

**Proposed amendments to licence
conditions and codes of practice (LCCP)
for all operators**

**Response document – part one
March 2014**

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1 Introduction

- 1.1 The Gambling Commission (the Commission) periodically reviews aspects of its regulatory approach, including the *Licence conditions and codes of practice* (LCCP) which apply to Commission licensees. At the end of 2013 the Commission consulted on a number of [Proposed amendments to licence conditions and codes of practice for all operators](#). During the same period the Commission carried out a separate consultation on the [Protection of customer funds: proposals for amendments to current licence condition 4 for all gambling operators](#).
- 1.2 In making decisions on the proposed amendments to LCCP, the Commission has considered the written responses to the consultation, comments raised during stakeholder meetings and workshops and issues raised during parliamentary debates on gambling, in particular those raised during debates on the Gambling (Licensing and Advertising) Bill (the Bill).
- 1.3 The Commission is publishing the response to the two consultations in three parts.
- 1.4 This document is part one of the Commission's response and contains decisions on the majority of the proposals of the consultation. This includes changes which apply to both remote and non-remote operators. Publishing in three parts in this way will give operators more time to prepare for compliance with the new provisions on which the Commission has made final decisions.
- 1.5 Part two of the Commission's response will set out the licence conditions for the protection of customer funds, which will apply to both remote and non-remote operators. Part two is expected to be published towards the end of April.
- 1.6 Part three of the Commission's response will set out final decisions on the remaining issues from the consultation. These part three changes are relevant mainly for remote operators. The Commission wishes to publish these changes at a later date in order to resolve fully the issues which arose in the consultation and to take account of the outcomes of the parliamentary processes for the Gambling (Licensing and Advertising) Bill, which is expected to receive Royal Assent in May. Part three will be published at the end of April.
- 1.7 Alongside part three of the responses, the Commission will publish a consolidated version of LCCP which is expected to come into force **at the beginning of August 2014**. The only planned exception to this implementation date is the new licence condition which will require Commission licensed operators to source their gambling software from Commission licensed gambling software businesses (this licence condition will appear in part three of the response to the consultation). This provision will come into force, at the earliest, on 1 January 2015.
- 1.8 As part of our ongoing process of reviewing our regulatory approach, we will be consulting on and implementing further changes. These will include:
- As explained in the original consultation document, the Commission is also undertaking a social responsibility review of LCCP and *Guidance to Licensing Authorities*. Rachel Lampard, a Gambling Commission Commissioner, will be leading this work with a view to the Commission consulting on strengthened provisions in these areas this summer.
 - *Remote technical standards* (RTS) for gambling and software may be updated later in 2014 - for example, more information may be included in our standards about the display of licensed status and on the information to be displayed to customers on protection of customer funds, particularly in relation to restricted display devices, (such as mobile phones).
 - The Commission will release information on its testing strategy for compliance with RTS - for example, to make changes that will allow for the transition of games currently offered on the market. We expect to publish further details on this in April.

2 Background

The consultation

- 2.1** The consultation document *Proposed amendments to licence conditions and codes of practice for all operators* was published on 12 September 2013 and the consultation period lasted for 12 weeks, closing on 4 December 2013. A total of 52 formal written responses were received during the consultation period and the consultation document was downloaded 616 times from the Commission's website during that period. The respondents are listed in the annex to this document and the full responses are available on the Commission's website.
- 2.2** Responses were received from 33 gambling operators, ten trade associations, one problem gambling help organisation, two regulatory bodies, two law firms, one ADR provider, one faith group, one campaign group and one member of the public.
- 2.3** As well as the written responses, the Commission has taken account of comments made during a series of stakeholder meetings and workshops held from October 2013 to February 2014. We have also considered issues raised during the parliamentary debates of the Gambling (Licensing and Advertising) Bill.
- 2.4** We would like to thank all those who provided written responses or engaged in the workshops, meetings and discussions during the consultation period.

The Commission's overall regulatory approach

- 2.5** The Commission applies a set of principles to our licensing of gambling operators and our enforcement action. These principles are set out in [Statement of principles for licensing and regulation](#). The statement¹ makes clear that our overall approach to licensing, and therefore our approach to setting licence conditions and codes of practice takes account of:
- Regulators' Code²
 - report of the Hampton Review³
 - report of the Macrory Review⁴
 - Enforcement Concordat⁵
 - Cabinet Office Consultation Principles⁶
 - Scottish Improving Regulation Report 2008⁷
 - Reports of the Regulatory Review Group in Scotland⁸
 - Hampton Implementation Review Report into the Gambling Commission⁹.
 - Regulatory impact guidance from the Department for Business, Innovation & Skills (BIS).

¹ The Gambling Commission will shortly be consulting on proposed updates and amendments to the *Statement of principles*.

² The Regulators' Code (July 2013) which is expected to come into force in April 2014

³ Reducing Administrative Burdens: Effective Inspection and Enforcement, Philip Hampton, March 2005

⁴ Regulatory Justice: Making Sanctions Effective, Professor Richard B. Macrory, November 2006

⁵ Concordat on Good Enforcement, Cabinet Office, March 1998

⁶ Consultation Principles, Cabinet Office, November 2013

⁷ The Scottish Improving Regulation Report 2008, July 2008

⁸ Interim Report from the Regulatory Review Group for the Scottish Group, February 2008; Regulatory Review Group Annual Report, July 2008

⁹ Gambling Commission: A Hampton Implementation Review Report, April 2009

Licence conditions and codes of practice (LCCP)

- 2.6** LCCP was first published in 2007 and significant revisions were last made in March 2011. Three supplements were issued during 2011, and the information in these supplements was then incorporated into the consolidated version of LCCP in December 2011.
- 2.7** LCCP is a significant part of the framework by which the Commission upholds the licensing objectives. The licensing objectives are set out in the Gambling Act 2005, and are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - ensuring that gambling is conducted in a fair and open way
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.8** However, LCCP must be seen within the overall architecture of gambling regulation. In particular, the industry is responsible for the active pursuit of the licensing objectives, with LCCP as part of the infrastructure supporting that pursuit. LCCP is not a standalone checklist which the industry should follow, nor should it be seen as the maximum standard to be achieved. Equally important as adherence to LCCP is the operator's compliance with the Gambling Act 2005 (and with the secondary legislation connected with that Act) and management of the business in a socially responsible manner – one that minimises the risk of crime and gambling-related harm, and that is fair and open with customers.
- 2.9** Embedding the licensing objectives in this way is vital for the industry. As the Commission's Chairman said in a blog in 2013¹⁰, 'opportunities for growth and innovation depend on the gambling industry demonstrating – and convincing the public – that it is genuinely committed to keeping crime out of gambling, keeping it fair and protecting its customers from harm'. The Chairman recently reiterated this message in his [keynote speech](#) at the ICE World Regulatory Briefing in February.
- 2.10** LCCP provides a framework of conditions and codes within which operators can develop good practice and, in the case of ordinary codes of practice, can be used in regulatory or court actions as evidence of good practice. In many areas (particularly in the ordinary code provisions), LCCP leaves room for flexibility in the manner in which it is implemented, and allows businesses to decide how best to give life to the licensing objectives. However, we can and do amend LCCP to improve clarity or where experience suggests more guidance, incentive or deterrence is needed.
- 2.11** Section 3 of this document sets out more detail about current and ongoing work which may lead to further amendments to LCCP over time.

¹⁰ The Chairman's blog is available on the DCMS website at:
http://blogs.culture.gov.uk/main/2013/01/public_confidence_is_key_to_gr.html

3 Areas of future and ongoing work

3.1 The Commission continues to carry out a broad range of policy and compliance and enforcement work which informs the evidence base underpinning LCCP, and which leads to periodic updates and amendments. As summarised in the consultation document, there are areas where the Commission is actively considering further changes to licence conditions and codes of practice. This section provides further updates on these topics and the timetable for future LCCP changes in these areas.

Advertising and marketing of free bets and bonuses

Consultation proposal

3.2 The marketing of free bets and bonuses was highlighted in the consultation document as an area of ongoing and future work.

3.3 In recent years, the gambling industry has increased the marketing of free bets and bonuses as an incentive to attract new customers to their products. The Commission has expressed concern about the way in which some of these offers are being marketed to customers, particularly in relation to potentially misleading or unfair terms and conditions.

3.4 In order to address this concern in a joined-up and collaborative way the Gambling Advertising Monitoring Unit (GAMU), a forum comprising the Gambling Commission, DCMS, the Committee of Advertising Practice (CAP), the Broadcast Committee of Advertising Practice (BCAP), the Advertising Standards Authority (ASA), Ofcom and PhonepayPlus committed to consider the issue in detail.

3.5 The consultation document sought comments on the types of issues which ought to be considered as part of this work and any future revision of LCCP.

Consultation question

Q1. The Commission welcomes respondents' views on the proposed multi-agency review of the marketing of free bets and bonus offers. In particular, we are interested in comments on the issues that should be covered in the review and any changes thought to be needed to LCCP in relation to marketing (for example, code provision 4 relating to marketing).

Respondents' views

3.6 The Commission received 32 unique responses (42 in total) on this topic which have provided us with a helpful steer on the types of issues which respondents considered should be included in the review.

3.7 Although responses spanned the spectrum of 'do nothing' to 'ban free bets and bonuses', there was broad support for a collaborative review which engaged industry and other stakeholders and which sought to encourage greater clarity and better guidance, rather than changing existing rules and regulatory requirements.

3.8 Over half of respondents felt that a review should involve contributions from industry representatives (such as the Remote Gambling Association) before changes are proposed in order to ensure they are proportionate and reflect the current gambling market.

3.9 A small number of respondents argued that free bets and bonuses are very important in a competitive market and requested evidence of the concerns that the Commission seeks to address before further action is taken. They also expressed concern that the review must not lead to a duplication of existing advertising rules and that changes must not restrict flexibility and creativity.

3.10 A series of standardised submissions from individual operators from the machines sector stated that although the issues under consideration were mostly relevant to the remote sector, land-based and remote industries ought to be treated consistently. The comment was also made that the Commission should consider providing clarity on ways in which Family Entertainment Centres (FECs) can advertise their range of services, as some licensing authorities restrict or prevent advertising or signage that refers to the nature of their premises.

3.11 Some respondents provided suggestions on specific issues that should be covered in the review. In summary, the following areas were identified by respondents:

- Providing greater clarity on any turnover or churn requirements of bonus offers before customers are invited to agree to participate in them. A number of examples were provided by respondents, such as:
 - cash out restricted bonuses (where a bonus needs to be wagered a minimum number of times in order for the funds to be released)
 - release restricted bonuses (where a bonus is 'drip fed' into a player account).
- Requiring operators to take all reasonable steps to make customers aware of any exclusion clauses or other restrictions that might apply to offers and promotions. This is seen as particularly important for customers who may not be eligible to receive or participate in them. For example, where bonuses are cancelled because the consumer gambles on products where the bonus does not apply.
- Where restrictions do apply, clarifying precisely what they mean and avoiding any terms that are ambiguous and potentially confusing.
- Ensuring that the terms and conditions of promotions are practically accessible to their target audience; for example, that the terms and conditions of a retail betting offer should not be available for scrutiny online only.
- Considering whether free poker tournament tokens given to customers will be treated as free bets and/or bonuses and also the technical and practical difficulties of displaying detailed terms and conditions on certain devices, for example on mobile apps.
- Clarifying two areas under the LCCP code provision 4 related to marketing: the ordinary code provision on the use of 18-24 year old images on betting platforms; and the social responsibility code provision relating to incentives or rewards where the benefit is not 'dependent on the customer gambling for a pre-determined length of time or pre-determined frequency'.

The Commission's position

The Commission welcomes the comments received on the review and on the specific issues identified.

On 31 January 2014, the Committees of Advertising Practice (CAP and BCAP) published a 'Help note' ([Guidance on the rules for gambling advertisements](#)) which is designed to provide advertisers with clear guidance to help ensure that gambling advertising continues to be responsible and that children, as well as vulnerable people like those at risk of problem gambling, are protected. It includes new, specific guidance on free bets and bonus offers to make clearer the requirements on the marketing of such offers.

The Commission has welcomed this new guidance which we believe addresses a number of the comments made during this consultation.

The Commission is working closely with the Committees of Advertising Practice and the Advertising Standards Authority (ASA) to promote this new guidance, including training sessions with the industry during March and April.

We intend to use these sessions to garner further feedback on the issues and concerns identified, with a view to consulting on a revision of the relevant sections of LCCP during the summer.

The Commission will continue to work collaboratively with other regulatory partners to ensure that any further changes are considered in the wider context.

Social responsibility

Consultation proposal

- 3.12** Although the consultation document did not set out proposed amendments on the key social responsibility aspects of LCCP such as self-exclusion and customer interaction, we explained that some ongoing Commission work and a number of external developments were likely to result in the need for amendments to these areas of LCCP in future.

Respondents' views

- 3.13** The consultation did not ask specific questions about this topic, but we did receive comments from respondents. For example, some trade associations and operators were pleased that the Commission had highlighted ongoing work in some sectors to review and update industry-led codes for socially responsible gambling. There were concerns that the Commission should continue to support the industry-led initiatives in this area and involve industry and other stakeholders in any future review of the social responsibility aspects of LCCP.

The Commission's position

As explained in the original consultation document, the Commission has been considering the social responsibility provisions in LCCP. The Commission expects the gambling industry to take social responsibility, including how products are designed, marketed and advertised, very seriously. Being effective in these areas allows operators to successfully meet the Gambling Act licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. When social responsibility is embedded into the corporate culture of gambling operators it should help to create the environment in which the industry seeks to continuously develop effective ways to minimise harm from their products. We therefore expect the industry to clearly demonstrate a commitment to provide a safe gambling environment.

A more formal social responsibility review, led by Commissioner Rachel Lampard is now under way with a view to consulting on strengthened social responsibility provisions this summer. The review will incorporate consideration of the need for amendments both to LCCP and *Guidance to Licensing Authorities*. As part of the review, we will be consulting the industry and other interested parties over the coming months to develop proposals for strengthening LCCP. We will be seeking views on ways of ensuring that social responsibility is embedded in the way gambling products are designed and presented; that customers are provided with clear information about products so that they can make informed decisions about their gambling; that the underage are prevented from accessing gambling premises and products; that vulnerable people are identified and supported to manage their gambling; and that where customers are unable to do that, they are provided with effective self-exclusion systems that exclude access to gambling products.

As part of this review, we will be considering which player protection and harm minimisation measures, including those in the ABB code just rolled out¹¹, should be mandated and their success evaluated over the next two years, with the aim of creating an improved evidence base for the industry's social responsibility policies and procedures.

¹¹ Information about the ABB Code and its implementation is available on the ABB's website [here](#).

Prevention of underage gambling

Consultation proposal

- 3.14** All licensed operators are required to put into effect policies and procedures designed to prevent underage gambling and to monitor the effectiveness of those procedures (Code of Practice 2.2: access to gambling by children and young persons). Over the years, the Commission, licensing authorities and third parties instructed by the industry have all carried out test purchasing in order to measure the compliance of operators or groups of operators, and to assess the effectiveness of underage controls.
- 3.15** The consultation document did not set out a proposed amendment to LCCP on the prevention of underage gambling but instead sought comments on its plans to consider whether the use of test purchasing, conducted by either a third party or by any other appropriate means, should be a requirement on operators (a social responsibility code provision), or indicated as good practice (ordinary code provision) in the Commission's codes of practice.
- 3.16** As set out in the consultation document, the Commission considers that third party test purchasing offers advantages for both the Commission and operators. Licensees who use third parties to conduct their own test purchasing and share their results with the Commission are less likely to be directly tested than operators who are not proactively providing the Commission with assurances that they are effectively testing their own controls. Test purchasing demonstrates an operator's commitment to managing the risk to the licensing objectives that their business presents by ensuring that their policies and procedures are effective.

