1976 Act does not give the Secretary of State an unfettered discretion to vary monetary limits. There could be challenge, including from the Joint Committee on Statutory Instruments, to proposed increases which threatened to vary the purposes or effects of the primary legislation. As has been noted, the 100% increases in the 1976 limits in 1981 were largely accounted for by inflation of 90% in the intervening period, and by the time the 1985 increases of 50% took effect more than half of that percentage was also covered by inflation. It is not possible to say precisely what order of increase would be seen as altering the intention of the statute, but a multiple of four or five could run a serious risk of challenge and it could well be prudent to aim lower.

Likely views of the Gaming Board for Great Britain

25. Proposals for increases have yet formally to be put to the Gaming Board. Informal soundings of Board officials suggest that the Board would feel obliged to enter reservations about any proposed increases at all. In correspondence at the turn of 1987/88, the Chairman of the Board explained that, following a sample programme of inspections of societies' lotteries by his Inspectorate, without further statutory powers the Board could give no assurances that the lotteries they seek to supervise were being conducted in accordance with the law.

26. But the Board might also be expected to recognise the force of the arguments for some increases, following the interest in lotteries stimulated by the National Hospitals Trust/Loto schemes. In that context, the Board might be less concerned about increases in the limits on maximum prizes in schemes required to be registered with them.

27. The Board might have stronger reservations about increases in the limits on proceeds in such lotteries, since their worry is about the management and accounting of the flow of lotteries funds.

28. The Board could also be expected to argue (like the Lotteries Council) that there should be no increase in the prize or proceeds limits for societies' lotteries promoted under schemes not required to be registered with them. Their reason would be to prevent societies switching from Gaming Board registration to local authority registration, in avoidance of the more stringent Board controls.

29. The Board might see some advantage in increasing the maximum stake, if that eased the administrative problems for societies not fully geared to promoting lotteries with very large numbers of tickets on sale and also helped the full sale of the tickets on offer. The Board could, however, enter reservations of principle about taking lotteries into a bigger gambling league, although the sharper focus of that concern could be on prize and proceeds limits.

E: TREASURY/CUSTOMS AND EXCISE CONSIDERATIONS

Public Expenditure Control

30. In a letter of 31 August to the Home Secretary the Financial Secretary to the Treasury asked that proposals for increases in monetary limits should be considered by H Committee before they were put to outside consultation, to enable consideration of whether the proposed new limits would be likely to increase the scale of lotteries to an extent which might significantly exacerbate the difficulties of public expenditure control.

31. It is understood that questions of public expenditure control could arise were lotteries' cash income to be donated to bodies (for example NHS hospitals) which benefit from public expenditure, since such donations would be counted as additions to public expenditure. (Donations in kind, for example hospital equipment, would not be so counted). There is no information available to the Home Office about the amount of monies from lotteries which may have been donated to bodies supported by public expenditure. Nor is it possible accurately to estimate the extent to which such donations might increase if lotteries' income grows as a result of increases now in monetary limits. But

it would seem unlikely that any increases in limits which can be made would return lotteries' turnover in real terms to the levels reached in the initial years following the 1976 Act. The best guess, therefore, might be that even with increases in monetary limits the flow of lotteries funds to public expenditure supported bodies could well be less and nearly certainly not more than contemplated when the legislation was enacted.

Pool betting duty

32. Customs and Excise regard lotteries as a form of pool betting. Depending on the form of pool betting involved, the amount of stake money paid and the expenses and profits of the promoter are normally subject to a duty of 33 1/3% or 42 1/2%. Societies and local lotteries operated within the current, 1985 monetary limits under the Lotteries and Amusements Act 1976 are exempted from pool betting duty by a parallel, 1985 Order under the Betting, Gaming and Duties Act 1981. The Home Office would hope that the Commissioners of Customs and Excise would be prepared to continue the exemption of lawful lotteries, with higher monetary limits, from the duty. Otherwise, the benefits and purpose of increasing monetary limits would be negated.

