

Virtual currencies, eSports and social casino gaming – position paper

March 2017

1 Executive summary

- 1.1 The Gambling Act 2005 sets out the framework for the provision of gambling in Great Britain. The regulatory framework in the Act is based on the concept that it is unlawful to provide facilities for gambling unless an operating licence is in place, or a specific exemption applies. The Gambling Commission is the national regulator for gambling in Great Britain.
- 1.2 Gambling is defined as betting, gaming or participating in a lottery. Those definitions distinguish the activities which need to be licensed and other activities which, although they combine expenditure and the influence of chance, do not fall within our regulatory remit.
- 1.3 This position paper summarises the conclusions from our engagement exercise undertaken in late 2016. That exercise included the publication of a [discussion paper](#) to promote debate on a number of issues which have emerged from the development of interactive entertainment products such as video games.
- 1.4 The interpretation of legislation is ultimately a matter for the courts, and in developing our response we have noted the lack of contemporary and directly applicable case law in some of these areas. This paper therefore seeks to balance an interpretation of the legal framework governing remote gambling in Great Britain with an assessment of where interactive entertainment **has crossed**, or is **in danger** of crossing boundaries into licensable gambling activities. We set out the following conclusions:
 - Applying the existing regulatory framework allows for proportionate control of the risks associated with betting on eSports.
 - Maintaining public confidence in the integrity of eSports as an entertainment and betting event relies upon those seeking to benefit commercially from it, applying the best practice available from other sports.
 - Where in-game items or currencies which can be won, traded or sold can be converted into cash or exchanged for items of value, under gambling legislation they are considered money or money's worth.
 - Whether participation in a video game for a prize requires a gambling licence will be determined by reference to a number of factors including how the outcome is determined and how the facilities for participation are arranged.
 - We will focus on those activities which blur the lines between video/social games and gambling and present a risk to the licensing objectives. In particular, we will prioritise those made available to children, those involving expenditure and those presented as gambling or associated with traditional gambling.
- 1.5 We will keep this policy framework under review and continue to monitor developments in the market.

- 1.6 Having set out our concerns and approach, we will continue to tackle those seeking to offer facilities for gambling to British consumers outside of the licensing regime. In particular we are calling on games publishers and network operators to recognise the legal, moral and commercial imperatives of tackling any exploitation of their player community by predatory third parties. They should act to prevent this where appropriate, by working with relevant authorities.
- 1.7 We will continue to engage with representatives of the video games industry to understand how they are applying the creative talent within their businesses to disrupt the supply of illegal gambling facilities and also educate their players of the risks, thereby minimising the demand for such products.
- 1.8 We will also be continuing to engage with parliamentarians and groups concerned with child protection, internet safety and parental awareness to highlight the gambling-related risks associated with some video games.
- 1.9 A glossary of key terms used within this paper is included at the annex.

2 Licensed betting on eSports

- **Applying the existing regulatory framework allows for proportionate control of the risks associated with betting on eSports.**
- **Maintaining public confidence in the integrity of eSports as an entertainment and betting event relies upon those seeking to benefit commercially from it, applying the best practice available from other sports.**

2.1 eSports (competitive video gaming) events are not new, but the interest in and commercialisation of them has, across a number of metrics, been shown to have grown significantly in recent years. As live and competitive spectator events, eSports are an attractive proposition for licensed gambling operators to offer bets on the outcome of matches, events and leagues. Although currently a small percentage of the British gambling market, the expanding range and volume of betting markets offered on eSports indicates industry confidence in the potential for further growth.



How many people have bet on eSports, using either money or in-game items?

8.5% of adults have ever bet on eSports



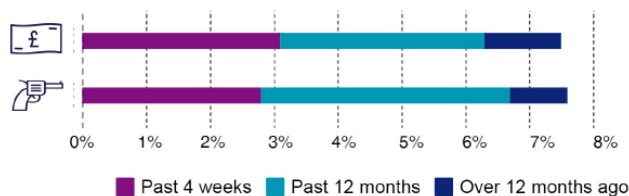
Of these...



