

## Open events information update September 2010

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### 1 Introduction

- 1.1 The Gambling Commission (the Commission) hosted 15 open events at locations covering England, Scotland and Wales between February and June 2010. Key decision makers from the Commission attended each of the events and in total, 622 representatives of 592 smaller licensed operators attended. The attendance represents 31% of Commission licensed Category A – C operators in the AGC/FEC and non-remote betting sectors.
- 1.2 The objective of the events was to engage directly with operators to address issues of concern and enhance understanding of the Commission's role and approach to regulation.
- 1.3 Questions raised during the events have either been addressed directly with the individuals involved and/or published in the Frequently Asked Questions section of the Gambling Commission website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 1.4 Each event contained presentations by key Commission employees including a Director and/or Commissioner, followed by breakout sessions for selected groups, for example, on course bookmakers, gaming machine suppliers.

### 2 Topic areas discussed in open forum session

- 2.1 The broad topics for discussion at each event were identified in advance by direct communication with operators. The majority of questions focused upon five areas as outlined below.

#### **Test purchasing and preventing under-age gambling**

- 2.2 Many attendees argued that completely preventing access to premises by underage individuals not attempting to gamble is difficult. A number sought reassurance that the Commission would not automatically begin formal enforcement action in the event of this type of breach.
- 2.3 Despite the practical difficulties in enforcing controls, the operator's obligation to ask under age people to leave their premises is clear. The Commission reassured operators that our expectation is for operators to take all reasonable steps to put in place well managed controls and to monitor their effectiveness. If the Commission had concerns as to an operator's under age gambling controls it would assess compliance with the requirements of LCCP, the law and determine a proportionate response to the circumstances revealed.
- 2.4 The Commission informed operators that the test-purchase programme examines the operation of the controls in place to prevent under-age gambling and has led to improvements through such measures as self-testing and the sharing of good practice.

- 2.5 A small number of operators were concerned that their recording of interventions to remove under age people from premises might be mistakenly interpreted as cases where young people were attempting to gamble. The Commission agreed to make this clearer in its published statistics following consultation.

### **Licence fees**

- 2.6 Most attendees remain concerned about the general impact of the Gambling Act 2005 (the Act) on their business viability. A number questioned Parliament's rationale in introducing the Commission and the requirement for the cost of regulation to be paid through licence fees to both the Commission and local authorities.
- 2.7 The issue of fees raised much debate at every event and off-course betting operators in particular restated a view that the distribution of fees should be rebalanced towards larger operators.
- 2.8 The Commission understands the feeling amongst smaller betting operators that the Act is unfair in matching costs and therefore fees to an operator licence rather than to premises. However, we must operate within the framework set by Parliament and that requires us to match licence fees to the cost of regulation by operator. This cost is inevitably lower for larger operators when compared on a per premises basis as we can assess levels of compliance for larger operators with a sample of visits to their premises. Additionally, we expect larger operators to bear much of the cost of providing assurance that effective corporate practices on issues such as under age gambling are in place throughout their business. The Commission has sought to explain how licence fees are spent in its 2009/10 Annual Report.
- 2.8 A small number of operators expressed an interest in paying fees by instalment to help with cash flow. The Commission explained that the Gambling Act 2005 prevented the collection of instalments in arrears but further consideration would be given to the question.
- 2.9 The Commission has since been exploring with DCMS the scope for amending the Act to allow instalments but any such change would take some time to implement assuming Parliamentary time could be found. Additionally, there would be some additional collection risks and costs that the Commission's fees would have to cover.

### **Self-exclusion**

- 2.10 Some operators expressed concerns that they alone were operating self-exclusion and less responsible operators were benefiting by taking by accepting custom from such individuals. The Commission explained that self-exclusion was being widely used by operators across the industry as part of a range of measures available to problem gamblers.
- 2.11 A number of operators expressed the difficulty faced in interacting effectively with an individual who wishes to self-exclude, but who does not wish to consider the detail of their self-exclusion agreement.
- 2.12 The Commission is intending to review of the use of self-exclusion when resources are available and the notes from the open events will directly inform that process.

### **Internet gambling**

- 2.13 A strongly felt concern, especially amongst arcade operators that they had difficulty competing with businesses offering remote websites licensed in other jurisdictions. All but one of the open events took place during the DCMS consultation on the regulatory future of remote gambling in Great Britain.

