

GAMBLING COMMISSION

Remote operating licence application review

**Responses document
December 2013**

Contents

1	Introduction and background	3
2	Responses to the consultation	3
3	Implementation	17
	Appendix A	17

1 Introduction and background

- 1.1 The Gambling Commission (the Commission) conducted a consultation during September and October 2013 to seek views on its proposals to improve the application process and information requirements for remote operating licence applications, in particular the proposal to adopt the Multi-Jurisdictional Business Form (MJBF) as part of the application process.
- 1.2 This document summarises the responses received and sets out the Commission's position following the consultation process.

2 Responses to the consultation

- 2.1 The consultation opened on 26 September 2013 and closed on 28 October 2013. Seven responses were received, three from gambling operators, three from industry trade associations and one from a law firm. A list of respondents can be found at Appendix A. The Commission is grateful to all those who responded.

Multi-Jurisdictional Business Form (MJBF)

Consultation questions

- Q1. Do you have any comments on the MJBF form, in particular, the information being requested on the MJBF form?
- Q2. Are the time periods over which details and or supporting documentation is required reasonable? If not what would be a reasonable time period? If you feel there should be different time periods dependent on the question please specify what they should be against each question.

Respondents' views

- 2.2 Two respondents (one operator and one trade association) strongly supported the introduction of the MJBF, also commenting that the guidance notes were generally comprehensive and very clear. However, they both stated that, to achieve its intention of reducing the burden and duplication for operators, it needs to be adopted by other jurisdictions and more work is needed on the MJBF to reduce the amount of information requested in the jurisdictional rider.
- 2.3 One trade association did not support the introduction of the MJBF, their reason being that too few jurisdictions intend to adopt it and too much information is still required in the jurisdictional rider.
- 2.4 The remaining four respondents did not explicitly state support or otherwise for the MJBF but confined themselves to commenting on the information requested on the form. These respondents felt that some questions were too broad and placed an unnecessary and unjustifiable burden on the operator, for example questions requiring detail about previous officers of the applicant, previous legal advisor, and previous auditors/accounts in the past ten years. They felt that the monetary thresholds on certain questions, such as those around debt and insurance claims against the applicant, were too low. Some of these respondents also pointed out where they felt the guidance notes could be made clearer.
- 2.5 One respondent (a trade association) felt in particular that the requirements were onerous for well established operators already licensed in the EU and questioned the need for such operators to provide all of the information required on the MJBF.

- 2.6** Five respondents were of the view that the time periods over which detail and/or supporting documentation is required were too long and should be shortened, for example from ten years to five years and from five years to three years.
- 2.7** Of the remaining respondents one (an operator) agreed with the time periods specified and one (a trade association) gave no view.

The Commission's position

- 2.8** The Commission has passed on all respondents' comments on the MJBFB to the International Association of Gaming Regulators (IAGR) for their consideration. The Commission remains committed to adopting the MJBFB for the reasons outlined in the consultation. Whilst only a small number of regulators have so far committed to adoption of the MJBFB, both IAGR and the Commission remain confident that more regulators will adopt it as they see the benefits both for themselves and the industry in reducing duplication and minimising the administrative burden on operators wishing to apply in multiple jurisdictions. Operators clearly have a key part to play in encouraging take-up of the MJBFB by regulators.
- 2.9** In adopting the MJBFB and introducing its Jurisdictional Rider, the Commission intends these to be multi-purpose and to be used both by operators applying for a licence for the first time and by existing operators applying to vary an existing licence. In respect of the comment about the requirements being onerous for operators already licensed in the EU, whilst the Commission will not waive information requirements, it will not require applicants already licensed with the Commission to reproduce information the Commission already holds.
- 2.10** The Commission will also, where it can, accept any relevant information and supporting evidence already provided to or available from other gambling regulators as part of its consideration of an application and will use it together with information it gathers during the application process to form an opinion of the applicant's suitability. It is however at the discretion of the "home" regulator as to whether it provides the information. Where the "home" regulator is not agreeable to providing the assurances or cannot provide assurance against all of the suitability criteria then the Commission will seek the supporting evidence directly from the applicant.
- 2.11** Additionally, as a short-term measure for the transition process, the Commission will give applicants who already hold a licence in EEA and white list jurisdictions the option to complete the application in full or to answer a reduced set of mandatory questions as explained in the consultation which will enable them to apply for a continuation licence. Applicants who choose the latter option will still be required to complete the application in full but may do so within a timeframe to be specified by the Commission. This concession is intended to allay any concerns applicants may have about not being able to submit a full and complete application within such timeframes as may be specified in the transitional provisions.
- 2.12** The majority of the MJBFB requests for detail/documentation over specified time periods allow individual jurisdictions to set their own time limits. The Commission is keen to ensure that the time period over which detail and documentation is requested is useful in terms of its relevance to the information being requested and to keep the burden on applicants to a minimum. The Commission has therefore decided that the time period for all such requests will be five years (shortened in many instances from ten years), apart from question C11 which will remain at the period of 12 months.

