

Consultation on amendments to the Gambling Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

- 1.1** This template is provided for responses to the Gambling Commission's (the Commission) consultation on amendments to the Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Please use this template if possible.

- 1.2** The template leaves space for responses to all the questions asked in the consultation.

- 1.3** All responses should be sent by email to consultation@gamblingcommission.gov.uk by **Tuesday 30 September 2014**.

Alternatively, responses can be sent by post to:

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Lauren Hilton

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ABB

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- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

- **Promoting economic growth (consultation document)**

2.11 In deciding what action to take, and whether action should be taken at all, the Commission will have regard to the desirability of promoting economic growth and its duty to permit gambling in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.

2.12 The Commission will seek to provide a fair regulatory framework within which existing operators and new entrants can compete and grow with the minimum of regulatory burden compatible with public protection and the licensing objectives.

ABB response

The ABB welcomes the reference to the new duty placed on the Gambling Commission by the government, along with other non-economic regulators, to have regard for economic growth in carrying out their functions.

However, we feel that the wording in the document could be made clearer so as to add clarity and also better reflect the strength the requirement being placed on the regulator by the new duty.

The consultation draft speaks only about the “desirability” of promoting economic growth, whilst the guidance¹ to regulators on implementing the new duty goes further than this by omitting the word desirability and speaking solely of having “regard to economic growth when making decisions”. We would ask that the word desirability be removed.

Where the ‘desirability’ of the new requirement to promote economic growth is later referenced in the official guidance it says that “where the economic impact of a regulator’s activity is likely to be adverse or negative, the regulator should consider how they might minimise that negative impact by adapting the way they carry out that activity” and “where the economic impact of their activity is likely to be positive, the duty points them to adapt the way they carry out that activity in order to maximise that positive impact.”

In order to “demonstrate they [the regulator] have factored economic growth into their decision-making”, as also set out in the guidance, we feel that the above points should also be clearly made in the Statement for Principles text.

- **Minimum social responsibility requirements (consultation document)**

5.27 The Commission will issue codes that include social responsibility requirements, setting out ~~what practical measures~~ minimum requirements and outcomes for operators ~~must take in relation to social responsibility~~.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274552/14-554-growth-duty-draft-guidance.pdf

ABB response

The ABB objects to the change to the wording of this section. We feel it is important to retain a distinction between ordinary and social responsibility code provisions, which the current wording does not make clear.

Ordinary code provisions are not "minimum requirements", as described here. They are statements of good practice and if objectives could still be achieved in another way then there is no automatic obligation to comply with the ordinary code provisions – compared to social responsibility code requirements, which are mandatory.

- **Investigating crimes against operators (consultation document)**

4.13 Investigating crimes against operators will normally be a low priority for the Commission, unless the alleged offence also affected players. In rare instances the Commission may investigate crimes against operators, but ordinarily such allegations will be matters for the police.

ABB response

We are concerned that the Commission formally stating in the document that investigating crimes against operators will be a low priority and left to the police to handle, given that it is already difficult to engage the police and CPS in gambling related cases – as shown by our experience within the Tripartite Forum. Such crimes are often erroneously viewed as ‘victimless’ financial crimes.

The ABB would encourage the Commission to do all it can to support legitimate and responsible operators wherever possible; this guidance would only encourage the assumption often made by the Police and other relevant authorities that it is not worth their while investigating when a crime is committed against an operator.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

- **Voluntary settlements – ABB response**

The ABB supports the idea of voluntary settlements being actively promoted as a way of regulating the industry rather than simply going to 116 review.

However, as currently drafted the Statement of Principles is not very clear about enhanced compliance and whether this is improving operator’s compliance, so as to meet the objectives, or wanting operators to over deliver to compensate for past failures.

This risks operators ending up being put into a position where they are forced to act simply because

of a threat of regulatory action.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

- **116 licence reviews – consultation document**

5.14 A review can be carried out even if there is no suspicion or belief about the licence holder's activities. This means that a licence could be reviewed solely on the grounds that the Commission considers a review would be appropriate. There will, however, always be a reason for starting a review, whether at one extreme it is part of a sampling exercise to enable the Commission to maintain a good understanding of the industry, or a potentially licence-threatening concern at the other extreme; the Commission will ensure that the letters sent to licensees when a review is being initiated clearly explain the grounds for the review.

ABB response

The ABB agree with the proposal for the Gambling Commission to have the power to initiate a section 116 licence review without suspicion of the licence holder's activities, where there is a reason for it, such as a sampling exercise.

However, we feel that it should be acknowledged in the text that any licence review, even one without grounds for suspicion, can have an impact on share prices or initial public offering, and as a result it should be the Gambling Commission's position that a 116 review would only be used as last resort where there was no other feasible option to get the information required.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

No comments

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1.7 Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk.

The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.

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- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

We are generally supportive of the changes that are proposed, which as the Commission states, do not mark any material change in the way the Commission operates. We are pleased to see the inclusion of clauses 2.11 and 2.12 in the Statement of Principles: it is important that the Commission recognises that many of its decisions can have significant economic impact on business and should not act in those cases unless an overwhelming case in favour of the licensing objectives can be made. It would be helpful if this latter point was explicitly stated in these clauses.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

As above we are generally supportive of the changes that are proposed, which as the Commission states, do not mark any material change in the way the Commission operates.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

All our comments are made above.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

We have no comments.

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specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

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Industry body	x	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

3.3

Applying for a licence is necessarily an exacting process. While it is absolutely right that the Commission should expect that licence applications will be complete and accurate at the point they are submitted to the Commission, it is not clear that the Commission, for its part, provides comprehensive and exhaustive written guidance to applicants from the outset.

To ensure that licence applications are made with the fullest disclosure and that the Commission does not believe that applicants are deliberately withholding information, the Commission must be absolutely clear in its statement of the information it requires. The statement in 3.6: "The Commission expects applicants to ... disclose anything which the Commission would reasonably expect to know" is both subjective and unhelpful and suggests that applicants have to guess what the Commission might want to know.

We welcome the Gambling Commission's efforts to find a way of addressing licensee's shortcomings without resorting to a full review. This saves time and money and can result in a more positive resolution of inadvertent failings than a full licence review. Also to be welcomed is the fact that the Commission has been mindful of the changes that came into effect in April 2014 to the Regulators' Compliance Code and has applied those principles to these two amended documents.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

No comment.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

The proposals for enhanced compliance and voluntary settlement without review are welcomed.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

The proposed new chapter on Publicity is also a welcome statement of intention for transparency and enforcement, showing a welcome degree of sensitivity towards individuals and operators.

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Industry body		Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)	Not-for-profit organisation		

- 1.5** If you are responding as an individual, please indicate your own interest:

N/A

Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

At points 2.11 and 2.12 the Commission explains its new role in promoting economic growth. This is based on a new Regulator's Code published on 25 July 2013 which came into effect in April 2014.

Whilst this is not long ago, there does not appear to have been any change in the Commission's policy. The most likely explanation is that the Commission's policy was already geared towards supporting the economic growth of operators, as Matthew Hill explained when giving evidence to the House of Lords. He said: "We already have a statutory aim to permit gambling, which is not really a million miles away from a growth duty anyway. We are quite used to taking an interpretation that builds the desirability of growth into our action."