Consultation question

- Q2. Do you have comments on the Commission's plans to consider whether the use of test purchasing, conducted by either a third party or by any other appropriate means, should be a requirement on operators, or indicated as good practice in the Commission's codes of practice?

Respondents' views

- 3.17** For non-remote test purchasing, 11 respondents suggested that test purchasing should be good practice as a means of demonstrating that policies and procedures are being monitored. Nine respondents were of the view that test purchasing should neither be mandatory nor introduced as good practice. Only two favoured mandating it as a tool. In summary, the key comments made by respondents in relation to non-remote test purchasing were:
- Test purchasing is an effective means of demonstrating commitment to this aspect of social responsibility.
 - Some operators and sectors which already utilise third-party test purchasing indicated the good value they get from those arrangements.
 - Annual fees should be amended to cover the costs of operators conducting test purchasing, if it were to be mandated.
 - There would be no need to mandate this requirement for operators that already conduct test purchasing voluntarily via a third-party, trade association or Primary Authority Partnership agreement.
 - The Commission's focus should be on the consequences of test purchase failures, ie the Commission would need to be clear about the consequences of non-compliance.

- Any move to mandate testing should be targeted against individual operators based on risk, rather than being generic within LCCP. The actual frequency of testing would also need to be considered.
- Third party testing should not be necessary if a trade association can deliver it.
- There are other means of monitoring compliance other than test purchasing (although respondents did not suggest what alternatives might be available).
- The existing LCCP requirements are sufficient.
- There were assertions that there were no underage gambling problems in certain gambling sectors.

3.18 For remote test purchasing, half of respondents favoured good practice and half rejected the concept, with no respondents favouring mandatory remote test purchasing.

- Remote operators cannot use under 18s in remote testing as this would breach the Gambling Act 2005. There is no Think 21 concept applicable in the online environment, as payment and play systems only need to prevent under 18s.
- The Commission should focus its efforts on weaker performance rather than applying blanket LCCP changes.
- The Commission should approve third party testers similar to test houses.
- Information sharing agreements among operators might facilitate the prevention of underage remote gambling.

The Commission's position

The existing LCCP requirement is that operators must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these. The Commission notes that test purchasing is only one means by which operators can conduct such monitoring, and the key is that operators are able to manage the risk to the licensing objectives presented by their business. The outcome of any test purchasing work must be a focus on the quality of an operator's underage gambling controls, and a commitment to improving those controls where weaknesses are identified.

We welcome the continuous commitment of some of the largest betting and arcade operators to monitor and manage their underage gambling risks via their Think 21/25 test purchasing work, and also similar schemes that have been delivered by some trade associations to test their members' compliance. We encourage trade associations to continue to develop robust test purchasing schemes so that their respective members can have confidence that their policies and procedures are being genuinely tested. Operators are reminded of the importance of sharing the results of their testing with both the Commission and with the licensing authorities where tests have been conducted, and indeed where primary authority relationships are being established. However, where test purchasing is not being used, operators will need to be able to evidence to the Commission and licensing authorities the means by which they are monitoring the effectiveness of their policies and procedures in this area.

As the Commission made clear in its [press notice of December 2013](#), its joint test purchasing work with licensing authorities in that year uncovered serious weaknesses in underage gambling controls among small/medium independent operators in the betting and arcade sectors. This demonstrated that some sub-sectors of the gambling industry critically need to improve their performance in relation to the licensing objective of protecting children from being harmed by gambling, which is underpinned by Social Responsibility Code 2.2 of the LCCP.

Our work with licensing authorities will continue in 2014 and we will consider LCCP developments in light of the results of the rolling programme of test purchasing, while also having regard to the quality of performance by other operators that employ third party test purchasing to test Think 21/25 policies. In view of the 2013 results, we would strongly encourage operators that are not using test purchasing to consider how they are able to evidence that they are monitoring the effectiveness of the underage gambling policies; and where that monitoring indicates weaknesses, to be able to demonstrably implement improvements.

The Commission also continues to strongly encourage licensing authorities to use the powers conferred on them by the Gambling Act 2005, where there is evidence of weaknesses in underage gambling controls. Licensing authorities can, after a review of a premises licence, consider attaching conditions to that licence; for example, a condition that obliges the operator to commission third party age verification testing until their policies and procedures are shown to be effective; or the introduction of specific controls that must be provided at the gambling premises to reduce the risk of underage gambling (such as electronic door locking or controlled access to gaming machines).

As part of the social responsibility review referred to in paragraph 3.12 and 3.13 above, the Commission will consider what measures might provide a strengthening of underage gambling controls/reduction of risk, and the means by which operators can demonstrate that their policies and procedures in this area are effective.

Research, education and treatment

Consultation proposal

3.19 The consultation document indicated that the Commission continues - as part of ongoing compliance and enforcement work - to review the contributions that the industry makes to support research, education and treatment. We explained that should it prove necessary, the Commission would consider amending the current social responsibility code provision which sets out the Commission's expectations in this area.

Respondents' views

3.20 The Commission did not ask a specific question about this topic in the consultation. However, several respondents commented that the industry as a whole now contribute nearly six million pounds annually to the Responsible Gambling Trust voluntarily. These respondents therefore felt that there was no need for the Commission to consider amending the code further at this stage.

The Commission's position

The Responsible Gambling Trust's current (2013/14) fundraising aim is to achieve £6m, and in recent years the amounts raised and the numbers of operators contributing have gradually increased. In 2009/10 - when the current voluntary scheme was adopted in preference to the potential statutory levy - it was expected that the voluntary contributions for research, education and treatment would achieve the amounts of £5m/£6m/£7m net of fundraising and other overhead costs, in the years 2009/10 to 2012/3 and that the amount for 2013/14 would be at least as much as that in 2012/13, with an increasing proportion going to research and education.

The Commission has an interest in the overall amounts of funds raised, their use and with the level of commitment to research, education and treatment demonstrated by individual operators and will be considering aspects of this in the Commission's social responsibility review.

Suspicious activity reports

Consultation proposal

- 3.21** Under the Proceeds of Crime Act 2002 (POCA)¹², all Gambling Commission licensed gambling operators are required to make a report in respect of information that comes to them within the course of their business, where they know or where they suspect that a person is engaged in money laundering (ML), including the spending of the proceeds of crime. The Commission is focused upon being assured that operators understand their obligations and are complying with POCA, as an integral part of their efforts to keep gambling free of crime.
- 3.22** This suspicious activity report (SAR) process is owned by the United Kingdom Financial Intelligence Unit (UKFIU) which is part of the National Crime Agency (NCA)¹³. Under this regime, all Gambling Commission licensed operators are required to submit SARs and/or requests for 'appropriate consent' (ie requests to proceed, where appropriate, with an act that would otherwise be prohibited), directly to the UKFIU and do not provide such reports to the Commission routinely.
- 3.23** The consultation document did not set out a draft amendment to LCCP but indicated that the Commission was exploring with the UKFIU an appropriate means of improving the Commission's access to information submitted under the SAR regime. We explained that the result of these discussions may be a requirement on gambling operators (by way of licence condition) that the Commission be given either copies of SARs or copies of the unique reference numbers (URNs) allocated by the UKFIU under the SAR regime.

Respondents' views

- 3.24** The consultation document did not ask a specific question about this issue, but we did receive a number of comments on this issue both during the consultation workshops and in the written responses to the consultation.
- 3.25** Some respondents felt that the Commission had no need of access to information in the SARs they submit. They felt that this was unnecessary duplication of the role of the UKFIU. A small number of respondents felt that it would require a legislative change to enable the Commission to access information in SARs.
- 3.26** Overall however, respondents indicated that they were either in favour of the Commission having access to SARs, or they were content that the Commission should have access. However, they sought reassurance that the NCA/UKFIU would be signed up to the approach before it was implemented. All respondents stated that any new requirements introduced should be efficient and not unduly cumbersome for operators to implement.

The Commission's position

The Commission works with the NCA to identify thematic learning which can be shared with the industry with a view to improving anti-money laundering (AML). In addition, SARs offer a rich source of information and intelligence enabling the Commission to effectively support law enforcement partners. Just as this information and intelligence is valuable under the current arrangements for AML, based, in part, on the 3rd EU ML Directive, we would expect it to remain valuable following the implementation of the 4th Directive.

¹² www.opsi.gov.uk/acts/acts2002/ukpga_20020029_en_22#pt7

¹³ Previously the Serious Organised Crime Agency (SOCA)

The Gambling Commission and the UKFIU have now agreed that an efficient means of the Commission accessing such information is access to the UKFIU's relevant databases. This will allow the Commission to promptly match intelligence and enquiries from law enforcement agencies.

We therefore intend to require operators to supply the Commission with the URNs of SARs and/or requests for appropriate consent they have submitted, once the number has been allocated by the UKFIU. It is likely that this requirement would appear as a new 'key event', to be added to the information requirements of LCCP.

We consider that the approach of adding a key event which would require the supply of URNs to the Commission is a low administrative burden for operators and is justified for the reasons outlined above.

We will produce a short follow-up consultation document on this proposal in April and hope to bring the new key event into force at the same time as the LCCP amendments coming into force at the beginning of August 2014.

Complaints and disputes

Consultation proposal

3.27 Section 5 of this document sets out the changes to LCCP that will be implemented following consultation. However, the consultation document also outlined that this topic will be reviewed further by the Gambling Commission at the end of 2014 or in 2015 to take account of the implementation of the EC Directive on Alternative Dispute Resolution (ADR) and the associated provisions of the Online Dispute Resolution (ODR) Regulation.

Respondents' views

3.28 The Commission did not ask a consultation question on this topic because Section 5 of the document addressed the proposed changes to LCCP and posed a series of questions on the amendments. Some respondents felt that the Gambling Commission was pre-empting the implementation of the European legislation on ADR by making changes to LCCP before the Government's approach to implementation was known.

The Commission's position

Although the Commission proposed some changes to LCCP, only one change was directly connected to the Directive - this was a change of terminology for bodies responsible for handling disputes. LCCP will now refer to ADR entities in order to be in line with the Directive and help avoid confusion about the bodies involved. This terminology is set in the text of the Directive (which is already finalised) and has been replicated by the Government when discussing this topic.

None of the other amendments to the social responsibility code provision were connected to the Directive or dependent on its implementation.

The Department for Business, Innovation and Skills (BIS) has now published a consultation document on implementation of the ADR Directive and the ODR Regulation. The ADR Directive requires Government to make ADR available for all disputes concerning contractual obligations between a consumer and a business. One of the key impacts for gambling businesses (which are already required to offer ADR under LCCP) is that ADR entities will have to be approved by a UK competent authority and meet certain requirements relating to independence, experience and provision of information.

There is some flexibility in the means of implementing the Directive. BIS is now seeking views on the implementation proposals. In addition, BIS is using this consultation as a call for evidence for a broader simplification of the ADR landscape, to consider whether possible longer term reforms are necessary and feasible.

The consultation by BIS commenced on 11 March and will run until 3 June 2014. A copy of the consultation document, impact assessment and link to the online consultation can be found on the [BIS website](#).

We would be grateful if any responses to the consultation could be copied to the Gambling Commission to help us assess the impact of the proposals on Gambling Commission licensed operators, and we will of course continue to discuss these issues with the industry.

4 General and financial conduct

- 4.1 This section covers the LCCP changes relating to general and financial conduct and is relevant for all licensees.

Cooperation with the Commission

Consultation proposal

- 4.2 The consultation proposed a new ordinary code provision to make explicit our expectation that operators work with us in an open and cooperative manner, as also set out in our *Statement of principles for licensing and regulation*.¹⁴

Consultation question

- Q3. Do you have any comments on the draft provision which makes explicit in LCCP that all gambling operators should act in an open and cooperative manner with the Commission at all times?

Respondents' views

- 4.3 Respondents' views on this draft provision were very mixed. Whilst all respondents agreed with the general principle that there should be an open and cooperative relationship between the regulator and operators, a majority of respondents (including a number of duplicate responses) felt that the provision was either unnecessary (because operators already acted in an open and cooperative manner with the Commission) or too open to interpretation and therefore difficult to 'enforce'.
- 4.4 However, a significant number of respondents agreed that the provision should be included within LCCP or had no concerns about its inclusion in LCCP. Some respondents felt that the fact such a requirement was not already in LCCP was a serious flaw, and one respondent felt that it should be extended further to include gambling operators acting in an open and cooperative manner with local authorities acting in their capacity as licensing authorities.

The Commission's position

Although new to LCCP, this provision makes explicit the expectation which the Commission has always had that operators should act in an open and cooperative manner with their regulator.

The provision, however, does not sit in isolation. The detail of what we consider to be important types of information to disclose to the Commission is set out in licence condition 15, which specifies, for example, the key events to be reported to the Commission. This provision about cooperation therefore clarifies the Commission's expectations about the manner of complying with the absolute requirements elsewhere in LCCP, and about the general cooperative approach we expect.

The provision is set as an ordinary code provision which does not have effect as a licence condition. Although relevant for compliance considerations, the provision of itself does not bring the potential for direct enforcement actions.

For these reasons, the Commission will implement the new ordinary code provision as proposed in the consultation document.

¹⁴ The Commission will shortly be consulting on proposed amendments to the *Statement of principles*, which was last published in 2009.

The Commission fully supports the role of licensing authorities. The principle of shared regulation is key to implementing the Gambling Act 2005 and to upholding the licensing objectives. We therefore expect operators to cooperate with licensing authorities as they carry out their functions, and to be open and cooperative about sharing information with their licensing authority when requested to do so. Failure to do so would be a relevant factor in considering an operator's ongoing suitability as a licensee or permit holder.

New ordinary code provision

Cooperation with the Commission

All licences

- 1 As made plain in its *Statement of principles for licensing and regulation*, the Commission expects licensees to conduct their gambling operations in a way that does not put the licensing objectives at risk, to work with the Commission in an open and cooperative way and to disclose anything which the Commission would reasonably need to be aware of in exercising its regulatory functions. This includes, in particular, anything that is likely to have a material impact on the licensee's business or on the licensee's ability to conduct licensed activities compliantly. Licensees should have this principle in mind in their approach to, and when considering their compliance with, their obligations under the conditions attached to their licence and in relation to the following provisions of this code.

Responsibility for third parties

Consultation proposal

- 4.5 The Commission gives operators the ability to enter into arrangements with other licensees and with other third parties as appropriate. However, such arrangements must make clear the roles and responsibilities for each party and the Commission continues to place the onus on licensees to uphold the licensing objectives and ensure compliance. If things go wrong, there should be a clear understanding of where the responsibilities lie for correcting the situation, and there should also be an ability to terminate those commercial arrangements if necessary.
- 4.6 The consultation document therefore proposed to introduce a new provision which makes explicit the responsibility of licensed operators to ensure that this principle is carried forward into the provision of gambling services by a third party with whom they contract.
- 4.7 We explained in the consultation document that previous versions of LCCP included several different provisions for remote gambling operators relating to this principle in individual instances. For example, the individual provisions covered affiliate marketing and third party user interfaces' technical standards. These individual provisions were incorporated in the draft new overarching provision in the consultation document.
- 4.8 The provision was to apply to non-remote operators (in relation to marketing for example) and for remote operators. However, the provision was limited to services which are connected to the gambling (for example, not cleaning services).

Consultation questions

- Q4. Do you have any comments on the proposed social responsibility code provision which sets out the responsibilities of operators when entering into third party arrangements for the provision of gambling services?

Q5. The specific examples of third party arrangements which may apply to remote operators are affiliates and user interfaces. Do you consider there to be any further arrangements which should be specified in the provision for either remote or non-remote operators?