- 2.14 The Commission explained that it had played a full part in formulating the consultation proposals which consider a major legislative reform that, among other things, would level the playing field for UK operators. Details of the consultation and how to take part were made available at the events.

### **Regulatory returns**

- 2.15 Operators asked whether the Commission could extend the window between the chosen year end date and the deadline for submission of a regulatory return. In light of the feedback received at the events, the Commission effectively immediately extended this window for smaller operators completing annual returns to six weeks from four weeks from March 2010.
- 2.16 A variety of detailed questions about the specific information requirements for regulatory returns were made. The Commission has considered all of these comments and has taken them into account as part of the [formal consultation document published on the website](#).

## **3 Topic areas discussed in sector specific open sessions**

- 3.1 The above five topics were discussed in detail during an open forum session with all attendees. During the afternoon, sector-specific groups allowed more detailed discussion of specialist topics. The number of sector-specific groups was determined by the number and type of attendees at each event. Most commonly, the main group was divided between all betting licence types on the one hand arcades and gaming machines on the other.

### **Skills with Prizes machines (SWPs)**

- 3.2 Every arcades and gaming machines group spent much time discussing in detail the boundary between gaming and SWP machines. In response to this high interest level, the Commission was able to bring forward publication of an advice document *Is a prize machine a gaming machine* on the issue. This [advice note](#) was published in July.
- 3.3 The note sets out the framework which the Commission applies when deciding whether it considers a particular game played on a prize machine amounts to gaming. As planned, the document was subsequently updated following the publication of HM Revenue & Customs' (HMRC) review of Skill with Prize games on [the HMRC website](#).

### **Illegally supplied and sited gaming machines**

- 3.4 The Commission outlined its approach to addressing the threat to the licensing objectives posed by the illegal supply and siting of gaming machines, and our focus upon enterprises whose supply activity impacts at regional or national levels. It was explained that we consider that those making gaming machines available for use at individual premises and unlawfully siting those machines is normally a matter for the relevant local authority to address.
- 3.5 The differing approaches of local authorities in dealing with illegal gaming machines at single sites was often raised and it was explained whilst we provide support and advice to local authorities as co-regulators, we acknowledge that the Act gives authority for local authorities to deal with issues relating to premises being used to make gaming machines available.
- 3.6 The Commission will continue to support its co-regulators in taking local action on this issue and will use evidence gained in support of its own enquiries into the source of illegal supply. The Commission's work in combating the illegal supply of machines has led to significant prosecutions, criminal cautions and to a number of operators becoming licensed.

- 3.7 The Commission received intelligence about this and other issues during the open events. The Commission was able to promote the use of the confidential intelligence line after its launch in May 2010.

### **Licensing of betting operators**

- 3.8 At every event betting operators, (both on and off course), argued that the Commission should be required to licence consumers using remote betting intermediaries. The Commission explained that only individuals operating 'in the course of business' require a licence.
- 3.9 The Commission explained that the principal risks to the licensing objectives are addressed by the licensed betting intermediary. The Commission sees 'in the course of business' as essentially a tax concept and looks to HMRC to identify such people. While this activity appears to pose minimal threat to the licensing objectives, if identified the Commission would certainly insist that they comply with law and obtain a licence.
- 3.10 Operators were encouraged to bring forward any specific information on unlicensed operators using remote betting intermediaries 'in the course of business'.
- 3.11 A number of on-course operators asked for details of the law with regard to hospitality boxes being used by consumers placing bets at a track. The Commission detailed the position in line with the [letter to racecourses](#) published in December 2009.

## **4 Other issues**

### **Problem gambling**

- 4.1 At some events the Commission was asked to give details of the existing research into problem gambling. This included details of the British Gambling Prevalence Survey, research into under age and machine gambling and details of the structure for the provision of research, education and treatment.

### **National Lottery Regulation**

- 4.2 A number of operators assumed the Commission was the regulator of National Lottery products. Whilst the Commission did not discuss National Lottery issues with operators, initial proposals for a merger of the Commission and National Lottery Commission became public during the course of the events and outline details of the updated position were given.

### **Taxation**

- 4.3 A number of operators asked for further explanation on a range of gambling tax issues including questions relating to betting exchanges and SWP machines. The Commission advised operators this was a matter for Treasury and HMRC.

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## **Keeping gambling fair and safe for all**

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