

## Report from the Chief Executive

For Board approval	
For Board briefing	
For Board steer	
For Board information	

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Chief Executive

**Date:** 17 October 2014

## Introduction

1. The report follows the revised format of last month focussing on what colleagues have been up to over the last month. It is structured around the key objectives agreed in the strategic narrative. To keep the report to manageable proportions, we have grouped individual workstreams wherever possible. Workstreams that were identified as priorities in the published business plan have, however, been reported individually.
2. With the (successful) outcome of the judicial review now thankfully behind us, my main concerns are the sheer volume and range of workload at a time when new staff (both at PD level and below) are still finding their feet, we lose Jeannette Pugh here and two key people at DCMS (Alison Pritchard and Richard Orpin); we have a serious capacity problem in HR; three major initiatives running (remote licensing and compliance following implementation of the Gambling (Licensing and Advertising) Act 2014; the two lottery reviews (one Culture Select Committee, one more fundamental by DCMS – at the same time, Camelot is producing a stream of resource intensive propositions); the review of player protection measures in LCCP (including the development of national self-exclusion schemes and issues about gambling/machines in pubs ); work building up on complex cases, betting integrity and shared regulation in Scotland.

On top of that we have the anti-gambling lobby renewing its efforts and unrealistic expectations of the forthcoming RTG machines research. Just as well we don't face an appeal on the JR.

3. Key events attended last month, not included elsewhere, included:
  - Philip, Matthew and I met Paul Darling QC, ABB Chair and Ron Finlay, Senet Group
  - Philip and I met the Secretary of State, Rt Hon Sajid Javid MP to brief him on the work of the Commission
  - Philip and I attended the Quarterly Chairs meeting with Camelot
  - Philip met Chris Kelly, RGSB and Neil Goulden, RGT to discuss future collaboration
  - Philip, myself and other NL Committee colleagues attended a meeting at Camelot on Market Sizing and Responsible Play
  - I met Jon Kelly, CEO Ontario Responsible Gambling Council to discuss the igaming accreditation initiative and related matters
  - Ben Haden and I attended the monthly Chief Executives meeting with Andy Duncan, Camelot
4. We were inspected earlier this year by IOCCO<sup>1</sup>. The final report has now been received and the summary was as follows:

*“Overall the Gambling Commission emerged extremely well from this inspection. The Inspector was satisfied that the public authority is acquiring communications data for a correct statutory purpose and for investigations where they have a clear statutory duty and responsibility to conduct a criminal investigation. The Gambling Commission uses their statutory powers within the Act to acquire communications data to assist in their criminal investigations within the Gambling Act 2005 (for example the offence of ‘cheat at S. 42 or the use of illegal gaming machine/s at S. 243). Overall the public authority has an excellent level of compliance with the Act and CoP.”*

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<sup>1</sup> Interception of Communications Commissioner's Office

## **Empowering consumers**

### **Social responsibility (Business plan priority)**

5. The LCCP consultation closes on 31 October. Rachel Lampard chaired a consultation workshop on 6 and 7 October, which was well attended. Delegates asked fewer challenging questions than we had anticipated, but we were able to address a number of concerns and clear up some misunderstandings. Overall, delegates wanted less prescription in some areas, and more prescription in others – with some disagreement over the right balance in each area. There were several requests for the Commission to reconsider proposals where the supporting evidence was unclear, and several requests for more time to implement some of the changes. We are considering how best to share the outputs from the workshop with a range of external and internal stakeholders.
6. We continue to engage with stakeholders on a wide range of social responsibility issues, including responses to the LCCP consultation. We have held fewer meetings over the past month, when many of our key stakeholders have been tied up with the party conferences. But we have discussed, amongst other things, BACTA's approach to social responsibility, the ABB plans on self exclusion, new initiatives for self exclusion, and the likely effect of the new regulations on bookmakers.
7. The working group established to develop the remote self-exclusion scheme is currently finalising the draft system architecture. This will allow us to consult before Christmas, seeking views on the architecture and associated costs, and providing information on how we propose to manage the procurement and recover costs from the industry. Given the lack of concerted effort to enhance existing non-remote self-exclusion arrangements across all sectors, apart from NCF's national scheme, we may well require the industry to participate in another working group to drive progress in that area. We will be taking this up with the Industry Group for Responsible Gambling (IGRG).

### **Consumer awareness for remote (Business plan priority)**

8. Considerable effort has gone into working up improved information for consumers with a view to producing leaflets and webpages in time for remote implementation.

## **Raising standards**

### **Licensing of remote operators (Business plan priority)**

9. The main areas we focused on during the period were:
  - Assessing and dealing with the impact of the Judicial Review and the delay in implementation to 1 November 2014, including the notification of all affected operators, industry lawyers, other regulators and third parties (eg Google, Visa, MasterCard etc). We contacted all our stakeholders and put out messages via our website, blog, twitter about the change of date.
  - We also provided a bespoke email address for anyone with queries to contact us. Queries have been turned round within three days and we have continued to update our website and blog with Q & As relating to the most frequently asked questions.

- Re –opening the window for advance applications and extending the period by which advance applications to be able to continue operating post 1 November pending determination of the application. To date only one further application has been received. However, the Commission expects to receive an amendment to an advance application from 12bet to add betting to their licence.
- Processing transitional applications, revisiting the continuation licences that had already been prepared for issue on 1 October to change them to come into force on 1 November and re-calculating first annual fees to again reflect the delay in implementation. Licensing is in a position to issue licences and annual fee invoices at the end of October.

