GAMBLING COMMISSION

Summary of responses to the Gambling Commission's fees discussion paper

Responses
December 2015

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1 Introduction

1.1 On 1 September 2015 the Commission published a discussion paper to explain the approach to recovering costs through licence fees, the Commission's current thinking on how the fees structure could be improved, and the implications of the Gambling (Licensing and Advertising) Act 2014 on costs, income and therefore the fees needed to recover those costs. Stakeholders were invited to comment on the content of the paper or provide any other suggestions or views that they wished to raise.

1.2 This document provides a summary of stakeholders' responses to the discussion paper, and the Commission's position in consideration of those responses is also outlined.

2 Background

2.1 The fees discussion paper was published on 1 September 2015 with the discussion exercise ending on 27 October 2015. The paper invited comments on the methodology and proposed approach to setting fees to cover those costs necessarily incurred in regulating and advising on gambling.

2.2 The previous government indicated in its response to the Culture, Media and Sport Select Committee's report *The Gambling Act 2005: A Bet Worth Taking?,* that it would consider reviewing the Commission's fees and costs once the changes to the regulation of remote gambling had been fully implemented. At the same time the Commission has been planning to advise the government to amend the current fees regulations, to take account of the significant changes in the number and nature of the operators that the Commission regulates and to address identified problems in the current fees structure.

2.3 Alongside the changes to the regulation of remote gambling which came into effect in November 2014, the government changed the basis of remote gambling taxation with effect from December 2014. While it will take a number of years for the full impact of the changes in both regulation and taxation (broadly speaking from point of supply to point of consumption) to work through, the immediate impacts in terms of the effect on the remote gambling market and consequential impact on the Commission's costs and income are now becoming clearer; as overseas-based operators licensed by the Commission in 2014 decide whether and at what fee level[1] to maintain their Commission licences. The main modelling and development of our advice on specific fee proposals can now be based on a full year of operation under the 2014 Act.

2.4 The responses to the discussion paper can be found throughout the rest of this paper. The Commission will take account of the feedback from the discussion exercise in forming its advice to government.

[1] Fee levels for remote operators are currently based on GGY which will have been affected by the changes in relative competiveness and mergers

3 Summary of responses

3.1 A total of 27 responses were received from, predominantly, trade associations and larger and smaller operators from across the sectors of the gambling industry. Responses were also received from organisations concerned with sports betting integrity, personal licence holders and members of the public. In addition, the Commission held a fees discussion workshop in Birmingham on Thursday 24 September 2015.

3.2 The discussion paper provided several questions and specific areas for discussion to which stakeholders were invited to respond. We also welcomed comments on more general issues and concerns that were not specifically referenced in the paper. The specific areas of discussion in the paper covered the following:

a) Whether we had correctly summarised the principal concerns with the present fee arrangements, and if there were any additional issues stakeholders would like us to consider.
b) Any comments on our approach to the forecasting of costs, and our recommended approach to holding fees, normally revising them every 2-3 years.
c) Our approach to the allocation of our costs, and whether there should be any changes.
d) Our general approach to the differentiation between sectors and licence types, and whether there should be any changes.
e) Whether certain B2B software manufacturers that also operate casino games on behalf of another remote casino operator (and therefore require a remote casino licence themselves for providing those gaming facilities) should have their own licence type or fee category.
f) Further, whether businesses that only supply software by remote means (eg by file transfer protocol, via server) on a very limited basis, and who require relatively little attention from the Commission, should be able to do so via a different licence type or smaller fee category.
g) That 'number of premises' should be replaced by GGY as the main proxy for the potential impact of an operator on the licensing objectives and our associated costs (and consequently, that GGY should be the definition for assigning fee categories to those non-remote operators whose fee categories are currently defined by numbers of premises).
h) Similarly, that GGY should be the main proxy for Casino 2005 Act operators (rather than the current proxy which distinguishes such licensees by whether they operate small or large casinos).
i) That the existing proxies for on-course bookmakers, lotteries and ELMs, and machine/software manufacturers and suppliers should be retained (ie the number of working days, annual proceeds, and value of annual gross sales, respectively).
j) Stakeholders' views on the retention of a banded structure (ie the retention of fee categories) with modifications, with any suggestions for alternative approaches.
k) Whether stakeholders would support a further sub-division of fee bands (fee categories), despite the likely increased incidence of licence variations (ie moving up and down fee categories) that this would create.
l) The fees payable for applications to continue a licence when a change of corporate control has occurred (in relation to small-scale[2] family-owned operators).
m) The fees payable (moving to an administration-only fee) for applications to vary a licence where an operator moves only within a fee band (eg from subcategory A1 to sub-category A2).
n) Whether fee increases for operators in the smallest categories should be phased in over eg 2 years
o) Comments on the arguments we set out for not pursuing the question of payment by instalments.

3.3 The details of the responses received to these questions, along with the Commission's position in view of those responses, are provided below.

[2] As defined in The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006

a) **Whether we had correctly summarised the principal concerns with the present fee arrangements, and if there were any additional issues stakeholders would like us to consider.**

3.4 The Commission provided an overview of the current fee structure and a summary of the main concerns expressed by stakeholders during previous fees consultations. Those concerns, addressed in more detail later in the discussion paper, included the use of 'numbers of premises' as a determinant of fees, the increase in fees when operators move up fee bands, and a lack of clarity around the methodology underlying fee setting.

3.5 Respondents generally agreed that these were the principal concerns, but a number of submissions raised other specific concerns with particular fee arrangements, or with the structure of fees, which had not been referenced in the discussion paper. Some of these matters are addressed later in this document where they relate more specifically to the forecasting or allocation of our costs, but other issues raised were as follows:

- A number of respondents noted the absence of personal licences from the fees discussion paper and stressed that these should be included within a review of fees, in particular the costs associated with the five-yearly renewal of personal management licences (PMLs) and personal functional licences (PFLs). One respondent sought assurance that fees for personal licences would not be increased, and raised concern in respect of the £25 variation fee payable for changing a name on a personal licence when a licence holder gets married or divorced.
- One operator asked whether the fees charged for premises licences by local licensing authorities could be reviewed.
- A question was raised at the workshop about annual fees being payable by the holder of an operating licence when that licence holder does not trade.

