

TGP Europe Limited and Fesuge Limited

Public statement

**Failures in general 'fair and open' provisions
Compliance with terms (consumer rights)
Marketing – rewards and bonuses**

January 2017

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

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1. Introduction

This case concerns TGP Europe Limited (TGP) and Fesuge Limited (Fesuge) (part of a single group of companies) who are based in the Isle of Man (IOM). TGP and Fesuge are currently licensed by the IOM and the Gambling Commission. The Commission has worked closely with the IOM regulator and Competition and Markets Authority (CMA) in relation to this matter. Both TGP and Fesuge are the holders of combined remote operating licences issued by the Commission.

During the Cheltenham festival (15 - 18 March 2016), TGP and Fesuge promoted bonus offers on four remote gambling brands: FUN88, TLCBet, 12Bet and 138.com (138.com operated by Fesuge). The offers were subject to their own specific terms and conditions (terms) as well as TGP and Fesuge's general terms. The brands offered bonuses for new sign ups and for existing customers. None of the brands allowed customers to have multiple accounts.

TGP and Fesuge assessed that a large number of bets had been placed in contravention of clause 15.2 of their terms. Clause 15.2 provides that:

"In the event that we suspect that you or any other Player is abusing or attempting to abuse a bonus or other promotion, or is likely to benefit through such abuse we may block, deny or suspend, withhold or cancel the account of any such player, including your account if we determine that you are involved in such."

TGP and Fesuge took the decision to suspend over 5000 accounts. They notified the Commission, via a key event submission, of their concerns relating to suspected bonus abuse and that they had suspended players accounts. As a result the Commission and Independent Betting Adjudication Service (IBAS) received a large number of complaints from members of the public. Over 1,000 cases were referred to the IBAS website by approximately 800 separate customers.

TGP and Fesuge acknowledge that their handling of the case has been inefficient. They accept that their terms were unclear and ambiguous and did not provide a clear definition of bonus abuse. They cooperated with the Commission and took advice throughout the investigation. They identified serious shortcomings in their original assessment and acted promptly, after the initial suspension on withdrawals, and began to release funds to affected players on a case-by-case basis.

TGP and Fesuge did not financially benefit from the non-compliance. Stakes to all customers affected, whether or not they won or lost their subsequent bets, were refunded. The breach resulted in a review of their business that led to a number of changes being implemented by them. They state that the review of their business has cost them a substantial amount of money.

In relation to the complaints made to IBAS, the majority were settled prior to the cases going to adjudication. IBAS adjudicated on a small number of outstanding cases, of which the panel accepted that TGP and Fesuge had acted reasonably in connection with the majority of cases.

From the outset, TGP and Fesuge expressed that they would like to conclude the matter by way of a voluntary settlement, pre-empting the need for the Commission to commence a formal licence review. In accordance with our [Statement of Principles for Licensing and Regulation](#), the Commission has accepted a voluntary settlement proposal from TGP and Fesuge, which has been set out in detail in Section 4.

2. Identified issues

TGP and Fesuge acknowledge that their general terms need to be more detailed and less ambiguous. They have taken steps to improve the clarity of their terms and what is considered as bonus abuse. They have subsequently however engaged with external solicitors to undertake a full review of their terms specifically to ensure compliance with the Consumer Rights Act 2015 (CRA).

They accept that they were inefficient in dealing with the sheer volume of new accounts and that the anti-fraud tools that were in place failed to identify, at the point of registration, people opening multiple accounts. This resulted in them being reactionary as opposed to taking a proactive approach. They acknowledge that they used poor judgement when using the data available to them as an indicator for bonus abuse. They accept that including players with only this indicator in their original selection of bonus abusers was ill conceived. The processes and procedures used, as an indicator for bonus abuse, were inadequate and did not sufficiently satisfy their duty to comply with the licensing objectives, to ensure that gambling is conducted in a fair and open way.

TGP and Fesuge accept that they did not make it clear to customers, and had not included a specific provision in their terms, that an existing customer could not sign up and take advantage of the bonuses for new sign ups. Some new customers were found to have set up multiple accounts in order to avail themselves of the bonus several times over. Some existing customers also tried to avail of the new sign up bonus by setting up new accounts in different names. None of the brands accept customers having multiple accounts.