Gambling Commission Jurisdictional Rider

Consultation questions

Q3. Do you have any comment as to the information being requested on the Jurisdictional Rider in particular the additional questions identified above?

The questions to which this referred were as follows:

Question 7c in Section 4 requires information on the provision of poker.

Question 10 in Section 6 requires the full name of an applicant's nominated officer for anti-money laundering, countering terrorist financing and Proceeds of Crime Act (PoCA) activities.

Question 14 in Section 6 requires details of any individual who has made some form of investment (for example loan, gift, services) and/or has some form of interest in the applicant (excluding equity).

Question 16 in Section 7 require the name of the applicant's alternative dispute resolution entity.

Questions 23 to 25 in Section 11 requires information about the payment methods accepted by an applicant for gambling facilities and the organisations used by an applicant to process payments on its behalf.

Question 27 in Section 13 requires an information security report.

'Authorisation for release of information' form which all applicants are required to sign to enable the Commission to obtain such information as it requires from relevant third parties about an operator both at application stage and, if a licence is granted throughout the life of the licence.

Respondents' views

- 2.13** One respondent felt overall that the Jurisdictional Rider is a substantial form and that it would not achieve the stated intention of minimising or reducing the regulatory burden on applicants.
- 2.14** One respondent was of the view that overall the information being requested on the Jurisdictional Rider was sensible. No other respondents gave an overall view of the information being requested, commenting on particular information requirements only.
- 2.15** One respondent felt that the question about poker provision was unnecessary when there is no separate poker licence and moreover that this was just 'fact-finding' by the Commission and an unnecessary burden on applicants.
- 2.16** One respondent (an operator) was of the view that the Commission should consider adding the role of nominated officer for money laundering to the list of qualifying positions but that there would be no significant benefit to the holder of this position being required to hold a Personal Management Licence (PML) because they normally have to be registered with the relevant supervisory authority anyway. Another respondent felt that the form and guidance notes in respect of this role were confusing and did not make it clear that the nominated officer was not always required to hold a PML.
- 2.17** One respondent considered the Commission's requirement for details of any investment from an individual over the past five years was too wide and suggested the Commission should reduce the time period from five years and introduce a de minimis level below which the investment would not have to be declared (although not stating an alternative time period or de minimis level).

- 2.18** One respondent commented that it would be helpful if the Commission could provide a list of approved alternative dispute resolution (ADR) entities and another asked if operators currently licensed by another regulator could name that regulator as their ADR.
- 2.19** Three respondents commented on the 'Authorisation for Release of Information' form. Two stated that they would need to ensure that it did not conflict with an operator's corporate data protection policy. One was of the view that the authorisation was too wide-ranging and there should be exceptions, for example professionally privileged advice. In addition, the latter respondent felt that applicants are being asked to grant the Commission 'a mandate to obtain information from a much wider list of bodies than is set out in Schedule 6 to the Gambling Act 2005' and questioned the justification for this.
- 2.20** One respondent commented in particular on the validity of question 6 directed at applicants holding a licence/authorisation in an EEA or white list jurisdiction. That same respondent also observed that the Commission should provide a clear explanation of the criteria for a 'customer based in Great Britain' for all relevant questions requiring the applicant to answer based on how many such customers they have.
- 2.21** One respondent commented that the Commission should be obliged to tell an applicant in advance if its request for reduced address details in answer to question 1 (regarding publication of applications on the Public Register) is rejected and why.
- 2.22** One respondent was of the view that it would be useful if an applicant could nominate a role/the holder of a position in answer to question 4 (nomination of an individual to manage applicant's account online), rather than a named individual as the online administrator.
- 2.23** One respondent (a trade association) commented that it would be more reasonable if question 13 which requires the applicant to identify all individuals or entities that have an interest of 3% or more in the applicant required identification only of those with an interest of 10% or more, stating that was the percentage commonly asked by other regulators.
- 2.24** Other comments from one respondent indicated a misunderstanding of the question and / or the accompanying guidance. The Commission will revisit the guidance and improve their clarity where necessary as a result of these comments.

