

GAMBLING COMMISSION

Regulatory data consultation

Responses (part 1)

23 February 2017

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1 Introduction

- 1.1 In a [consultation](#) published on 16 November 2016, we set out our proposals to change some parts of the regulatory data that we require licensed operators to provide to us. The main focus of the consultation was on regulatory returns data, which all operators are required to complete and submit as a condition of their licence either on an annual or quarterly basis.
- 1.2 The consultation period ended on 13 January 2017.
- 1.3 The consultation set out our intention to make these changes through a phased approach, with a focus on making those changes which are more time critical (for example because of their importance to the [proposed changes to fees](#)) during the first phase.
- 1.4 We have taken the decision to split the consultation responses into:
- Part 1: responses to the proposals which are specifically required for fee calculation, which will be required from operators submitting data from April 2017
 - Part 2: responses to all other proposals contained within the consultation.
- 1.5 This is the first part of the response focussing on proposals for changes directly related to fees and specifically questions 13, 15 and 16. A list of respondents to the relevant questions is provided at Annex A.
- 1.6 The second part of our response will be published separately and will follow once we have considered all of the relevant stakeholder responses.

2 Summary of responses to questions 13, 15 and 16

- 2.1 The Department for Culture, Media and Sport (DCMS) and the Gambling Commission held a joint consultation between 8 July 2016 and 9 September 2016 on proposals for Commission fees. Following the consultation the proposal to retain a structure of fee categories, but with categories being based on gross gambling yield (GGY) rather than premises numbers or size of premises, was confirmed.
- 2.2 These are important changes that are considered proportionate because they provide the basis for the fees regime as well as improving our evidence base.
- 2.3 These changes include: bingo, general betting (standard), adult gaming centre, family entertainment centre and 2005 Act casinos. They will be subject to ministerial and parliamentary approval but if agreed would come into effect from April 2017.
- 2.4 Whilst regulatory returns currently collect information on revenue or GGY from all operators, we identified three individual data points from two sectors where we have not previously explicitly asked for data which would contribute to operator revenues in reliance on their licence. These were explained in the [Regulatory data consultation](#) along with proposals for change within the relevant sub-sections:
- a) Arcades - adult gaming centres (AGC) and family gaming centres (FEC)
 - b) Gaming machine and technical (GM&T), remote and non-remote.
- 2.5 The stakeholder responses to questions 13, 15 and 16 are summarised below, along with our suggested way forward.

Arcades AGC/FEC question 13

- 2.6 We identified the absence of financial data in respect of prize gaming which takes place within arcade premises and we therefore proposed to include a single question on the regulatory return asking for annual GGY derived from prize gaming in reliance on the AGC or FEC operating licence.

Consultation question 13

Do you agree with the inclusion of a question to include details of GGY attributable to prize gaming?

- 2.7 There were seven specific responses to this question.
- 2.8 One of the responses outlined that the consultation was unclear whether or not this will extend to either, or both, licensed and/or unlicensed FECs (and indeed the pub sector). Subject to this, the respondent indicated that they were concerned that smaller establishments would come within the new scope.
- 2.9 Another three responses indicated that they felt it was disproportionate, especially upon smaller operators, for us to collect this data on prize gaming.
- 2.10 Three responses indicated that they agreed with the proposals, especially on the basis that it provides us (and therefore stakeholders) with a more complete view of the gambling sector.

Our position

- 2.11 The proposals do not seek to bring any operators into the scope of regulatory returns which do not hold a Commission licence. We only collect (and will continue to do so as a result of these proposals) regulatory data from operators who hold a Commission licence. Therefore an unlicensed FEC or pub which does not currently require a Commission licence would not be required to submit any data to us.
- 2.12 Where relevant to their business, the change will mean that operators holding an FEC or AGC licence will have to complete an additional question to tell us about any GGY derived from prize gaming.
- 2.13 In terms of ensuring that our proposals do not place a disproportionate burden upon smaller operators, we do not anticipate that this will be the case because our research shows:
- smaller operators do not normally offer prize gaming so the new question would not be relevant in these cases
 - we expect operators to already collect this data which is required for the payment of gambling duties.
- 2.14 The change will take effect for regulatory returns submitted from April 2017 and we will be making the relevant changes to e-Services and guidance in support of that change from that date.

Gaming machine and technical (GM&T), remote and non-remote question 15

- 2.15** The current GM&T regulatory return does not have financial data relating to revenue generated by operators holding a GM&T licence in terms of maintenance and the sale of kits, as there is no specific section to allow operators to enter this revenue.
- 2.16** We believe that by adding 'Maintenance and sale of kits' as an additional revenue field within regulatory returns we can address both the inconsistency and completeness of data issues and make it simpler and quicker for those operators who undertake maintenance or supply kits in reliance on their GM&T licence to complete the return correctly.

Consultation question 15

Do you agree with our proposal to add a revenue field to capture revenue from maintenance and the sale of kits?

- 2.17** There were four specific responses to this question.
- 2.18** Several respondents highlighted that they were not sure what we meant by 'revenue from maintenance' and the 'sale of kits'; so we should provide detailed guidance about exactly what we want them to capture and submit as part of this requirement.
- 2.19** One operator highlighted that for some businesses, it is not possible for them to split this revenue out because some operators maintain machines as part of their supply operation. This means that there may not be any separate income per se.
- 2.20** One respondent indicated that they agreed with the Commission tidying up the apparent inconsistency in the requirements.