Respondents' views

4.9 This provision - intended to ensure that contracts with third parties could be terminated if the third party acted inappropriately – raised some concerns during the consultation in both the written responses and during the consultation workshops. These included comments that:

- The provision is unnecessary when both parties are licensed by the Gambling Commission.
- The provision is unnecessary because the ability to terminate contracts is already in existing commercial contracts.
- The proposal was considered to be impractical and disproportionate.
- Commercial contracts are not a matter for the Commission – no supplier will agree to the termination clause which includes 'in the licensee's opinion' because the clause could be used arbitrarily.
- The non-gambling elements of the product should not require licensing or be subject to technical standards, so the Commission should take care to ensure that the position is clearly defined and does not inadvertently catch unrelated businesses in the net.
- The Commission should edit the provision to make clear that only significant issues are within scope and reduce the likelihood that it could be misapplied.

4.10 The Commission discussed these concerns further with the industry following the completion of the consultation - with the aim of identifying a means of building some safeguards into the provision, whilst still delivering the important objective of ensuring that commercial contracts are implemented in a way which places compliance and the licensing objectives at their core.

The Commission's position

The Commission has carefully considered the concerns raised by individual operators about the possible consequences of this provision on commercial arrangements between licensed operators and between operators and other third parties.

Whilst we understand operators wish to maintain independence and flexibility in their commercial arrangements, it is vital that clear roles and responsibilities are identified when more than one party is involved, whether or not the other party is also licensed by the Commission. We believe this provision is an important means of ensuring that each party to the contract is clear on these roles and responsibilities and on the possible consequences of failure to meet those responsibilities.

Importantly, this provision is also a means of protecting an operator in serious situations where an inability to terminate a contract could place the operator's own licence at risk.

However, we have accepted comments that a termination clause should be subject to some safeguards against misuse. To this end, we have amended the provision to make explicit the fact that the termination clause can be made subject to appropriate dispute resolution procedures, which would prevent the clause being applied in trivial situations or being used as an excuse to terminate a contract which is proving unprofitable to one party. We have made a further minor amendment to ensure the provision applies equally to all licensed activities.

We also wish to make clear that the ability to terminate does not mean that contracts should be terminated in trivial situations or where any unforeseen errors are swiftly put right.

An operator can take into account the Commission's likely or actual response when considering if it is appropriate to invoke a termination clause where there is more than one licensed operator involved.

The Commission will therefore implement the new social responsibility code provision as amended below.

New social responsibility code provision

Responsibility for third parties

All licences

- 1 Licensees must take responsibility for third parties with whom they contract for the provision of any aspect of the licensee's business related **to the licensed activities** and ensure that the terms on which they contract with such third parties:
 - i require the third party to conduct themselves in so far as they carry out activities on behalf of the licensee as if they were bound by the same licence conditions and subject to the same codes of practice as the licensee
 - ii oblige the third party to provide such information to the licensee as they may reasonably require in order to enable the licensee to comply with their information reporting and other obligations to the Commission
 - iii enable the licensee, **subject to compliance with any dispute resolution provisions of such contract**, to terminate the third party's contract promptly if, in the licensee's reasonable opinion, the third party is in breach of contract (including in particular terms included pursuant to this code provision) or has otherwise acted in a manner which is inconsistent with the licensing objectives.
- 2 Remote licensees must ensure in particular:
 - i that third parties who provide user interfaces enabling customers to access their remote gambling facilities:
 - a include a term that any such user interface complies with the Commission's technical standards for remote gambling systems; and
 - b enable them, **subject to compliance with any dispute resolution provisions of such contract**, to terminate the third party's contract promptly if, in the licensee's reasonable opinion, the third party is in breach of that term.
 - ii that the terms on which they contract with their affiliates (that is those who are given a right to advertise, or provide a hyperlink to, a licensee's gambling website) enable them to terminate, **subject to compliance with any dispute resolution provisions of such contract**, the affiliate's rights promptly if, in the licensee's reasonable opinion, the affiliate is in breach of a relevant advertising code of practice.

Independence of the compliance function

Consultation proposal

- 4.11** The consultation document explained that the Commission considers that the role of regulatory compliance should generally be occupied by an individual who has responsibility for only that function and does not carry out the function of other 'specified management offices'¹⁵. For example, in most larger organisations it would be inappropriate for the compliance manager also to carry out the role of marketing because of the potential conflicts of interest in the roles.

¹⁵ Specified management offices are set out in (current) LCCP licence condition 1.2.

- 4.12** We therefore proposed an amendment to licence condition 1.2 which set out that the individual occupying the management office of regulatory compliance must not, except with the Commission's express approval, occupy any other specified management office. We explained that this would apply to all gambling operators, other than small-scale operators.
- 4.13** As a matter of policy, the Commission would consider the same issues for small-scale operators¹⁶ at the point of application, and **may** apply an individual condition to certain small-scale operators to require the same separation of the compliance function from other key functions in the operator's business. The Commission would take a proportionate approach to this consideration. To take a clear-cut example, we would naturally accept that a sole trader is responsible for compliance and all other functions of the business. This approach will be set out in the Commission's application guidance notes which are available on the website at the point of application.

Consultation question

- Q6. Do you have any comments on the draft addition to licence conditions to set out that the head of compliance must not, except with the Commission's express approval occupy any other specified management office (such as marketing)? Do you consider the Commission's policy of applying similar principles to the assessment of small-scale operators at the point of application to be appropriate?

Respondents' views

- 4.14** Many respondents generally supported the Commission's proposals on the independence of the compliance management function, particularly in respect of larger businesses. Many of these respondents agreed with the Commission's intended proportionate approach in respect of applying this principle to small-scale operators where necessary and on an individual basis.
- 4.15** One respondent felt that the Commission should go further and make clear in LCCP that the head of compliance should be able within the structure of the organisation to veto (or in another way make amendments to) the proposals by heads of other departments, if the head of compliance feels that any proposals could jeopardise the licensing of a company or cause a vulnerable person or child to gamble.
- 4.16** Whilst most respondents accepted the principle of independence of the compliance function for large corporate operators, many respondents disagreed with the Commission's proposal, particularly in respect of medium-sized and small operators, expressing the view that this requirement was disproportionate, unnecessary, burdensome and costly and that the Commission had put forward no evidence that current arrangements were not working satisfactorily. A number of these respondents in particular queried whether it was in the Commission's remit to dictate management structures to this extent. A small number of these respondents were of the view that the role of head of compliance could actually be compatible with the role of head of IT and security in some corporate structures.
- 4.17** One respondent asked for confirmation that the Commission was not suggesting that a compliance officer focused on British 'gambling regulatory compliance' could not also fulfil a compliance role for non-GB licences held by the operator (or another group company) or being responsible for wider compliance and risk issues.

¹⁶ A 'small-scale operator' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.

- 4.18** Some respondents felt that the Commission’s statement that operators would require express approval from the Commission for having the head of compliance also being responsible for another management function was vague and did not give sufficient detail about how such approval would be given, how long it would take to get such approval and whether such a decision would carry a right of appeal.

The Commission’s position

The Gambling Act 2005 specifies management offices and the requirement that individuals occupying those offices hold a personal licence. The Commission considers that it is within its remit to place certain requirements on licensees about effective management and control of the business, in order to ensure the licensing objectives are upheld.

The Commission remains firmly of the view that the role of regulatory compliance should generally be occupied by an individual who has responsibility for only that function and does not carry out the function of other ‘specified management offices’. The Commission does not intend by this that an individual carrying out that role cannot also, where applicable, be responsible for regulatory compliance with other jurisdictions’ requirements or for wider compliance and risk issues as these would appear to be a natural part of that role.

The role of regulatory compliance carries responsibility for ensuring that the licensee acts in accordance with its regulatory obligations and that the licensee puts the licensing objectives at the heart of its operations. Implicit within this is the expectation that the head of compliance would be able to raise objections to anything which puts the licensing objectives at risk or was in direct conflict with them – a failure to do so would, in addition to putting the operating licence at risk of revocation, put the individual's personal licence at risk.

In anything other than a small-scale operator, the Commission finds it difficult to see how such a role can be successfully combined with another head of function role without any conflict of interest or unreasonable pull on an individual’s time to discharge their responsibility effectively. If there are any circumstances where this is not the case, the Commission would consider that on its merits, but we expect that such circumstances would be truly exceptional.

The Commission will therefore implement the condition as drafted and it will apply to all operators, other than small-scale operators.

However, the Commission reiterates its position in respect of small-scale operators. This condition will *not* apply to small-scale operators. If when considering an application from a small-scale operator, the Commission decides exceptionally that a small-scale operator should have the same separation of the role of regulatory compliance, the Commission will impose an individual condition on that operator’s licence. This decision will be subject to the usual appeal rights.

There is further information later in this section of the document about the role of the Money Laundering Reporting Officer (MLRO).

Addition to the licence condition relating to personal licences

Independence of the compliance function

All casino, bingo, general and pool betting, betting intermediary, gaming machine general, gaming machine technical, gambling software and lottery managers licences, except ancillary remote licences

- 1 The person responsible for the licensee’s gambling regulatory compliance function as head of that function shall not, except with the Commission’s express approval, occupy any other specified management office.

Financial requirements: anti-money laundering (AML) and proceeds of crime

Consultation proposal

- 4.19** The existing version of LCCP contains an ordinary code provision on the prevention and detection of money laundering (ML), including recommendations on good practice on the appointment of nominated officers, training and suspicious activity reporting. Since this code provision was introduced, the Commission has published advice on these areas within *Duties and responsibilities under the Proceeds of Crime Act 2002 – Advice for operators (excluding casino operators)*, current version published in September 2009. Since this advice now incorporates more comprehensive advice and good practice on these areas, the consultation document proposed that the code provision be updated to refer to the Commission’s advice, rather than only to the individual elements which had previously appeared in the code provision.
- 4.20** Similarly, because the earlier provision pre-dated the Commission’s advice in this area, the earlier provision included a reference to Association of British Bookmakers’ (ABB) guidelines. We proposed removing this reference and updating the provision to reflect the publication of the Commission’s own advice.

Consultation question

- Q7. The proposed changes to the ordinary code provision concerning anti-money laundering are minor amendments, to reflect developments since the current code provision was introduced - ie the publication of Commission advice to operators on this topic. Do you have any comments on these amendments?

Respondents’ views

- 4.21** The Commission received 31 responses to this question of the consultation document. Almost half of those responses dealt solely with broader AML considerations and not the proposed amendment - such as issues connected to the 4th Directive on AML or the reporting of suspicious activity.
- 4.22** Six identical responses asked for the machine sector to be removed from the scope of this ordinary code provision on a risk assessment basis.
- 4.23** Some operators misunderstood the consultation document and thought that the ordinary code provision was a new provision. A number of respondents from the betting sector asked for the reference to the advice provided by the ABB to be reinserted, whilst a small minority of responses queried the legal basis for the Commission to refer to its own advice.
- 4.24** Some respondents had no comment to make and one indicated that they were content with the proposed change.

The Commission’s position

The Commission is making the amendment to the ordinary code provision, to refer to our advice on the [Proceeds of Crime Act 2002](#) (POCA), as proposed in the consultation document with the exception of one change.

To take account of consultation responses and to recognise the status of our POCA document as advice and good practice, we will amend part of the wording of the provision to state that operators should ‘take into account’ our advice, rather than stating, as was proposed in the consultation document, that they should ‘act in accordance’ with that advice.

The overall simplification of this provision ensures that we will avoid duplication of information which already features in the POCA advice document. In addition, reference to both the Commission's advice and the ABB's POCA/AML advice had the potential to be anomalous and confusing, thus (as proposed in the consultation document) this reference will also be removed to simplify the provision.

The Commission values and continues to welcome discussion with and advice produced by industry groups on this topic, particularly that which is effective in helping operators to manage sector and product-specific risk.

All gambling operators have a responsibility to keep financial crime out of gambling (the first licensing objective of the Gambling Act 2005). POCA places a duty on gambling operators to be alert to attempts by customers to gamble money acquired unlawfully, either to obtain 'clean' money in return (and, in doing so, attempting to disguise the criminal source of the funds) or simply using criminal proceeds to fund gambling.

POCA (and thus the Commission's advice) applies to all gambling businesses. This should not be confused with the additional obligations that casino (remote and non-remote) operators face under the current Money Laundering Regulations 2007¹⁷ (MLRs), which is why the Commission has produced tailored guidance for casinos, as captured in the other part of the Financial Requirements Code Provision, which will be retained – operators in other sectors may wish to familiarise themselves with the MLRs and the detail of these requirements as a way of understanding additional AML best practice in risk management which they may optionally implement.

The purpose of the Commission's POCA advice document is to provide helpful advice to operators on their responsibilities under POCA, including operators' exposure to criminal prosecution if they fail to report known or suspected ML activity (including criminal spend) and/or request appropriate consent. In our opinion, the advice document does not (and could not) apply additional restrictions to or exempt any particular gambling sector(s). It simply sets out the responsibilities of all gambling operators under POCA, and provides some advice on how operators can devise procedures based on risk.

The Commission recognises that the requirements under POCA are challenging, but it is incumbent on operators to have policies and procedures in place to ensure that they comply with the relevant provisions of POCA.

The incorporation of POCA advice as an ordinary code provision in LCCP emphasises that the Commission sees the advice given in the document as recommended good practice. It is always open to an operator to adopt other ways of meeting their obligations under POCA; however, operators should be prepared for the Commission to then be interested in the effectiveness of these arrangements in meeting those obligations.

The Commission is currently updating its POCA advice in light of findings from case work and comments received on the latest version. A consultation exercise will follow shortly.

Amended ordinary code provision
Anti-money laundering
All licences except casino licences

- 1 As part of their procedures for compliance with the requirements in respect of the prevention and detection of money laundering in the Proceeds of Crime Act 2002 and the Terrorism Act 2000, licensees should **take into account** the Commission's advice on the Proceeds of Crime Act 2002, *Duties and responsibilities under the Proceeds of Crime Act 2002 - Advice for operators (excluding casino operators)*.

¹⁷ <http://www.legislation.gov.uk/ukxi/2007/2157/contents/made>

The role of the Money Laundering Reporting Officer

Consultation proposal

- 4.25** The consultation document did not propose any new or amended LCCP provisions relating to the nominated officer for AML purposes, also known as the Money Laundering Reporting Officer (MLRO). However, in discussions about the independence of the compliance function (see above), we were asked questions about this role, its status and its independence, and we felt it would be helpful to address these queries formally in this response document.

The Commission's position

The Commission has chosen not to ascribe where within an organisational structure the nominated officer should sit. In determining the status of the nominated officer for AML purposes and identifying the appropriate position for this officer within the overall organisational structure, operators will need to ensure their independence within the business and that they have access to all relevant information to enable them to discharge their duties. Responsibilities will include objectively reviewing decisions and, on occasions, making recommendations that may conflict with, for instance, short term operational goals.

The role of the nominated officer is to apply the same rigour in their approach to managing ML risk as the operator does in managing its commercial systems. The nominated officer should report to the board internally (to the Chief Executive for small organisations), and direct to the UKFIU (in relation to known or suspect ML activity (including criminal spend) and/or to request appropriate consent), as set out in the Proceeds of Crime Act and the Money Laundering Regulations (MLR).

There is a distinction between casino (remote and non-remote) and non-casino operators because of the current scope of the Money Laundering Regulations. Casino operators must appoint a nominated officer and the Commission's guidance states that this individual should hold a Personal Management Licence (PML). Non-casino operators are not required under POCA or the MLRs to appoint such a person, however, the Commission's advice on POCA strongly recommends that non-casino operators consider appointing a nominated officer and that it may be appropriate for this individual to hold a PML.

Formally appointing and equipping an appropriate person as nominated officer is also one way in which an organisation can help protect itself, and its employees, from prosecution under POCA.

In any case, where non-casino operators do not formally appoint a nominated officer, it is still advisable for a manager to take particular responsibility for complying with the operator's obligations under POCA. The appointment of an individual responsible for and well versed in identifying, assessing, monitoring and effectively managing money laundering risk in a comprehensive manner (proportionate to the scale and nature of the operator's activities), who can be held to account both within the operator and by external agencies is a practical and transparent solution.