88%
have bet with money

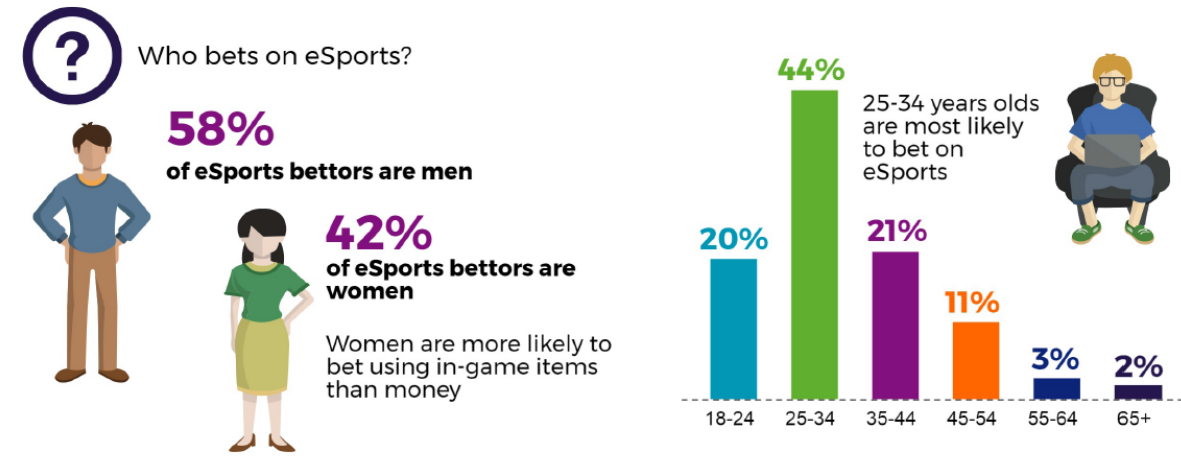


90%
have bet with in-game items



78%

have bet with both money and in-game items



2.2 With the growth of betting on eSports and interest in this area, we are taking steps to improve the evidence base on the British market. The above graphics represent the first dataset on eSports, collected through our gambling participation surveys. Whilst a headline participation rate of 8.5% appears high for a relatively new mainstream gambling activity, it should be noted that this relates to those respondents who have ever bet on eSports, recent participation is around 3%.¹ We have also consulted upon proposed changes to the regulatory returns we collect from our online licensees to help us quantify and track more accurately the size of the licensed eSports gambling market.

2.3 Responses to the discussion paper reinforced our view that the regulation of betting on eSports is no different from that of any other event upon which bets can be placed. Although some respondents consider there may be heightened risks associated with eSports betting compared with other betting events, our view is the existing regulatory framework, rigorously applied, is sufficient to mitigate these risks even where they do manifest themselves differently.

Underage gambling

2.4 The most common concern expressed in relation to betting on eSports, is its potential attraction to those underage, given the interest in eSports or video gaming for entertainment purposes. Whilst market research on the demographic of eSports audiences may challenge some preconceived ideas (est 73% of eSports ‘enthusiasts’ aged 20+²) it is unquestionably an activity that has a large following of children, who both watch and actively take part, either through playing the underlying games casually or in events and competitions.

2.5 This has raised concerns about undue risk of children being exposed to or seeking to gamble on the outcome of eSports events. In response we highlight that:

- We recognise that eSports is an attractive activity for children to participate in and watch; however existing controls are in place to protect children from gambling harm.
- Licensees are required to have in place controls to prevent underage gambling. Age verification checks are integral to the compliance of licensed operators with regulatory requirements underpinned by a number of criminal offences detailed in [Part 4 of the Act](#).

¹ Due to the method of administration, online surveys tend to be skewed towards those who are more engaged online, and therefore more likely to bet on eSports. This figure could therefore be an over-estimate of the true population rate of eSports betting.

² 2016 Global eSports market report – Newzoo eSports

- Specific regulation also exists for marketing both with and to children. Section 5 of our principal Code of Practice in LCCP details how marketing communications must not include a child or young person under 25 years old featuring gambling, unless specific conditions are met. Operators must also abide by relevant provisions of the CAP or BCAP codes, especially section 16 on children and young persons.

2.6 Video game industry respondents agreed that betting on the outcome of eSports is just like betting on any other 'event'. Even though such betting opportunities might currently be considered novel, the application of established online sports betting controls should mean it is not uniquely contentious in consumer protection terms.

eSports integrity

2.7 One area where it is possible eSports events may present a heightened risk to the licensing objectives is the integrity of events. A number of respondents asked us to provide additional guidance on the risks surrounding the integrity and oversight of eSports events on which bets can be placed.

2.8 In particular, respondents expressed concern about the lack of a recognised governing body in light of some high profile incidences of professional eSports participants 'cheating' in order to win, or underperforming to deliberately lose. Our primary concern in either scenario, would be the impact on British consumers gambling on events later found to have been corrupted.

2.9 At the moment no recognised single governing eSports body exists either at a national or international level. Organisations do exist for specific games, competitions and events, however no one body encompasses all different genres of games and tournaments. This presents a risk of a fragmented and inconsistent approach to integrity matters.

2.10 We recognise that the diversity of eSports games, genres and events means having a single cohesive organisation may be problematic. Such challenges should not be used as an excuse for a substandard or relaxed approach to event integrity.

2.11 A unique feature of eSports, versus more traditional sports, is the fact that contests are conducted entirely through digital technology. It is common for most sports to have rules concerning the nature and specification of equipment or environment used. This is of particular importance to eSports events, for example ensuring that processors, power supplies and server specifications provide a level playing field for all competitors.

2.12 Whilst these may be considered basic expectations required to deliver a truly competitive, and therefore compelling, eSports event, there is an inherent risk that where large gambling markets (or prize pools) grow up around events, the risk of manipulation of participants or equipment increases.

2.13 Maintaining public confidence in the integrity of eSports as an entertainment and betting event relies upon those seeking to benefit commercially from it, recognising the inherent integrity risks and proactively seeking to mitigate them by applying best practice from other sports. In particular a governance structure which provides for:

- ongoing and rigorous assessment of integrity risks
- arrangements for the monitoring of betting markets for suspicious activity
- protocols for the receipt and dissemination of intelligence
- establishment of a participant's code of conduct, including rules on sports and betting integrity matters (eg rules on participants' betting and, availability of personal records)
- effective investigation of allegations and availability of disciplinary sanctions to address misconduct
- proactive player education programmes on integrity risks

- transparent and appropriate controls for circumstances where companies with licensed gambling interests enter into commercial agreements with participants, teams or leagues.