The Commission's position

- 2.25** The Commission remains committed to ensuring the licensing process is rigorous but proportionate. The Jurisdictional Rider asks for information that allows the Commission to properly assess the suitability of applicants in line with the Commission's suitability criteria as set out in its Statement of Principles for licensing and regulation (available on the Commission's website via the following link [Statement of principles for licensing and regulation - September 2009](#)). Where the Commission already holds information (ie in the case of applicants already licensed by the Commission), it will not ask for this information again. Where possible and relevant, the Commission will also accept supporting evidence from another gambling regulator where the applicant is already licensed elsewhere.
- 2.26** Currently, the only licence open to operators offering solely poker or elements of poker in Great Britain is a casino licence. The question on provision of poker is about obtaining further information on such offerings and the Commission agrees it is 'fact-finding'. The Commission stated this was the case in the consultation. The Commission is keen to be able to identify such operators so it can monitor the effort and cost of regulating those operators. The Commission can then use that information in any future review of fees and/or in considering whether a separate category of licence would be more appropriate. To do this, the Commission needs to know which of its operators applying for a casino licence offer solely poker or elements of poker.

- 2.27** The Commission takes a risk-based approach to regulation including combating money laundering and terrorist financing. The Commission advocates the adoption of this approach by gambling operators. As casinos fall within the 'regulated sector', they have additional legal responsibilities which could result in criminal charges for failing to comply (for example, the offence of tipping off). Casinos are also required to appoint a nominated officer and the Commission requires that officer to hold a PML. In line with its risk-based approach, the Commission considers that it would be disproportionate to make the role of nominated officer a qualifying position. The Commission is of the view that the current arrangements in respect of this role are sufficient when coupled with the new requirement for applicants to name the individual occupying the role.
- 2.28** The Commission remains of the view that the requirement for information about individuals who have invested in the applicant over the past five years (excluding equity) is necessary to ensuring that *all* persons relevant to an application are identified and that the licensing objectives are upheld. In particular, 'preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime'. The Commission considers that setting a shorter time period and/or de minimis level for the amount of investment inappropriate. An investment may have been made more than five years ago or the amount invested may have been an apparently 'small' amount but the influence that individual investor nonetheless wields remains significant. The Commission considers that the burden on the applicant should not be onerous as the Commission will not require any further detailed information in respect of the individual unless the Commission's initial investigations cast doubt on that individual's suitability.
- 2.29** The Commission does not approve Alternate Dispute Resolution (ADR) entities and therefore does not publish a list of such entities although it does provide examples on its website and will continue to do so. It is for an applicant to research and decide which ADR entity is most suitable for its needs to meet the general licence condition. Once the European Directive on ADR is implemented by Government (scheduled for 2015), there will be a list of approved ADR entities. However, at this stage it is not clear which body will act as the 'competent authority' for approval of ADR entities. We understand that the Government will be consulting on their approach to implementation of the European Directive on ADR in 2014.
- 2.30** The Gambling Act 2005 (section 70) sets out the general principles that the Commission must follow when considering an application for an operating licence and gives the Commission authority (section 69) to direct both the form and manner in which an application must be made and the type of information or documents that must accompany an application. Our Licensing, compliance and enforcement policy statement (available on the Commission's website via the following link [Licensing compliance and enforcement policy statement - September 2009](#)) makes it clear that the Commission may see evidence or opinions from other sources where that is appropriate or where its initial review has highlighted areas of concern. Many third parties will not release information without authorisation from the subject of the enquiry. The form will reduce unnecessary delays, particularly during the licence application process, as the Commission will not have to go back to the applicant to request the authorisation separately. Any conflicts with an applicant's own data protection policy would need to be addressed by the applicant so that the applicant is in a position to sign the form.
- 2.31** The reference to Schedule 6 of the Act made by one of the respondents is a reference to the exchange of information for the purpose of the Commission's functions under the Gambling Act or those functions of the persons or bodies listed in that schedule. Those persons/bodies listed in Schedule 6 have a reciprocal right to exchange information with the Commission and the purpose is to ensure, so far as possible, that there are adequate channels of communication between the Commission and other interested regulators such as the Serious Fraud Office or sporting regulatory bodies. The exchange of information in those circumstances is separate to and in addition to any other information the Commission may seek in relation to an applicant or licence holder in considering their suitability to hold or continue to hold a licence.

- 2.32** Question 6 directed at applicants holding a licence/authorisation in an EEA or white list jurisdiction is solely for the purposes of checking that such applicants qualify for the transitional provisions that will be put in place for the commencement of the Gambling (Licensing and Advertising) Bill. Once the transitional period has ended and the Bill has been introduced, that question will be removed from the process. To assist applicants in accurately answering questions where this applies, the Commission will make the definition of a 'customer in Great Britain' clearer.
- 2.33** It is already the Commission's practice to advise an applicant if it rejects their request for reduced address details to be displayed on the Public Register.
- 2.34** In line with other organisations that transact with customers or applicants online, the Commission requires a named individual to be nominated by the applicant to manage the applicant's account online (if the applicant wishes to use our online services). This is to safeguard the security of the system and protect the applicant's information from unauthorised access or changes.
- 2.35** The Commission consulted in May 2006 on the shareholding percentage threshold for identifying ownership of an applicant. The Commission chose and retained 3% as this was widely used by other government departments to indicate a significant enough holding to have some influence on the applicant. The Commission's experience in the intervening seven years of considering applications and monitoring compliance has served to strengthen its view that this is the right threshold.

