

PUBLIC STATEMENT

Rank Group: failures in the area of anti-money laundering and social responsibility

Grosvenor Casinos Ltd
Rank Digital Gaming (Alderney) Ltd (trading as www.meccabingo.com)

Introduction

The Gambling Commission (the Commission) has recently completed an investigation of weaknesses in anti-money laundering (AML) controls at Grosvenor Casinos Ltd (Grosvenor). In the late stages of that investigation, the full extent of weaknesses in AML and social responsibility controls emerged in relation to customer of another Rank Group Plc (Rank Group) company, Rank Digital (Alderney) Ltd (Rank Digital) who recently pleaded guilty to charges of defrauding her employers of a six-figure sum. In the second case, Rank Group acknowledged serious shortcomings at an early stage and proposed a voluntary settlement pre-empting the need for a full investigation or formal licence review. This public statement sets out the background to both cases, the learning for the industry and what remedial action Rank Group has taken.

Voluntary Settlement

Following a police investigation relating to an individual customer, Mr Da Feng Ding, the Gambling Commission (the Commission) became aware of apparent weaknesses in anti-money laundering (AML) controls put in place by Grosvenor Casinos Ltd (Grosvenor) at one of its casinos. As a result, the Commission investigated Grosvenor's handling of its relationship with Mr Ding and one of his associates. This investigation identified serious shortcomings in the way in which Grosvenor managed its business relationship with Mr Ding and the associate. In the course of the investigation, it also became clear that some aspects of Grosvenor's approach to AML controls more recently were based on a misunderstanding of legal duties set out in the Proceeds of Crime Act 2002 (PoCA) and the Money Laundering Regulations 2007 (the Regulations).

Grosvenor has accepted that there were significant shortcomings in the way it handled the business relationship with Mr Ding.

In the later stages of that investigation, an unrelated investigation of Rank Digital's relationship with an online customer (who is currently awaiting sentence and is referred to in this statement as Customer B) suggested that the problems identified in the case of the Mr Ding were not isolated to that part of Rank Group's business. Rank Group acknowledged that it had not adequately managed risks to the licensing objectives of keeping crime out of gambling and ensuring that gambling is provided in a socially responsible way.

As a result, Rank Group proposed a voluntary settlement accepted by the Commission comprising the following elements:

- The establishment of a critical review of AML and Social Responsibility (SR) controls across its terrestrial and remote businesses, led by an external party

- The publication of this public statement to draw the issues to the attention of the wider industry to provide an opportunity to others to improve
- An agreement to disseminate learning from the shortcomings identified through seminars or other forms of direct engagement with other gambling operators. The National Casino Forum has agreed to help facilitate the sharing of the casino-related learning
- Rank Group wished to demonstrate that it has not profited as a result of the compliance failures identified in both cases. It has therefore taken a total of £950,000 out of the business to apply to agreed socially responsible purposes

While Rank Group (Grosvenor Casinos) co-operated fully in the case of Mr Ding, at the outset of our investigation it took what turned out to be an overly-optimistic view of the effectiveness of its policies and procedures in relation to money laundering, declaring them to be “exemplary”. This led to some initial difficulty on the part of Grosvenor to engage fully with the issues raised by the Commission. Operators need to take a critical approach to assessing their systems to avoid generating a false sense of security.

In the case of Customer B, Rank Group acknowledged serious failings at an early stage and proposed an acceptable settlement of the case addressing those failings which pre-empted the need for a full investigation or a formal licence review.

The Commission will monitor Rank Group’s progress in delivering the terms of this settlement.

Background: the Licensing Objectives

Under the Gambling Act 2005 (the Act) the Commission is required to permit gambling in so far as reasonably consistent with the following licensing objectives:

- to keep crime out of gambling
- to ensure that gambling is conducted fairly and openly
- to protect children and other vulnerable people from being harmed or exploited by gambling.