2.14 To date we have not uncovered evidence that eSports events, available to British consumers to bet on or held in the UK, present a serious integrity risk. The lack of some or all of the controls outlined above could however mean eSports events are not subject to the same level of scrutiny as other events on which bets are accepted. Consequently, organisers, and promoters should avoid complacency and be exploring what additional controls can be introduced to reduce the risk. Equally the licensed betting industry should satisfy itself that competitions upon which markets are offered are effectively managed to mitigate the risk of corruption with its attendant consequences for their consumers.

2.15 We will continue to work with those committed to raising awareness and addressing integrity risks within eSports including exploring memorandums of understanding where appropriate. Where risks materialise that threaten the fairness of betting on eSports events, we have powers to intervene, on a precautionary basis where necessary, to protect consumers.

3 Gambling with in-game items and virtual currencies

- **Where in-game items can be traded or exchanged for money or money's worth outside a video game, they acquire a monetary value and are themselves considered money or money's worth.**
- **Where facilities for gambling with tradable in-game items are offered to British consumers a licence is required.**

3.1 Many video games incorporate in-game items to improve the enjoyment and longevity of a game and to provide an alternative means of monetising a game title beyond the traditional up-front purchase price. Individual game mechanics vary, but generally in-game items are acquired through gameplay (randomly or as a reward), exchanged between players or purchased from the game's publisher with real money.

3.2 While in-game items vary in form across the diverse range of video game genres and titles, in general they are integrated directly to complement the nature of a particular game. Examples include an in-game currency, points, spells, equipment, and weapons or weapon skins (skins).

3.3 The use of in-game items within video games is not a new development. They have long been used as a means of demonstrating personal achievements by players and facilitating progress within games. As modern video-gaming has become increasingly social in nature, aided by the availability of technology such as open application programming interfaces (APIs), the use of in-game items such as virtual currencies has created some concerning by-products.

3.4 To address some confusion caused by the references to 'virtual' and 'digital' currencies in our [discussion paper](#) we have included in the glossary to this paper the distinction we draw between the two. This paper is only concerned with virtual currencies in the form of in-game items, using our glossary definition.

3.5 In response to our discussion paper, representatives of the video game industry have explained that in-game items are provided in a 'closed loop' fashion, meaning they are not intended to be exchanged for cash, either with the games providers, with other players or with third parties. The networks via which games are accessed, are not designed to have open functionality to facilitate users trading in-game items with each other for money. This approach is underpinned by the terms and conditions governing the use of the networks.

- 3.6** In spite of the policy and intent to avoid in-game items attaining a real world value, the video game industry has acknowledged that users of their game networks are ‘occasionally’ exploiting their open nature to offer players opportunities to buy and sell in-game items.
- 3.7** Based on open source research, the volume, variety and sophistication of websites advertising opportunities to exchange in-game items for cash, indicates that to term such circumvention of regulation as ‘occasional’ risks understating the extent of this issue.
- 3.8** In our view, the ability to convert in-game items into cash, or to trade them (for other items of value), means they attain a real world value and become articles of money or money’s worth. Where facilities for gambling are offered using such items, a licence is required in exactly the same manner as would be expected in circumstances where somebody uses or receives casino chips as a method of payment for gambling, which can later be exchanged for cash.

Gambling facilities

- 3.9** Since 2015, we have investigated a number of unlicensed websites providing facilities for gambling using in-game items as methods for payment. As well as offering the opportunity to exchange in-game items for cash or trading them, these websites have exploited the open nature of video game networks to offer gambling facilities to players. Of particular concern is the apparently indiscriminate provision and promotion of such websites and the consequential evidence of harm experienced by children. It creates a situation where children are readily able to access activities commonly accepted as being appropriate only for adults in tightly regulated environments.
- 3.10** Tackling operators making gambling facilities available to children was identified in our discussion paper as a priority. This principle has subsequently been demonstrated in the successful criminal prosecution of the operators and advertisers of the FutGalaxy website. The judgement of the Court in our view reflects society’s intolerance of those who seek to exploit children for their own personal gain. We commented on the outcome of the case:
- “This was one of the most serious cases that has been investigated and prosecuted by the Commission. Its gravity is reflected in the significant financial penalties imposed by the Judge. The defendants knew that the site was used by children and that their conduct was illegal but they turned a blind eye in order to achieve substantial profits. The effect on children of online gambling was rightly described by the Court as ‘horrific’ and ‘serious’. All websites offering gambling facilities in Britain must be licensed; it is the only way in which children and vulnerable people can be protected. This case demonstrates that we will use the full range of our statutory powers to investigate and prosecute individuals and companies who try to operate illegally.”*
- 3.11** The FutGalaxy case also exposed a common theme which is the significant role social media plays in promoting these unlicensed gambling websites seeking to associate themselves with video gaming. We have seen numerous examples of the misuse of video sharing platforms, live streaming and/or social media platforms to promote unlicensed gambling. Such activities are often conducted with little or no regard to the protection of the young or vulnerable and in some more extreme examples have been exposed as deliberately misleading, for example by showing implausible winning streaks later found to be false, with the seeming intent to entice the audience to gamble.

