

EU Lotto Limited trading as Lottoland

Regulatory settlement following a licence review

Public statement

Breach of social responsibility code provisions:

- **5.1.7 Marketing of offers**
- **1.1.2 Responsibility for third parties**

22 June 2017

The issues identified in this statement are likely to form the basis for future compliance assessments of gambling operators

1. Executive summary

This case concerns EU Lotto Limited t/a Lottoland.co.uk (Lottoland) who hold a remote casino and remote general betting standard – real event operating licence - and offer consumers the opportunity to bet on the result of official lottery draws.

Offering betting on the outcome of lotteries, other than lotteries which form part of the National Lottery, is permitted. However, when marketing such products operators must make it clear to consumers that they are participating in betting or gaming, rather than entering a lottery. Our advice [Betting on lotteries and lottery themed gaming products: being clear to consumers](#) states that “you need to make sure your customers understand the product they are buying. Betting on lotteries is an area where the consumer can be easily misled”.

If consumers do not understand that they are betting as opposed to playing a lottery they might wrongly assume that rules in place for lotteries also apply to the betting product, such as the requirement for a percentage of proceeds to be given to good causes or the age restriction (you must be aged 18 or over to use a betting product and aged 16 or over to play a lottery). Our [consumer guide on betting on lotteries](#) explains key differences between lotteries and products which offer bets on the outcomes of lotteries.

On 1 February 2017 the [Advertising Standards Authority \(ASA\) upheld a complaint](#) made by a member of the public in relation to a radio advertisement for Lottoland. The complainant challenged whether the advertisement misleadingly implied it was a lottery as opposed to a betting product.

We reviewed Lottoland’s marketing - in particular advertisements on its website, Twitter page and third party/affiliate website MyVoucherCodes – and found that, despite previous engagement with the operator, the advertisements outlined within continued to be misleading.

Lottoland accepted the marketing communications highlighted were misleading and accepted it was not fully clear to all consumers that they were participating in betting as opposed to playing a lottery. At an early stage Lottoland indicated its willingness to conclude the matter by way of a regulatory settlement.

In accordance with our Statement of principles for licensing and regulation, we considered that a regulatory settlement would be an appropriate outcome. We have agreed a settlement penalty package from Lottoland, which has been set out in Section 4.

2. Commission findings

Advertising Standards Authority ruling of 1 February 2017

The ASA considered the Lottoland radio advertisement below, broadcast on 27 September 2016 was misleading as it implied participants would be playing in a lottery rather than in a gambling game.

The advertisement was cleared by Lottoland’s legal and compliance team and the relevant approval authority Radiocentre, whom believed that the advertisement clearly differentiated Lottoland’s gambling service from the EuroMillions lottery having made a price comparison between the cost of a bet and the cost of a EuroMillions ticket and would be understood by consumers.

We found that Lottoland breached SR code provision 5.1.7.2 which states that:

“Licensees must abide by any relevant provision of the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (CAP) or UK Code of Broadcast Advertising (BCAP) code, as the case may be, which relates to ‘free bet’, ‘bonus’ or similar offers and in that regard follow the CAP and BCAP ‘Guidance on the rules for gambling advertisements....’.

The radio advertisement failed to abide by the relevant provisions of the BCAP code and did not follow the CAP and BCAP [guidance on the rules for gambling advertisements](#). Lottoland contested the ASA complaint but accepts the ruling.

Lottoland's website and Twitter account

We found that Lottoland breached SR code provision 5.1.7.1 in relation to marketing communication on its website and Twitter account. Although the marketing communications made reference to a bet, material information was presented in a manner which was unclear and ambiguous, and therefore misleading. It would not have been clear to the average consumer that he or she was participating in betting as opposed to a lottery. This results in the risk that consumers take a transactional decision they would not have taken otherwise.