Commission's position

Personal licences

DCMS and the Commission reviewed the levels of fees for all types of personal licence in 2012, and concluded that while there was scope to reduce the fee for renewing a PFL by £40, due to the more streamlined approach to compliance and enforcement effort associated with PFLs, such streamlining was not available in respect of PMLs. The compliance workload associated with PMLs has not altered since that time, and as such the Commission does not currently plan to advise government to review the application or renewal fees for these licences. However, the Commission will be holding a broader consultation in 2016 on whether the requirement for casino staff to hold PFLs should be removed. We will also give further consideration to the variation fees for changing a surname on a personal licence in the specific circumstances outlined by the respondent.

Premises licence fees

The authority to amend fees for all types of gambling licence rests with the Secretary of State for Culture, Media and Sport. This includes fees in respect of premises licences, which are issued by local licensing authorities. The Commission's advice to government will only be concerned with fees relating to licences issued by the Commission.

Annual fees payable by non-trading licensees

The Commission's Statement of Principles for Licensing and Regulation (March 2015) explains that the Commission will not normally license an operator unless the applicant has a clear business plan which explains their plans for transacting with consumers. Operators will need to satisfy the Commission that they have a genuine need to hold an operating licence and we will not issue licences to people who do not appear to need them. If an operating licence is issued but an operator does not provide facilities for gambling in reliance on that licence within a reasonable period, the Commission may commence a licence review with a view to revoking the licence if that appears appropriate.

b) Any comments on our approach to the forecasting of costs, and our recommended approach to holding fees, normally revising them every 2-3 years.

3.6 We outlined at Section 4 of the discussion paper the costs of our programmes of work, including our thematic regulatory work, compliance and enforcement effort and corporate enabler costs. We explained how the minimum costs of effective regulation are forecast, taking into account efficiency savings and then allocated to sectors, licence types and fee categories.

3.7 A number of responses were received to this aspect of the discussion:

- One trade body welcomed that there may be scope to reduce average fees by up to 5%, but advised caution as to the potential for fee reductions given that the level of consolidation by operators within the remote sector is not yet known (ie that there may be several such mergers driven by the commercial impact of 'point of consumption tax); and that there is likely to be an exit of remote licence holders from the UK market given its highly competitive nature.
- Another trade body submitted that revising fees every two or three years is reasonable as a guide but must not be a hard rule. For example, a further review may be needed when the remote market has bedded in more fully. One operator suggested that, given the costs of conducting a fees review, any formal review should be held in abeyance until the remote market had settled and when the Commission has more certainty.
- Some respondents expressed concern about the Commission's costs that are associated with a fees review itself which have to be recovered from operators through fees, and stated that there needs to be a much more agile framework in place so that fees can be reviewed and revised without incurring such costs as part of those processes. Those respondents felt that the cost of reviewing fees was symptomatic of an overly-complicated licensing regime and that changes to primary legislation should be considered to streamline and simplify the licensing process, to make future reviews more cost-effective; and that DCMS should therefore provide options on changes to primary legislation to facilitate this.
- One operator suggested that it might be more cost-effective to ring-fence any fee income surplus into a separate account to fund industry projects like multi-operator self-exclusion rather than conduct a fees review.
- Another trade group and one large operator stated that while they welcomed a review of the Commission's fees, there should also be a review of the actual costs and expenditure incurred by the Commission. The trade group was in general agreement with the allocation of our current costs, but suggested that the Commission's forecasts should be subject to review.
- That trade group also expressed its view that the costs and fees associated with the regulation of the National Lottery should be included within any review of fees by DCMS, given that the National Lottery is now within the Commission's remit and that some fixed costs and overheads would be shared.

Commission's position

Timing of the fees review

We explained in the discussion paper that, while it will take a number of years for the full impact of the changes in regulation and taxation from 'point of supply' to 'point of consumption' to be realised, the extension of licensing to overseas operators had created an increase in our financial reserves. While we expected there to be a considerable increase in income without a directly proportionate increase in costs, the scale of that increase may be diminished in the short and medium term by mergers and consolidations, by the impact of the gambling tax changes, and by operators reducing their fee category; and that we may incur other upward pressures on our costs.

Now that the main modelling of specific fee proposals can be based on a full year of operation under the 2014 Act, it is important that we proceed with advising government to review fees; not just to take account of the changes in our costs associated with the changes in our licensee base, but also to address other problems identified in the current fees structure (as outlined in the discussion paper) and to ensure that fees continue to be set at a level that covers our expected efficient costs.

Costs of conducting a fees review

In the discussion paper we explained that the work involved in preparing for and implementing a 'routine' fees consultation and consequent statutory instrument probably costs the Commission around £250,000. While a major review which involves taking account of a step change in costs and or income could cost considerably more, in the order of £1million (over two years) for the Commission; taking into account the review process, involvement of auditors and other external experts and any necessary software changes to IT and billing systems.

Changes to primary legislation could be made to introduce new and more flexible rules for reviewing and setting fees, but of course delivering primary legislation changes is itself a lengthy and costly process. Further, and assuming that government policy continues on the basis that regulatory costs should be recovered from the industry that provides gambling facilities, the streamlining or simplification of licence types would make it more difficult for the Commission to recover its costs on a proportionate basis from the specific types of operator to which its costs relate. For example, if there was only one class of general betting operating licence, it would not be possible to maintain the important costs differentials between off-course, on-course and virtual event-only betting operators.

The Commission's forecasts and expenditure

As part of any review of our licence fees our costs are scrutinised by DCMS and a regulatory impact assessment, which sets out the expected impacts on businesses in terms of the recovery of our costs through fees, must be submitted to the Regulatory Policy Committee for its consideration. In addition, all non-departmental public bodies have fundamental reviews periodically. These reviews aim to challenge the continuing need for individual NDPBs, both their function and their form, and will take into account the NDPB's efficiency and cost-effectiveness as well as its control and governance arrangements.