F: PROPOSALS

33. The Secretary of State is not required by the 1976 Act to consult outside bodies before increasing monetary limits. But the earlier increases were the subject of consultation and on 5 October the Home Secretary announced that he would follow that precedent. Those to be consulted on his behalf include the Gaming Board for Great Britain, the Lotteries Council, the Lotteries Action Group and the Institute of Charity Fund-Raising Managers. An Order by the Home Secretary will apply to England and Wales and a similar Order is also to be made by the Secretary of State for Scotland making identical increases.

34. The Home Secretary announced that the aim is to increase monetary limits in the same timetable as a regulation to prohibit 'multiple' lotteries. That regulation is required quickly, and has already been put out to consultation. The proposals as to increases in monetary limits might, therefore, seek as far as is reasonable to anticipate the wishes and reservations of those to be consulted to try to achieve their swift acceptance.

35. Taking into account the considerations set out in this paper, the proposals about which consultations are envisaged are as follows:

Maximum prizes in societies' and local lotteries promoted under schemes registered with the Gaming Board (section 11(7) of the 1976 Act)

36. The limits on these prizes should be increased by 150%, that is:

	<u>Current maximum prize</u>	<u>New maximum</u>
Short term lottery	£3,000	£7,500
Medium term lottery	£4,500	£11,250
Any other lottery	£6,000	£15,000

37. Such increases, which fall within the middle of the range sought by the Lotteries Council, are probably about the highest which could be justified under the Order-making power. That justification would be that the increases are intended not to alter the intention of the primary legislation, but rather to meet that intention by enabling the promoters of lotteries to sell their tickets more certainly and quickly up to the current proceeds maxima (see paragraphs 38-39 below).

Maximum proceeds in societies' and local lotteries promoted under schemes registered with the Gaming Board (section 11(9) of the 1976 Act)

38. The limits on proceeds should not be increased.

39. With the lotteries involved, it is on the proceeds limits that the principal concern about potential mismanagement and fraud focusses. As to mismanagement, the legislation expresses the amounts of a lottery which may be appropriated for prizes in total, and for expenses, as proportions of the proceeds. Promoters already sometimes fail to achieve sales of tickets up to the current proceeds limits, so inadvertently - or deliberately - breaching the related proportions, particularly as to expenses. Higher proceeds limits could exacerbate their difficulties, by tempting promoters to over-reach themselves in their ambitions and assumptions about ticket sales. As to fraud, higher proceeds limits would potentially produce bigger individual lotteries. The chance of putting their fingers in these bigger pies could tempt the fraudently-minded. This could include the return to the lotteries world of dubious operators who exploited the enthusiasm for lotteries in the early days.

of the 1976 Act. - It is for these reasons that the Gaming Board would be likely to advise against increases in proceeds limits. Their concerns should be taken seriously. In addition, the Lotteries Council, who might be expected to argue for increases, have explicitly said they do not seek them. It would seem right tacitly to welcome their acceptance that the current legislation provides for, and can only cope with, essentially modest lotteries.

Maximum price of ticket or chance (section 11(2) of the 1976 Act)