### **Compliance and enforcement of remote operators (Business plan priority)**

10. As reported in the remote implementation update paper for the September Board meeting, we have finalised arrangements for financial transaction disruption with MasterCard, Visa and PayPal. We have liaised closely with all three organisations over the last period to keep them informed about the Judicial Review process and the impact on implementation timing.
11. Given the postponed implementation date, MasterCard now plans to issue its global bulletin to acquirers, informing them of the legislative changes, in November. We will be speaking about the reforms and financial disruption arrangements at Visa's National Acceptance Risk Forum on 25-26 November. PayPal has confirmed it is aiming to complete by 1 November system change work to amend error messages received by consumers in Britain when an illegal gambling transaction is prevented. This will direct consumers to the Commission's website and the public register of licensed operators.
12. The Remote Enforcement Operational Guidance Note (OGN) has been finalised and is now subject to final legal clearance, alongside other OGNs and related documents which are being reviewed and updated.
13. New guidelines setting out the Commission's expectations for the completion and submission of security audits have been composed and are due to be released shortly. This will improve the quality and consistency of the security audits we receive; it is one of a number of steps we are taking to apply more rigour to our review of security audits.
14. The display of licensed status (kitemark) from operators' websites is now fully implemented.

### **High impact compliance (Business plan priority)**

15. Aspers Corporate Evaluation commenced this month. Site work is due to finish by the end of October, with full findings due by the end of November.
16. We also hosted a workshop session within the two-day LCCP consultation event (6/7 October) on the proposal to introduce an Annual Assurance Statement. This new

requirement would oblige large gambling operators (B2C and B2B) to self-assess their performance in relation to the licensing objectives and the LCCP and return a completed statement (signed by the CEO or MD, or equivalent) to the Commission on an annual basis.

The feedback we received on this proposal was generally positive, with room for further debate to be had, probably through an industry working group, on how operators might go about estimating the proportion of revenues from problem or at-risk gambling (one of the themes covered in the Assurance Statement, alongside other social responsibility and crime prevention risk management indicators).

A supplementary consultation on the Annual Assurance Statement is due to be launched to coincide with the closure of the main LCCP consultation, so that a draft template of the Assurance Statement can be shared with stakeholders for comment. (An early draft was already shared with attendees at the LCCP consultation event).

### **Primary gambling activity (Business plan priority)**

17. Working on a paper to take to the 12 November Board Policy day.

### **Regulatory framework**

18. The consultation on amendments to the Commission's Statement of Principles and the Licensing, Compliance and Enforcement closed on 30 September. We received ten responses to the consultation from a range of trade associations and operators, as well as the Campaign for Fairer Gambling, one law firm and one individual. We are considering the responses and a paper is being prepared for the December Board meeting.
19. LCCP May 2014 has been updated following the change of the date of remote implementation, to reflect completion of EC notification of the amendments and to make one minor change to the remote provision relating to display of licensed status. All sector-specific extracts, licence templates and summary of changes documents have also been updated to reflect these changes.
20. An advice note to operators is being prepared to reflect the answers relating to a number of operator queries on customer funds, and to help operators understand what they need to do to comply with the new LCCP conditions and the timetable for doing so.

### **Complaints and disputes**

21. On alternative dispute resolution (ADR), we have:
  - continued to discuss with DCMS and BIS the possible role for the Commission as 'competent authority' with respect to the ADR directive, in particular assessing whether there would be any need for consequential legislative amendments;
  - identified the ADR entities named by remote licence applicants, and shared this information with those ADR entities to cross-check that the operators have indeed made arrangements with the relevant ADR entity;

- prepared revised text for our website to help customers understand the steps to take when they have a complaint or dispute with a gambling operator, and to provide contact details of the main ADR entities named on remote applications.

### **Marketing and advertising**

22. We attended a meeting of the Gambling Advertising Monitoring Unit (GAMU) on 24 September to discuss and receive updates on the four-strand advertising review, which the Government plans to report on by the end of the year. The Advertising Standards Authority (ASA) and the Committees of Advertising Practice (CAP & BCAP) are due to sign off and publish their strands of work in October and November respectively. Initial feedback suggests that while there may be no need for new rules for gambling advertising, and ASA decision making is considered to be broadly 'in the right place', the ASA is likely to sharpen its focus on, and scrutiny of, the advertising of free bet and bonus offers.
23. We also held a meeting with DCMS and Clive Hawkswood of the Remote Gambling Association (RGA) on 24 September to maintain pressure and momentum on the RGA's review strand (the review of the industry voluntary code for socially responsible advertising). The RGA is due to submit a revised code to DCMS in November. Emerging recommendations relate mostly to improved responsible gambling imagery and messaging on adverts, and the creation of a new independent 'Compliance Committee'. The RGA is also exploring a possible voluntary ban on sign-up offers on television, pre 9pm, although it is not yet fully clear how this will relate to the Senet Group's<sup>2</sup> recent, similar proposal.
24. As advised in the Remote Implementation progress report to Board on 18 September, we also pressed the RGA on the issue of adverts for remote gambling operators appearing on copyright infringing websites. Analysis undertaken by the Federation Against Copyright Theft (FACT) and the Police Intellectual Property Crime Unit (PIPCU) suggests that between 70-90% of adverts appearing on these sites are gambling-related. The RGA advised us that its members are now engaged with 'Operation Creative'; a PIPCU-led initiative designed to disrupt and prevent websites from providing unauthorised access to copyrighted content.
25. PIPCU and FACT have been invited to brief relevant colleagues with a view to agreeing Commission involvement in 'Operation Creative'. We are planning a follow-up meeting with the RGA after this briefing to ensure that its members are engaging fully and to discuss the associated issue of marketing affiliates. In particular, we wish to remind licensed operators of LCCP social responsibility code provision 1.1.2, which requires them to take responsibility for third parties (including marketing affiliates) with whom they contract for the provision of any aspect of their business.
26. We presented and discussed proposed amendments to the 'Marketing' section of LCCP at the LCCP stakeholder workshop session on 7 October. We received some particularly helpful feedback on: terminology; the need to be consistent with existing legislation, regulation and guidance; and the challenges associated with establishing a national marketing opt-out scheme.

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<sup>2</sup> The Senet Group has been formed as an independent body to promote responsible gambling standards and ensure that the marketing of gambling is socially responsible. The four founding companies/members are William Hill, Ladbrokes, Coral and Paddy Power.

27. The Marketing and Advertising workstream report to Board (initially planned for 23 October) has been rescheduled to 4 December to allow for a full update on the outcomes of the Government’s four strand review of gambling advertising though any policy questions for the Board will be escalated in the meantime.