Supporting documentation

Consultation questions

- Q4. Do you have any comments on the supporting documentation requirements?
- Q5. Do you have any comments on the mandatory documentation requirements, in particular should we require other mandatory documentation and, if so, what and why?

Respondents' views

- 2.36** Two respondents (both operators) were of the view that overall the mandatory supporting documentation requirements were reasonable. One of these stated in particular that where the Commission required further information, they would expect it to enter into a dialogue to ensure applicants are given the opportunity to respond to any feedback or additional requests for information in a timely manner.
- 2.37** Two respondents (one operator and one trade association) felt that those supporting documentation requirements that require an applicant to provide documents relating to other companies within its group or to its affiliate companies were unjustified and onerous. These respondents were of the view that such requirements should be confined to companies involved in gambling.
- 2.38** One trade association agreed with the requirement to provide copies of licences from other regulators but could not understand why the Commission considered licences issued by EEA or white list jurisdictions were irrelevant.
- 2.39** One respondent (a trade association) expressed the view that where an applicant does not provide gambling services directly (eg poker networks) they cannot be required to provide documentation that is inappropriate for organisations that have no direct contact with the customers, for example policies on self-exclusion, age verification.

- 2.40** Two respondents (both operators) proposed that, instead of supplying the detailed supporting documentation, in some instances (liquidation/insolvency and bank statements) the applicant could provide summary information. One of these respondents was particularly concerned about personal management licence applicants being required to provide bank statements, expressing the view that individuals would be reluctant to provide this information.
- 2.41** One respondent asked what measures the Commission intends to put in place to prevent commercially sensitive information becoming available to competitors or others.
- 2.42** One respondent (an operator) recommended the Commission require applicants to supply further information such as a technical architecture description, governance and managements practices including risk management and IT development. They stated this would enable the Commission to get a better understanding of the applicant's underlying information technology arrangements. The same respondent further recommended that applicants should use the COBIT framework for IT governance and control as that includes information security.
- 2.43** Other comments from two respondents indicated again that guidance should be made clearer. As stated earlier, the Commission will revisit and improve the guidance as a result of these comments.

The Commission's position

- 2.44** The structure, arrangements and behaviour of a related company may have an influence on other companies within the group. The Commission remains of the view that the provision of certain supporting documentation about companies related to the applicant (parent, subsidiary and/or sister companies) is relevant and key to enabling the applicant to fully explain to the Commission its structure, management, governance and control arrangements and to enabling the Commission to assess the suitability of the applicant.
- 2.45** The Commission expects all applicants, including those that have no direct contact with customers, to have in place policies and procedures that demonstrate their ability to comply with the relevant Licence Conditions and Codes of Practice (LCCP). As part of assessing an applicant's suitability, particularly in relation to competence, the Commission needs to understand how an applicant proposes to operate in accordance with the Act and meet the licensing objectives. The Commission accepts that the depth and detail of policies and procedures will vary and be proportionate to the size, scale and nature of an applicant's business.
- 2.46** The Commission has been considering its approach to the regulation of poker networks and other network gambling arrangements. Network arrangements involve a business to customer (B2C) operator and the business to business (B2B) network operator. The B2C operator is the customer acquisition operator and is responsible for registering the player, age and identity verification, marketing and generally processing deposits and withdrawals by the player. The B2B operator will host players sent from the B2C operators and provide the actual gambling (eg poker). The B2B operator is responsible for the fairness of the gambling. The Commission agrees that B2C and B2B operators are responsible for different aspects of the gambling provision and are therefore responsible for different aspects of the regulatory requirement. However the Commission does not consider it appropriate to define which obligations in LCCP apply to which entity as these are likely to vary between different commercial arrangements. Both parties need to ensure that their commercial agreements mean they collectively meet the regulatory obligations and set out clearly who is responsible for what.
- 2.47** The Commission has reconsidered its position on whether it should require sight of licences issued by EEA and white list jurisdictions. The Commission had intended to receive this information directly from the 'home' regulator but appreciates that that may not always be possible and may lead to delays in processing the application particularly during the transitional period when the Commission will require details of the activities that the applicant is licensed to operate in their 'home' jurisdiction.

Sight of these licences will enable the Commission to quickly assess entitlement to a continuation licence and ensure that the applicant can continue to provide facilities to British customers until the determination of their application. The Commission will therefore require all applicants to provide a copy of their licence(s) with their application unless they are providing a 'statement of assurance' (see paragraph 2.82) from their 'home' regulator as part of their application which includes full details of the licence they hold.

