

Guidance on Prize Competitions and Free Draws

Explanation of changes, November 2007

1 Introduction

- 1.1** The Gambling Commission published in June 2007 a paper reporting on the outcome of its consultations on the law relating to prize competitions and free draws in the light of the provisions in the Gambling Act 2005. It also published a separate guidance note setting out its opinion of the implications of the provisions in the 2005 Act relating to lotteries, competitions and draws, and in particular where the boundary lies between the three.
- 1.2** In that paper, the Commission noted that there were two issues which it wanted to consider further, in consultation with the major operators in the sector. These were:
- the Commission's concern that web entry is not always a sufficient alternative to allow schemes which use it to be classified as 'free draws', particularly where the need for immediate responses is emphasised to enable the participants to win the available prizes or the scheme is run for only relatively short periods; and
 - whether there was any further guidance which the Commission could provide on the question of the circumstances in which a 'prize competition' involves sufficient skill to satisfy the Act's requirements.
- 1.3** The Commission has now discussed these issues with the relevant major broadcasters and other interested parties. This note reports on the Commission's conclusions. Its guidance note has been amended to reflect these conclusions.

2 Free draws and the use of web entry

- 2.1** In its consideration of the circumstances in which web entry might be a sufficient alternative to the paid route, to allow a scheme to qualify as a free draw, the Commission has used certain basic propositions to underpin its stance. Hence:
- Parliament made clear provision for free prize draws which consist of a combination of paid for and free routes;
 - in certain circumstances, free web entry will be a satisfactory alternative to the paid route to allow a scheme to qualify as a free draw;
 - free web entry has clear attractions for most participants who use it because it genuinely costs them nothing. This contrasts with post, a route specifically sanctioned by Parliament, but which costs the participants money to use; and
 - home web access is growing and in the future may well meet the statutory test on its own. The Commission should not put obstacles in the way of its use.
- 2.2** In the light of all this, the Commission has concluded that the following principles should be used when considering whether web entry is a sufficient alternative route for those who seek to use it.

- Potential participants who do not have home web access need sufficient time to gain web access elsewhere. The Commission considers three working days around the date of the particular draw as a reasonable length of time to obtain such access.
- Participation by such web access should also be available at all times while the scheme is being actively promoted. Hence, a quiz on a television programme should permit web entries while the programme is being aired.
- The availability of free entry via the web should be made widely known, for example as the general policy for schemes organised by the operator concerned.
- Where any doubts exist as to whether the web entry arrangements in any particular case fully satisfy the Act's requirements, other routes, for example by post which has been specifically sanctioned by Parliament, should be offered in addition.

3 Prize Competitions

3.1 The test for a scheme to qualify as a prize competition under the 2005 Act is whether the skill, knowledge or judgment criterion can reasonably be expected to 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)).

3.2 It may not always be easy to establish empirically that this test is met, especially where operators seek to rely on the first limb. The Commission has thus been considering whether there are any ground rules which it could establish that could, other things being equal, be taken as indicating that the skill, knowledge or judgement element was satisfactory such that the Commission could regard it as sufficient not to pursue further. By far the most common format in such competitions is the use of multiple answers. Consideration has therefore concentrated heavily on that type of format.

3.3 The Commission has concluded that:

- where a competition uses a multiple answer format, the Commission will not generally take action where there are sufficient plausible alternative answers, the question is relevant to the context in which the competition is offered, the correct answer is not obviously given close to the question and 'joke' answers are avoided;
- equally, the Commission would not take action where other types of format require skill, knowledge or judgment of an equivalent standard to that in the previous bullet point; but
- ultimately the test must be that in the Act and thus, if operators think there is a risk of their competition being seriously challenged as not meeting the statutory requirement, they need to consider how they will be able to provide evidence of compliance, for instance by demonstrating from their records that a significant proportion of entrants either in that competition or previous similar ones had got the answers wrong.

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