

**Supplementary consultation
Placing digital adverts responsibly**

**Consultation
May 2016**

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1 Introduction

- 1.1 In September 2015, the Gambling Commission (the Commission) consulted on [Proposed amendments to licence conditions and codes of practice \(LCCP\) for all operators in relation to the prevention of crime associated with gambling](#). The consultation included a section seeking views on the principle of introducing new provisions to ensure that licensees take responsibility for ensuring that advertisements placed by themselves or others do not appear on websites providing unauthorised access to copyrighted content. After assessing views on this proposal, we concluded in our consultation response, [The prevention of crime associated with gambling: amendments to licence codes and conditions of practice \(LCCP\) for all operators](#) that we would take the proposal forward by introducing a new licence condition. Having established the principle for the new provision in the original consultation, we undertook to conduct a supplementary consultation on the specific wording of the new condition. This document fulfils that commitment.
- 1.2 This consultation is relevant to all licence holders who place digital advertisements themselves and/or via third parties, (including affiliates). It will also be relevant to those with an interest in digital marketing and copyright protection.
- 1.3 We aim to implement all changes to LCCP from this and from other consultations at the same time later in the year. This provision will come into effect for all relevant licensees in autumn 2016, incorporating any change to wording that we decide following this consultation. Later this year, we will publish on our website the revised LCCP and other relevant LCCP documents, such as sector-specific extracts of LCCP.
- 1.4 The closing date for responses to this consultation is 20 June 2016. Further details on how to respond are set out in Section 3.

2 Placing digital adverts responsibly

- 2.1 As explained in paragraph 1.1, we previously sought views on whether we should introduce new requirements for licensees to take more responsibility for ensuring that digital advertisements placed by them or their affiliates do not appear on websites providing unauthorised access to copyrighted content.
- 2.2 Although all respondents agreed in principle that licensees' adverts should not be appearing on websites providing unauthorised access to copyrighted content, opinion was divided about how to resolve the issue. Slightly more respondents favoured the introduction of an explicit requirement over an ordinary code. The full detail of the responses is contained in [The prevention of crime associated with gambling: amendments to licence conditions and codes of practice \(LCCP\) for all operators](#).
- 2.3 Respondents from within the gambling industry were concerned about how they might practically meet any new requirements. Some respondents argued that they have many affiliates placing such advertisements on their behalf, and monitoring them all would be very difficult. Others pointed out that, for example, the cost of commercial content verification software that might prevent a licensee from inadvertently placing an advert on a website providing unauthorised access to copyrighted content might be prohibitive. Many felt that measures proposed, such as checking adverts placed against the Infringing Website List (IWL) were reactive and would not prevent, for example, an affiliate from placing such adverts in the first instance.

- 2.4** We considered the responses and the current situation. We have already brought this issue to the attention of major gambling operators. However, advertisements for gambling operators continue to appear on websites providing unauthorised access to copyrighted content. The reactive measures we currently employ are not sustainable for us in the long-term. Nor are those measures having the effect we would like - we have seen adverts from operators we have already contacted reappearing on websites providing unauthorised access to copyrighted content. This demonstrates the need for additional controls. Although adverts placed on such websites are not criminal in themselves, they contribute to funding the websites, and are therefore associating gambling with crime. They also frequently appear next to other adverts and links containing malware or viruses.
- 2.5** Having established the need for and the principle behind this issue, we therefore consider it appropriate to introduce a new licence condition, which will put a clear onus on licensees to address the issue. Given the serious nature of this issue we did not consider that an ordinary code would give sufficient weighting to our expectations of licensees. Nor was a social responsibility code deemed appropriate as this issue is focused around keeping crime out of gambling rather than on protecting consumers.
- 2.6** We note that respondents from within the industry had concerns that new requirements should remain proportionate, and that we are clear about our expectations. This consultation on the wording of the new licence condition aims to ensure that this is the case.
- 2.7** Therefore, **we are now consulting on the wording of the new draft licence condition.** The new provision will be implemented in autumn 2016, as outlined in paragraph 1.3.
- 2.8** The draft licence condition requires licensees to ensure that their adverts do not appear on websites providing unauthorised access to copyrighted content. We have not specified any particular measures that licensees should take to prevent this within the draft provision because these will depend on the size/type of a licensee's business model. Such measures might include (but are not limited to):
- access to and proactive use of the Police Intellectual Property Crime Unit's (PIPCU) Infringing Website List (IWL)
 - clear messaging/guidance to affiliates
 - tightening contractual terms and conditions with affiliates to make very clear that adverts must not appear on illegal sites and ensuring robust action can be taken when breaches are found to have occurred
 - proactive monitoring of advert placement through the use of commercial content verification software.
- 2.9** We will consider how best to provide advice to licensees on this area. This may include working with the Federation Against Copyright Theft (FACT), the British Recorded Music Industry Ltd (BPI) and the City of London Police Intellectual Property Crime Unit to develop appropriate guidance.
- 2.10** Please note that we are consulting only on the wording of the draft licence condition, having already established the principle in our previous consultation.

**Proposed new licence condition
Responsible placement of digital adverts
All licences**

1 Licensees must ensure that they, or third parties [including affiliates] with whom they contract for the provision of any aspect of the Licensee's business related to the licensed activities, do not place digital advertisements on websites providing unauthorised access to copyrighted content.

Consultation questions

Q1. Do you have any comments on the proposed wording of the new licence condition?

Q2 Do you have any other comments?

3 Responding to this consultation

3.1 The closing date for responses to this consultation is 20 June 2016.

3.2 The Commission is inviting comments on these proposals and would prefer respondents to complete the responses template provided on our website and send it by email to: consultation@gamblingcommission.gov.uk

3.3 Further information and assistance is available from the Commission's consultation co-ordinator at the same email address. If you are not able to use the template provided, please indicate clearly the questions or issues to which your comments refer

3.4 Alternatively, responses can be sent by post to:
Consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

3.5 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who that organisation represents. If responding as an individual, please mention your own interest.

3.6 Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

- 3.7** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk. The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.
- 3.8** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.

Gambling Commission May 2016

Keeping gambling fair and safe for all

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