2.48 In considering an application the Commission has regard to the licensing objectives and the suitability of an applicant to carry out the licensed activities. Consideration of operating licence applications includes an assessment of the suitability of individuals considered relevant to the application. Assessing suitability includes an assessment of the applicant's integrity (including that of relevant individuals) and whether the applicant has the financial resources and arrangements to provide gambling facilities in a manner consistent with the licensing objectives. The Commission is seeking to understand whether there are issues or pressures relating to an operator's or individual's financial position that could lead to their putting the licensing objectives at risk. The Commission remains of the view that the provision of bank statements and copies of items such as convictions and insolvency reports where applicable are central to this assessment.

2.49 The Commission considers that providing copies of convictions and of ongoing liquidator, insolvency, receivership or external administration reports in relation to the applicant or its related companies will be of benefit not just to the Commission but also to the applicant in speeding up processing times. The Commission's experience is that possession of the full facts at the earliest stage enables the Commission to quickly assess the substance of those matters in relation to the applicant's suitability. Receiving summary information inevitably causes unnecessary delay in processing the application as the Commission has to request the more detailed documentation.

2.50 The Commission recognises the concerns that companies may have about the security of commercially sensitive information. The Commission already receives such information and treats all information it receives or holds as confidential and only discloses that information to third parties where it is necessary to do so in order to carry out our functions or where we are required by law to disclose the information.

2.51 The Commission is grateful for the recommendations made by one respondent regarding further information it could require from applicants. The Commission's requirements do not preclude an operator from adhering to the COBIT framework. However, the Commission considers that the proposed approach is already sufficiently rigorous, and covers all those areas mentioned by the respondent, in requiring an applicant to demonstrate its ability to meet the remote gambling and software technical standards and testing strategy, and the integrity and security of its systems and processes. The Commission will keep this under review.

eServices – online application process

Consultation questions

- Q6. Do you have any comments on the requirement to submit remote operating licence applications online and the removal, except in exceptional circumstances, of the facility to submit such applications through non-electronic means?
- Q7. Do you foresee any specific difficulties with online submissions?

Respondents' views

- 2.52** Overall respondents were in favour of the introduction of online applications and foresaw no problems with the removal of the facility to submit applications through non-electronic

means. However, most respondents expressed the view that the Commission must ensure the online system has the appropriate data encryption, access and security controls in place to ensure the security of information provided. Three respondents also stated that adequate and secure back-up and data recovery measures needed to be in place.

- 2.53** One respondent (a trade association) expressed the view that applicants would still need to submit a number of paper documents to the Commission. Another respondent (an operator) advised that it was not clear how applicants would upload original or certified copies of supporting documentation onto the online application system, stating that if this could only be achieved by a public notary or other official digitally signing the documents to certify them as originals or true copies and then scanning them and uploading them, this would be overly burdensome for applicants. That respondent therefore recommended that the Commission not require certified electronic copies of supporting documentation.
- 2.54** Two respondents expressed concerns about the ability of the online system to cope with the demand volumes and its ability to accept the upload of large attachments.
- 2.55** Most respondents stated that the Commission would need to have an alternative solution in place for applicants should the system go down to ensure that, in the run up to the deadline for applications under the Gambling (Licensing and Advertising) Bill, applicants could still submit applications on time.
- 2.56** One operator stated that the Commission would need to provide information to applicants about how to manage multiple applications and how application fees would be paid and evidenced on the online system. Another asked whether the application had to be completed in 'one sitting' or whether it could be completed in multiple sittings.
- 2.57** One respondent recommended that the Commission provide a 'printer-friendly' version of the application form which includes all the questions and makes clear which are relevant in particular circumstances, saying that this would enable applicants to print out the questions in advance and so prepare properly before starting to complete the application form and would also enable lawyers and other advisors to applicants provide advice on the application process. Another respondent (a trade association) asked if operators completed the current application form now, would the Commission accept it after the new form is introduced.

The Commission's position

- 2.58** The Commission appreciates respondents' concerns regarding business continuity and its arrangements for security of its systems in respect of the online application system. The Commission has a robust business continuity plan which covers the continuation of business in the event of an incident and severe disruption. All data and systems are backed up and recovery plans are well documented and tested.
- 2.59** The Commission has stringent data handling procedures to ensure that all data is handled in a secure and appropriate manner. The Commission is certified to the ISO/IEC 27001:2005 level for information security management systems and adheres to the *Cabinet Office Security Policy Framework*. The Commission secure servers are regularly tested to ensure their security against known threats.
- 2.60** The online application system offers a secure payment portal for the applicant with the Commission's servers meeting PCI data security requirements for online payment processing. The Commission does not store any credit card details on its servers; when payment is successfully processed, this is recorded against the application, a relevant summary displayed that the payment was made online.
- 2.61** The Commission remains of the view that either original or certified copies of certain supporting documentation are required to enable the Commission to be satisfied as to the validity and authenticity of that documentation. It will not be mandatory for applicants to provide supporting documentation online, although applicants will be able to do so if they wish.