Keeping crime out of gambling

One of the key aspects of keeping crime out of gambling is the prevention of money laundering. Money laundering is defined in section 340 of PoCA. It includes any activity concerning the proceeds of any crime. It can cover, for example, the “washing” of funds – that is, using a series of transactions to make illegitimate funds appear legitimate – and also criminal spend, where the aim of the transaction is not necessarily concealment or conversion. Experience from the Commission’s growing body of casework in this area suggests that this is a point that is often misunderstood by gambling operators.

If gambling businesses handle any proceeds of crime they may commit one of the principal money laundering offences under PoCA. However, a defence may be provided if an officer nominated under PoCA (commonly known as the money laundering reporting officer or MLRO, but referred to in this statement as the ‘nominated officer’) makes a report to an appropriate law enforcement agency, usually the National Crime Agency. This ‘reporting defence’ includes a statutory mechanism which allows the appropriate law enforcement agency to either agree to the transaction going ahead (to provide consent), or to prevent it.

Under the terms of PoCA the reporting defence is only available if employees make a report to the nominated officer:

- where they know, or
- where they suspect, or
- where they have reasonable grounds for knowing or suspecting, that a person is engaged in money laundering.

Gambling operators outside the regulated sector (which, in the gambling industry, currently includes non-remote and remote casinos) are not obliged to appoint a nominated officer to receive internal reports relating to money laundering. The Commission, however, advises operators to do so as this will help them meet their obligations under PoCA more effectively¹. At the time of the events concerned, Rank Group had a single anti-money laundering policy and a single nominated officer for all parts of its business.

While all gambling businesses are bound by the terms of PoCA, casinos are subject to more detailed rules set out in the Money Laundering Regulations 2007 (the Regulations). The Regulations require companies which run casinos to have policies and procedures in place in relation to risk assessment and management. The risk-based approach involves a number of discrete steps in assessing the most proportionate way to identify and mitigate the money laundering risks faced by the company. These steps require the company to:

- identify the money laundering risks that are relevant to the company
- design and implement policies and procedures to manage and mitigate these assessed risks
- monitor the effective operation of these controls, and
- record what has been done, and why.

A risk-based approach focuses the effort where it is most needed and will have most impact. It requires the full commitment and support of senior management, and the active co-operation of all employees.

The Regulations state that companies which run casinos must:

- identify the customer and verify the customer's identity on the basis of documents, data or information obtained from a reliable and independent source²
- undertake customer due diligence when forming a business relationship or when a customer reaches the applicable threshold of purchasing or exchanging casino chips with a total of more than €2,000 or pay more than €2,000 for the use of gaming machines in a 24 hour period³
- undertake more thorough checks, referred to as "enhanced customer due diligence and enhanced ongoing monitoring" (usually shortened as "enhanced due diligence"), in any situation which by its nature can present a higher risk of money laundering⁴
- undertake ongoing monitoring of customers, which means scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of the customer's funds) to ensure that the transactions are consistent with the company's knowledge of the customer, his business and risk profile⁵
- keep the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date⁶

¹ See "Duties and responsibilities under the Proceeds of Crime Act 2002 Advice to operators (excluding casino operators) Second edition September 2014" available online at www.gamblingcommission.gov.uk/pdf/Duties-and-responsibilities-under-the-proceeds-of-crime-act-2002---advice-to-operators.pdf

² Regulation 5

³ Regulation 10

⁴ Regulation 14

⁵ Regulation 8(2)(a)

⁶ Regulation 8(2)(b)

- keep supporting records including those in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring for a period of five years⁷
- terminate any existing business relationship where a company is unable to apply customer due diligence measures in accordance with the Regulations⁸
- establish and maintain appropriate and risk-sensitive policies and procedures relating to:
 - customer due diligence measures and ongoing monitoring
 - reporting
 - record-keeping
 - internal control
 - risk assessment and management
 - the monitoring and management of compliance with, and the internal communication of such policies and procedures
 in order to prevent activities relating to money laundering⁹.

