



Banning Gambling Advertising in Sweden: An Argument in Favor of Coercive Paternalistic Action

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Abstract

The increasing amounts of gambling advertising within Sweden have generated discussions about the harm it may cause to the Swedish population, and how responsibility needs to be taken by the government in order to minimize the damage made by the encouragement of this hazardous consumption. This essay will present arguments in favor of coercive paternalistic action in the shape of a ban on all gambling advertisement, and put forward further arguments as to why this approach is not only justified and necessary, but favorable to soft paternalistic action and libertarian paternalistic action. It will be concluded that coercive paternalism is the level of paternalism which will have the greatest possible impact with the smallest possible cost, this in terms of balancing wellbeing with autonomy. As such, the population of Sweden will be able to continue exercising their freedom to gamble, but will not be exposed to encouragement of doing so by companies existing to exploit the financial desperation and disposition to addiction of persons.

Keywords: *Gambling, paternalism, policy, public health, social responsibility*

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1.0. Introduction

1.1. Structure

In the introductory section of this essay, I will present my aim and research standpoint, my method and theory of choice, some clarifications and definitions of terms and concepts relevant to the essay, and the essay's general relevance to the subject of human rights. In section 2.0., I will explain some relevant aspects of the background to the subject at hand, beginning with gambling, concerning mental health, persons in close proximities with problem gamblers, and a brief history of gambling in regards to Sweden. Further, I will present and explain three relevant standpoints of paternalism, namely Classical liberalism/Soft paternalism, Libertarian paternalism, and Coercive Paternalism. In section 3.0., I will present my main arguments in favor of coercive paternalism being applied to the issue of gambling advertisement, effectively banning the concept. I will start by explaining why Classical liberalism/Soft paternalism and Libertarian paternalism are not sufficient in this case, and why Coercive paternalism is favorable to the two. Further, I will make arguments for my case by comparing gambling regulations to regulations of alcohol and tobacco by presenting concerns for the wellbeing of future generations. In the following section of the argumentation, I will explain my case's position in means and ends related paternalistic policies, and weigh autonomy against the wellbeing of the Swedish population against each other. In section 4.0., I will present and respond to counter arguments relevant to my essay, followed by a further discussion of the subject in section 5.0., and lastly a summary of the arguments and conclusions made in section 6.0. of this essay.

1.2. Aim and Objective

The thesis and aim of this essay is to convey the severity of the negative outcomes connected with gambling as a practice as well as to make a case in favor of a ban on all gambling advertising within Sweden. In recent years, the number of gambling advertisements, in particular, online casino advertisements, have increased drastically, thus resulting in discussions about the wellbeing of the Swedish population. Public health is a subject of great importance to the Swedish state, as visible in current regulations in place for other kinds of hazardous consumption, such as alcohol and tobacco. Throughout this essay, I will argue that coercive paternalistic action is appropriate, justified, and needed in order to find a balance between autonomy and the wellbeing of the Swedish

population, and will further analyze why other forms of paternalism are not favorable in this case. As my main argumentative point, I will emphasize the lack of regulations in place regarding gambling, a kind of hazardous consumption that is not being taken as seriously as other kinds of hazardous consumption, in particular alcohol and tobacco, even though studies show that the consequences thereof are as serious, if not even more so. While this essay will be focusing on Sweden as the country within which these changes of policy should be made, it is worthy to note that most parts of the argumentation being made throughout the essay are applicable to other countries as well.

1.3. Method and Theory

A normative argumentation analysis will be applied to this thesis as the method of choice. I have chosen this method as I will be putting forward a suggestion of how the situation at hand ought to be handled, and on what grounds that ought to be. I have used *Critical Reasoning in Ethics: A Practical Introduction* by Anne Thomson as my frame of reference for shaping the normative argumentation on which this essay rests, using guidelines for structure and necessary constituents (Thomson, 2002). The theory of which I have chosen to base this thesis on is the political and philosophical theory of paternalism, which will be explained and analysed throughout the 2.2. *Paternalism* section of this essay. The literature used as my frame of reference on the subject of paternalism is *Government Paternalism: Nanny State or Helpful Friend?* (2015) by Le Grand and New, *Against Autonomy: Justifying Coercive Paternalism* (2013) by Conly, *Paternalism: Theory and Practice* (2013) by Coons and Weber, and *Nudge: improving decisions about health, wealth, and happiness* (2008) by Thaler and Sunstein.

1.4. Clarifications and Definitions

Throughout this essay, I will be using the term *problem gambling* when presenting, explaining, and discussing several different aspects of the negative sides of gambling. I have chosen to make use of a definition from the 2001 final report of the Canadian Problem Gambling Index, which is worded as follows: “Problem gambling is gambling behavior that creates negative consequences for the gambler, others in his or her social network, or for the community” (Wynne, et al., 2001: 7). Gambling Disorder, however, is the official diagnosis in someone who engages in “repeated problematic gambling behavior that causes significant problems or distress” (American Psychiatric

Association, N.d.). Gambling Disorder is further at times referred to as Gambling Addiction and Compulsive Gambling (American Psychiatric Association, N.d.). Further, due to the fact that the subject at hand is one that has not been discussed or analyzed during the duration of a long time, as it is a new and current phenomenon and issue, the field is somewhat limited in relation to studies conducted on the subject. Having this in mind, the conclusion drawn in the survey statistical studies used in this text are not proof of correlation, but rather indicators of such. More, It is important to note that the conclusions at which I arrive are based on the fact that the type of paternalism I am advocating for is on a level that is already generally accepted in Swedish society today. While I argue in favor of coercive paternalism, which is the harshest and most invasive kind of paternalism, the particular paternalistic action I am advocating for is on of the softest kinds of coercive paternalism, not far from classical liberalism/soft paternalism and libertarian paternalism in many ways.

1.5. Relevance to Human Rights

According to article 3 of the Universal Declaration of Human Rights, everyone has the right to life, liberty, and security of a person. More, according to article 25 of the declaration, every person has the right to “a standard of living adequate for the health and well-being of himself and of his family” (UN General Assembly, 1949). In this essay, I will argue that the coercive paternalistic action suggested will not challenge or breach the right to life, liberty, and security of a person, but rather honor it through potentially enabling future choices and pathways in the lives of persons that may have otherwise been closed off due to a lack of regulation on the hazardous consumption of gambling. Similarly, I believe that a ban on gambling advertising will honor the right to the health of a person, as it would be an act of taking responsibility for the health of the Swedish population, actively working against corporations exploiting the addiction and poor mental health of persons for the gain of profit. The subject at hand being discussed is a question and issue of policy, of balancing autonomy and wellbeing in an appropriate and justifiable manner. More, the argumentation put forward throughout this essay concerns the question of the Swedish government taking responsibility for its people, where active measures are being made not only in order to protect from harm, but to ensure protection against threats to the freedom of the Swedish population.

