

GAMBLING COMMISSION

12 March 2008

LET08/03

Dear Colleague

Provision of facilities for gambling in premises licensed under the Gambling Act 2005

The Gambling Commission is aware that some operators (in particular existing AGC operators) may be considering applying for licences, even though they do not intend to provide the primary activity the licence is intended to authorise on their premises. The operators may be applying for betting or bingo operating and premises licences under the Gambling Act 2005 (the Act) because they believe that this will allow them to take advantage of the gaming machine entitlements which accrue from such licences.

Having carefully considered this matter, it is the Commission's view that such an arrangement is not permissible. In the Commission's opinion an operator must provide the principal activity authorised by their operating and premises licences, before they are able to take advantage of any additional entitlement to make gaming machines available for use on their premises. We have set out below some examples of the situation we are describing:

Betting premises

The Commission is aware that there may be operators who intend to apply to the local licensing authority for a betting premises licence on the basis that they intend to provide four category B2 gaming machines on the premises but do not intend to offer any facilities for betting on the premises. In the Commission's view, it is not permissible for an operator to provide gaming machines in this way without also offering facilities for betting.

A betting operating licence authorises its holder to '*provide facilities for betting*' (section 65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for '*the provision of facilities for betting...*' (section 150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (section 172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers facilities for betting it should not be making gaming machines available on the premises in question.

Bingo premises

The Commission is also aware that there may be operators who intend to apply for bingo premises licences on the basis that they intend to make gaming machines available but do not intend to offer facilities for bingo on the premises.

A bingo operating licence authorises its holder to '*provide facilities for playing bingo*' (section 65(2)(b) of the Act). Likewise, a bingo premises licence authorises premises to be used for '*the provision of facilities for the playing of bingo*' (section 150(1)(b) of the Act). It follows that a bingo premises should not make gaming machines available for use without also offering facilities for playing bingo.

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Thus, while the Commission acknowledges that gaming machines at bingo premises can be made available for use at times when bingo is not being played at the premises, the fact remains that the operator must provide facilities for the playing of bingo at the premises in order to enjoy the machine entitlement.

Consideration of applications for operating licences

In order to avoid operators applying for licences on the basis of a misunderstanding about what the licence authorises them to do, the Commission may, when it receives an application for an operating licence, contact the applicant to check that they do intend to offer the primary gambling activity for which the category of licence is intended before going on to consider the application in detail.

The Commission also intends to inform licensing authorities of its position in order that they can be aware of any implications for their local licensing activity and we are considering the nature of guidance that should be issued to licensing authorities on this matter under section 25 of the Act.

Existing licence holders

The Commission is aware that there may be gambling premises, which are already in existence, that do not provide the primary licensed activity covered by their licences but do make gaming machines available on the premises. The Commission is also aware that some of these premises may have been in existence under previous legislation and may, as a result, have been entitled to convert their old permissions into operating and premises licences. However, as you will know, the gaming machine regime under previous legislation and that under the 2005 Act differ in material respects.

In such cases the Commission intends, over the coming months, to contact any such operators and the relevant licensing authorities as part of our wider compliance programme, with a view to agreeing a suitable approach for achieving compliance with the requirements of the Act.

I hope that this letter clarifies the Commission's position. If you have any questions please call 0121 230 6666.

Yours sincerely

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Gambling Commission