Our position

- 2.21** Revenue generated by the sale of kits or from maintenance is done so in reliance on an operator's licence. We feel that it is important that such revenue is captured and captured in a consistent way across all relevant operators. We are of the view that the best way to achieve this is to include an additional data field.
- 2.22** This change will remove the possibility of double counting or under-counting of revenues because it removes the likelihood of confusion about what revenue should be reported in each section.
- 2.23** We have considered the response from several respondents that there needs to be clarity as to what revenue should be included in the additional field and propose the following.

Proposed definition

Maintenance is defined as the activity of fixing, upgrading or scheduling any sort of ongoing work to a gaming machine or any part of a gaming machine, the latter would not be applicable to those refurbishing components on behalf of a Commission technical licence holder where they do not modify any part of a gaming machine beyond the original manufacturers specification.

Sale of kits is defined as the sale of a set of component parts for a gaming machine which have been designed to alter either the game software, hardware (including appearance) or both so as to change the game so significantly that it would be recognised as a different game.

New game software or hardware designed to upgrade an existing game but would not alter its characteristics such that it would not be recognised as a different game would be caught as machine maintenance.

In consideration of the above a part of a gaming machine is defined under section 235(3)(c) of the Gambling Act 2005.

This may include activities such as:

- *Making changes that alter the category of the machine*
- *Repairing machine parts where the component may have an effect on the game outcome*
- *Swapping out components that may affect the outcome of the game (primary logic boards, game memory devices etc)*
- *Modifications/adaptations to any game logic security devices (logic cage etc).*

2.24 We are mindful that there may be some operators, especially smaller operators, who may not be able to accurately split out this revenue. Where this is the case we would expect the operator to make an appropriate estimate, indicating where they have done this in the notes field of the regulatory returns and to provide an explanation of why their data is not accurate.

2.25 It is therefore our intention to add a revenue field to capture revenue from maintenance and the sale of kits. The change will take effect for regulatory returns submitted from April 2017 and we will be making the relevant changes to e-Services and guidance in support of this change from that date.

Gaming machine and technical (GM&T), remote and non-remote question 16

2.26 We considered whether there should be separate returns for holders of non-remote and remote GM&T licences so that we can obtain a clear picture of the revenue derived in reliance on each licence. However we are mindful that this would put an additional burden on those operators who hold both licences. We therefore proposed to obtain the information required by introducing a question that will ask holders of both licences to tell us the split of their total revenue between the two licences.

Consultation question 16

Do you agree with our proposal to include an additional question on the form to report the split of revenue between remote and non-remote means rather than introducing a separate form for each licence?

2.27 There were nine specific responses to this question.

2.28 One operator pointed out that they are unable to split their revenue in reliance on their licences between remote and non-remote, and that the proposal to require a split would cause them difficulties. They indicated that revenue share agreements with their customers preclude an accurate split on these grounds.

2.29 Another two responses indicated that the proposal seemed to create a problem which it was designed to fix, presumably because of the fact that it increased the burden upon operators by including an additional data field.

2.30 Five of the responses supported the proposal, with one additional response pointing out that they were interested in the remote/non-remote breakdown of betting revenues.

Our position

2.31 Operators are required to hold either a non-remote licence, a remote licence or both, dependent on how they conduct their business. All licences are subject to conditions as to how the activities are offered and most licences will also have a condition that limits the value of annual gross sales that may be generated as per the following example:

This licence is subject to the condition that the value of the licensee's annual gross sales is less than £XXX.

2.32 Where such a condition is specified on the licence it is incumbent on operators to ensure that they do not exceed the sales limit authorised by that licence. To do so is a breach of the licence.

2.33 Where no such condition exists (for example where an operator holds the highest category licence) we would remind stakeholders that it is an offence under section 342 of the Gambling Act 2005 to misrepresent or fail to reveal information that you are asked to provide, unless you have a reasonable excuse.

2.34 As set out in the consultation and the fees responses, a split between revenues in reliance on an operator's remote and non-remote licence is vital.

2.35 The view expressed by one operator that a split of revenues between non-remote and remote is not possible for them to do with any accuracy is not one shared by others who responded to the same question.

2.36 We therefore expect operators to be able to tell us about the income generated in reliance on each of their licences and to provide a split across both remote and non-remote.

2.37 For other licence types, operators are required to complete separate forms for their non-remote and remote activities. We have considered whether this should be the case for holders of non-remote and remote GM&T licences so that we can obtain a clearer picture of the revenue derived in reliance on each licence.

2.38 However, we are mindful that a whole additional form to complete would put a burden on GM&T operators holding both licences. We feel that the addition of a single extra data field to show the split between remote and non-remote would be a much more proportionate solution.

2.39 It is therefore our intention to add a revenue field to capture the GM&T revenue split between remote and non-remote on the regulatory return forms. The change will take effect for regulatory returns submitted from April 2017 and we will be making the relevant changes to e-Services and guidance in support of this change from that date.

3 Next steps

- 3.1 All the changes identified above will come into effect from April 2017 and will apply to all relevant regulatory returns submitted from that date.
- 3.2 We will be making changes to e-Services to accommodate these changes and providing supporting guidance to aid completion of the returns including the provision of definitions as appropriate. An example of which is included in the response to question 15 above.
- 3.3 As mentioned in the introduction, the response to the consultation has been split into two parts. We will continue to consider the remaining responses to the consultation with a view to publishing part two of our response in April 2017.

4 Annex A

- 4.1 The following is a full list of consultation respondents who replied to either question 13, 15 or 16.
- Bacta
 - Bingo Association
 - British Association of Leisure Parks, Piers and Attractions
 - Castle Leisure
 - Gambling Business Group
 - Inspired Gaming
 - National Casino Forum
 - Novomatic UK
 - Race Course Promoters Association
 - Scientific Gaming

Gambling Commission February 2017

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