The Commission recognises that some operators (particularly smaller operators) may have a structure in which the nominated officer will hold other roles and responsibilities – at this stage, the Commission is content, for example, that the nominated officer may take on other compliance roles and responsibilities. However, this is subject to the key principles set out above, including the ability to report directly to the board (or the head of the organisation) and the FIU, and the ability to make AML decisions independently of operational concerns.

General fair and open provisions – compliance with terms

Consultation proposal

- 4.26** The existing licence condition required gambling operators to satisfy themselves that their terms are not unfair under the Unfair Terms in Consumer Contracts Regulations 1999 and, where applicable, meet the reasonableness test under the Unfair Contract Terms Act 1977. This was designed to ensure that gambling operators publish and implement terms and conditions which are fair and open.
- 4.27** The consultation document proposed an amendment to make explicit that we would expect operators to act in accordance with the terms and conditions that have been notified to the consumer. This is because we have found ourselves unable to take **graduated** sanctions against an operator in response to a situation where the terms and conditions of a business do not reflect the practical implementation of that business, which had the effect of customers being disadvantaged. We would expect customers to be given the option of closing their account, or ceasing to gamble, if they do not wish to accept the revised terms.

Consultation question

- Q8. Do you have any comments on the proposed amendment to the licence condition relating to fair and openness of terms to make clear that operators must comply with their own terms and conditions?

Respondents' views

- 4.28** The majority of respondents agreed with the proposed amendment to the licence condition relating to operator terms and conditions. Some felt that an operator's failure to comply with their own terms and conditions would make a mockery of the fair and open objective of the Gambling Act 2005. One respondent expressed surprise that it would be necessary to specify this in the conditions and suggested that test purchasing should be carried out to ensure compliance.
- 4.29** A significant minority of respondents (including a number of duplicate responses from one sector) felt that the amendment was unnecessary and that it was not the Commission's role to duplicate existing statutory obligations.

The Commission's position

The Commission maintains that it is appropriate to make the proposed amendment to the licence condition to ensure that the Commission has the ability to apply graduated sanctions to an operator that does not comply with their own terms and conditions. We are therefore proceeding with the amendment as proposed in the consultation.

Amended licence condition

General fair and open provisions: compliance with terms

All operating licences except gaming machine technical and gambling software licences

- 1 Licensees must satisfy themselves that the terms on which gambling is offered are not unfair under the Unfair Terms in Consumer Contracts Regulations 1999 and, where applicable, meet the reasonableness test under the Unfair Contract Terms Act 1977 and must comply with those terms.
- 2 An accurate summary of the contractual terms on which gambling is offered must be made available to customers and set out in plain and intelligible language.
- 3 Customers must be notified of changes to terms before they come into effect.

5 Complaints and disputes

Consultation proposal

- 5.1** Section 5 of the consultation document set out proposed amendments to the social responsibility code provision on the appropriate handling of customer complaints and disputes, which is a key aspect of ensuring that gambling is fair and open. The code provision has (since 2007) required operators to offer customers the opportunity to refer unresolved disputes about the outcome of their gambling transaction to an independent third party, now called an alternative dispute resolution (ADR) entity.
- 5.2** The consultation document also explained the changing context of complaints and disputes handling including the developments in European legislation on the topic of alternative dispute resolution, which will come into force in 2015 and the introduction in Britain of the Gambling (Licensing and Advertising) Bill, which will, subject to Parliamentary approval, mean that the Commission will regulate a much broader range of remote gambling operators, some of which may be based entirely overseas.
- 5.3** The Gambling Commission proposed in the consultation document to amend the social responsibility code provision in order to:
- ensure that operators are required to name an ADR entity in advance and to make available information to customers about handling of complaints and disputes before such problems arise
 - specify that operators must offer referral of unresolved customer disputes to an appropriate ADR entity free of charge to the customer, in order to make explicit the Commission's existing expectations in this area
 - make clear that an ADR entity may refuse to consider a dispute if it is, in their view, frivolous or vexatious, but that it is not appropriate for the licensee to make these decisions
 - clarify the existing position that the ADR process may not restrict the individual's right to take the matter to court
 - make one minor change (repeated throughout the provision) to align terminology with the EU Directive on ADR, by using the term 'ADR entity' instead of 'independent third party' for the referral of unresolved disputes about the outcomes of gambling transactions.

Referral to alternative dispute resolution entities

- 5.4** As well as the proposed amendments to the social responsibility code, we emphasised in the consultation document that the Commission considers that the requirement to offer a referral of an unresolved dispute to an ADR entity applies to **any aspect** related to 'the outcome of the gambling transaction'. This definition of a dispute (which we proposed to leave unamended) is intended to ensure that operators are not required by the Gambling Commission to offer ADR to customers with complaints about non-gambling aspects of the operator's business, such as the provision of food, entertainment, or the decor of gambling premises.
- 5.5** However, we do consider that disputes relating to the outcome of gambling transactions include disputes relating, for example, to the application of bonus offers, account management, or the ability to access funds and winnings as these are all part of the overall gambling transaction.

Alternative dispute resolution (ADR) Directive

- 5.6** The developments in EU legislation (also mentioned in Section 3 of this document) are expected to have significant impact on the provision of alternative dispute resolution for a wide range of retail sales and service provision. The Directive on alternative dispute resolution (ADR) for consumer disputes and an EU Regulation on online dispute resolution (ODR) for consumer disputes were adopted by all EU member states in April 2013 and were entered into the Official Journal in June 2013. The purpose of the Directive on ADR is to enhance the use of ADR for consumers within the EU, and therefore provide for simple, fast and low-cost out-of-court settlement procedures designed to resolve disputes between consumers and traders arising from the sales of goods and services. In particular, the Directive sets out the independence requirements for 'ADR entities' – those bodies which handle out-of-court dispute resolution. In addition, all ADR entities will have to be approved by one (or more) UK competent authority(ies), to meet specified procedures and deadlines for handling disputes and to provide information to customers and to the relevant competent authority.
- 5.7** The UK government will implement the Directive by 2015. The government department responsible for implementation is the Department for Business, Innovation and Skills (BIS). BIS recently commenced a [consultation seeking views on the implementation of the Directive](#), and calling for evidence to help them consider a broader simplification of the ADR landscape. This consultation runs until 3 June 2014 and is available on the BIS website. We would ask to receive a copy of any responses sent by the gambling sector to BIS on this topic to help us assess the impact on our licensed operators and the provision of ADR facilities for customers.

Consultation questions

- Q9. Do you have any comments about the proposed amendments to the social responsibility code provision relating to complaints and disputes?
- Q10. The Commission is particularly interested in the planned approach of each sector to implement both the Commission's requirements and (in due course) the relevant aspects of the ADR Directive.

Respondents' views

- 5.8** We received over 40 individual responses on the topic of complaints and disputes, with a number of duplicate responses from operators from within the same sector. Respondents shared a wide range of views. Some operators expressed that they were generally content with the proposals or aspects of the proposals. A few operators explained that this approach was in line with their approach worldwide, and that they would also be adhering to the EU legislation across a number of jurisdictions. There were also some concerns about individual aspects:
- a number of duplicate responses suggested the Commission was pre-empting the EU legislation before it was implemented
 - some operators expressed disappointment that they would not be permitted to charge for ADR services, and particularly to charge fees in order deter frivolous and vexatious disputes
 - a small number of operators indicated that updating material to customers about ADR services would add an additional cost and could encourage more disputes to be raised, or to be raised outside of the standard internal process
 - some respondents called for the Commission or other regulators to act as ADR entities
 - a small number of respondents suggested further consideration of the handling of disputes in relation to poker and other networks

- some operators argued against the requirement that only the ADR entity can refuse a dispute on the basis that it is frivolous or vexatious because they considered the ADR entity's charges to the operator for assessing whether a reference was frivolous could be the same as for handling a dispute
- because some businesses operate across sectors or jurisdictions it may be necessary to appoint more than one ADR entity and in some exceptional cases those offering 'standard' ADR options may not have the necessary expertise to handle disputes
- the Commission may be inundated with information about proceedings in other jurisdictions which are trivial in nature, it would be better to focus on matters of significance
- operators should be required to give the contact details of those who handle complaints, but not necessarily the name of an individual member of staff, particularly in larger organisations, it is better to refer to the customer service or complaints team.

The Commission's position

The Commission's amendments to this social responsibility code provision are not solely – or even mainly - connected to the ADR Directive or the Regulation on ODR. The only change which is dependent on the Directive is the change of terminology from 'independent third party' to 'ADR entity'. This terminology is final and will not be affected by UK implementation. We are therefore not pre-empting the Directive or its implementation in any way - instead we have deliberately left some issues about complaints and disputes (such as consideration of appropriate time limits for handling disputes) until the implementation of the Directive is known.

The Commission maintains that the proposed amendment to the code provision to specify that the services of the ADR entity must be free of charge for consumers - as was the original intention of this social responsibility code provision - is proportionate and reasonable. The majority of operators do currently offer alternative dispute resolution free of charge.

Although we recognise that there may be some costs associated with changing the name of the ADR entity on customer materials if it changes, this does not appear to be sufficient reason not to proceed with the proposal that the ADR entity is named and information provided to customers. We anticipate that the ADR entity for most operators will remain the same, and will only change on a very infrequent basis.

It may be appropriate to draft a specific provision about ADR by networks/operators within a network to ensure an even clearer division of responsibilities between B2B and B2C. If we decide to proceed with such a provision, it would be included in part three of the response to the consultations to be published at the end of April 2014.

We would encourage operators concerned about the cost of engaging an ADR entity to address this issue as a sector or sectors, for example by:

- consolidating administration costs of ADR provision with other operators (or across ADR entities)
- building up expertise with common ADR entities
- agreeing an appropriate charging structure which differentiates between full consideration of a dispute and an initial assessment to identify if there is sufficient information to enable the case to be considered on its merits.

The Commission maintains that only the ADR entity should be able to reject a case on the basis that it is frivolous or vexatious.

However, we recognise that operators may need to appoint one or more ADR entities, or in exceptional circumstances may need to appoint an ADR entity which is not named in its advance notification to customers. We have therefore amended the provision to allow this practice, whilst building in some safeguards to ensure it is only used where the specific nature of the dispute makes it necessary and that an appropriate ADR entity is nevertheless identified.

We have also listened to respondents who stated that the Commission need not receive information about all proceedings taken against an operator in another jurisdiction as these may be trivial in nature, adding unnecessary administrative costs for both the operator and the Commission. We have therefore narrowed the requirement to provide information about proceedings with an adverse consequence for the operator and to exclude proceedings which are dealt with by the equivalent of the County Court 'small claims track'.

A further minor amendment has been made to make clear that operators are permitted to give contact details for those who handle complaints, without necessarily stating the name of an individual member of staff.

Amended social responsibility provision

Complaints and disputes

All licences (including ancillary remote licensees) except gaming machine technical and gambling software licences

- 1 Licensees must put into effect a written procedure for handling customer complaints and disputes.
- 2 Licensees must also ensure that they have arrangements in place for customers to be able to refer any dispute to an independent person offering alternative dispute resolution services (an 'ADR entity') if not resolved to the customer's satisfaction by use of their complaints procedure. **It is permissible for licensees to have arrangements with more than one ADR entity and for customers to be directed to different ADR entities depending on the nature and subject matter of the dispute.**
- 3 It is permissible for such ADR entity to have terms enabling it to reject complaints referred for dispute resolution on the basis they are frivolous or vexatious but licensees may not refuse to refer disputes on that ground.
- 4 The services of **any such** ADR entity must be free of charge to the customer and must not be subject to terms which restrict, or purport to restrict, the customer's right to bring proceedings against the licensee in any court of competent jurisdiction. Such terms may, however, provide for an agreed resolution of a dispute (arrived at with the assistance of the ADR entity) to be binding on both parties.
- 5 In this code a 'complaint' means a complaint about any aspect of the licensee's conduct of the licensed activities, and a 'dispute' is any complaint which:
 - i relates to the outcome of the complainant's gambling transaction; and
 - ii is not resolved at the first stage of the licensee's complaints procedure.
- 6 Licensees must ensure that:
 - i information about their complaints procedure is set out in their terms and conditions
 - ii such information is also readily accessible on their gambling premises or website as the case may be
 - iii such information includes **details of how to make a complaint to the licensee and the relevant contact details**

- iv such information includes the identity (with contact details, which can be by way of a link from the licensee's website) of the ADR entity **or entities** to whom disputes can **normally** be referred **and, where necessary, details of any limitation on the nature and subject matter of disputes with which a particular ADR entity deals**
- v customers are given a copy of the complaints procedure on request or on making a complaint
- vi all complaints are handled in accordance with the procedure.

- 7** Should licensees refer a dispute to an ADR entity other than one in respect of which contact details were given in accordance with 6 above they must, at the same time as making the reference, inform the Commission of the reference and reason for selection of the ADR entity concerned.
- 8** Licensees must keep a record of all complaints that are not resolved at the first stage of the complaints procedure.
- 9** Licensees must arrange for a copy of the decision on, or a note of the outcome of, each dispute referred to an ADR entity to be provided to the Commission, either by the ADR entity or by the licensee. This information should be provided in such format and within such timescale as the Commission may from time to time specify.
- 10** Licensees must also arrange for **any outcome adverse to the licensee** of any proceedings taken against the licensee (in whatever jurisdiction) by a customer in relation to a gambling transaction to be notified to the Commission as a key event; **but excluding proceedings allocated to the County Court small claims track or equivalent in jurisdictions outside England and Wales.**

6 Information requirements

Consultation proposal

Background, structure and aims

- 6.1** The Commission collects a range of information from licence holders within the gambling industry in order to:
- monitor compliance with gambling legislation, regulations and the licence conditions and codes of practice
 - inform our understanding of the industry
 - help fulfil our statutory obligation to provide advice to the Secretary of State.

Proposed information requirements - summary

- 6.2** The consultation proposed changes to the information requirements set out in LCCP as follows:
- minor amendments were proposed to licence condition 15.1 on reporting suspicion of offences under the Act, to clarify that information to the Commission must be provided as soon as reasonably practicable, and to allow operators to provide information through a third party if the operator chooses to pursue that option and where appropriate permissions are in place.
 - we proposed restructuring key and reportable events under 15.2 – in doing so, we consolidated all those key events which we consider to be material to the operation of the business and which are time-critical into 15.2.1. In order to help the reader, we grouped the key events into topics to help demonstrate the reason for asking for the information. Additional events were included as key events to reflect developments since LCCP was published in December 2011.
 - as well as those events which must be notified within five days, we proposed a category of information (15.2.2) which must be notified as soon as reasonably practicable – these were called reportable events.
 - we consolidated information requirements which appear elsewhere in LCCP into one of the appropriate categories of information requirements.
 - finally, we proposed a new ordinary code provision to clarify the Commission's expectations about reporting suspicions of cheating, mainly relevant for betting integrity issues.

Reporting suspicion of offences

- 6.3** The existing licence condition 15.1 required operators to provide the Commission with information that they know or suspect may relate to an offence under the Act (including breaches of LCCP). We proposed minor amendments to this licence condition. First, we wished to make explicit our expectation that information must be provided as soon as reasonably practicable. Secondly, we wished to clarify that operators may provide information through a third party, if the operator chooses to pursue that option and where appropriate permissions are in place.

Consultation questions

- Q11. Do you have any comments on the proposed clarifications to licence condition 15.1 relating to the reporting of suspicious bets?

Respondents' views

- 6.4** Over 20 respondents commented on the proposed amendments for licence condition 15.1. About half of those respondents commented on the proposals for betting operators, and most agreed with the approach, though some respondents sought reassurance that the condition would not place the operator in breach of data protection legislation.
- 6.5** Some respondents (including a series of duplicate responses from one sector) mistakenly understood the provision for non-betting operators to be new and argued that a requirement to report the suspected commission of an offence under the Act, and particularly a breach of a licence condition was too broad.
- 6.6** Issues arose in the consultation workshop and in the debates during the passage (so far) of the Gambling (Licensing and Advertising) Bill about the extent of the Commission's licence condition for information about suspicious sports spread betting activity.