National Lottery costs

We try to allocate our overhead and common costs to the sectors of the gambling industry to which those costs relate, and this includes allocations to the National Lottery regulation function. Where those costs cannot be so readily attributed to specific sectors, they can for example be allocated across the remainder of the organisation by head count (eg human resources costs). Our costs are therefore already shared among the functions related to the regulation of the National Lottery, and this is an efficiency that is reflected in the costs that will need to be recovered from licensees. Our advice to government will however only be concerned with fees relating to licences issued by the Commission under the Gambling Act 2005, and fees payable by the operator of the National Lottery are of course covered by arrangements under separate legislation.

c) Our approach to the allocation of our costs, and whether there should be any changes.

3.8 In section 5 of the discussion paper we explained that different licence types have different fee levels as a result of the allocation of our costs to be recovered from licensees; and that some classes of licence are subdivided to reflect distinct sets of risks and costs. We provided an illustration of how our costs are recovered from sectors, licence types and fee categories.

3.9 This section of the discussion received several submissions about specific elements of the Commission's fees and cost-recovery. Due to the diverse nature of these submissions and the stakeholders who provided them, these are summarised under the broad categories below:

Non-remote general betting (limited) licence holders

3.10 A handful of responses were received from on-course bookmakers who expressed concerns about the levels of licence fees for such operators, in comparison to the fee that bookmakers had to pay to magistrates before the Gambling Act 2005 came into force. They requested that the fees be reviewed for the very smallest bookmakers who work only a few days at minor tracks with relatively low revenues, and that the Commission's costs in relation to such businesses should be kept to a minimum.

Non-remote general betting (standard) licence holders

3.11 Responses were received from a small number of Category A general betting (standard) licence holders (ie off-course bookmakers) who stated their concerns that cumulative costs and overheads are threatening to force single-shop bookmakers out of the market and damage local economies. They referenced operating licence fees as part of a number of other costs including premises licence fees, horserace betting levy, Turf TV, SIS and other duties. They also sought to stress that the operating licence fee 'per shop' is higher for a single-site bookmaker than for nationally-based bookmakers, and there should be fewer social responsibility issues in respect of local small bookmakers as they know their clientele.

Adult gaming centres (AGC)

3.12 One AGC operator expressed a similar concern about the operating licence fee 'per premises' for a single-site operator compared to a national chain.

Poker

3.13 One respondent argued that the Commission had failed to recognise that costs relating to online poker integrity, in particular the risks of cheating and collusion, should be at least as high as those for sports betting integrity. Further, that cheating at poker online is an endemic problem and the Commission has a vital regulatory role to play in this regard. The respondent also stressed, however, that additional poker integrity costs should not be covered by a remote poker 'surcharge' or allocated solely to those that provide poker, because this could create a barrier to smaller online poker operators entering or remaining in the market; and as such, the costs should be borne by remote casino licensees.

Sports betting integrity

3.14 We received two submissions from bodies that have a particular interest in sports betting integrity. One body emphasised that protecting the integrity of sport and sports betting must continue to be a key priority for the Commission, and must be resourced appropriately, in particular to ensure that the sports betting integrity Action Plan can be delivered. In this regard, they also stressed that the Commission must ensure that it can continue to raise sufficient fees from operators that consolidate into a smaller number of larger licensees, and suggested a contingency fund for betting integrity to meet the costs of any related criminal investigations.

3.15 A sports betting trade association asked the Commission to ensure its costs in relation to sports betting integrity work remain necessary and proportionate, given the cost impact on betting licensees, and asked for greater clarity on the reasons behind the rising regulatory costs in this area. While noting that the Commission has no powers to levy costs on sports governing bodies, they emphasised that such organisations must also play their part in protecting sport from corruption.

External lottery managers

3.16 At the workshop held in September, concern was raised as to the cost drivers for external lottery manager (ELM) licence fees; in particular, that while society lotteries with a non-remote licence can rely on a remote ancillary licence for the first £250,000 of their remote proceeds, any ELM contracted by that society must apply for a 'full' remote operating licence for the same remote proceeds as those generated by their lottery client.

Commission's position

General betting (limited) licensees

The Commission will review its costs for all classes of licence, including the costs for the general betting (limited) licence and its sub-categories, before providing recommendations to government on specific changes to fees. However, there are certain minimum costs of regulating an operator (eg the basic costs of keeping information up to date, monitoring regulatory returns and maintaining the capacity to deal with queries and complaints, collecting fees and so on) and these minimum costs set a floor to any annual fee, even if no active compliance work was undertaken or a contribution expected to eg enforcement or thematic activity costs. It is not expected that fees for the very smallest on-course bookmakers, currently £200, could be significantly lower given those minimum costs.

General betting (standard) and AGC licensees

We are currently modelling the impact of the move from premises to GGY and we will be advising government on the proposed fee levels for all types of licence and category when this modelling has been completed. It is anticipated however that the move to GGY and the sub-divisions of the smaller fee bands, within the context of an overall reduction in fees due to efficiency savings and the spreading of costs over a wider operator population, will generate lower licence fees for smaller operators.

Poker

In October 2015 the Commission launched its first stages of a review of online peer-to-peer poker (where participants play against each other rather than against an operator). This exercise aimed to gather information from licensees about collusion and cheating by poker participants in the first instance, in order to assess whether a formal consultation is required at a later date to strengthen the controls in the LCCP and Remote Technical Standards relating to peer-to-peer poker.

The outcomes of this work will also be used by the Commission to assess whether the regulatory costs in relation to peer-to-peer gaming are at the right level. At this stage however, and until this stock-take exercise and any formal LCCP or RTS consultation is completed, there is insufficient evidence to suggest that the fees associated with regulating remote peer-to-peer gaming should be increased for those that hold the remote casino operating licence, nor that such related costs should be recovered from a licence class distinct from the remote casino licence. The Commission does not therefore intend to advise government, for the forthcoming review of fees, that such operators should be subject to a fee increase in relation to remote poker costs, though we will of course review this position for any subsequent fees review.

Sports betting integrity

Our sports betting integrity work is necessary to maintain public confidence in sport and betting on sport, and must remain a key priority for the Commission. The Commission is a founder member of the Sports Betting Integrity Forum (SBIF), and the government recently outlined its expectations of the Commission, sports bodies, law enforcement agencies and betting operators in respect of the Sports Betting Integrity Action Plan. As the lead agency, the Commission has a key role to play in ensuring the effective delivery of that plan.