Background: Social Responsibility

A key aspect of the licensing objective of protecting children and other vulnerable people from being harmed or exploited by gambling are measures to ensure that operators monitor customers for signs that they may be problem gamblers. The Commission has published social responsibility code provisions, compliance with which is a condition of licences¹⁰. The social responsibility code states that operators must put into effect policies and procedures for customer interaction where they have concerns that a customer's behaviour may indicate problem gambling¹¹. Such policies must include the types of behaviour that will be logged and reported and the circumstances in which consideration should be given to refusing service to customers.

During the period in question, Rank Group had a single responsible gambling policy which covered both its casino and online businesses. The policy includes triggers for interacting with customers and emphasises the importance of making sure that information known about customers is recorded.

Summary of circumstances: the casino customer

Mr Ding was recently sentenced to 4 years imprisonment for money laundering offences under PoCA. He gambled with very significant amounts of cash over a period of approximately three years, ultimately losing a substantial six-figure sum at one Grosvenor casino. He was likely to have been that particular casino's most commercially valuable customer during the period in question. During that period there is no evidence that the customer had a legitimate source of income.

Grosvenor has been unable to demonstrate to the Commission that the due diligence efforts to establish and verify Mr Ding's identity and the legitimacy of his source of funds were adequate. The Commission has concluded that Grosvenor's actions in relation to the customer fell considerably short of the standards set by both the law in relation to money laundering and by the obligations contained in the Gambling Act 2005 to prevent crime being associated with gambling. Throughout the period in question, Grosvenor had reasonable grounds and numerous opportunities to review its

⁷ Regulation 19

⁸ Regulation 11

⁹ Regulation 20

¹⁰ Available online at: www.gamblingcommission.gov.uk/pdf/Latest-LCCP-and-Extracts/Licence-conditions-and-codes-of-practice.pdf

¹¹ Social responsibility code provision 3.4.1 (Customer Interaction)

business relationship with the customer and to report suspicions relating to money laundering to the relevant law enforcement authorities. Those opportunities were, on the whole, not taken.

In addition, although Mr Ding exceeded the trigger points for interaction under Grosvenor's responsible gambling policies, there is no record of any such interaction having taken place. The customer ultimately self-excluded from Grosvenor casinos in 2011 citing a need to control his gambling.

Grosvenor's relationship with the casino customer during the period 2007-2011

Mr Ding first became a member of a Grosvenor casino in late November 2007, but was not recorded to have gambled until August 2008. As noted above, the Regulations, which came into force on 5 December 2007, state that casinos must establish and verify a customer's identity on the basis of documents, data or information obtained from a reliable and independent source. Grosvenor accepted a non-official form of identification when the customer first became a member and did not meet the requirements set out in the Regulations until 11 June 2011, when the customer showed staff his driving licence.

At an early stage of Grosvenor's relationship with Mr Ding, staff recorded that he claimed to own several restaurants. Grosvenor has been unable to provide any evidence of steps taken to verify this information, although such verification should have been readily available if the information had been true. The subsequent police investigation has established that it was not true.

In September 2008, staff at Grosvenor identified the need to obtain further identification from Mr Ding as he had gambled with a significant amount of cash (over £150,000) in less than a month, exceeding the trigger points for customer interaction set in Grosvenor's own policies and procedures. However, when the customer was asked to provide additional identification he stopped visiting the casino for several days. Grosvenor staff took appropriate action by recording the suspicious circumstances in which the customer had stopped visiting the casino in an internal suspicious activity report that should have been referred to the company's nominated officer. Due to an administrative error, however, this report was not sent to the nominated officer until several months later.