### Regulation of lotteries

28. We are analysing the results of ELM assessments to identify compliance risks in the sector. The results (due to be completed by November) will determine whether further advice or other work is necessary in the sector.
29. We have been preparing an internal briefing note on issues arising from our assessment of retail and online betting on lotteries. This is likely to result in a draft advice note to the betting sector on how to offer betting on lottery products. We have started to engage with two remote betting operators **[Exempt information under section 43 of the Freedom of Information Act]**. We have also given the ASA examples of the marketing of a cross section of betting on lottery operators, seeking its views on whether they are compliant with advertising codes. We are meeting the ASA on 17 October.
30. Some Facebook users continue to use the website to promote unlawful lotteries. This is mainly members of the public promoting small lotteries. We have referred this to complex cases (see Annex A) because there are similar issues within the machines sector. We are drafting a template letter and message to those promoting lotteries on Facebook.

### Licensing and online applications

31. Our programmatic work included the following:

	<b>OL Lifecycle (Sept)</b>	<b>PL Lifecycle (Sept)</b>
Applications received	177  (161 were applications in advance of the Gambling and Advertising Act 2014)	395  (the majority are linked to advance OL applications)
Applications determined	25  (SSD*Year to date: 76%)	221  (SSD* Year to date: 81%)
Variations received	74	13
Variations determined	70  (SSD* Year to date: 83%)	8  (SSD* Year to date: 78%)

Change of corporate control received	8	N/A
Changes of corporate control determined	4 (SSD* Year to date: 94%)	N/A
Sign-up to e-services	1677 **	4730
Payments made on line since launch of e services:	335 (Majority are Annual fees)	282

\* SSD service standards - 80% of complete applications determined within 6 weeks.

\*\* 97% of remote operators affected by Gambling (Licensing and Advertising) Act are signed up

32. We continue the compulsory sign-up to eServices for all operators. This is on track to be completed by the end of October.
33. Licensing has reviewed 133 existing remote operators to assess the accuracy of the information we hold and to identify any potential areas for concern. Eleven operators were found to be failing to meet requirements to submit information or report key events. In five instances those failings have been quickly resolved. The remaining six have been referred for escalated for consideration of further action (three are ELMs).
34. The contact centre received 2,914 enquiries, of which 98% were resolved within service standards. Main areas of interest were queries relating to the Gambling (Licensing and Advertising) Act 2014 and in particular advance applications for continuation licences, PL maintenance and annual fees. Complaints and disputes about operators licensed either by the Commission or overseas regulators continue to be the main subject of enquiries from the general public. For the year-to-date (Jan – Sept), we have handled 22,537 enquiries compared to 12,737 over the same period last year.
35. Results from the September customer survey gave overall customer satisfaction of 89.4% from 50 responses

## Compliance

36. Planned compliance activity covering non-HIO operators progressed over the period as follows:
  - Assessment activities are planned and reported on a quarterly cycle. 536 assessments were planned for completion by 30 September. As of 7 October:
    - 514 were completed;
    - 4 had been planned ready for a site visit;
    - 18 remained to be progressed.
  - In this period 665 lottery submissions were received, of which one breached the minimum returns to good causes and is subject to sector specialist escalation. In addition, 140 regulatory returns were received on time out of the 145 due.

The five outstanding returns are subject to licensing escalation. Payments were received for two penalties that were issued in the last reporting period from licensed operators that had failed to make their returns.

37. Reactive compliance activity covering non complex cases was as follows:
- two new Section 116 reviews were allocated for investigation both in respect of PFLs
  - two reviews were closed with the following outcomes:
    - PFL - No further action – 1
    - OL - Advice to Conduct – 1

### **Complex cases and enhanced compliance.**

38. A business case to fully automate the completion and submission of the Incident Referral Form has been raised. This development will ensure consistency, increase efficiency, reduce bureaucracy and duplication of effort and extract information from our CRM and Memex to automatically populate the referral.
39. The workstream is examining ways of improving and capturing our lessons learned activity in addition to evaluating the success of our recent messages to the industry and wider industry learning.
40. Details of individual cases are at Annex A

### **Betting integrity**

41. Two new EU Expert Groups (DG Market and DG Culture and Sport) have been founded that both include match fixing as part of their agendas. Richard Watson and Nick Tofiluk are representing the Commission.
42. We have received a copy of the HMG UK Anti-Corruption Plan which features the work of the Commission. We have provided comments for consideration.
43. The Tripartite Forum has agreed a change of name and will now be known as the [National] Sports Betting Integrity Forum. (We are re-considering the 'National' part of the name to ensure it is appropriate)

### **Anti-money laundering**

44. The AML workstream continues to make progress against the objectives set out in the workstream's two-year plan agreed in May 2014, as set out below:
- Within the '**Influence & Learn**' strand of activity:
    - We organised and hosted a workshop with the ABB Chief Executive and members, National Crime Agency and a representative from the banking industry. This considered the legal and practical implications of the Proceeds of Crime Act consent regime, alongside wider customer (AML) monitoring arrangements.

- Twenty five AML Environment Scan assessments have been prepared and published across the Commission. These give clarity to a range of subjects including means of payment, UK Financial Intelligence Unit, junkets, and the Serious Organised Crime Strategy. Relevant information is prepared in a standardised (two page) format enabling Commission members to quickly identify and understand key AML concepts. This approach is a key component in the two year agenda to mainstream AML understanding within the Commission.
- Within the '**Apply**' strand of activity:
  - The AML framework and requirements for remote operators have been resolved. An advice note has been published clarifying the Proceeds of Crime Act implications and practicalities to overseas operators. Individual licence conditions ensure that remote casinos understand their commitment to the Money Laundering Regulations.
  - We continue to work with HM Treasury to resolve interpretational issues within the Money Laundering Regulations. These relate to the 2,000 Euro threshold at which customer due diligence (CDD) is triggered.

