

Offering lottery, gaming and betting products under common branding

Advice for society lotteries and external lottery managers, June 2012

1 Introduction

- 1.1 The Gambling Commission (the Commission) has a duty to pursue the three licensing objectives set out in the Gambling Act 2005 (the Act). The Commission's role is to permit gambling, in so far as the Commission thinks it is reasonably consistent with the pursuit of those objectives and where it is satisfied that the requirements of the Act will be met by operating licence holders.
- 1.2 The purpose of this note is to provide advice to lottery promoters (society lottery operators and External Lottery Managers (ELMs)) and others about the principles the Commission is likely to apply when making decisions regarding applications from operators who wish to combine the promotion of lotteries with provision of facilities for other types of gambling.
- 1.3 The interpretation of the Act and the Commission's powers is ultimately a matter for the courts but it is hoped that this note will be helpful to societies and ELMs in setting out the principles to which the Commission will have regard in determining whether a particular combination of lottery and other gambling products adequately meets the licensing objectives set out in Section 1 of the Act. These principles may also be relevant, in appropriate cases, to the Commission's decision whether to grant an operating licence, or whether to add specific conditions to the licence to ensure the operator offers gambling in a fair and open manner and protects children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 This note contains advice supplementary to the requirements of the Act, relevant regulations and the Licence Conditions and Codes of Practice. Operators must also ensure they meet those requirements. For further information see the Commission's document [Promoting society and local authority lotteries, November 2009](#).
- 1.5 The Commission may update this advice note from time to time to reflect developments in the sector.

2 Background

- 2.1 Over the past few years the Commission has seen a move away from traditional paper based weekly subscription lotteries to more diverse and innovative ways of selling lottery tickets including, for example, instant win scratchcards and online electronic lottery scratchcards.
- 2.2 We have also seen an increase in licence applications from ELMs who are arguably more commercially-focused and business-orientated, with emphasis on promoting the individual society lotteries that they manage under a common brand. Increasingly we are finding that

ELMs are applying for licences to run lotteries under a brand name and looking at ways of maximising revenue through innovative marketing and through brand awareness. The promotion of lotteries online has also increased and with that some societies and ELMs are looking at what other online gambling products might also be offered on their websites.

2.3 In some cases the products being offered may satisfy both the statutory definition of a lottery and that of gaming or betting. Sections 17 and 18 of the Act were introduced to deal with these cross-category activities and apply the following criteria:

- If the arrangements satisfy the definition of both a lottery and gaming then, subject to the next sentence and unless the lottery is promoted under a lottery operating licence or satisfies the definition of an exempt lottery, the default position is that cross-category gambling is to be treated as gaming rather than a lottery. However, if the arrangement involves more than three processes in order to win a prize then the arrangement is always treated as gaming.
- Where the arrangements satisfy both the definition of a lottery and that of pool betting or a betting prize competition, the default position is that the arrangements are to be treated as betting rather than a lottery, unless they are promoted in reliance on a lottery operating licence or satisfy the definition of an exempt lottery.

Branding

2.4 It is generally accepted that, when framing the Act, Parliament considered lotteries to be a 'softer' form of gambling and that betting and gaming are 'harder' forms of gambling. Should an ELM or society offer both a lottery and gaming or betting under the same brand, especially on-line, there are concerns that players attracted, for example to a website, to play a lottery may also be offered gaming or betting products.

2.5 By offering gaming or betting under the same branding as lotteries, there is potential for players to become confused and believe that they are participating in a lottery rather than gaming or betting. Lotteries are promoted to support 'good causes' and many players are supporting their chosen 'good cause' as well as participating in gambling when they enter a lottery. There is a risk that those attracted to a lottery branded website would assume that all activities they were participating in under the single banner on that site would be in support of good causes rather than for private gain, and would be unaware that they were participating in a 'harder' form of gambling.

Marketing

2.6 The advertising/marketing of a lottery brand and use of the same brand for gaming or betting products may also draw into gambling young adults (16-17 year olds) who are permitted to participate in lotteries but not gaming or betting. This concern extends to the increasingly popular 'try for free' games widely available on the internet.

3 Principles

3.1 In considering a scenario where an ELM (or society) wishes also to offer gaming or betting activities the Commission considers that there is a risk to the licensing objectives, in particular ensuring that gambling is conducted in a fair and open way and protecting children and vulnerable adults from being harmed or exploited by gambling if players are not clear about the characteristics of the gambling being promoted. The Commission does, however, believe that those risks could be mitigated or removed if the following principles were applied when considering an application.

3.2 Licensees wishing to offer betting or casino products alongside lotteries should be advised that the following principles will be applied, which may be attached as conditions to their licence, if an application were to be granted.

- The Licensee should only use the word “lottery” in relation to products that fall within the legal definition of a lottery and are being promoted in reliance on a lottery operating licence.
- Subject to that, the Licensee may offer lottery games and other forms of gambling via a single website, on associated web pages and under a single umbrella brand name, provided:
 - Lottery games and other forms of gambling are offered on separate pages of the website.
 - Each web page makes it clear to players which type of gambling is being offered on that page.
 - It is made clear on the home page that the licensed activities authorised by any casino or betting operating licence are only available to and accessible by players aged 18 and over.
 - Players must only be permitted to participate in gaming or betting (including “try” or “play for fun” activities) where they are registered to do so, and only after age verification has taken place
- The Licensee must ensure that any marketing material which expresses, or implies, an association with a lottery or lottery brand relates to lottery products only and not to any other type of facilities for gambling

3.3 The principles above describe the Commission’s current position on lottery promoters who intend to offer lottery products alongside betting or gaming remote activities. The Commission’s intention is that these principles will be consulted on in the future with a view to incorporating them as a general condition on all relevant combined licences.

3.4 This advice is not comprehensive or a binding interpretation of the law and anyone intending to offer cross-gambling activities should refer to the Act and if necessary seek independent legal advice to ensure that they conform to the law before proceeding.

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Keeping gambling fair and safe for all

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