In our joint response with DCMS to the 2012 review of licence fees, we explained that our Sports Betting Intelligence Unit (SBIU) had been working to a capacity greater than had been envisaged before the Parry Report, and that the vast majority of the incidents reported to the unit between 2007 and 2012 related to activity flowing through regulated operators, even where the source of the corruption may have been on unlicensed markets. A large element of the work of the betting integrity programme is reactive and the SBIU needs to act on reports quickly to maintain its objective to focus on achieving the most effective risk reduction outcomes. Around 60 – 70% of reports to SBIU originate from operators. Reports received by the SBIU have increased by over 50% since the implementation of the Gambling (Licensing and Advertising) Act 2014 and as we continue to build our stakeholder networks with the newly-licensed operators it is expected that volumes will continue to increase. We are considering our resource requirements in light of this increased workload but will ensure that the capability is proportionate and efficient.

The Action Plan emphasises the importance of information sharing among the constituent bodies of the SBIF, and a key part of the Commission's role has been to develop and establish information exchange protocols and improved communications. Information from the licensed industry (and other sources such as sports governing bodies and law enforcement agencies) is key to tackling sports betting corruption, and the Commission's work in this area helps build up the intelligence needed to counteract the threat, and to ensure that robust risk assessments of betting integrity threats are maintained. But the Commission must also be responsive to emerging integrity risks, and the cost forecasts for our betting integrity work must therefore cover both our planned work (such as the delivery of the Action Plan) and resources for the handling of new cases and for identifying and managing new and emerging threats.

The betting integrity programme is also committed to contributing to and learning from a number of international collaborations, which includes working with the International Olympic Committee to help develop their future strategies to combat match fixing, the drafting and subsequent support of the Council of Europe's Convention on the Manipulation of Sporting Events and membership of the European Commission's Directorate General Expert Groups. These collaborations are supported by the Remote Gambling Association and will be of benefit to responsible operators along with other key stakeholders.

ELM fees

Firstly, although the fees for society lotteries and ELMs are based on the same annual proceeds (the total annual proceeds generated by one society lottery will determine both the fee category for the lottery operator itself and the ELM that manages the lottery on its behalf), this does not mean that the Commission is charging twice for the same cost of regulating the same volume of gambling activity. Importantly, the fees for each type of licence are arrived at by considering the specific costs of regulating each type of operator in its own right, and effectively dividing by 'annual proceeds' to arrive at the costs to be recovered from those in each fee category. So the total income raised from the two separate groups of operators (society lotteries on the one hand, ELMs on the other) is designed to recover the total costs of regulating each of those two groups.

The Commission's fee bands for ELMs, and indeed all operators, must reflect the scale of the activity that is being managed; it is the scale of the operation that drives the Commission's costs and assists the Commission in measuring the risk of the operator. In short, the greater the aggregate proceeds of the society lotteries that are managed by an ELM, the greater the scale and potential impact of that ELM, and indeed the potential regulatory costs posed by it. In this context, it is important to note that ELM businesses are ultimately commercial companies that offer services to non-commercial organisations such as charities; their influence in the society lottery sector has significantly increased since the inception of the Gambling Act and some ELMs have been instrumental in introducing significant developments in the sophistication of the kinds of product offered in the sector. The Commission will need to continue to invest significantly more effort in the regulation of any given ELM than it will need to do so in relation to any of its individual society lottery clients.

d) Our general approach to the differentiation between sectors and licence types, and whether there should be any changes.

3.17 The Commission received the following responses in relation to this question:

- A number of respondents requested that the Commission provide a more detailed breakdown of cost allocations for the consultation document; in particular, they asked the Commission to delineate more clearly the remote costs and income from those recovered from non-remote gambling sectors.
- A couple of operators were of the view that the range and variety of different licences can be confusing, particularly in respect of what each licence covers and their limitations; and that this can culminate in operators launching a product without the correct licence, or operators over-licensing to ensure compliance. They suggested that any simplification would benefit operators and the Commission alike.
- One respondent suggested that the fees structure should be future-proofed to take account of developments in multi-channel approaches (ie an operator making gambling facilities available through both non-remote and remote means, which consequently requires both non-remote and remote licences to be held), and in particular that the fees burden on the smallest bookmakers who are required to hold multiple licences should be considered.

Commission's position

The Commission will provide DCMS with a full breakdown of cost allocations as part of its advice to government on the need to review fees. This will annotate more clearly how we forecast the costs of effective regulation for each distinct sector and licence type. While there is increasing convergence between remote and non-remote gambling provision and their use by customers, and hence in the risks we seek to mitigate, primary legislation would be needed for us to merge remote and non-remote licence requirements.

Complexity of licensing arrangements and future-proofing the fee structure

Respondents did not provide much detail as to exactly what aspects of the licensing processes or fees structure they would wish to see simplified, although the Commission acknowledges that the number and range of operating licences that are available has increased significantly since the first statutory instrument for licence fees in 2006. This was the result of trying to keep fees for different sorts of businesses proportionate to the risks they posed. However, there is always a trade-off between the complexity of licensing arrangements due to the sheer variety of licences available, and the ability to ensure that costs are recovered proportionately from licensees. For example, ancillary and linked licences were introduced to ensure that businesses that provide only limited remote facilities (eg betting via bet receipt terminals or accepting telephone bets within certain limits) could do so without holding the more expensive 'full' remote licences, which are of course less restrictive in terms of their permissions.

The starting point for any licensing arrangements is of course the Act itself, and the requirements provided by Part 5 of the Act that operating licences must either be non-remote or remote has in turn generated a number of complexities along the way in terms of creating appropriate licence types for different business models. Providing various sub-classes of operating licences ensures that businesses can be charged a fee at the proportionate level of cost-recovery; conversely, any simplification of the licensing process eg restricting operating licences to those provided for by section 65, would result in very different types of business paying similar fees, despite them generating very different costs for the Commission.