Mr Ding returned to the Grosvenor casino in mid-October 2008, approximately a month after staff had recorded their suspicions about the fact that he had stopped visiting the casino. However, the previous request for identification was not followed up and the customer resumed gambling with considerable sums of cash without steps being taken to establish and verify his identity or if there was a legitimate source for the funds he was spending. Grosvenor has been unable to provide any evidence that it reviewed the business relationship with the customer with a view to either obtaining independent and reliable information about his circumstances or, if that was not possible, terminating its business relationship with him. In fact there is no record of any further attempts made to establish and verify whether the customer had a legitimate source of funds throughout the remainder of Grosvenor's relationship with the customer.

In February 2009, an internal audit of the casino found that the internal suspicious activity report produced in September 2008 had not been sent to the nominated officer. Although the report was then sent to the nominated officer, the information it contained does not appear to have been checked and as a result the subsequent report to a law enforcement agency stated, inaccurately, that Mr Ding had stopped visiting the casino. In fact, during the time that elapsed between the suspicion being first recorded and a report made to the relevant law enforcement agency, the customer had lost over £100,000.

In November 2010, staff at the casino completed a further internal suspicious activity report in relation to Mr Ding. The report noted that the customer had exchanged over £15,000 in Northern Irish bank notes. This was something that, in the absence of plausible explanations (of which there were none recorded), ought to have given rise to suspicion on the part of Grosvenor staff. The report should

have been forwarded to the nominated officer to decide whether to make a submission to the appropriate law enforcement agency. There is no evidence that this happened.

In April 2011, the police provided staff with information which meant that it would have been reasonable to have been suspicious that transactions with the customer would be likely to involve the proceeds of crime. Grosvenor has been able to provide only very limited and partial records from the time relating to this matter, and then only after unusual efforts were made to locate the relevant material to satisfy requests from the Commission. This reflects standards of record-keeping that did not meet the requirements of the Regulations and which fell some way short of Grosvenor's own policies and procedures.

In September 2011, Mr Ding self-excluded from Grosvenor casinos. Several days later, staff recorded that an associate of the customer may have been gambling with the customer's money. Although a suspicious activity report was submitted to the appropriate law enforcement agency, Grosvenor continued to do business with the associate of the customer. Grosvenor informed the Commission that this decision was made on the grounds that to have terminated the business relationship would have risked "tipping off" the customer by making him aware that he was under police investigation. The Commission considers that this indicates a misunderstanding of the legal duties involved. Grosvenor had focused only on the risk of committing a "tipping off" offence under section 333 of PoCA. Staff had not considered that continuing the business relationship exposed Grosvenor to a risk of committing substantive money laundering offences under PoCA as a result of staff handling money which they suspected or had reasonable grounds to suspect to be the proceeds of crime. In the Commission's view, there is a risk that staff at companies across the gambling industry may be placing too much emphasis on "tipping off" as a justification for maintaining commercially valuable business relationships with customers whom they suspect may be spending the proceeds of crime.

In November 2011, Grosvenor submitted a further suspicious activity report to a law enforcement agency about the associate, but there is no evidence that further due diligence was undertaken on him or that consideration was given to terminating the business relationship.

More recent concerns relating to anti-money laundering controls (2012-present)

In the course of the Commission's investigation of this matter, it became clear that there were problems relating to Grosvenor's more recent approach to managing risks relating to money laundering. In seeking to reassure the Commission that its systems had significantly changed since the events investigated, Grosvenor provided several internal suspicious activity reports relating to customers who had been recorded as having used Scottish or Northern Irish bank notes. However, although information had been disclosed to the appropriate law enforcement agency, suggesting that Grosvenor was suspicious of these transactions, it had not followed up on that suspicion in order to manage the risk of committing money laundering offences. Grosvenor should have either undertaken further due diligence on the customers concerned in order to establish whether there was a reasonable explanation for the use of the notes in question or, if that was not possible, terminated the business relationship with the customers.

As noted above, the Regulations state that companies must establish and maintain appropriate policies and procedures relating to the assessment and management of risk across their business. In the course of the Commission's investigation it became clear that Grosvenor did not have, and had not had for a significant period of time, a system in place to undertake risk assessments at a premises level. Grosvenor has agreed to put such a system in place and the Commission will monitor progress in this area.