2.0. Background and Previous Research

2.1. The Hazardous Consumption of Gambling

Advertisement for online gambling has been a thoroughly discussed subject within the Swedish society the past few years. The much-increasing exposure to ads through television, social media, printed media, billboards, etc, that has prevailed lately has sparked a debate within the field of public health, questioning the responsibility-taking of the state to protect its citizen from the harms of hazardous consumption such as gambling. While banning other products of hazardous consumption, such as cannabis, and heavily regulating other, such as alcohol and tobacco, gambling has somehow not been a practice and business subjected to the same level of scrutiny and restriction. While cannabis, alcohol, and tobacco have measurable detrimental effects on the body and psyche of a person, the negative effects of practices such as gambling, especially online gambling, are nothing less than palpable.

A follow-up study of a 2015 prevalence study on gambling was compiled by SWELOGS in 2018, comparing answers regarding gambling habits of persons with some risk of problem gambling, persons with high risk for problem gambling, and established problem gamblers. The study showed that more persons gamble online in 2018 (21%) than in 2015 (18%) and that a significant amount of problem gambling occurs online, especially through online casino and slot machines games (30%) and online poker games (26%) (Folkhälsomyndigheten, 2019: 4, 11, 19). Stöddlinjen, the Swedish National Gambling Helpline, presented in their annual report of 2018 that a percentage as large as 62% of problem gamblers do their gambling mainly through online casinos, followed by online sports betting (16%) and online poker (14%). Further, online casino gambling is reported to have increased an astounding amount the past few years, making up for 20% of problem gambling in 2012, followed by 46% in 2015, and currently, as aforementioned, 62% as of 2018 (Stöddlinjen, 2018: 27-28).

According to the 2018 annual report of the Swedish National Gambling Helpline, 92% of callers responding to a series of question reported their mental health as poor, 37% reported their relationship to their partners as deteriorating, along with 23% reporting close relations

deteriorating in general (Stödlinjen, 2018: 28). Below, I will further introduce these two areas of consequence in relation to gambling as a hazardous consumption.

2.1.1. Mental Health and Mortality among Problem Gamblers

Not only depression, but death itself, is a proven side effect of problem gambling. A study conducted at Lund University (2018) set out to measure the mortality rates of persons diagnosed with *gambling disorder* (as defined in section 1.4.) in comparison to the general public, focusing on all causes of death rather than only suicide. The study used data collected between the years of 2005 and 2016 through the Swedish Cause of Death Register (CDR) and the Swedish National Patient Register (NPR). The study further involved 2099 persons between the ages of 18 and 83 and concluded that 55% of the persons having passed away throughout the study had at some point in life been diagnosed with gambling disorder. Among the participants, anxiety disorders, depression, and substance use disorders were prevalent factors. Suicide was ruled the cause of death among the deceased in almost a third of the cases (31.34%), which marks death by suicide 15 times more common amongst persons diagnosed with gambling disorders than amongst the general public. Other causes of death, such as neoplasms and circulatory system disease, were causes of death more common amongst older persons (ages >50), while suicide was a cause of death more common in young persons (ages <49) (Karlsson, Håkansson, 2018: 1091, 1093).

An American study from 2005 examined self-reported suicidality among problem gamblers by analyzing calls to the 24/7 Connecticut Council on Problem Gambling (CCPG) Helpline between the years of 2000 and 2001. Applying logistic regression analyses to data from 1578 callers, the study concluded that 25.6% (252 callers) of the callers reported a history of suicidality in relation to their gambling habits, out of those within the 25.6%, 21.5% (53 callers) reported having attempted suicide, their problem gambling being a factor (Ledgerwood, et-al., 2005: 177). These findings are not central to the US but can be found in research conducted in Sweden as well. Based on data from the cross-sectional Swedish National Public Health Survey of 2004, a study conducted at *Karolinska Institutet* of Sweden set out to measure problem gambling in men and women between the ages of 16 and 24. The study showed not only elevated risk of problem gamblers among avid consumers of alcohol and substance abuse, as well as among people who are

or have been victims of abuse, but heightened correlations of suicide and problem gambling, especially among women (Fröberg, et-al., 2013: 429-430).

2.1.2. Concerned Significant Others

Problem gambling does not only concern the gambler in question but persons in close proximities with the problem gambler, such as family members or significant others. A study by Folkhälsomyndigheten (the Public Health Agency of Sweden) shows that persons in close relations with someone suffering from gambling addiction have an increased risk of suffering from mental illness, being subjected to domestic violence, worrying about personal finances and/or having real-life problems with personal finances, as well as becoming subject to gambling addictions themselves. An estimated amount of 600 000 persons in Sweden alone identify as being in close relations with persons with gambling problems and are thus subject to this aforementioned range of negative effects. Out of those 600 000, an estimated amount of 82 000 (>13%) are children under the age of 18 experiencing many of the same negative effects. Moreover, an entirety of 14% of the aforementioned concerned significant others tend to either have gambling problems themselves or to be at risk for developing gambling problems, this compared to an estimated figure of 6% out of the general population (Folkhälsomyndigheten, 2018b: 2-3). Furthermore, being in a close relationship with someone suffering from a gambling problem has shown to be a factor in a heightened probability for developing unhealthy alcohol consumption habits, regardless of whether the persons themselves have developed a gambling problem. Personal finances are yet another area of issue, as concerned significant others, especially when the persons in relation to problem gamblers are women, tend to be worse off economically than those that are not in close relationships with problem gamblers (Folkhälsomyndigheten, 2018: 9).

A similar study was conducted in 2013 by collecting data from a Swedish population survey carried out during the years of 2008 and 2009. The study took into consideration not only help-seeking persons, but the general public, and concluded that 18,2% of the Swedish population were so-called “concerned significant others” (Svensson, et al., 2013: 6). This term refers to persons in close personal relationships with one or more persons engaging in problem gambling and can refer to not only spouses but other family members, children of problem gamblers, as well as friends or colleagues. Every problem gambler is estimated to have about 7-16 concerned significant others

that are likely to suffer from a range of physical, mental, social and financial problems, as well as being estimated of having a suicide attempt rate three times higher than that of the general population. Children in families where at least one parent is a problem gambler are further estimated to be two or three times more at risk of being physically abused by both parents, problem gambler and non-gambler, than children in families free of problem gambling (Svensson, et al., 2013: 2). Moreover, a study on the prevalence of intimate partner violence in relation to problem gambling was conducted through a meta-analysis in 2014 and concluded that there is a consistent connection between the perpetration of intimate partner violence and problem gambling. The study showed 38% of persons with gambling problems reporting that they are victims of physical abuse, and 36,5% reporting that they have inflicted physical abuse onto persons in close relationships with them. It was further concluded that out of persons inflicting physical abuse onto their significant others, 11% were problem gamblers (Dowling, et al., 2014: 44, 58). A study by *SWELOGS* confirms the severity of the situation, stating that 9% of persons in close relations with people with gambling problems have suffered physical abuse within the last year, this compared to a figure of 4% amongst persons free from relationships involving problem gambling (Folkhälsomyndigheten, 2018b: 10).

2.1.3. Sweden and Gambling

Regulations in relation to gambling is not a new phenomenon in Sweden, but rather something that has been recorded back to as long as around 800 years ago. The first documented regulation dates back to the 13th and 14th centuries, where gambling was generally forbidden, and new prohibitions were put in place in accordance with the emergence of card games throughout the 15th century. In accordance with shifts in the morality of society, along with external influences from other countries and continents, the acceptance and condemnation of gambling wavered, and so did the lawfulness of the practice. In the 1980s, radical changes were made in relation to regulations of the gambling market. Up until then, the gambling practices available to the public, such as horse racing and bingo, were state-owned and strictly controlled in order not to stimulate or encourage gambling. Post-1980, however, those companies were allowed to promote, market, and expand their offerings, leading to a significant increase in gambling as well as an increase in advertising as the market expanded and the competition became tougher (Binde, 2014: 193-194).