Similarly in respect of future-proofing licensing arrangements to take account of operators that, increasingly, make both non-remote and remote gambling facilities available, it is important to ensure that the right types of licences continue to be available to businesses (as well as ensuring that the fees for those licences match the regulatory costs associated with those licensed activities). This requires there to be sub-sets of classes of licences to allow for the proportionate level of costs to be recovered from each sub-set.

Where a 'full' remote licence needs to be held, it is also important to ensure that the fees payable for that licence reflect the regulatory costs that must be recovered from such licence holders, taking into account the *size* of an operator's business in terms of the risks to the licensing objectives. In that regard, the Commission proposes to advise government to review the smallest fee bands (categories A and F) and fee levels for some of the non-remote and remote licence types, to ensure that the fee levels do not present barriers to growth for small businesses.

e) Whether certain B2B software manufacturers that also operate casino games on behalf of another remote casino operator (and therefore require a remote casino licence themselves for providing those gaming facilities) should have their own licence type or fee category.

3.18 We explained in the discussion paper that B2B companies that host games platforms or networks require their own operating licence because in doing so, they provide facilities for gambling. There is currently no difference between the fees payable by a B2B and a B2C operator that both provide remote casino facilities, albeit that in most instances the fee category to which the B2B operator may fall into tends to be lower than that for the B2C operator, depending on the commission or revenue share arrangements between the two. We explained that while many of the cost allocations will be common to both the B2B and the B2C operator, we needed to see whether there was a case for a different fee category or licence type for B2B operators in certain circumstances.

3.19 The Commission received a number of responses to this aspect of the discussion, from a remote B2B licensee and from trade and industry bodies, emphasising the need for the Commission to revise its costs in relation to B2B licensees that are required to hold a remote casino operating licence.

3.20 The licensee's submission described the variations in the B2B supply model, in particular the differentiation between 'software as a product', whereby a B2C purchases the software from the B2B supplier and installs it directly onto their systems; and the 'software as a service' distribution model whereby the B2B supplier hosts their own game software on a server and makes those games available for use by customers of B2C operators. The respondent advised that under such delivery models, the B2C will retain responsibility for the bulk of requirements such as player registration and payment services, but that the B2B is only required to hold a remote casino licence because it retains control of the random number generator during game play (and that the B2B would not require a remote casino licence if they choose the 'software as product' business model). As such, they saw a compelling case for B2Bs that use the 'software as a service' model to have a different fee category and licence type available to them, rather than being required to hold the remote casino licence. They also noted however that B2Bs that provide white label, turnkey solutions or full platform services will have a more complicated business model that may warrant the need for the casino licence.

3.21 Some trade and industry groups also stressed that it was not a satisfactory position for B2B licensees to be required to hold remote casino licences, because there are regulatory requirements that apply to, and costs associated with, B2C casino licensees that do not apply to B2B operators. As such, they favoured the differentiation of different types of B2B operator and software provider, with a view to providing a lower licence cost for B2Bs that currently hold the casino licence.

Commission's position

We intend to proceed on the basis of our position as outlined in the discussion paper, and develop recommendations to government in respect of a different fee category or licence type for B2B operators in certain circumstances. We will take into account the feedback we received from stakeholders in developing our fees modelling and advice in this area, and we welcome the specific details that some of those stakeholders provided to us in explaining their particular concerns with the current fee and licensing arrangements.

f) **Further, whether businesses that only supply software by remote means (eg by file transfer protocol, via server) on a very limited basis, and who require relatively little attention from the Commission, should be able to do so via a smaller licence type or fee category.**

3.22 The discussion paper outlined that since March 2015 it has been a licence requirement that licensees only use Commission-licensed software suppliers, and this has led to a large number of additional gambling software licensees whose involvement in the gambling process varies considerably, thus imposing rather different risks to the licensing objectives and demands on the Commission. We explained that we needed to consider the potential costs and income to see if a lower fee is merited for some software providers (such as those who only supply gambling software on a very infrequent or limited basis by file transfer protocol (FTP)) which require relatively little Commission attention.

3.23 While there were no written submissions to the discussion on this particular matter, the subject was discussed at some length at the workshop in September. Attendees explained that the need to hold a 'full' remote licence for supplying software by remote means applies to the gaming machine technical licences equally as it does to the gambling software licence. Their chief concern was with the current annual fees for the remote gaming machine technical and gambling software operating licences, which for some stakeholders acts as a barrier to entering the market for small, independent software manufacturers and suppliers who supply software by remote means.

Commission's position

We explained in the discussion paper that one of the possibilities under consideration was to expand the scope of the ancillary remote gambling software licence, which currently only permits the delivery of software by email, to permit the limited use of FTP for supplying software. To clarify our position in view of the issues raised at the workshop, it was also our intention to include the supply of gaming machine technical software in our considerations (noting that the ancillary licence in question already relates to both gaming machine technical software and gambling software anyway).

We will proceed on the basis of our position outlined in the discussion paper and explore further how the scope of the ancillary licence might be expanded to include the supply of both gaming machine and gambling software in wider circumstances. We therefore expect our advice to government will include a recommendation in respect of this particular licensing arrangement.

g) **That 'number of premises' should be replaced by GGY as the main proxy for the potential impact of an operator on the licensing objectives and our associated costs (and consequently, that GGY should be the definition for assigning fee categories to those non-remote operators whose fee categories are currently defined by numbers of premises).**

3.24 The Commission explained in the fees discussion paper its preference to change the basis on which fees are calculated to GGY for several licence types (namely those that are currently categorised by the 'number of licensed premises' run under and operating licence, and for the Casino 2005 Act licence to be banded by GGY rather than by the type or size of premises).

This is because the primary indicator for the impact on the licensing objectives is the volume of gambling activity, for which GGY is a better proxy than simply premises numbers. Responses received to this question were as follows:

- A number of trade bodies and operators stated that they had no objections to the principle of the move from premises to GGY, but needed to see the detailed work that explains the impact of such a change; and in particular needed to see what new bands might look like before commenting further.
- One trade body fully supported the move from premises to GGY agreeing that it is the best proxy measure for the volume of gambling activity which should be the basis for fee categories. They did not however agree with the retention of the banded system (this is addressed at question J below).
- Another major operator from the non-remote betting sector agreed with the move from premises to GGY, but stressed that the Commission needs to ensure that regulatory economies of scale continue to be recognised, for example the resources expended by larger operators on compliance.