'Skin' gambling

- 3.12** In our discussion paper we drew particular attention to the issue of 'skins' given their status as the predominant example of in-game item gambling. 'Skins' are in-game items, used within some of the most popular video game titles. They provide cosmetic alterations to a player's weapons, avatar or equipment used in the game and are valued by reference to their rarity, aesthetics, utility and popularity. Prices are subject to constant fluctuation and typically range from under £10 to £300, but with particularly rare items being valued at over £1,000.
- 3.13** Given the wholly unregulated nature of 'skin' gambling websites, it is difficult to get authoritative data on the scale of this black market in Great Britain. However, there is evidence of a dramatic increase in the supply and use of 'skin' gambling websites in the first half of 2016. Following adverse publicity and some high-profile activity by large video game developers the illegal supply of these gambling facilities was subject to disruption. A number of websites withdrew gambling facilities or adapted their business models having been warned about misappropriating the game publisher's intellectual property in contravention of the network's terms of use.
- 3.14** The boom in 'skin' gambling has attracted the attention of law enforcement and regulatory bodies around the globe. As part of our work we have engaged with a number of domestic and international regulators who share a common interest in protecting consumers, and children in particular, by seeking to disrupt the provision of illegal gambling facilities.
- 3.15** We recognise that in the casino chip analogy invariably it is the same entity who controls the activity, the gambling and the cash-out facility. Applying that to the case studies we have explored in the video game industry we acknowledge that it is possible for these three functions to be offered by three different parties. We have not seen any evidence to suggest games publishers, developers or network operators are intentionally providing or advertising unlicensed facilities for gambling or entering commercial agreements with those who are unlawfully doing so.
- 3.16** However, we are strongly of the view that the video games industry should not be, or perceived to be, passive to the exploitation of their player community by predatory third parties. The significant risk of harm posed by these unregulated gambling websites, whilst unintended, is nonetheless a by-product of the manner in which games have been developed and in-game economies incorporated for commercial benefit. Despite there being no evidence of any direct commercial benefit to games publishers from the illegal gambling facilities, it is reasonable to infer that there is an indirect benefit from these activities given that it is the games publishers who are the ultimate source of in-game items acting as a de-facto central bank. Where a player loses their entire 'skin' inventory having staked them unsuccessfully on gambling activities, one option for them is to purchase new 'skins' from the games publishers, either for use within the game or for further gambling stakes.

Game mechanics

- 3.17** Away from the third party websites which are overtly gambling (offering betting, casino games and lottery products) the ability to exchange in-game items for cash or trade on secondary markets also risks drawing elements within games themselves into gambling definitions. By way of example, one commonly used method for players to acquire in-game items is through the purchase of keys from the games publisher to unlock 'crates', 'cases' or 'bundles' which contain an unknown quantity and value of in-game items as a prize. The payment of a stake (key) for the opportunity to win a prize (in-game items) determined (or presented as determined) at random bears a close resemblance, for instance, to the playing of a gaming machine. Where there are readily accessible opportunities to cash in or exchange those awarded in-game items for money or money's worth those elements of the game are likely to be considered licensable gambling activities.

- 3.18** Additional consumer protection in the form of gambling regulation, is required in circumstances where players are being incentivised to participate in gambling style activities through the provision of prizes of money or money's worth. Where prizes are successfully restricted for use solely within the game, such in-game features would not be licensable gambling, notwithstanding the elements of expenditure and chance.

Approach

- 3.19** An appropriately targeted and proportionate use of our regulatory or criminal powers will require an assessment of the circumstances in a particular case. In particular we will consider the scale and availability of unlicensed gambling facilities to British consumers, the identification and location of the operator and the means or sources of payment processing and advertising utilised. As indicated in the discussion paper, whilst any illegal gambling requires a response, evidence of a risk of harm to children is and will remain a significant aggravating factor.
- 3.20** Adopting a zero-tolerance approach to small scale or ad-hoc secondary markets for in-game items (thereby bringing activities conducted in games themselves or on games platforms within the definitions of gambling) may not be practical or proportionate to the risks posed to the licensing objectives. The proximity of any facilities for gambling to the means of exchanging items for cash, overt relationships between the two and/or the ease with which such transactions are conducted, are likely to be the key considerations when prioritising our enforcement activity. On occasions where serious concern exists under those criteria we are clear that primary responsibility lies with those operating the unlicensed gambling websites. However, we will also liaise with games publishers and/or network operators who may unintentionally be enabling the criminal activity.
- 3.21** We are encouraged by the sentiments expressed, both individually and through representative organisations of the video game industry, that it is committed to working with us to prevent customers experiencing gambling-related harm through their platforms as well. We agree that aside from the moral reasons for finding solutions there should also be legal, commercial and reputational drivers. Reports of the estimated impact of the action taken by one prominent game developer to crack down on misuse of their network during 2016 is, to us, a powerful indicator of the positive role network providers can play in protecting their community of players.
- 3.22** Having demonstrated what can be achieved during 2016, we will be looking to engage further with the video games industry to understand how these initial steps can develop into effective and sustainable longer term solutions.
- 3.23** All interested parties should be clear, that where gambling facilities are offered to British consumers, including with the use of in-game items that can be converted into cash or traded (for items of value), a licence is required.