There is no evidence that Commission advice to the Department of Culture, Media and Sport (DCMS), both pre and post the 2013 Triennial Review of stakes and prizes had any posture regarding FOBTs (B2s) in betting shops, other than a laissez-faire stance. This also applies to the Responsible Gambling Strategy Board, which is appointed by the Commission, in its advice to the Commission and DCMS.

In fact, the Gambling Commission has been advocating that there should be a move towards no restriction of stakes and prizes on electronic gaming machines. Whilst this may sound like utopia for operators, DCMS and the Commission, as it would remove the Triennial Review from the political calendar, it would certainly be a disaster for cash gamblers across all high street premises. This is also encouraging [other sectors](#) to make demands on government to be allowed FOBTs in [their venues](#).

The only excuse for even considering this change of policy is based on the way remote gambling is conducted. But there is no justification for the view that any activity on the internet should be just as acceptable in a bricks and mortar environment. This particularly applies to remote gambling which has a history of poor offshore regulation.

This policy ignores the dynamics of gambler and product interaction. The primarily C2DE demographic of FOBT gamblers is losing over £1 billion per year on roulette alone, which is around twice as much as the combined roulette losses of the wealthier demographic of casino and remote gamblers, with maximum stakes well in excess of £100 per spin. This is evidence of a more addictive format of roulette on FOBTs accessed by a more vulnerable demographic.

To some extent this is not totally the fault of the Commission, as DCMS is already committed to the economic growth of the sectors it is responsible for, including gambling, as part of its remit to promote the leisure sector. This is exactly the reason why DCMS should not be responsible for gambling and the Gambling Commission should not be considered as just another regulator.

There has neither been a significant attempt by DCMS, the Commission, the Responsible

Gambling Strategy Board nor the Responsible Gambling Trust to analyse the economic and social benefit (or cost) of gambling, taking into account the socio-economic cost of problem gambling.

Even if such a project was considered, it is doubtful that it would be conducted on a product-by-product basis, but rather through an approach that would encompass all gambling. This would not show how beneficial to the economy the high-end London casinos are, as they pay the highest tax rates of up to 50%, have the highest employee per gambler ratio and have a greater percentage of revenue from international visitors and non-domiciled residents than any other gambling activity. It would also not show how costly betting shop FOBTs (B2s) are to the economy, as is evidenced by [NERA](#) ^[1] and [Landman](#) ^[2] reports on this subject matter.

NERA reported: *“There is some evidence to suggest that if money no longer spent in LBOs is spent instead in other sectors of the economy, this could lead to a net increase in employment. This is based on the overall relationship between output and employment in different sectors of the economy”* and the Landman report found that *“Because expenditure on FOBTs supports relatively little employment compared with consumer expenditure elsewhere in the economy, this report finds that £1bn of “average” consumer expenditure supports around 20,000 jobs across the UK as a whole, whereas £1bn of expenditure on FOBTs supports only 7,000 jobs in the UK gambling sector. This implies that, other things being equal, an increase of £1bn in consumer spending on FOBTs destroys just over 13,000 jobs in the UK.”*

To protect UK economic growth, it is essential that the Government prevails against the parasitical offshore [remote gambling sector trade body](#) ^[3] that has initiated judicial reviews to fight against the provisions of the incoming Gambling (Advertising and Licensing) Act 2014.

As gambling addiction is now internationally recognised as a mental health issue on a par with other addictions, it is inexcusable that Government still wants to promote the economic growth of the gambling sector, without making any provision to ensure adequate treatment of gambling addicts.

The amount Government spends as deterrents to tobacco use, alcohol consumption and in actions against illegal drugs, is further evidence that Government thinking regarding gambling is far from joined-up. The recent 5% tax hike in FOBT duty was misguided if the Treasury believes higher taxation will result in lower consumption.

The phrasing of the text in the consultation should have stressed that the licensing objectives should never be compromised for the sake of the growth of operators, as the economic growth of certain operators is likely to be at an economic cost to the economy as a whole.

Whilst DCMS is using wellbeing as a measure to allocate funding to arts and sports, it is in denial of the harm to wellbeing caused by the promotion of gambling. As the DCMS relies on the Commission for policy advice, it is the unwillingness of the Commission to identify the association of certain gambling products, such as FOBTs, with negative societal outcomes, that is leading to a disjointed approach.

At points 5.2 through 5.12 the Commission identifies how it prevents gambling from being a source of crime or disorder, being associated with crime or disorder or being used to

support crime

Newham Council, through a recent [Sustainable Communities Act proposal](#) explains the increased anti-social behaviour and crime associated with clustering of high street betting shops, which is of course driven by targeting the FOBT gambler demographic. Clearly Newham and the other [80 Councils](#) likely to support this proposal take the view that the Commission is failing on this objective.

One aspect in which the Commission is showing a blatant dereliction of duty relates to crime against FOBTs. Unless an attempted cash-in-machine robbery is involved, then damage to machines is mainly caused by frustrated gamblers and is an obvious sign of problem gambling.

The Commission makes no attempt to require incidents of property crime in betting shops to be reported or collated. Resolution of this is simple; the two FOBT suppliers receive and collate all information pertaining to machine damage on a per site basis. That information will include type of damage and cause of damage. Analysis of this data could reveal where these incidents are of highest prevalence and if expanded industry wide provide comparative data across sectors.

At points 5.13 through 5.20 the Commission identifies how it ensures that gambling is conducted in a fair and open way. Our Campaign position is that the Commission is already failing in this regard in respect of FOBTs (B2s) and remote gambling.

For FOBTs there is no information provided to the player to explain that the payback percentage of 97% does not apply to the funds deposited, but to the amount wagered. There is also no explanation that roulette losses are sped-up in electronic format compared to the live casino table game format.

Hybrid games on FOBTs must be a cause for concern, irrespective of the view regarding an appropriate maximum stake on FOBTs. Hybrid games allow B3 style games at stakes up to £2 maximum, to morph into B2 games with higher staking opportunities. A recent [Observer article](#) explained this in respect of the Spamalot game offering stakes of up to £30.

This is not the full picture though as a “double or nothing” feature allows stakes of up to £100 per spin. The structure of the game is 20 mandatory lines with payout only on the line with the maximum payout. This results in a high hit frequency of payout including wins, break-levels and partial losses and therefore a high frequency of double or nothing opportunities to increase stakes to over £2.

There is also no visual exposure of losing lines and symbols. The payback percentage increases according to amount staked per spin, again encouraging higher staking, although the disclaimer “not all stakes may be available” applies.

None of this sounds as though hybrids are “fair and open” gambling. This is not surprising as the FOBT suppliers have admitted to pushing the regulatory envelope. The Observer article quoted a Commission spokesman explaining that steps were being taken and additional measures being introduced. But FOBT hybrid games have been available for over a year. The Commission position of letting operators do whatever they want and then seeing how to fit it into the licensing objectives is an abdication of regulatory responsibility.

With the pub sector adapting roulette content for Category C gaming machines (pub fruit machines) it is no surprise that the [Independent newspaper](#) found the Gambling Commission lacking in a recent expose, which showed the real return to players was not prominently displayed. The Gambling Commission response was typically non prescriptive: “Manufacturers, suppliers and retailers should assure themselves that the rules of any casino-variant-style games are transparent, to ensure customers understand them.”

Under remote gambling, advertising is still allowed by affiliates of sites which share up to 70% of player losses. Gamblers are not informed of this relationship. There are also misleading sign-up bonuses and free credits etc, which when taking the terms and conditions into account, are often practically worthless.