Commission's position

Responses to the discussion and views expressed at the workshop were broadly in favour of the move from premises to GGY, with no arguments being expressed in favour of the retention of 'premises numbers' as the means of spreading costs or allocating fee categories. The Commission proposes to proceed on this basis in its advice to government, and will of course provide specific advice on fee proposals for each licence type and fee category.

h) Similarly, that GGY should be the main proxy for Casino 2005 Act operators (rather than the current proxy that distinguishes such licensees by whether they operate small or large casinos).

3.25 Very few stakeholders responded to this particular question, but one casino operator sought clarification as to whether the impact of any such change would be that Casino 2005 Act operating licence holders would 'drop into' the existing Casino 1968 Act fee banding structure, or whether the Casino 2005 Act licence would remain as a distinct type; and if the latter, the rationale for doing so.

Commission's position

We will proceed in advising government to change the definition of the Casino 2005 Act operating licence fee bands from 'premises size' to GGY. This is on the basis of our view as outlined in the discussion paper that the principal driver of the risk to the licensing objectives, and therefore our regulatory effort, is the volume of gambling activity, for which GGY is regarded as the best general proxy measure. We will also consider whether the Casino 2005 Act operating licence should remain as a distinct type of licence, based on our associated regulatory effort and costs, and advise government accordingly.

In view of our recommended move to GGY for such casinos, we would also take this opportunity to again clarify that gaming machine revenue should be included when calculating the 'gross gaming yield' for an existing (1968 Act) casino operating licence. This was previously clarified in the joint DCMS/Commission fees review in 2011/2012. The document summarising responses to that consultation (published August 2012) explained that the Commission has always considered that 'gross gaming yield' as a definition should be inclusive of gaming machine yield and that it had always progressed on that basis.

In making that clarification, we ensured that it would have no impact on any of the existing holders of the Casino 1968 Act operating licence ie that there would be no changes to the current fee category assignment of any of these operators as a result.

i) That the existing proxies for on-course bookmakers, lotteries and ELMs, and machine/software manufacturers and suppliers should be retained (ie the number of working days, annual proceeds, and value of annual gross sales, respectively).

3.26 We outlined our views at paragraph 6.11 of the discussion paper that the fees for General Betting (limited) licences should continue to be based on the number of days of operation (working days on-course) as this is a very user-friendly, low-cost way of distinguishing between larger full-time on-course bookmakers and those that are more occasional and therefore tend to be smaller. Further, that the fee categories for society lotteries and ELMs should continue to be based on annual proceeds because this is far simpler from an administrative point of view for these groups.

3.27 A handful of responses were received to this question:

- There was a concern raised by one on-course bookmaker that small-business bookmakers (eg who operate at a greyhound track or at point-to-point meetings) pay the same fee as a bookmaker at a premier pitch at a major horse racing meeting, for working the same number of days. Another track bookmaker asked the Commission to review the number of days that one can operate in reliance on the Category A general betting (limited) licence.
- The FRB expressed its desire to keep the 'unit of division' for the general betting (limited) licence as 'number of working days' due to the simplicity of this system for small enterprises. Further, that it would be more cost effective and simpler than a move to GGY.
- One B2B supplier stated that gambling software operators should continue to be banded by gross value of sales rather than GGY because they do not directly provide facilities for gambling (and as such do not generate a yield).

Commission's position

The Commission will advise government to retain 'working days' as the basis on which fee categories are established for the general betting (limited) licence, and similarly to retain 'annual proceeds' for society lottery and ELM licences. We will also advise government to retain 'gross value of sales' as the proxy for gaming machine technical and gambling software licences, given that such licensees are inherently B2B licensees and are unable to generate a gambling 'yield' from the activities authorised by those particular licences[3].

We note the concern from one on-course bookmaker that, for example, the revenue from one day's trading at a small greyhound meeting will very likely be smaller than that from a day trading at a major horse racing event. However, where a greyhound bookmaker and horse-race bookmaker both work at their respective types of stadia or track for the same amount of days per year, the regulatory cost differentials between the two are nominal.

[3] Any revenue share that is received by a gambling software licensee that does *not* host any games (ie where the licensee supplies its software directly to a B2C operator and plays no further part in the hosting of those games, but receives revenue from the B2C as part of those arrangements) will be reported as 'gross sales' on the gambling software regulatory return.

The general betting (limited) licence is a relatively low cost licence (it is effectively a sub-division of the "general betting" licence provided by the Gambling Act, and the fees are much smaller than those for general betting (standard) licences because of the lower regulatory costs presented by track bookmakers) and it allows a holder of that licence to trade at any type of track or meeting. Creating a further sub-division of that licence based on the type of event attended (betting on dogs, point-to-point, trotting or major horse race events) would lead to unnecessary further complexity and likely additional fees for bookmakers that trade at various types of event who would then need more than one licence to do so.

We would also take this opportunity to remind greyhound bookmakers that in the 2009 review of fees, the government introduced certain arrangements for 'discounting' the calculation of 'working days'. This was introduced in recognition of those bookmakers whose attendance at a track is primarily to provide a starting price for the market. Where such a bookmaker operates at a greyhound track between the hours of 0800 and 1900 and that race is televised in licensed betting premises (and they do no operate at any other track on that day), it will not count as a 'working day' for the purposes of allocating a fee category.

The Commission will be reviewing its efficient costs in relation to on-course bookmakers and will advise government on any recommendations for changes to such fees. But given that the Category A general betting (limited) licence (£200 annual fee) incorporates around £150 in terms of the largely fixed, minimum costs of regulating a small operator, there will be very limited scope for any reductions to such a small fee category.

j) Stakeholders' views on the retention of a banded structure (ie the retention of fee categories) with modifications, with any suggestions for alternative approaches.

