

Reverse auctions

Frequently Asked Questions, June 2008

1 What is a reverse auction?

- 1.1 Reverse auctions are schemes where to win a prize participants must make the lowest unique bid (generally in pence). Depending on the format (online, TV, radio, SMS or print) the prize is shown or described (including the retail value) and participants are asked to submit a bid. Operators charge participants for each bid they make. Bids are generally made via text message (at a premium rate) or through registering with the operators website and paying by debit/credit card or pre-purchased credits.
- 1.2 The prize is won by the person who makes the lowest unique bid. As well as the cost of making each bid the winning participant is usually required to pay the amount of their winning bid to receive the prize.
- 1.3 Reverse auctions tend to fall into two categories:
 - those where operators only provide participants with information on whether they were successful or not; or
 - those where the operator provides additional information, usually following the submission of a first bid. For example:
 - full bid history;
 - placement of received bid; and/or
 - current lowest unique bid.

2 What is the Gambling Commission's interest in reverse auctions?

- 2.1 The Gambling Act 2005 (the Act) contains provisions designed to make clear the distinction between lotteries and prize competitions and free draws. Although the Gambling Commission (the Commission) has no regulatory responsibilities in respect of competitions and draws it does monitor the boundary between them and lotteries. The Commission has duties in respect of pursuing and prosecuting illegal gambling and will act where schemes are organised and promoted, that in our view, amount to unlicensed and therefore illegal lotteries.
- 2.2 Depending on how a reverse auction is operated it could be considered to be a lottery.

3 Can reverse auctions be operated as prize competitions under the Gambling Act 2005?

- 3.1 A prize competition is one where success depends on the exercise of skill, judgement or knowledge by the participants and does not, as it does in a lottery rely wholly on chance.
- 3.2 Reverse auctions can be operated as prize competitions under the Gambling Act 2005, provided they comply with the test set out in the Act at section 14(5). This says that a genuine prize competition is one that contains a requirement to exercise skill or judgement or

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to display knowledge and where it can reasonably be expected that that requirement will either:

- prevent a significant proportion of people who wish to participate from doing so (section 14(5)(b) of the Act); or
- prevent a significant proportion of people who participate from receiving a prize (section 14(5)(a)).

4 What can I do to ensure the reverse auctions I operate are compliant with the Gambling Act 2005?

- 4.1** To ensure that reverse auctions are compliant with the requirements in respect of prize competitions in the Gambling Act 2005 success must be dependent on the skill, judgement and knowledge of participants rather than chance.
- 4.2** Examples of factors that may enable operators of reverse auctions to ensure they are compliant include time limits for the submission of bids, the provision of information to participants about previous winning bids (for similar items) and updates on the status of their current bid(s). Operating reverse auctions of this type may make it possible for participants to apply a strategy to their bidding (demonstrating a requirement for a level of skill or application of knowledge).

5 What will happen if my reverse auction is not compliant and is judged to be an unlicensed lottery?

- 5.1** If a reverse auction does not meet the test for prize competitions set out in section 14 of the Act, and all the elements of a lottery are present - that is payment, chance and allocation of prizes - then it may be an unlicensed and therefore unlawful lottery.
- 5.2** The Commission has duties in respect of pursuing and prosecuting illegal gambling and will act where schemes are organised and promoted which, in our view, amount to unlicensed and therefore illegal public lotteries.
- 5.3** Operators of reverse auctions that do not meet the test in the Act have three options available to them:
- cease to operate;
 - adapt their reverse auction schemes to ensure they are compliant with section 14 of the Act; or
 - apply to the Commission for a Lottery Operating Licence, and be subject to the regulations and Licence Conditions and Codes of Practice associated with this type of licence.
- 5.4** The onus lies on the operators of reverse auctions to satisfy themselves that their schemes are compliant with the law. If they are in doubt, they should seek legal advice.

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The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.

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

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