At points 5.21 through 5.33 the Commission identifies how it protects children and other vulnerable persons from being harmed or exploited by gambling. Our Campaign position is that the Commission is already failing to deliver in respect of betting shop FOBTs (B2s).

Prevention of harm requires adequate treatment and appropriate research. The Commission has not addressed inadequate treatment as identified in [Gambling: the Hidden Addiction](#). Also it has not addressed the broad academic dissatisfaction with the current research agenda of the Responsible Gambling Trust as identified in [Fair Game: Producing gambling research](#).

Detailed Campaign responses will be presented in the concurrent social responsibility consultation.

In summary, whilst the overall text changes are welcomed, there cannot be any confidence that the licensing objectives will take priority over the economic interests of operators, and that the licensing objectives are being adequately delivered, particularly in respect of FOBTs. The Commission has missed an opportunity to address these imbalances.

In a previous LCCP consultation the Campaign expressed the view that the Commission is unfit-for-purpose. This is probably a reflection on a Gambling Act being unfit-for-purpose and gambling being under the wrong government department at DCMS.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

Sections 6.18 to 6.20 refer to the proceeds of crime, but do not address how operators should be dealt with when having profited from the proceeds of illegal gambling. One of

the most [recent test purchasing of betting shops](#) and adult gaming centres carried out in December 2013 brought this scathing comment from the Gambling Commission: “*The results of the test purchases of smaller betting premises were of even greater concern, where in 20 of the 31 premises tested the young person was not challenged at any stage of the test.*”

Underage gambling proceeds have been obtained illegally. Underage testing shows that underage gambling is prevalent, particularly in betting shops and particularly on FOBTs (B2s).

Money-laundering proceeds have also been obtained illegally. Money-laundering, particularly by drug-dealers, in betting shops using FOBTs (B2s) has been [substantiated by investigative journalism](#). When one corporate bookmaker was found seriously lacking in their [money laundering procedures](#) the penalty imposed was that of the profits derived from the proceeds of the crime, totalling £90,000 and a comment thanking them for their co-operation, therefore causing no financial loss to the company. Yet, a £100,000 penalty was imposed on Camelot for miscalculating a lotto prize fund. This had no relationship with proceeds of crime nor the three licensing principles and had no financial impact on those benefitting from the prize fund.

Gambling proceeds from persons breaching self-exclusions or vulnerable persons, whilst not obtained illegally are, at this time, obtained unethically.

The Commission has missed an opportunity to strengthen the penalties for corporate gain from proceeds of crime.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

This section refers to a Regulatory Panel but does not describe the constitution or function of the panel.

Point 5.50 confirms that the Commission has the power to “impose a financial penalty, where the commission thinks a condition of a license has been breached.” It would have been beneficial if the consultation included a list of all such penalties imposed to determine if there is actually any meaningful use of this power by the Commission and whether it is appropriately applied (see answers to Q2).

The content of this section relates to using “enhanced compliance and voluntary settlement” without a licence review. Again it would have been beneficial if the consultation included a list of all license reviews that had resulted in denial of license and a list of all license reviews without denial. Again, this would show if there is any meaningful use of the license review process.

“Enhanced compliance and voluntary settlements” sound positive. However if operators understand that the imposition of financial penalties and license reviews are actions of last resort, then there is no incentive for operator compliance in the first place, as enhanced compliance after the discovery of a transgression is an easy fix.

It is astounding that the Commission only recently made discoveries that Ladbrokes and Coral were lacking in anti-money-laundering controls and social responsibility controls. These failings did not happen overnight and were most likely apparent, with adequate investigation, since the formal 2007 enactment of the 2005 Gambling Act under the Commission.

It is unlikely that Commission awareness of these failings was generated by Commission activity or by voluntary operator disclosure. The Ladbrokes investigation was preceded by a [Guardian](#) investigation, with whistle blower revelations identified to the Commission a year before he went public. The Coral investigation was probably prompted by police inquiries into betting-shop money-laundering by a significant drug-dealer. As was clear from the investigation, despite junior staff raising concerns, Coral did not instigate an investigation and this brings into question how “enhanced compliance and voluntary settlements” can be considered an effective response.

Discovering non-compliance is just as important a topic as dealing with non-compliance, but discovering non-compliance is not part of the consultation.

The recently announced Senet Group, which is being promoted by four of the five large bookmakers, actually suggests imposing fines on members which are not compliant. Whilst non-compliance of Senet Group members is unlikely, as they will set the standards themselves and will likely have minimal commercial impact, it is telling that operators regard fines as a good regulatory tool, despite the fact that the Commission is very reluctant to apply fines.

In summary, whilst the overall text of the section is welcome, there are real reservations about putting this theory into practice. Use of “enhanced compliance and voluntary settlements” is merely PR spin tactics if they enable operator avoidance of financial penalty, license review or loss of license.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

Q4. Publicity

The Gambling Commission is correct in that “openness and transparency are central to [its] work in upholding the licensing objectives” and that it should desire “increasing confidence in its role as a regulator.”

However 7.8 states that the Commission will not normally publish details of the information found or conclusions reached during its investigations [in enforcement cases.] This statement is in total contradiction to the claims of “openness and transparency”. Protecting crime sensitive information is no excuse for reporting the broader details of such serious incidents.

Furthermore 7.14 explain that the Commission could remove already published enforcement notices from its website. This sounds as though there could even be back-peddalling on standards of transparency to-date.

The Campaign for Fairer Gambling only exists because there are three licensing objectives in the 2005 Gambling Act that the campaign founders determined were being breached in betting shops because of FOBT (B2) operation.

Commission investigations into both Ladbrokes and Coral have justified the Campaign's position, in that each operator was found to be lacking in anti-money-laundering controls and social responsibility controls. The documents published implied that such failings were probably widespread amongst the larger bookmakers. It is certain that these documents should not be removed from the Commission website.

Despite this, the documents revealed very little of substance. No individuals responsible for the failings were named or penalised. Ladbrokes received no sanctions. Coral received minimal sanctions of paying Commission costs and forfeiting winnings obtained from a money-launderer.

Tony Cabot, Chair of a gaming law practice in Nevada, a past president of each of the Nevada Gaming Attorneys Association and the International Masters of Gambling Law, and a past general counsel to the International Association of Gaming Attorneys, has characterised the Commission documents as

“...looking more like academic research than regulatory enforcement actions...”

Whether the Commission is delivering the licensing objectives or not, and how the licensing objectives are being breached are subjects that politicians, the public and the media are entitled to have access to. Therefore enforcement notices should be far more detailed.

Point 7.7 explains that whilst the Commission will usually not make a public announcement of an investigation, it may do so in instances of “public concern, speculation or rumour.”

There is awareness of a “rumour” of a Commission investigation into a major bookmaker that has resulted in the Commission granting it six months to “clean up its act”. The investigation is reputed to relate to 17 instances of transgressions. The Campaign for Fairer Gambling team is aware of the “rumour” and of the identity of this bookmaker.

By definition, this means that the Commission does not expect this operator to be “clean” overnight. To what extent there are failings in the licensing objectives by this operator over the six-month grace period is a matter of serious public concern.

In summary, whilst the publicity section text overall is welcomed, publicity of enforcement is only PR spin if there are no meaningful disclosures and no meaningful sanctions applied.

- 1.6** Please note that responses may be made public or published in a summary of responses of the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the

Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

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

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

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Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Please use this template if possible.

