

Promoting multiple society lotteries

Advice for society lotteries and external lottery managers promoting individual lotteries under one brand, August 2011

1 Introduction

- 1.1 The purpose of this note is to provide advice to society lottery promoters (society lottery operators and External Lottery Managers (ELMs)) and others about some of the factors the Gambling Commission (the Commission) is likely to take into account when making decisions about whether the requirements of the Gambling Act 2005 (the Act) are satisfied in a particular lottery scheme.
- 1.2 The interpretation of the Act is ultimately a matter for the courts but it is hoped that this note will be helpful to societies and ELMs in setting out some of the indicators to which the Commission has regard in determining whether a particular scheme is being properly promoted as a series of separate lotteries or is in reality a single lottery. These indicators may also be relevant, in appropriate cases, to the Commission's decision whether to grant an operating licence.
- 1.3 This note contains advice supplementary to the requirements of the Act, relevant regulations and the Licence Conditions and Codes of Practice. Operators must also ensure they meet those requirements. For further information see the Commission's document 'Promoting society and local authority lotteries, November 2009'.
- 1.4 To assist operators in ensuring that their lottery is being promoted lawfully and in line with the licensing objectives as set out in the Act, the Commission has prepared a series of indicators that may be taken into account when deciding whether or not a particular scheme is lawful. The indicators are neither exhaustive nor exclusive and no single factor is likely to be determinant by itself.
- 1.5 The Commission may update this advice note from time to time to reflect developments in the sector.

2 Promoting multiple society lotteries lawfully

- 2.1 The Act permits licensed or registered non-commercial societies to promote lotteries. The intention of the relevant provisions is to make it possible for a non-commercial society to use a lottery as a means of raising funds from the public for the cause promoted by the society. The provisions are relatively limited in scope.
- 2.2 The Act also allows those societies to appoint a person who is not a member, officer or employee of the society - an External Lottery Manager (ELM) - to make the arrangements for the lottery on their behalf. Where arrangements for the lottery are made by an ELM on behalf of a society both the ELM and society promote the lottery.

The intention of these provisions is also relatively limited in scope: they are designed to do nothing more than allow a society to “outsource” the running of its lottery to a third party.

- 2.3** It is the view of the Commission that where an ELM, a society lottery operator or a collective of society lottery operators, promote multiple society lotteries under a single brand, each lottery must be organised and promoted in such a way as to ensure that the lotteries are not combined to form one single lottery, which could be a breach of the requirements of the Act and regulations.
- 2.4** The proceeds from one society’s lottery may not be used to fund any of the prizes or expenses in a different society’s lottery promoted under the same brand. For example proceeds from lottery A promoted by society A may not be rolled over to fund prizes in lottery B promoted by society B (a different society) or be used to pay or subsidise any prizes in society lottery B.
- 2.5** The relevant monetary limits set out in the Act apply to each of the individual society lotteries separately.
- 2.6** Under the Act the proceeds of each lottery draw are the responsibility of the individual society lottery operators. It is each society operator’s responsibility to ensure that the proceeds, including expenses and prizes, of its lottery are apportioned and distributed lawfully and that a minimum of 20% of the proceeds of each of its society lottery draws are applied to a purpose for which the promoting society is established.
- 2.7** Each society must meet the requirements of a non-commercial society set out in section 19 of the Act and any publicly available criteria relied upon by the Commission in assessing compliance with those requirements. The Commission will always look at the reality of each situation in determining whether the test for a non-commercial society is met, and when deciding the imposition of licence conditions.

Control and accountability

- 2.8** There is no prohibition in the Act on society lottery operators coming together under a single brand and the results in those lotteries being determined by a single draw. However, the individual lotteries must remain separate, distinct entities. Indicators that may help make judgements in these circumstances include:
- In cases where a number of societies come together to promote their lotteries under one brand, whether an ELM is involved or not, the extent to which each individual society is able to demonstrate that they retain overall management control of their lottery will be important. This will include the society demonstrating that they retain overall control of management and strategic decision-making relating to the promotion of the lottery, including control over social responsibility policies and the marketing of the lottery.
 - The extent to which the proceeds of individual society lotteries are separated, for example through ring-fencing individual bank accounts from other societies, from the ELM and from any other related company or body.
 - In cases where a number of societies come together to promote their lotteries under one brand, whether an ELM is involved or not, the extent to which each society has control of the proceeds of the lottery including how those proceeds are apportioned and distributed will be an important factor. Where multiple society lotteries are promoted under one brand, the proceeds cannot be pooled and distributed among all societies promoting their lottery under that brand.

Marketing

2.9 The Act requires each individual society lottery that forms part of a single branded scheme must be promoted separately, and it must be clear to a participant in the lottery which society lottery they are being asked to participate in. Where a number of society lotteries are promoted under one brand whether with an ELM or not the following indicators may assist decision making in this area:

- The extent to which the general advertising and marketing material relating to the promotion of the umbrella lottery brand makes it clear each draw will be on behalf of separate identified societies.
- Prior to each lottery draw the relative prominence of the name of the umbrella lottery brand in the advertising and marketing material compared to that of the name of the society or societies involved in the promotion of that particular draw.
- The extent to which the document (ticket) given to participants at the time they pay to enter the lottery clearly and prominently specifies and displays the name of the individual society or societies involved in promoting each lottery draw.

Gambling Commission August 2011

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

T 0121 230 6666
F 0121 230 6720
E info@gamblingcommission.gov.uk

ADV 11/06