According to recent figures provided by the government of Sweden, gambling corporations spend about 45% of their profits on marketing, and the amounts of money spent in that field have increased an incredible amount the past few years. Measured in the Swedish Currency, 7.4 billion SEK was spent on gambling advertisement throughout 2018, measuring almost the double amount of what was spent in 2016, namely 3.8 billion SEK. Further, roughly 50% of the money spent on gambling marketing is spent on advertisement for online gambling (Regeringen, 2018c).

A new law on the subject of gambling advertisement was issued in Sweden on the 14th of June, 2018, and entered into force on the 1st of January, 2019. The law, SFS 2018:1138 (complemented with SFS 2018:1475), concerns gambling corporations operating within Sweden and demands that the corporations wishing to operate and market themselves within Sweden have to apply for and obtain a license. While doing so, they become obliged to pay taxes to the Swedish state consisting of 18% of their net worth within the country, as well as to comply with a set of rules regarding responsibility (Regeringen, 2018a: 3). These rules of responsibility concern the safety of the consumer, pointing towards a heightened level of security as well as a limitation of the negative consequences of gambling, although, exactly what that constitutes is not declared in detail (Regeringen, 2018b: 18: 7§). Furthermore, Chapter 15 of the law specifically concerns marketing, stating that no advertisement may be targeted to anyone under the age of 18 and that no targeted advertisement may be issued to anyone who has decided to unregister themselves as a gambler (Regeringen, 2018b: 15: 1§, 2§). Unregistering oneself as a gambler is further another function introduced in accordance with the new law of 2019, enabling persons to go onto a webpage issued by *Spelinspektionen* (The gambling regulatory authorities¹) and block themselves from any and all gambling and targeted advertisement from licensed gambling companies. If an online gambling company does not apply for the license required in accordance with the new law, or is denied it, the company will no longer be able to market and advertise themselves within Sweden. However, the gambling webpages and its functions would still be accessible to whoever wishes to use them (Folkhälsomyndigheten, 2018a).

In recent years, similar laws have been implemented throughout Europe. Most noticeably in Italy, where a ban on gambling advertisement was implemented on January 1st, 2019, making it the first

¹ Translated by the Author

country on the continent to do so. While this ban came with financial consequences, such as sports clubs not being able to sign sponsorship contracts with gambling and betting related companies, the action was deemed worth it according to the government due to the country's large percentage of problem gamblers (>2.1%) (The Local, 2018). A ban on gambling advertisement has been thoroughly discussed in Sweden as well, resulting in the state-owned gambling company, *Svenska Spel*, to put a stop for all advertisement for their online casino functions, ethics and public health being the main reasons behind the decision (Åkerman, 2019).

2.2. Paternalism

Paternalism is a heavily discussed and debated concept, theory, and practice that has generated an abundance of different definitions. According to the Cambridge Dictionary, *paternalism* refers to the “thinking or behaviour by people in authority that results in them making decisions for other people that, although they may be to those people's advantage, prevent them from taking responsibility for their own lives” (Cambridge Dictionary, 2019), the Stanford Encyclopedia of Philosophy defines it as “the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm” (Stanford Encyclopedia of Philosophy, 2017), and Merriam-Webster specifies the term as “a system under which an authority undertakes to supply needs or regulate conduct of those under its control in matters affecting them as individuals as well as in their relations to authority and to each other” (Merriam-Webster, 2019). According to Le Grand and New, authors of *Government Paternalism: Nanny State or Helpful Friend?* (2015), the concept of paternalism is hard to define due to the lack of consensus on what exactly paternalism entails. Narrow definitions may forego mentioning several factors that others deem paternalistic and may have included in a more broad definition. Yet another reason for a lack of consensus on the subject is the fact that many of the terms surrounding the concept of paternalism are subjective in how they are defined, and in what they entail. Words such as “good” and “right” can never truly be objectively defined and are therefore difficult to incorporate in a definition of a word such as paternalism (Le Grand, New, 2015: 7-8).

While the concept of paternalism is no stranger to negative connotations such as the famous cognomen “nanny state”, some scholars are positive in believing that paternalism is not only

ethically justified in theory but necessary in practice. One of these scholars is Sarah Conly, author of the book *Against Autonomy: Justifying Coercive Paternalism* (2013). According to Conly, there are three primary possibilities when it comes to a balance between the right to health and security, and the right to privacy: the classical liberal response of maintaining the present liberty of choice while making it easier to make good choices, the libertarian response of nudging people in the direction of good choices while not taking away the possibility of making bad choices, and the response of coercive paternalism, which suggests limiting the option of a person in order to limit potential harm (Conly, 2013: 24).

2.2.1. Classical Liberalism and Soft Paternalism

The first response, based on classical liberalism, is largely uncontested in western societies where the notion of freedom and individualism is valued above much else. A prominent scholar within this field is John Stuart Mill, who argued in his essay, *On Liberty* (1869), that the only valid reason for interfering with another person's liberty is by doing so with the intent of prevention of harm to others. Interference with someone else's liberty on the grounds of protecting that person's own physical or moral good is not a valid reason, and should not be tolerated. Other persons' beliefs of what is good and right for the person are not valid grounds for justifications of such interference if those do not correspond with the person's own beliefs and opinions. The liberal stance on self-sovereignty is famously put into words by Mill himself: "Over himself, over his own body and mind, the individual is sovereign" (Mill, 1869: 135). However, Mill further suggests an exception to this way of thinking, although with a significant condition. In the example of a person Y witnessing person X approaching a bridge that person Y knows is broken to the extent that person X will suffer real consequences from attempting to cross it, person Y may interfere with person X's plans to cross the bridge on the ground that he or she is *unaware* of the bridge being broken. Person Y may, in other words, interfere to the extent that person X is able to make his or her own choices based on *being informed about the consequences* (Mill, 1869: 229). This level of paternalism is oftentimes referred to as "soft paternalism", and specifically refers to interference being justified when a person is not acting voluntarily or knowledgeable enough, although the interference may not impose ends or values on the person in question (Coons, Weber, 2013: 2; Le Grand, New, 2015: 26-27). One clear example of soft paternalism currently visible in society is the requirement of labels on cigarette packs that inform the consumer about the dangers of tobacco

consumption. The choice of consuming tobacco is still just as available to people as before the requirement of labels was implemented. However, the consumer is now making an informed and voluntary choice about risking damage to their health when proceeding to consume the labeled products.