- 1.2** The template leaves space for responses to all the questions asked in the consultation.

- 1.3** All responses should be sent by email to consultation@gamblingcommission.gov.uk by **Tuesday 30 September 2014**.

Alternatively, responses can be sent by post to:

Thomas Deery
Consultation co-ordinator
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Name:

Mike Watret

Organisation:

Carlton Clubs Ltd

Email address:

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

--

Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

Whilst I understand that the Gambling Commission (GC) will require to amend current policy to keep up to date with industry changes, it is becoming increasingly difficult, time consuming and financially prohibitive for some in the industry (particularly those smaller companies who cannot fall back on a Compliance department for assistance in interpreting proposed change) to keep pace with the volume of amendments being made. The scale of current consultative changes over the last 12 months (Amendments to LCCP, Protection of customer funds, Social Responsibility and amendments to principle statements to name just four significant documents) seems to contradict the GC's own guiding principle under General Principles 2.7 – "Imposing the minimum burden necessary to promote the licensing objectives." Under this principle, "the Commission will ensure that its regulatory approach imposes the minimum burden necessary to promote the licensing objectives in the Act – having regard to its impact on different types and sizes of license applicant and license holder – and does not unduly hinder economic progress."

License holders are committing an ever increasing amount of time attempting to interpret numerous proposed changes making it increasingly difficult to focus on our key business needs to the detriment of our operation.

Section 3.4: The Commission needs to clarify its definition of 'reasonable time' for processing applications as this definition may conflict with an operator's view of what is reasonable.

Section 3.9: The Commission needs to clarify the definition of "reasonable time" within the context of this amendment.

Section 4.3: The Commission needs to delete the penultimate bullet point here – "disclose to the Commission anything which the Commission would reasonably expect to know." This statement is too ambiguous and open to different interpretation and judgement. The final bullet point incorporates the desired requirement in this point as operators should be working in an open and honest way.

Section 4.6: The amendment outlined in this section is proposing a fundamental change to the way the Commission was originally set up to work on behalf of customer and operator. Voluntary settlements favour bigger companies with more financial resources who would be in a better monetary position to deal with potential issues which may come to light years after they have taken place. Smaller companies may not be in a position to manage in this way which effectively means bigger, cash rich organisations could effectively side step license sanctions or revocations which a smaller business may not be able to avoid. This is reinforced by Section 4.7 which indicates a formal review would take place where companies cannot commit to section 4.6. Although a very different environment, this could be likened to the recent Bernie Ecclestone decision to bypass his German bribery investigation case by making a substantial cash payment.

We strongly contest that the Gambling Commission should be allowed to charge for these investigations given that the Commission is currently funded through an extensive licensing process.

We would further contest the validity of section 4.6 as a consultative change given the Gambling Commission has already taken action short of a license review in the manner highlighted in this

proposed change with the Bet 365 AML issues published in the fortnightly newsletter on 30/06/2014. The summary within this report indicates:

- Bet 365 voluntarily admitted shortcomings in their procedures
- Bet 365 offered to repay a 7 figure sum identified as having benefited from this as a direct result of their failings
- Volunteered to pay costs to the Commission of £24,000

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

No comments

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

We have no additional comments to make other than our concerns highlighted in our response to Q1 in relation to the same issue. There is an argument that an operator who discloses voluntarily to the Commission at an early stage of a license review in a bid to end the review and agree a settlement is not necessarily acting in a 'fair and open' way from the outset although we note that relevant information may come to light during internal company investigations which may not have been apparent at the commencement of a license review.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

No comments

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Consultation on amendments to the Gambling Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

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Alternatively, responses can be sent by post to:

Thomas Deery
Consultation co-ordinator
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Name:

David Lucas

Organisation:

Fraser Brown

Email address:

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body		Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)	Solicitors		

- 1.5** If you are responding as an individual, please indicate your own interest:

N/A

Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

At the beginning of Appendix A it states that significant proposed additions are marked in blue and bold, and significant proposed deletions are marked in strikethrough.

In section 2 "General Principles" the sub-section headed "Precautionary approach" has been deleted but there is no strikethrough of the relevant text.

The text which was headed "Precautionary approach" appears in sub-section 2.4 of Appendix A and the words "approaching new developments and" have been added to the text but are not marked in blue and bold.

These proposed amendments are significant but have not been highlighted in any way.

As such it is probable that they will not have been noticed in which case it brings into question whether there has been effective consultation on this aspect of the proposed amendments.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

No.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

No.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

No.

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Consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

30th September 2014
By email only

Dear Sir,

On the 8th July the Commission published its consultation paper and sought views on the proposed revision of two documents concerning the Commission's principles and regulatory process.

We are pleased to have the opportunity to comment although we have not felt the need to respond to every question raised in the consultation.

Proposed amendments to the Statement of principles for licensing and regulation

2.11 & 2.12 Promoting Economic Growth

- We welcome these additions to the code, however we do not feel they go far enough. In the Government response to the consultation on Non-economic Regulators: Duty to Have Regard to Growth, there was a clear steer given that regulators should **support** growth. This is further underpinned in the Draft Guidance that outlines

'...regulators should consider what interventions they can make at a strategic level to support growth at the level of business sectors, as well as how operational decision-making can impact on individual businesses ability to grow.'

- The above suggests an active role for the regulator. While we fully acknowledge that this support cannot diminish, the requirement for all to comply with the law does seem to go further than the wording proposed in the consultation, namely *'...the Commission will have **regard to the desirability** of promoting economic growth...'*.

4.13 Criminal Investigations

- We are concerned that in this section the Commission formally states that investigating crimes against operators is a low priority and ordinarily will be left to the Police. Experience in the Tripartite Forum has shown how difficult it is to engage the Police and CPS in gambling related cases which are often seen as 'victimless' financial crimes. We believe that the Commission should support legitimate and licenced operators wherever possible.

5.27 Issue of codes

- This paragraph should be made clearer that while Social Responsibility Codes set out minimum requirements that operators must achieve, Ordinary Codes only represent 'best practice'. Whilst operators will clearly be mindful of these, they are not obligated to comply with these if they feel the Social Responsibility Codes can best be achieved via other methods.

Gala Coral Group New Castle House Castle Boulevard Nottingham NG7 1FT

Telephone 0115 851 7500 Fax 0115 851 7536

Gala Coral Group Limited Registered Office New Castle House Castle Boulevard Nottingham NG7 1FT

Web www.galacoral.co.uk Registered In England 7254686

- Referring back to the draft guidance mentioned above, part of the proposed practical implementation of the Growth Duty (Section 9) requires regulators to ensure -

'guidance is provided in clear and accessible language, making a clear distinction between what is required by law and what is good practice.'

Therefore the different obligations between the two types of code should be made clear and we also suggest that it would also be appropriate to detail this in the general introduction section of the LCCP.

Proposed amendments to the Licensing, compliance and enforcement under the Gambling Act 2005: policy statement

3.13 Upholding the licensing objectives

- We agree and accept that it is for the industry to take the lead in developing and updating measures designed to protect the licensing objectives. However, in the spirit of the Growth Duty, we believe that the Commission should be proactive in challenging anti-industry campaigns/assertions that are based on inaccurate data or untrue assertions.