3. Commission's findings

A meeting was held with TGP and Fesuge in order to discuss the Commission's concerns. After considering the evidence, officials found that TGP and Fesuge had breached licence condition 7.1.1B, General 'fair and open' provisions as well as Social Responsibility (SR) code provision 5.1.1.1a (Rewards and bonuses).

Paragraph 1 of licence condition 7.1.1B provides that: *"Licensees must satisfy themselves that none of the terms on which gambling is offered are unfair terms within the meaning of the Consumer Rights Act 2015 [CRA] and must comply with those terms"*. Section 62(4) of the CRA provides that, *"A term is unfair if contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations under the contract to the detriment of the consumer"*.

Licensees must satisfy themselves that none of the terms on which gambling is offered are unfair terms within the meaning of the CRA. The Commission concluded that TGP and Fesuge failed to satisfy itself as to the fairness of clause 15.2 of its terms, which gave TGP and Fesuge a unilateral right to end the contract with its customers on grounds which were not clearly spelt out. There was also no definition of bonus abuse within the terms.

SR code provision 5.1.1.1a states: *"If a licensee makes available to any customer or potential customer any incentive or reward scheme or other arrangements under which the customer may receive money, goods, services or any other advantage (including the discharge in whole or in part of any liability of his) (the benefit) the scheme must be designed to operate, and be operated in such a way that the circumstances in which, and conditions subject to which, the benefit is available are clearly set out and readily accessible to the customers to whom it offered"*.

Failure to implement terms within the meaning of the Consumer Rights Act 2015

TGP and Fesuge failed to satisfy themselves that none of the terms on which gambling was offered through the bonus promotions at the Cheltenham festival were unfair terms within the meaning of the CRA.

Questions for operators to consider:

- Are you satisfied that none of the terms on which gambling is offered are unfair terms within the meaning of the Consumer Rights Act 2015?
- Once you have satisfied yourself that none of the terms are unfair, make sure that you comply with those terms.
- Ensure that an accurate summary of the contractual terms on which gambling is offered is available to customers and is set out in plain and intelligible language.

Failure to market rewards and bonuses in compliance with Social Responsibility code provision 5.1.1.1a

TGP and Fesuge accept that they had not made plain in their terms (general or specific) that a person utilising the bonus promotion in relation to one offer would not be entitled to use it in relation to another offer being promoted by TGP or Fesuge on the same brand.

Questions for operators to consider:

- Are the circumstances in which, and conditions subject to which, the benefit is available clearly set out and readily accessible to the customers to whom it is offered?
- Is your position on bonus abuse, and how it will be applied, clear and transparent to consumers?

4. Voluntary settlement

TGP and Fesuge accept that their Terms were unfair and did not provide a clear definition of bonus abuse. They also accept that their Terms were unclear in respect of the bonus promotion that they offered during the Cheltenham festival.

TGP and Fesuge proposed a voluntary settlement, which has been accepted by the Commission, comprising of the following elements:

- a) agreement to the publication of a public statement outlining failings by TGP for industry and wider learning
- b) changes to its Terms in order to address the failings identified, including providing clearer information about the definition of “bonus abuse”
- c) the implementation of a wide package of measures to improve compliance in this area including, but not limited to:
 - engaging a firm of solicitors to undertake a full review of terms to ensure compliance with the Consumer Rights Act 2015
 - appointing an Operations Manager based in the IOM to oversee changes to its processes and controls
 - improving anti-fraud processes and staff training
 - changes in their business structures
- d) agreement to contribute to the Commission’s costs of investigating this matter in the sum of £7,000.

TGP has stated that they did not financially benefit from the failures identified. The breach resulted in a review of their business which they state, has to date, cost them a substantial amount of money.

5. Conclusion

We consider that this case provides valuable learning for remote and non-remote operators. Operators offering bonus promotions in the normal course of business and at major events must ensure that their terms and conditions comply with the requirements of the CRA and the LCCP. They should take a proactive approach in assessing their policies and procedures to ensure compliance.

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Keeping gambling fair and safe for all

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