If applicants cannot (because they want to supply original documents where applicable) or do not want to provide supporting documentation online, they can post supporting documentation. Any undue delay in submitting required supporting documents by post will result in a delay in the Commission processing the application. The Commission will accept a certified copy document electronically via the online application system where the original hard copy document has been signed by the solicitor, notary public or equivalent; the applicant has then created an electronic copy of that certified document (by scanning into their own system); and the applicant uploads that electronic copy onto the online application system.

2.62 Online guidance and instructions will be available to instruct applicants about how to use the online application system, including how to manage multiple applications online and how to pay fees online. An application will not have to be completed in one sitting; if an applicant wants to complete part of the application and then return at a later stage to complete further parts of the application, they will be able to do so as many times as they wish up to the point where they actually submit the application. Once the application is submitted, it is closed and the applicant cannot return to it.

2.63 Once the online application system has been launched the Commission will only accept paper applications in exceptional circumstances, and the Commission will not accept applications made using the current application forms. However, the Commission recognises that applicants want to prepare their applications and documentation in advance and encourages applicants to do so. To this end, in advance of the online application system being introduced, the Commission will make available (for illustrative purposes only) the new forms and guidance notes on its website. This will make it easier for those operators that will need to apply under the Licensing (Gambling and Advertising) Bill to begin gathering the information they will need to submit when they make their application online.

Transitional arrangements

Consultation questions

Q8. Do you have any comment on the transitional proposals or suggestions of ways to further improve?

Respondents' views

2.64 Three respondents (two operators and one trade association) commented that potential applicants should be given a clear timetable for applications as soon as possible. One operator commented that the timescales should be reasonable and another that the Commission should communicate the available processes and options to qualifying applicants.

2.65 Two respondents (one operator and a trade association) expressed the view that operators who hold licences in EEA and white list jurisdictions should be considered as having been given a 'seal of trust' with such jurisdictions having more rigorous requirements in place than other jurisdictions. Those respondents were therefore of the view that the application process should not put such operators at a disadvantage compared to others who may have been subject to lower standards from other regulators. That operator also commented that the consultation document did not make clear whether an operator whose application in an EEA state or white list jurisdiction was pending, or whose application had been refused would qualify for transitional arrangements. That operator also commented that it was unclear as to whether the revocation of an EEA or white list jurisdiction licence or the fact that the licence was dormant (ie not being actively used) would impact on the continuation licence granted by the Commission.

- 2.66** One respondent commented that the consultation did not make clear what the advantages of the transitional arrangements are for qualifying applicants nor did it make clear the advantages of Commission's proposal to accept a reduced application, particularly from operators already holding a licence with the Commission.
- 2.67** Another respondent (a trade association) agreed that the Commission should impose a deadline for completion of remaining application questions and submission of supporting information but was of the view that the Commission should have some flexibility so that a final decision on whether to grant a full licence is not unduly delayed because a relatively minor piece of information takes a long time to obtain.
- 2.68** One respondent was of the view that the reduced application should not include the requirement for confirmation of the date from which the gambling facilities have been used/ marketed in Great Britain as there was no apparent reason for this requirement. The Commission refers the respondent to paragraph 2.32 of this document which explains that this question is for the purposes of checking whether applicants qualify for the transitional provisions that will be put in place for the commencement of the Gambling (Licensing and Advertising) Bill.
- 2.69** One respondent commented that the guidance notes to the 'Transitional Application to Vary for Remote Operators Only' did not include non-remote licence requirements unlike the guidance notes to the Jurisdictional Rider. For clarification, the Jurisdictional Rider includes this information, as whilst initially it will only be rolled out to applicants for remote operating licences, it will ultimately be rolled out to applicants for non-remote operating licences. The Transitional Application to Vary will only ever apply to remote licence applicants and only during the transitional period before the commencement of the Gambling (Licensing and Advertising) Bill.