3.28 While explaining our preference to change the basis of several fee bands from 'premises' to GGY, as described above, we also explained our preference for retaining fee bands (fee categories) within the fees structure rather than moving to a tariff-type system whereby, for example, operators might pay fees based on a percentage of their GGY (and thus the annual fee for each operator could vary year-on-year depending on their yield).

Only a few stakeholders provided a specific view on this particular aspect of the discussion; among those who did respond, opinion was divided:

- One major licensee that operates across various sectors of the industry supported the retention of the banded structure. A major bookmaker also supported the retention of banding, albeit in an improved form, because cost allocations will necessarily vary across sectors.
- Trade bodies for the on-course bookmakers' sector supported the retention of the current bands for the general betting (limited) licence. A B2B supplier also supported the retention of the banded structure on the basis that the fee associated with each band can be determined in accordance with the complexities associated with an operator of that particular class and size (essentially, that bands provide a means of spreading costs proportionately across one class or sub-class of operator).
- One AGC operator suggested that annual fees should be set as a percentage of gross gambling yield eg 1% of GGY.

- One respondent strongly favoured the concept of a ‘percentage of GGY’-based fee, because under the current banded structure, the fees for the smallest operators are a much higher percentage of their GGY than are the fees for the largest operators as a percentage of their GGY. Noting that fully disposing with a banded structure would require primary legislation, they suggested that there should be only two fee bands. The very smallest bookmakers (likely those with five premises or less, but based on GGY) would fall into the first band and should pay a nominal fixed fee that is below the level of full cost recovery for such operators, and as such would be subsidised by larger bookmakers falling into the second category. All remaining costs could then be recovered from those larger bookmakers falling to the second band, who could pay a fee based on a percentage of GGY (for example, the costs for the sector divided by that sector’s total GGY to deliver a percentage on which fees could be based).

Commission’s position

The Commission has considered the practicalities and possible consequences of alternative fees structures as part of its fees modelling, in particular the types of structure whereby operators could be charged fees on the basis of a continuous percentage (eg where all operators of a certain licence type could be charged a fixed or base fee, and then further fees are charged on a certain fixed percentage of their GGY), and also models based on variable percentages, whereby differently-sized operators who hold the same type of licence might pay fees based on different percentages of their GGY to reflect, for example, the economies of scale described in the discussion paper.

In considering the merits of these models relative to current fees structure, we have however noted the general support from stakeholders for retaining the current fees structure and banded system, and have also taken into account that primary legislation would be needed in order to provide for any such alternative and fundamentally different structure of recovering costs through fees. We remain of the view that necessary and proportionate changes can be made to the current fees and licence arrangements under the existing fees structure; and given that any attempts to change primary legislation at this stage would ultimately delay the delivery of any changes to fees, we have concluded that the costs of pursuing an alternative model as part of this fees review would heavily outweigh any benefits that might be delivered.

We will therefore advise government to retain the current fees structure (albeit with recommendations for the various modifications discussed throughout this paper) and for subsequent reviews of fees, we will again consider the relative merits of any such alternative approaches, taking into account any available vehicles for the delivery of primary legislation changes should such an option be pursued.

k) Whether stakeholders would support a further sub-division of fee bands (fee categories), despite the likely increased incidence of licence variations (ie moving up and down fee categories) that this would create.

3.29 We demonstrated in the discussion paper that, to address concerns that under the current fee structure the step (fee increase) from one lower band to the next can be prohibitively large for smaller operators looking to expand, thus presenting a barrier to growth, we were looking at how the transition from one band to the next could be smoothed for those operators within the smallest licence categories. We explained that consideration had been given to splitting the smaller fee categories into further sub-categories, with a view to limiting the increase in fees as a percentage of an operator's GGY. We also explained that while banding necessarily creates transactional costs through variation fees, such variation fees could be limited for smaller operators when they move within a sub-divided band.

3.30 A small number of responses were received to this question:

- One trade body supported the sub-division of fee bands, and one major operator stated it had no objection to sub-bands at the bottom end of the scale.
- One respondent raised an issue regarding the size of the Category A fee band for the gaming machine technical (supplier) licence, which covers all such operators whose annual gross value of sales in relation to their business is between £0 and £550,000. The respondent stressed that operators who supply only a handful of machines per annum (eg to pubs and single sites) and generate relatively little revenue will pay the same licence fee as multi-site supply and distribution businesses that also fall within fee category A but with revenues up to £550,000.
- Two respondents (an operator and a trade body) raised a broadly similar argument in respect of the remote general betting (standard) (real events) operating licence, namely that the market entry fee of £13,529 was prohibitive for small and start-up remote betting businesses (in particular, that this fee could represent a very large percentage of a small business's GGY), and that regulatory costs should be spread more equitably among the relevant operator population so that the largest remote betting operators pay a larger proportion of their GGY in annual fees.

Commission's position

As part of our fees modelling we will consider how the smaller bands might be split for those operators whose licence fee bands would move from 'number of premises' to GGY as part of our advice to government (ie non-remote bingo, general betting standard, adult gaming centre and family entertainment centre operators). In view of the comments received as part of the discussion exercise, we will also consider re-banding the smallest fee categories of other types of operating licence (eg remote licences that are already banded by GGY, and other non-remote operating licences).

It is worth reiterating here that, when allocating a fee category to a gaming machine technical operator, the Commission must take into account the operator's 'gross value of sales' in respect of all of the activities that are authorised by their licence. That is, the gross value of sales figure must not only include revenue from the manufacture, sale or supply of gaming machines (whether on a profit share basis or as an outright sale) but also any revenue received from the installation, adaptation, maintenance or repair of any machine. Such licensees should ensure that, when reporting their total gross value of sales figure on their gaming machine technical regulatory return, all such revenue is included.

l) The fees payable for applications to continue a licence when a change of corporate control has occurred (in relation to small-scale[4] family-owned operators).

3.31 The Commission proposed to reduce the change of corporate control fee in certain circumstances, for small scale, family owned operators which have been set up as limited companies for tax purposes. Where shares are gifted or transferred to an immediate family member who is unknown to the Commission and the change of corporate control trigger (10% or more) is reached then the fee payable is 75% of the application fee for the activities authorised under the licence. The Commission considers that a smaller percentage fee or a fixed fee may be more appropriate.