### **Criminal enforcement activity**

45. We have been assisting in the potentially criminal aspects of several complex cases, which are reported in Annex A:

#### **[Exempt information under section 31 of the Freedom of Information Act]**

### **Monitor regulatory performance**

46. We have agreed our proposed approach to inclusion of NL measures in line with the NL element of the strategic narrative. Specific areas to measure have been identified and work continues to define measures and data sources.
47. The quarterly outcome performance report has been compiled and moderated by BPPB. See Board agenda item 10.
48. A framework has now been agreed for the interaction of outcome performance measures with a potential set of service standards and KPI's. Work continues to define the varying terminology used along with a proposal for specific performance measures.

### **Building partnerships and understanding**

#### **Passage of the Gambling (Licensing and Advertising) Act 2014 (Business plan priority)**

49. The main focus has of course been the challenge by the Gibraltar online gambling trade association (the GBGA) to the proposed new licensing regime; the judge finding in favour of the Government and Commission. The contingency planning work against the possibility of an appeal while very time consuming has contributed to our understanding of our extended remit.

### **Providing advice (Business plan priority)**

50. Sue Harley and Erica Young met civil servants from the Japanese Cabinet Office to provide advice on casino regulation. Japan is considering legislative change to allow the development of an integrated casino resort in advance of the Tokyo Olympics of 2020.
51. We have completed and submitted:
  - Advice on the economics of lotteries to DCMS
  - Our submission to the CMS Committee inquiry into lotteries.

Copies are enclosed for information with your Board papers (see item 11).

### **Embedding evidence-led culture (Business plan priority)**

52. The proposed October evidence led culture board update has been postponed until December. This is due to work that is being undertaken around information management. The planned update in December will allow for greater detail around the types of activities that are to be undertaken and the indicative programme for delivery.
53. The draft audit report has been received from Mazars regarding data quality. The initial assurance rating has been classified as adequate. Management responses are being developed for review.

### **Gathering and sharing evidence (Business plan priority)**

54. The upgrading of the Intelligence IT system is making progress. IT has purchased new hardware ready for the intelligence upgrade and this has been delivered. A 'test' version of the new system has been installed, testing has been completed and plans for training staff ready to implement. A weeding process of the existing intelligence system has commenced but stalled due to other priorities.
55. In support of workstreams we have continued to provide documents and analytical products. These have included an AML document to the National Crime Agency, an intelligence partner stakeholder engagement document for the AML workstream, and an analytical chart for complex cases.
56. We have promoted internal awareness of intelligence capabilities by conducting induction presentations and Memex training to new recruits, compliance and licensing staff.
57. In promoting information exchange, memoranda of understanding have been reviewed and refreshed where necessary and issues around maintaining Government Agency Intelligence Network (GAIN) referral service addressed.
58. Stakeholder engagement has continued, with meetings with the EU expert group on gambling, a data communications review has been conducted with the Home Office and a meeting with City Bank. A presentation was made to the North West Regional Asset Recovery Team (RART) and partner financial investigators.
59. We have attended a GAIN meeting in the East Midlands region and have met with the GAIN East Midlands and West Midlands region coordinators to maximise benefits.

## **Gambling statistics**

60. We have procured a new supplier of the quarterly participation and perception survey following a competitive tender process. We used the Cabinet Office's Shared Business Service market research framework to identify suitable suppliers, inviting twelve to tender. We received five proposals, whilst seven suppliers declined to tender. Following a comprehensive review, in which we scored each bid against criteria in eight core areas, we awarded the contract to NatCen.
61. NatCen has proposed changing the approach to a single survey (combining participation, mini-screen and perceptions questions) with an estimated response rate of 25%; the current omnibus survey (made up of two separate surveys for participation and mini-screen, and perceptions) achieves a response rate of less than 1%, and increasing this was the overriding factor in pursuing a standalone survey. Since NatCen provided the only bid that was able to achieve such a high rate within the requested budget, we considered that it was the most suitable and cost-effective bidder.
62. We are however conscious of the potential for over-reliance on one particular survey supplier, so to counter this we designed the procurement process to explore the scope of new potential suppliers for conducting additional research not yet covered by the existing omnibus survey. This includes starting to use vehicles such as an online tracker, and conducting work to capture the behaviour of 16-17 year olds. We now have a number of new contacts at smaller, more specialist agencies who we hope will be able to take new and more innovative approaches to work in these new areas in the coming months.
63. The Millennium Cohort Study Team has notified us that a problem gambling screen will not feature in the age 14 sweep of its survey (which will only feature an abridged gambling participation question). We have been exploring fall back options but they will be decidedly suboptimal.

## **Social gaming**

64. We have:
  - attended the European Association for the Study of Gambling conference in Helsinki and developed further social gaming contacts; and
  - re-established contact with app platforms to encourage them to think about age-rating, limit-setting and clearer information to consumers about how games perform.

## **RGSB**

65. The shared project board between the Commission, RGSB and the Trust met on 17 September. The group is considering how to deliver a joint programme of three events on public health, young people and debt.
66. RGSB and the Commission have received two draft machines research outputs for review. One investigates the impact of stake size on player behaviour, and broadly concludes that players make poorer decisions at higher stakes. The other considers player perceptions of return-to-player (RTP) messages, and supports our concern that perception levels are generally poor. Much of the value of these reports will come from

understanding the detailed findings and the context from which they arise, rather than from these high-level conclusions, and we will want to consider this work as part of the broader programme of machines research. We have provided combined comments to the Trust on the first two reports, including feedback on some of the methodological issues, and plan to hold an internal briefing session on 15 October. We are due to receive further reports on the machines research by 13 November, and will update you on the findings at the December Board meeting.

67. RGSB met on 23 September and discussed public health. Matthew Hill attended to discuss the LCCP consultation with the Board.
68. At the RGT Board meeting on 9 October, Neil Goulden noted that RGT needed to revise its strategy to reflect feedback from RGSB and the Commission, for example about the need to:
  - focus on influencing the public health agenda;
  - build capacity at RGT;
  - be ambitious about the levels of funding raised; and
  - engage more effectively with stakeholders, not least to leverage more support to help achieve the RGT's objectives.