2.2.2. Libertarian Paternalism

Unlike classical liberalists, libertarian paternalists do not put their faith in the rationality and optimality in the general choices of persons, but recognize that human beings do not always know what is the best choice for themselves in the long run (or even in the short run). Therefore, libertarian paternalists generally advocate for a society in which choices that are generally thought to be good for a person are attractive and readily accessible to choose. In the book *Nudge: Improving Decisions About Health, Wealth, and Happiness* (2008) by Richard H. Thaler and Cass R. Sunstein, libertarian paternalism is described as being based on the freedom to choose and to enable persons in going their own way without limiting those persons' freedom. The concept of "nudging", which is the basis of the book's title, refers to an action that makes one option, typically one that is perceived as good and right by the nudger, more attractive than another, worse, option without restricting anyone's freedom of choosing between those options. Nudging may also refer to making use of the general laziness of persons, making choices that are considered to be good for the person less complicated to choose than those that are considered as being less good for the person. This may be, e.g., making what is considered to be a good and favourable retirement plan the automatic choice for a person, meaning that he or she will have to actively take steps to change their retirement plan to another one. Thus indirectly steering the person towards one choice all while not actually taking any options away from him or her. This method of making things more attractive or using the laziness of persons in order for people to hopefully make good choices is called being a choice architect, and is a large part of what nudging and libertarian paternalism is about. In other words, libertarian paternalism encourages institutions and governments to make efforts of steering people into making choices that will, in the end, improve their overall life experiences (Thaler, Sunstein, 2008: 3-6).

2.2.3. Coercive Paternalism

Coercive paternalism is perhaps the most contested level of paternalism, as it is the most drastic in its measures, and oftentimes refers to the actual limitation of choices of a person. Conly (2013) is an avid advocate of this type of paternalism, believing that classical liberalism leaves people to sink or swim, that libertarian paternalism mentally manipulates people, and that coercive paternalism is the only practice out of the three that will actually produce good and efficient results. Coercive paternalism, then, is grounded in the thought that human rationality is not sufficient ground for deciding what is best for oneself in the long run, and that eliminating choices that are bad for us in a way of taking certain decisions out of our hands is the way of maximizing utility among persons in a society (Conly, 2013: 32). This level of paternalism, which is oftentimes referred to as hard paternalism due to it being on the invasive end of the spectrum of paternalism, is present and generally accepted in the societies we live in today. There are laws that are constructed solely with the purpose of protecting yourself, no matter if you want to or not. If you breach these laws, you will face consequences, even though you are not putting any other person at risk but yourself. Laws like these include having to wear a helmet when riding a motorcycle, having to wear a seatbelt while driving a car, and having to contact a licensed doctor in order to get access to prescription drugs² (Le Grand, New, 2015: 27; Conly, 2013: 18, 32).

The most common objections and claims against coercive paternalism lay in a lack of respect for the autonomy and competence of the person being governed. When it comes to the topic of competence, what is regarded as controversial is the suggested superiority of the paternalistic actor, namely the government, in contrast to the individual citizen. In some cases, the controversy tends not to apply, such as when the person that is subject to the coercive paternalism is underage, mentally challenged, or in a state of mind where he or she is considered incapable of making rational decisions, such as persons on suicide watch. In contrast, when it comes to a person who has not been deemed unfit in making choices for themselves, the general opinion is that his or her liberty of choice should be respected and not interfered with. According to Conley, however, the claims of psychologists and behavioral economists stating that all humans are subject to common cognitive failures is, along with real-life experience, reason enough to justify taking certain options

² While there are other reasons for the existence of prescription medication, such as avoiding harm done to others with the use of certain drugs, avoiding harm to oneself through self-medication is a significant factor.

away in the making of decisions in society. This cognitive bias becomes evident when looking at life goals. Most people want to live a long healthy life, being able to not only survive but enjoy their last years in life, yet they fail to save for pension and fail to stay away from habits that have negative effects on their health and might even shorten their lives (Conly, 2013: 19-20, 22). In the case of autonomy, coercive paternalism stops you from being able to make choices you either do not want to do because they are bad for you, or choices you do want to make but should not because they are bad for you. Here, Conly claims that coercive paternalism actually does not disrespect the autonomy of persons, but, in contrast, respects it enough to make sure that those persons do not limit themselves from future choices and successes that they really want in the long run by making short-sighted bad choices in present time (Conly, 2013: 35). A common fear in this loss of autonomy is that a certain class or superior group of people will make up rules to be obeyed by the so-called cognitively impaired. However, Conly urges the importance of noting that justification of a potential loss of autonomy is based on the fact that all human beings are subject to aforementioned cognitive bias, which means that the persons making the rules, the elected politicians forming a government, are not considered superior to the general citizen. What they are, however, is a group of people coming together, creating policies and laws under a good set of circumstances, freeing the individual from relying on self-control (Conly, 2013: 37-39).

2.2.4. Means and Ends Related Paternalism

The philosophy of paternalism is broad and has produced many different perspectives and variations throughout the years. Two perspectives currently relevant in regards to the upcoming argumentation are *ends and means related paternalism*. Looking at the terms separately, *ends* refer to what a person wishes to achieve by the way she lives and acts while *means* refer to the actions she takes to reach those achievements. In other words, *ends related paternalism* is directed at the ends themselves and focuses on where a person ends up rather than how the person gets there. *Means related paternalism*, on the other hand, concerns the choices people make in their lives in order to reach certain ends (Le Grand, New, 2015: 27, 178). Distinguishing between means and ends related paternalism becomes important in defending paternalistic action when the debate regards the question of whether the state is acting as too much of a parent, and if that action being made or being proposed is made out of good will or out of tyranny or a sense of superiority. In regards to this, then, the milder form of paternalism is the means related kind as it has less of an

impact on the lives, liberty, and autonomy of a person, and gives off less of a superior sensation. When persons feel like their values are being disrespected, and that the action and policy being made is not justifiable or agreeable, the policy is most likely more susceptible to fail in being accepted, followed, and effective. While ends related paternalistic action and policy indicates that the state believes that your values and desires in lives are wrong and should, therefore, be forbidden or restricted, means related paternalism want to help you achieve what the general person really wants. It is when persons fail to make rational decisions regarding their means that paternalistic action becomes relevant and calls for, in the case of coercive paternalism, restrictive regulation.

In the following section, I will argue in favor of coercive paternalistic action with the intent of implementing a national ban on all gambling advertisement, from lottery tickets to online casinos, for the sake of the wellbeing of persons in Sweden.

3.0. Argumentation

While many believe that paternalistic action is a threat to autonomy and disrespectful towards the intellect and competency of a person, I will argue that applying it to regulations of gambling advertisement is not only a valid action but a necessary duty of the government in order to protect the health and liberty of its people. Below, I will apply the three different distinctions on the spectrum of paternalism - soft paternalism/classical liberalism, libertarian paternalism, and hard paternalism/coercive paternalism - to the issue of gambling advertisement and problem gambling, distinguishing how and why they are and are not appropriate in regards to the issue.

3.1. Classical Liberalism and Soft Paternalism

Applying the different degrees of paternalism as presented in section 2.2. *Paternalism*, one can differentiate between different kinds of potential restrictions of the gambling advertisement market. For paternalistic action to be justified in accordance with classical liberalism, or soft paternalism, the person in question would have to be considered to be in a state of mind where he or she is not able to make rational decisions of their own and thereby not acting autonomously or voluntarily. Le Grand and New bring up examples of being of ill mental health and/or under the influence of drugs as valid reasons for taking certain choices out of the hands of that person, and into the hands of authority. This is reasoned as being due to the fact that the choices they would

be making in these twisted versions of themselves are not their own, and therefore, this action cannot be considered a breach of their autonomy. In one way, it may be argued, protecting those persons from the decision-making of their non-selves (twisted versions of themselves) is comparable to protecting someone from harm that is done to them by others, and can thus be argued to be an act that is in fact not paternalistic at all (Le Grand, New, 2015: 26-27).