3.32 Feedback received from the industry on this point was positive, particularly those from the on-course bookmaking sector which this change in policy is likely to affect. Some feedback suggested that the Commission give consideration to circumstances where the change in corporate control results from a person, already identified by the Commission as being the beneficial owner, with no active involvement in the day to day running of the business, becomes the named shareholder. In this situation the operator would be required to pay 25% of the application which was suggested in the feedback as being an over-recovery of the costs required to process the change of corporate control.

Commission's position

The Commission will proceed with its position as outlined in the discussion paper and recommend that the government introduces arrangements to reduce fees for certain 'change of corporate control' applications in specific circumstances ie where the operator is a family-owned, small scale limited company and shares in the company are gifted or otherwise transferred to immediate family members (a spouse, civil partner or child), and the transferee has no active involvement in the business.

m) The fees payable (moving to an administration-only fee) for applications to vary a licence where an operator moves only within a fee band (eg from subcategory A1 to sub-category A2).

3.33 In the discussion paper we outlined the possible introduction of an administration-only fee (eg £25) for an operator varying a licence within a smaller band (eg A1-A2). We also outlined our view that we would recommend retaining the arrangement that 20% of the usual application fee is payable for those moving from one band to the next (eg A-B), as this would allow the Commission to recover the full costs of carrying out the necessary checks to ensure that the increase in business is not putting the licensing objectives at risk.

3.34 The Commission received a number of responses from stakeholders within the industry on this subject, all supporting the introduction of the administration-only fee. Some responses suggested that this administration-only fee be used in all situations where an operator has a small variation in their licence, including between bands (for example, from sub-category A1 to A2 and also from A3 to B1), and that a variation fee of 20% of the usual application fee should only be for more significant variations (eg from category A to C) as this is the only time when further due diligence would be warranted. There was also a request that the Commission look into the possibility of reducing the variation fee from 20%.

[4] As defined in The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006

Commission's position

In view of the responses received to the discussion exercise we will undertake a further full analysis of the costs we incur in relation to applications to vary an operating licence, where those applications are made to increase a fee category of a licence. Our advice to government will therefore include details of such costs and any specific recommendations we may make on changing variations fees in such circumstances.

n) Whether fee increases for operators in the smallest categories should be phased in over eg two years.

3.35 To avoid sharp increases in fees for small operators, which could have a significant impact on their cash flows, the Commission suggested in the discussion paper that it may be necessary to cap fee increases year-on-year, essentially phasing in any increase for those operators. Only a couple of responses were received in relation to this question:

- One trade body stated that it welcomed any measures that would limit any detrimental impact on SMEs. Another trade body said that there may be a need for some phasing-in, but the priority should be a quick implementation of changes to fees so that benefits to SMEs can be introduced as soon as possible.

Commission's position

While the timetable for a review of fees is determined by Government, the Commission is proceeding on the basis that a statutory instrument for changes to fees would not come into effect before the first common commencement date of 2017. We explained in the discussion paper that any operators facing large fee increases as a result of any changes will have effectively been historically under-charged in relation to the costs of regulation, and that the converse is also true. We are therefore of the view that there is good reason to implement any fee increases or decreases as soon as any new fees regulations come into effect, and based on those regulations coming into effect in 2017, we anticipate that operators would have adequate notice of the new fees that will apply to them. As such, we do not propose to recommend to government that a policy of phasing fees in should be explored on this occasion.

o) Comments on the arguments we set out for not pursuing the question of payment by instalments.

3.36 We laid out in the discussion paper our arguments against the implementation of payment by instalments. The three main points are:

- Additional administration costs would need to be recovered by the operator
- An insurance surcharge would be required to reduce the credit risk incurred by the Commission
- Primary legislation would be required which would be hard to justify given the relatively small fees involved.

3.37 All of the above points relate to increased costs which would need to be recovered from operators taking advantage of an instalments scheme, and that such costs would therefore outweigh any potential cash flow benefit that payment by instalments would bring.

3.38 There was mixed feedback from the industry regarding this issue, with some responses agreeing with the Commission's arguments. However for some stakeholders this issue remains a concern, particular smaller operators. It was suggested that the Commission re-evaluates its position on payment by instalments to ensure that the pressures and risks faced by SMEs have been fully considered.

3.39 One small AGC operator suggested that smaller operators might accept paying a higher overall fee in order to utilise the cash flow benefits that payment by instalments would bring.

Commission's position

At the discussion workshop the Commission agreed to provide more details on, and an outline of costs associated with, a system whereby a third-party credit provider could facilitate arrangements for instalment payments by licensed gambling operators (as opposed to a system administered by the Commission itself). We remain of the view that if the Commission was to provide those arrangements itself, then not only would primary legislation be required, but the level of premium that the Commission would have to charge would in any case be comparable with that charged by a third-party provider.

As part of our advice to government, we will therefore outline the costs of using a third-party external credit provider, similar to the method used by the Financial Conduct Authority (FCA). The FCA negotiated terms with an external credit provider to offer rates for a ten month payment plan to its authorised firms. That system involves fees being paid in full to the FCA by the credit provider, thereby eliminating the credit risk to the FCA. We will outline the costs associated with such a system if it were to be adopted by the Commission working similarly with an external credit provider. Despite the Commission not needing to increase fees to recover additional costs, operators would still see an increase in their overall payments as the credit supplier would charge interest on payments made to them. Such a scheme would not require any changes in legislation.

4 Conclusion and next steps

4.1 The Commission will now be developing its formal advice to the Secretary of State, taking into account the views received as part of this discussion exercise. We will recommend certain limited changes in the approach to setting fees (for example, a move from using 'number of premises' to GGY, for certain operators) and that the Department consults on options for revised fees taking into account the significant change in the nature and volume of gambling now regulated by the Commission. Our advice to government will also include recommendations in respect of various other aspects of the current fees and licensing arrangements (for example, those for B2B software suppliers, variation application fees for increasing fee categories).

4.2 Subject to government's views on the timelines for a consultation on fees, we have been planning on the basis that a consultation is held in 2016 with changes to fees being implemented through a statutory instrument on the first common commencement date of 2017 (April 2017).

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