### **Work with LAs and other regulators**

69. We had a very constructive meeting with London Boroughs including a presentation from Westminster on its 'high stress' zoning approach to premises. We also gathered feedback for the LCCP consultation in a series of workshops.
70. We attended a follow up meeting with Glasgow City Council to discuss a shared work plan and are now waiting for elected member approval.
71. We met the three LAs involved in the primary authority scheme to discuss their inspection plans. As a result, they are drafting revised versions for final sign off.
72. Work is ongoing, via Complex Cases Group, regarding misuse of Family Entertainment Centre (FEC) permits and related matters. One operator is now applying for a licence and a letter is going to all relevant local authorities outlining our advice and guidance.
73. All 380 local authorities submitted their annual return, for the first time, and we have published the analysis and report.

### **Innovation**

74. Innovation remains an ongoing issue within the gaming machine workstream, with a series of machines innovations or technical issues raising possible compliance issues. We are dealing with these issues by a range of means – through complex cases, industry meetings, and engagement with individual operators. Annex B provides more details.

### **Publications and external communications**

75. In terms of statistical publications, we:

- published the Licensing Authority statistics document on 18 September
- are on track to publish the next issue of Industry Statistics in November; and
- received a first draft in September of a Mazars audit report on our Official Statistics compliance, and we are finalising several points with them before they submit a final draft to us.

76. Further details of our publications and external communications activity is given at Annex C

## National Lottery

77. **[Exempt information under section 43 of the Freedom of information Act]**

78. Camelot presented to the NL Committee in October on its forward strategy which will be important to understand the likely future trend of returns.

79. A meeting was held with Camelot and the Committee which covered a market sizing report, which may have wider uses for the Commission, and Camelot's approach and plans in the social responsibility sphere. In addition to normal programmatic work, we focused on the following this period:

- liaising with Camelot to determine the process required for the Condition 17 internal control effectiveness review. This will consider Camelot's ability to effectively identify, develop and manage its processes and procedures
- revising Trust arrangements in line with game developments
- reviewing the development and testing of internal control systems (ICS) in line with product releases
- analysing Camelot's technology pipeline to determine future strategic and/or tactical NL risks
- **[Exempt information under section 43 of the Freedom of information Act]**
- considering specific project initiatives from Camelot including those listed below **[Exempt information under section 43 of the Freedom of Information Act]**
- **[Exempt information under section 43 of the Freedom of information Act]**
- **[Exempt information under section 43 of the Freedom of information Act]** and
- liaison meetings held with Camelot and DCMS. The DCMS meeting covered issues around distributor engagement, the 'society lottery consultation', the DCMS Select Committee review and gambling advertising reviews.

80. A copy of the Director's Report to the National Lottery Committee for September is attached at Annex D (posted separately)

## Enabling activities

### Fees development (Business plan priority)

81. We have been chasing DCMS approval to our business case for using consultants to assist in the fees development review (as previously reported). In the meantime the

work on fees undertaken as part of the Judicial Review defence work will be a useful start for the fees review exercise.

### **HR policies, guidance and consultations (Business plan priority)**

82. The planning of the November 2014 staff conference is underway with a widely-based steering group coordinating the work.
83. The Learning and Development strategy and statutory and mandatory training policies have been forwarded to ACAS for feedback.
84. Development Manager and Supply Manager arrangements have been the subject of a comprehensive review and are due to be communicated to colleagues shortly. The changes will come into effect on 1 November, in line with the start of the staff performance management review (PMR) year.
85. The final performance assessments for all employees below SCS have been moderated, with twenty three exceptional performers and one in improvement needed (currently on a performance improvement plan). Final review meetings have begun and should be completed by 31 October in line with the PMR timetable.
86. A meeting of the Joint Negotiating Committee was held on 7 October 2014.
87. Draft policies relating to grievance, appeals procedure and underperformance (capability) have been reviewed by ACAS and their feedback is being incorporated. The HR team is actively working with Sue Harley to review policy update priorities.

### **HR support to management**

88. A job evaluation panel considered two new roles on 25 September 2014. Recruitment activity continues and we are currently recruiting to six roles, all to be advertised internally and externally simultaneously.
89. The management of casework (covering disciplinary, absence management, performance management and grievance issues) continues. There are currently one complex case and eight involved cases being handled.
90. The pay modelling based on the moderated assessments has been completed and, subject to conclusion of discussions with PCS, uplifts will be applied to November salaries.
91. Work continues to prepare for the 2015 Pension changes. Three members of HR staff attended MyCSP employer engagement events in London in September. The options exercise will commence in October. Information from MyCSP indicates that the individual packs for those staff involved in the options exercise will arrive at the Commission between 13 and 22 October, rather than the beginning of the month, as previously anticipated.

## **Business planning**

92. Work has focussed on completion of the strategic narrative and a full refresh of the corporate risk register. Both items have been circulated with your Board papers for information.
93. We are implementing the findings from our (internal) programme management review. This incorporates:
- Updating our procedures and processes for programme and workstream management;
  - A refresh of our workstreams to make sure that they reflect our current workload and activities, arranged in appropriate groupings within programmes;
  - Recruitment to four new programme project management. Interviews are scheduled to take place the week commencing the 3 November.
94. Our other activities have included:
- progressing business planning arrangements for 2015-16
  - planning a full update of our information management arrangements and
  - research into a potential programme and workstream management tool.

## **Finance**

95. Activity during the period has focused on the following significant areas:
- Collection of annual fees has been ongoing throughout September. No significant surrenders or revocations have occurred in respect of the peak licence fee collection period.
  - The CIPFA review of the effectiveness of the Commission's financial management has been concluded, and an action plan of improvements has been agreed.
  - Gambling (Licensing and Advertising) Act 2014 income forecasts have been refined and assumptions revised as transitional applications have been received. These forecasts will underpin the 2015/16 budgeting and planning process.

## **Accommodation management**

96. The main areas of activity in the month were as follows:
- We have received the first draft of the LMER (Lease/Licence Exception Request Form) document from the consultant and we are working on filling the gaps
  - Data recovery site move - Clara net (our communications third party supplier) have installed the communication lines and router ready for a hardware move during October.