The Commission's position

- 2.70** Likely timescales for submission of applications and information are already available on the Commission's website via the following link http://www.gamblingcommission.gov.uk/pdf/Gambling_licensing_advertising_FAQs.pdf.
- 2.71** This will be updated as the Bill progresses and the timetable, ultimately determined by Parliament, becomes clearer. The Commission will also communicate its plans for the acceptance of applications and the process that applicants will need to follow through its website, its e-bulletin and through relevant industry trade bodies.
- 2.72** The transitional arrangements allow those operators who already lawfully advertise to, and are active in, the British market by virtue of holding a licence in an EEA state or white list jurisdiction to continue to do so provided they make an application within the required time frame and pay the relevant application fee. The reduction in the number of application questions necessary for completion by these applicants will avoid duplication and minimise the burden on operators.
- 2.73** The Commission cannot provide firm details about transitional arrangements at this time as they are ultimately determined by Parliament. The intention is that remote operators who have an existing right to advertise and sell into the British market because they hold an existing EEA/white list jurisdiction licence, and who make an advance application before the date of commencement of the Bill, will be issued with a 'continuation licence' pending final determination of their advance application. A continuation licence will cease to have effect if the underlying EEA/white list jurisdiction licence ceases to have effect (whether temporarily or permanently) during the continuation period. Where a continuation licence ceased to have effect, this would not void an outstanding advance application; the Commission would still determine that application

2.74 The Commission has always taken a proportionate approach and treats each application on its own merits. However, the Commission considers that all of the information it requests is necessary. The Commission finds it difficult to envisage applicants who genuinely wish to demonstrate their suitability and comply with the Commission's information requirements being unable to supply required information within the timescales set. It is the Commission's experience that in the majority of instances where delays in the provision of information occur, it is those applicants whose suitability turns out to be in question.

Information sharing arrangements – other gambling regulators

Consultation questions

- Q9. Do you consider the Commission's approach to obtaining information where it can from other regulators is the right one?
- Q10. Do you foresee any issues with the proposed approach? If so are there any alternatives the Commission should consider?

Respondents' views

- 2.75** All respondents welcomed the Commission's intention to obtain information where it can from other regulators. However, a major concern expressed by one respondent (a trade association) is that there is no obligation on other regulators to share information with the Commission and their view was that in practice, the cooperation between regulators is minimal. That respondent felt that the Commission should insist that other regulators co-operate.
- 2.76** Two respondents (a trade association and an operator) commented that it would be helpful if the Commission could provide applicants who hold a licence in an EEA state or white list jurisdiction with information about whether the Commission expects the regulator to arrange for the transfer of relevant information or to arrange for the direct transfer of such information. Three other respondents stated that it would be helpful if the Commission could provide more information about its relationship with other regulators, perhaps by providing details or publication of MOUs it has with other jurisdictions.
- 2.77** Two respondents (an operator and a trade association) recommended that the Commission and other regulators should focus on sharing information in certain key areas, either because there is already commonality among regulators in these areas or because there should be commonality: fraud and money laundering; auditing; and responsible gambling measures.
- 2.78** Another respondent (an operator) recommended that regulators do not share information about individual personnel (personal details, job descriptions etc) and corporate structures as this will vary by jurisdiction depending on the applicant and their corporate footprint.
- 2.79** A number of respondents provided comments about issues they foresaw with the approach as follows:
- it is not clear how the Commission will deal with the practical difficulties in verifying information provided by applicants based in other jurisdictions
 - it will be difficult for the Commission to check how an overseas operator puts these policies and procedures around the licensing objectives and licence conditions and codes of practice into effect
 - information available from other regulators may not always be up to date as some information is only required at the licence application stage and does not have to be updated so the Commission should obtain information on regulator assessment results rather than relying on source documents

- does the Commission have adequate resources to make information sharing arrangements work?

2.80 One respondent queried that the Commission states it will not ask an applicant for information it already holds but at the time the applicant completes this form, the applicant will not know what information the Commission already has from other regulators. The Commission is happy to clarify this misunderstanding: this refers specifically to applicants already licensed by the Commission and such applicants will therefore be aware of information the Commission already holds.

The Commission's position

2.81 The Commission already exchanges information with other gambling regulators around the world about mutual licence holders or applicants. It does so with some regulators as part of a formal memorandum of understanding and with others on a less formal basis with both arrangements working equally well. The Commission is therefore of the view that it is not necessary to have formal memoranda of understanding in place with all jurisdictions and not necessary to publish details of those jurisdictions with whom the Commission has such memoranda as the absence of one does not mean that information is not shared.

2.82 The Commission has been working closely with a number of regulators to look at where information can be shared to avoid duplication at application stage for the expected influx of applicants following introduction of the Bill. The Commission will accept a 'statement of assurance' from other regulators that provides an assessment of the applicant against the Commission's suitability criteria. The Commission will use this alongside the information gathered during the application process to form an opinion of the applicant's suitability to hold a remote operating licence with the Commission. The Commission expects applicants to either arrange for their regulator to provide the 'statement of assurance' directly to the Commission or to obtain the statement themselves and submit it with the application to the Commission. An example of what such a statement may look like will be made available on the Commission's website.

2.83 Whilst the Commission understands the concern expressed by one respondent about other regulators having no obligation to share information with the Commission, the Commission cannot impose such an obligation.