Addressing the issue of the negative effects of gambling advertising through soft paternalism, then, is something that has to be based on the interpretation of what *not acting autonomously or voluntarily* means. One could argue that the mental states that many find themselves in due to problem gambling is a valid basis for this concept, or even the acute desperateness of money that is sometimes the reason behind people gambling in the first place. Appropriate action in accordance with soft paternalism that relates to gambling advertisement, then, would perhaps be to restrict problem gamblers from receiving targeted gambling ads, or, in addressing the entire issue of gambling, making it mandatory for problem gamblers to unregister as gamblers (as explained in section 2.1.3. *Sweden and Gambling*), which was one part of the new gambling advertisement law implemented in Sweden on January 1st, 2019. Further, Addiction may be seen as a loss of autonomy, and thus a state of mind which warrants intervention. However, soft paternalism calls for looking into how the person got to this state of addiction, and more importantly, what degree of voluntarism was applied in the decision of taking up gambling. If he or she was not informed about the dangers of online gambling, or was in a state of mind not appropriate for making big decisions, intervention might indeed be warranted due to a failure in autonomy. However, if the person was in a stable state of mind when deciding on partaking in gambling and was aware of the risks of such actions (which is very well likely due to current regulations regarding online gambling web pages and advertisements' duty to explicitly inform the consumer about the dangers of gambling), but decided that the potential winnings of gambling were worth it, the person has acted autonomously and intervention and paternalistic action is therefore not warranted in line with soft paternalism (Le Grand, New, 2015: 115-116).

A soft paternalist, or a classical liberalist, would further likely argue that gambling in itself is not a practice that is inherently negative, as long as it is of free choice and with a person's own money. Therefore, there is no need to take measures in order to prevent or regulate such an act. As became evident in section 2.1.2. *Concerned Significant Others*, however, problems that arise in gambling

are rarely phenomenons that concern only the person doing the actual gambling. Whether it concerns providing money or suffering physically or mentally, other persons in close proximities with the gambler in question are more often than not negatively affected. Still, soft paternalism does not allow for interference with the choices available to persons that are competent enough to make rational decisions and acting autonomously and voluntarily on their own. This means that remedies made with the intent of preventing negative outcomes that are not yet happening are not considered valid or justified in accordance with soft paternalism and classical liberalism.(Le Grand, New, 2015:115).

Yet another characteristic of classical liberalism is the fact that even though intervention might be considered justified due to the state of mind of a person, that person may still perceive their autonomy as being violated and breached. This is something that needs to be taken into consideration especially when soft paternalism is practiced on a larger scale than say, signing over the right to decision-making from a mentally ill person to one of their peers. The reason behind the elevated importance is the effect the perception of a loss of autonomy may have on the motivation of a person or a population. If a loss of one's autonomy is perceived, the intrinsic motivation of that person to change their behavior may be affected negatively, and in turn make the effectiveness of the government issued policy or regulation less effective, too.

Lastly, in line with John Stuart Mill's' harm principle, as explained in section 2.2.1. *Classical Liberalism and Soft Paternalism*, the issue of gambling and gambling advertising becomes complex. The measures that could justifiably be made on the grounds of preventing others from harm lay mainly in the discussion about concerned significant others. However, cases where the wellbeing of others is a motivation typically regard instances where others are directly harmed by the action performed by a person. In this case the harm done to others is hard to measure, varies from case to case, and develops over time. Looking at so-called *passive smoking*, the inhalation of smoke from another person's cigarette, one could reason that the potential harm the smoke could do to the non-smoking person's lungs is enough to justify paternalistic intervention on classical liberal grounds. Here, too, however, the consequences are hard to measure, and one could potentially argue that the harm is voluntary. After all, the non-smoker could just walk away, just like the significant other could be argued to cut ties with the problem gambler in many cases. The

harm to others in this case, just like in the case of gambling, is not severe enough to justify much more than a requirement of warning labels on cigarette packages or gambling ads and commercials.

3.2. Libertarian Paternalism

The choice architecture to be applied in the case for issues around gambling and gambling advertisement would first of all consist of making the advertising less attractive to the potential consumer. As of right now, many online gambling companies target their advertisement towards persons who are desperate for money and/or are already addicted to gambling. The exploitation of persons who need large amounts of money quickly becomes evident in the ways the ads offer fast payouts through messages such as “Payouts within 5 minutes” and “Now even faster payouts with Swish”. Ads expressing no need for further payments after the first one is something that occurs in most ads as well, further targeting persons in desperate need for money. Interestingly, ads with texts encouraging you to gamble on their webpages while you drive is something that has been emerging lately, making their adverts responsible for a lack of road safety as well. The second (or third, if you count road safety) main demographic of exploitation besides within the area of financial desperation, are persons with gambling addictions or potential future gambling addictions. One of many ways this becomes evident is when looking at ads offering “Free Spins” - a concept where the companies do not make any money off of the game's first couple of plays, completely relying on the fact that people will feel a need to continue gambling to the extent where the company makes enough money to not only make up for capital lost in the free spins but gains profit³. Further, something that is advertised is the fact that no checkups are made of the gamer until there is time to withdraw money from a victory - a rare occurrence that most likely is the product of having lost a lot of money before the victory occurs. It is usually extremely easy to put money into these webpages, and very hard to actually withdraw your winnings. However, the false feeling of winning while you cannot actually withdraw any money is a common “trick” to keep people playing and paying without any losses for the gambling companies, as the money is

³ These observations have been made from ads displayed around the city of Malmö, Sweden, as well as from tv-commercials airing on Swedish television during the first five months of 2019. Gambling websites being advertised in these ads and commercials were, amongst others, Ninja Casino, Leovegas, Snabbare, Unibet, Mr. Green, Bet 365, Casumo, Maria Casino, Storspelare, Betfair, Betsson, Casinostugan, Svea Casino, Come on, No Account Casino, Tobola, Hajper, Bingo.com, PlayOjo, Rizk, Speedycasino, and iGame.

available to use for further gambling on the websites (Betting, 2019)⁴. This is in itself choice architecture from the side of the gambling corporations, taking advantage of the general laziness of people, relying on the fact that persons will use their online credits for further gambling rather than going through the hassle of withdrawing the money they have won. In accordance with libertarian paternalism, then, the requirement of the state in order to protect its people would be to implement regulations against the attractiveness of these ads, as well as this aforementioned way of taking advantage of laziness.

The fact is that most companies setting out to make a profit from their products or services use nudges, and not rarely in the wrong direction when it comes to the wellbeing of the consumer - something which I will from this point on be referring to as negative nudges. Looking at something as mundane as grocery stores, we as customers are constantly being nudged by placements of products. As we proceed to the registers to pay, we are surrounded by small, attractive, cheap things that we do not really need but might be inclined to buy due to boredom while standing in line to pay, such as candy, magazines, gum, etc. The placement of candy in grocery stores is generally not contested, even though it is something that is encouraging consumption of something that is directly bad for our bodies and teeth, because we do still feel like we as customers have a choice when it comes to buying or not buying that gum or candy bar.