The Commission's position

The Commission will proceed with the minor amendment for non-betting firms which makes clear that the operator must pass the information to the Commission or ensure that it is provided with such information as soon as reasonably practicable.

The Commission has further amended licence condition 15.1 for betting firms (as was explained during the passage of the Gambling (Licensing and Advertising) Bill). The further amendment ensures that where a sports spread betting firm holds a Gambling Commission operating licence for its fixed odds activity, it will be required to also report activity which it suspects relates to a breach of a relevant sport governing body's rules applicable to sports spread betting activity.

In relation to possible data protection concerns, it is for operators to satisfy themselves that they can meet the requirements of the Gambling Commission licence for the provision of information. The LCCP requirements are compatible with UK legislation in this area. If an operator chooses to physically locate in another jurisdiction, they will have to demonstrate to us that they can meet the information requirements within the local laws which might apply, or a Commission licence cannot be granted.

Amended licence condition

15.1 Reporting suspicion of offences etc for non-betting licences

All operating licences except betting, betting intermediary, ancillary remote betting and remote betting intermediary (trading rooms only)

- 1** Licensees must as soon as reasonably practicable provide the Commission or ensure that the Commission is provided with any information that they know relates to or suspect may relate to the commission of an offence under the Act, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition.

15.1 Reporting suspicion of offences etc for betting licences

All betting operating licences including betting intermediary, ancillary remote betting and remote betting intermediary (trading rooms only)

- 1** Licensees must as soon as reasonably practicable provide the Commission or ensure the Commission is provided with any information **from whatever source** that they:
 - i know relates to or suspect may relate to the commission of an offence under the Act, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition
 - ii suspect may lead the Commission to consider making an order to void a bet.

- 2** Licensees who accept bets, or facilitate the making or acceptance of bets between others, on the outcome of horse races or other sporting events governed by one of the sport governing bodies for the time being included in Part 3 of Schedule 6 to the Act must also provide the relevant sport governing body with sufficient information to conduct an effective investigation if the licensee suspects that they have any information **from whatever source** that may:
- i lead the Commission to consider making an order to void a bet
 - ii relate to a breach of a rule on betting applied by that sport governing body.
- 3** In 2ii above ‘rule on betting’ includes any rule about bets the making or acceptance of which would be a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000 (‘spread betting’).

Key events reporting

Consultation proposal

- 6.7** The consultation document set out the main areas of change to key events and a short explanation of why each of the material changes is necessary and appropriate. In particular, the structure of the condition was amended to group relevant types of events together. These groups were:
- operator status
 - relevant persons and positions
 - financial events
 - legal or regulatory proceedings or reports
 - gambling facilities.

Consultation question

- Q12. We would welcome comments on new or significantly amended key events as set out in the box above. Please ensure that you reference the provision(s) to which you are referring.

Respondents’ overall views

- 6.8** All of the respondents to the LCCP made comments on the proposed key events provisions, with a wide variety of views on the overall approach and on the individual key events proposed.
- 6.9** Overall, two respondents (operators) agreed with all of the proposed changes with one stating they were clear and unambiguous.
- 6.10** Other respondents made the following general points:
- Many felt that the list of key events had grown disproportionately and would cause unnecessary burden and cost for operators.
 - One operator stated it would be helpful if international regulators could agree a common list of key events that need to be reported.
 - A definition of the word ‘material’ or ‘serious’ should be given where relevant to ensure operators are clear about what has to be reported.
 - Proposals relating to reporting matters which had occurred within the wider group rather than within the licensee would be difficult to comply with, if not impossible in some cases. Some were concerned they would have to divulge group matters which have no bearing on and pose no risk to the licensee’s licensed activity and entail significant investment in time and resource to satisfy.

One operator felt that whilst there might be genuine reasons for the requirement, to have them as key events to be reported within five days would genuinely cause difficulties for multi-jurisdiction and multi-national organisations, particularly where the licensee would be reliant on other companies in its group reporting matters to it (one operator suggested that a 30 day time limit be put in place for these types of events affecting other companies within a group of companies). Others felt that where such events included other group companies, they should be classed as 'other reportable events' rather than key events.

- A number of operators generally agreed with the proposals overall but stated that that the licensee should be permitted to provide information as soon as reasonably practicable and ensure that the Commission is provided with any information so far as it is within the power of the licence holder to get that information.

The Commission's position

The Commission remains of the view that the additional key events proposed in the consultation document are required, though some amendments have been made to take account of concerns raised during the consultation. Each of the key events indicates a significant change to the licensee, with some (but not all) indicating potential risks in respect of a licensee's continued suitability. Reporting such events to the Commission is another way for licensees to satisfy the Commission that they remain compliant with the Act and licensing objectives.

Additionally, being informed of the events listed will, along with submission of regulatory returns and the Commission's greater use of desk top compliance activity, enable the Commission to keep abreast of changes within licensees without the need for burdensome and costly (for both licensees and the Commission) regular compliance visits and fits in with the Commission's risk-based approach to compliance.

The Commission also remains of the view, in most instances, that those events which have not occurred within the licensee but within a company in the same group remain relevant to the licensee. The Commission appreciates that the licensee may not always be aware of such events occurring within the wider group on the date that the event occurred but the requirement to report all key events '*...in any event within five working days*' is from the date the licensee became aware of the event occurring **not** from the date it occurred.

The Commission has taken on board some of the amendments suggested by respondents and these are detailed below where relevant within each specific group of key events.

In respect of the definition given of group company and body corporate, this is intended to cover subsidiaries of the licensee; sister companies of the licensee; parent or holding company of the licensee and the Commission is satisfied that it does so.

The Commission's approach has been that where an equivalent event has occurred outside of Great Britain, the legal definition of which is broadly similar, that key event must also be reported.

The Commission will not define 'material' or 'serious' as this could be affected by a number of factors specific to a licensee. Where the reporting requirements require the reporting of 'material' or 'serious' matters or concerns, the Commission considers that it is a matter of judgement for the licensee to decide whether the matter is 'material'. In multiple instances throughout the consultation responses, we were urged to narrow the information provisions to reduce the burden on industry and ensure that the Commission is only asking for pieces of relevant information and not inadvertently catching trivial or irrelevant items. Therefore, on occasions an element of judgement or assessment must be applied to ensure that it is indeed the key or important information which is reported to the Commission.

The Commission notes one respondent's request that international regulators agree a common set of key events. The Commission works with other gambling regulators around the world with the aim of sharing best practice and learning and the majority of regulators demonstrate a willingness to establish common principles and practices where it is appropriate to do so. The Commission will share the view raised by the respondent with other regulators.

The responses for each group of key events are set out below.

Group of key events - operator status

Respondents' views

- 6.11** Within this group of key events, which addressed different types of insolvency events which are required to be reported, item 2 was the only proposed new item.
- 6.12** No respondents specifically disagreed with the proposed new item. One respondent suggested that the words 'or equivalent' should be added so that the event applied to insolvency events outside of UK and European jurisdictions. Another was of the view that the interpretation of events substantially equivalent to a UK insolvency may differ around the world and operators would not want to be inadvertently in breach of this requirement particularly if it has no bearing on the UK licensed activities.
- 6.13** Another respondent said that the items listed under operator status needed further explanation as it appeared from the first sentence in paragraph 1 that the condition applies only to the holder of the operating licence or its subsidiaries, but not to a parent company and questioned if that was the intention.

The Commission's position

In respect of the definition given of group company and body corporate, this is intended to cover subsidiaries of the licensee; sister companies of the licensee; parent or holding company of the licensee and the Commission is satisfied that it does so.

The Commission's approach has been that where an equivalent event has occurred outside of Great Britain, the legal definition of which is broadly similar, that key event must also be reported.

Group of key events – relevant persons and positions

Respondents' views

- 6.14** Many respondents disagreed with the proposals at items 5 and 6 to report any new or intended new investment or the taking of loans. Particular concerns expressed were that there was no de minimis level set; it was unclear when the five day reporting period commenced for the reporting of 'intended new investment'; such information could be commercially sensitive or carry confidentiality requirements from the investor; it was not clear that these matters have a bearing on the licensee's ability to carry out the licensed activities. Some questioned whether these requirements excluded corporate bonds and inter-company loans, stating that these should be excluded.
- 6.15** Some respondents suggested that item 6 should be confined to the taking of loans by the licensee rather than other groups within the company. Some felt that the wording suggests that if a third party provides services at a discount, on a perfectly reasonable commercial basis, this would also be notifiable to the Commission regardless of the level of discount involved.

- 6.16** One trade association felt that the wording in item 8d was unclear and questioned how the Commission would communicate the designation of other positions as ‘key’ to the industry.

The Commission’s position

The Commission agrees with the difficulties raised by respondents in respect of item 5 and when to report an ‘intended new investment’ so has removed that part of the proposed condition, confining it to actual investment.

We have also amended the provision to make explicit our expectations about inter-company loans. We expect to be notified of inter-company loans where a loan has been made to a company within the licensee’s group by a person not authorised by the Financial Conduct Authority and that company in turn makes a loan for an equivalent amount to the licensee. This is because the loan is therefore being made indirectly to the licensee.

Apart from the above changes, the Commission remains of the view that these requirements are necessary as drafted. Investments, loans, and provision of services for less than the full value can all be less obvious ways of gaining control or influence within a licensee. The Commission must have knowledge about all individuals or other organisations that could potentially gain control or influence in the licensee to ensure that the licensee remains suitable. Whilst the Commission accepts that in many instances services will be provided to a licensee at a discount for usual commercial reasons, the Commission needs to be satisfied that this is the case. The Commission needs to be satisfied that the individual/organisation offering the discounted service is not a cause for concern in respect of suitability and that the offering of services on favourable terms is not a way of gaining undue leverage with the licensee.

At this stage, the designation of other positions as ‘key’ and therefore requiring that the appointment of a person to such a position or a person ceasing to occupy that position be notified to the Commission as a key event will not be a blanket designation. Rather, this will be applied where it is appropriate to do so, to individual operating licence holders by way of an individual condition on the operating licence. Such a decision will carry the usual appeal rights.

Group of key events - financial events

Respondents’ views

- 6.17** Within this group of events relating to financial events, items 10, 14, 15 and 16 were the proposed new or amended items.
- 6.18** A number of respondents disagreed with the proposal to require the notification of changes in banking arrangements, with some questioning whether Commission employees have the skills to assess the suitability of banking arrangements. Some said that termination of banking arrangements with a provider might be due to acceptable commercial reasons such as the licensee moving to a bank with more favourable terms and suggested that the requirement be reworded to require notification only where the changes were likely to affect the licensee’s regulatory status of ability to comply with the licensing objectives.
- 6.19** One respondent commented on the existing requirement to report ‘any court judgments (in whatever jurisdiction) against the licensee or, where the licensee is a body corporate, a group company, remaining unpaid 14 days after the date of judgment’ stating that the requirement to report in respect of any group company was too onerous in terms of time and resource required to comply. This is an existing requirement and not subject to change.

The Commission's position

The Commission remains of the view that these proposals should be implemented as drafted. As explained in the consultation document, a material change to banking arrangements is difficult to complete without causing disruption to the ongoing business. The Commission does not expect to see that licensees are constantly making material changes to their banking arrangements as it would be costly and disruptive for them.

The risk the Commission sees and the reason for the requirement is that it has become increasingly difficult to make these changes with the larger established banking institutions which has led some operators who change banks to choose institutions that pose a higher risk in terms of money laundering. Termination of banking arrangements by a provider could indicate financial risks within the operator.

Group of key events - legal or regulatory proceedings or reports

Respondents' views

- 6.20** Within this group of events, items 17, 19, 20 and 22 were the new or amended items.
- 6.21** A number of respondents (operators from the same group of companies) stated that they were 'disturbed' by what they saw as a threat from the Commission that the alternative to the proposals in this section would be increased mandatory 'inspections as practised by the Gaming Board'.
- 6.22** Many respondents strongly disagreed with the requirement proposed in item 17 to report the making of an application to another gambling regulator. These respondents generally agreed with the requirement to report the outcome of an application; although one operator commented that another regulator may require the licensee to keep the outcome of an application confidential. Respondents cited commercial confidentiality and sensitivity and questioned why the Commission needed to know about applications made as they felt that these do not have implications as to the suitability of a licensee. One respondent questioned whether it was confined to operating licence equivalents or extended to personal licence equivalents. Another requested clarification on whether this requirement applied to other companies within the group, where applicable.
- 6.23** Some respondents also disagreed with item 19 stating that there are circumstances in which the other regulator may request that the outcome of a compliance assessment be kept confidential between the licensee and the regulator and further stating that there should be a materiality aspect to this requirement. Many felt it would be overly burdensome particularly for licensees who are part of a wider group structure and that it should therefore be confined to reports that have a bearing on the licensee's activities, making the same point in relation to item 21.
- 6.24** Some respondents expressed concern about item 20, expressing the view that licensees are already required to report offences or suspicion of offence to the Commission so it seems unnecessary to require the reporting of lesser matters identified by the licensee for the purposes of improving standards. Another said that if the matter was of sufficiently high priority, it would in all likelihood already have been reported to the Commission as one of the other key events. One respondent asked for a definition of third party and specifically stated it should exclude legal advisers due to legal privilege. Another felt that the requirement went against good corporate governance and proactive review by licensees themselves.

The Commission's position

The Commission agrees with the views expressed by a number of respondents that notification of the making of an application in another jurisdiction at the time it is made is not required, provided the Commission is notified of the *outcome* of such applications (including withdrawals) and has amended requirement 17 accordingly. We have further amended to clarify that the Commission only requires notification of the outcome of applications broadly similar to applications made to the Commission, for example the Commission does not require notification of applications for the equivalent of machine permits.

The Commission has also amended item 19 to make clear that it only requires notification of the outcome of a compliance assessment in respect of group companies of the licensee where the group company has at least one key person in common with the licensee. Part of the reason for this requirement was to reduce duplication of compliance effort between regulators. The Commission agrees that receipt of such compliance reports in respect of companies within the group other than the licensee is only relevant to the licensee where the other company has at least one key person in common.

The Commission accepts some of the views expressed by respondents in respect of item 20 regarding the seriousness of concerns referred to the licensee's board by a third party and has amended that requirement to include the 'material' aspect which was requested by respondents.

Apart from these changes, the Commission remains of the view that these requirements are necessary as drafted. As stated in the consultation document, these proceedings and reports could potentially have an effect on the Commission's considerations of the licensee's suitability, or their ability to uphold the licensing objectives.

Group of key events - gambling facilities

Respondents' views

- 6.25** Within this group of key events, all items were either amended or proposed as new key events in the consultation document.
- 6.26** Respondents who expressed a view about these requirements agreed with the proposed changes.

The Commission's position

The Commission will proceed with the amendments as proposed in the consultation document.

In order to reflect the updated requirements of the social responsibility code provision on complaints and disputes we have added a key event to require operators to notify us if they refer a dispute to an ADR entity other than one named and published to customers. This will help us assess the coverage of alternative dispute resolution for the full range of gambling disputes, and to assess whether an ADR entity appointed in these circumstances is independent from the operator.

Amended licence condition 15.2.1

15.2.1 Reporting 'key' events

All operating licences, except ancillary remote licences

15.2.1 A key event is an event that could have a significant impact on the nature or structure of a licensee's business. Licensees must notify the Commission, or ensure the Commission is notified, in such form or manner as the Commission may from time to time specify, of the occurrence of any of the following key events as soon as reasonably practicable and in any event within five working days of the licensee becoming aware of the event's occurrence¹.

Operator status

- 1** In the case of licensees which are companies, a petition being presented for their winding up or the winding up of any group company of theirs, or they or any group company being placed in administration or receivership or their directors proposing to creditors a composition in satisfaction of its debts or a scheme of arrangement of its affairs.
- 2** In the case of licensees which are bodies corporate, but not companies, any event substantially equivalent to those listed at 1 above.
- 3** In the case of a licensee who is an individual (or a partner in a partnership licensee) their being presented with a petition for their bankruptcy or sequestration or their entering into an individual voluntary arrangement.