4 Participation in eSports for a prize

- **Whether playing a video game for a prize requires a gambling licence will be determined by reference to a number of factors including how the outcome is determined and how the facilities for participation are arranged.**
- **We will focus on activities which present a risk to the licensing objectives. In particular, we will prioritise activities made available to children, those involving expenditure and those presented as gambling or associated with traditional gambling.**

4.1 In our [discussion paper](#) we highlighted two types of activities that have emerged from the socialisation of video games which raise questions regarding their consideration and treatment. Firstly, given eSports involves the playing of a game for a prize it is possible in some scenarios that this could be caught by the definitions of gambling. In such circumstances it is important to consider what is a proportionate approach to the gambling related risks arising. Secondly, where individuals or companies provide a commercial service enabling video game players to hazard a stake on themselves as they compete against one another, does this constitute facilities for betting?

4.2 In considering these policy questions we have, with the help of responses from interested parties, sought to strike a balance between the interpretation and application of the statutory definitions of gambling and the need for proportionate regulation of gambling-related risks. We are mindful of the important contribution the video games industry makes both to the enjoyment of millions of consumers and the wider economy. As previously with our work on TV gameshows, our aim is to ensure that the boundaries between gambling and other forms of entertainment are understood and maintained by all parties.

Playing a game for a prize

4.3 The definitions of gambling are signposted in the glossary to this paper and are made up of gaming, betting and participation in a lottery.

4.4 Gaming is defined in section 6 of the Act as playing a game of chance for a prize. Some players or interested parties in eSports have suggested the activity may be considered a sport and therefore exempt from the definition of gaming. The Secretary-of-State has the power to provide that a particular activity is or is not to be treated as a sport. No such designation has been made. But given the wide variety of activities which could be argued to include sporting elements such as physical dexterity, standard rules and competition, we are starting from the perspective that eSports are not currently a recognised sport benefiting from that exemption.

4.5 Whether participation in eSports can be caught as gaming in the gambling sense, is therefore largely determined by an assessment of whether the underlying game is a game of skill, where the element of chance is so insignificant as not to matter.

4.6 In response to our discussion paper and through direct engagements, representatives of the video game industry have suggested the underlying games used for eSports are inherently skill games. They contend that skilled video game players have considerably more control over the outcome of their game and are consistently more likely to win a given game against someone not as skilled.

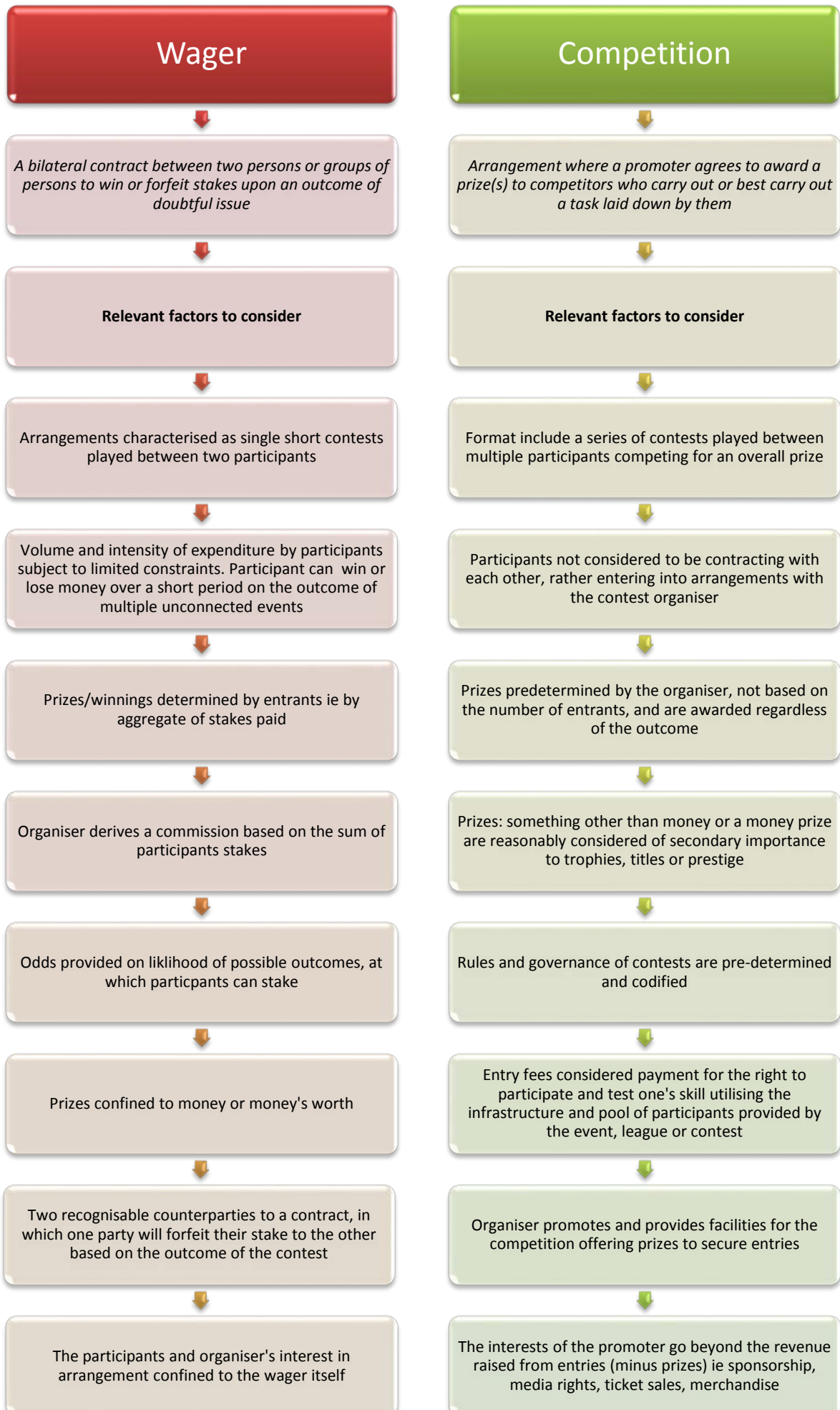
4.7 Where this description is accurate, and games are not presented as involving an element of chance, the playing of eSports for a prize would not be caught as gaming and in the absence of any other gambling-related issues would not fall within our remit. Our current assessment is that the majority of professional eSports events would fall into this category.