## **IT infrastructure management**

97. The main areas of activity in the month were as follows:

- Work from the in-depth penetration testing of our external facing firewalls and all externally accessible services was completed and work has begun to resolve the reported vulnerabilities.
- A design and quote for the link between Camelot and VSH is under review.
- Work has started on the design document to support the new call centre software.
- Batteries have been replaced in two of our UPS (uninterruptible power supply), which has added resilience in the IT server room.

## **Internal communications**

98. We have supported AML environment scan messaging, presentation of the strategic narrative and also the communications planning for the changes to development manager arrangements.

## **E-communications**

99. The majority of online content has been updated to reflect changes brought about by the Gambling (Licensing and Advertising) Act 2014. The content outstanding is on target to be published for 1 November. The FAQ blog continues to be updated to address operator / applicant queries and has now received over 20,000 visits since launch three months ago.

## ANNEX A – COMPLEX CASES UPDATE

### GBGA Judicial Review

1. On 13 August the Commission and DCMS were served with a claim form for judicial review from the GBGA. The claim challenged the legality of certain sections of the Gambling (Licensing and Advertising) Act 2014 and some guidance and policy statements adopted by the Commission.
2. The GBGA sought declaratory relief that the new regime was unlawful, in that it was a disproportionate restriction on the freedom to provide services guaranteed by art 56 of the Treaty on the Functioning of the European Union. It further sought a supplementary declaration that the decision of the Secretary of State or the Commission to adopt the new regime and to refuse to adopt its passporting proposal was irrational.
3. The legislation was due to come into force on 1 October 2014. The substantive hearing therefore took place, on a highly expedited basis case, on 22 and 23 September. The issues for determination included:
  - a. whether the new regime served a legitimate objective
  - b. whether the new regime would be ineffective because it would lead to the growth of illicit trade
  - c. whether the new regime would prove to be unenforceable, despite the government's acknowledgement that, if and insofar as that proved to be the case, it would review the law and take steps to strengthen enforcement powers
  - d. whether the new regime was the least restrictive means for securing the legitimate objectives
  - e. whether the new regime was discriminatory as being contrary to the principle of equal treatment, given the claimant's assertion that the Commission intended to apply the same level of fees regardless
  - f. whether, under domestic law, DCMS's and the Commission's refusal to adopt the passporting proposal had been irrational.
4. To allow the Court sufficient time to reach its judgment, the Secretary of State took the decision, on the advice of the Commission, to delay implementation of the legislation until 1 November.
5. Judgment was handed down on 10 October and the GBGA's application was dismissed. In summary, Mr Justice Green concluded:
  - a. In introducing the new regime, Parliament had had perfectly legitimate objectives in mind. The documentary evidence from 2010 onwards recorded a strong and consistent justification based upon consumer protection and the protection of public order. Those were objectives the government and Parliament had been entitled to pursue. A regime which did no more than bring service providers within the confines of a consumer and public order oriented regime in the state that they targeted served entirely legitimate objectives (see [133], [134] of the judgment).
  - b. The claimant's line of reasoning for its contention that the new regime would have damaging unintended consequences for consumers, since it would encourage the development of an unregulated market by incentivising operators to offer gambling services into the UK without a licence and/or in

breach of the second defendant's regulatory controls, was unconvincing. It was premised upon a series of assumptions that were far from self-evident and seemed economically counter-intuitive (see [163] of the judgment).

- c. The claimant's submissions to the effect that the new regime would prove to be unenforceable would not be accepted. There was no evidence or reason to believe that there would be a major enforcement problem. Even if there were limitations in the enforcement regime, the government and Parliament had been entitled to take the view that the suite of enforcement powers available to the second defendant would be sufficient, at least in large measure, to meet the licensing objectives. Further, the government had acknowledged that, if and insofar as that proved not to be the case, it would review the law and take steps to strengthen enforcement powers (see [174] of the judgment).
  - d. The claimant's passporting proposal was ripe for bureaucracy, disagreement and delay. Parliament had been fully within its rights to adopt the stance it had in rejecting the passporting proposal. Further, Parliament had been entitled to find that the old regime had not been working and had given rise to risks which it had been entitled to address by moving to a point of consumption system. It was nothing to the point to say that the old regime was less restrictive (see [185], [186], [190] of the judgment).
  - e. The new regime was not discriminatory. First, there was no clear or convincing evidence that there would be any unequal treatment. Secondly, the submission that the second defendant intended to apply the same level of fees regardless was wrong. Thirdly, the new regime did allow for differences to be taken account of. Fourthly and most fundamentally, EU law made clear that there was no objection to the fact that different member states operated different regimes (see [192]-[196] of the judgment).
  - f. Even if the claimant's argument that the refusal to adopt the passporting proposal had been admissible, despite the fact that it was a challenge to contested legislative provisions and not any prior decision, the decision had not been irrational, and had been perfectly logical and reasonable (see [199] of the judgment).
6. The GBGA were ordered to pay the Commission's costs, in full, and 70% of DCMS's costs on the basis that DCMS had not succeeded on all of its grounds.

**[Exempt information under section 31 of the Freedom of Information Act]**

**[Exempt information under section 31 of the Freedom of Information Act]**

**[Exempt information under section 31 of the Freedom of Information Act]**

**[Exempt information under section 31 of the Freedom of Information Act]**

### **Operation Charger (Sittingbourne Greyhound Track)**

7. The Commission has now concluded several related licence reviews, which were commenced following suspicious betting patterns on two races at Sittingbourne in December 2013.
8. As part of wider industry learning we issued a press release about the case. Following that release the Commission received a letter from solicitors acting for one of the operators, Cearnsport, complaining about the impact the release would have on the operator's reputation and financial stability. In further correspondence, we advised the

operator to pursue any issues with the Greyhound Board of Great Britain and we have heard nothing further since that letter was sent.

9. Lessons learned from the recent case is in progress for wider understanding within the Commission that the case highlighted and also to take account of the pending media programme which will highlight perceived vulnerabilities in the Greyhound industry more widely. The lessons learned are expected to be available by mid-November 2014.