2.84 The Commission has noted the recommendations made by respondents regarding areas on which it and other regulators could focus in terms of both sharing information and in terms of introducing a single set of standards or procedures.

2.85 The Commission appreciates that corporate structures and individual personnel may vary by jurisdiction; nonetheless the Commission remains of the view that where those are common or relevant to the applicant it is appropriate to share information with other regulators about individual personnel and about corporate structures.

2.86 The Commission acknowledges that there are practical difficulties in verifying information provided by overseas applicants and in checking how an overseas operator puts policies and procedures into practice. However, the Commission has, since its inception, dealt with applications from operators either based overseas or with key individuals based overseas, albeit on a smaller scale, and has already encountered and overcome those difficulties. Where necessary and applicable, the Commission will consider the use of third parties to act on its behalf, for example, to inspect remote gambling equipment or gather information in less easily accessible jurisdictions. The Commission will also expect licence holders to provide to the Commission copies of data held on such equipment in such format and manner as it may request and has proposed in the separate LCCP consultation amendments and additions to LCCP to facilitate this.

Other matters raised by respondents

- 2.87** One trade association was of the view that they are not in a position to respond to the majority of the issues raised in this consultation because they consider licensing on a point of consumption basis to be deeply flawed and have reservations about the workability, consumer impact and legality of the regime as currently proposed. That trade association also expressed the view that the Commission will be seriously disadvantaged as compared to a local regulator in being able to receive information, institute and monitor the necessary information gathering and enforcement mechanisms to make a licensing regime effective at protecting consumers.
- 2.88** The same trade association was also of the view that applying the current fee system (including annual fees) to point of consumption licensees, constituted a restriction on the provision of services by gambling operators that was neither objectively necessary nor proportionate.
- 2.89** One trade association stated that it was unfortunate that the Commission had released three major consultations at around the same time which they felt may reduce the level of engagement the Commission was hoping for.
- 2.90** An operator stated that the Commission should inform operators of any changes to the application and annual fee structure in advance of the introduction of the new licensing regime.
- 2.91** One respondent commented that no mention was made of any changes proposed to personal licence applications and asked whether these were to be processed on a country by country basis.
- 2.92** One respondent suggested that the language of the MJBF; the Commission's statement of principles; and the Commission Licensing, compliance and enforcement policy statement be made consistent, providing examples of where they felt the language was inconsistent and could therefore lead to misunderstandings.

The Commission's position

- 2.93** The Commission does not accept the view that licensing on a point of consumption basis is flawed. The Commission considers that the Gambling (Licensing and Advertising) Bill will ensure that British consumers enjoy consistent standards of protection, regardless of where a gambling business is based, and it will also help the fight against illegal activity and corruption in sports betting. Whilst the Commission recognises that there are potential practical difficulties in monitoring operators based overseas, it remains confident that it can overcome these. Indeed, the Commission is already familiar with the business systems and corporate cultures of some of the major offshore remote operators because it licenses their land-based operations in Great Britain.
- 2.94** The Commission agrees that it was not ideal to issue this and other consultations at around the same time. However, given the timetable for progression of the Gambling (Licensing and Advertising) Bill and the need to consult as early as possible on the matters in the recent consultations, on this occasion the Commission had no other option. The Commission has held workshops on each of these consultations to give the industry a further opportunity to engage on these matters and those workshops were well attended.
- 2.95** The application and annual fee structure will not change as a result of the introduction of the Gambling (Licensing and Advertising) Bill.
- 2.96** No changes are proposed to personal licence applications as a result of the Gambling (Licensing and Advertising) Bill although the Commission has proposed some changes to the information required from individual personal licence applicants as part of this consultation which respondents have commented on. The Commission does not propose to adopt the multi-jurisdictional application form for individuals required to apply for personal licences (or their equivalent in other jurisdictions where such requirements apply).

2.97 The Commission is grateful for the recommendation from one respondent that the language used in the MJBF guidance notes; the Commission’s statement of principles; and the Commission Licensing, compliance and enforcement policy statement be made consistent. The Commission will endeavour to do this where possible.

3 Implementation

3.1 The Commission will introduce the revised application process and requirements for remote operating licence applicants, including adoption of the MJBF, in early 2014 along with implementation of the online application system. The Commission will notify the industry of the exact date of implementation in advance via its website, its e-bulletin and industry and trade body publications.

Appendix A

Respondents to the consultation

Respondent	Organisation type
The Gibraltar Betting and Gaming Association	Trade Association
Sky Betting & Gaming	Operator
Remote Gambling Association	Trade Association
Bwin.party	Operator
European Gaming and Betting Association	Trade Association
Betfair	Operator
Pinsent Masons LLP	Law firm

Gambling Commission December 2013

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

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