Relevant persons and positions

- 4** In the case of licensees who are companies or other bodies corporate having a share capital, the name and address of any person who (whether or not already a shareholder or member) becomes a shareholder or member holding 3% or more of the issued share capital of the licensee or its holding company.
- 5** Any investment in a licensee which is not by way of subscription for shares.
- 6** **The taking of any loan by the licensee, or by a group company who then makes an equivalent loan to the licensee, from any person not authorised by the Financial Conduct Authority: a copy of the loan agreement must be supplied.**
- 7** **The entering into an arrangement whereby a third party provides services to, or grants any licence concession or permission to, the licensee other than for full value: full details of the arrangements must be supplied.**
- 8** The appointment of a person to, or a person ceasing to occupy, a 'key position': a 'key position' in relation to a licensee is:
 - a. in the case of a small-scale operator, a 'qualifying position' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006
 - b. in the case of an operator which is not a small-scale operator, a 'specified management office' as set out in (current) LCCP licence condition 1.2
 - c. a position the holder of which is responsible for the licensee's anti-money laundering procedures, including suspicious activity reporting
 - d. any other position for the time being designated by the Commission as a 'key position'. (Notification is required whether or not the person concerned is required to hold a personal management licence and whether or not such the event notified requires the licensee to apply for a variation to amend a detail of their licence.)
- 9** Any change to the structure or organisation of the licensee's business which affects a 'key position' or the responsibilities of its holder.

Financial events

- 10 Any material change in the licensee's banking arrangements, in particular the termination of such arrangements or a particular facility and whether by the licensee or the provider of the arrangements.
- 11 Any breach of a covenant given to a bank or other lender.
- 12 Any default by the licensee or, where the licensee is a body corporate, by a group company in making repayment of the whole or any part of a loan on its due date.
- 13 Any court judgments (in whatever jurisdiction) against the licensee or, where the licensee is a body corporate, a group company, remaining unpaid 14 days after the date of judgment.
- 14 Where the licensee is required to have their accounts independently audited, any qualification to an auditors' report; and any unplanned change of auditor including a change prompted by a dispute or resulting from auditors being unable or unwilling to sign an unqualified audit report.
- 15 Any change in the licensee's arrangements for the protection of customer funds in accordance with the general licence condition 4 [relating to the protection of customer funds] (where applicable).
- 16 Where the licensee holds customer funds in a separate bank account, any deficit on reconciliation of such bank account.

Legal or regulatory proceedings or reports

- 17 **The grant, withdrawal or refusal of any application for a licence or other permission made by the licensee**, or in the case of a licensee which is a body corporate, any group company of theirs, to a gambling regulator in another jurisdiction. In the case of a withdrawal or refusal of the application, the licensee must also notify the reasons for such withdrawal or refusal. **(This condition does not apply to applications for licences or other permissions to carry on activities which would fall outside the scope of a Gambling Commission operating licence if carried out in Britain or with customers in Great Britain.)**
- 18 Any investigation by a professional, statutory, regulatory or government body (in whatever jurisdiction) into the licensee's activities, or the activities in relation to the licensed entity of a personal licence holder or a person occupying a qualifying position employed by them, where such an investigation could result in the imposition of a sanction or penalty which, if imposed, could reasonably be expected to raise doubts about the licensee's continued suitability to hold a Gambling Commission licence.
- 19 The receipt of any report from a professional, statutory or other regulatory or government body (in whatever jurisdiction) of the outcome of a compliance assessment in relation to the gambling activity of the licensee or, where the licensee is a body corporate, of **any group company in which at least one person who holds a key position in or in respect of the licensee holds a key position**: a copy of the report should be provided where available to the licensee.
- 20 The referral to the licensee's Board, or persons performing the function of an audit or risk committee, of **material** concerns raised by a third party (such as an auditor) about the provision of facilities for gambling which are expressed (in whatever terms) as requiring attention as a high priority: a summary of the nature of the concerns must be provided.
- 21 The imposition by the licensee of a disciplinary sanction, including dismissal, against the holder of a personal licence or a person occupying a qualifying position for gross misconduct; or the resignation of a personal licence holder or person occupying a qualifying position following commencement of disciplinary proceedings in respect of gross misconduct against that person.
- 22 The commencement (in whatever jurisdiction) of any material litigation against the licensee or, where the licensee is a body corporate, a group company: the licensee must also notify the outcome of such litigation.

Gambling facilities

- 23** Any breach in the licensee's information security that adversely affects the confidentiality of customer data or prevents customers from accessing their accounts for longer than 24 hours.
- 24** Any change in the identity of the ADR entity **or entities** for the handling of customer disputes, as required by the Social Responsibility Code on complaints and disputes.
- 25** **The reference of a dispute to an ADR entity other than one in respect of which contact details were given in accordance with Social Responsibility Code on Complaints and Disputes; the reason for selection of that ADR entity should be given.**
- 26** In the case of remote gambling, the commencement or cessation of trading on website domains (*including mobile sites or mobile device applications*) or broadcast media through which the licensee provides gambling facilities.

In this condition:

- i 'body corporate' has the meaning ascribed to that term by section 1173 of the Companies Act 2006 or any statutory modification or re-enactment thereof
- ii in respect of a company, 'holding company' and 'subsidiary' have the meaning ascribed to that term by section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof
- iii a 'group company' is any subsidiary or holding company of the licensee and any subsidiary of such holding company.

¹ Key events can be reported securely online at the Commission's website at www.gamblingcommission.gov.uk or by email to key.events@gamblingcommission.gov.uk

Other reportable events and ordinary code provision 8

Consultation proposal

- 6.27** The consultation document proposed other types of events which must be reported as soon as reasonably practicable, but without the five day limit which applies to key events. It also proposed an amended ordinary code provision to notify the Commission about particular events which could have a material impact on the licensee's business.

Consultation questions

- Q13. Do you have any comments on the proposed 'other reportable events', which are events which the Commission expects to receive information about, but this may or may not be within the maximum five working days which is applied for 'key events'?
- Q14. Do you have any views on the proposed amendments to the ordinary code provision 8 about providing information to the Commission about wider material changes or risks? When responding, please consider whether there are additional items we should add to ordinary code 8 to make clear our expectations in this area?

Respondents' views

6.28 Whilst a number of respondents agreed with the Commission's proposals in respect of 'other reportable' events and the amendment to ordinary code provision 8, some concerns were expressed as follows:

Other reportable events

- claims made in small claims courts should not have to be notified.
- notification of every case and outcome would be a significant burden for operators; it would therefore be better to require the provision of the outcome and that to be submitted as part of Regulatory Returns; such information in respect of other regulators is confidential and the Commission would need to demonstrate that the operator would not be in breach of local data protection rules; the Commission has not demonstrated the need for this to be reported more frequently than quarterly as is the case now.
- guidance as to timelines for 'other reportable' events should be set out to ensure consistency of reporting between operators.
- terminology used is ambiguous and 'other reportable' events appear to be a 'catch-all' rather than items which fit with the Commission's risk-based approach.

Ordinary code provision 8

- notification to the Commission about an internal audit report should only be required where the concerns raised are serious; the point of internal audit is to aid continuous improvement without the regulator's involvement and this proposal may create the unintended consequence of restricting the freedom of licensees to run their business effectively and is against the principles of self-regulation; this requirement if retained should be restricted to external audit reports only and to reports which highlight serious concerns.
- the requirement to notify the Commission of a material change to an organisation's structure or operation of its business is ambiguous. For example, in a large organisation would the Commission need to know about changes in a non-gambling aspect of the business? It would be helpful if an operator could discuss such matters with a Commission employee before notification and/or if further guidance could be issued to ensure consistency of reporting.

The Commission's position

The Commission agrees with the comment made by several respondents that the provision relating to the outcome of proceedings against the licensee by a customer in relation to a gambling transaction should not include proceedings in a small claims court or its equivalent and has amended the provision accordingly.

In addition, the Commission intended in respect of the changes to ordinary code provision 8 to require notification only of material items in respect of all three bullet points listed so has made the necessary changes to make this clear.

Apart from these changes, the Commission remains of the view that these changes are necessary as drafted. The matters listed in these sections are relevant information in respect of the way an operator is running its business or the way an operator's business is structured and will allow the Commission to be satisfied that the operator is upholding the licensing objectives and conducting its activities in accordance with the wider licence conditions and codes of practice.

Amended licence condition

15.2.2 Other reportable events

All operating licences except ancillary remote licences

- 1 Licensees must also notify the Commission in such form or manner as the Commission may from time to time specify, or ensure that the Commission is so notified, as soon as reasonably practicable of the occurrence of any of the following events¹:
 - i the conclusion of a dispute referred to an ADR entity and in such case providing the Commission with a copy of the decision or note of the outcome²
 - ii **any outcome adverse to the licensee** of any proceedings taken against the licensee (in whatever jurisdiction) by a customer in relation to a gambling transaction; **but excluding proceedings allocated to the County Court small claims track or equivalent in jurisdictions outside England and Wales.**

¹ Events required to be notified to the Commission by 15.2.1 or 15.2.2 may be reported securely online at the Commission's website at www.gamblingcommission.gov.uk or by email to key.events@gamblingcommission.gov.uk

² In respect of the referral of disputes to an ADR entity the licensee's attention is drawn to social responsibility code provision [6].

New ordinary code provision, to replace existing ordinary code 8

Information requirements

All licences except ancillary remote licences

- 1 As stated earlier in this code, the Commission expects licensees to work with the Commission in an open and cooperative way and to inform the Commission of any matters that the Commission would reasonably need to be aware of in exercising its regulatory functions. These include in particular matters that will have a material impact on the licensee's business or on the licensee's ability to conduct licensed activities compliantly and **consistently with** the licensing objectives.
- 2 Thus, licensees should notify the Commission, or ensure that the Commission is notified, as soon as reasonably practicable and in such form and manner as the Commission may from time to time specify¹, of any matters which in their view could have a material impact on their business or affect compliance. The Commission would, in particular, expect to be notified of the occurrence of any of the following events in so far as not already notified in accordance with the conditions attached to the licensee's licence²:
 - any material change in the licensee's structure or the operation of its business
 - any **material** change in managerial responsibilities or governance arrangements
 - any report from an internal or external auditor expressing, or giving rise to, concerns about **material** shortcomings in the management control or oversight of any aspect of the licensee's business related to the provision of gambling facilities.

¹ These matters can be reported securely online at the Commission's website at www.gamblingcommission.gov.uk or by email to key.events@gamblingcommission.gov.uk

² Events which **must** be reported, because the Commission considers them likely to have a material impact on the nature or structure of a licensee's business, are set out in general licence condition 15.2.

Provision of information in respect of cheating – eg betting integrity

Consultation proposal

- 6.29** The existing requirement at licence condition 15.1 of the current version of LCCP requires all operators, including betting operators to provide information to the Commission if they have information which they know or suspect may relate to an offence under the Gambling Act 2005 (the Act). In addition, betting operators must provide information which they suspect may lead the Commission to consider making an order to void a bet.

6.30 Occasionally, questions arise about the Commission's expectations under this licence condition. In order to provide clarity on this area, we proposed a new ordinary code provision which specifies that operators should take account of the scope of the offence of cheating in the Act. As a result, the Commission would expect to be notified of suspected or attempted interference with events in Great Britain on which bets are placed across the world, **and** of suspected or attempted interference of events outside Great Britain where bets are placed in Great Britain.

Consultation question

Q15. Do you have any comments on the proposed betting integrity ordinary code provision to specify the Commission's expectations about reporting of suspected interference with events in Great Britain or elsewhere?

Respondents' views

6.31 Only a small number of respondents commented on the proposed new ordinary code provision. Most of those respondents agreed with the proposed code provision and some commented that they already implement the proposed approach. However a number of operators also felt that the code provision was too wide and subjective as a licensing requirement, whilst one respondent felt that the proposal reflected an error on the Commission's analysis of the scope of its obligations under the Act.

The Commission's position

The Commission considers that the new code provision (as an ordinary code which does not have the effect of a licence condition) adds valuable clarity about the manner in which operators should meet the reporting requirements on suspected cheating on events.

We are therefore implementing the new ordinary code provision as proposed in the consultation document.

Amended ordinary code provision

Provision of information in respect of cheating

All betting operating licences including betting intermediary, ancillary remote betting and remote betting intermediary (trading room only)

- 1 In considering their obligations under licence condition 15.1 licensees should in particular keep in mind the scope of the offence of cheating. The Commission would expect to be notified of any information a licensee has which causes them to know or suspect that there has been interference or attempted interference with:
 - i an event which has taken or is taking place in Great Britain on which bets have been or are likely to be or to have been placed (whether in Great Britain or elsewhere); or
 - ii an event which has taken or is taking place outside Great Britain on which bets have been or are likely to be or to have been placed in Great Britain.

7 Amendments specific to remote gambling operators

7.1 This section sets out some changes specific to remote gambling operators. The Commission will be publishing the remaining changes relating to remote gambling operators in part two and part three of the response to the LCCP consultation (both expected to towards the end of April). The remaining issues include protection of customer funds (part two), display of licensed status, poker and other networks, restrictions on payment processors and the requirements to source gambling software only from licensed software operators (part three). All of the provisions are intended to come into force at the beginning of August 2014, other than the gambling software condition which we have committed to bringing into effect on 1 January 2015.

Location (and relocation) of remote gambling equipment¹⁸ (key equipment)

Consultation proposal

7.2 An applicant for a remote operating licence¹⁹ is required as part of their application to set out the location (or intended location if not currently trading) of their key equipment. Upon grant, schedule R of the licence specifies details of the jurisdiction(s) in which the remote gambling equipment is located. An applicant would need (as they do now) to set out where they propose to locate their remote gambling equipment in their application and provide assurance that they can fulfil their regulatory obligations.

7.3 The Commission considered it appropriate (as is the case now) for licensees to apply to vary their licence if they intended to relocate any of their key equipment to another jurisdiction. This would enable licensees to provide assurance to the Commission that they will be able to fulfil their regulatory obligations from the jurisdiction(s) in which they locate their key equipment.

7.4 The Commission did not consider it appropriate to require a licensee to vary their licence for the relocation of equipment within the same jurisdiction. This information should be reported as part of regulatory returns²⁰.

Consultation questions

Q16. Do you agree that licensees should be required to apply to vary their licence before relocating key equipment to another jurisdiction?

Q17. Do you agree with the Commission's view that it is sufficient to receive notification of changes in the location of key equipment within a jurisdiction through regulatory returns submissions?

Respondents' views

7.5 The Commission received 17 unique responses in relation to the Commission's proposal to require a licence variation before relocating key equipment.

7.6 Some respondents commented that requiring a licence variation to be granted before being able to relocate key equipment to another jurisdiction was not necessary or proportionate.

¹⁸ Defined in s36 of the Gambling Act 2005.

¹⁹ Remote casino, bingo, general betting real events, general betting virtual events, pool betting, betting intermediary licences, but not ancillary licences.

²⁰ Regulatory returns currently require remote licensees to report 'major changes to gambling infrastructure'. This includes, deployment of new servers, new security hardware, new network configurations, or relocation of data centre/hosting facilities

Of this group, some said that pre-notification should be sufficient because this would give the Commission the opportunity to object to the relocation if it had concerns about the location of the key equipment. One of these respondents said that operators are likely to want to discuss a proposed relocation with the Commission and so compelling a variation is disproportionate.