5.14 Licence Reviews

- This section provides more detail on the basis that the Commission may initiate a licence review and in particular that it may initiate a review even if there are **no** concerns regarding the licence holder's activities. We believe that the Commission should acknowledge in the document that initiation of a review can have a dramatic and immediate negative impact on how that licence holder is regarded by third parties. For example investors are unlikely to fully understand the reasons for a review and therefore react to the uncertainty it brings. This could result in depressed share prices or difficulties finalising any on-going re-financing arrangements. As such a review initiated without suspicion or belief should only be initiated in extreme circumstances such as the licence holder systematically refusing to cooperate with the reasonable requests of the Commission.

Section 5 (various) - Voluntary settlements

- The Commission has included in section 5 specific details on the ability and the benefits of the Commission being able to agree voluntary settlements with operators rather than resorting to more formal action in all instances. We agree that these are important parts of the Commission 'tool kit' and support the inclusion of this approach in the policy statement.

We would welcome the opportunity to discuss the above points should the Commission wish to do so.

Yours sincerely,



Simon Reynolds
Compliance Director
Gala Coral Group

Gala Coral Group New Castle House Castle Boulevard Nottingham NG7 1FT

Telephone **0115 851 7500** Fax **0115 851 7536**

Gala Coral Group Limited Registered Office New Castle House Castle Boulevard Nottingham NG7 1FT

Web www.galacoral.co.uk Registered in England 7254686

Consultation on amendments to the Gambling Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

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Alternatively, responses can be sent by post to:

Thomas Deery
Consultation co-ordinator
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Name:

Peter Hannibal

Organisation:

The Gambling Business Group

Email address:

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

We agree with the proposed changes to the Statement of principles for licensing and regulation.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

We agree with the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively).

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

We agree with the changes to Chapter 5 on regulatory enforcement, enhanced compliance and voluntary settlements.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

We agree with the changes as they effectively formalise what has become practice.

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From: George [REDACTED]

Sent: Thursday, September 18, 2014 4:11 PM

To: Jenny Williams

Subject: Roll up, roll up – have a bet, win a date – hardly fair and safe for all?

I write regarding the Gambling Commission's current consultation on proposed amendments to the Gambling Commission's: statement of principles for licensing and regulation.

<http://www.gamblingcommission.gov.uk/pdf/Consultation%20on%20SOP%20and%20LCE%20policy%20statement%20July%202014.pdf>

My response is with specific reference gambling marketing and social responsibility of licenced operators. A current example of these issues which I think is inequitable, socially irresponsible and harmful is when a licensed and regulator operator: The Sun Newspaper allows a date with a page 3 model to be a prize for a licensed and regulated gambling activity it's current Sun Dream Team fantasy league, I feel strongly that preventative measures should be put in place quickly to avoid this occurring again.

Therefore, I would suggest that the following issues should be represented more prominently in the final statement of principles and revised in light of the Sun's recent "prize draw":

- the continued development of advertising practice codes [5.24] and
- effective enforcements as well as minimum social responsibility requirements [5.27].

Especially given your motto "keeping gambling fair and safe for all", offering a date with a model as an incentive to gamble doesn't seem to fit!

I did receive a response from your Chief Executive on 22 August regarding your other current consultation on socially responsible gambling and my specific reference to paragraph 11.28 of the consultation:

<http://www.gamblingcommission.gov.uk/pdf/Proposed%20amendments%20to%20social%20responsibility%20provisions%20in%20LCCP%20consultation%20August%202014.pdf>

The Act specifically gives the Commission the power (section 81(1)) to set general licence conditions to be attached to an operating licence which could, 'in particular, restrict or otherwise make provision about the making of offers designed to induce persons to participate, or to increase their participation in, the licensed activities'.

I was disappointed that the response from the Chief Executive of the Gambling Commission said that despite to my knowledge the "prize offer" only being accessible to those partaking in an activity licensed and regulated by "the Commission" the prize draw in question was not subject to regulatory controls under the Gambling Act 2005.

However, therefore whilst not in primary legislation currently, I wondered whether the statement of principles for the licensing and regulation of gambling, in addition to the social responsibility code, offers the potential to deal with the issue of such association and advertising bringing gambling industry into disrepute in a proactive and preventative manner without the need for legislation.

Your current consultations outline that the Commission's approach to fair and open marketing and advertising should be seen against the backdrop of the wider Government review of gambling advertising. This review, announced in March 2014 seeks to ensure that

the regulatory controls are properly examined, especially in relation to children and other vulnerable people. In relation to the latter category I would hope that you will have cause for concern to be directly concerned over and above whether gambling marketing misleads players or exacerbates the risk of problem gambling.

This review of gambling advertising rules in the UK Advertising Codes and or a potential future action under 5.24 or 5.27 could I would suggest also consider the need for regulation on gambling marketing, if self-regulatory advertising is not consistently delivering a clear enforcement and compliance functions with regard to the achievement of the wider aims of the CAP codes?

I have welcomed the Advertising Standards Authority intention to investigate the complaint regarding the Sun Dream Team ad offering a date with a page 3 girl on 3 issues: whether ad was offensive and objectified women and was sexist, whether it was socially responsible to offer a date as an incentive to gamble and whether the reference to "creepy uncle" trivialized sexual/child abuse.

http://www.cap.org.uk/Advertising-Codes/~media/Files/CAP/Codes%20CAP%20pdf/CAP%20Codes%2017_6_2014.ashx

I also welcome the news that you will work closely with the ASA and take consideration of sadly only repeated code violations with regard to the suitability of a gambling operator to hold a licence.

However, in regard to your current consultation on the statement of principles, I must say as a member of the general public i am still amazed that the Gambling Commission themselves do not have the powers to enforce socially irresponsible advertising of gambling rather than a reliance on a self-regulatory process which will at best take 2/3 months to resolve a situation after the initial ad was placed.

Especially in the context of the licensing objectives of the 2005 Act, the ability to investigate compliance and enforcement via Section 27 and 28 and the provisions of section 327 in terms of gambling advertising and Section 328 in the ability to make regulations and power under Section 336 to void a bet if it was conducted in contravention of industry rules, which presumably would include gambling advertising and compliance with the CAP code. The "prize" draw in question was only accessible via a regulated/licensed activity it appears, perhaps consideration needs to be given to closing that loophole in the near future if it exists?

In a debate in the Scottish Parliament it was noted that the link between sexualised images of women which objectify women and the likelihood that sexual predators and criminals will act on a view of women that they are no more than a summary of body parts. Leading to anti-social behaviour and violence towards women. Therefore it doesn't seem to me that offering a date with a girl as an incentive to gamble is particularly socially irresponsible or fit with the wider Gambling objectives of harm reduction from gambling.

On that basis i have copied my response to Helen Grant MP in her role as Minister of State at Department for Culture, Media and Sport with responsible for gambling and her shadow counterpart Helen Goodman MP to consider potential legislative avenues in the future and also Shona Robison MSP and Jackie Baillie MSP given their Equalities portfolios in the Scottish Parliament.

I look forward to your reply and hope that your consultation will seriously consider the principles gambling marketing which should not in my view be able to promote violence

towards women or the objectification of women as prizes/incentives to gamble whilst receiving a Gambling Commission licence.
Kind regards

George Eckton

From: [REDACTED]
To: [Consultation](#)
Subject: Gambling Commission Consultation - Statement of Principles & Licensing, Compliance and Enforcement Policy
Date: 30 September 2014 10:40:07

Dear Gambling Commission

After consulting members views and the gambling consultation panel looking at this consultation we have not received any comments.