SR code provision 5.1.7 requires that:

“Licensees must satisfy themselves that their marketing communications, advertisements, and invitations to purchase (within the meaning of the Consumer Protection from Unfair Trading Regulations 2008), including ‘free bet’ offers, do not amount to or involve misleading actions or misleading omissions within the meaning of those Regulations”.

Lottoland accepts that the aforementioned marketing communications did not meet the requirements of SR code 5.1.7.1 and that clearer and more prominent references to ‘bet’ and ‘betting’ was required.

Third party/affiliate advertising on behalf of Lottoland

We found that marketing communication published by the website MyVoucherCodes, an affiliate of Lottoland, breached SR code provision 5.1.7.1. Material information was presented in a manner which was unclear, ambiguous and misleading to consumers. It would have been unclear to the average consumer that they were participating in betting as opposed to a lottery. As a result, they were likely to take a transactional decision they would not have taken otherwise. Lottoland accepts that the marketing communication was misleading.

We also found that an advertisement published by MyVoucherCodes and sent as a direct marketing email, breached SR code provision 5.1.7.2.a by failing to include significant limitations and qualifications, despite there being space to do so. Lottoland accepts this advertisement breached SR code provision 5.1.7.2.a.

Responsibility for third parties/affiliates

Lottoland is responsible for the marketing communications and advertisements published by its affiliate, MyVoucherCodes, on its behalf to promote its products. Noting the above facts, we found that Lottoland also failed to adhere to SR code provision 1.1.2. Lottoland accepts that the aforementioned MyVoucherCodes's marketing communication was misleading.

3. Good practice

Consider the following questions to avoid making the same mistakes as Lottoland:

- Have you ensured advertising and marketing makes it clear to consumers that they are placing a bet and not participating in a lottery? Read our advice on [Betting on lotteries and lottery themed gaming products: being clear to consumers](#).
- Have you ensured marketing communications include significant limitations and qualifications which consumers should be aware of?
- Have you ensured marketing communications are compliant with LCCP provisions and CAP and BCAP rules?
- Have you used the free and paid for copy [advice service provided by the ASA and CAP](#)?
- Have you ensured contractual terms and conditions with affiliates are robust?
- Have you ensured that affiliates are clear of their [requirements regarding advertising standards](#) and the consequences of compliance failings?
- Are you conducting regular audits of your affiliates' activity against your compliance policy?
- Are you auditing new affiliates' websites, in addition to the creative and copy used, before accepting them onto your affiliate programme?

4. Regulatory settlement

Lottoland accept the failings in this case and has put forward a proposal to settle this matter, which we have accepted, comprising of the following elements:

- a) agreement to the publication of this statement outlining the failings by Lottoland and the lessons to be learned by the wider industry
- b) a payment in lieu of a financial penalty in the sum of £150,000, which we would otherwise impose for breach of a licence condition in accordance with our [Statement of Principles for Determining Financial Penalties](#)
- c) a contribution to our costs of investigating this matter in the sum of £9,000.

The Commission acknowledges that Lottoland has over the years made changes to enhance transparency and clarity of its product. During the review Lottoland was open and transparent in its dealings with us. It was able to demonstrate that it had insight into the failings and was able to take action that would prevent the need for formal regulatory action. Lottoland has enhanced its procedures and controls to ensure future marketing communication is compliant and does not mislead consumers.

Lottoland accepts that it is responsible for the actions of its affiliates and has terminated its relationship with a significant number of affiliate partners to enable it to exercise greater control of the marketing material produced and published by affiliates.

5. Conclusion

We consider that this case provides valuable learning for remote and non-remote operators. Operators must ensure that they do not mislead consumers or more generally cause consumer confusion by using unclear and ambiguous terminology in the marketing and advertising of their products. Their marketing and advertising should comply with the requirements of BCAP/CAP codes and the LCCP. Operators should take a proactive approach in assessing marketing and advertising promotions to ensure compliance and to make sure that consumers of gambling are fully informed about the nature of the products on offer.

Gambling Commission June 2017

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