**[Exempt information under section 31 of the Freedom of Information Act]**

**[Exempt information under section 31 of the Freedom of Information Act]**

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**[Exempt information under section 30 of the Freedom of Information Act]**

**[Exempt information under section 30 of the Freedom of Information Act]**

**[Exempt information under section 31 of the Freedom of Information Act]**

## **Greene King**

10. The GAT hearing regarding Greene King's operating licence refusal has been conducted on 14 and 15 October with the judgment expected in a few weeks time.
11. The appeal relates to the refusal of operating licences for the provision of high stake and prize commercial bingo and gaming machines within their public houses. The applications were refused because the Regulatory Panel did not consider that granting them would be reasonably consistent with the pursuit of the statutory licensing objectives.
12. The Appellants rely on the fact that the Commission did not find them unfit as a gambling provider. However, the problem in this case was not the operator but the operation.

## **ANNEX B – Gaming Machines/Innovation Issues**

Current gaming machines/innovation issues include the following:

- An operator has attempted to introduce electronic 'bingo' games that we consider to be gaming machines (e.g. non-equal chance) because the operation of the bingo games is essentially based on roulette rather than genuinely being bingo. We have advised the operator to conclude matters.
- Roulette variant issue – the industry has developed roulette games that can breach maximum stake requirements by treating multiple spins of a roulette wheel as one 'game'. We have secured agreement that the 8,000 units in the market will be withdrawn by the end of November. The bulk of units have already been withdrawn. We will confirm at the end of this month that the most prominent manufacturer in this market is proceeding with this as planned.

**[Exempt information under section 43 of the Freedom of Information Act]**

**[Exempt information under section 43 of the Freedom of Information Act]**

## ANNEX C- Communications Report

### 1. Media

A total of 24 media calls were handled, with 18% concerning remote queries and a further 18% about problem gambling.

The Commission was mentioned in the media 74 times.

- Positive coverage included:
  - The Commission teaming up with Crimestoppers as part of a strategy to protect against match fixing impacting on British sports and the betting industry.
  - The launch of the Senet Group, a self regulatory body founded by Ladbrokes, William Hill, Corals and Paddy Power to promote responsible gambling standards in the betting industry made national news. The Campaign for Fairer Gambling called it a PR stunt and said if the Commission was fit for purpose there would be no need for the new watchdog. Much of the trade press carried our line welcoming the initiative and reiterating that we have been challenging operators to put social responsibility at the heart of what they do for some time.
  - The Commission and snooker authorities (WPBSA) launching an investigation into a match between Jamie Burnett and John Sutton following unusual betting patterns.
- Neutral coverage included:
  - There was wide trade coverage of the GBGAs challenge to the Gambling (Licensing and Advertising) Act. Coverage included both sides of the case being presented during the judicial review along with the judge's comments that he would not be able to make a judgement by the Act's original inception date of 1 October. Further trade coverage followed when it was announced that the implementation of the Act would be delayed by one month.
  - Coverage in Betting Business, Racing Post and Coinslot concerning the latest local authority underage test purchasing operation conducted in partnership with the Commission. 20 out of 40 tests allowed a person under the age of 18 to play on a gaming machine and leave the premises without being challenged. The message was put across that the latest test purchase results provide further evidence that controls need to be strengthened in key areas such as line of sight, premises layout and staff training.
- Negative coverage included
  - An Evening Standard story titled "Pull the plug on the bookies crack machines." It stated that "FOBTs are only allowed because of a loophole in a lax regulatory system overseen by a toothless Gambling Commission that has not revoked a single licence since it was established in 2007."
  - A Private Eye article about BetButler. In it they criticise the Commission for failing to spot trouble with the company despite one of Bet Butler's directors being fined and censured for his role in the Farepak scandal.

## 2. Website

During September the website had 63,363 user sessions, representing a 42.4% increase on the average last year (44,493 visits – 2013).

On average, visitors spent nearly three minutes on the site and looked at three pages per visit. Feedback showed that 43% of visitors gave positive feedback on the pages they commented on, 15% gave neutral feedback and 42% were unhappy. (from 323 respondents)

## 3. Social media

Of the 711 mentions of Gambling Commission in September, 24% were positive (showed us in a good light or reinforced our messages), 13% were negative and 63% were neutral.

Positive sentiment (24%) in July and August can be attributed to the following:

- News stories regarding the Commission's revocation of Bet Butler's licence
- News stories on the Commission's consultation on social responsibility

Negative sentiment (4%) for the same period can be attributed to the following:

- Twitter comments regarding the Commission's revocation of Bet Butler's licence
- Twitter comments regarding the creation of the Senet group and the Commission's lack of clout.

In September, 367 visits to our website came from Twitter, representing a 431% increase on the same period last year. We increased our Twitter follower numbers from 1199 to 1330 – an increase of 11%.

On LinkedIn we increased our company page followers from 1014 to 1078 – a rise of 6.3%.

## 4. Publications

- [Gambling advertising quick guide](#)
- [Licensing authority statistics - April 2009 - March 2014 - Word version \(1.8MB, 18 pages\)](#)
- [Licensing authority statistics - April 2009 - March 2014 - Excel version \(651KB\)](#)
- [Anti-money laundering: Suspicious activity reporting requirements for remote operators](#)
- Also [three e-bulletins](#) and one [licensing authority bulletin](#) were published.

## 5. Press releases

- [Revocation of operating licence – Bet Butler Limited](#)
- [Latest licensing authority statistics published](#)
- [Weaknesses persist in underage gambling controls](#)

## 6. Parliamentary questions

There were fifteen written parliamentary questions of direct relevance to the Commission over this period. Twelve of the questions came from Lord Mancroft concerning the implementation of the Gambling (Licensing and Advertising) Act 2014.

**To ask the Secretary of State for Culture, Media and Sport whether the research being conducted by Lincoln University on fixed odds betting terminals will assess the potentially addictive nature of those machines.**

The Responsible Gambling Trust (RGT) has commissioned a wide-ranging research programme into category B2 gaming machines which is due to be published in the autumn. This research will seek to understand what measures might limit harmful play without impacting on those who do not exhibit harmful behaviours and the RGT has commissioned the University of Lincoln to determine whether gambling at higher stakes is a risk factor for gambling-related harm and to explore the impact of higher stakes and prizes on players.