On the subject of gambling consumption and addiction, however, the consequences are more severe than that of sugary intakes and unnecessary purchases for small amounts of money, and should therefore further be contested on a grander scale. Simply convincing a company to make changes that will directly make them lose profit is not very likely, and calls for either stronger directives, or more attractive incentives. One could argue that, since the discussion of the dangers of gambling is very central in society today, many customers would prefer choosing a gambling webpage that does not concern itself with negative nudges and deceiving advertisement (free spins, fast payouts, etc...), making it profitable for gambling sites to distance themselves from such practices. However, as has been presented in section 2.2.3. on *Coercive Paternalism*, human beings

⁴ This information comes from real-life lived experience as told by persons that have been caught in problem gambling, having led them bankrupt and with poor mental health. For the sake of this essay, and because of a lack of other sources on such a contemporary issue, I am using this information as a basis for my argumentation.

seldom tend to be rational at all times, and when desperation for money kicks in, or a gambling addiction needs fulfillment, people will very likely choose the gambling web pages with attractive offers of quick payouts, free spins, etc. Due to the fact that corporations within the field of online gambling would actively be working against their way of making profit by restricting the negative nudges they are currently using, it is very unlikely that responsibility will be voluntarily taken by those corporations and that changes will be made in favor of the well-being of the Swedish population. What would most likely be successful is a national ban against advertising using negative nudges, similar to already existing regulations in ads for hazardous consumption where the inclusion of age limits and references to helplines are mandatory.

Implementing a ban against negative nudges might technically seem as if in accordance with libertarian paternalism, as the focus is still on making choices more or less attractive. However, the act of implementing such regulations would in itself be considered as coercive paternalism, as it actively restricts the freedom of the gambling companies in question. Banning gambling advertising, while an act that may be considered coercive paternalistic due to its restricting nature, could arguably be seen as something that is in accordance with libertarian paternalism. This is due to the fact that you do not actually restrict any choices of the Swedish population by removing the advertisement. People are still free to visit gambling web pages and online casinos, and free to gamble on those pages. What you are doing by such a ban, however, is taking away the phenomenon that makes gambling seem attractive, namely commercials and ads. Banning ads and commercials in regards to the wellbeing of the people would undoubtedly affect the online gambling corporations negatively, actively restricting their outreach and means of making a profit, which is something that is not compatible with libertarian paternalism.

3.3. Coercive Paternalism

What I am arguing for in this essay is applying coercive paternalism to regulations regarding gambling advertisement, this by implementing a ban of said advertisement in order to protect the Swedish population, similar to the recent ban on gambling advertising implemented by the Italian government. Going even further, one could argue that true coercive paternalism, meaning paternalism in its most radical form, would call for a ban on all types of gambling in order to truly slim down the options of hazardous consumption to protect the people. My reason for not arguing

in favor of a ban on gambling in accordance with “true” coercive paternalism is the issue of finding a balance between maximizing the wellbeing of the population and minimizing potential breaches of autonomy, as well as a need for the regulations offered to be considered rational and accepted. One has to look at not only the problem at hand but other problems that may arise through the remedying of said problem. One such problem that oftentimes occurs when an act or product becomes criminalized or inaccessible is the rise of illegal accessibility to said act or product. With the criminalization of cannabis comes illegal trade, and with radical rises in the price of cigarettes come illegal smuggling. Hazardous consumption has been limited but not banned in Sweden with public health and the people’s wellbeing in mind in more ways than one.

3.3.1. Other Forms of Hazardous Consumption

Looking at alcohol, there are age limits in place, requirements of licenses for selling opened drinks (restaurants, bars, etc), and a monopoly on selling sealed drinks. Further, the monopolized store chain of Alcohol in Sweden, *Systembolaget*, has restricted opening hours and in-store personell with the authority to decline those deemed unfit to purchase alcoholic beverages either because of the person being underage, suspicion around smuggling or resale, or simply because the person is too drunk - something which applies to bars and restaurants, too (Systembolaget, N.d.). All advertisement for alcoholic beverages was banned in Sweden up until 2003. Since then, the advertisement has been heavily regulated, stating that it has to be of certain moderacy, may not encourage consumption, has to contain some kind of reference to the dangers of drinking, and is not allowed to be targeted towards anyone under the age of 25 or connected to any kind of person, attribute, or lifestyle (IOGT-NTO, N.d.). Furthermore, Systembolaget is not allowed to offer deals on alcoholic beverages or make their products seem attractive. This is something that is taken very seriously, to the extent that the stores do not use fridges for cool-keeping, this in order not to encourage spontaneous purchases (Systembolaget, N.d.). Similarly, packaging for tobacco products needs to contain a label of the dangers of consuming the product, and retailers of tobacco products are required to register as such so that the local government can make control visits and make sure that everything is according to regulations. Retailers can deny a customer purchase of tobacco if the person cannot show proof of age over the age limit or if the retailer suspects smuggling or resale. Most importantly, all advertising for tobacco products is forbidden except for within the store, close to the products themselves, and not visible from outside the store. Even

then, the advertisement may not encourage tobacco consumption and must be of a certain level of moderacy (Tobaksfakta, 2013).

The question that begs to be asked in this case is why certain ways of hazardous consumption are heavily regulated, or even banned as in the case of cannabis, while others are barely regulated at all. When the reason for regulation is the health and wellbeing of the people, why is it that something as hazardous as gambling is not taken nearly as seriously as the consumption of alcohol and tobacco? Comparing the four aforementioned means of hazardous consumption, cannabis is the most heavily regulated through criminalization, followed by the monopolization of alcohol, followed by the in-store regulations of tobacco, and lastly by the minimalistic regulation of gambling consisting of a few requirements regarding advertising. Based off this scale of regulations, it is fair to assume that gambling is seen, or has been seen, as the least hazardous of the four. Why this is the case is presumably because of the fact that cannabis, alcohol, and tobacco have effects that can be predicted and measured in ways that gambling can't. While cannabis and alcohol come with the issue of negative effects on mental health, the two do, along with tobacco, pose threats to the actual physical health of a person - something which sets them apart from gambling. What needs to be questioned here, is why mental health risks are not taken as seriously as physical health risks, and therefore not prevented to the same extent.

Looking at the outcome, as we have seen in section *2.1.1. Mental Health and Mortality among Problem Gamblers* of this essay, problem gambling tends to lead to death in many cases, just like problem consumption of alcohol and tobacco does. In addition to the mental consequences of problem gambling, there is further the financial aspect of the practice. While other forms of problem use of hazardous consumption, such as alcoholism, might lead to issues in regard to a person's personal finances (and the finances of persons in close proximity to them), gambling is the only kind of the aforementioned ways of hazardous consumption where money is the core and focus of the behavior. While I do believe that the regulations currently in place for cannabis, alcohol, and tobacco are justified, I further believe that gambling should be taken as seriously as, or more seriously than, other forms of hazardous consumption and that the law should reflect that.