Regards
Jenna Parker
Training and Qualifications Manager
Institute of Licensing
Tel - [REDACTED]
www.instituteoflicensing.org
[Visit our Website](#)
[Like our Facebook page](#)



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Consultation on amendments to the Gambling Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

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Alternatively, responses can be sent by post to:

Thomas Deery
 Consultation co-ordinator
 Gambling Commission
 Victoria Square House
 Victoria Square
 Birmingham B2 4BP

Name:

Tracy Damestani

Organisation:

National Casino Forum

Email address:

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

2.11 NCF welcomes the statement at 2.11 concerning the promotion of economic growth.

3.10 Gives the ability for the Commission to impose a condition on an Operating Licence that the operator must begin to offer gambling facilities within a specific timescale. We have some sympathy with this, notably with remote licenses as mentioned in the consultation. However, there are different considerations where land based licenses are concerned, whereby the operator has to obtain a premises licence before it can then start to offer gambling facilities, which is a matter for the Local Authority. This point particularly relates to 2005 Act casino applications where Local Authorities have been known to take a very long time between launching their tender competition and ultimately reaching a decision after stage two. There might be a lengthy period of building before the winner can commence with gambling operations. There is a risk that the Operating Licence may therefore have been obtained in good faith but, through no fault of their own, fall short of the timescale specified within the licence condition before practically being able to open for business.

We suggest the Commission either takes the practical considerations of the arduous 2005 Act casino tender process into account or, alternatively, makes it clear that the Commission can easily extend the timescale of such a condition if valid and reasonable circumstances dictate.

Where an operator is paying their annual fees, the Commission should give a very good reason why they otherwise believe their licence should be reviewed and potentially revoked, based on the individual circumstances.

4.5 to 4.10 Explains the process proposed for conducting a voluntary settlement of regulatory issues as opposed to holding a formal review of the licence. NCF members in broad principles support this approach, but are keen that the process is based on sound evidence, fair and transparent. The Commission should be mindful of the consequences to operators of being unjustly accused, causing reputational damage, commercial damage, and can affect the share price of a Plc.

An additional concern focuses on the Commission's appetite for the use of public statements. In point 4.6 the Commission makes the veiled threat that, if an operator is not prepared to meet all the requirements (including, presumably, a public statement) they may then take the route of a formal review. In some circumstances that may indeed be justified, but in other – more borderline – cases, it could be construed as a “gun to the head” to agree to such a statement.

Recent examples raised concerns that such statements were more an exercise in “naming and shaming” than the more positive aspect expressed in the document about sharing learning to help other operators avoid the same mistakes. There was insufficient detail in these statements, relating to the actual incidents concerned, that would allow other operators to learn by example. However, there was much said about the operators being keen to help the industry learn from their experience.

We believe that detailed real examples should be used to help the wider industry, within the boundaries of data protection and sub judice. Therefore, if the public statement route is to be used, we believe the emphasis should be strongly on providing that detail, rather than using the statements as a “head on a spike” warning to others. However, we generally remain uncomfortable and unconvinced that public statements are the best way to convey this learning. As a preference, we believe it would be better achieved by raising and discussing the incidents at

Industry Sector Meetings, where the exact, and possibly more sensitive, details can then be more easily revealed and discussed than in a public document.

4.12 Refers to a change in emphasis for the Commission in regards to cheating, focusing its concerns on cheating that affects other players, rather than operators.

Whilst we sympathise with the idea that the Commission's priorities should rest with the consumer, there is a contradiction in publically stating that crimes against the operator are a "low priority" in their eyes. Operators have an obligation under the licensing objectives to keep out crime, which includes removing cheats. Most cheating is directed against the house, bookmaker, machine etc. but indirectly, it all affects other players in some way or other. It is a similar principle to the insurance industry, where the net effect of false claims adds to overall premiums.

If the regulator publically states that crimes against operators are a low priority (albeit stressing them to otherwise be a matter for the police), it sends out a very unhelpful message to both criminals and any court prosecuting them. It suggests the Commission itself is not interested in crimes against operators.

In doing so, it suggests to would be criminals that operators are "fair game" in the eyes of all authorities or their defending counsels, a view that prevailed under the 1968 Act when cheating was not a specific offence. Now it is an offence under the 2005 Act, the Commission therefore has an obligation to uphold it, along with the objective of keeping out crime and disorder, wherever that may come from or be targeted against. We agree it is ultimately a matter for the police, but the support of the regulator is none the less very important in stressing that crime, in any form, is not condoned by the Commission. The police also have limited resources, and experience has shown that, if they believe the Commission is generally not interested in a crime, it does not necessarily help them execute their own responsibilities.

We assume the actual reason behind this comment is simply a desire to make best use of their limited resources. As an industry, we obviously support the Commission in being able to prioritise resources and investigations. However, in doing so, we strongly believe that the document should not include a statement that crimes against operators are considered a low priority for the regulator (even if that is the case on a practical level).

By contrast, sections 5.9 and 5.20 makes the same point but in better, more broad terms, referring only to "*crimes where gambling is an intrinsic element*" or "*prioritised by reference to the level of risk posed to the licensing objectives*". These statements do not openly exclude crimes against operators. We believe this wording is more effective and less contentious, and the wording that specifically classes such crimes as "low priority" should be revisited.

We have no other comments on amendments made to Appendix A.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6

respectively)?

2.14 We have often discussed with the Commission that there is ongoing confusion around the terms “impact” and “risk”. A large operator will obviously have a greater impact if it were to collapse as a result of acting in a non-compliant way, but the risks of their doing so are actually mitigated and very small indeed (given that they have compliance departments, internal audit, shareholders and thus much to lose).

By contrast, a singleton operator (e.g. an arcade or bookmaker) may have limited national impact if they were to fail but, we believe, poses a much greater risk to its own customers, having far less to lose from cutting corners in compliance and the licensing objectives.

Consequently, we have long contested the amount of time and effort that the Commission employs in visiting multiple premises run by major companies with standard procedures in each, when many small, independent businesses never receive a visit at all.

We are pleased that some of the previous practices of repeating detailed inspections across large operators have been curtailed of late. This appears to be endorsed by the amendment to point 4.5. However, the overriding principle remains, in our view, that the Commission should better acknowledge in the statement of principles that the risk posed to the licensing objectives by large operators is actually very small. If it does indeed wish to “*target those areas of greatest risk to the licensing objectives*” then the apparent focus on big operators over small independents (in whatever sector) appears to be misplaced.

We have no comment on chapters 3 and 6.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

5.6 The decision to place anonymous examples on the website needs to take into account the timing of when examples are placed on the site, all current or prior media exposure in order to avoid compromising anonymity.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

We have no comments on chapter 7 other than to re-iterate the concerns expressed in Question 1 (4.5-4.10) relating to public statements. We are pleased that the Commission is making provision to issue a statement to clarify the position when allegations have been made, investigated and proven to be unfounded (point 7.8).

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specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

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

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

CON 14/06

- 1.1** This template is provided for responses to the Gambling Commission's (the Commission) consultation on amendments to the Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Please use this template if possible.

- 1.2** The template leaves space for responses to all the questions asked in the consultation.

- 1.3** All responses should be sent by email to consultation@gamblingcommission.gov.uk by **Tuesday 30 September 2014**.