- 7.7** Other respondents sought clarification on how they might satisfy the Commission that they can fulfil their regulatory responsibilities from the jurisdiction in which they intend to locate their key equipment.
- 7.8** Some respondents - whilst not objecting to the proposed condition - suggested that the Commission should provide further information on the likely timescales for a variation and the cost of variation. Others wanted to better understand the factors that the Commission will consider when assessing the suitability of jurisdictions and whether it has concerns about certain jurisdictions, in particular jurisdictions outside of the European Economic Area.
- 7.9** The Commission received 18 unique responses concerning the proposals in the consultation document to require notification of changes in the location of key equipment within a jurisdiction through regulatory return submissions.
- 7.10** The vast majority of respondents agreed with the proposition but two responses did question what was meant by the term 'jurisdiction'. One commented that some jurisdictions are vast and may comprise a number of 'states' that have their own laws.

The Commission's position

The Commission is clear that licensees must ensure they can fulfil their regulatory obligations from wherever they locate their key equipment. We also reiterate that the requirement to vary a licence before relocating key equipment exists now for remote licensees. The Commission does not consider it appropriate that operators only notify the Commission of changes to the location of key equipment once the change has taken place.

However the Commission would like to address concerns of some respondents about the cost and timescales for a variation. The location of key equipment is a detail of the licence and therefore an application to vary the licence is required to amend that detail, should the location of the key equipment change. This attracts a fee of £25 per licence. We aim to have all variations determined within six weeks of a complete application being received.

In terms of the factors the Commission will consider when assessing an application to vary the location of key equipment, the Commission will want operators to provide a rationale and assurance that they will be able to provide information to the Commission in fulfilling their regulatory and legal obligations. One aspect flagged in the consultation document was the requirement for operators to provide personal data under licence condition 15 to the Commission. This issue is also linked to the next condition in relation to access to (and provision of information from) key equipment.

Finally, the Commission has amended the condition to clarify what is meant by the term 'jurisdiction' and to make clear that this condition applies where the licensee adds to its key equipment and not just where equipment is relocated.

New licence condition

Location of key equipment

All remote casino, bingo and betting licences other than ancillary licences and remote betting intermediary (trading room only) licences

- 1 Licensees must not **add to** any of the remote gambling equipment listed in Schedule R to their licence **or relocate any of that equipment** from **the jurisdiction stated in the Schedule** without first obtaining a variation of that detail of the licence on application pursuant to section 104(1)(b) of the Act.

For the purposes of this condition, in the case of geographical areas which are subject to the laws of both a state or provincial government and a federal government 'jurisdiction' means the area of the state or province; but England, Wales and Scotland are to be treated as a single jurisdiction

Access to (and provision of information from) key equipment

Consultation proposal

- 7.11** The Commission proposed in the consultation document to introduce a condition underpinning our expectation that operators work with us in an open and cooperative way with an explicit requirement to provide access to key equipment and information held on that equipment.

Consultation question

- Q18. Do you have any comments on this draft provision to specify that an individual nominated by the Commission as an enforcement officer must be permitted access to inspect remote gambling equipment and that copies of data held on remote gambling equipment must be provided as required by the Commission?

Respondents' views

- 7.12** Many respondents supported the proposed condition. One respondent felt that the condition was inadequate in circumstances of serious breach of licence condition or criminal activity. Another questioned how the Commission would verify data on equipment as being correct. A small number of respondents felt the condition was too broad and the legislation already provided the Commission with sufficient powers to request access to equipment.
- 7.13** Those respondents that supported the proposed condition made a number of comments and observations. Some respondents felt that the Commission when requesting data should provide assurance to the operator that the request will not put the operator in breach of local data protection laws. On a similar theme, another respondent said that bilateral agreements might be needed with the local regulator in order to execute an enforcement role in that jurisdiction.
- 7.14** Some respondents raised practical issues, including suggestions that a period of notice should be given to enable the operator to facilitate the inspection of equipment; that any inspection should be conducted with an operator-approved technician to minimise the risk of system failure.

- 7.15** Other respondents said that the Commission should make clear the grounds for any inspection or request for information; that any request should be proportionate; and in any event that it is preferable for the Commission to discuss data requirements on a case by case basis with the operator.
- 7.16** Other respondents suggested the Commission should work closely with local regulators to minimise the risk of unnecessary duplication and that it might be more efficient for the Commission to use local agents overseas.

The Commission's position

The Commission made clear in the consultation document and elsewhere in this response document that it is the operator's responsibility to fulfil their regulatory obligations to the Commission from wherever they locate their equipment. If local laws prevent an operator from fulfilling their licence obligations, then they will be in breach of licence and their licence will be at risk.

The Commission expects in the normal course of business to discuss data requirements and access to the equipment with operators. But, where the Commission has concerns about the activities of an operator or accuracy of data, it has considerable discretion to impose specific additional licence conditions. These conditions could, for example, require a third party audit or verification of data; or require copies of data held on the equipment to be held in Britain.

The Commission is working with overseas regulators to reduce unnecessary duplication of regulation.

The Commission has made no amendments to the condition proposed in the consultation document and this is set out below.

New licence condition

Access to (and provision of data from) key equipment

All remote casino, bingo and betting licences other than ancillary licences and remote betting intermediary (trading room only) licences

- 1 Licensees must, on request, permit an enforcement officer to inspect any of their remote gambling equipment and/or provide to the Commission copies of data held on such equipment in such format and manner as the Commission may request.

Identification of individual customers

Consultation proposal

- 7.17** The consultation document explained that the existing LCCP provision on this topic requires remote licensees to implement policies and procedures to identify separate accounts held by the same individual. The purpose of this provision is to ensure operators comply with LCCP including requirements in respect of customer interaction, self-exclusion and financial limits.
- 7.18** The provision is currently split between a social responsibility code and an ordinary code provision. The social responsibility code makes it a requirement for licensees to implement the provision across all accounts held by the Commission licensee. The ordinary code sets out the Commission's expectation that licensees 'take all reasonable steps' to apply the provisions of the social responsibility code to activities of group companies including activities licensed in another country.

- 7.19** The Commission proposed to strengthen the current provision so that remote licensees are required, as a social responsibility code provision, to link customer account activity across any group company of theirs. The Commission also clarified that while this provision applies to remote licensees, it places an obligation on that licensee to link all relevant accounts from any group company (whether in respect of remote or non-remote gambling).
- 7.20** The Commission also sought views on whether it would be helpful to replace this provision with a licence condition that expressly required remote licensees to link accounts for the prevention of crime as well as the social responsibility aspects of LCCP.

Consultation questions

- Q23.** Do you have any views on the Commission's proposal to elevate the requirement to link accounts across group companies to a social responsibility code from an ordinary code provision?
- Q24.** Do you think it would be helpful to instead replace the provision about identification of individual customers with a licence condition that required the linking of accounts for money laundering prevention *as well as* social responsibility provisions of LCCP?

Respondents' views

- 7.21** The Commission received 18 responses on its proposals to elevate the requirement to link accounts across group companies to social responsibility code from an ordinary code provision.
- 7.22** Four respondents agreed with the proposal, citing that it would help players stay in control of their gambling. Another respondent felt that the Commission's proposal should be strengthened so that licensees 'must' link accounts across their group and felt that enabling licensees to take reasonable steps was not appropriate.
- 7.23** Responses from industry stakeholders raised a number of issues and concerns about the proposed elevation to a social responsibility provision.
- 7.24** A number of operators cited technical challenges around the linking of customer accounts and felt that as a result the provision should have flexibility for licensees to take reasonable steps to link accounts; others suggested these technical difficulties meant the provision to link across group companies should remain an ordinary code provision. Another respondent suggested that the provision should enable licensees to take a risk-based approach to reflect the cash environment where players may not be instantly identifiable and the need to link accounts is less obvious.
- 7.25** Discussions during the Commission's consultation workshops also flagged concern about the use of the term 'link' as that suggested some technical or automated linking of accounts.
- 7.26** Some respondents were concerned that the proposed provision may have unintended consequences for customers. In particular, customers may not realise that several different brands are part of the same group and may not wish or intend their responsible gambling settings (for example self-exclusion) to be applied across the whole group.
- 7.27** A trade association and an operator questioned the Commission's assertion that there is emerging evidence that there are serious flaws in operators' capabilities to link customer activity.

- 7.28** The Commission received 15 responses in relation to whether it would be helpful to instead replace the provision about identification of individual customers with a licence condition.
- 7.29** Responses were mixed. In addition to the concerns relating to the elevation of this provision to a social responsibility code some respondents questioned the Commission's assertion that there is considerable overlap between the patterns of play for problem gambling and money laundering.
- 7.30** Some respondents supported requiring the linking of accounts for money laundering prevention.

The Commission's position

The Commission has carefully considered the concerns raised by operators about the practical difficulties of linking customer accounts and the possible unintended consequences for consumers. The Commission has amended the provision so that it now makes clear that accounts held by the same individual are to be 'related' not 'linked', thus removing any unintended implication that this provision can only be met by technically linking accounts.

For consistency, the Commission has also amended the provision to state that licensees 'must have and put into effect procedures' to relate customer accounts to each other, rather than the 'must' which was consulted on.

The Commission has also amended the provision to make clear that operators can allow customers to exclude from some products or from some accounts should they choose to do so but must also offer the option of full self exclusion to customers.

The Commission notes that since the publication of the consultation document in September 2013, there has been further Commission casework that has identified serious flaws in licensees' capability to link customer activity. As well as having implications for social responsibility, this casework has also uncovered shortcomings in anti-money laundering (AML) risk management. While the Commission is making this a social responsibility code provision (giving it the force of a licence condition) we do not propose introducing a specific condition requiring the linking of accounts for AML purposes at this stage. The Commission will continue to monitor the effectiveness of licensees' controls and emerging learning from casework and will keep this under review.

In the meantime, we continue to emphasise to licensees their AML responsibilities (including the reporting of suspicious activity and customer identification/monitoring and due diligence) through our advice and guidance on the Proceeds of Crime Act and the prevention of money laundering.

We consider that licensees' capability to verify customer identities and continually relate their account activity is fundamental to being able to make appropriate decisions to identify and manage social responsibility and/or money laundering risks. The identification and management of these risks rests upon the ability of the licensee to have a comprehensive knowledge of their customer relationships. In this regard, and whilst not forming part of this new social responsibility code provision, we continue to expect licensees to remain vigilant by monitoring customer activity and applying a risk-based approach through effective, joined-up systems, controls and decision-making (as outlined in our AML/POCA advice and guidance and public statements from casework) in situations where anonymous transactions are conducted, or where players may not be instantly identifiable, such as in a cash-based environment.

The Commission also reiterates its view that there is considerable overlap between the patterns of play for problem gambling and money laundering. That is not to say that one always indicates the other but certainly indicators of problem gambling might in some cases also indicate criminal spend or money laundering. It is the responsibility of the licensee to understand these dynamics and mitigate any risks to the licensing objectives.

Social responsibility code

Identification of individual customers

All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

- 1 Licensees must have and put into effect policies and procedures designed to identify separate accounts which are held by the same individual.
- 2 Where licensees allow customers to hold more than one account with them, the licensee must **have and put into effect procedures which enable them to relate each** of a customer's such accounts to **each of the others** and ensure that:
 - i if a customer opts to self-exclude **they are effectively excluded from all gambling with the licensee unless they make it clear that their request relates only to some forms of gambling or gambling using only some of the** accounts they hold with the licensee
 - ii all of a customer's accounts are monitored and decisions that trigger customer interaction are based on the observed behaviour and transactions across all the accounts
 - iii where credit is offered or allowed the maximum credit limit is applied on an aggregate basis across all accounts
 - iv individual financial limits can be implemented across all of a customer's accounts.
- 3 Licensees which are companies or other bodies corporate must take all reasonable steps to comply with the above provision as if reference to a customer holding more than one account with them included a reference to a customer holding one or more accounts with them and one or more accounts with a group company.
- 4 A company is a 'group company' in relation to a licensee if it is the holding company of, subsidiary of, or shares a common holding company with, the licensee. For these purposes 'holding company' and 'subsidiary' have the meanings ascribed to them by section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof.

8 Amendments specific to lottery operators and lottery managers

Consultation proposal

- 8.1** The consultation document proposed some structural amendments to the licence condition specific to lotteries, and some minor changes to aid clarity of the condition.
- 8.2** The existing licence condition 11 applies to both society and local lotteries, and to external lottery managers, though some of the principles are relevant only for either the society or the manager. Therefore, the most significant proposed change was to restructure this licence condition, by separating out those elements which apply only to society and local authority lotteries and those which apply only to external lottery managers. In this way, the Commission intended to reemphasise, for example, that even where a society lottery has appointed an external lottery manager to make the required lottery submissions to the Commission, the responsibility to ensure that correct information is provided rests with the society.
- 8.3** In addition to these structural changes, the Commission took the opportunity to propose amendments to clarify some of the terminology of the licence condition, such as:
- clarifying the sentence which explains that lottery tickets may be sold door to door, and from a kiosk in a street but not by an individual in a street generally.
 - specifying more clearly the requirements for accounting records and submissions to the Commission.
- 8.4** We asked lottery operators to consider the revised structure during the consultation period to ensure that the standards which the Commission expects societies and lottery managers to reach are clear and unambiguous.

Consultation question

- Q28. Do you have any comments on the proposed amended licence condition which consolidates lottery-specific provisions for **all society lotteries and local authority lotteries**?
- Q29. Do you have any comments on the proposed amended licence condition which consolidates lottery-specific provisions for **lottery managers**?
- Q30. We would welcome the participation of the lottery sector in the separate consultation on the protection of customer funds. However, are there any comments on items 13 and 14 of the provision for lottery managers, which sets out the requirements for the protection of lottery proceeds held by the lottery manager?

Respondents' views

- 8.5** The Commission received one formal written response in relation on the proposed amended provision in the consultation document for all society lotteries and local authorities. This response did not address the proposed amendments, but did comment on a paragraph which was already in place for society lotteries (paragraph 6 of the new provision).
- 8.6** This paragraph of the condition states that a lottery promoted in reliance on a licence must not be linked to any other lottery, free draw or prize competition where a prize higher than the statutory maximum (£400k) can be won.

It goes on to say that a lottery, whilst not a linked lottery, has a feature that by selecting the same numbers, or combination of numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £400,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature. The respondent felt that an operator could not prevent, for example, the media reporting when an individual had won an amount with two or more tickets. The respondent therefore felt that the matter of marketing materials and advertising would be best managed by the Advertising Standards Authority.

- 8.7** The proposed overall new provision for society lotteries and the details of the individual amendments were discussed during the consultation workshops. During the sessions, respondents considered that the proposed amendments would aid clarity in the division of responsibilities between society lotteries and external lottery managers. A further minor amendment was suggested in the workshops to emphasise that societies should *verify* reports to the Commission before they are submitted by the society or an external lottery manager.

The Commission's position

The Commission will proceed with the amended structure of the licence condition - with requirements applying to societies and local authorities promoting lotteries in one provision, and those applying to external lottery managers in another.

The proposed amendments to aid clarity on, for example, reporting requirements will also be implemented. A further minor amendment (proposed by a respondent) will be made to the provision to emphasise that reports to the Commission by the external lottery manager should be verified by the society before submission.

We can clarify the position with respect to paragraph 6 of the licence condition. There is no restriction on a person entering the same lottery more than once using the same numbers and potentially winning two or more first prizes. The restriction on advertising is designed to prevent lottery operators encouraging people to enter more than once by suggesting a larger prize can be won.

The Commission has a responsibility to ensure that maximum prize limit for society lotteries is upheld and paragraph 6 of the provision will be retained.

Amended licence condition

Lotteries – societies and local authorities

All lottery operating licences issued to non-commercial societies or local authorities

- 1** Licensees must ensure that at least 20% of the proceeds of any lottery promoted in reliance on the licence are applied to a purpose for which the promoting non-commercial society is conducted or the promoting local authority has power to incur expenditure.
- 2** The proceeds of any lottery promoted in reliance on this licence must not exceed £4,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence must not exceed £10,000,000.
- 3** The rules of any lottery promoted in reliance on this licence must be such as to ensure:
 - i** that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:
 - a** £25,000
 - b** if more, 10% of the proceeds of the lottery.
 - ii** that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).