Summary of circumstances: Customer B

Customer B recently pleaded guilty to charges of defrauding a six-figure sum from two of her employers and is currently awaiting sentencing. She was a customer of Rank Digital between November 2011 and her arrest in December 2014. During the early stages of that period, her spending was relatively low. However, in May 2012 her monthly deposits increased to over £5,000 per month, and remained above, and on many occasions significantly above, that level until she was arrested. For example, her monthly deposit in June 2014, shortly before Rank Group first noted that it had not established the source of the funds the online customer was using to gamble, was nearly £50,000.

Customer B was identified by Rank Digital as a commercially valuable customer and they cultivated the relationship with her accordingly, taking her on a trip to Las Vegas in October 2013 and on a cruise in November 2014. Rank Group has acknowledged that its responsible gambling and AML policies, both of which emphasise the importance of knowing your customer and keeping records, were not followed. Rank Group did not have any information about the source of the money the online customer was spending and did not identify that this was an issue until July 2014.

Rank Group has accepted that it did not follow its own responsible gambling or AML policies and procedures in relation to the online customer.

Essential questions for all gambling companies to ask themselves

Do you know where the money is coming from?

Where a customer declines to provide information, is evasive in response to reasonable requests or provides inaccurate information that in itself may potentially give rise to suspicion.

By any measure, Mr Ding's customer activity was unusual, or at least ought to have appeared so to Grosvenor staff. He was likely to have been the casino's most significant customer during the period. His drop exceeded the average amount gambled by customers at that casino by a factor of 100. For extended periods he attended nearly every day, often from very early in the morning. He gambled large amounts of cash, including significant volumes of Northern Irish and Scottish banknotes. Even if his claims of owning several restaurants had been true, his behaviour and gambling patterns ought to have provoked curiosity about whether he had a legitimate source of funds.

In the event, however, Grosvenor's enquiries about Mr Ding's identity and source of funds were weak and staff too easily satisfied. Staff at the casino did not ask the customer to provide any documentation to confirm his claims, despite the significant risk factors involved and the very significant amounts of cash he was spending. In many circumstances, the most effective way of undertaking such checks would be to ask the customer to provide information. In this case, Grosvenor might have requested a business card (a method which was in fact suggested in its own policies) or made basic enquiries about which restaurants the customer owned.

Similarly, Customer B's spending with Rank Digital was of a level which should have led to questions being asked about how she could afford to lose such significant amounts. There is no evidence that the online customer gave an inaccurate account of how she could afford to sustain such significant losses; she simply was not asked.

How frequently are you asking questions about established customers?

As Rank Group now recognises, the business relationship with both Mr Ding and Customer B should have been reviewed and terminated, and opportunities to do so were missed.

Once Mr Ding had passed the initial entry checks, very little effort was made to keep the business relationship under review, despite the increasing scale of his gambling. Even when suspicion was aroused as a result of his ceasing to visit the casino for a short period after being asked for identification, no attempt appears to have been made to follow up on that suspicion when the customer returned. As noted above, until shortly before the customer self-excluded, Grosvenor had not seen any reliable and independent information confirming and verifying his identity. There is also no evidence that Grosvenor adequately scrutinised the customer's source of funds.

Rank Digital did not ask Customer B any direct questions about her source of funds for approximately three years, during which time she spent a six-figure sum.

Are you submitting information about suspicious transactions to law enforcement agencies as only one aspect of effectively managing the legal, regulatory and reputational risks that money laundering poses to your company, or on the basis that it provides 'cover' to continue with a business relationship?