- 4.8** However, we are mindful of the diverse range of genres and individual game titles which can fall under the umbrella term of eSports. Given that range, and the concession by representatives of the industry that most games do incorporate some elements determined at random (albeit notional elements) it is important for games developers and/or eSport event organisers to assess the element of chance of a particular game prior to permitting its use for a prize of money or money's worth. Where we are alerted to or have concerns around a particular game we would expect to see evidence from the games publisher/creator which explains the mechanic of the game, the skill and chance elements and what player experience that collectively delivers.
- 4.9** In addition to the mechanic of the underlying game, organisers of eSport events should also consider the impact of tournament or competition formats which may result in the element of chance becoming more than notional. For example, the random assignment of individual competitors to teams, or the designation of characters, weapons or other key tools of variable effectiveness to different participants.
- 4.10** Applying these considerations to reach an assessment of whether a particular eSport activity is caught by the statutory definitions of gaming will unavoidably be a subjective test. As stated in gambling case-law the formulation of a definition of gaming to apply to all cases is elusive and perhaps impossible to achieve. To avoid capturing a range of activities which, whilst arguably including gambling-related components, pose limited or no risk to the licensing objectives we will also have regard to the presentation of activities, any links to traditional gambling and any existing consumer protection controls, which would minimise the risk of harm.

Match-ups/bet on yourself

- 4.11** Where the underlying eSports game is considered a game of skill then it will not be caught by the definition of gaming. However, where commercial entities are providing facilities which allow eSports players to play against one another in match-ups and bet on themselves to win, it is possible this will be caught under the definition of betting either as fixed odds, pool betting or acting as a betting intermediary.
- 4.12** As set out in our discussion paper and reinforced by our discussions with interested parties, drawing a distinction between arrangements caught by the definitions of the different forms of betting and genuine competitive tournaments is not straightforward. As with gaming there is little in the way of modern directly applicable case-law. We are therefore setting out the principles we will apply and factors we consider relevant when assessing cases.
- 4.13** Full statutory definitions are signposted in the glossary. In summary:
- betting is defined as the making or accepting of a bet on, amongst other things, the outcome of a competition
 - a betting intermediary is a person who provides a service designed to facilitate the making or acceptance of bets between others.
 - pool betting is a form of betting which is not at fixed odds and is a bet in which the winnings shall be determined by reference to the aggregate (or pool) of stakes paid by the persons betting.
- 4.14** One recurring point we have been asked to accept is that a person cannot be considered to be placing a bet by virtue of the fact the bet is on themselves to achieve a desired outcome, in this scenario to win an eSports contest or tournament. We can find no basis in legislation to support a blanket application of this conclusion. Setting aside betting integrity rules, which routinely disbar participants from betting on themselves, if a professional sportsman staked money with a bookmaker, or through a betting exchange, on themselves to win a contest, that transaction would readily be recognised as a bet.

- 4.15** As in many areas where statutory gambling definitions require application to real life products, there will be a spectrum on which services can be plotted from innocuous entertainment through to licensable gambling facilities. We will focus on those circumstances where commercial entities are inviting participants, including children, to hazard money on the outcomes of video games. In such circumstances there is a clear risk of harmful behaviours such as chasing losses, leading to excessive expenditure, preoccupation associated with long periods of incentivised play or unfair or fraudulent activity. Gambling regulation, where appropriate, mitigates against these risks.
- 4.16** A bet is not defined in the Act, so in seeking to draw a working distinction between licensable betting activities and competitive tournaments, we have used the headline definitions of a 'wager' as a proxy for licensable betting activity, and 'a competition' for a competitive tournament which would sit outside our remit. This outline is intended to act as a guide to draw out what we consider to be relevant factors that would be taken into account when distinguishing between the two.
- 4.17** The factors are not intended to be exhaustive nor are they weighted in any particular order of significance. They are drawn from the responses received from interested parties and from analysis of the development of gambling definitions under UK law. The presence of any single one of the factors does not automatically mean that an arrangement is a wager or a competition.