- 4** A lottery promoted in reliance on this licence must not be linked to any other lottery, free draw or prize competition.
- 5** For the purposes of this condition:

 - i two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all of the others, unless the maximum amount which a person can win is no more than £400,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence
 - ii a lottery is linked to a free draw or prize competition if:

 - a a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and
 - b the arrangements for the lottery and/or the draw or competition are such that a person may win more than £400,000 in aggregate as a result of his participation in the lottery and the draw or competition.
- 6** If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers, or combination of numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £400,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.
- 7** Licensees must ensure that each person who purchases a ticket in a lottery promoted on behalf of a non-commercial society in reliance on this licence receives a document which:

 - i identifies the promoting society
 - ii states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery
 - iii either states the date of the draw (or each draw) in the lottery, or enables the date of the draw (or each draw) in the lottery to be determined.
- 8** Licensees must display 'licensed by the Gambling Commission' and details of the Gambling Commission website on lottery tickets.
- 9** The price payable for purchasing each ticket in a lottery promoted in reliance on this licence:

 - i must be the same
 - ii must be shown on the ticket or in a document received by the purchaser; and
 - iii must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.
- 10** For the purposes of these conditions, reference to a person receiving a document includes a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to:

 - i retain the message electronically; or
 - ii print it.
- 11** Licensees must lodge with the Commission a description of, and a copy of the rules of, any lottery intended to be promoted in reliance on this licence, and any amendment to the rules of a lottery previously notified to the Commission, at least 28 days before any tickets in such lottery, or amended lottery, are put on sale.
- 12** Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. But, by way of exception, tickets may be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.

- 13** Accurate accounting records must be kept in relation to all lotteries promoted in reliance on this licence showing:
- i the total proceeds of each lottery,
 - ii the amount allocated to prizes in each lottery,
 - iii the amount of proceeds allocated to expenses, and details of those expenses, for each lottery,
 - iv the amount applied directly to the purposes of the society or purposes for which the local authority has power to incur expenditure as the case may be, and
 - v the number of sold and unsold tickets in each lottery.
- 14** Such records must be made available to the Commission for inspection on request and retained for at least three years from the date of any lottery to which they relate.
- 15** In addition, in respect of each lottery promoted in reliance on this licence, a lottery submission must be sent to the Commission within three months of the date of determination of the lottery or, in the case of an 'instant lottery', within three months of the last date on which tickets in the lottery were on sale providing the information set out in paragraph 13 above. Every such submission must contain or be accompanied by a declaration that the information given in it is correct and must be shown to have been approved before submission by:
- i the holder of a personal management licence
 - ii a 'qualified person' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 or
 - iii except where the licensee is a local authority, the designated person named on the lottery tickets as having responsibility for the promotion of the lottery.
- 16** Where a society or local authority instructs an External Lottery Manager to make the submission on their behalf, they must ensure that the details on the submission are **verified and** approved by one of the people named above from the relevant society or local authority.
- 17** For any calendar year in which the cumulative proceeds of lotteries promoted in reliance on this licence exceed £1,000,000 the licensee must provide the Commission with written confirmation from a qualifying auditor confirming that the proceeds of those lotteries have been fully accounted for in their annual audited accounts. Such confirmation must be provided within ten months of the date to which the accounts are made up.
- 18** A qualifying auditor means a person who is eligible for appointment as a statutory auditor under section 1212 Companies Act 2006 or any statutory modification or re-enactment thereof but, in the case of a lottery promoted by or on behalf of a non-commercial society, is not:
- i a member of the society
 - ii a partner, officer or employee of such a member or
 - iii a partnership of which a person falling within (a) or (b) is a partner.

Amended licence condition

Lotteries - managers

All lottery operating licences issued to external lottery managers

- 1** Licensees must ensure that at least 20% of the proceeds of any lottery promoted in reliance on the licence are paid to the promoting non-commercial society or local authority to apply to a purpose for which the promoting society is conducted or the local authority has power to incur expenditure.

- 2** The proceeds of any lottery promoted in reliance on this licence must not exceed £4,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year on behalf of the same non-commercial society or local authority in reliance on the licence must not exceed £10,000,000.
- 3** The rules of any lottery promoted in reliance on this licence must be such as to ensure:

 - i that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:

 - a £25,000
 - b if more, 10% of the proceeds of the lottery
 - ii that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).
- 4** A lottery promoted in reliance on this licence must not be linked to any other lottery, free draw or prize competition.
- 5** For the purposes of this condition:

 - i two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all of the others, unless the maximum amount which a person can win is no more than £400,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence
 - ii a lottery is linked to a free draw or prize competition if:

 - a a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and
 - b the arrangements for the lottery and/or the draw or competition are such that a person may win more than £400,000 in aggregate as a result of his participation in the lottery and the draw or competition.
- 6** If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers, or combination of numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £400,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.
- 7** Licensees must ensure that each person who purchases a ticket in a lottery promoted in reliance on this licence on behalf of a non-commercial society, receives a document which:

 - i identifies the promoting society
 - ii states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery
 - iii either states the date of the draw (or each draw) in the lottery, or enables the date of the draw (or each draw) in the lottery to be determined.
- 8** Licensees must display 'licensed by the Gambling Commission' and details of the Gambling Commission website on lottery tickets.
- 9** The price payable for purchasing each ticket in a lottery promoted in reliance on this licence:

 - i must be the same
 - ii must be shown on the ticket or in a document received by the purchaser
 - iii must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.

- 10** For the purposes of these conditions, reference to a person receiving a document includes a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to:

 - i retain the message electronically or
 - ii print it.
- 11** Licensees must lodge with the Commission a description of, and a copy of the rules of, any lottery intended to be promoted in reliance on this licence, and any amendment to the rules of a lottery previously notified to the Commission, at least 28 days before any tickets in such lottery, or amended lottery, are put on sale.
- 12** Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. But, by way of exception, tickets may be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 13** Licensees must have arrangements in place to ensure separation between lottery proceeds they hold on behalf of non-commercial societies or local authorities and their own trading income and that such lottery proceeds are legally protected by means of separate bank accounts having trustee status or equivalent legal protection for each society or local authority in the event of the licensee's insolvency, in which event the proceeds will be paid to the society or local authority.
- 14** Licensees must ensure that following the determination of a lottery all lottery proceeds are properly allocated between prizes, expenses and profits and have procedures in place designed to ensure that lottery profits belonging to non-commercial societies or local authorities whose lotteries they manage in reliance on this licence are accounted for in a timely manner to the society or local authority.

9 Amendments specific to non-remote betting, bingo and casino operators

- 9.1 This section of the consultation document set out some points of clarification relevant for the non-remote betting, bingo and casino sectors.

Primary gambling activity

Consultation proposal

- 9.2 The consultation document proposed that the last paragraph of the existing licence condition on primary gambling activity be removed to aid clarity.
- 9.3 The Commission explained in the consultation document that in order to make category B2 gaming machines available in premises, betting must be the primary gambling activity provided at those premises at times when the gaming machines are made available. In making judgements about whether betting is indeed the primary gambling activity offered - and ultimately whether the business is in fact a betting business - the Commission will take into account both the expected and actual use of the betting facilities being provided. In summary, what matters is whether there are, or are intended to be, sufficient facilities for *betting* to constitute a betting business (as opposed to a gaming machine business, which would require different licences and confer different gaming machine entitlements).
- 9.4 The Commission had reinforced this understanding of the Act in May 2009 with the introduction of the licence condition to all holders of this particular operating licence, following two periods of extensive consultation with industry. However, since 2009, the last paragraph of the condition had been a source of confusion.
- 9.5 This is because the paragraph referred to a scenario where facilities for betting are provided only by means of self-service betting terminals (SSBTs). The use of SSBTs is a form of remote communication. Therefore, a betting premises which relies wholly on the use of SSBTs for the making and accepting of bets would require a remote operating licence only, which would not confer any entitlement to make gaming machines available for use. Where an operator chooses to use SSBTs as part of their operating model alongside non-remote facilities, they will require the relevant ancillary remote operating licence in addition to their non-remote general betting standard licence.
- 9.6 The consultation document also explained that these issues were addressed in two documents (that were at the time shortly to be updated and which were then published in their updated form in October 2013):
- The advice note on the [Indicators of betting as primary gambling activity](#)
 - [Advice for remote, non-remote and betting intermediaries](#). This document includes further information on the regulatory framework for SSBTs.
- 9.7 Minor clarifications were also proposed for the ordinary code provision 9 for non-remote betting operators, and bingo and casino operators.

Consultation question

- Q31. Do you have any comments on the clarifications that are proposed for current licence condition 16 and current ordinary code 9 relating to primary gambling activity?

Respondents' views

- 9.8** The Commission received 23 responses on this topic of the consultation document, of which approximately ten were exact duplicates of responses sent by other operators in the same sector.
- 9.9** Some respondents discussed the issues of primary gambling activity more widely without touching on the proposed amendments. A number of responses were opposed to the Commission's general approach to primary gambling activity. Similarly, some respondents argued that SSBTs should not be considered remote activity.
- 9.10** Detailed comments on this topic also included:
- one respondent suggested that SSBTs may actually facilitate greater player protection controls in LBOs via account based gambling
 - a handful of respondents suggested the Commission should await the outcome of the (then) current judicial review brought by the London Borough of Newham before making any changes
 - a small minority of respondents suggested that the Commission include the six indicators of primary gambling activity in the code of practice in order to improve consistency.

The Commission's position

The Commission will implement the licence condition and code of practice provision as proposed in the consultation document. The amendment is narrow and puts beyond doubt the Commission's position, which we consider to be well-established.

With the publication of the two advice notes on the [Indicators of betting as primary gambling activity](#) and [Advice for remote, non-remote and betting intermediaries](#) on SSBTs, the Commission has clarified its detailed position on these issues.

We have not considered it necessary to include all the indicators from the advice note on PGA in the licence condition or code because the advice note is already based on the LCCP requirements and the two documents are therefore fully consistent.

We remain open to discussions about the potential advantages of SSBTs which may allow appropriate tools for monitoring and controlling an individual's gambling to be put in place. Consideration of such tools will be included in the current social responsibility review.

There may be individual operators who in due course will have to amend their business practices to come into line with the revised licence condition on primary gambling activity.

Amended licence condition**Primary gambling activity****Non-remote general betting licences, except where betting is offered under a 2005 Act casino premises licence**

- 1 Gaming machines may be made available for use in licensed betting premises only at times when there are sufficient facilities for non-remote betting provided in reliance on this licence.
- 2 Such facilities for betting must include the provision of information that enables the customer to access details of the events on which bets can be made and to be able to place those bets, obtain details of the outcome of the events, calculate the outcome of their bets and be paid or credited with any winnings.

Amended extract of ordinary code provision**Primary gambling activity****Non-remote general betting, bingo and casino operating licences, except where facilities are offered under a 2005 Act casino premises licence**

- 1 In order to demonstrate that sufficient facilities for the primary gambling activity for which an operating licence has been issued are being made available in each licensed premises, licensees should have regard to the following general factors:
 - i ratio of the space available to customers allocated to the primary gambling activity, to that allocated to other gambling activities
 - ii the extent to which the primary gambling activity is promoted on the premises and by way of external advertising compared to other gambling activities
 - iii the use, either expected or actual, to be made of the different gambling facilities.

Display of rules on tracks**Consultation proposal**

- 9.11 The consultation document proposed that minor amendments would be made to the social responsibility code which requires on-course betting licensees must display any rules that differ from the standard rules.
- 9.12 Both tracks and bookmakers are required to make information available to customers about the terms or rules of betting. The mandatory premises licence conditions for tracks include a requirement that the 'terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access'. On-course bookmakers are similarly required by a social responsibility code to set out within rules that they make available the core elements for the acceptance and settlement of bets.
- 9.13 The consultation document explained that in the existing LCCP on-course bookmaker are required to highlight any differences to the standard rules which apply, but in the provision, the reference for greyhound track standard rules was out of date. We therefore proposed to remove the out of date reference – whilst still ensuring that customers are made aware of any rules for a specific on-course bookmaker that deviate from the standard or expected rules in place at the track.

Consultation question

Q32. Do you have any comments on the proposed amendment relating to display of rules by on-course bookmakers, to ensure that the references to track rules for horse and greyhound racing are updated and future-proofed?

Respondents' views

9.14 Five respondents commented on the proposed minor amendments to the code provision on display of rules on tracks. All of those respondents agreed with the proposal to ensure that the references for horse and greyhound racing track rules are updated.

The Commission's position

The Commission will proceed with the amendments as proposed in the consultation document.

We are content that the minor amendments do not affect the aim of the provision, which is to ensure that customers are made aware of any rules for a specific on-course bookmaker that deviate from the standard or expected rules in place at the track.

Display of rules on tracks – extract of amended social responsibility code

3 'Fair and open' provisions

All non-remote general betting licences

- 1 When providing facilities for betting on-course, licensees must display on their 'joints' in an intelligible format:
 - i any rules that differ from the relevant racecourse rules on betting, such as Tattersalls' 'Rules on Betting'¹
 - ii any types of unorthodox bets accepted (such as forecast betting, betting without the favourite, distance betting etc)
 - iii whether win-only or each way bets are accepted
 - iv any concessions or bonuses offered
 - v all of the runners and the odds available to the public
 - vi the operator's trading name and contact address
 - vii the minimum bet accepted
 - viii the maximum guaranteed liability.

¹The references to Tattersalls' 'Rules on Betting' reflect the current position and may need to be amended in future.

10 Next steps

10.1 Sections 1-3 of this document set out the plans for publishing the response to the two LCCP consultations in three parts, and plans for future areas of work to both LCCP and other documents, such as the *Remote technical standards*.

10.2 Taking only the planned changes to LCCP, the outline next steps are:

- 31 March 2014: This document is part one of the Commission's response and contains decisions on the majority of the proposals of the consultation
- Early April: A short follow-up consultation to be issued on a new key event relating to suspicious activity reporting (see Section 3 of this document)
- Late April: Part two of the Commission's response to the LCCP consultations will contain the licence condition relating to the protection of customer funds
- End April/
Early May: Part three of the Commission's response to the to the LCCP consultations will contain mainly remote provisions
- End April/
Early May: A consolidated version of LCCP will be published with the majority to come into force at the beginning of August 2014
- From Summer
2014: Consultation on proposals for strengthening the social responsibility provisions in LCCP and adding to the Commission's *Guidance to Licensing Authorities* following the current review led by Commissioner Rachel Lampard.

Annex List of respondents to the consultation

A total of 52 formal written responses were received during the consultation period and the consultation document was downloaded 616 times from the Commission's website during that period. A list of non-confidential respondents is set out below and the full responses are available on the Commission's website.

Ainsworth (UK) Ltd
Alan Davis Automatics
Association of British Bookmakers
Astra Games Ltd
BACTA
Beacon Bingo Ltd
Betable UK
Bingo Association
BiSL
British Beer & Pub Association
British Holiday & Home Parks Association
British Red Cross Society
Campaign for Fairer Gambling
CARE
Carlton Clubs Ltd
Cashino Gaming Ltd
Casino Operators Association (UK)
Done Bros, T/A Betfred
Fraser Brown
GamCare
Gibraltar Betting and Gaming Association
Gibraltar Gambling Commission
Harry Levy Amusements
Independent Betting Adjudication Service
Inspired Gaming (UK) Ltd
Ladbrokes Betting & Gaming Ltd
London Borough of Newham
National Casino Forum
Noble Organisation
Paddy Power
Playnation Ltd
People's Postcode Lottery
Praesepe Plc
Rank Group PLC
Remote Gambling Association
Richas.com
Roger Etchells & Co
Sceptre Leisure Solutions Ltd
Shipleys Bros Ltd, T/A BJ's Bingo
Sky Betting & Gaming
Sportech Plc
Stardust Leisure Ltd
Talarius Ltd
Thomas's Entertainments Ltd
William Hill PLC

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at:
www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

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