In the course of the Commission's investigation in relation to Mr Ding, staff at Grosvenor indicated that they understood that providing information to an appropriate law enforcement agency provides 'cover' for the casino to continue with a business relationship, unless advised by a law enforcement agency that it should take action. The Commission considers this to be a misunderstanding of the range of legal duties imposed on operators. Operators have a duty to disclose information when they know or suspect that another person is engaged in money laundering, which includes spending of the proceeds of crime, and makes it a criminal offence to fail to make such a disclosure. A report made after money laundering has already taken place will only be a legal defence if there was a "reasonable excuse" for failing to make a report before the money laundering took place.

The Commission has published its view that the reporting defence is not intended to be used repeatedly in relation to the same customer¹². Where patterns of gambling lead to an increasing level of suspicion of money laundering, or even to actual knowledge of money laundering, operators should consider the risk of committing criminal offences relating to receiving the proceeds of crime. Therefore, where an operator suspects that one of its customers is spending the proceeds of crime, as well as making a disclosure to the relevant law enforcement agency, it **must** consider whether continuing with a business relationship could put them at risk of committing offences under PoCA. It is now clear that Customer B was stealing substantial amounts of money from her employers during the period in which her spending with Rank Digital should have given rise to questions. It is possible that, if Rank Digital had asked questions about the source of funds she was spending sooner, this would have led to a disclosure which may have to her crimes being investigated sooner.

Are you focusing on the risk of committing the criminal offence of "tipping off" at the expense of the risks of committing criminal offences by accepting money where you have knowledge or suspicion of money laundering?

In the case of Mr Ding, the Commission was concerned that Grosvenor's staff referred to the risk of "tipping off" the customer as an explanation for continuing with the business relationship after suspicion about transactions had been reported. Even more concerning was the fact that staff had failed to take any action, other than making a report to the relevant law enforcement agency, when an associate of Mr Ding's started spending money which was suspected to be the customer's on the grounds that enquiries made to the associate could have tipped off the customer to the fact that he was under police investigation.

¹² www.gamblingcommission.gov.uk/pdf/Prevention%20of%20money%20laundering%20and%20combating%20the%20financing%20of%20terrorism%20-%20July%202013.pdf

The Commission does not consider that making reasonable, tactful enquiries to the associate about the source of his funds would have risked tipping Mr Ding off to the fact that disclosures had been made about him. The Commission is concerned that there is an over-emphasis on the risk of “tipping off” offences, at the expense of considerations relating to the potential criminal offence of accepting the proceeds of crime when there is knowledge or suspicion that the transaction could involve the proceeds of crime, or where there are reasonable grounds to be suspicious. This can lead a company to consider that even making the kinds of reasonable enquiries to customers which should be routinely undertaken could amount to tipping a customer off. Indeed, this view seems to confirm that companies consider asking a customer to provide information about their source of funds to be an exceptional action which would make a customer aware that something was amiss. Gambling companies should be aware that the Commission published two letters containing information about the issue of “tipping off” on its website in 2013¹³.

Do you take good records and keep them for at least five years?

Throughout the course of the Commission’s investigation in relation to Mr Ding, Grosvenor has found it very difficult to locate records from the time relating to events and decisions that were taken. This has made it much harder for the business to give a convincing account of its actions. More importantly, it is very hard to see how the senior leadership at Grosvenor could exercise effective oversight of the business in the absence of such records. It should be noted that, as well as its being a requirement of the Regulations, Grosvenor’s own policies place a great deal of emphasis on the importance of effective record keeping. In the event, that element of its procedures was not delivered.

Rank Digital was unable to provide records in relation to interactions with Customer B. For example, it was stated that Rank Digital staff believed that her source of funds was “family money”. However, in the absence of records it is not possible to establish the basis of that belief.

Conclusion

The cases outlined provide valuable learning for gambling operators of all sizes and across all sectors. All operators should review the conditions of their licences in light of these cases and take a critical approach to assessing their policies and procedures, in particular to ensure they are being followed by staff and remain fit for purpose.

7 September 2015

¹³ Letter to [Association of British Bookmakers](#) (July 2013) and the [Remote Gambling Association](#) (August 2013).