Alternatively, responses can be sent by post to:

Thomas Deery
Consultation co-ordinator
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Name:

Adam Smith

Organisation:

Paddy Power

Email address:

[REDACTED]

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body		Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)	Operator		

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

Paddy Power welcomes the Gambling Commission's recognition of its duty to promote economic growth as set out in new sections 2.11 and 2.12 of its statement of principles for licensing and regulation. We believe this duty can be balanced successfully with the Commission's licensing objectives and look forward to seeing this new commitment reflected in the Commission's licensing and regulatory activities.

We also welcome the new language in section 4.15 setting out the Commission's expectation that operators should comply with the law in both the UK and other jurisdictions in which they are active. We are pleased to see that the Commission believes that failure to meet this expectation "may raise questions about the continuing suitability of licence holders". As the Commission is aware, Paddy Power only operates in regulated markets and believes all holders of UK licences should pledge not to derive significant revenues from markets in which gambling is illegal. To strengthen this section further we would suggest amending the title to read, "Considering the outcome of investigations carried out by other regulators and other government agencies". In jurisdictions where gambling is illegal there is unlikely to be a gambling specific regulator so the Commission should be able to take into account investigations carried out in non-UK jurisdictions by other government agencies.

The Gambling Commission should also consider how to work better with other government agencies in order to get an understanding of all aspects of their licensees business, including those parts which are not licensed by the Commission.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

n/a

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

n/a

Q4.	Do you have any comments on the new chapter on publicity (chapter 7)?
	n/a

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Licensing, compliance and enforcement policy statement

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Thomas Deery
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Victoria Square
Birmingham B2 4BP

Name:

Sue Rossiter

Organisation:

Remote Gambling Association

Email address:

[REDACTED]

- 1.4** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body	X	Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)			

- 1.5** If you are responding as an individual, please indicate your own interest:

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Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

The Commission has stated its commitment to principles based regulation. This is a laudable position, but it raises regulatory uncertainty when licensees are unsure how those principles are to be applied, especially when it comes to enforcement and compliance action. The industry needs consistent and proportionate regulation to secure growth within the framework of the licensing objectives.

Appendix A: Statement of principles for licensing and regulation

We welcome the revision and updating of the Commission's approach to compliance, voluntary settlement and publicity, but do not support all of the changes proposed.

Specific issues

Chapter 2 General Principles

2.8 and 2.15 Information exchange

These paragraphs make reference to requesting information and sharing information with other regulators without making reference to the types of information that may be exchanged or the limits on the information that may be exchanged. For example, if another regulator is seeking to limit the operators in their market, possibly in contravention of European law, would the Commission comply with requests for information on which operators are operating in that market? Similarly if a sports regulatory body is seeking information from an operator for irrelevant information e.g. that a sports person has a gambling account without reference to breach of the body's own rules on gambling, would the Commission expect compliance with such a request?

2.11 and 2.12 Promoting economic growth

In its responses document to the consultation on the non-economic regulators' duty to promote growth, the Government is clear that non-economic regulators such as the Gambling Commission should have a duty to support growth. In this document that duty seems to have been watered down to a regard to the desirability of promoting economic growth. While these paragraphs are welcome additions to the code, they do not go far enough. The regulatory actions of the Commission have an impact on a business's ability to grow. While we agree that the public needs to be protected from businesses that are not socially responsible or are involved with unfair practices or criminal activity, disproportionate regulation is costly to business and restricts growth. In contrast, good regulation can protect businesses and provide the confidence for all sizes of businesses to invest, grow and create new jobs.

2.13 Focusing on preventive activity

Public statements which allow operators to learn lessons from other operators would be welcome. Equally important is the best practice that can be disseminated through the Commission. In either case the operators involved should agree the public statements before they are in the public domain.

Chapter 3 Principles for licensing

3.2 to 3.5 The new paragraphs partly clarify what the Commission expects from applicants,

however as the current round of applications is proving, there are some contradictions between what is requested on the application forms and guidance given to applicants. Openness and transparency is necessary from both applicants and the Commission throughout the application process. A better understanding of what is considered to be a “material change” is necessary to ensure that operators provide the Commission with the correct information. The FAQs have been very helpful in clarifying issues and addressing apparent inconsistencies, but the quantity of them have highlighted how difficult it is to apply regulatory principles in practice.

3.6 to 3.7 the levels of openness and co-operation demonstrated by an operator are subjective.

3.8 and 3.9 While we understand that the regulator will not want to undertake compliance activity on inactive licences, we still believe that there will be gambling operators who will want to support UK sporting and other events through sponsorship and other advertising but not take bets from British consumers. It seems counterintuitive that a land based casino outside of the UK can advertise under the new regime but a non-UK facing online casino cannot. We still hope that this policy can be revisited.

3.13 and 3.14 the RGA supports the requirements for operators to demonstrate how they will minimise the risks to the licensing objective and be accountable for regulatory requirements. As stated previously operators would benefit greatly from shared good practice identified by the Commission.

3.19 and 3.20 The register of licences issued and the regulatory decisions schedule are helpful for both public and the industry as they facilitate transparency across the industry.

A similar schedule of refused or withdrawn applications could be helpful, but only if the information contained is in the public interest to disclose. For example an applicant may apply for a licence only for the tax rate to change, rendering the market unviable. This has happened in a number of jurisdictions. There is the risk that a withdrawn application is seen as unwillingness to be regulated when in fact it is a purely economic decision. The concern is that this could be misconstrued and used against the company in other jurisdictions.

Overall we think that many issues may arise from publishing a schedule of refused or withdrawn applications and so such a proposal should be subject to a full consultation.

Chapter 4 Principles for regulation

4.3 and 4.4 The new paragraphs setting out the expectations for personal management licensees and personal functional licensees are an extension to the existing expectations of operating licences and are appropriate.

4.5 to 4.10 the new policy principle of voluntary settlement is welcomed. It is of course only in the application of the principle that its usefulness or potential damage (justified or unjustified) can be measured. We particularly welcome the statement in paragraph 4.9.

4.13 This paragraph causes the RGA a lot of concern. It has been difficult to engage non-specialist law enforcement in what has been considered “victimless” financial crimes. We have been informally told that at least £1m of damage would be needed to trigger a full investigation. To our knowledge only one case has been prosecuted and that was on the basis of identity fraud. Licensed and legal operators should be afforded the same level of protection from criminality as other entities such as sports bodies or players. This statement could encourage criminals to set their sights on gambling operators. If it becomes known that the Commission will not assist legal

and licensed operators who are targeted by criminals those operators are more likely to become victims. We appreciate why the Commission would want to give priority to protecting consumers but do not agree that it should disregard licensees completely.

4.15 We understand that the willingness of an operator to participate in a black market may be a contributory factor in determining the suitability of an operator. However where the law is unclear operators must be given the opportunity to explain their case to the Commission. You will be aware that the “illegality” of markets is not always clear cut especially where the legislation in that jurisdiction is being tested in court. We welcome the fact that the Commission has adopted this approach in the current round of licensing, but would like to see that reflected explicitly in the Statement.

4.16 to 4.20 we welcome the provision of more information about the Commission’s regulatory functions.

Chapter 5: Promoting the licensing objectives

5.6 As well as providing guidance to British Police Services, it would be helpful if the Commission could acknowledge its role in the provision of general information about the gambling industry to law enforcement agencies including the likely targets for criminals and the steps that gambling operators undertake to ensure that their organisations are not a source of, or target for, criminal activity.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

Chapter 1 – no comment

Chapter 2 – Assessing risk

General comment – The RGA supports the Commission’s approach to assessing risk and ensuring that the maximum resources are used to identifying, assessing and addressing risk.