- 4.18** Our intention is not to regulate or interfere with activities which do not pose a risk to the licensing objectives and so do not warrant additional regulatory oversight. However, where the lines between gambling and entertainment become blurred there is a danger that the potential for harm, readily recognised and acted upon in mainstream gambling activities, can be overlooked or not given sufficient consideration.
- 4.19** A definitive set of objective tests intended to draw a clear boundary, whilst perhaps desirable for those seeking certainty, would not in our view prove sustainable or effective in tackling activities which may push boundaries either deliberately or inadvertently. In the majority of cases a common sense approach to arranging genuine competitive tournaments or providing facilities for individuals to come together to play eSports is unlikely to raise gambling-related questions.
- 4.20** In addition to an understanding of the underlying game and the arrangements through which participants are invited to play, we will also take account of whether a game or service is presented as a form of gambling, uses gambling imagery or has any links to mainstream gambling products and providers. Whilst not disbaring gambling entities from an interest in eSports, we would in such circumstances seek to ascertain the rationale for such links as part of the overarching aim of establishing what, if any, risk exists for gambling related harm.
- 4.21** In line with our stated intention to only intervene in circumstances where risk to the licensing objectives is evident, we will continue to be guided by and investigate cases raised via consumer complaints about particular games, events or services or those brought to our attention from within the gambling or video game industry.

5 Social casino gaming

- **Our focus remains on social casino games which have the look and feel of traditional gambling games rather than social gaming more broadly.**
 - **Our view remains that there is not a persuasive case to pursue further regulatory intervention at this stage. This is dependent on the social casino industry pursuing a socially responsible approach and awareness of potential harm.**
 - **The industry needs to ensure loyalty schemes offering articles or services which have a monetary value are not linked to the outcome of games of chance.**
- 5.1** Social games are played online or on mobile devices and have a social element to them. Typically, players play with or against their friends or other users through platforms, leader boards or compare progress through social media.
- 5.2** The majority of social games follow the 'freemium' commercial model which allows users to access and play for free. The industry derives revenue from charging fees for extended play, special features or through advertising.
- 5.3** Social casino games are a sub-genre of social gaming which allow players to play casino style social games, based on real money versions of the games. It is this element of the social gaming market on which we have focused, setting out three potential areas of concern:
- problem gambling style risks linked, for example, to excessive play, expenditure, pre-occupation
 - transitional risks prompting migration of players to real money gambling
 - consumer protection-type risks.

- 5.4** We conducted a scoping review to explore these risks and published a paper in January 2015 titled [Social gaming](#). At the time we concluded that there was no compelling reason to impose additional gambling regulation on this sector given that it is subject to extensive consumer protection legislation. Since then, we have continued to monitor developments within the social casino sector gathering evidence from a variety of sources, and working in partnership with the industry and other regulators.
- 5.5** On transitional risks we note the findings of new research published since our previous paper³. The study, whilst limited by a significant attrition rate in respondents, found that a little over a quarter of follow up respondents had transitioned from social casino games to real money gambling. The strongest predictor of this switch being where players had made in-game purchases when playing social casino games.
- 5.6** With data on overall social gaming suggesting between 90-95% of players do not make in-game purchases (with extremes of behaviour at the margins accounting for a substantial proportion of revenues) the study suggests future research may be best focused at this cohort and understanding any gambling-related risks they may present to support policy development.
- 5.7** We reiterated our position in the discussion paper regarding regulation of the industry, but also brought up to date our thinking with regard to the tradability of social casino gaming items/currency and the use of loyalty points. On these topics we received a number of differing responses from industry, academia and other interested parties.
- 5.8** Some respondents agreed that our current position is correct, and that existing regulation from other legislation, along with self-regulation by the industry, is sufficient. Any additional regulation would be disproportionate due to the lack of significant risk.
- 5.9** However, other respondents disagreed with our current position, stating that risks associated with social casino gaming, although not on the same level as real money gambling, should be addressed. Further regulation, either gambling or other, must be employed to protect consumers.
- 5.10** Responses to our discussion paper and other information we have gathered do not indicate a significant shift in the patterns of play or demographic of the social casino market since our review in 2014/15. We have moved to bolster our evidence base in respect of the risk to children by including for the first time, questions within our [Young persons survey](#) on 'online gambling style games'.
- 5.11** Data from the Young persons' survey found 9% of 11-15 year olds reported having ever played online gambling style games. Of the 9% who had played these games 26% also claimed to have gambled with real money, while 65% had not. Within the subset of the overall sample who reported having gambled with real money (462 11-15yr olds) 6% cited free-to-play versions of games as the reason for trying real money gambling. Of those who had ever played online gambling style games 73% said they had accessed them through mobile or tablet apps in the last seven days. It should be noted however, this only represents 2.6% of the overall survey sample.
- 5.12** We recognise the concerns that social casino gaming provokes. Our position to not actively pursue additional regulation for the social casino sector at this stage is predicated to a large extent on the industry maintaining a proactive and credible socially responsible approach. To withstand the pressure for tighter regulation, such an approach must, in our view, continue to encompass the testing, evaluation and sharing of best practice consumer protection measures. Such measures should have regard to all new and available evidence, with the industry ensuring independent research is conducted, peer reviewed and made available in a timely and transparent manner to inform policy makers and the wider public.