Looking at the consequences of alcohol, tobacco, and gambling respectively⁵, I would argue that gambling should be significantly more regulated than tobacco as the consequences, which are generally physical, are comparatively much smaller than that of problem use of alcohol and online gambling. Looking at alcohol and gambling, however, the gap is narrower and requires a more thorough comparison. Both means of hazardous consumption have similar consequences. While those of alcoholism lean more towards the side of physical consequences, and those of problem gambling lean more towards mental ones, all ultimately tend to lead towards deteriorating health, troubles in finances, negative effects on concerned significant others, and addiction-induced deaths.

The important differences to identify, however, lay not in the consequences but in the accessibility and practice in question. A person who sees an advertisement for alcohol and is suddenly encouraged to consume alcoholic beverages has to pass a string of obstacles in order to do so, especially if this person has no access to previously purchased alcoholic beverages. Even if the person does have access to previously purchased alcoholic beverages, one cannot usually simply consume the said beverage in any chosen public place, as it is illegal and generally socially frowned upon. Further, consuming more than just a small amount of alcohol will result in consequences some few hours later, which is sometimes enough of a reason not to do so. When it comes to online gambling however, these rules and consequences do not apply. What makes online gambling more dangerous than alcohol, and thus in need of stricter regulations, is the accessibility of the practice and the lack of reasons not to engage in it. No juridical laws are preventing a person from pulling out their phone the second they are bored or feeling depressed and start gambling online or in apps as a distraction or coping method - not even social norms due to the normalcy of looking at one's phone. A person gambling does not physically feel the consequences of over-consumption the way a person drinking alcohol does and does not have a reason not to gamble because of an upcoming hangover. The constant exposure to ads and the encouragement of gambling being conveyed, which is allowed and practiced today, is therefore remarkably dangerous for not only problem gamblers but potential ones, as online gambling is a type of hazardous consumption perfectly engineered for spontaneity.

⁵ I am excluding cannabis in this comparison due to the fact that its regulation has reached its highest form through a national ban on every use of narcotics with exception for certain medical and scientific usage (Riksdagen, 1968).

3.3.2. Normalization

Yet another aspect to take into consideration is that of the upcoming generations of people that will be in charge of this country in the future. Children growing up in Sweden who were born after the introduction of smartphones and electronic tablets into society have a normalized view of spending hours playing games on said devices. Many schools use electronic games to teach subjects such as math, making it a part of the everyday experiences of most children, and babysitting in the shape of offline as well as online phone and tablet games is nothing but a common occurrence. Whether real money is involved or not, what is being normalized is playing electronic games in order to win different kinds of app-specific currencies, almost always with the option of buying advancements through in-app purchases with real money. While older generations have been taught the dangers of playing games for money, the upcoming generations are having the same phenomenon being encouraged and normalized through excessive accessibility and social acceptance. While advertising gambling in a way that is considered appealing to persons under the age of 18 is already illegal, the issue that needs addressing here is how the potential harm that has been inflicted on these young individuals will shape the future adult beings of society. What is needed is counter-measures to this normalization, now and in the future, giving it the same negative connotations that are associated with the dangers of consuming other means of hazardous consumption such as alcohol and tobacco. Online gambling mustn't be regarded as something attractive or appealing, thus calling for a ban on advertising within that sector for the sake of the present and future wellbeing of the Swedish population.

3.3.3. Means and Ends

Being constantly exposed to ads claiming huge payouts and what are essentially promises of success, a person might take up gambling as he or she believes the inclinations of it leading to a future of wealth and luxury, or perhaps a future where one's debts are paid off and money is no longer a constant issue in one's life. Having in mind the cognitive failure mentioned in section 2.2.3. of this essay, which is essentially the general human error of not acting rationally at times, this becomes regarded as a very likely scenario. Distinguishing which kind of paternalism that is being exercised in the case of banning gambling advertisement is not an obvious task, as it falls somewhere in between the two types as presented in section 2.2.4. *Means and Ends Related Paternalism* of this essay. By not advocating for a complete ban on gambling, however, I believe

that my approach is more means-related than ends-related as I am not actively trying to dictate the way people should live their lives by taking away the choice and availability of gambling completely. What I am advocating for in this essay is, in contrast, a regulation with the purpose of minimizing the risks of persons making impulsive decisions with negative consequences, while still letting those who want to gamble do so in order to minimize the infringement of the right to one's autonomy. Similarly, I am not advocating for a ban on gambling corporations to run their businesses and concept, but simply a change in how they conduct said businesses and concepts.

Since the paternalistic action and policy I am arguing in favor of is not only means related but on the softer end of the coercive paternalism spectrum, the concept becomes what I believe to be very agreeable and easy to accept for a population. Instead of telling people that their values and prospects in life are wrong and should therefore be outlawed, which would be the case in the ends related version of the issue, namely forbidding gambling in itself, what I am proposing is simply something which will give people the means of being able to achieve what they actually want in life rather than to fall for temptations with probable negatives consequences. It is, after all, somewhat safe to assume that people would rather perceive themselves as competent enough to be able to choose and not choose their actions in life, rather than having the state acting as a moralistic parent, taking all choices away but what the state has decided is good and right.

4.0. Counter Arguments

4.1. Autonomy vs. Wellbeing

Autonomy is a central phenomenon to the discussion of this essay and is the most common argument against paternalistic action. What *autonomy* exactly means, however, is not agreed upon amongst philosophers, but the term is described as “the notion of self-rule, the ability to act as a deliberating agent” by Le Grand and New (2015: 105), who further point toward it encapsulating the central idea of autonomous persons having the ability of deciding, acting, and thinking for themselves or as being authors of their own lives (Le Grand, New, 2015: 106). Le Grand and New present three different ways of conceiving autonomy as put forward by philosopher Joel Fineberg. The first distinction looks at the notion of autonomy as a capacity, which means that every person is at some degree able to exercise decision making, depending on their state of mind (being sober

elevates the capacity, being drunk lowers it). The second way of looking autonomy is as an ideal, which means that it is something people strive to have, but may not be able to reach. Third and last, autonomy may be seen as a right, namely the right to rule over oneself. Autonomy in the case of the third conception is absolute, and the notion of “one’s own good” which is the motivation behind paternalistic action is a competitor of this right (Le Grand, New, 2015: 107). A hard paternalist takes the compromisation of the right to autonomy into account, but believes that the autonomy of a person has to compensate for the wellbeing of said person and that the balance found between wellbeing and autonomy of such compensation is worthwhile (Le Grand, New, 2015: 127). While I believe that a ban on gambling would be a breach of the right to the autonomy of a person in which the wellbeing of a person does not compensate for the loss of that autonomy, it is my further belief that a ban on gambling advertisement falls somewhere in the middle of the spectrum, at a justifiable balance between the two.