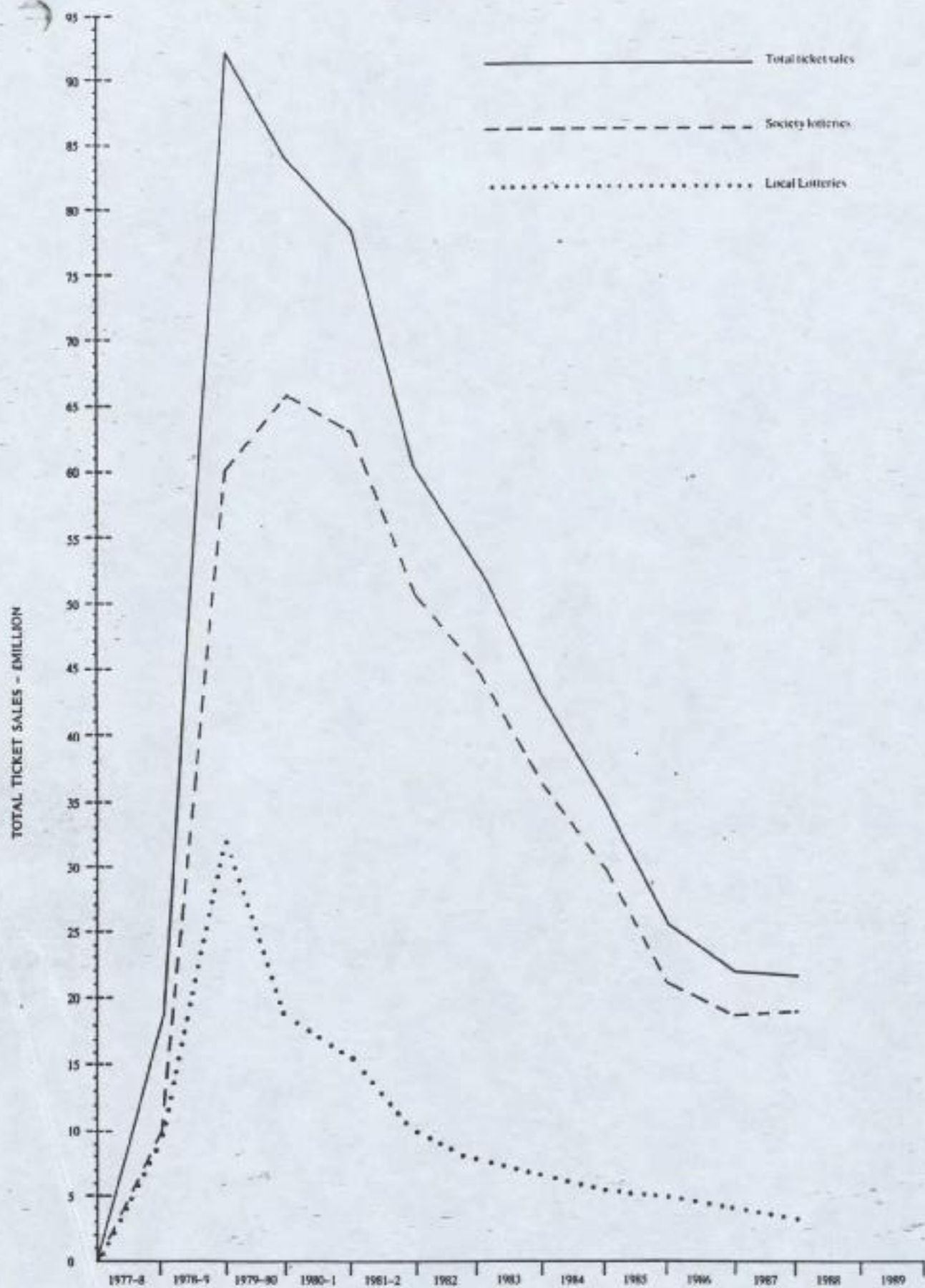
40. The maximum price of a ticket or chance should be increased by 100%, from 50p to £1.

41. This increase should be unexceptionable. Punters may already risk more in a lottery (by buying a number of 50p tickets) and the limit has not been increased since 1981. The Lotteries Council contend that it will be easier to sell one £1 ticket than two at 50p and, whilst this is notionally arguable (since the more the tickets, the more the number of chances) it seems reasonable to give the Council the opportunity to put their commercial assessment to the test.

Maximum prize and proceeds in a society's lottery not required to be promoted under a scheme registered with the Gaming Board (sections 5(3)(d)(i), 11(5) and 11(13)(a) and (b) of the 1976 Act)

42. No increase in the limits of £2,000 on the maximum prize and £10,000 on the proceeds of societies' lotteries which do not come within the supervision of the Gaming Board will be proposed. Those to be consulted will be given the opportunity to comment on this, but any who wanted increases would be expected to adduce weighty arguments, sufficient to overcome the likely reservations of the Gaming Board, local authorities and even the Lotteries Council.

STATISTICS OF LOTTERIES PROMOTED UNDER REGISTRATION WITH THE BOARD



Note Up to and including 1981-82, figures relate to period 1 May - 30 April. Subsequent figures relate to calendar year.

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