³ Do Social Casino Gamers Migrate to Online Gambling? An Assessment of Migration Rate and Potential Predictors
Kim, Wohl, Salmon, Gupta & Derevensky

Loyalty points as money's worth

- 5.13** We maintain the view that winning additional items such as chips, spins or tokens, even if they can otherwise be acquired by the payment of real money, will not in and of itself make an activity licensable. However, where they can be converted into cash or traded (for items of value) they would be caught as 'money or money's worth' meaning underlying games could be caught as licensable gambling activities.
- 5.14** This is also true with regard to loyalty schemes which are becoming increasingly common in social casino gaming. Loyalty schemes take on many forms, with points or credits awarded for frequency of visits, referring friends to the game, playing a certain amount of time or money on the game or watching adverts. Players can use loyalty points to access additional in-game items or benefits.
- 5.15** Respondents to our discussion paper highlighted their concern that some social casino game operators are now using loyalty schemes to blur the line between real money gambling and social casino gaming. This concern arises from the offer of real world rewards such as entertainment, hotel or travel which self-evidently have a monetary value.
- 5.16** Where loyalty points are solely derived from actions not related to the outcome of the game (eg friend referrals) this is unlikely to present an issue, for gambling regulation at least. However, in circumstances where players are receiving loyalty points based on the more time spent playing the games it is our view this is related to the outcomes of the game of chance (the more chips they win, the longer they can play). Where these loyalty points can then be traded for goods or services which have a monetary value we would consider this would make the game a licensable activity.
- 5.17** We therefore advise all social casino game operators offering products to British consumers to ensure their loyalty schemes and rewards are not configured in a manner likely to be caught as licensable gaming. Where social casino models move towards approaches in which players are invited to hazard a stake in the hope (either directly or otherwise) of winning a prize of money or money's worth, then the scrutiny of regulatory authorities and those concerned with gambling-related harm is likely to increase.
- 5.18** We recognise that this market is constantly changing with new products and designs being released all the time. We will be employing a watching brief and are open to receiving evidence or news of developments from all interested parties. We are aware of current ongoing work within the industry regarding consumer protection and would be interested to hear of any developments.

6 Next steps

- 6.1** Having outlined our current policy approach on eSports, virtual currencies and social gaming we will focus efforts on ensuring these are communicated and understood by all interested parties.
- 6.2** Where required, in pursuit of the licensing objectives we will continue to use our regulatory and criminal powers to ensure British consumers are afforded the highest standards of consumer protection in respect of gambling activities whether they are readily recognised as gambling or not.
- 6.3** Our programme of stakeholder engagement will initially focus on the following audiences and key messages:
- **Unlicensed operators**
 - Providing facilities for gambling to British consumers without a licence or exemption is a criminal offence.

- We will work with domestic and international law enforcement/regulators, payment providers and advertisers to tackle illegal gambling in Great Britain.
- **Video games industry**
 - We recognise the value a thriving creative industry provides to consumer entertainment and will work to support responsible companies in avoiding gambling-related controversy.
 - Public and regulatory confidence will be impacted negatively without sustained and credible efforts to prevent exploitation of players, especially in circumstances where children are exposed to gambling-related risks by criminal elements.
- **Consumers**
 - Gambling with unlicensed operators (with real money or in-game items) exposes you to a range of fraudulent activity including the possibility of rigged gambling outcomes and refusals to pay you any winnings.
 - Use of in-game item gambling websites may result in a restriction of your access to video game networks.
 - Sources of help and advice are available.
- **Parents, child protection and internet safety groups**
 - Are the gambling-related risks associated with video or social casino gaming sufficiently understood?
 - Do parents understand how funds provided to children are being spent on video gaming or what activities their children may be being exposed to?
 - Sources of help and advice are available.

Gambling Commission March 2017

Keeping gambling fair and safe for all

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Glossary

Betting	As defined by section 9 of the Gambling Act 2005
Betting intermediary	As defined by section 13 of the Gambling Act 2005
Digital currencies	Established forms of crypto logically secured currencies that are traded, and recognised by institutions like the Financial Conduct Authority and HMRC. Bitcoin is a well-known example.
eSports	Collective term for competitive video gaming.
Gaming	As defined by section 6 of the Gambling Act 2005
In-game items	Any non-physical object collected for use in a game. Examples include weapon skins, avatars, currencies and spells. In-game items can be acquired through gameplay, exchanged between players or pre-purchased for use exclusively on the game platform
Licensing objectives	As set out in section 1 of the Gambling Act 2005
Lotteries	As defined by section 14 of the Gambling Act 2005
Skins	Popular example of a virtual in-game item. They provide cosmetic alterations to a player's weapons, avatar or equipment used within the game.
Social casino gaming	A sub-genre of social games which are based on casino style games such as slots, roulette and card based chance games. Examples include Zynga Poker and Slotomania
Social gaming	Games accessed online invariably via mobile devices which have a social element often facilitated through social networks enabling players to compete against each other or interact with each other. Examples include Candy Crush or Farmville
Virtual currencies	For the purposes of this paper are unregulated and generally issued and controlled by developers, and used and accepted among the members of a specific virtual community for instance within a video game or social casino. Where they can be exchanged for cash or traded for items of value they are considered money or money's worth.