**To ask the Secretary of State for Culture, Media and Sport whether the research being conducted by Lincoln University on fixed odds betting terminals will help determine an appropriate stake level for those machines.**

The Responsible Gambling Trust (RGT) has commissioned a wide-ranging research programme into category B2 gaming machines which is due to be published in the autumn. This research will seek to understand what measures might limit harmful play without impacting on those who do not exhibit harmful behaviours and the RGT has commissioned the University of Lincoln to determine whether gambling at higher stakes is a risk factor for gambling-related harm and to explore the impact of higher stakes and prizes on players.

**To ask the Secretary of State for Culture, Media and Sport on what occasions Ministers from his Department have met (a) representatives of society lotteries and (b) representatives of Camelot or the National Lottery since December 2012.**

Details of ministerial meetings are published quarterly on the gov.uk website and are available at: <https://www.gov.uk/government/publications?keywords=&>

**To ask Her Majesty's Government when further guidance will be provided to online poker gambling companies and their software providers in respect of the latest licence conditions and codes of practice guidance relating to the Gambling (Licensing and Advertising) Act 2014, the sharing of information to prevent cheating, money laundering, crime and problem gambling, and the investigation of customer complaints.**

The Gambling Commission has no immediate plans to add to the guidance already given, but will add answers to any specific questions or points that may emerge in the Commission's Frequently Asked Questions blog.

**To ask Her Majesty's Government whether they will clarify which elements of the Remote Gambling and Software Technical Standards are considered mandatory; and whether they have received any communication from businesses about the clarity of the guidance relating to those Standards.**

The Remote Gambling and Software Technical Standards clearly differentiate between requirements which are mandatory and those provisions which are guidance. The Government has not received any communication from businesses about the guidance.

**To ask Her Majesty's Government why, in respect of the Remote Gambling and Software Technical Standards, concessions were granted on compliance times in relation to auto-play and clock display.**

The Gambling Commission has identified significant differences between its own auto-play requirements and those currently available to British consumers from operators based in other jurisdictions where they can currently offer gambling to the British market. The Commission is currently consulting on improvements to auto-play requirements and wanted to avoid unnecessary investment by operators to change their auto-play functionality whilst this is underway. There has been no concession in relation to the technical standard on clock display.

**To ask Her Majesty's Government what work has been done to ensure that new compliance rules relating to the Gambling Act 2005 and the Remote Gambling and Software Technical Standards do not prevent any software businesses from providing services to the gambling industry.**

The Commission has held a number of meetings with software suppliers and users to discuss matters such as the length of time for suppliers to obtain the necessary licences. On current plans the requirement for licensed remote gambling operators to source their gambling software from Commission licensed gambling software businesses has been deferred until 30 January 2015. In addition, the Commission has published an advice note titled 'What is gambling software?' The Commission has also demonstrated its awareness of the commercial implications of its requirements by its willingness to contemplate 'umbrella' licensing arrangements in some circumstances.

**To ask Her Majesty's Government whether, in the light of the release in July 2014 of the Gambling Commission's consultation on amendments to its statement of principles for licensing and enforcement policy, with a closing date of September 2014, they have given consideration to delaying the deadline for applications for gambling software licences pursuant to the Gambling (Licensing and Advertising) Act 2014 until the second quarter of 2015.**

The consultation on minor updates and amendments to the Commission's statement of principles for licensing and compliance ending on 30 September 2014, does not affect the timetable for applications for gambling software licences.

**To ask Her Majesty's Government whether the Gambling Commission will publish the reasoning behind each gambling software licence decision.**

The Gambling Commission does not publish the reasoning behind all licence decisions, only those where there is a public interest in doing so. There are no plans to change this process.

**To ask Her Majesty's Government whether companies providing sound effects, graphics and language translation services for use in the creation of gambling products require a licence.**

The Gambling Commission's advice note "What is gambling software?" explains that, "Where the third party is only providing part of a game, such as artwork, under the control and design specifications of Company Y, then this indicates Company Y is in control and is the entity to hold a gambling software licence whereas the third party does not" (para 4.13). This equally applies to those that provide other aspects of the overall game for example sound effects and language translation services.

**To ask Her Majesty's Government why intellectual property relating to gambling software, often owned by separate companies which in turn license that software, rather than by the direct software developers or gambling operators, remains a determinant of a gambling licence requirement.**

**To ask Her Majesty's Government why, in the light of the Gambling Commission's guidance, a software developer owning intellectual property in gambling software requires a licence if it amends the software, whereas a gambling operator owning the intellectual property in gambling software which sub-contracts the amendment of that software to another company does not.**

Intellectual property relating to gambling software is only one of the factors that are relevant to understanding where control of the product sits. There are also other factors that are relevant when considering who needs a gambling software licence for example who is responsible for the design and functionality of the software and what the contract says in terms of responsibilities and liabilities. One relevant activity caught by Section 41 of the Gambling Act 2005 is adaptation, and so the person who actually undertakes that adaptation will need to be licensed.

**To ask Her Majesty's Government what is their assessment of the Gambling Commission's guidance on licensing; and in particular whether they consider that it is clear in respect of who will need a licence and which activities will need to be licensed.**

The Gambling Commission is the expert body on gambling licensing and it is for the Commission to determine the best way to achieve the desired policy outcomes and what advice and guidance it is appropriate to offer the regulated industry.

**To ask Her Majesty's Government which provisions of the Gambling (Licensing and Advertising) Act 2014 enable the sharing of information received by the Gambling Commission with overseas regulators, where such information is not required for an overseas criminal investigation or overseas criminal proceedings.**

The Gambling (Licensing and Advertising) Act 2014 does not affect existing position in respect of the Gambling Commission's ability to share information with overseas regulators.

**To ask Her Majesty's Government what type of information the Gambling Commission intends to share with overseas regulators.**

The type of information that the Gambling Commission may share with overseas regulators in the course of carrying out its licensing and regulatory functions will depend on the circumstances. Of course, all information is shared subject to generally applicable legal requirements such as those arising under data protection law.