While I propose a paternalistic action in the shape of a ban, it is important to note that what I am proposing is a ban that does not take away any choices of the Swedish population, it merely takes away some encouragement of making impulsive decisions that are strongly connected to negative outcomes. Further, it is important to note that when something is regarded as a right, such as in the third conception put forward by Feinberg, the general understanding is not that it is an absolute right to which no breach can be justified through the compensation of other good (something which, however, is the belief within soft paternalism). In contrast, what the general understanding of what a right entails can be exemplified by a quote by Michael Freedman in Le Grand and New “a means whereby we place a special status on some attribute that we wish to prioritize and protect” (Le Grand, New, 2015: 130), which means that there is nothing speaking against the possibility of something that is being considered *the good* being a reason for compensation of the right to autonomy. Moreover, looking at autonomy and well-being as two fundamental parts of the life of a person, or lives of people, excluding one completely in order to fully make room for the other is not a possibility as it would possibly result in either death or lives that are not our own to live (Le Grand, New, 2015: 130). Infringements of autonomy come in smaller and bigger degrees, and the ban on gambling advertisement I am proposing falls within a smaller degree. On the spectrum of paternalism, starting from soft paternalism, followed by libertarian paternalism and coercive paternalism, my proposal lays at the very lowest point of coercive paternalism, as I believe that is

the point where the wellbeing of the Swedish population is as maximized as it possibly can be without making significant damage to the respect of the autonomy of said people.

I believe that the positive outcomes of banning gambling advertising will, indeed, outweigh the negative. A ban of this sort may lower the levels of problem gambling, which has not only positive effects on potential consumers but society as a whole. A person that does not suffer from poor mental health or trouble with their personal finances is likely to lead a fuller life than someone who does and is further more likely to contribute to society by, e.g., paying taxes through work and not needing financial support. Moreover, fewer persons in need of assistance in the form of treatment of their problem gambling mean more resources for other purposes. The parties on the losing side of such as ban as proposed in this essay would most definitely be gambling companies built upon the exploitation of persons in need for money, and, of course, persons in risk of getting caught in gambling addiction. However, I do not believe that companies on such a level of hazardous consumption should have the privilege of partaking in the free market and the nearly unregulated advertising thereof, something which the Swedish state has agreed to to some extent through regulations on the access to and advertising on alcohol and tobacco, as previously discussed.

4.2. Motivation

The compromise of autonomy that occurs in coercive paternalistic action is not something that merely breaches the right of a person to autonomy, but something which may cause negative effects on a person's inherent motivation regarding changing their behavior for what is considered to be the better. Taking away choices and restricting pathways in a person's life may restrict their motivation, making a person dependent on regulations as implemented by the state in order not to make faulty decisions. Further, regulations that are perceived as too harsh and controlling rather than supportive are likely to become less effective due to the people's potential perception of the regulation being something that restricts them rather than enables them in life. While this is an argument that seemingly goes against the idea of implementing a ban on anything in a paternalistic manner, one has to take into account that what I am arguing for is not something that will take away the possibility of making bad choices and will therefore not take away the motivation of not making bad choices on one's own. The ban on gambling advertisement that I am arguing in favor

of will simply take away a large part of the temptation of making choices that are bad for the wellbeing of a person, all while letting said person exercise their will of choice and motivation freely. The motivation not to gamble may occur naturally because of social norms more or less condemning gambling by denormalizing it through a ban on the exposure of encouragement on the subject. Further, a policy that makes the people feel like they are being supported and enabled rather than restricted may change the behavior and internalized norms of a population even after the restrictions are changed or taken away, which in this case would result in a positive outcome for the long term public health of the Swedish population (Le Grand, New, 2015: 108-110).

4.3. Alternative Approaches

Lastly, one has to address the argument that one may be able to avoid breaching the right to autonomy altogether by utilizing an even softer approach than that of what I have proposed throughout this essay. While my proposition may be regarded as the softest possible in order to make a difference, there are persons who may still find the middle ground between autonomy and wellbeing to be unbalanced, and with an too little weight put onto the importance of autonomy. How might one then approach the issue of the negative effects of gambling and gambling advertising without banning anything, and thus lessening the paternalistic impact? Within Sweden, most measures possible have already been made with the exception of a ban on gambling advertising. As has been presented in section 2.1. *The Hazardous Consumption of Gambling*, information of minimum age, of reminders to gamble responsibly, and of references to help-lines are already required to be expressed in commercials and advertising for gambling companies and online casinos, with even more rules and requirements implemented in the new 2019 law concerning gambling companies. Between the requirements already in place and the actual banning of gambling advertisement, there is not much to be done. Perhaps the informative texts could be required to be bigger, brighter, and last longer in case of digital commercials. Perhaps the same regulations could be applied to gambling advertisement as to advertisement for alcohol. However, as has been discussed, online gambling is something that can be accessed and misused wherever, whenever, and calls for different regulations than something that is sold and purchased in a very controlled environment with inter-personal evaluation and limited opening hours in order to decrease impulsive misuse. As long as gambling companies are allowed to create advertisements for products based on the exploitation of people's mental health and personal finances, I believe

that they will be able to achieve their goal regardless of regulations on how that advertisement is to be formatted or expressed. As such, It is my belief that the balance between autonomy and wellbeing found in my proposal of a ban on gambling advertisement in Sweden is the action to be made with the best possible outcome for the lowest possible price to be paid.

5.0. Disclaimers & Further Discussion

I believe it is important to note that the entire issue being discussed throughout this essay is an entirely new one. As has been earlier mentioned, while advertising for state-owned gambling, lotteries, and sports betting has been around for a long time, the increase in online casino advertising was sudden and extreme, and started only a few years ago. Analyzing effects and implementing regulations based on such effects takes time and the first new law on the subject was, as aforementioned, not put into force until January 1st, 2019. As of almost half a year later, discussions regarding a ban on gambling advertisement are being held within the decision-making organs of the state of Sweden, pointing towards some sort of action at the end of 2019 or beginning of 2020. While I believe that it is high time for changes to be made and laws to be implemented on the subject, this essay is not one of criticism towards the Swedish government's work within the area of concern.

6.0. Conclusion

In this thesis, I have argued in favor of a ban on gambling advertisement in Sweden made on the basis of the wellbeing of the Swedish population. Based on the negative effects of gambling, the regulations currently in place for marketing and advertising thereof are not sufficient enough to be regarded as appropriate. The negative effects connected with gambling need to be taken as seriously as those of alcohol, as the consequences of the two are comparable at the level of hazard. Thus, regulations in relation to the marketing and advertising of gambling, in particular online gambling, need not be regulated less than that of alcohol, but rather more, due to the absence of inter-personal evaluation and the limitation of spontaneity that is regulated operating hours that come with the monopolization of alcohol consumption. Analyzing the spectrum of paternalism, from soft paternalism/classical liberalism to hard/coercive paternalism, I have concluded that coercive paternalistic action in the shape of a ban on gambling advertisement is the most appropriate measure in terms of efficiency and acceptance. Further, I have argued that the loss in

autonomy balanced with the gain in wellbeing which may occur in coercive paternalistic action is justified and appropriate in the case at hand, as the measure proposed is not something that will restrict the choices or autonomy in reality. This is due to the fact that what is being regulated is simply something which may urge something to do something. The actual act of fulfilling that urge, namely gamble, will still be available in the same matter as before. Through the absence of gambling advertising, however, it will be a conscious choice to make use of that availability, rather than an unconscious encouragement and urging from companies looking to exploit the spontaneity, curiosity, desperation, etc., of a person. A ban on gambling advertising would make it less profitable for gambling companies to exploit people, and would be a responsible step in the right direction for the protection of the public health of the Swedish Population.

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