Specific comments

2.15 – There are references throughout this and the SoP document to “other regulators”. It should be made clear that information should only be shared between “other regulators” in respect of the Commission’s duties under the Gambling Act 2005.

Chapter 3 – Licensing

General comment – the RGA supports the move to ensure that high standards are met before a licence is granted. We recognise that part of that will require operators to have policies and procedures in place that will allow the Commission to make the necessary assessment.

Specific comments

3.4 – Normally an operator would have an independent Head of Compliance but for smaller operators with a small senior management team it may not be possible. In addition there may be exceptional circumstances when a PML has to double up for a short or extended period. Provided this is communicated to the Commission as soon as possible an exception should be granted.

3.7 – The paragraph states that the Commission will exchange information with “other regulators in the UK and abroad”. Exchange of information should be restricted to those regulators that can offer an insight into the activities of the licence applicant under the Gambling 2005.

3.13 – Members of the RGA are committed to the development of social responsibility measures that are proven to promote responsible gambling and minimise harm as a result of gambling. While we accept that it is for the industry to develop and update measures to uphold the licensing objectives we also believe that the Gambling Commission, as an industry stakeholder, has a role in promoting what works for customers and industry. For example if in their discussions with other regulators, the Commission is made aware of measures that have been seen to prevent money laundering in another industry or jurisdiction they should ensure that that information is disseminated to its licence holders. It is also important that the Commission challenges anti-industry assertions that are not supported by empirical evidence.

3.18 – We agree that applicants for licences should co-operate fully with the Commission and that failure to do so could indicate that the operator may be unwilling to collaborate with the Commission in future. In order to assist applicants to provide the appropriate information for consideration during the application process, the Commission must provide clear and unambiguous guidance as soon as possible after issues are raised with the Commission. All information needed to make an application should be made freely available on the website.

Chapter 4 – Compliance

General comment – we support the Commission’s change in emphasis from visits to other forms of assessment. We also support the Commission’s reliance on risk assessment to determine the frequency and scale of assessment. Further we believe that the Commission has a valuable role in disseminating excellent practice as well as giving examples of poor practice.

Chapter 6: Investigation and prosecution of offences under the Gambling Act 2005

General comments – the Commission has a duty to prevent illegal gambling and should seek to protect not only consumers from illegal operators but also to keep illegal operators out of the market.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

General comments – we welcome the Commission’s statement that it will seek to fulfil its statutory obligations through enhanced compliance and voluntary settlement as well as formal action against non-complaint operators. It would be helpful to give detail of how the Commission would deal with self-referral where the operator notifies the Commission of an actual or potential breach of one of the licensing objectives. Operators should be encouraged to come forward, and will normally do so in the reporting of key events, but may be reluctant to notify if to do so will result in excessive adverse publicity.

Specific comments

5.5 – Is this list in order of importance, if not it should say so.

5.6 – For publicly listed companies and those regulated or seeking regulation in other jurisdictions, the impact of publicity in relation to a breach or regulatory sanction in any form could be very adverse. Any examples on the website should not lead to the company being identified unless they are content to be identified. Just removing the name of the company will not mean that they

are not identifiable.

5.8 – It would be helpful to see the criteria for reference to a Regulatory Panel. Will the “Regulatory decisions: Procedures and guidance for the Regulatory Panel” document be updated?

5.10 - We support the principles underlying the Commission approach to the exercise of its powers set out in this paragraph.

5.14 – Operators will want to know why they are to be subject to a review. We would suggest that if they feel the reasons given are inappropriate they should have the ability to challenge the review. It must be acknowledged that reviews are resource intensive for the operator as well as the Commission and good operators should benefit from a lighter touch approach. A 116 review can have a significant detrimental effect on a company’s share price and or re-financing. As such reviews under section 116 of the Act should only be undertaken in extreme cases or if a licensee refuses to cooperate with the Commission.

5.23 Operators must be given notice where they may be interviewed under caution and provided with the opportunity to obtain independent legal representation.

5.46 We accept that voluntary settlements are not the same as “out of court settlements” and as such there is no requirement for confidentiality. It will still be important for the Commission to weigh up the likelihood of operators being more reluctant to come to the Commission when there has been a breach of the licensing objectives if there is the risk of attracting unfair or negative.

5.49 We agree that complex, large, novel or strategically important cases should be subject to review by the Regulatory Panel.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

General comments - this section of the policy statement is the most contentious. Operators welcome the Commission’s commitment to openness and transparency – but it is how the Commission chooses to publicise its activities that causes concern.

Specific comments

7.2 – we do not know what the benefit of listing the applicants under consideration or those which are withdrawn may be. Until the licence is granted operators cannot offer facilities for gambling and the public will not be put at risk. There may be very legitimate reasons for an application being withdrawn. For example a change in tax policy may make the market unviable (this happened in Spain), or a banking group may decide to stop offering banking facilities to new gambling business operating in the UK (this has happened) and the operator is forced to withdraw their application until they can get new banking facilities. These, and many other commercial decisions, are outside the control of the operator and do not impact on customers. The Gambling Commission’s own policy of not granting an application unless gambling facilities will be made available could make a situation worse. Unless there are clear reasons listed why a licence is withdrawn the implication may be that there has been a regulatory concern. What may be a perfectly legitimate commercial decision for a potentially compliant and socially responsible operator may be interpreted as a risk to other regulators, investors and consumers.

7.4 to 7.8 where there is any possibility of operators being named by the Gambling Commission they should be warned of this and given the opportunity to argue their case.

7.10 Where an operator has entered into a voluntary agreement or has referred themselves to the Commission this should be noted in any press releases. Seeking to “name and shame” without recognising the integrity of operators who have made a mistake could be counterproductive.

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Consultation on amendments to the Gambling Commission's:

Statement of principles for licensing and regulation

Licensing, compliance and enforcement policy statement

Consultation responses template: July 2014

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Thomas Deery
Consultation co-ordinator
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Name:

Robert Capener

Organisation:

Talarius Ltd

Email address:

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Industry body		Regulatory body	
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Other (please specify)	AGC operator		

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Responding on behalf of our Organisation

Issues relating to the Statement of principles for licensing and regulation (Appendix A)

Q1. Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

Section 4.6 – voluntary settlement and the need for operators to prepared to publish a statement acknowledging failings, divest GGY which accrued as a result of said failings and contribute to GC costs for the investigation – would this not depend on the nature of the offence once proven and the severity of the offence.

Issues relating to the Licensing, compliance and enforcement policy statement (Appendix B)

Q2. Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?

Section 2 Assessing Risk – We could not see any comments on how the GC would advise an operator if in the GC view the risk profile of the operator increases or decreases.

Section 4 Compliance – As an operator we have had instances following venue visits that differing GC compliance officers have different views, which could lead to confusion on the part of the operator. It would also be useful for larger operators to engage with GC officers direct following their visits as we now longer receive visit reports unless we request them, again this would help with sharing knowledge.

Q3. Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?

Section 5.23 Interviews, it states a review interview will be conducted under regulatory caution, however the wording around review appears to make it more of a soft touch work together approach.

Q4. Do you have any comments on the new chapter on publicity (chapter 7)?

Public register is dependent on Local Authorities giving the GC correct information, how is this validated as I know in the past our number of venues and type of operation details have been incorrect which has then created issues between the GC and us as an operator.

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